

# City of Augusta, ME

Sunday, February 7, 2016

## PART I: CITY CHARTER

### Chapter C. City Charter

[HISTORY: Adopted at referendum 11-4-2008. Amendments noted where applicable.]

### Article I. Grant of Powers to City

#### Sec. 1. Corporate existence retained.

The inhabitants of the City of Augusta shall continue to be a municipal corporation under the name of the City of Augusta and as such shall have, exercise and enjoy all the rights, immunities, powers and privileges, and shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise pertaining to or incumbent upon the City as a municipal corporation; and may enact ordinances, bylaws and regulations not inconsistent with the Constitution and laws of the State of Maine.

(P.&S.L. 1957, Ch. [169](#), Art. [I](#), § 1)

### Article II. City Council

#### Sec. 1. Composition; election; tenure of office.

The Council shall be composed of eight members, one member from each of the four wards of the City, and four at-large members. The ward members shall be elected by and from the qualified voters of the ward; and the candidate for each ward receiving the largest number of votes cast in each ward shall be elected Councilor for that ward. The at-large members shall be elected by and from the qualified voters of the City and the candidate(s) receiving the largest number of votes cast City wide shall be elected Councilor(s).

The terms of all Councilors shall be for three years or until successors are elected and qualified. No person may serve as a City Councilor for more than three consecutive three-year terms, unless he or she was elected to an initial term of 18 months or less, in which case he or she may still be elected to three consecutive year terms.

No member shall be eligible while a member of the Council to hold any office of emolument or profit under the City Charter or ordinances, nor to hold the office of City Manager during the term for which the member was elected.

(P.&S.L. 1957, Ch. [169](#), Art. [II](#), § 2; P.&S.L. 1959, Ch. [148](#), § 1; P.&S.L. 1967, Ch. [75](#), § 1; P.&S.L. 1969, Ch. 144, § 1; Amendment No. 1-1974, 11-5-1974; Ord. No. 647, 11-20-1978;

Amendment of 6-14-1988; Amendment of 11-3-1998; Amendment of 11-5-2002; Amendment of 11-4-2008)

## **Sec. 2. Establishment of voting wards and qualifications, review of ward boundaries.**

It shall be the duty of the Council at least once in 10 years to review and, if deemed necessary, to alter the boundaries of the wards in such manner as to preserve as nearly as practicable an equal number of inhabitants in each ward.

(Amendment of 6-14-1978; Amendment of 11-3-1998)

## **Sec. 3. Compensation.**

Each member of the Council, except the Mayor, shall receive as a stipend the sum of \$200 per month, and shall be reimbursed for actual authorized out-of-pocket expenses incurred in the performance of official duties.

(Amendment of 6-14-1988; Amendment of 11-3-1998; Amendment of 11-4-2008)

## **Sec. 4. Powers and duties.**

The administration of all the fiscal, prudential and municipal affairs of the City, except as otherwise provided by this Charter, shall be and are vested in one body called the City Council. All members of the Council shall be qualified voters of the City, and shall be sworn in the manner hereinafter prescribed. The City Council shall exercise its powers in the manner hereinafter provided.

The members of the Council and the Mayor shall be and constitute the municipal officers of the City of Augusta for all purposes required by statutes and, except as otherwise herein specifically provided, shall have all the powers and authority given to and perform all duties required of municipal officers and mayors of cities under the laws of this state.

All other powers now or hereinafter vested in the inhabitants of the City, and all powers granted by this act, except as herein otherwise provided, shall be vested in the Council.

The Council shall function as the policy-making body of the City. It is not intended that the Council be involved with the day-to-day administrative matters assigned to the City Manager except as required by statute.

(P.&S.L. 1957, Ch. [169](#), Art. [II](#), § 1; Ord. No. 648, 11-20-1978; Amendment of 6-14-1988; Amendment of 11-5-2002)

## **Sec. 5. Vacancies; forfeiture of office.**

In case of a vacancy caused by the forfeiture of office, death, resignation, removal from the ward in which elected, removal from the City, or removal from office, the vacancy shall be filled either from the ward in which such vacancy occurs or from the City in the case of an at-large member by an election called by the Council as soon as practical if the vacancy would exceed six months.

A Councilor who is convicted of murder, or a Class A, B or C crime, or a Class D or E crime involving moral turpitude or dishonesty, while in office, after due notice and hearing before the Council, may be removed from office. If a Councilor is indicted for murder, or a Class A, B or C

crime, he or she may be suspended from office until final resolution of the charges, after due notice and hearing by majority vote of the Council.

A Councilor shall forfeit his or her office if he or she fails at any time during his or her term of office to maintain any qualification for the office prescribed by this Charter or by law.

(P.&S.L. 1957, Ch. [169](#), Art. [II](#), § 3; P.&S.L. 1967, Ch. [75](#), § 2; Ord. No. 648, 11-20-1978; Amendment of 11-4-2008)

### **Sec. 6. Regular meetings.**

The Council shall meet on the first Monday in January, at such time and place on that date, or at such other date as the previous Council shall determine, at which time the Mayor-elect, the Councilors-elect, members-elect of the School Board, and the School Board Chairperson-elect shall be sworn to the faithful discharge of their duties by the City Clerk, a notary public, or an attorney at law. Thereafter, the Council shall meet at such time and place as may be prescribed by ordinance or resolution, except that it shall meet regularly each month.

(P.&S.L. 1957, Ch. [169](#), Art. [II](#), § 4; P.&S.L. 1963, Ch. 89; Amendment of 11-3-1998)

### **Sec. 7. Special meetings.**

Special meetings may be called by the Mayor, and in the event of his or her absence, disability or refusal, may be called by five members of the Council. Notice of a special meeting shall be served in hand to or left at the residence of each member of the Council at least 24 hours before the time for holding the special meeting. The Council may meet upon shorter notice by unanimous consent of all of its members, recorded in the record of such meeting.

(P.&S.L. 1957, Ch. [169](#), Art. [II](#), § 5)

### **Sec. 8. Quorum.**

Five members of the Council, one of whom may be the Mayor, shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least 24 hours' notice of the time and place of resumption of such adjourned meeting shall be given to all members who were not present at the meeting from which the adjournment was taken.

(P.&S.L. 1957, Ch. [169](#), Art. [II](#), § 2; Amendment of 11-4-2008)

### **Sec. 9. Procedure.**

The Council shall keep a record of its proceedings and shall be the judge of the qualification and election of its own members. The Council shall determine and enforce its own rules relating to procedure, misconduct, and forfeiture of office. The meetings of the Council shall be open to the public. All members present shall vote on all matters brought before the Council which require a vote unless excused by the Council for conflict of interest. Agenda for the business anticipated to be conducted at formal meetings of the Council shall be available to the public at the City Clerk's office at least two business days prior to the meeting. A verbatim electronic recording of suitable quality as to be audible of all public meetings shall be made and placed on file within seven days at the office of the City Clerk for at least one year. Possession and handling of these recordings

shall be restricted to the office of the City Clerk, which shall provide for the listening or transcribing of the records upon reasonable request.

The Council shall act only by ordinance, order or resolve; and all ordinances, orders and resolves, except resolves making appropriations, shall be confined to one subject. Appropriation resolves shall be confined to the subject of appropriations. No ordinance and no appropriation resolve shall be passed until it has been read on two separate days, except when the requirement of a reading on two separate days has been dispensed with by an affirmative vote of six voting members. The yeas and nays shall be taken on the passage of all ordinances, orders and resolves and entered on the record of the proceedings of the Council by the Clerk. Every ordinance shall require for final passage the affirmative vote of a majority of the members of the Council present and voting. Every ordinance before final passage shall be posted, marked "Proposed Ordinance," at the City Hall and shall take effect and be in full force 30 days from and after it shall have received final passage by the Council. An order or resolve shall take effect 10 days after its passage. Within 15 working days after final passage, the ordinance shall be published in summary in one or more of the newspapers circulated in Augusta.

The Council may, by an affirmative vote of six voting members, pass emergency ordinances, orders or resolves to take effect at the time indicated therein. Such emergency ordinances, orders or resolves shall contain a section in which the emergency is set forth and defined. No emergency ordinance may be enacted unless it involves life, health, safety or property. Every emergency ordinance shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent enactment of the ordinance on a nonemergency basis.

(P.&S.L. 1957, Ch. [169](#), Art. [II](#), § 7; P.&S.L. 1965, Ch. [137](#), § 1; Ord. No. 648, 11-20-1978; Amendment of 6-14-1988; Amendment of 11-3-1998; Amendment of 11-4-2008)

### **Sec. 10. Charter review.**

Unless otherwise required by municipal referendum or state law, a Charter Commission shall be created and elected in accordance with state law at least every 10 years in order to provide for citizen review of the structure of City government.

(Amendment of 6-14-1988)

## **Article III. Mayor**

### **Sec. 1. Eligibility, election and tenure of office.**

A Mayor shall be elected by and from the qualified voters of the City and shall be a resident of the City. The Mayor shall hold office for a term of three years or until a successor is elected and qualified, except that when elected to fill a vacancy the Mayor shall hold office only for the unexpired term or until a successor is elected and qualified. No person may serve as Mayor for more than three consecutive three-year terms, unless he or she was elected to an initial term of 18 months or less, in which case he or she may still be elected to three consecutive three-year terms.

(P.&S.L. 1957, Ch. [169](#), Art. [III](#), § 1; Amendment of 11-3-1998; Amendment of 11-5-2002; Amendment of 11-4-2008)

### **Sec. 2. Vacancy.**

In the case of the vacancy caused by forfeiture of office, death, resignation, removal from the City, or removal from office of the Mayor, the vacancy shall be filled by an election called by the Council as soon as practical if the vacancy would exceed six months. Until such time as the office is filled at a municipal election, the vacancy shall be filled from the membership of the Council by a majority vote of its members, and the member so elected to the position of Mayor shall have all of the powers of Mayor.

A Mayor who is convicted of murder, or a Class A, B or C crime, or a Class D or E crime involving moral turpitude or dishonesty, while in office, after due notice and hearing before the Council, may be removed from office. If a Mayor is indicted for murder, or a Class A, B or C crime, he or she may be suspended from office until final resolution of the charges, after due notice and hearing, by majority vote of the Council.

(P.&S.L. 1957, Art. [III](#), § 2; Ord. No. 648, 11-20-1978; Ord. No. 195, 11-3-1981; Amendment of 11-4-2008)

### **Sec. 3. Powers and duties.**

The Mayor shall be recognized as the official head of the City. The Mayor shall preside at all meetings of the Council and shall perform such other duties not inconsistent with his office as the Council may impose. The Mayor shall vote only when there is a tie vote of the Council unless otherwise provided in this Charter. The Mayor shall appoint and the Council confirm all members of municipal boards and commissions, except the Mayor may exclusively appoint members to ad hoc committees.

The title of Mayor shall not be considered as conferring upon him or her any power of a Mayor under the general laws of the state inconsistent with the provisions of this Charter.

(P.&S.L. 1957, Ch. [169](#), Art. [III](#), § 3; Amendment of 11-3-1998; Amendment of 11-5-2002; Amendment of 11-4-2008)

### **Sec. 4. Compensation.**

The Mayor shall receive as a stipend the sum of \$250 per month, and shall be reimbursed for actual authorized out-of-pocket expenses incurred in the performance of official duties.

(P.&S.L. 1957, Ch. [169](#), Art. [III](#), § 4; P.&S.L. 1967, Ch. [75](#), § 4; P.&S.L. 1969, Ch. 144, § 2; Amendment No. 3-1973, 11-6-1973; Amendment No. 3-1974, 11-5-1974; Amendment of 11-3-1998; Amendment of 11-4-2008)

### **Sec. 5. Chairperson of Council.**

In the absence of the Mayor, the most senior at-large Councilor shall open the meeting and preside until the Council shall elect from those members present a Chairperson of the Council Pro Tem to serve during such meeting. While presiding, the Chairperson of the Council Pro Tem shall vote on all matters.

(P.&S.L. 1957, Ch. [169](#), Art. [III](#); P.&S.L. 1967, Ch. [75](#), § 5; Amendment No. 6-1973, 11-6-1973; Amendment of 11-3-1998; Amendment of 11-4-2008)

## **Article IV. Board of Education**

## **Sec. 1. Composition, election and tenure of office.**

The Board of Education shall be composed of nine members, one member from each of the four wards of the City, four at-large members and the Chairperson. The ward members shall be elected by and from the qualified voters of the ward, and the candidate for each ward receiving the largest number of votes cast in each ward shall be elected to represent that ward. The at-large members shall be elected by and from the qualified voters of the City and the candidate(s) receiving the largest number of votes cast City wide shall be elected Board member(s).

The terms of all members shall be for three years or until their successors are elected and qualified. Including the office of Chairperson, no person may serve as a member of the Board for more than three consecutive three-year terms, unless he or she was elected to an initial term of 18 months or less, in which case he or she may still be elected to three consecutive three-year terms. Members shall be nominated and elected under the provisions of Article [V](#). Their qualifications as to residency in a ward and the effect of removal therefrom shall be the same as in the case of Councilors hereinbefore set forth.

