



TOWN OF BRUNSWICK
ZONING ORDINANCE REWRITE
COMMITTEE

85 Union Street, Brunswick, ME 04011-1583

WORK SESSION
REVISED AGENDA
TOWN HALL ROOM 206
85 UNION STREET
WEDNESDAY, DECEMBER 2, 2015, 9:00 AM

1. Public Comment
2. Draft 2:
 - a. Review of Draft #2 Revisions Based on 11/10 Meeting Discussion (see packet)
 - b. Discussion Topics/Updates and Revised Text
 - i. Nonconformities
 - ii. Aquifer Protection Overlay
 - iii. Floodplain Protection Overlay
 - iv. Shoreland Protection Overlay
 - v. Wildlife Protection Overlay (disturbance criteria under review by Conservation Commission)
 - vi. Airport Approach Overlay Uses (under review by MRRA)
 - ~~vii. Telecommunications Overlay FAA Change Clarifications*~~
 - viii. Urban Agriculture Rewrite
 - ix. Retail Classes I and II and Pedestrian/Bicycle Access Removal
 - x. Design Standards for Nonresidential Structures
 - xi. Protection of Natural Vegetation Discussion***
 - xii. Stormwater Management
 - xiii. Complete Streets Update
 - xiv. Signs (staff rework underway)
3. Public Information Updates
 - a. Use Comparison Table
3. Approval of Meeting Summaries
4. Other Business
5. Next Meeting

***Revised 11/30/15**

Please note that this is a Committee work session. The public is invited to attend with public comment allowed regarding discussion topics. Please call the Brunswick Department of Planning and Development (725-6660) with questions or comments. Individuals needing auxiliary aids for effective communications please call 725-6659 or TDD 725-5521.

Chapter 1 - General Provisions
Section 1.5 Conflicts; Relationship to Other Laws
Subsection 1.6.1 General

were separate lots. The only exception is that there shall be no minimum setback or frontage requirements along the zoning boundary line.

B. Lots Less than Ten Acres

When a lot less than ten acres is divided by a boundary between two base districts, the provisions of the zoning district in which the larger portion of the lot lies shall govern the use, density, lot area, and dimensional requirements for the lot.

C. Lots in Overlay Districts

When a lot is partially within an overlay district, the provisions of the overlay district shall apply only to the affected portion of the lot, regardless of the size of the lot.

1.5 Conflicts; Relationship to Other Laws

Where the provisions in one part of this Ordinance conflict with those in any other part of this Ordinance, the more restrictive provision shall apply except where expressly provided otherwise, and except that the provisions of an overlay zoning district supersede the provisions of the base zoning district regardless of whether they are stricter or more lenient. Nothing in this Ordinance shall be interpreted to supersede the provisions of ~~any other more restrictive~~ local, ~~s~~State, or federal ~~ordinance, law, rule, ordinance~~ or regulation. ~~Where the provisions of this Ordinance conflict with any other ordinance, law, rule, or regulation, the more restrictive provision shall govern~~ unless State or federal law requires a different outcome.

Comment [AB1]: Revised 11/16.

1.6 Nonconformities

1.6.1. General

A. Nonconforming Defined

As used in this Section, the term "nonconforming" ~~as applied to a lot, use, structure, site feature, or sign~~ refers to a lot, use, structure, site feature, or sign that was lawfully established at the time of the effective date of this Ordinance or a subsequent amendment to the Ordinance, but that no longer complies with the provisions of this Ordinance ~~applicable as applied~~ to the property.

~~**B. Remedy of Unsafe Conditions**~~

~~Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any structure, site feature, or sign, or part of a structure, site feature, or sign, that is declared to be unsafe by the Town.~~

Comment [AB2]: Jared questioning necessity of this provision. Deleted entire provision 11/16.

1.6.2. Nonconforming Lots

A. Definition of a Single Nonconforming Lot

A single nonconforming lot is a nonconforming lot of record as of the effective date of this Ordinance or amendment thereto in separate ownership and not contiguous with any other lot in the same ownership.

B. Development and Use of Single Nonconforming Lots Outside of a Subdivision

(1) Undeveloped

a. Outside Shoreland Protection Overlay (SPO) District

May be used ~~for any uses~~ allowed by Chapter 3 (~~Property Use Standards~~) or ~~sub~~Section 1.6.3 (Nonconforming Uses) if either:

B. Change in Use

A nonconforming use may be replaced by another use not allowed in the base zoning district (or any overlay district) if the Director determines that the new use will have no greater adverse impact on the water body, wetland, aquifer, or on adjacent properties and resources, than the existing use. To show that no greater adverse impact will occur, the development application shall include written documentation assessing the probable effects on public health and safety, ~~traffic~~, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, ~~natural beauty~~scenic features, flood plain management, archaeological and historic resources, commercial fishing and maritime activities, and other functionally water-dependent uses.

Comment [AB3]: Scenic features as mapped in the Brunswick Parks, Recreation and Open Space Plan (2002)

C. Expansion of Use

A nonconforming use may be extended throughout the existing structure housing the use. Outside the APO, SPO, FPO, and WPO Districts, a nonconforming use may also be extended to any expansion of the existing structure allowed by this Ordinance. ~~Any additional expansion of area occupied by the use, whether from expansion of the structure or extension of the use to additional land area, shall be limited to 1,000 square feet over a five-year period—provided that further expansion of a significant nonconforming use may be allowed through approval of a Special Permit in accordance with subsection 5.2.3.C (Review of Expansions of Legally Nonconforming Unclassified or Omitted Uses)~~Review of Expansions of Legally Nonconforming Unclassified or Omitted Uses.

Comment [AB4]: Jeff to review re application to other use expansions.

D. Reconstruction of Structure with a Nonconforming Use

If a structure housing a nonconforming use is destroyed or damaged by any cause, the nonconforming use may be re-established in the structure if it is restored or reconstructed provided that a Building Permit for the restoration or reconstruction is obtained (a) within five years after the date of destruction or damage, if the property is located outside the APO, SPO, FPO, and WPO Districts, or (b) within one year of the date of destruction, if the property is located within the APO, SPO, FPO, and districts

1.6.4. Nonconforming Structures

A. Continuance

Both in and outside the SPO District, a nonconforming structure may be continued, and may continue to be used for any use allowed by Chapter 3 or by any overlay district in which the property is located, or by the Nonconforming Use portion of this table, even though the structure or its use does not conform to the requirements of this Ordinance. The ~~property~~structures, collectively known as Fort Andross or Cabot Mill, located North of Highway 1, West of Maine Street, and South of the Androscoggin River that exceeds the maximum height ~~or lot coverage~~ of the GM6 zoning district shall be deemed to be conforming structures.

B. Expansion

(1) Outside SPO District

A nonconforming structure may be expanded if the expansion area complies with the requirements of this Ordinance and the expansion does not increase the structure's nonconformity or create a new nonconformity. Where the structure is nonconforming because it extends into a minimum required ~~yard~~setback, it may be expanded further within the minimum required ~~yard~~setback as long as it does not extend beyond the setback established by the existing nonconforming structure.

B. Change in Use

A nonconforming use may be replaced by another use not allowed in the base zoning district (or any overlay district) if the Director determines that the new use will have no greater adverse impact on the water body, wetland, aquifer, or on adjacent properties and resources, than the existing use. To show that no greater adverse impact will occur, the development application shall include written documentation assessing the probable effects on public health and safety, traffic, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beautyscenic features, flood plain management, archaeological and historic resources, commercial fishing and maritime activities, and other functionally water-dependent uses.

Comment [AB3]: Scenic features as mapped in the Brunswick Parks, Recreation and Open Space Plan (2002)

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Comment [AB4]: Jeff to review re application to other use expansions.

D. Reconstruction of Structure with a Nonconforming Use

If a structure housing a nonconforming use is destroyed or damaged by any cause, the nonconforming use may be re-established in the structure if it is restored or reconstructed provided that a Building Permit for the restoration or reconstruction is obtained (a) within five years after the date of destruction or damage, if the property is located outside the APO, SPO, FPO, and WPO Districts, or (b) within one year of the date of destruction, if the property is located within the APO, SPO, FPO, and districts

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Comment [AB5]: 12/2 discussion topic: expansion of nonconforming structures outside of SPO

B. Expansion

(1) Outside SPO District

A nonconforming structure may be expanded if the expansion area complies with the requirements of this Ordinance and the expansion does not increase the structure's nonconformity or create a new nonconformity. Where the structure is nonconforming because it extends into a minimum required yardsetback, it may be expanded further within the minimum required yard-setback as long as it does not extend beyond the setback established by the existing nonconforming structure.