In case of vacancy caused by forfeiture of office, death, resignation, removal from the ward in which elected, removal from the City, or removal from office, the Council shall call a special election to fill the vacancy within the same provisions as set forth for the Council in Article [II](#), Section 5.

The members of the Board, except the Chairperson, shall receive as a stipend the sum of \$200 per month and shall be reimbursed for actual authorized out-of-pocket expenses incurred in the performance of official duties.

No member of the Board elected at large or by the several wards shall be a member of the Council nor shall he or she be eligible, while a member of the Board, to hold any office of emolument or profit under the City Charter or ordinances, nor to hold the office of City Manager during the term for which the member was elected.

(P.&S.L. 1957, Ch. [169](#), Art. [IV](#), § 1 and § 2; P.&S.L. 1959, Ch. [148](#), § 2; P.&S.L. 1965, Ch. [137](#), § 4; Amendment No. 4-1974, 11-5-1974; Ord. No. 648, 11-20-1978; Amendment of 11-3-1998; Amendment of 11-5-2002; Amendment of 11-4-2008)

## **Sec. 2. Powers and duties; organization.**

Five members of the Board, including the Chairperson, shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least 24 hours' notice of the time and place of resumption of such adjourned meeting shall be given to all members who were not present at the meeting from which the adjournment was taken.

The Board shall perform all the duties and be vested with all the rights and power of superintending school committees of towns, including the right to direct the expenditures of all school monies. The Board shall function as the policy-making body of the Department of Education (School Department). It is not intended that the Board be involved with the day-to-day administrative matters except as required by statute.

## **Sec. 3. Procedures.**

The Board shall keep a record of its proceedings and shall determine and enforce its own rules relating to procedure, misconduct and forfeiture of office. All meetings of the Board shall be

open to the public. The Board shall adopt and maintain a written policy manual and shall revise and amend the manual when necessary and as appropriate. No revision and no amendment to the policy manual shall be passed until it has been read and voted on two separate days at least four weeks apart, except when dispensed with by an affirmative vote of six members of the Board. All members present shall vote on all matters brought before the Board which require a vote unless excused by the Board for conflict of interest. Agenda for the business anticipated to be conducted at formal meetings of the Board shall be available to the public at the Superintendent's office at least two business days prior to the meeting. The yeas and nays shall be recorded on any vote when called for by any member of the Board. A verbatim electronic recording of suitable quality as to be audible of all public meetings shall be made and placed on file within seven days at the office of the City Clerk for at least one year. Possession and handling of these recordings shall be restricted to the office of the City Clerk, which shall provide for the listening or transcribing of the recordings upon reasonable request.

(P.&S.L. 1957, Ch. [169](#), Art. [IV](#), § 3; P.&S.L. 1967, Ch. [75](#), § 5; Amendment No. 2-1974, 11-5-1974; Amendment No. 4-1974, 11-5-1974; Ord. No. 648, 11-20-1978; Amendment of 6-14-1988; Amendment of 11-3-1998; Amendment of 11-4-2008)

#### **Sec. 4. School budget, hearings, appropriations, audit of accounts.**

The Board shall annually prepare a report of the affairs and conditions of the City schools for the school year ending on the 30th day of June preceding, and shall submit a copy of the report to the City Manager and to each member of the Council by the first day of August of each year. Not later than 90 days prior to the beginning of a new fiscal year, the Board shall prepare and file with the City manager, with copies to each member of the council, a detailed estimate in the form of a line budget as prescribed by the Council, in accordance with state law, of the amount needed for school purposes for the upcoming school fiscal year.

No later than May 1 annually, the Mayor shall call a joint public meeting of the Board, the Chairperson, the Superintendent, the Mayor, the City Manager and the council to consider the school budget.

(P.&S.L. 1957, Ch. [169](#), Art. [IV](#), § 4; P.&S.L. 1965, Ch. [137](#), § 2; Amendment No. 1-1976, 9-20-1976; Ord. No. 86, 11-8-1983; Ord. No. 208, 11-3-1987; Amendment of 11-5-2002)

#### **Sec. 5. Chairperson of Board.**

A Chairperson of the Board shall be elected by and from the qualified voters of the City. The Chairperson shall be elected for a term of three years or until a successor is elected and qualified, except that when elected to fill a vacancy the Chairperson shall hold office only for the unexpired term or until a successor is elected and qualified.

No person may serve as Chairperson of the Board for more than three consecutive three-year terms, unless he or she was elected to an initial term of 18 months or less, in which case he or she may be elected to three consecutive three-year terms.

In case of the vacancy caused by forfeiture of office, death, resignation, removal from the City, or removal from office of the Chairperson, the Council shall call a special election to fill the vacancy within the same provisions as those set forth for the Mayor in Article [III](#), Section 2.

The Chairperson shall preside at all meetings of the Board and shall perform such other duties not inconsistent with the office as the Board may impose. The Chairperson shall have the right to vote only when there is a tie vote of the Board.

The Chairperson's stipend shall be fixed at \$225 per month and the Chairperson shall be reimbursed for actual authorized out-of-pocket expenses incurred in the performance of official duties.

(Amendment No. 4-1974, 11-5-1974; Ord. No. 648, 11-20-1978; Amendment of 11-3-1998; Amendment of 11-5-2002; Amendment of 11-4-2008)

#### **Sec. 6. Chairperson of the Board Pro Tem.**

In the absence of the Chairperson of the Board, the most senior at-large Board member shall open the meeting and preside until the Board shall elect from those members present a Chairperson Pro Tem to serve during such meeting. While presiding, the Chairperson of the Board Pro Tem shall have the right to vote on all matters.

(Ord. No. 648, 11-20-1978; Amendment of 11-3-1998; Amendment of 11-4-2008)

#### **Sec. 7. Superintendent of Schools.**

The Board of Education shall select the Superintendent of Schools in accordance with the laws of the State of Maine.

The Superintendent shall perform all the duties imposed by law upon superintendents of schools and shall prepare and submit to the Board such reports and shall perform such other duties as the Board of Education may require, and shall make such recommendations to the Board concerning the affairs of the Department of Education as he or she deems advisable.

(Amendment of 6-14-1988; Amendment of 11-4-2008; Amendment of 11-4-2014)

#### **Sec. 8. Conference committee.**

There shall be created a joint conference committee composed of the Mayor and two Councilors appointed by the Mayor along with the Chairperson of the Board and two Board members appointed by the Chairperson. The Mayor shall chair the conference committee and the City Manager and Superintendent of Schools or their designees shall staff the conference committee. The conference committee shall meet at the call of the Mayor, principally during the time of the formulation of the school budget. It shall be the responsibility of the committee to be a conduit of information between the two elected bodies and to try mutually to deal with situations where the proposed financial needs of the School Department exceed the perceived ability of the Council to fund these needs within the constraints of a reasonable and prudent fiscal budget.

The committee shall report its findings and recommendations to the Council and the Board.

(Amendment of 6-14-1988; Amendment of 11-3-1998)

### **Article V. Nominations and Elections**

#### **Sec. 1. Date of elections and procedure to determine results.**

The regular municipal elections under the provisions of this Charter will be held on the first Tuesday following the first Monday in November of each year. At these annual elections the qualified voters of the City shall vote for members of the Council, the Mayor, School Board members, and School Board Chairperson and such other elective offices as are otherwise provided for in this Charter. The candidates for these offices shall be duly qualified under the nomination provisions contained herein.

As provided in Section 2 of Article [II](#), the qualified voters of the various wards shall vote for eight members of the Council and the Mayor, and such other elective officers as herewithin prescribed, all of whom shall have been nominated under the provisions of this Charter, subject to the provisions of Article [II](#), Section 1, above.

The City Council may order that a special election be held to fill vacancies in elective office, vote on an initiative or referendum question subject to Article V-A, Section 6(f), of the Charter, or on any other matter allowed by this Charter or required by state law.

(P.&S.L. 1957, Ch. [169](#), Art. [V](#), § 1; Amendment No. 2-1973, 11-6-1973; Amendment of 6-14-1988; Amendment of 11-3-1998; Amendment of 11-4-2008)

### **Sec. 2. Warden and Ward Clerk; eligibility; tenure; qualification.**

The Warden and the Ward Clerk appointed as hereinafter provided shall be qualified voters of the wards for which they are appointed, and shall hold their offices for two years, or until others have been chosen and qualified in their stead; the Warden and the Ward Clerk shall be sworn to the faithful performance of their duties by the City Clerk, a notary public or an attorney at law, and a certificate of such oath shall be entered by the Clerk on the records.

(P.&S.L. 1957, Ch. [169](#), Art. [V](#), § 2; Amendment of 11-3-1998; Amendment of 11-4-2008)

### **Sec. 3. Nominations for elective offices to be made by petition.**

The nomination of all candidates for elective offices provided for by this Charter shall be by petitions. Candidates seeking election to the Council or the Board shall run either from a ward or at large. The petition of candidates for Mayor and Chairperson of the School Board shall be signed by not less than 200 qualified voters of the City. The petition of candidates for members of Council and the School Board elected at large shall be signed by not less than 100 qualified voters of the City. The petition for a ward candidate for the Council, School Board, or other elective offices shall be signed by not less than 50 of the qualified voters of the respective ward.

(P.&S.L. 1957, Ch. [169](#), Art. [V](#), § 3; Amendment No. 4-1974, 11-5-1974; Ord. No. 648, 11-20-1978)

### **Sec. 4. Form of nomination papers.**

The signatures to nomination papers need not all be affixed to one nomination petition, but to each separate petition there shall be attached an affidavit of the circulator thereof stating the number of signers of each petition, and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer, giving the street and number of the street, or their description sufficient to identify the same. The form of the nomination petition shall be established by ordinance by the Council.

### **Sec. 5. Filing nomination papers; acceptances of nominations must be filed.**

The nomination petitions for any one candidate shall be assembled and united into one petition and filed with the City Clerk not earlier than the first Tuesday in August and no later than 4:30 p.m. on the third Tuesday in August. No nomination shall be valid unless the candidates shall file with the City Clerk in writing not later than the third Tuesday in August prior to the November election his or her consent, accepting the nomination, agreeing not to withdraw and, if elected, to qualify.

(P.&S.L. 1957, Ch. [169](#), Art. [V](#), § 5; Amendment No. 2-1973, 11-6-1973; Ord. No. 648, 11-20-1978; Amendment of 11-3-1998)

### **Sec. 6. List of candidates to be published.**

The City Clerk shall certify the list of candidates and shall cause to be published in one or more of the daily newspapers circulating in the City the names, the residences and offices to which nominated, of the candidates who have duly filed the above-described petitions and acceptances.

(P.&S.L. 1957, Ch. [169](#), Art. [V](#), § 6)

### **Sec. 7. Ballots to be prepared by City Clerk.**

Sample ballots and official ballots for use in all City elections shall be prepared by the City Clerk and furnished by the City.

(P.&S.L. 1957, Ch. [169](#), Art. [V](#), § 7; Amendment of 11-4-2008)

### **Sec. 8. Form of ballot.**

Ballots for use in elections under this Charter shall contain the names of the various candidates, with their residence and the office for which they are a candidate, and shall be marked in the appropriate manner in accordance with ballot instructions. Such ballots shall be without party mark or designation and shall be in the form as prescribed by the Board of Voter Registration and City Clerk.

(P.&S.L. 1957, Ch. [169](#), Art. [V](#), § 8; Amendment of 11-3-1998)

### **Sec. 9. Count of ballots.**

All votes cast for the several offices shall be sorted, counted, declared and registered in open ward meetings as provided by statute. The Ward Clerk shall forthwith deliver to the City Clerk a certified copy of the records of such election.

The Council shall examine copies of the records of the several wards, certified as aforesaid, and shall cause the persons who shall have been elected Mayor, and members of the Council and other elected office as provided in this Charter to be notified in writing of their election. If it shall appear that at the first election, or at any subsequent election, one or more of the offices to be filled has not been filled, or if the person elected shall refuse to accept the office for which he or she has been elected, the Council shall order a special election to fill such vacancy or vacancies.

(P.&S.L. 1957, Ch. [169](#), Art. [V](#), § 9; Amendment of 11-4-2008)

### **Sec. 10. Returns; canvass.**

Upon receipt of the returns, the Council shall determine the successful candidates by certifying the vote at its next business meeting.

(P.&S.L. 1957, Ch. [169](#), Art. [V](#), § 10; Amendment of 11-4-2008)

### **Sec. 11. Sample ballots to be published and posted.**

The City Clerk shall cause sample ballots to be posted in public places in each ward and at City Hall. Such sample ballots shall be printed on colored paper and marked sample ballots, and shall contain the names of the certified candidates with the residence of each, instructions to voters, and such measures as may be submitted to the voters by the Legislature or by the Council. Such ballots shall be without party mark or designation.

(P.&S.L. 1957, Ch. [169](#), Art. [V](#), § 11; Amendment of 11-4-2008)

### **Sec. 12. State laws not inconsistent applicable.**

The provisions of the laws of the State of Maine relating to the qualifications of electors, registration, the manner of voting, the duties of election officers, and all other particulars in respect to preparation for, conducting and management of elections, so far as they may be applicable, shall govern all municipal elections of Augusta, except as otherwise provided in this Charter.

(P.&S.L. 1957, Ch. [169](#), Art. [V](#), § 12)

## **Article V-A. Initiative and Referendum**

### **Sec. 1. Preamble.**

The qualified voters of the City of Augusta shall have the power of initiative to propose ordinances, orders and resolves and the power of referendum to repeal ordinances, orders and resolves adopted by the City Council as set forth in this article in regard to its municipal affairs.

(Amendment of 11-3-1998; Amendment of 11-4-2008)

### **Sec. 2. Established.**

No initiative or referendum dealing with appropriations, tax levy or terms and conditions of employment for City employees shall be allowed pursuant to the initiative and referendum provisions contained in this article.

A referendum to repeal an order authorizing the City to enter into a contract may only occur one time. The initiative process may not be used when it has the effect of repealing a Council Order authorizing a contract or impairs the City's obligation of contract.

The Council may stay the effect of any ordinance, order, or resolve which is the subject of referendum by majority vote at any time during the referendum process.

(Amendment of 11-4-2008)

### **Sec. 3. Authority to establish regulations.**

The Council shall, by ordinance, make such further regulations as may be necessary to carry out the provisions of this article.  
(Amendment of 11-4-2008)

#### **Sec. 4. Effect of repeal.**

All ordinances, orders or resolves or parts thereof which are hereafter repealed by referendum shall remain in force for all past violations of them and for the recovery of the penalties and forfeitures already incurred and for the preservation of all rights and remedies existing by them, and, so far as they apply, to any office, trust, proceeding, right, contract or event already effected by them.

(Amendment of 11-4-2008)

#### **Sec. 5. Form of application.**

The Council shall approve application and petition forms for initiative and referendum. Such forms will be made available at the City Clerk's Office.

(Amendment of 11-4-2008)

#### **Sec. 6. Procedure to invoke.**

##### **(a)**

The process of initiative or referendum is commenced by the presentation of an application in the manner herein provided.

##### **(b)**

Any 10 qualified voters of the City may originate an application for initiative or referendum by signing such application at the office and in the presence of the City Clerk.

##### **(c)**

Whenever requested by 10 such qualified voters, the City Clerk shall prepare the proper application with a copy of the ordinance, order or resolve to be submitted attached thereto and upon its being signed by the 10 voters, the City Clerk shall file the application with the signatures of the 10 qualified voters. An application for referendum must be filed within 60 days of the passage of an ordinance, order or resolve enacted after November 15, 2008.

##### **(d)**

The Clerk shall, within two business days of receipt of the application, deliver the application to Corporation Counsel. Corporation Counsel shall, within 10 business days, prepare a written opinion as to whether the proposed ordinance, order, or resolve is in conflict with the Constitution, statutes or regulations of the United States, or the Constitution, statutes or rules of the State of Maine or the Charter of the City of Augusta. In addition to providing the legal opinion, Corporation Counsel shall identify any ambiguity or lack of clarity in the question. During the ten-day period following the issuance of the opinion, Corporation Counsel will work with the petitioners to attempt to resolve any illegalities and to clarify the question. The petitioners are not obligated to agree to proposed amendments suggested by Corporation Counsel. Following the ten-day period, if it is Corporation Counsel's opinion that the petition is in conflict with the Constitution, statutes or regulations of the United States, or the Constitution, statutes or rules of the State of Maine or the Charter of the City of Augusta, the City Council

shall, at its next business meeting, vote on whether to accept Corporation Counsel's opinion. If the Council agrees with Corporation Counsel's opinion that the question is illegal, the process terminates. Within two business days of receipt of Corporation Counsel's opinion that the question is legal or the City Council vote determining the question is legal, the City Clerk shall cause to be printed, at the expense of petitioners, an adequate supply of petitions. Said petitions must be picked up at the City Clerk's office within 10 business days. In the event said petitions are not picked up from the City Clerk's office within said 10 business days, the process terminates as to the requested initiative and referendum question.

(e)

The petitioners shall have 75 days to return the petition to the City Clerk. If the 75th day is a Saturday, Sunday or legal holiday, the deadline is extended to the next business day. Upon receipt, the Clerk shall, within 10 days, check each signature against the voting list and certify to the Council that the number of verified signatures to the petition totals 20% or more of the total votes cast for Governor by the voters of the City at the last state gubernatorial election. If the total number of verified signatures totals less than the required 20%, the initiative or referendum process shall terminate and the Council and petitioners will be so advised by the Clerk. Upon certification by the Clerk that the requisite number of verified signatures was obtained, the Council shall at its next business meeting order that the question proposed in the petition be submitted to the voters of the City and, in the case of a referendum, the ordinance, order or resolve shall be stayed until the election process has been completed. For a referendum, the election shall be held on the first Tuesday following the expiration of 60 days from the date of the Council Order, unless a municipal election is already scheduled within 120 days, in which case the referendum election will occur at the scheduled election. For an initiative, the election shall occur at the next regular or special municipal election.

(f)

In the case of a referendum, the entire repeal of the ordinance, order or resolve sought to be referred and in case of the initiative the passage by the Council of the desired ordinance, order or resolve shall put an end to all proceedings under such petition process.

(Amendment of 11-4-2008)

**Sec. 7. Council's authority to propose enactments or repeals.**

The Council may submit on its own initiative a proposition for the enactment or repeal of any ordinance, order or resolve to be voted upon at a regular or special municipal election. The Council may propose an alternative ordinance, order or resolve which shall be voted on at the same municipal election as a certified pending initiative or referendum question.

(Amendment of 11-4-2008)

**Sec. 8. Form of ballots.**

The ballots used in an initiative shall set forth the title thereof in full and state the words: "In favor of the adoption of the ordinance, order or resolve, yes or no." For ballots used in a referendum, the ballot shall set forth the title thereof in full and state the words: "In favor of repealing the ordinance, order or resolve, yes or no."

**Sec. 9. Publication of text.**

Whenever any ordinance, order or resolve is required by the provisions of this article to be submitted to the voters of the City, two publications of the complete text thereof shall be made in one daily newspaper published in the City. Such publication shall be made not less than seven days nor more than 15 days prior to the election.  
(Amendment of 11-4-2008)

#### **Sec. 10. Multiple questions.**

If two or more ordinances, orders, resolves or questions are submitted at the same election, they shall be placed upon the ballot in the order of the priority of the filing of the application and shall be given precedence upon the ballot over any and all questions submitted by the Council on its initiative.

If two or more ordinances, orders or resolves are on the ballot at the same election which contain conflicting provisions, the ordinance, order or resolve receiving the highest number of votes at such election shall be paramount and all questions of construction shall be determined accordingly.

Any number of proposed referred ordinances, orders or resolves may be voted upon at the same election.

(Amendment of 11-4-2008)

#### **Sec. 11. Effective date of results.**

If a majority of the qualified voters vote in favor thereof, such ordinance, order, or resolve shall take effect or be repealed upon the Council certification of the official canvass of the return of the election which shall occur at the Council's next business meeting. If the total number of votes cast for and against at the election does not equal or exceed 20% of the total votes for all candidates for Governor cast in the City at the last previous gubernatorial election, the vote shall have no effect.

(Amendment of 11-4-2008)

#### **Sec. 12. Failure of referendum or initiative.**

If a referendum or initiative fails at an election, a new process for referendum or initiative involving the same question or one having the same effect may not commence for one year from the date of the election.

(Amendment of 11-4-2008)

#### **Sec. 13. Procedure for repealing or amending.**

After two years from the date of the election, the Council may enact an ordinance, order or resolve repealed by referendum or amend or repeal an ordinance, order or resolve enacted by initiative by affirmative vote of six members, one of them whom may be the Mayor.

(Amendment of 11-4-2008)

## **Article VI. Administrative Officers**

## **Sec. 1. Titles and appointments.**

### **a.**

The following officers shall be appointed by the Council:

#### **1.**

City Manager.

#### **2.**

Wardens and Ward Clerks.

#### **3.**

Corporation Counsel.

### **b.**

All department heads shall be appointed by the City Manager with the advice and consent of the Council.

Except as hereinafter provided, these various department heads may hire employees as needed, including the Tax Assessor, subject to the approval of the City Manager.

(P.&S.L. 1957, Ch. [169](#), § 1; P.&S.L. 1965, Ch. [137](#), § 3; P.&S.L. 1967, Ch. [75](#), § 6; Ord. No. 518, 11-4-1986; Ord. No. 208, 11-3-1987; Amendment of 11-5-1991; Amendment of 11-5-2002; Amendment of 11-4-2008)

## **Sec. 2. Appointive officers; tenure; removal.**

The Council shall have power by ordinance or resolve to create new appointive offices or to abolish any existing office or board excepting that of City Manager and those provided by Charter.

All appointive officers and boards except for the City Manager, whose terms are not specified in this Charter, shall hold office at the pleasure of the appointing power. Appointive officers and boards, whose terms are specified in this Charter, may be suspended and removed by the appointing power, except that any such person may demand written charges and a public hearing prior to such removal.

(P.&S.L. 1957, Ch. [169](#), Art. [VI](#), § 2; P.&S.L. 1957, Ch. [169](#), Art. [VI](#), § 3)

## **Sec. 3. Salaries.**

Salaries of the appointees and all subordinate employees of the City Manager shall be fixed by the City Manager, subject to the approval of the Council. The members of the Planning Board shall be paid \$100 per month.

(P.&S.L. 1957, Ch. [169](#), Art. [VI](#), § 4; Amendment of 11-5-2002; Amendment of 11-4-2008)

## **Sec. 4. Appointment and qualification of City Manager.**

The City Manager shall be chosen by the Council for a term not to exceed three years, which term may be extended for additional terms not to exceed three years each by the Council on the basis of his or her character and his or her executive and administrative ability and qualifications. The City Manager need not be a resident of the City or state at the time of his or her appointment but shall become a resident of the City of Augusta within six months and remain so during his or her tenure of office. The City Manager shall be bonded to the City of Augusta for the faithful

performance of his or her duties in such sum as the Council shall determine and direct, and with surety or sureties to be approved by the Council. The premium on the City Manager's bond shall be paid by the City. The Council shall fix the salary of the City Manager. In the event procedures are instituted to remove a City Manager during his or her term or contract, the provisions set forth in Section 5 of this article must be followed. The provisions do not, however, apply in situations involving nonrenewal of a City Manager's term or contract. (P.&S.L. 1957, Ch. [169](#), Art. [VI](#), § 5; Ord. No. 195, 11-3-1981; Amendment of 11-3-1998)

### **Sec. 5. Removal of City Manager.**

The Council may remove the City Manager from office in accordance with the following procedures:

[1.](#)

The Council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which shall state the reasons for removal of the City Manager. The Council also may, at the time the resolution is adopted, suspend the Manager from duty, with pay, for a period not to exceed 45 days. A copy of the resolution passed shall be delivered promptly to the City Manager in hand within three days of the vote on the resolution.

[2.](#)

Within five working days after a copy of the resolution is delivered to the City Manager, the City Manager may file with the Council a written request for a hearing. The City Manager shall also, in writing, either admit or deny reasons given for the removal in Paragraph 1. hereinabove. This hearing shall be held at a Council meeting not earlier than 15 working days nor later than 30 working days after the request is filed.

[3.](#)

If the City Manager fails to reply to the resolution described in Paragraph 1. hereinabove, then the reasons stated in the resolution shall be deemed admitted. The Council shall then vote on the removal of the City Manager within five working days after the reply was due.

[4.](#)

If a hearing is requested, the City Manager may be represented by legal counsel at all proceedings at no expense to the City; the Council shall be represented by Corporation Counsel; and the Council may appoint a separate attorney to act as prosecutor on behalf of the City. All witnesses shall be placed under oath and the hearing shall be conducted in accordance with the Rules of Administrative Hearings. The Council shall act as a quasi-judicial body and as such shall only consider the evidence that is presented at the public hearing. Council members, once having made an affirmative vote on a preliminary resolution, shall not discuss the contents of the resolution except at the hearing. All deliberations of the Council shall be public unless the City Manager shall request that the deliberations take place in executive session.

[5.](#)

The Council may adopt a final resolution of removal, which may be made effective immediately, by an affirmative vote of a majority of all its members. The Council's decision shall be made within five working days from the conclusion of the hearing.

[6.](#)

The Manager shall continue to receive his or her salary until the effective date of a final resolution of removal.

[7.](#)

The process outlined above may be amended or changed by specific contractual provision entered into by the Council and City Manager.