(2) In SPO District

- a. A nonconforming structure may be expanded if: (a) the expansion area complies with the requirements of this Ordinance; (b) the expansion does not increase the structure's nonconformity or create a new nonconformity; (c) any portion of the structure existing on January 1, 1989 that fails to comply with the required minimum setback from a water body or wetland in Section 2.3.3.C(1) (Setbacks of Structures from Water Bodies and Wetlands) is expanded by less than 30%, as measured in floor area or volume (this includes any permitted expansion resulting from a repair, restoration, or reconstruction); and (d) any new, enlarged, or replacement foundation constructed under the structure is placed so that the structure and foundation comply with the minimum setback from a water body or wetland required by Section 2.3.3.C(1) to the greatest extent practicable, as determined by the Codes Enforcement Officer in accordance with Section Error! Reference source not found.
- b. A foundation shall not be considered an expansion of the structure if the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in accordance with (d) above, and does not cause the structure to be elevated by more than three feet as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill).

C. Restoration, Reconstruction or Replacement

(1) Outside SPO District

Any nonconforming structure that is destroyed or damaged by any cause may be restored or reconstructed to its pre-destruction or pre-damage condition, or replaced with a structure comparable to the destroyed or damaged structure, provided that a Building Permit for the restoration, reconstruction, or replacement is obtained within two years after the date of destruction or damage; and no existing nonconformity is increased and no new nonconformity is created. Any restoration, reconstruction, or replacement of a nonconforming structure authorized by a Building Permit obtained after two years shall comply with the current requirements of this Ordinance.

(2) In SPO District

a. Less than 50 Percent Damage

Any nonconforming structure that is destroyed or damaged by any cause such that the destruction or damage is 50% or less of the structure's pre-destruction or pre-damage market value may be restored or reconstructed to its pre-destruction or pre-damage condition, or replaced with a structure comparable to the destroyed or damaged structure, provided that the structure is restored, reconstructed, or replaced in the same location.

b. More than 50% Damage

- i. Any nonconforming structure that is destroyed or damaged by any cause such that the destruction or damage exceeds 50% of the structure's pre-destruction or pre-damage market value may be restored or reconstructed to its pre-destruction or pre-damage condition, or replaced with a structure comparable to the destroyed or damaged structure, provided that a Building Permit for the restoration, reconstruction, or replacement is obtained within one year after the date of destruction or damage; and no existing nonconformity is increased and no new nonconformity is created; and the restored, reconstructed, or replacement structure complies with the minimum setback from a water body or wetland required by Section 2.3.3.C(1) (Setbacks of Structures from Water Bodies and

Chapter 1 - General Provisions
Section 1.7 Definitions and Rules of Construction
Subsection 1.7.2 Definitions

~~**Aquaculture:** The commercial raising of marine animals and plants in an aquatic environment, including the processing of marine animals and plants and their byproducts.~~

Architectural or Archaeological Significance: A site, structure, object, or artifact that is listed, or is eligible to be listed on the National or Maine Registers of Historic Places, or that contributes archaeologically, culturally, or architecturally to the history of the Town of Brunswick.

~~**Aquaculture:** The commercial raising of marine animals and plants in an aquatic environment, including the processing of marine animals and plants and their byproducts.~~

Area of Special Flood Hazard: The land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Section 2.3.4.B(2).

Assisted/Congregate Living Facility: A long-term residence for people with disabilities that prevent them from living on their own, or for people without disabilities. The residence provides private rooms or apartments with common areas for dining, socializing and programs along with daily meals, personal services, and may also offer limited nursing and 24 hour care. Housekeeping services are provided, but residents are relatively self-sufficient. It also includes a "community living arrangement" as defined in Title 30-A M.R.S.A. § 4357-A for 8 or fewer persons with disabilities. For purposes of this use, the term "disabilities" shall have the same meaning assigned by federal law and regulations pursuant to the Fair Housing Act Amendments of 1988.

Aviation Operations: Runways, taxiways, navigational devices, communication facilities, control towers, and similar facilities directly related to the operation and maintenance of an airfield including administrative offices and facilities for fueling aircraft.

Aviation Related Businesses: Facilities and businesses that rely on or directly benefit from proximity to airport facilities including, but not limited to, general and corporate aviation facilities, charter air service, aircraft maintenance/repair/overhaul, aviation related manufacturing, sales, service, or education, government and aerospace research and development, and similar aviation-related activities including ancillary facilities that service aviation uses.

~~**Bank:** An establishment that provides retail banking, lending, and financial services to individuals and businesses. Accessory uses may include automatic teller machines and drive through facilities.~~

Comment [AB6]: Recommend replacing "bank" with "financial institution" throughout ordinance. Revised 11/16.

Banner: A sign displayed on flexible lightweight material, enclosed or not enclosed in a rigid frame, extending from one side of the street to the other.

Basal Area: The area of cross-section of a tree stem, including bark, at 4½ feet above ground level.

Base Flood: A flood having a one percent chance of being equaled or exceeded in any given year commonly called the 100-year flood.

Basement: Any area of building having its floor subgrade (below ground level) on all sides. For purpose of the shoreland zoning regulations of the SPO District, basement means any portion of a structure with a floor-to-ceiling height of six feet or more and having more than 50 percent of its volume below the existing ground level.

Bed and Breakfast: A dwelling occupied by the owner as a principal place of residence with not more than ten rooms that are rented on a per diem basis, where meals may be provided to those who rent rooms.

Boarding House: A building other than a hotel containing a shared kitchen and/or dining room, with sleeping rooms accommodating no more than two persons per room (excepting minor children) that are offered for rent, with or without meals.

Breakaway Wall: A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

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Eligible Facilities Request: For purposes of telecommunications facility regulations, the collocation, removal, replacement, and modification of transmission equipment on an existing wireless tower or base station, provided this action does not substantially change the physical dimensions of the tower or base station, under the Middle Class Tax Relief and Job Creation Act (2012) (as amended and interpreted by the federal courts). This includes structural enhancements involving the hardening of equipment when necessary for a covered collocation, replacement, or removal of transmission equipment, but does not include the replacement of the underlying structure.

Equestrian Facility: A facility designed and intended for the display of equestrian skills and the hosting of events including, but not limited to, show jumping, dressage, and similar events of other equestrian disciplines, and including stables and other accessory uses and structures supporting those activities.

Expansion of a Structure: An increase in the floor area or volume of a structure, including all extensions such as, but not limited to, attached decks, garages, porches, and greenhouses.

Expansion of Use: The addition of weeks or months to a use's operating season, additional hours of operation, or an increase in floor area or ground area devoted to a particular use.

Fall Zone: The area within which a telecommunications tower may be expected to fall in the event of a structural failure, as determined by engineering standards.

Farm: A location for the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruit and vegetables; and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.

Farmer's Market: The seasonal selling of fresh agricultural products occurring in a pre-designated outdoor area or indoor facility by local vendors that have raised and/or prepared the products for retail sale.

Financial Institution: An establishment that provides retail banking, lending, and financial services to individuals and businesses. Accessory uses may include automatic teller machines and drive through facilities.

Comment [AB7]: Retitled from "bank" 11/16

Flood Insurance Rate Map (FIRM): An official map of a community, issued by the Federal Emergency Management Administration (FEMA), on which the special flood hazard areas and the risk premium zones applicable to the community are delineated.

Floodplain: Any land area susceptible to being inundated by flood waters from any source during a Base Flood.

Floodproofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduces or eliminates flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the surface elevation by more than one foot. When not designated on the community's Flood Insurance Rate Map or Flood Boundary and Floodway Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Floor Area: The total area, in square feet, of all floors of a building, measured within the exterior walls, excluding unfinished attics and unfinished cellars. In the case of a use which occupies a portion of a building, floor area shall be measured from the interior of the walls which defines the space.

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where the location, design, setting, materials, workmanship, or association have been so altered or have so deteriorated that the overall integrity has been irretrievably lost.

Normal High-Water Line (non-tidal waters): That line—apparent from visible markings, changes in the character of soils due to prolonged action of the water, or changes in vegetation—that distinguishes predominantly aquatic land from predominantly terrestrial land. Areas contiguous with rivers that support non-forested wetland vegetation and hydric soils and are at the same or lower elevation as the water level of the river or stream during the period of normal high-water are considered part of the river or stream.

Nursing Home: A facility for individuals needing 24-hour skilled nursing care who can no longer live independently.

Office: A space used to conduct the administrative affairs of an organization, including but not limited to spaces for academic or administrative staff of a postsecondary school, or for a member of a recognized medical or non-medical profession, or for commercial vocational education that is not college, or a facility for purposes of preparing or presenting or broadcasting materials on radio, television, or cable television or similar communications media or the recording or production of films or video material. Includes uses formerly known as Business Office, College Office, Professional Office, and Media Studio.

Outdoor Sales, Temporary: A temporary outdoor ~~vendor activity located on private property and which may be operating from a portable facility located on a given site, involved with the dispensing of information or selling of products, including, but not limited to, prepared or unprepared food but not including flea markets, garage and yard sales, farmers' markets, sales of food from food trucks, church events or other similar activities.~~

★ Revised for 12/2

Parking Facility (as a principal use): A parking lot or garage that is used for the parking of vehicles of occupants, customers, patrons, employees or visitors of a building, structure or use located on a different parcel.