(Amendment of 6-14-1988; Amendment of 11-3-1998; Amendment of 11-4-2008)

### **Sec. 6. Powers and duties of City Manager.**

The City Manager shall be the administrative head of the City and shall be responsible to the Council for the administrative management of all departments of the City. The powers and duties of the City Manager shall be as follows:

1.

To see that the laws and ordinances are enforced;

2.

To exercise control over all departments and divisions created herein, or that may hereafter be created;

3.

To make appointments and removals as provided in this Charter;

4.

To prepare and submit the annual budget and capital program to the Council;

5.

To attend meetings of the Council and recommend for adoption such measures as he or she may deem expedient;

6.

To keep the Council fully advised as to the business, financial condition and future needs of the City;

7.

To report annually, with the submission of the proposed budget, the quality, cost and method of delivery of services to the inhabitants of the City of Augusta and recommendations for change which he or she may deem appropriate;

8.

To perform such other duties as may be prescribed by this Charter or required by the Council, or as may otherwise be required by law;

9.

For purposes of oversight and administration of, and access to information at the Police and Fire Bureaus, the City Manager shall serve as the Public Safety Director without additional compensation.

(P.&S.L. 1957, Ch. [169](#), Art. [VI](#), § 6; P.&S.L. 1957, Ch. [169](#), Art. [VI](#), § 7; Amendment of 11-4-2008)

### **Sec. 7. Absence of City Manager.**

The Manager shall designate in writing a qualified person to exercise the powers and perform the duties of Manager during his or her temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another person to serve until the Manager shall return or his or her disability shall cease. In the event of failure of the Manager to make such designation, the Council may by resolve appoint a qualified person to perform the duties of the Manager until he or she shall return or his or her disability shall cease.

(Amendment of 6-14-1988; Amendment of 11-3-1998; Amendment of 11-4-2008)

### **Sec. 8. Assessment administration and assessment review.**

There shall be a single Assessor. He or she shall have such duties and be subject to such liabilities as are prescribed for such assessors under the laws of the State of Maine.

There shall be a Board of Assessment Review to consist of five qualified voters of the City who shall be appointed by the Mayor for a term of three years. Annually, the review board shall choose a Chairperson, a Vice-Chairperson and a Secretary from its membership. The Secretary shall keep a complete, accurate record of all votes taken at the meetings of the review board and provide a certified copy to the Assessor. Three members of the review board shall constitute a quorum for the purpose of hearing and voting upon a matter presented to the review board. Any members having a financial interest in a matter presented to the review board shall disqualify themselves and in such event the remaining members of the review board shall constitute the Board of Assessment Review. The Council shall determine, if any, the compensation of the review board.

The Board of Assessment Review shall have the same powers that are granted to such boards by the laws of the State of Maine. It shall adopt, subject to Council approval, such regulations as may be necessary to carry out its functions of assessment review, which regulations shall be published annually in a newspaper having a general circulation in the City.

(Amendment of 6-14-1988; Amendment of 11-4-2008)

## **Article VII. Business and Financial Provisions**

### **Sec. 1. Accounts and records.**

Accounts shall be kept by the Auditor, showing the financial transactions of all departments of the City. Forms for all such accounts shall be prescribed by the Auditor, with the approval of the City Manager. Accounts shall be kept in such a manner as to show fully at all times the financial condition of the City. The Auditor shall furnish to the City Manager, prior to the second regular meeting of the Council in each month, a report containing in detail the receipts and disbursements of the City on all accounts, the expenditures made and the obligations incurred during the preceding calendar month, and a balance sheet showing the financial condition of the City, of the several funds, and the total unexpended balance to the credit of each department or appropriation account.

(P.&S.L. 1957, Ch. [169](#), Art. [VII](#), § 1; Amendment of 11-3-1998)

### **Sec. 2. Audit.**

All the accounts of the City shall be audited annually by a certified, independent public accountant to be chosen by the Council and the Council at its discretion shall have included in any year an audit of the uncollected taxes.

(P.&S.L. 1957, Ch. [169](#), Art. [VII](#), § 3; Amendment of 11-4-2008)

### **Sec. 3. Reports.**

The Finance Director shall publish each month a statement of the financial condition of the City. Each of the administrative officers and boards shall annually, on such date as may be fixed by the Council, render to the City Manager a full report of the transactions of his or their department for the year. The City Manager shall thereafter prepare and publish an annual report for general distribution. In addition to a summary of the services rendered by the various departments, the report shall show:

a.

Revenues classified according to sources.

b.

Expenditures classified according to category. The classification of revenues and expenditures in the report shall conform in general to the classification employed in the City's accounting system.

c.

Balance sheets.

d.

Such other financial information as may be required by the Council.

(P.&S.L. 1957, Ch. [169](#), Art. [VII](#), § 4; Amendment of 11-3-1998; Amendment of 11-4-2008)

#### **Sec. 4. Annual budget.**

Not later than 90 days prior to the commencement of the next fiscal year, the City Manager will submit to the Council budget estimates for the ensuing fiscal year. This budget shall be compiled from detailed information furnished by the administrative officers and boards in a form prescribed by the City Manager and shall contain:

a.

A budget message prepared by the City Manager which shall include a general statement as to the financial condition of the City, as well as an explanation of the major fiscal impacts of the said proposed budget.

b.

Itemized statement of appropriations recommended for current expenses and for permanent improvements; with comparative statements in parallel columns of expenditures for the current and next preceding fiscal year. Any increases or decreases in any line item or items shall be indicated.

c.

Itemized statement of estimated revenue from all sources other than taxation; and a statement of taxes required, with comparative figures from the current and next preceding year.

d.

Such other information as the Council may require.

The budget shall be posted not later than two weeks after its submission to the Council. The Council shall fix a time and place for holding a public hearing upon the budget and shall give a public notice of such hearing, which shall be at least 10 days before the final passage of the appropriation resolve.

(P.&S.L. 1957, Ch. [169](#), Art. [VII](#), § 5; Ord. No. 86, 11-8-1983; Ord. No. 208, 11-3-1987; Amendment of 11-4-2008)

#### **Sec. 5. Appropriation resolve.**

Prior to the beginning of a new fiscal year, the Council shall pass an annual appropriation resolve, which shall be based upon the budget submitted by the City Manager and the Board of Education. The total amount appropriated shall not exceed the estimated revenue of the City. In the event the annual appropriation resolve is not approved by June 30, the current fiscal year appropriation resolve modified by the incremental change in debt service (general obligation bonds and tax anticipation notes), the City Manager's estimated increase in County taxes, and an adjustment for all other expenditure categories by the increase equal to the consumer price index -urban wage earners for the prior 12 months will be in effect until the annual appropriation resolve is in force. The modified budget will be deemed adopted and become the annual appropriation resolve 60 days after the end of the fiscal year if the City Council has not passed an annual appropriation resolve.

The City shall maintain an undesignated fund balance, or reserve fund, equal to at least 5% of the previous year's annual appropriation, exclusive of capital improvements expenditures on debt service, and an amount necessary to bring the undesignated fund balance to that percentage shall be included in each annual appropriation resolve. While the minimum shall be 5%, as indicated above, the Council should strive to increase the fund balance to 8 1/3% for each year. The Council may spend from such reserve fund as it deems appropriate and necessary to fund unforeseen or unmet needs of the City, subject to its obligation to replenish the fund as indicated above.

There shall be included in the annual appropriation resolve an appropriation to provide for tax abatements and uncollected taxes in such amount as shall be recommended by the City Manager and approved by the Council. All abatements and uncollected taxes shall be charged to this reserve, and if at any time such reserve should be in excess of the total uncollected taxes, tax deeds and tax liens, then such excess shall be transferred to the reserve fund.

(P.&S.L. 1957, Ch. [169](#), Art. [VII](#), § 6; Ord. No. 208, 11-3-1987; Amendment of 11-3-1998; Amendment of 11-4-2008)

### **Sec. 6. Borrowing.**

The borrowing of money by and for the City shall be limited as to form and purpose by the provisions of Sections 8 and 9 of this article. The credit of the City shall in no manner be loaned to any individual or corporation.

(P.&S.L. 1957, Ch. [169](#), Art. [VII](#), § 7)

### **Sec. 7. Bond issues.**

Money may be borrowed, within the limits fixed by the Constitution and statutes of the state now or hereafter applying to the City of Augusta, by the issue and sale of bonds or notes pledged on the credit of the City, the proceeds to be used for the acquisition of land, the construction and equipment of buildings and other permanent public improvements, the acquisition of equipment of a lasting character, and the payment or refunding of bonds, notes and certificates of indebtedness previously issued or for any other purpose for which municipalities are or hereafter may be authorized to borrow money by general law.

No order providing for the issue of bonds shall be passed by the Council unless it receives at least six affirmative votes, one of which may be the Mayor. At least 10 days before passage by the Council, public notice must be given by posting notice of the same in two public places in the

City of Augusta, and publishing the notice in at least one daily newspaper circulated in the City of Augusta.

Whenever a bond issue is passed by the Council and presented to the voters for ratification, the question presented to the voters shall be accompanied on the ballot by a statement prepared by the City Treasurer estimating the total debt service, including interest, over the full life of each bond issue to be voted upon. The validity of the bonds and of the voters' ratification thereof shall not be affected by any errors in such estimate and, if the actual amount of the total debt service for such bond issue varies from such estimate, the ratification by the electors shall nevertheless be conclusive and the validity of the bond issue shall not be affected by reason of such variance. No order or orders providing for the issue of bonds which in the aggregate total in excess of \$750,000, pledging the full faith and credit of the City and approved by the Council in any one fiscal year shall become effective until ratified by a majority of the voters voting thereon at a general or special election. The provisions of this section shall not apply to loans made in anticipation of receipts from taxes nor in anticipation of money to be received from the state or federal governments.

Every issue of bonds shall be payable within a fixed term of years; if the bonds are issued in payment of indebtedness incurred for a permanent improvement, the term of such bonds shall not exceed the estimated period of utility of the improvement, but the declaration of the City Council embodied in the order authorizing the issue shall be a conclusive determination of the estimated period of utility thereof; and the term within which all bonds shall be made payable shall in no case exceed 30 years. Every order for the issue of bonds shall provide for a tax levy for each year of an amount necessary to meet the payment of the annual, serial installment of principal and interest; and such amounts shall be included in the tax levy for each year until the debt is extinguished.

(P.&S.L. 1957, Ch. [169](#), Art. [VII](#), § 8; P.&S.L. 1965, Ch. [137](#), § 5; P.&S.L. 1967, Ch. 39; Ord. No. 293, 11-7-1979; Ord. No. 574, 11-6-1984; Amendment of 11-6-1990; Amendment of 11-3-98; Amendment of 11-5-2002; Amendment of 11-4-2008)

### **Sec. 8. Temporary loans.**

Money may be borrowed in anticipation of receipts from taxes during any fiscal year but the aggregate amount of such loans outstanding at any one time shall not exceed 80% of the revenue received from taxes during the preceding fiscal year. All such loans shall be paid within the year out of receipts from taxes for the fiscal year in which the loans are made. Money may be borrowed in anticipation of money to be received from the sale of bonds to be issued, in case such bond issue has been authorized or in anticipation of money to be received from the state or federal governments; all such loans shall be paid within three years and are subject to the provisions of the laws of the State of Maine in relation thereto.

(P.&S.L. 1957, Ch. [169](#), Art. [VII](#), § 9; Amendment No. 1-1973, 11-6-1973)

### **Sec. 9. Payments.**

Money shall be paid out only on warrants on the City treasury issued by the Auditor and countersigned by the Director of Finance and Administration and the City Manager.

The Mayor and a member of Council to be designated from time to time by the Council shall countersign the warrant on a post-issuance basis.

The Auditor shall examine all payrolls, bills and other claims and demands against the City, and shall issue no warrant for payment until he finds that the claim is in proper form, correctly computed, duly certified and legally due and payable.

The Auditor may require any claimant to make oath to the validity of his claim, may investigate any claim, and for such purpose or purposes may examine witnesses under oath.

(P.&S.L. 1957, Ch. [169](#), Art. [VII](#), § 11; Amendment of 11-4-2008)

### **Sec. 10. Bonds of officers.**

The Council shall require a bond with sufficient surety or sureties, satisfactory to the Council, from all persons trusted with the collection, custody or disbursement of any of the public monies; and may require such bond from such other officials as it may deem advisable; the premium charges for the bonds to be paid by the City.

(P.&S.L. 1957, Ch. [169](#), Art. [VII](#), § 12)

### **Sec. 11. Collection and custody of City monies.**

All monies received by any officer, employee or agent of the City belonging to the City, or for or in connection with the business of the City, shall forthwith be paid by the officer, employee or agent receiving the monies into the City treasury, and shall then be deposited by the City Treasurer with some responsible banking institution to be chosen by the Council. All interest from all deposits of money belonging to the City shall accrue to the benefit of the City.

(P.&S.L. 1957, Ch. [169](#), Art. [VII](#), § 13)

### **Sec. 12. Purchasing of supplies.**

The City Manager or a person formally designated by the City Manager to act as the purchasing agent shall purchase all supplies. No purchase of supplies exceeding an amount set by the Council shall be made except through authorization of the Council.

The purchasing agent shall see to the delivery of supplies to each officer and department to whom they belong, and take and file receipts therefor. He shall conduct all sales of property belonging to the City which are unfit or unnecessary for the City's use, but only after such sales have been authorized by the Council, and subject to such restrictions as the Council may by ordinance provide.

(P.&S.L. 1957, Ch. [169](#), Art. [VII](#), § 14; Amendment of 11-4-2008)

## **Article VIII. Miscellaneous Provisions**

### **Sec. 1. Additional provision with respect to insurance plans.**

Elected officials (Council, Mayor, School Board, and Chair) and Corporation Counsel may be eligible at their own expense to participate in the health and dental insurance plans normally made available to City employees. Such participation will be in accordance with the respective plan document.

(Amendment of 11-3-1998; Amendment of 11-4-2008)

## **Sec. 2. Separability.**

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstances is held invalid, the application of the Charter and its provisions to other person or circumstances shall not be affected thereby.

(Amendment of 11-3-1998)

# **PART II: ADMINISTRATIVE LEGISLATION**

## **Chapter 1. General Provisions**

[HISTORY: Adopted by the City Council of the City of Augusta as indicated in article histories. Amendments noted where applicable.]

### **Article I. Adoption of Code**

#### **§ 1-1. through § 1-8. (Reserved)**

### **Article II. Definitions; Interpretation**

[Adopted as Ch. 1, § 1-2, of the 1990 Code; amended 10-6-2008 by Ord. No. 161]

#### **§ 1-9. Applicability.**

In the construction of this Code, and of all ordinances, the rules and definitions set out in this article shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council. The rules of construction and definitions set out herein shall not be applied to any section of this Code which shall contain any express provision excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

#### **§ 1-10. General rules of interpretation.**

##### **A.**

All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the City Council may be fully carried out.

##### **B.**

In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

#### **§ 1-11. Definitions.**

As used in the Code, the following terms shall have the meanings indicated:

CHARTER or THE CHARTER

The Charter of the City of Augusta, Maine, as printed in Part I of this volume.

CITY

The City of Augusta, Maine.

CITY COUNCIL or COUNCIL

The City Council of the City of Augusta, Maine.

CODE

The Revised Ordinances of the City of Augusta, Maine, as designated in Article I of this chapter.

COMPACT OR BUILT-UP SECTION

A section of the highway where structures are nearer than 200 feet apart for a distance of 1/4 mile.

COMPUTATION OF TIME

Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which such notice is given, or such act is done, shall not be counted in computing the time, but the day on which such proceeding is to be held shall be counted.

CORPORATE OR CITY LIMITS

The legal boundaries of the City of Augusta, Maine.

COUNTY or THIS COUNTY

The County of Kennebec in the State of Maine.

DELEGATION OF AUTHORITY

Whenever a provision appears requiring the head of a department or some other City officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

GENDER

Words of the masculine gender may include the feminine.

JOINT AUTHORITY

Words giving authority to three or more persons authorize a majority to act, when the enactment does not otherwise determine.

MAY

Is permissive.

MAYOR

The Mayor of the City.

MONTH

A calendar month.

M.R.S.A.

The latest edition of the Maine Revised Statutes Annotated.

NONTECHNICAL AND TECHNICAL WORDS

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

## NUMBER

Words of the singular number may include the plural; and words of the plural number may include the singular.

## OATH

Includes an affirmation, when affirmation is allowed. Affirmation is allowed when a person required to be sworn is conscientiously scrupulous of taking an oath.

## OFFICIALS, BOARDS, COMMISSIONS

Whenever reference is made to officials, boards, commissions by title only, i.e., "City Council," "City Clerk," "the Mayor," "City Manager," etc., it shall be deemed to refer to the officials, boards and commissions of the City of Augusta.

## OR; AND

"Or" may be read "and," and "and" may be read "or" if the sense requires it.

## OVERSEER OF THE POOR

The Overseer of the Poor shall be the Director of Health and Welfare.

## OWNER

As applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant of the whole or of a part of such building or land.

## PERSON

Shall extend and be applied to associations, societies, clubs, firms, partnerships, bodies politic, foreign and domestic corporations as well as to individuals.

## PERSONAL PROPERTY

Includes every species of property except real property, as herein described.

## PRECEDING; FOLLOWING

Next before and next after, respectively.

## PROPERTY

Includes real and personal property.

## PUBLIC WAY

A way over which the general public has a right to pass.

## REAL PROPERTY

Includes lands, tenements and hereditaments.

## SHALL

Is mandatory.

## SIDEWALK

Any portion of a street between the curblineline and the adjacent property line, intended for the use of pedestrians, excluding parkways.

## SIGNATURE or SUBSCRIPTION

Includes a mark when the person cannot write.

## STATE or THIS STATE

The State of Maine.

## STREET

Shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public ways in the City, and shall include all areas thereof embraced between the property lines and dedicated to the public use.

## STREET COMMISSIONER

The Director of City Services.

## STREET ENGINEER

The City Engineer.

**SUPERINTENDENT OF BURYING GROUNDS**

The Superintendent of Burying Grounds shall be the Superintendent of Buildings and Grounds.

**TENANT or OCCUPANT**

As applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or a part of such buildings or land, either alone or with others.

**TENSE**

Words used in the past or present tense include the future as well as the past and present.

**WRITTEN or IN WRITING**

Shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

**YEAR**

A calendar year, unless otherwise expressed.

## **Article III. General Penalty**

[Adopted as Ch. 1, § 1-10, of the 1990 Code]

### **§ 1-12. Violations and penalties.**

Whenever in this Code or in any ordinance of the City any act is prohibited or is made or declared to be unlawful or a misdemeanor, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be punished by a fine of not more than \$100. Each day any violation of any provisions of this Code or of any ordinance shall continue shall constitute a separate offense.

## **Chapter 5. Administration**

[HISTORY: Adopted by the City Council of the City of Augusta as Ch. 2, Art. I, of the 1990 Code. Amendments noted where applicable.]

### **§ 5-1. Seal described.**

The City seal (adopted January 1, 1948) shall be as follows: A circular seal consisting of three concentric circles with two outside circles close together. Between the inner circles at the upper part is "City of Augusta" and at the lower part is "Established 1754" with a downward pointed arrowhead at the left and right; within the inner circle is a scene showing in the foreground an Indian in a birch bark canoe in the Kennebec River approaching the east bank at the landing of Fort Western, in the middle ground is Fort Western with a blockhouse at the right with a high branched evergreen tree, at the left in the gate of the Fort stands an armed sentry, between and in back of the blockhouse and the Fort are low dense trees with the dome of the State Capitol looming in the background with clouds back of the dome.

### **§ 5-2. Ordinances, orders and resolves.**

All bylaws passed by the Council shall be termed "ordinances," and the enacting style shall be "Be it ordained by the City Council of the City of Augusta, as follows:" In all votes, when anything is to be expressed by way of command, the form of expression shall be: "Ordered"; and when opinions, principles, facts or purposes are to be expressed, the form shall be "Resolved."

### **§ 5-3. Recording of ordinances.**

All ordinances shall be enrolled and recorded by the City Clerk and such ordinances shall be preserved in the office of the City Clerk, subject to the inspection of the citizens.

### **§ 5-4. Term of persons filling vacancies.**

Any person appointed to fill a vacancy in any appointive City office, due to any cause other than expiration of the term of office, shall hold office during the unexpired term of his predecessor.

### **§ 5-5. Oath of office.**

Every City officer shall be duly sworn to the faithful and impartial performance of the duties of his office by the City Clerk, a notary public, a Justice of the Peace or an attorney.

### **§ 5-6. City official's interest in contracts.**

A contract, other than a contract obtained through properly advertised bid procedures, made by a City during the term of a City official who has a direct or an indirect pecuniary interest in it is void.

### **§ 5-7. State retirement system adopted.**

The City hereby adopts the Maine State Retirement System.

### **§ 5-8. Reports of department heads.**

All department heads of the City shall submit an annual report, or more often if directed by the City Manager or Council, to the City Manager.

### **§ 5-9. City Hall hours.**

The office hours at City Hall shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday.

## **Chapter 9. Advertising on City Property**

[HISTORY: Adopted by the City Council of the City of Augusta 12-2-1996 by Ord. No. 650 (Ch. 2, Art. VII, of the 1990 Code). Amendments noted where applicable.]

### **§ 9-1. Adoption of policy.**

The City Council adopts the following advertising policy regarding City equipment or property (exclusive of school property).

### **§ 9-2. Purpose.**

The purpose of this chapter is to establish the conditions under which commercial advertising will be permitted in City facilities or on City equipment or property.

### **§ 9-3. Permitted locations.**

Advertising is generally prohibited in City facilities or on City property except for:

A.

The interior of the civic center.

B.

The outfield fence of the baseball field at Capitol Park.

C.

The sign at the entrance to the civic center.

D.

The lobby of the airport.

E.

Scoreboards associated with City athletic facilities such as softball fields.

### **§ 9-4. Conditions for approval.**

Commercial advertising will be permitted under the following conditions:

A.

A fee or other valuable consideration must be paid in accordance with a schedule of fees approved by the City Council.

B.

Advertising is placed in an area or areas approved by the appropriate City department head.

C.

A signed agreement exists between the City and the advertiser.

D.

The City retains approval of the advertising copy or display, such approval to be at the discretion of the appropriate City department head.

### **§ 9-5. Restrictions.**

A.

No political advertising of any kind or character shall be permitted except for signs and posters displayed during political events at the civic center where a fee has been charged for use of the facility.

B.

No tobacco product advertising shall be permitted.

C.

Advertising for alcoholic beverages will be permitted only where such beverages are sold or at special events sponsored by the manufacturer or distributor of such beverages.

D.

The Director of Community Services is authorized to permit temporary advertising in City parks or other facilities under his/her control during events allowed by the City and sponsored in whole or in part by the commercial firm displaying such advertising.

E.

Advertising may be permitted on scoreboards, informational signs or other equipment where such items are donated to the City in return, in whole or in part, for such advertising. The acceptance of such signs and advertising must be approved by the City department head responsible for the facility or property on which such sign/scoreboard is to be placed. Permission for such advertising shall be either for a fixed term or for the useful life of the item donated, whichever is less.

F.

Any additional exceptions to this policy must be reviewed and approved by the City Council.

G.

Bulletin boards. Limited advertising may be allowed on bulletin boards in or on City facilities where such advertising has been approved by the department or division head responsible for the facility. This will extend to notices of items for sale by the City employees.

**§ 9-6. Review of policy.**

The City Manager shall review this policy at least annually, and shall maintain an inventory of all advertising.

## **Chapter 14. Boards, Commissions and Committees**

[HISTORY: Adopted by the City Council of the City of Augusta as indicated in article histories. Amendments noted where applicable.]

### **Article I. Development Commission**

[Adopted 9-14-1998 by Ord. No. 389 (Ch. 2, Art. III, Div. 7, of the 1990 Code)]

**§ 14-1. Establishment; membership; terms of office; meetings; reports.**

A.

There is hereby established the Augusta Development Commission to consist of 11 persons, including the Mayor, a member of the Council to be designated by Council, and the City Manager. The eight additional members of the Commission shall be nominated by the Mayor and confirmed by the City Council. For purposes of initial Commission membership, Council members shall submit as many as five recommended nominations to the Mayor for consideration for appointment. Thereafter, Council members shall submit one name to the Mayor for consideration for appointment for each subsequent vacancy.

B.

Commission members, excluding the Mayor, City Council members and City Manager, shall be appointed for staggered three-year terms. Appointments to the initial Commission for the eight positions that exclude the Mayor, City Council members and the City Manager shall be three for three-year terms, three for two-year terms, and two for one-year terms. Of the eight Commission members, six shall at all times be residents of the City of Augusta. Membership by the Mayor, City Council members and City Manager shall conclude when their term of office concludes.

C.

The Commission shall meet monthly.

D.

The City Manager shall report at least monthly to the City Council on the activities and status of the Commission and its projects. The Commission shall prepare and present an annual report, with appropriate recommendations, to the full City Council. This report shall be timed to coincide with the start of calendar year and made available to the City Council by February 1 of each year, so as to provide necessary information in a timely manner during the early stages of the annual City budget process. Information to be provided in each such annual report shall include, at a minimum, an update of the development activities and accomplishments of the year just completed and the Commission's recommendations for development project and program priorities for the year upcoming.

**§ 14-2. Purpose; budget.**

The purpose of the Commission shall be to promote the overall economic development of the City, including but not limited to assisting in the recruitment or retention of industries and commercial establishments for the City and to advise the City Council on economic development policy. The Commission shall recommend to the City Council a proposed annual budget to cover its expenses. Said Commission from time to time shall recommend to the City Council plans for strengthening or increasing the tax base and the industrial, commercial and employment growth of the City.