~~**Passive Recreation:** Walking, hiking, biking, and other similar activities. Passive recreation specifically excludes the use of motorized vehicles and equipment.~~

Permanent Clearing: For the purposes of wildlife habitat protection regulations for the WPO District, the removal of 40 percent or more of the volume of trees, or the creation of a cleared opening in the forest canopy that is greater than 250 square feet as measured from the outer limits of the tree crown, neither of which is allowed to naturally regenerate.

Pesticide: Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pests, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

Plan, Final: The final drawings on which the applicant's subdivision or site plan is presented to the Review Authority for approval and which, if approved, may be recorded at the Cumberland County Registry of Deeds.

Plan, Sketch: Conceptual maps, renderings and supportive data describing the project proposed by the applicant for initial review by the Review Authority.

Plant Nursery: Any land or structure used primarily to raise trees, shrubs, flowers, and other plants for sale or for transplanting, including greenhouses, and including accessory sales of those plants to the public.

Primary Road: Bath Road, Bunganuc Road from Casco Road to Freeport Line, Church Road, Durham Road, Maine Street, Mill Street, Old Bath Road, Pleasant Hill Road, Pleasant Street, River Road, Route 1, Route 24, and Route 123.

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Substantial Improvement: For purposes of the floodplain management regulations for the FPO District, any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred substantial damage, regardless of the actual repair work performed.

Subsurface Wastewater Disposal System: Any system designed to dispose of waste or wastewater on or beneath the surface of the earth—including, but is not limited to, septic tanks, disposal fields, grandfathered cesspools, holding tanks, pretreatment filters, piping, or any other fixture, mechanism, or apparatus used for those purposes. It does not include any discharge system licensed under Title 38 M.R.S.A. § 414, any surface wastewater disposal system, or any municipal or quasi-municipal sewer or wastewater treatment system.

Telecommunications Tower: Any tower taller than 120 feet that transmits and/or receives signals by electromagnetic or optical means using antennas, microwave dishes, horns, or similar types of equipment.

Telecommunication Tower, Small-scale: A free-standing structure with a maximum height of 120 feet that is designed, constructed, or used primarily for the purposes of supporting one or more antennas, including self-supporting lattice towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and similar structures.

Temporary Use: A use of land or building occurring occasionally and for a limited period of time, and that may occur repeatedly during a calendar year, but that does not occur regularly on a weekly, monthly, or quarterly schedule.

Theater: A facility for the viewing of movies or live presentations of musicians or other performing artists, but not including any Adult Entertainment Establishment.

Tidal Waters: All waters affected by tidal action during the maximum spring tide.

Timber Harvesting: The cutting and removal of wood products from their growing site and the attendant operation of cutting and skidding machinery, but not the construction or creation of roads or the clearing of land approved for construction.

Ultra-light Air Park: An ultra-light air park is a tract of land or water that is maintained for the landing and take-off of ultra-light aircraft as defined by the Federal Aviation Regulation (FAR) Part 103. An ultra-light airpark shall not be used for commercial purposes, shall not provide storage for more than five gallons of ultra-light fuel, and shall not be used for flight operations unless daylight and visual frame of reference (VFR) conditions (1,000-foot ceiling and three-mile visibility) are present.

Upland Edge of a Wetland: The boundary between a wetland and upland. For coastal wetlands, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For freshwater wetlands, this boundary is the line formed where the soils are not saturated for a duration sufficient to support wetland vegetation, or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six meters (approximately 20 feet) tall or taller.

Urban Agriculture: The raising, keeping or production of fruit, vegetable, flower, and other crops, or ~~farm animals, poultry and~~ bees as a primary (not accessory) use of land within the Town-designated growth area, in accordance with Chapter 4 (Animals) of the Brunswick Code of Ordinances, as amended. on sites of two and one-half (2.5) acres or less. This uses includes the ordinary accessory uses and structures for preparing, treating, and storing agricultural products, equipment and machinery, but does not include raising, storing, or processing of any animals other than bees.

Use, Accessory: A use customarily incidental and subordinate to the principal use or building, and that occupies no more than 40 percent of the floor area of all structures on a lot.

Comment [AB18]: Revised 11/16

Comment [AB19]: Moved 11/16.

Chapter 2 - Zoning Districts

Summary Table

All new zoning base districts and overlay districts identified in the table below are hereby established. Such districts are applied to geographic areas as shown on the Zoning Map of the Town of Brunswick.

Table 01: Summary Table of Zoning Districts			
Old Zoning Districts		New Zoning Districts	
Growth Area Zoning Districts			
Growth Residential Districts			
R-R	BNAS Reuse - Residential	GR1	Growth Residential 1
R1	Residential Extended Neighborhood-1 (Longfellow)	GR2	Growth Residential 2
R8	Residential Extended Neighborhood-8 (College Park)	GR3	Growth Residential 3
R2	Residential Extended Neighborhood-2 (Meadowbrook-Parkview)		
R3	Residential Extended Neighborhood-3 (Maquoit Rd.)	GR4	Growth Residential 4
R4	Residential Extended Neighborhood-4 (Meredith Dr.-West McKeen St.)		
R5	Residential Extended Neighborhood-5 (River Rd.)		
R6	Residential Extended Neighborhood-6 (Cooks Corner)		
CR2	Country Residential 2 (Old Bath Road Area In Growth Area)		
R7	Residential Extended Neighborhood-7 (McClellan-Garrison)	GR5	Growth Residential 5
TR1	Intown Residential Neighborhood 1 (Inner Pleasant St.)	GR6	Growth Residential 6
TR2	Intown Residential Neighborhood 2 (Federal St.)	GR7	Growth Residential 7
TR3	Intown Residential Neighborhood 3 (Water St.)	GR8	Growth Residential 8
TR4	Intown Residential Neighborhood 4 (Jordan Acres)		
TR5	Intown Residential Neighborhood 5 (Columbia Ave.-Spring St.)		
TR5	Intown Residential Neighborhood 5 (Columbia Ave.-Spring St.)	GR9	Growth Residential 9
Growth Mixed Use Districts			
MU2	Mixed Use 2 (Intown Railroad Corridor)	GM1	Growth Mixed-Use 1
MU3	Mixed Use 3 (Upper Harpswell Rd.)	GM2	Growth Mixed-Use 2
MU6	Mixed Use 6 (Lower Harpswell Rd.)		
MU4	Mixed Use 4 (Fox Run)	GM3	Growth Mixed-Use 3
I1	Large Scale Business, Industrial, & Institutional 1 (Industry Rd. Industrial Park)		
I4	Large Scale Business, Industrial, & Institutional 4 (Exit 28)	GM4	Growth Mixed-Use 4
CC	Commercial (Cooks Corner Center)		
MU1	Lower Old Bath Road Area		
HC1	Highway Commercial 1 (Outer Pleasant St.)	GM5	Growth Mixed-Use 5
HC2	Highway Commercial 2 (Inner Bath Rd.)		
TC1	Town Center 1 (Maine Street)	GM6	Growth Mixed-Use 6
TC2	Town Center 2 (Fort Andross)		
TC3	Town Center 3 (Lower Park Row)		
R-CMU	BNAS Reuse - Community Mixed Use	GM7	Growth Mixed-Use 7
MUOZ	Medical Use Overlay Zone	GM8	Growth Mixed-Use 8
Growth Special Purpose Districts			
CU1	College Use 1 (Campus Center)	GC1	Growth College 1
CU2	College Use 2 (Pickard Field)		
CU3	College Use 3 (College St.)		
CU5	College Use 5 (Brunswick Apts.)	GC2	Growth College 2
CU6	College Use 6 (Cleveland St.-Bath Rd.)		
CU4	College Use 4 (Bowdoin Pines)	GC3	Growth College 3

Comment [AB20]: District boundary under further review, 11/16.

B. Growth Residential 2 (GR2) District

The Growth Residential 2 (GR2) District applies to that part of the area designated as Town Residential in the Comprehensive Plan, encompassing the Longfellow ~~and College Park~~ neighborhoods, walkable to downtown Brunswick and Bowdoin College. District regulations are intended to maintain the character of the established neighborhoods. Only one- and two-family residential uses are permitted in this District at a maximum density of four dwelling units per acre.

C. Growth Residential 3 (GR3) District

The Growth Residential 3 (GR3) District applies to that part of the area designated as Town Extended Residential in the Comprehensive Plan, encompassing the Meadowbrook-Parkview ~~and College Park~~ neighborhoods. District regulations are intended to continue to maintain the character of the established one- and two-family neighborhoods at a maximum density of six dwelling units per acre.

Comment [AB21]: District boundary under further review, 11/16.