**§ 14-3. Operation.**

The Commission, using the services of City-funded staff and other volunteer resources as may become available, shall initiate and maintain an aggressive economic development program for the City. As an instrumentality established by the City Council and assigned to conduct the public's business for the City, the Commission shall ensure that it complies with appropriate "right to know" and Freedom of Information Act requirements. Generally, all business of the Commission will be conducted in the open "sunshine" required by these laws and regulations, except that executive sessions may be employed in accordance with public law to protect sensitive business information, contractual negotiations and real estate transactions.

**§ 14-4. Staffing.**

The City's Office of Economic Development shall staff the Commission. The Director of the City's Office of Economic Development and his or her staff shall report to the City of Augusta. The Economic Development Director will be accountable to the City Manager and/or the

Director of City Services. The Director's salary will be established by the personnel policies of the City.

#### **§ 14-5. City commitments.**

The City shall continue to furnish the financial resources necessary for the Commission and Department of Economic Development to pursue its mission. The City Council shall annually receive the summary report of the Development Commission and consider any budgetary implications of that report, which is to be received by the Council by February 1 of each year.

#### **§ 14-6. Coordination and cooperation with other agencies and organizations.**

The Commission shall cooperate and assist whenever practicable with other agencies and organizations interested in the stimulation of business development in the Augusta area. Additionally, the City Manager shall ensure an effective working relationship with the Maine Department of Economic and Community Development, the Maine State Planning Office,<sup>[1]</sup> Maine & Company, Maine Development Foundation, Small Business Administration, Economic Development Administration, Finance Authority of Maine and any other institutional resource that operates in the State of Maine, and such local organizations as the Heart of Augusta Team and the Augusta Board of Trade, Kennebec Valley Chamber of Commerce, Kennebec Regional Development Authority and which can contribute to the development efforts of the Augusta Development Commission. Any existing City government relationships and/or working arrangements with other organizations that may conflict with this article shall be modified or discontinued so as to be fully consistent with this article.

<sup>[1]</sup>

Editor's Note: The State Planning Office was abolished by L. 2011, c. 655, § CC-3, effective 7-1-2012. See now the Governor's Office of Policy and Management.

## **Article II. Planning Board**

[Adopted 4-1-1991 by Ord. No. 67 (Ch. 6, Art. III, Div. 2, of the 1990 Code)]

#### **§ 14-7. Establishment and authority.**

Pursuant to Article VIII, Part 2, § 1, of the Maine Constitution and 30-A M.R.S.A. § 3001, regarding home rule authority, the Augusta Planning Board is hereby established (hereafter referred to as the "Board"). Pursuant to 30-A M.R.S.A. § 4324(2), the Board is also designated the local planning committee; and pursuant to 30-A M.R.S.A. § 4403, the Board is designated the municipal reviewing authority.

#### **§ 14-8. Compliance with state law.**

The Board shall comply with the requirements of state law.

#### **§ 14-9. Membership; compensation.**

[Amended 8-19-1996 by Ord. No. 541]

The membership of the Board shall consist of nine members, no one of whom shall be a salaried official of the City. All members shall serve without pay.

**§ 14-10. Appointment and removal.**

All members of the Board shall be appointed by the Mayor and confirmed by the City Council. The City Council may remove members of the Board for cause by unanimous vote after notice and hearing.

**§ 14-11. Terms of office.**

[Amended 8-19-1996 by Ord. No. 541]

The terms of the nine members and subsequent appointees shall be for three years. All members shall serve until their successors are duly appointed and qualified.

**§ 14-12. Vacancies.**

[Amended 8-19-1996 by Ord. No. 541]

**A.**

A vacancy shall occur upon the resignation or death of any member or when a member ceases to be a legal resident of the City. If a member fails to attend four consecutive regular meetings or fails to attend at least 75% of all meetings during any preceding twelve-month period, the Board may recommend to the Mayor that the member's position be declared vacant. Within 30 days of the Board's recommendation, the Mayor shall respond in writing either declaring the position vacant or rejecting the recommendation.

**B.**

When one or more vacancies occur, the Chairperson of the Board shall immediately notify the Mayor in writing. Within 60 days of receipt of such notice, the Mayor shall appoint, and the City Council confirm, such additional members as necessary for full membership of the Board.

**§ 14-13. Quorum and voting requirements.**

[Amended 5-18-1992 by Ord. No. 464; 8-19-1996 by Ord. No. 541]

**A.**

The presence of five Board members shall constitute a quorum. All members, other than the Chairperson, are permitted to make and second motions; and all members present, unless abstaining, may participate in the discussion and deliberation. No meeting of the Board shall be held or, once begun, shall be continued without a quorum as established in this section. The Board shall act by majority vote, calculated as follows:

**Authorized Voters Required Majority**

5	3
6	4
7	4
8	5
9	5

B.

The Chairperson is an authorized voter, but shall vote only when such vote could break a tie or create a required majority.

C.

A member may abstain from voting only in accordance with the provisions of this subsection. If a member wishes to abstain, he or she shall so declare prior to consideration of the matter and the member shall not then participate in the hearing, deliberation or other proceeding. An exception will be made if a member or the Board determines during a hearing, deliberation or other proceeding that the member would be biased and therefore unable to reach an impartial decision or has a conflict of interest. If this occurs, the member must immediately abstain and shall not participate further in the hearing, deliberation or other proceeding. Once a member has abstained, he or she shall not be counted as an authorized voter.

D.

No member shall be authorized to vote on a matter if he or she did not attend a public hearing or hearings held on the matter.

**§ 14-14. Meetings; officers.**

The Board shall have regular monthly meetings and have a Chairperson and Secretary and such other officers as it may determine by vote.

**§ 14-15. Annual and other reports.**

It shall be the duty of the Board to make an annual report to the City Manager no later than the third Monday of January of each year, and such interim reports as may be advisable.

**§ 14-16. Annual budget.**

The City Council shall allow the Board an annual budget for expenses. These expenses shall be incorporated as part of the Planning Bureau budget and shall include expenses for Board training, site visits, mailings, printing and reproduction.

**§ 14-17. Duties.**

[Amended 8-19-1996 by Ord. No. 541]

The Board's duties shall be to administer Chapter 300, Land Use, as amended or replaced from time to time. In addition, the Board shall administer any Growth Management Plan adopted pursuant to 30-A M.R.S.A. § 4324 and any other programs and/or ordinances so designated by the City Council.

**§ 14-18. Regulations and bylaws.**

The Board shall have the power to adopt all necessary regulations and bylaws, not inconsistent with the provisions of this article, to regulate its own activities. Such regulations and bylaws may be adopted and amended from time to time by the Board without requiring any action by the City Council and shall be filed with the City Clerk.

### **§ 14-19. Recommendations to Council.**

The Board shall be authorized to make recommendations to the City Council. The Council shall be required to give consideration to any matter when specifically requested to do so by the Board.

## **Article III. Regional Planning Commission**

[Adopted as Ch. 6, Art. III, Div. 3, of the 1990 Code]

### **§ 14-20. City representatives.**

The City shall have three members and one associate member as representatives on the Regional Planning Commission.

## **Article IV. Regional Council of Governments**

[Adopted as Ch. 6, Art. III, Div. 4, of the 1990 Code]

### **§ 14-21. Authority for City to join.**

The City, by appropriate action, may enter into an agreement with other municipalities to establish a regional council of governments in accordance with 30-A M.R.S.A. § 2301 et seq.

## **Article V. Airport Advisory Committee**

[Adopted as Ch. 6, Art. V, of the 1990 Code; amended in its entirety 5-21-2015 by Ord. No. 15-080]

### **§ 14-22. Membership; terms of office.**

#### **A.**

The Airport Advisory Committee shall be established as a standing committee of nine members with three-year staggered terms, including:

#### **(1)**

One City Councilor.

#### **(2)**

Two members representing the airport business community.

#### **(3)**

Two members representing the airport tenant community.

#### **(4)**

One member representing the local travel/hospitality industry.

#### **(5)**

Three members representing the general public.

#### **B.**

The Airport Advisory Committee shall also have two ex-officio members:

(1)

The Airport Manager; and

(2)

One member representing the Maine Department of Transportation.

#### **§ 14-23. Purpose.**

The purpose of the Committee shall be to provide input to the City and state in matters related to the future development of the Augusta State Airport; and to foster and promote awareness of the airport, its facilities and the services of its tenants within the local area business community, state and local government, and the general public.

#### **§ 14-24. Chair; appointments.**

The Chair shall be the sitting City Council member. The Airport Manager will review all individuals interested in serving on the Airport Committee with the Committee and make recommendations to the Mayor and City Manager. All appointments to the Committee shall be made by the Mayor, with advice and consent of the City Council.

#### **§ 14-25. Meetings.**

The Committee will meet quarterly or at the call of the Chair. All meetings of the Airport Advisory Committee shall be open to the public, and the Committee will keep a record of its proceedings. The Airport Secretary will attend meetings to record and distribute Committee minutes.

#### **§ 14-26. Annual report.**

The Airport Manager will make an annual report to the City Council highlighting airport activities.

## **Article VI. Conservation Commission**

[Adopted as Ch. 6.5, Art. VI, Div. 2, of the 1990 Code]

#### **§ 14-27. Created; composition; appointment.**

There is hereby created a Conservation Commission consisting of seven Commissioners appointed by the City Council.

#### **§ 14-28. Terms of office.**

A.

A Commissioner of the Conservation Commission shall serve a term of three years, except as provided in this section. Any Commissioner who is serving a term of more than three years on the effective date of this section may serve until his term expires.

**B.**

The City Council shall appoint the first seven Commissioners appointed after the effective date of this section to terms of one, two or three years, so that upon the completion of those initial seven appointments, approximately 1/3 of the terms of the Commissioners expire each year.

**§ 14-29. Duties of Commissioners.**

The duties of the Conservation Commissioners shall be those outlined in state statute.[\[1\]](#)

[\[1\]](#)

Editor's Note: See 30-A M.R.S.A. § 3261 et seq.

**§ 14-30. Associate Commissioners.**

**A.**

Upon the recommendation of a majority of the Conservation Commissioners, the City Council members may appoint one or more Associate Commissioners to be nonvoting members of the Conservation Commission and to hold office for one, two or three years as the City Council designates.

**B.**

The duties of the Associate Commissioners shall be those outlined in the state statute.

**§ 14-31. Director of Community Services to be nonvoting member.**

[Amended 4-1-1996 by Ord. No. 391]

The Director of Community Services, or his/her designee, shall be a nonvoting member of the Conservation Commission.

## **Chapter 20. Cemeteries**

[HISTORY: Adopted by the City Council of the City of Augusta as Ch. 6.5, Art. IX, of the 1990 Code. Amendments noted where applicable.]

**§ 20-1. Superintendent.**

[Amended 4-1-1996 by Ord. No. 391]

The Superintendent of Burying Grounds is the Director of Parks and Recreation or his/her designee.

**§ 20-2. Care of public burying grounds and graves.**

[Amended 4-1-1996 by Ord. No. 391]

It shall be the duty of the Director of Parks and Recreation, or his/her designee, to take care of the public burying grounds in the City, and to see that all graves are correctly arranged, made of sufficient depth and properly filled.

**§ 20-3. Division of burial grounds; filing of plan.**

[Amended 4-1-1996 by Ord. No. 391]

The Director of Parks and Recreation, or his/her designee, shall cause each burying ground to be laid out into ranges divided by walks, the ranges divided into lots, the lots into graves and the graves numbered, a plan of which shall be made and filed and maintained in the office of the Treasurer or in the Department of Parks and Cemeteries. All burials in such ground shall conform to the ranges and divisions of the same.

**§ 20-4. Records of interments.**

[Amended 4-1-1996 by Ord. No. 391]

The Director of Parks and Recreation, or his/her designee, shall keep a record of the name, age, sex, and the range and number of the grave or tomb of each person interred under his/her charge.

**§ 20-5. Contracts for care of lots and graves.**

[Amended 4-1-1996 by Ord. No. 391]

**A.**

The Director of Parks and Recreation, or his/her designee, shall endeavor to make a written contract in the name of the City with some responsible person to pay the City for the care of each lot and grave from year to year at the price established by the Council, and shall file all such contracts with the Treasurer.

**B.**

The requirements of this section apply only if there is no perpetual care provided.

**§ 20-6. Care of veterans' graves.**

In any burying ground in which any Revolutionary War soldiers or sailors, or soldier or sailor who served in the United States Army, Navy or Marine Corps in any war, are buried, the City shall keep in good repair all graves, headstones, monuments or markers designating the burial place of such persons and shall keep the grass suitably cut and trimmed on such graves during the summer season.