D. Growth Residential 4 (GR4) District

The Growth Residential 4 (GR4) District applies to that part of the area designated as Town Extended Residential in the Comprehensive Plan, encompassing the Maquoit Road, Meredith Drive-West McKeen Street, and River Road neighborhoods, as well as the residential neighborhoods within the Cook's Corner Extended Area and the Exit 28 Mixed Use Development Area. District regulations are intended to accommodate residential uses at a maximum density of six dwelling units per acre. Limited nonresidential uses are allowed as conditional uses, while maintaining the character of the established neighborhoods.

E. Growth Residential 5 (GR5) District

The Growth Residential 5 (GR5) District applies to that part of the area designated as Town Residential in the Comprehensive Plan, encompassing the McLellan-Garrison neighborhood. District regulations are intended to continue to accommodate a variety of residential uses at a maximum density of seven dwelling units per acre. Limited nonresidential uses are allowed as conditional uses, while maintaining the character of the established neighborhoods.

F. Growth Residential 6 (GR6) District

The Growth Residential 6 (GR6) District applies to the primarily residential portion of the Town Core Planning Area, encompassing the well-established Northwest Brunswick neighborhood. The District is intended to provide for compatible infill development and redevelopment, as well as expansions to existing buildings, while maintaining the overall character of the neighborhood. The District continues to provide a mix of single-family, two-family and multi-family residential uses, walkable to essential services, at a maximum density of 10 dwelling units per acre. Limited nonresidential uses are allowed by conditional use, while protecting and enhancing development patterns of the established neighborhood. The District is also covered by the Village Review Overlay Zone (VRO).

G. Growth Residential 7 (GR7) District

The Growth Residential 7 (GR7) District applies to that part of the area designated as Town Core in the Comprehensive Plan, encompassing most of the Federal Street neighborhood. The neighborhood is also covered by the Village Review Overlay (VRO) Zone and contains a portion of the National Register of Historic Places-designated Federal Street Historic District. District regulations are intended to continue to accommodate a mix of residential uses at a maximum density of five dwelling units per acre. Very limited nonresidential uses are permitted as conditional uses, while protecting and enhancing the established neighborhood.

2.3.2. Aquifer Protection Overlay (APO) Districts

Comment [AB22]: Proposed revisions accepted by BTWD, 11/19.

A. Purpose

The purpose of the Aquifer Protection Overlay (APO) districts is to protect the quality and quantity of Brunswick's present and future ground water resources by regulating activities and land use practices ~~that~~ which are likely to affect those resources. The protection of ground water is critical to promoting the health, safety, and general welfare of the residents of Brunswick.

B. Definition and Delineation of APO Districts

- (1) The Aquifer Protection Overlay (APO) districts consist of sand and gravel aquifers and aquifer recharge areas. There are three APO districts:
 - a. Aquifer Protection Overlay 1 (APO1) District, defined in Section 2.3.2.C(1);
 - b. Aquifer Protection Overlay 2 (APO2) District, defined in Section 2.3.2.D(1); and
 - c. Aquifer Protection Overlay 3 (APO3) District, defined in Section 2.3.2.E(1).
- (2) The boundaries of the APO districts are delineated on the Brunswick Zoning Map, and are based on:
 - a. "Hydrogeology of the Jackson, Taylor and Williams Stations Aquifer in Topsham and Brunswick, Maine" report, dated February 25, 1994, by Caswell, Eichler and Hill; and
 - b. "Hydrogeology of the Jordan Avenue Station Aquifer in Brunswick, Maine" report, dated March 22, 1994, by Caswell, Eichler and Hill.

C. Aquifer Protection 1 (APO1) District

(1) Definition of APO1 District

The APO1 District is the area within which leachable materials disposed of or applied into or onto land or water bodies can travel to the public water supply wells within 200 days.

(2) Use Standards for APO1 District

- a. All uses are prohibited with exception of the following:
 - i. Conservation of soil, water, plants, and wildlife.
 - ii. Outdoor recreation—including fishing, nature study, and hunting—where otherwise legally permitted.
 - iii. Pedestrian, bicycle and horse paths, and bridges.
 - iv. Operation, maintenance, and expansion of public water supply facilities.
 - v. Timber harvesting.
 - vi. Natural gas or propane storage and transmission facilities.
- b. Motorized vehicles may be used in conjunction with the allowable uses listed in subsection ~~a above~~ above, except that the use of motorized vehicles for recreational purposes is prohibited.
- c. The permitted uses shall meet the performance standards in Section 2.3.2.F (Performance Standards for Aquifer Protection Overlay (APO) Districts).

D. Aquifer Protection 2 (APO2) District

(1) Definition of APO2 District

The APO2 District is the area outside of the APO1 boundary that is drained by streams flowing directly into the sand and gravel aquifer. The streams in the APO2 District are important as they have eroded through the silt/clay cap leaving exposed a "window" to the underlying aquifer.

(2) Use Standards for APO2 District

- a. All uses are prohibited, except those uses allowed in the APO1 District provided that they meet the requirements of the underlying base zoning district and the following standards:
 - i. All parts of all types of subsurface wastewater disposal systems shall be set back a minimum horizontal distance of 150 linear feet from the normal high water line of any stream. The Local Plumbing Inspector may consider and grant a request to reduce this setback for a replacement subsurface wastewater disposal system if a report prepared by a soils scientist or site evaluator registered in the State of Maine is submitted and accepted, and the report states that the existing system is failing and that the proposed location is the only suitable location on the applicant's property for the replacement system.
 - ii. All home heating fuel tanks, except natural gas or propane gas storage tanks, shall be enclosed and located within an impervious secondary containment unit.
 - iii. Application of pesticides, nitrogen fertilizer, or manure within a minimum horizontal distance of 150 linear feet from the normal high water line of any stream is prohibited. This setback requirement cannot be reduced.
 - iv. The storage of no more than two unregistered automobiles is prohibited.
- b. The permitted uses shall meet the performance standards in Section 2.3.2.F (Performance Standards for Aquifer Protection Overlay (APO) Districts).

E. Aquifer Protection 3 (APO3) District

(1) Definition of APO3 District

The APO3 District is the area within which leachable materials disposed of or applied into or onto land or water bodies can travel to the public water supply wells in more than 200 days.

(2) Use Standards for APO3 District

- a. The following uses and development activities are prohibited:
 - i. The disposal of solid waste other than brush or stumps.
 - ii. The disposal or storage of hazardous matters, as defined in Section 1.7.2 (Definitions and Rules of Construction), with the exception of the above-ground natural gas or propane gas tanks.
 - iii. The disposal or storage of leachable materials, except subsurface wastewater disposal systems and water from residential swimming pools.
 - iv. The bulk or commercial disposal or storage of road salt or other de-icing agents.
 - v. The storage of petroleum products in containers with a total volume in excess of ten gallons, except those stored for heating use by that property owner or his designee only.

Chapter 2 - Zoning Districts
Section 2.3 Overlay Zoning Districts
Subsection 2.3.2 Aquifer Protection Overlay (APO) Districts

- vi. The disposal, storage, or application of sludge or other sludge-containing products, except for the application of Class A composted residuals that are licensed for unrestrained distribution by the Maine Department of Environmental Protection.
- vii. The disposal of any unregistered automobiles or the storage of more than two unregistered automobiles.
- viii. Use or storage of pesticides, other than for households or agriculture and those products that are permitted by the Organic Materials Review Institute (OMRI).
 - (A) The Codes Enforcement Officer may, upon written request, approve an exception to this prohibition to allow pesticides to be used to:
 - (1) Control or destroy a health hazard (i.e., a pest that has or is likely to have an adverse effect on the health of any person);
 - (2) Control or destroy pests which have caused infestation to property (i.e., where the presence of pests in numbers or under conditions that involve an immediate or potential risk of substantial loss or damage); or
 - (3) Control or destroy bees' nests or poison ivy.
 - (B) The Brunswick and Topsham Water District shall be notified of any such requests and approvals.
- ix. Use or storage of fertilizer, compost, or manure, other than:
 - (A) Slow-release organic fertilizer;
 - (B) Products used for households and agriculture; and
 - (C) Natural organic compost that:
 - (1) Is in keeping, but not limited to, compost approved by USDA National Organic Program; or
 - (2) Is in keeping with, but not limited to, products that can be used on Maine Organic Farmers and Gardeners Association (MOFGA) Certified Farms; or
 - (3) Meets the standards and test requirements to qualify for unrestrained distribution under Chapter 419 of the Maine Department of Environmental Protection regulations, titled "Agronomic Utilization of Residuals," as amended.
- x. Aerial spraying of pesticides from aircraft, except for applications for public health reasons performed under the auspices of the Town of Brunswick or State of Maine.
- xi. Pipelines for transmission of petroleum products or hazardous materials, except natural gas or propane storage and transmission facilities.
- xii. Commercial boat, internal combustion engine, and motor vehicle sales, service, and repair.
- xiii. Metal plating operations.
- xiv. Dry cleaning operations.
- xv. Truck terminals.
- xvi. Furniture stripping, painting, and wood preserving operations.
- xvii. Mining operations.
- xviii. Sand and gravel extraction.

- b. Uses or management practices not listed above may be permitted in the APO3 District provided that they are allowed in the underlying base zoning district, will not have an unreasonable adverse effect on the water supply, and meet the performance standards in Section 2.3.2.F (Performance Standards for Aquifer Protection Overlay (APO) Districts).

F. Performance Standards for Aquifer Protection Overlay (APO) Districts

All uses or activities within an APO1, APO2, or APO3 District, ~~other than nonconforming uses,~~ shall meet the following performance standards. ~~Nonconforming uses existing on the effective date of this Ordinance shall also comply with standards set forth in subsection 1.6.3 herein, subject to the~~

(1) General Standards for Uses and Activities Subject to Development Review

The following standards apply to uses and activities subject to Development Review (see Section 5.2.7) ~~, with the exception of single and two-family dwellings:~~

a. Management of Stormwater Runoff

The stormwater runoff ~~of from~~ the use or expansion of the use shall be either retained on the specific property or allowed to infiltrate or transported off-site through a subsurface stormwater system to the Town's collection system ~~and shall incorporate stormwater management techniques to minimize runoff volume and rate, as well as pollution and nutrient loadings, from the site in accordance with subsection 4.5.1.~~

b. Groundwater Contaminants

- i. Monitoring wells may be required for a use known by the Codes Enforcement Officer, ~~in consultation with the Brunswick-Topsham Water District,~~ to be an actual or potential source of groundwater pollution.
 - (A) A licensed hydrogeologist chosen or approved by the Town shall determine the number, location, and depth of monitoring wells.
 - (B) Monitoring wells shall be installed and sampled in accordance with "Guidelines for Monitoring Well Installation and Sampling" (Tolman, Maine Geologic Survey, 1983).
 - (C) Monitoring wells shall be installed on the property at the expense of the owner.
 - (D) The Codes Enforcement Officer, ~~in consultation with the Brunswick-Topsham Water District,~~ shall determine, in consultation with the Brunswick and Topsham Water District and/or a licensed hydrogeologist, when monitoring wells shall be sampled.
 - (E) Results from monitoring well samples shall be submitted to the Department and the Brunswick and Topsham Water District.
- ii. The Brunswick and Topsham Water District shall promptly inform the Town Council, Codes Enforcement Officer, Planning Board, and Zoning Board of Appeals when the calculated or actual levels of ~~any~~ contaminants in the groundwater reach ten percent of the ~~allowable Maximum Contaminant Levels (MCLs) listed within the National Primary Public Drinking Water Standards-Regulations~~ for contaminants as measured at the ~~Brunswick-Topsham Water District~~ monitoring wells and recommend remedial actions.
- iii. ~~The Brunswick and Topsham Water District shall promptly inform the Town Council, Codes Enforcement Officer, Planning Board, and Zoning Board of Appeals when the~~

Comment [AB23]: Revised to reinsert nonconforming use standards reference (12/2)

Comment [AB24]: Added back from existing ordinance. (12/2)

Comment [AB25]: Revised (12/2). Same as existing.

~~calculated or actual levels of any contaminants in the groundwater exceeds 50 percent of the allowable Primary Public Drinking Water Standards for contaminants as measured at the Brunswick and Topsham Water District monitoring wells.~~

Comment [AB26]: li above addresses this. No need to repeat.

~~iv.iii. No Development Review approval shall be granted for a use, expansion of the use, or activity that would cause the cumulative, calculated, or actual levels of any contaminants in the groundwater at the Brunswick and Topsham Water District property line to exceed 50 percent of the allowable Maximum Contaminant Levels (MCLs) listed within the National Primary Public Drinking Water Standards Regulations, as defined by the Federal Safe Drinking Water act, as amended.~~

~~v.iv. No Development Review approval shall be granted for a use, expansion of a use, or development activity that would cause the calculated or actual levels of any contaminants in the groundwater at the property line of the specific lot associated with the use, expansion of the use, or activity to exceed 50 percent of the allowable Maximum Contaminant Levels (MCLs) listed within the National Primary Public Drinking Water Standards as defined by the Federal Safe Drinking Water Act, as amended. Regulations.~~

(2) Timber Harvesting

Timber Harvesting shall comply with the following provisions:

- a. Selective cutting of no more than 40 percent of the total volume of trees four inches or more in diameter measured at 4½ feet above ground level on any lot in any ten year period is permitted. Harvesting operations shall not create single clear-cut openings greater than 10,000 square feet in the forest canopy. Where such openings exceed 5,000 square feet, they shall be at least 100 feet apart. Such clear-cut openings shall be included in the calculation of total volume removal. For purposes of these standards, volume may be considered to be equivalent to basal area.
- b. Timber harvesting operations exceeding the 40 percent limitation in subsection a above may be allowed by the Review Authority upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance.
- c. No accumulation of slash shall be left within 50 feet of the normal high-water line of a river, tidal waters, or stream. In all other areas, slash shall either be removed or disposed of in such a manner that it lies on the ground. Any debris that falls below the normal high-water line of a water body shall be removed.
- d. Timber harvesting equipment shall not use stream channels as travel routes.
- e. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds that are composed of gravel, rock, or similar hard surface that would not be eroded or otherwise damaged.
- f. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- g. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation at least 75 feet wide for slopes up to ten percent shall be retained between the exposed mineral soils and the normal high-water line of a river, tidal waters, or stream, or the upland edge of a coastal or

freshwater wetland. For each ten percent increase in slope, the unscarified strip width shall be increased by 20 feet. The provisions of this paragraph apply only to a face sloping toward the river, tidal waters, stream, coastal wetland, or freshwater wetland—provided, however, that no portion of such exposed mineral soil on a back face shall be closer than 25 feet from the protected resource. In addition, an unscarified strip of vegetation at least 75 feet wide shall be retained between the exposed mineral soils and the normal high-water line of a stream.

(3) Application of Fertilizers and Manure

- a. Application of nitrogen fertilizer and manure is is permitted subject to approval from the applicable reviewing authority. Permit applications shall include application materials and Application-rates and shall conform to Section 2.3.2.F(1) (General Standards).
- b. All manure spreading shall be accomplished in conformance with the Maine Guidelines for Manure and Manure Sludge Disposal on Land, published by the University of Maine Soil and Conservation Commission in July 1972, or the latest revision thereof as amended.
- c. Runoff from areas where manure or fertilizer is being applied to the land shall be controlled.
- d. Application of manure or fertilizer to sand, or bare soil where the topsoil has been removed, is prohibited.

Comment [AB27]: Added back from existing ordinance.

(4) Manure Storage

Agricultural operations that generate or utilize manure shall provide containment facilities for manure storage. Such facilities shall be adequate to hold one year's production, and shall be covered.

(5) Animal Husbandry

The landowner shall minimize potential impact on groundwater quality when managing manure generated on-site through utilization of effective collection and storage measures.

(6) Use of Pesticides

- a. Land application of pesticides is allowed provided that surface runoff and erosion in areas where pesticides are being applied is contained.
- b. Permit applications shall include copies of the pesticide labels, rate of application and materials safety information. Application rates shall conform to Section 2.3.2.F(1) (General Standards).

Comment [AB28]: Added back from existing ordinance (12/2)

(7) Subsurface Waste Disposal Systems

- a. Disposal of hazardous materials to subsurface waste disposal systems, including organic solvents designed for cleaning septic systems, is prohibited.
- b. Subsurface waste disposal systems in the APO1 and APO2 Districts shall be pumped out at least once every three years and maintained. The Local Plumbing Inspector may consider and grant a request to waive or reduce the frequency of pumping and maintenance if evidence of significant underusage of the disposal system is submitted and accepted.
- c. Homeowners shall retain receipts when their tank is pumped to demonstrate compliance to the ~~Codes Enforcement Officer~~ Local Plumbing Inspector during an inspection.

(8) Storage Tanks

- a. All underground oil storage tanks (other than propane gas or natural gas storage tanks) that are in place prior to ~~November-December~~ 2, 1998 shall be nonconforming. All ~~such~~-existing oil underground storage tanks and piping systems that are single-walled and double-walled tanks without an interstitial space monitoring system shall be precision-tested annually. Double-walled tanks and piping systems with an interstitial space monitoring system are exempt from annual precision-testing. Tanks failing to pass the precision test shall be excavated and examined for leaks. If found to be leaking, the tank and any material discharged from the tank shall be removed at the expense of the owner in accordance with the requirements of the Maine Department of Environmental Protection (MDEP). When it becomes necessary to replace an underground tank and/or its piping systems it shall be replaced with a double-walled tank and/or piping system with an interstitial space monitoring system, or better.
- b. All aboveground storage tanks (other than propane gas or natural gas storage tanks) that are in place within the APO1 or APO2 District prior to ~~November-December~~ 2, 1998 and that are not enclosed and located within an impervious secondary containment unit shall be nonconforming. When it becomes necessary to replace these tanks, the replacement tanks shall be enclosed and located within a secondary containment unit.