**§ 20-7. Rates.**

[Amended 6-19-1989 by Ord. No. 113]

The rates the City charges for grave lots and for the opening and closing of graves shall be set from time to time and a schedule of such fees is on file in the City Clerk's office.

**§ 20-8. Accounting; collection of sums due.**

The Treasurer shall keep account of all sums due the City on account of burying grounds, including sums due for the sale and grading of lots, and shall collect such sums from the parties liable.

**§ 20-9. Deposit for perpetual care of lots; withdrawal and interest.**

**A.**

Any person owning or interested in a lot in a public burying ground in the City may deposit in the treasury such sum as provided in this article by the Council for the purpose of providing for the perpetual care of such lot or its appurtenances.

**B.**

At the time of making his deposit, such person shall receive a receipt therefor, signed by the Treasurer, and shall consent in writing to be bound by the provisions hereof, which shall be written in a book kept by the Treasurer for that purpose. Such deposit shall not be withdrawn except by mutual consent of the Council and the depositor.

**C.**

Interest shall be allowed by the City upon such deposit, and the same shall annually be appropriated in caring for such lot, under the direction of the Superintendent of Buildings and Grounds.

**§ 20-10. Limitation on sale of lots.**

Cemetery lots shall be sold only to residents of the City or heirs or legatees or devisees thereof.

**§ 20-11. Sale of lots in Kling and Wall Cemeteries.**

All cemetery lots in Kling and Wall Cemeteries, except those lots on A lane, shall be sold only to persons making payment for perpetual care, upon purchase of lots.

**§ 20-12. Cancellation of contract upon failure to pay for lot; erection of monuments.**

**A.**

If a person contracts to purchase a lot in a public burying ground, and within six months of the date of such contract has not paid in full for such lot, the City shall have the right to cancel such contract and to resell all graves on the lot in which interments have not been made.

**B.**

Monuments shall not be erected until the lots have been fully paid for.

**§ 20-13. Rules and regulations.**

[Amended 9-17-1990 by Ord. No. 528; 4-1-1996 by Ord. No. 391]

The Director of Parks and Recreation is empowered and authorized to promulgate and adopt after a public hearing rules and regulations for the operation and maintenance of all cemeteries owned and/or maintained by the City, which rules and regulations will provide for penalties for the violation of same. The above referred to rules and regulations must be accepted by the City Council by Council order before they can be implemented and made final.

## **Chapter 23. City Council**

[HISTORY: Adopted by the City Council of the City of Augusta as Ch. 2, Art. II, of the 1990 Code; amended in its entirety 7-17-1989 by Ord. No. 139(2). Subsequent amendments noted where applicable.]

### **Article I. General Provisions**

#### **§ 23-1. Council-staff relations.**

[Amended 4-7-1997 by Ord. No. 78]

##### **A.**

Councilmembers may contact department and bureau heads for the purpose of inspecting and obtaining information concerning departmental operations. Department and bureau heads are expected to fully cooperate with the Councilors in requests for information where the same is readily available.

##### **B.**

Requests for special studies, investigations or reports involving considerable staff time for preparation should be forwarded to the City Manager.

##### **C.**

No member of the City Council shall give orders or directives, either directly or indirectly, to any staff member or employee of City government or interfere in the conduct of any department or bureau of the City.

##### **D.**

No staff member or employee of the City shall be summoned for the purpose of inquiry relating to his/her conduct or the operation of a department or bureau except at the direction of the City Manager.

### **Article II. Rules of Procedure**

#### **§ 23-2. Definitions.**

[Added 3-19-1990 by Ord. No. 345]

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

##### **BUSINESS MEETINGS**

Regular scheduled meetings and special meetings of the City Council for the purpose of establishing City policy by ordinance, order or resolve. Meeting dates for regular scheduled meetings shall be established by order prior to the beginning of each calendar year.

##### **INFORMATIONAL MEETINGS**

Regular scheduled meetings and special meetings of the City Council established for the purpose of informal discussions of City issues between the City Council, City staff and the general public. Meeting dates for regular scheduled informational meetings shall be established by order prior to the beginning of each calendar year.

## WORKSHOP MEETINGS

Special meetings of the City Council for the purpose of discussion and work on specific City issues, between the City Council and City staff. Meeting dates for workshop meetings shall be established and set as needed by the City Manager or the City Council.<sup>[1]</sup>

[1]

Editor's Note: Original Sec. 2-51 of the 1990 Code, Presiding officer, which immediately followed this section, was repealed 10-18-2012 by Ord. No. 12-157.

### § 23-3. Rights and duties of presiding officer.

The presiding officer shall do the following:

A.

Take any question by yeas and nays.

B.

Preserve order and decorum and may speak on points of order in preference to members on the floor.

C.

Decide all questions of order, subject to an appeal on motion of any member regularly seconded.

D.

Address the Council, state facts, put questions and read to the Council.

E.

Propound all questions in the order in which they are moved. Amendments must be dealt with separately; amendments to amendments are not allowed. Additional amendments are allowed after the previous amendment has been voted upon.

F.

Nominate all committees, unless otherwise provided for or especially directed by Council.

G.

Declare all votes, but if a vote be doubted he may call for a revote.

H.

Call any member to the chair, who may preside for one meeting.

I.

May express his opinion on any subject under debate.

### § 23-4. Suspension of rules by vote; consideration of items not on agenda.

The rules and order of business set out in this article shall be observed in all cases, unless suspended by a vote of 2/3 of the members present. Items not on the agenda may be taken up at a Council meeting by a two-thirds vote and identification of the subject matter.

### § 23-5. Submission of agenda items.

[Amended 5-21-1990 by Ord. No. 375; 5-18-1992 by Ord. No. 465]

A.

Any matter to be taken before the Council for discussion or Council action shall be presented to the City Manager's office prior to 12:00 noon two business days preceding the meeting. No

agenda item shall be accepted after 12:00 noon two business days preceding the meeting. The agenda for the regular City Council meeting shall be delivered to the Council two business days preceding the meeting. A copy of the agenda shall be mailed to the Kennebec Journal, local radio stations and State Cable TV (Channel 3). The City Manager shall publicize a summary of all Council business meeting agendas which will identify and briefly describe each order, resolve or ordinance to be addressed by the Council at the respective Council business meeting.

B.

Councilmembers, the Mayor and the City Manager have the exclusive authority to place matters on the Council's agenda.

C.

An agenda item may be withdrawn by the person who placed the item on the agenda any time prior to a motion on the agenda item.

**§ 23-6. Order of business.**

[Amended 3-19-1990 by Ord. No. 345; 11-13-1995 by Ord. No. 269]

A.

Regular meetings. The order of business for regular business meetings shall be as follows:

(1)

Public hearings on items requiring public hearings.

(2)

Public comment on items listed on the agenda, except for items which were taken up at a public hearing earlier in the meeting.

(3)

Consent agenda (optional).

(4)

Approval of previous minutes and warrants (may be consolidated into the consent agenda).

(5)

Old business and tabled matters.

(6)

New business (orders and resolves).

(7)

New business (items needing two readings, such as ordinances).

(8)

Reports of committees.

(9)

Communications.

(10)

Petitions.

B.

Informational meetings. The order of business for informational meetings shall be as follows:

(1)

Items for discussion submitted by the City Council and/or the City Manager.

(2)

Persons wishing to address the City Council who have submitted a formal request in accordance with § 23-12.

(3)

Open comment period for any persons wishing to address the City Council.

**§ 23-7. Order of precedence of motions.**

A.

The order of precedence of motions shall be as follows:

(1)

To adjourn.

(2)

To recess.

(3)

To lay on the table indefinitely.

(4)

To lay on the table for a time certain.

(5)

For the previous question.

(6)

To refer to a committee.

(7)

To amend.

(8)

The main question.

B.

The motions enumerated in this section shall have precedence in the order in which they are arranged. The first five motions shall not be debatable and the motion for the previous question shall require a two-thirds vote of the Councilmembers present and voting. The Council may conduct any, all or any part of its business by a consent agenda.

**§ 23-8. Motions to be in writing if demanded.**

Every motion shall be reduced to writing, if the presiding officer or any member demands it.

**§ 23-9. Disposal of motions; withdrawal.**

After a motion is stated or read by the Chair, it shall be deemed to be in the possession of the Council and shall be disposed of by vote; but the mover may withdraw it at any time before a division or amendment with the consent of the seconder.

**§ 23-10. Motion for reconsideration.**

When a motion has once been made and carried in the affirmative or negative, any member voting with the majority may move a reconsideration thereof at the same meeting. If seconded, it shall be open to debate and disposed of by the Council. If the motion is made at such meeting, a majority of the members present may pass a vote of reconsideration; but only one motion for the reconsideration of any vote shall be permitted.

**§ 23-11. Debating or presenting matters to Council.**

**A.**

When any member is about to speak in debate, or present any matter to the Council, the member shall respectfully address the Chair, confining himself to the subject under debate and avoiding personalities.

**B.**

No member shall speak more than once until the other members who have not spoken shall speak, if they desire it.

**C.**

No member shall call another member by a disrespectful designation or name.

**D.**

The presiding officer shall give the Council priority prior to the public being recognized.

**§ 23-12. Addressing Council by nonmembers.**

[Amended 12-18-1989 by Ord. No. 268; 3-19-1990 by Ord. No. 345]

**A.**

Any person wishing to address the Council on business meeting agenda items shall do so during the time set forth for public comment as indicated in § [23-6](#).

**B.**

Each person addressing the Council on any business meeting agenda item shall give his/her name and address in an audible tone of voice for the record and shall limit his/her statement to five minutes per agenda item, unless extended by the presiding officer. All remarks shall be addressed to the Council as a body, and not to any member thereof. No person, other than members of the Council and the person having the floor, shall be permitted to enter into any discussion either directly or through members of the Council. No questions shall be asked of Councilmembers, except through the presiding officer.

**C.**

Any person wishing to address the Council on any topic of his/her choice may do so at an informational meeting as set forth in § [23-6](#). Persons wishing to be listed on an informational meeting agenda must register with the City Manager's office before 12:00 noon two business days immediately preceding the next informational meeting. The notice shall include the subject matter which the person wishes to discuss. This information shall be placed on the agenda by the City Manager's office and, at an appropriate time, the person shall be recognized by the presiding officer for the purpose indicated on the agenda.

**D.**

Each person addressing the Council during an informational meeting shall give his/her name and address in an audible tone of voice for the record and shall limit his/her statement to a reasonable period of time, the extent of which shall be determined by the presiding officer. All remarks shall be addressed to the Council as a body, and not to any members thereof. No person, other than members of the Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through the members of the Council. No questions shall be asked of Councilmembers except through the presiding officer.

**E.**

Any person making personal, impertinent or slanderous remarks, or who shall become boisterous while addressing the Council, may be requested to leave the meeting and may be forthwith barred by the presiding officer from further audience before the Council at that meeting.

#### **§ 23-13. Interruption of member speaking.**

No member speaking shall be interrupted by another, but by a call to order or to correct a mistake. If any member in speaking, or otherwise, transgresses the rules of the Council, the presiding officer shall, or any member may, call him to order; in which case the member so called to order shall explain, if permitted to do so; and the Council, if appealed to, shall decide on the case without debate. If the decision is in favor of the member so called to order, the member shall be at liberty to proceed; if otherwise, the member shall not proceed without leave of the Council.

#### **§ 23-14. Improper use of amendments.**

No motion or proposition on a subject different from that under consideration shall be admitted under color of an amendment.

#### **§ 23-15. Requirement to vote; exception.**

Every member who shall be present when a question is put shall give his vote, unless the Council for special reasons shall excuse him. Application for such excuse must be made before the Council is divided, or before the calling of the yeas and nays, and such application shall be decided without debate. A Councilmember may abstain by leaving the Council chambers.

#### **§ 23-16. Action on ordinances at first reading.**

Upon being introduced at first reading, each proposed ordinance shall be read by title only, unless any member of the Council requests a full reading of the ordinance, and no vote shall be required.

## **Chapter 31. Elections**

[HISTORY: Adopted by the City Council of the City of Augusta as Ch. 7 of the 1990 Code. Amendments noted where applicable.]

### **Article I. In General**

#### **§ 31-1. Ward boundaries.**

[Amended 1-8-1990 by Ord. No. 298; 12-20-1993 by Ord. No. 321; 6-21-2004 by Ord. No. 90; 5-1-2014 by Ord. No. 14-075]

Ward boundaries shall be as follows:

A.

Ward 1: Starting at a point in the middle of Bond Brook at the Augusta/Manchester municipal boundary and proceeding easterly following Bond Brook to a point directly north of the terminus of North Street. Then turning directly south to the terminus of North Street and following North Street to its intersection with Bridge Street. Then turning east on Bridge Street to its intersection with State Street. Then turning north on State Street to its intersection with Laurel Street. Then turning east on Laurel Street to its intersection with Water Street. Then turning south on Water Street to the State of Maine railroad trestle underpass. Then turning east and following the railroad trestle to a point in the middle of the Kennebec River. Then turning south and following the Kennebec River to a point in the center of the river where the Memorial Bridge crosses the river. Then turning west on Memorial Bridge to Memorial Drive and proceeding to the center of Memorial Circle. Then turning south on State Street to the intersection of Capitol Street. Then turning west on Capitol Street to the intersection of Sewall Street. Then turning south on Sewall Street to the Augusta/Hallowell municipal boundary. Then turning west and following the municipal boundary back to the point of beginning.