(9) Application of Compost, Sludge Products, or Organic Fertilizer

- a. Land application materials are limited to those allowed in Section 2.3.2.E(2) (Use Standards for APO3 District).
- b. Landowners shall keep records of past land applications of compost, sludge products, or organic fertilizers.

2.3.3. Shorelands Protection Overlay (SPO) District

A. Purpose

The purposes of the SPO District are to:

- (1) Further the maintenance of safe and healthful conditions;
- (2) Prevent and control water pollution;
- (3) Protect fish spawning areas, aquatic life, and bird and wildlife habitat;
- (4) Protect buildings and lands from flooding and accelerated erosion;
- (5) Protect archaeological and historic resources;
- (6) Protect commercial fishing and the maritime industries;
- (7) Protect freshwater and coastal wetlands;
- (8) Control building sites and the placement of structures and land uses;
- (9) Conserve shore cover;
- (10) Conserve visual and actual points of access to inland and coastal waters;
- (11) Conserve natural beauty and open space; and
- (12) Anticipate and respond to the impacts of development in shoreland areas.

Chapter 3 - Property Use Standards
Section 3.4 Supplementary Use Standards
Subsection 3.4.1 Principal Uses

- (2) The proposed use may not result in an increase in vehicular traffic flow beyond that of an agricultural activity that might typically occupy a similarly sized agricultural structure.
- (3) The structure shall retain its general appearance as an agricultural structure. The structure's facade, silhouette, configuration, roof line, and exterior treatment shall render it to be readily identifiable as a former agricultural structure.
- (4) Parking areas, loading areas and drives shall be situated first on areas that are currently impervious. If the site contains preexisting parking areas, loading areas and drives, those areas shall be utilized first for those purposes. Additional parking areas, loading areas and drives shall be incorporated into existing ~~ones~~ areas.
- (5) Any application submitted under this subsection must include disclosure of ~~which any involves the~~ storage, handling, use or disposal of hazardous matter. ~~must be disclosed.~~ The handling, storage, disposal or use of hazardous materials shall comply with all Federal, State and local laws, ordinances, rules and regulations.

F. Urban Agriculture

Urban agriculture is permitted as a primary use in any growth district, in accordance with the following standards:

(1) Greenhouses, hoop houses, cold frames, storage sheds, and other accessory structures shall comply with applicable district dimensional standards and those standards specific to accessory structures contained in Section

(2) Accessory structures used for the sheltering of animals and poultry, or beekeeping are limited to a maximum height of 12-10 feet and shall comply with standards set forth in Chapter 3, Animals, of the Brunswick, Maine Code of Ordinances, as amended. ~~shall be setback at least 10 feet from any abutting lot with an occupied residential use.~~

~~The cumulative area covered by structures more than 4 feet above grade shall not exceed 25% of the site.~~

(3) The sales of products grown on the site is permitted on the site, provided that the structure used for sales is no larger than 100-150 square feet and is not located in a required setback.

~~Food products may be grown in soil native to the site if a composite sample of the native soil has been tested for lead content and the lead content in the soil is determined to be at or below the Maine direct contact standards for lead the Town determines through maps, deeds, prior permits or a combination of those sources that the site has only been put to residential or agricultural use in the past.~~

~~Food products may be grown in clean soil at least 18 inches in depth brought to the site without the need for testing of the existing soil.~~

F.G. Adult Entertainment Establishment

No Adult Entertainment Establishment may be located closer than 1,000 feet from any school, religious institution, library, dwelling unit or other Adult Entertainment Establishment. The distance of 1,000 feet shall be measured in a straight line without regard to intervening structures or objects, from the customer entrance of the adult entertainment establishment to the nearest point on the boundary of the property occupied by the school, religious institution, library, dwelling unit or other Adult Entertainment Establishment.

Comment [AB37]: R eformat margins

Comment [AB38]: A ccessory structure standards (sec 4.1.4.d) is from existing and is confusing. More than Setbacks are regulated in section but only refers to setback requirements in title.

Comment [AB39]: N ow compatible with existing Animal Ordinance standards.

Comment [AB40]: Q uestion enforcement.

Chapter 4 - Property Development Standards
 Section 4.2 Natural and Historic Areas
 Subsection 4.2.1 Protection of Natural Vegetation

(4) Density bonuses awarded for development meeting the criteria in Section 4.1.4.E(1) are shown in the table below.

Table 4.1.4.E: Density Bonuses Available⁵⁵⁹

	Growth Districts GR1 through GR9, GM1 through GM5, GM8, GC1 through GC4, and GI	Rural Districts
Wildlife Habitat Blocks (% increase in number of lots permitted in base zoning district)		
If 51-75% of original parcel is covered by Wildlife Habitat Block, and 0% of the Block is disturbed	15	15
If 76-100% of original parcel is covered by Wildlife Habitat Block, and 0% of the Block is disturbed	20	20
If 76-100% of original parcel is covered by Wildlife Habitat Block, and 1-15% of the Block is disturbed	15	15
If 76-100% of original parcel is covered by Wildlife Habitat Block, and 16-25% of the Block is disturbed	10	10
Wildlife Corridors (% increase in number of lots permitted in a subdivision that avoids mapped corridors)	15	15
Open Space Developments ⁵⁶⁰ (% increase in number of lots permitted in base zoning district)	25	25 ⁵⁶¹
Affordable Housing: (Bonus units per affordable housing unit)		
Affordable to Moderate Income	.50	0 ⁵⁶²
Affordable to Low Income	.75	0 ⁵⁶³
Affordable to Very Low Income	1.00	0 ⁵⁶⁴

4.2 Natural and Historic Areas⁵⁶⁵

Existing features important to the natural, scenic, and historic character of the Town or that add to the visual quality of a development shall be mapped. To the greatest extent practicable, developments shall avoid such features and incorporate them into the development site design as dedicated open space or as otherwise protected features.⁵⁶⁶

4.2.1. Protection of Natural Vegetation⁵⁶⁷

A. Developments in Rural Area zoning districts and Scenic Areas identified by the Town shall ~~maintain-avoid removing~~ an existing vegetated buffer along existing roads except where doing so

Comment [JW15]: Consider a dimension requirement such as, "within 25-feet from the road, measured horizontally from the edge of the road right-of-way."

⁵⁵⁹ New table consolidating density bonus provisions from various Ordinance sections.
⁵⁶⁰ Revised from current requirement that these lands be "worthy of conservation", which is too vague to be effective.
⁵⁶¹ Rural area bonuses increased from 15% to 25% to reflect Comprehensive Plan focus on encouraging open space development. Reduced from 30% in previous draft.
⁵⁶² Revised from 0.5 unit.
⁵⁶³ Revised from 0.75 unit.
⁵⁶⁴ Revised from 1.00 unit.
⁵⁶⁵ Revisions to this section implement Comprehensive Plan Policy Area 3, Key Objective 3, Key Action 1 (p.28).
⁵⁶⁶ From Town staff and Planning Board revisions to Ch. 5 (503.1).
⁵⁶⁷ From Town staff and Planning Board revisions to Ch. 5 (503.1.A.3).

Chapter 4 - Property Development Standards
Section 4.2 Natural and Historic Areas
Subsection 4.2.2 Protection of Significant Plant and Animal Habitat

conflicts with the protection of ~~other~~ protected natural resources. The buffers may be broken only for driveways, streets, and stormwater infrastructure where it is impracticable to locate them elsewhere.

- B. Developments are encouraged to site building envelopes within or adjacent to forested areas and to discourage siting development in open fields visible from existing streets.

4.2.2. Protection of Significant Plant and Animal Habitat⁵⁶⁸

- A. Developments shall provide any mitigation measures necessary to ensure that the development will not cause undue adverse impacts on the following habitat areas and the plant and animal species they support:

- (1) The Wildlife Protection Overlay WPO District; and
- (2) Areas identified and mapped by the Maine Department of Inland Fisheries and Wildlife and/or Town of Brunswick as:
 - a. Habitat for State or federal-designated rare, threatened, or endangered plant or animal species;
 - b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
 - c. Shorebird feeding or roosting areas and seabird nesting islands;
 - d. Significant vernal pools;
 - e. Rare or exemplary natural communities as identified by the Maine Natural Areas program; or
 - f. State identified significant or sensitive wildlife communities.

- B. Mitigation measures shall be based on an assessment of the development's potential impact on the significant habitat and adjacent areas supporting such habitat.

4.2.3. Steep Slopes⁵⁶⁹

A. General Standard

If a development site contains 5,000 or more contiguous square feet of slopes exceeding 25 percent, the impacts of the development on such slopes shall be minimized to the greatest extent practicable.

B. Specific Standards

The following standards shall apply to developments whose site contains 5,000 or more contiguous square feet of slopes exceeding 25 percent:

- (1) Adequate erosion control and drainage measures shall be provided so that erosion and sedimentation is minimized to the greatest extent practicable during and after construction.
- (2) Cutting of trees, shrubs, and other natural vegetation shall be minimized, except in conjunction with logging operations performed pursuant to applicable guidelines of the Maine Forest Service ~~and Maine Department of Environmental Protection~~.
- (3) Safety hazards due to excessive road or driveway grades—such as potential road washouts, landslides, slumping, soil creep, flooding, or avalanches—shall not be created.

Comment [JW16]: As defined in the Natural Resources Protection Act (NRPA) pursuant to 38 M.R.S. Section 480-B?

A vegetated buffer is not a protected natural resource in the NRPA.

Consider expanding this to allow removing road buffer vegetation if approved by the town for eliminating threats to human health or the environment.

(i.e. [plant hog weed (human health threat) or invasive plants identified by the Maine Natural Areas Program (environment threat)])

; or for the creation or enhancement of a native plant buffer

(i.e. removing non-native plants and replacing with native plants similar in size or larger than existing plants to be removed).

Comment [JW17]: Who determines adequate mitigation? Town or outside specialists?

Comment [JW18]: Consider limiting this.

Comment [JW19]: MFS looks after forestry activity in the Shoreland Zone per the "Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas"

General MFS forest management BMPs are found in, "Best Management Practices for Forestry: Protecting Maine's Water Quality".

⁵⁶⁸ From Town staff and Planning Board revisions to Ch. 5 (503.1.A.4).

⁵⁶⁹ From Town staff and Planning Board revisions to Ch. 5 (506).

Chapter 4 - Property Development Standards
Section 4.2 Natural and Historic Areas
Subsection 4.2.4 Erosion and Sedimentation

- (4) ~~Activity associated with c~~Cutting of-vegetation for recreational trails ~~and-or~~ utility lines ~~is permitted-must~~ provided mitigation measures ~~are provided~~ to return the site its pre-construction condition to the greatest extent practicable.
- (5) Slope determinations shall be made based upon the topographic information. For clay embankments and highly erodible bluffs, recommendations by a Maine Certified Geologist are required.

Comment [JW20]: Provided by the applicant or available from a different source?

4.2.4. Erosion and Sedimentation⁵⁷⁰

A. General Standard

Developments shall be constructed in accordance with ~~the Maine~~ Department of Environmental Protection's ~~Protection (DEP) Erosion and Sediment Control~~ Best Management Practices (BMPs) and shall not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy situation results.

B. Specific Standards

- (1) An Erosion and Sedimentation Control Plan shall be submitted as part of the Development Review application ~~in accordance with the that is based on the Department of Environmental Protection's Maine Erosion and Sediment Control Best Management Practices Handbook, as amended~~ Maine Erosion and Sediment Control BMPs, developed by the DEP.
- (2) Developments shall be designed so as to prevent soil erosion and sedimentation from entering water bodies, wetlands, and adjacent properties.
- (3) The procedures outlined in the erosion and sedimentation control plan shall be implemented during site preparation, construction, and clean-up stages.
- (4) Cutting or removal of vegetation along water bodies shall not increase water temperature or result in shoreline erosion or sedimentation.
- (5) Topsoil shall be considered part of the site and shall not be removed except for surplus resulting from roads, parking areas, and building excavations.

Comment [JW21]: Does the town have a flooding standard to make this determination?

4.2.5. Groundwater⁵⁷¹

A. General Standard

Developments shall not, alone or in conjunction with existing activities, have an undue adverse effect on the quality or quantity of groundwater.

B. Specific Standards

- (1) There shall be no ~~undue-significant-unreasonable~~ adverse ~~impact-effect~~ on groundwater quality resulting from a development—either during or after development—with regard to on-site subsurface wastewater disposal, use of fertilizers or pesticides other than for normal residential purposes, infiltration of stormwater runoff, and ~~such~~ other such activities that pose a potential threat to groundwater quality.
- (2) The applicant may be required to document existing water quality conditions and to establish a monitoring system to measure post-development levels of impacts. The applicant shall provide the Town with permanent access to such monitoring system, so that it can be added to Town-wide water quality monitoring programs.
- (3) If the site of a development utilizing on-site subsurface wastewater disposal proposing a density of 3 or more bedrooms per acre overlies a sand and gravel aquifer mapped by the

Comment [JW22]: Do these programs exist? If so, there one monitoring program or several programs?

⁵⁷⁰ From Town staff and Planning Board revisions to Ch. 5 (509).

⁵⁷¹ From Town staff and Planning Board revisions to Ch. 5 (508).

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Section 4.3 Flood Hazard Areas
Subsection 4.2.6 Surface Waters, Wetlands, and Marine Resources

Maine Geologic Survey, or an aquifer recharge area as identified on the Brunswick Zoning Map, the Review Authority may require a detailed hydrogeologic evaluation conducted by a Maine-Certified hydrogeologist.

4.2.6. Surface Waters, Wetlands, and Marine Resources⁵⁷²

Developments shall not have an ~~undue-unreasonable~~ adverse effect on the functional integrity of freshwater wetlands or coastal wetlands, water-bodies, or shorelines within the watershed of the development site. The Review Authority shall consider reports or statements from qualified wetland scientists, hydrogeologists, the Maine Department of Environmental Protection, Maine Department of Marine Resources, or other agents, deemed appropriate by the Review authority, that evaluate the impact of development on surface waters or wetlands.

4.2.7. Historic and Archeological Resources⁵⁷³

- A. Developments that include or are adjacent to buildings, sites, or districts listed on the National Register of Historic Places, identified by the Village Review Zone Contributing Resource Inventory, or Brunswick Comprehensive Plan as being of historical importance shall be designed in such a manner as to minimize impacts on the historic feature.
- B. When historic features to be protected include buildings, the placement and the architectural design of adjacent new structures shall be compatible with that of the historic structures.
- C. Developments that include or are adjacent to areas that may have archeological artifacts or resources, based on information available to the Town from the Maine Historic Preservation Commission, shall be referred to the Maine Historic Preservation Commission for evaluation, and any recommendations or information provided by that Commission shall be considered by the Review Authority before making a decision on the development application.⁵⁷⁴

4.3 Flood Hazard Areas

Flood hazard areas make up the Flood Protection Overlay (FPO) District. Development in the FPO District shall comply with the standards in 2.3.4 (Flood Protection Overlay (FPO) District).

4.4 Basic Services

4.4.1. Sewage Disposal⁵⁷⁵

A. General Standard

Developments shall provide for adequate sewage waste disposal and shall not cause an unreasonable burden on municipal services if utilized.

B. Specific Standards

(1) Municipal Sewer

- a. Sewer lines that connect to the municipal sewer shall not be extended beyond the Growth Area designated in the Comprehensive Plan.
- b. The sewerage system shall conform to all standards of the Brunswick Sewer District.

⁵⁷² From Town staff and Planning Board revisions to Ch. 5 (504).

⁵⁷³ From Town staff and Planning Board revisions to Ch. 5 (503.1.A.6).

⁵⁷⁴ New provision.

⁵⁷⁵ From Town staff and Planning Board revisions to Ch. 5 (510).

(2) On-Site Disposal

- a. Septic systems shall be built in accordance with the Maine Subsurface Wastewater Disposal Rules, CMR 241, as amended.
- b. The Review Authority may require a hydrogeological study if the development involves a developed density of three or more bedrooms per acre of net site area. If needed, the hydrogeological study shall cover the evaluation of any significant nearby water resources—including, but not limited to, wells, ponds, and riverine and ocean resources. For properties located within the Rural Protection (RP) districts or the New Meadows River Watershed, the hydrogeological analysis shall include a computation of the project's projected nutrient load to the receiving tidal water. The hydrogeological study shall be prepared by, signed, stamped, and dated by a Maine Certified Geologist as required by 32 M.R.S.A. §§ 4093 and 4918.
- c. The development plan shall include test pit samples to establish soil suitability, with locations flagged on the site. Each test pit must be marked with numbers corresponding to those indicated on the plan. There shall be two passing test pits per lot, with each pit identifying soil consistency within a 20-foot radius of the central boring. The direction of groundwater flow and septic leachate impacts on existing and proposed well locations shall be described.
- d. No portion of a septic system (including easements) shall be located within any portion of the right-of-way of a public road.
- e. A common septic system serving more than one lot may be utilized if designed and constructed in accordance with community septic system criteria as established by the Maine Subsurface Wastewater Disposal Rules, CMR 241, as amended. Such system shall be supported by a hydrogeologic analysis by a Maine Certified hydrogeologist. A back-up and maintenance plan must be provided. In the case of a "peat system," a financial guarantee approved by the Town shall be provided for bed replacement and disposal.

4.4.2. Water Supply and Quality⁵⁷⁶

A. General Standard

Developments shall have sufficient water available for the reasonably foreseeable needs of the development, and shall have no undue adverse impact on existing water supplies.

B. Specific Standards

(1) Public Water Supply

- a. Water mains proposed for connection to the existing public water system shall not be extended outside the Growth Area designated by the Comprehensive Plan unless required due to health and safety concerns.
- b. The water system shall be designed and installed in accordance with all rules, terms, and conditions of the Brunswick-Topsham Water District.
- c. The size and location of mains, gate valves, hydrants, and service connections are subject to review and approval by the Water District and the Brunswick Fire Chief.

(2) Private Water Supply

- a. Individual wells shall be sited and constructed to prevent infiltration of surface water and contamination from subsurface wastewater disposal systems and other sources of potential contaminations.

⁵⁷⁶ From Town staff and Planning Board revisions to Ch. 5 (511).

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Subsection 4.4.3 Solid Waste Disposal

- b. Lot and site design shall permit placement of wells, subsurface wastewater disposal areas, and replacement areas in compliance with the Maine Subsurface Wastewater Disposal Rules, the Well Drillers and Pump Installers Rules, and the Brunswick Building Code.
- c. If a central water supply system is proposed, the location and protection of the source, and the system design, construction, and operation shall conform to the Maine Rules Relating to Drinking Water, CMR 231, as amended.

C. Fire Protection Water Supply

In areas where the Review Authority determines, based upon the written recommendation of the Fire Chief or designee, that a reliable water supply for firefighting purposes is not available within one-half mile of the development site, the development shall be responsible for providing adequate fire protection water supply in accordance with NFPA 1231, as approved by the Town. Acceptable options may include, but are not limited to, fire ponds with an approved dry hydrant, other water sources with an approved dry hydrant, or approved residential sprinkler systems in each principal building.

D. Water Quality

Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water, CMR 231, as amended. If existing water quality contains contaminants in excess of the secondary drinking water standards in those rules, such information shall be stated on the recorded plan.

4.4.3. Solid Waste Disposal⁵⁷⁷

Development utilizing municipal solid waste disposal services shall not cause an unreasonable burden on the municipality's ability to dispose of solid waste.

4.5 Stormwater Management, Landscaping, and Open Space

4.5.1. Stormwater Management⁵⁷⁸

A. Applicability

- (1) Non-subdivision single and two-family dwelling unit projects are exempt from the requirements of this section.
- (2) Any development requiring a Chapter 500 Stormwater Permit, as amended, from the Maine Department of Environmental Protection (DEP) shall be deemed to have met the requirements of this section.

B. General Standard

Developments shall be designed to minimize the total area of impervious surface on the development site and shall incorporate stormwater management techniques to minimize runoff volume and rate, as well as pollutant and nutrient loadings, from the site.

C. Specific Standards

(1) General

- a. Developments shall provide for the perpetual maintenance of all stormwater treatment techniques/facilities/Best Management Practices approved under this section.

Comment [JW23]: A lot in a subdivision is exempt from Chapter 500, Stormwater Management Law. Keep this?

⁵⁷⁷ From Town staff and Planning Board revisions to Ch. 5 (525).

⁵⁷⁸ From Town staff and Planning Board revisions to Ch. 5 (507).

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 Subsection 4.5.1 Stormwater Management

~~b. Developments shall obtain a Stormwater Permit from the Maine Department of Environmental Protection (DEP) if they:~~

- ~~i. Include one acre or more of impervious surface; or~~
- ~~ii. Are located within the watershed of a DEP-designated Urban Impaired Stream (UIS) and include 20,000 square feet or more of impervious surface.~~

e.b. Developments not requiring a DEP Stormwater Management Law Permit pursuant to Title 38 M.R.S.A. Section 420-D and not otherwise exempt from the requirements of this section shall meet the standards set forth in ~~subsections (2)(2) and Section 4.5.1.C(2)a-b~~ below.

Comment [JW24]: DEP has authority per 420-D.

Comment [JW25]: Intent to include Subsections b(i), b(ii), b(iii)(A)-(C)

(2) Stormwater Runoff Quality Standards

a. The stormwater management plan shall meet runoff treatment standards based on a percentage of ~~the site's~~ impervious surfaces, and shall also meet a minimum treatment for the total disturbed ~~pervious~~ areas, as outlined in the Table 4.5.1.C(2)a, Site Sliding Scale Table for Stormwater Treatment Sizing.

Comment [JW26]: If this term is used, consider adding definition consistent with "developed area" in Ch. 500 Stormwater Management Law

Comment [JW27]: Recommend 3rd party engineer review on this table.

Table 4.5.1.C(2)a: for Stormwater Treatment Sizing		
Impervious Surface on Development Site (acres)	Percentage of Impervious Area Required to be Treated	Percentage of Total Disturbed Area Required to be Treated
Over 1 acre ¹	95%	80%
1 acre < 0.75 acre	70%	60%
0.75 acre < 0.5 acre	50%	40%
0.5 acre < 0.25 acre	25%	20%
Under 0.25 acre	Shall meet Erosion Control requirements or DEP Chapter 500's Basic Standards	
NOTES: 1. Developments with more than 1 acre of impervious surface are may be required to obtain a DEP Stormwater Management Law Permit from the DEP in accordance with Title 38 M.R.S.A. Section 420-D DEP Chapter 500 standards.		

- b. ~~Development's~~ stormwater ~~treatment~~ design shall either:
- i. Use the ~~treatment-vegetated buffer design and sizing methodology required requirements contained under in DEP's Chapter 500 Stormwater Management Rules, Chapter 500 (06-096 G.M.R.CMR ch. 500) and (which includes stormwater management design practices in accordance with the DEP Stormwater Manual, Volume III-BMPs Technical Design Manual); or~~
 - ii. ~~Rely-Use the on-~~ Low Impact Development (LID) design practices and techniques ~~contained in DEP Stormwater Management Rules, Chapter 500 (06-096 CMR 500) as approved by the Maine DEP; or~~
 - iii. Use alternative treatment measures and techniques approved by Review Authority as appropriate for the site and providing at least an equivalent level of treatment as the standard techniques.
 - (A) The Review Authority may approve the use of alternative treatment measures and techniques upon a written waiver request submitted by the developer, and upon the recommendation from the Town's Engineer and/or Public Works Director.

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Subsection 4.5.2 Landscaping

- (B) The Review Authority's evaluation of alternative treatment measures and design practices shall be based on those set forth in Chapter 10 of the *DEP Stormwater Manual, Volume III-BMPs Technical Design Manual*, and/or any manual formally adopted by the Review Authority.
- (C) The developer bears the burden of showing that any alternative design meets the treatment standards to an equivalent degree.

Comment [JW28]: Approved?

(3) Stormwater Runoff Quantity Standards

- a. Developments shall be designed to compare the post-development conditions rate of runoff to the pre-developed condition rate for the 2-year and 25-year, 24-hour event. Any stormwater draining onto or across the lot in its pre-improvement state shall not be impeded or redirected so as to create ponding on, or flooding of, adjacent lots.
- b. Studies and/or calculations using larger storm event precipitation data may be required at the discretion of the Review Authority and be reviewed by the Town Engineer or assigned qualified third party reviewer. Data used to provide proof may include, but is not limited to, data for the 50-year, 24-hour rain event; data for the 100-year, 24-hour rain event; or acceptable rainfall data from recently recorded significant precipitation event(s).
- c. Developments that cannot control peak runoff rates to pre-development conditions shall submit a request for a waiver to the Review Authority, who may grant the request if it finds each of the following:
- i. Any increase in volume or rate of stormwater draining from the lot onto an adjacent lot following development can be handled on the adjacent lot without creating ponding, flooding, or other drainage problems, and that the owner of the lot being developed has obtained the legal right, written permission, or authorization by the property owner to increase the flow rate of stormwater onto the adjacent lot(s);
 - ii. Any increase in volume or rate of stormwater draining from the lot onto town-owned property following development can be handled without creating ponding, flooding, or other drainage problems, and that the owner of the lot being developed has obtained the legal right, written permission, or authorization by the Town of Brunswick to increase the flow rate of stormwater runoff onto its property;
 - iii. Any increase in volume or rate of stormwater draining from the lot into the Town's separate storm sewer system can be accommodated in the system without creating downstream problems or exceeding the capacity of the storm sewer system. The developer bears the burden of proving adequate system capacity, which must be approved by the Public Works Director.

4.5.2. Landscaping⁵⁷⁹

A. General

- (1) Landscape design shall include all forms of planting and existing and proposed vegetation, topography, water patterns, and utilitarian structures including, but not limited to, materials such as fences, walls, and, where there is difficulty in achieving vegetation growth, a variety of paving types. Wherever practicable, existing topography and vegetation shall be maintained.

⁵⁷⁹ From Town staff and Planning Board revisions to Ch. 5 (518). Materials reorganized.