B.

Ward 2: Starting at the intersection of South Belfast Avenue and the Augusta municipal boundary and proceeding westerly on South Belfast Avenue to the point where it intersects with Cony Street. Turning west on Cony Street and following it to the western bank of the Kennebec River where the road becomes Bridge Street. Proceeding west on Bridge Street to a point in the middle of the Calumet Crossing at Old Fort Western Bridge. Turning south and following the Kennebec River to a point in the center of the river where the Memorial Bridge crosses the river. Then turning west on Memorial Bridge to Memorial Drive and proceeding to the center of Memorial Circle. Then turning south on State Street to the intersection of Capitol Street. Then turning west on Capitol Street to the intersection of Sewall Street. Then turning south on Sewall Street to the Augusta/Hallowell municipal boundary. Then turning east and following the municipal boundary back to the point of beginning.

C.

Ward 3: Starting at a point in the middle of Bond Brook at the Augusta/Manchester municipal boundary and proceeding easterly following Bond Brook to a point directly north of the terminus of North Street. Then turning directly south to the terminus of North Street and following North Street to its intersection with Bridge Street. Then turning east on Bridge Street to its intersection with State Street. Then turning north on State Street to its intersection with Laurel Street. Then turning east on Laurel Street to its intersection with Water Street. Then turning south on Water Street to the State of Maine railroad trestle underpass. Then turning east and following the railroad trestle to a point in the middle of the Kennebec River. Turning north and following the Kennebec River to its intersection with the Augusta municipal boundary. Then turning west and following the Augusta municipal boundary to the point of beginning.

D.

Ward 4: Starting at the intersection of South Belfast Avenue and the Augusta municipal boundary and proceeding westerly on South Belfast Avenue to the point where it intersects with Cony Street. Turning west on Cony Street and following it to the western bank of the Kennebec River where the road becomes Bridge Street. Proceeding west on Bridge Street to a point in the middle of the Calumet Crossing at Old Fort Western Bridge. Turning north and following the Kennebec River to its intersection with the Augusta municipal boundary. Then turning east and following the Augusta municipal boundary to the point of beginning.

### **§ 31-2. Voting places.**

[Amended 4-17-1990 by Ord. No. 376; 8-20-1990 by Ord. No. 497; 9-5-2006 by Ord. No. 139; 7-21-2011 by Ord. No. 11-92; 3-7-2013 by Ord. No. 13-035]

#### **A.**

For the purposes of this section, the term "voting place" shall mean the building in which ballots are cast at an election.

#### **B.**

The voting places in the City wards are the following:

Ward 1: Augusta State Armory

Ward 2: City Center

Ward 3: Augusta Civic Center

Ward 4: Cony High School

#### **C.**

The voting place locations described in Subsection **B** of this section may be temporarily changed by Council order, provided that the alternative locations and procedures comply with applicable state statutes.

### **§ 31-3. Forms for warrants calling ward meetings.**

The form of warrants for calling meetings of the citizens of the several wards shall be as prescribed for state elections and shall be on file in the City Clerk's office.

### **§ 31-4. Service and return of warrants.**

All warrants for calling ward meetings shall be served by a constable or resident of the City; warrants for ward meetings shall be returned to the wardens of the several wards, on or before the time of meeting therein named.

### **§ 31-5. Notice of meetings.**

[Amended 10-5-1998 Ord. No. 673]

The service of notices of election for ward meetings shall be made by posting copies thereof in at least one public and conspicuous place in the ward mentioned in the notice of election, at least seven days before the time of the meeting mentioned therein.

### **§ 31-6. Opening time of polls.**

It shall be the duty of the Mayor and Council to fix the time when the polls shall be opened and they shall insert the same in all warrants for elections.

### **§ 31-7. Activities prohibited near polling places.**

#### **A.**

It shall be unlawful for any person to engage in any activities, other than those directly related to the election process for the election then being held, within 250 feet of the entrance to the polling

places or within the polling places themselves during such time as the polls are opened for any election.

B.

Such activities shall include, but not be limited to, solicitation of information, distribution of information or material, solicitation of signatures, solicitation of endorsements.

**§ 31-8. Form of nomination paper.**

[Amended 8-15-1988 by Ord. No. 441; 7-2-1990 by Ord. No. 469]

Nomination papers for the election of municipal officers, chairpersons and members of the Board of Education shall be in an approved form, a copy of which is on file in the City Clerk's office.<sup>[1]</sup>

[1]

Editor's Note: A charter amendment adopted 11-11-1998 repealed former Art. II, §§ 7-26 through 7-40, of the 1990 Code, regarding initiative and referendum, which immediately followed this article. Former Art. II was derived from Code 1970, §§ 8-17 through 8-31; as amended 6-18-1990 by Ord. No. 440 and 7-16-1990 by Ord. No. 470. See now City Charter Art. V-A.

## **Chapter 35. Emergency Management**

[HISTORY: Adopted by the City Council of the City of Augusta as Ch. 8 of the 1990 Code; amended in its entirety 5-1-2000 by Ord. No. 332. Subsequent amendments noted where applicable.]

### **Article I. Title and Definitions**

**§ 35-1. Short title.**

The chapter shall be known as the "City of Augusta Emergency Management Service Code."

**§ 35-2. Definitions.**

When used in this chapter, the following words and phrases shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

**DISASTER**

A man-made, natural, or war-caused disaster.

**DISASTER EMERGENCY**

Those conditions which may, by investigation made, be found actually or likely to:

A.

Affect seriously the safety, health, or welfare of a substantial number of citizens of this City or preclude the operation or use of essential public services and facilities;

B.

Be of such magnitude of severity as to necessitate seeking state or county supplementation of local efforts or resources exerted or utilized in alleviating the danger, damage, suffering, or hardship faced; and

C.

Have been caused by forces beyond the control of man, by reason of civil disorder, riot, or disturbance, or by factors not foreseen and not known to exist when appropriation bills were enacted.

EMERGENCY MANAGEMENT

The judicious planning, assignment, and coordination of all available resources in an integrated program of prevention, mitigation, preparedness, response, and recovery for emergencies of any kind, whether from attack, man-made, or natural sources.

EMERGENCY SERVICES

The preparation for and carrying out of functions, other than functions for which military forces are primarily responsible, to prevent, minimize, and provide emergency repair of injury and damage resulting from disaster, together with all other activities necessary or incidental to the preparation for and carrying out of those functions. The functions include, without limitation, fire-fighting services, police services, medical and health services, rescue, engineering, disaster warning services, communications, radiological, shelter, chemical, and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, emergency resources management, existing or properly assigned functions of plant protection, temporary restoration of public utility services, and other functions related to civilian protection.

LOCAL EMERGENCY

The condition declared by the Mayor when in his/her judgment the threat or actual occurrence of a disaster is or threatens to be of sufficient severity and magnitude to warrant coordinated local government action to prevent or alleviate the damage, loss, hardship, or suffering threatened or caused thereby. A local emergency cannot be declared where the emergency arises solely out of resource shortage. Such an emergency may only be declared under the act of the Governor.

MAN-MADE DISASTER

Any industrial, nuclear, or transportation accident, explosion, conflagration, power failure, natural resource shortage, or other condition, except enemy action, resulting from man-made causes, such as oil spills and other injurious environmental contamination, which threatens or causes substantial damage to property, human suffering, hardship, or loss of life.

NATURAL DISASTER

Any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe which results in substantial damage to property, hardship, suffering, or possible loss of life.

TERRORISM

A violent act or an act dangerous to human life, in violation of the criminal laws of the United States or any segment to intimidate or coerce a government, the civilian population or any segment thereof, in furtherance of political or social objectives.

A.

The FBI further identifies two types of terrorism:

(1)  
DOMESTIC

Involves groups or individuals whose terrorist activities are directed at elements of our government or population without foreign direction.

(2)  
INTERNATIONAL

Involves groups of individuals whose terrorist activities are foreign-based and/or directed by countries or groups outside the United States or whose activities transcend national boundaries.

B.  
Terrorism may be in any of the following forms: biological, nuclear, incendiary, chemical, or explosive.

WAR-CAUSED DISASTER

Any condition following an attack upon the United States resulting in substantial damage to property or injury to persons in the United States caused by use of bombs, missiles, shellfire, nuclear, radiological, chemical, or biological means, or other weapons, or overt paramilitary actions, or other conditions such as sabotage.

## Article II. Office of Disaster and Emergency Services

### § 35-3. Creation and management; purpose.

The Office of Disaster and Emergency Services is hereby created and shall be managed by a Director who shall be appointed in the manner set forth in § [35-5](#). The Office of Disaster and Emergency Services will coordinate activities pertaining to natural, man-made, and war-caused disasters and will be the instrument through which the Mayor may exercise the authority and discharge the responsibilities vested in him/her in this Emergency Management Service Code and other applicable laws of the state and the City and this chapter.

### § 35-4. Powers and duties of Mayor; authority of Manager.

A.  
The Mayor is authorized to declare a local disaster upon finding a disaster has occurred or is imminent, subject to ratification by resolution of the City Council. In such event, the City Council shall convene and act upon the declaration as soon as the exigencies of the circumstances allow. The City Council, by concurrent resolution, may terminate a local disaster emergency at any time. The declaration shall not be continued or renewed for a period in excess of seven days except by or with the consent of City Council. Any order or proclamation declaring, continuing, or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed promptly with the Augusta Emergency Management Agency. The effect of a declaration of a local disaster emergency is to activate the response and recovery aspects of the City's emergency management plan and to authorize the furnishing of aid and assistance thereunder.

B.  
If the Mayor is physically unable to serve during an emergency, the senior member of the City Council will assume the Mayor's duties and responsibilities.

C.

During any declared local disaster emergency the City Manager:

(1)

Shall have the full authority and power to act on behalf of the City and exercise the powers conferred upon the City under the applicable provisions of the Emergency Management Services Code of the State of Maine;

(2)

May control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises therein;

(3)

May suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, ammunition, and explosives;

(4)

May require the emergency services of a City officer or employee; and/or

(5)

May suspend the routine hours of operation of the City government.

**§ 35-5. Emergency Management Director.**

The Emergency Management Director shall be an employee of the City of Augusta who is appointed by the City Manager. The Director shall report directly to the City Manager and shall be responsible for the planning, administration, and coordination of the local organization, subject to the direction and control of the City Manager.

**Article III. General Provisions**

**§ 35-6. Emergency management plan.**

The Office of Disaster and Emergency Services shall prepare an emergency management plan which shall be submitted to and approved by the City Council. The plan shall establish an Emergency Management Team providing for the use of services, equipment, facilities, and personnel of all City government divisions and other services providers during a threatened or actual local disaster emergency. It shall be the duty of all Emergency Management Team members to perform the functions assigned to them in the plan and to maintain their portion of the plan in a state of readiness at all times. All substantive amendments to the plan shall be approved by the City Council; provided, however, that in the event an amendment is pending at the time a disaster is proclaimed, the amendment will be considered approved immediately, and will remain effective unless specifically revoked by the City Council.

**§ 35-7. Emergency operations center.**

The Office of Disaster and Emergency Services shall establish an Emergency Operations Center (EOC) equipped with a communications system to support government operations in emergencies and provide other essential facilities and equipment for agencies and activities assigned emergency functions. The police station at 33 Union Street shall serve as the primary

Emergency Operations Center. The alternate Emergency Operations Center shall be the Hartford Fire Station at 369 Water Street.

### **§ 35-8. Violations and penalties.**

Any person, partnership, association, firm, including the individual partners, members, officers, and directors thereof, violating any of the provisions of this chapter, the emergency management plan adopted hereunder, or any local disaster emergency declaration or regulations promulgated thereunder shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of \$500 or imprisonment not exceeding 90 days, or both.

## **Chapter 42. Finances**

[HISTORY: Adopted by the City Council of the City of Augusta as Ch. 2, Art. V, of the 1990 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Procurement — See Ch. [83](#).

### **§ 42-1. Fiscal year.**

[Amended 5-20-1985 by Ord. No. 119]

Effective January 1, 1986, the financial year shall begin on the first day of January and end on the last of the following June, including both days; effective July 1, 1986 and thereafter, the financial year shall begin on the first day of July and end on the last day of the following June, including both days.

### **§ 42-2. Budget contents.**

The budget of the City government shall contain a complete financial plan for each fiscal year, which shall set forth all proposed expenditures for the administration, operation and maintenance of the departments and agencies of the City government; all interest and debt redemption charges during each fiscal year; and all expenditures for capital projects to be undertaken and executed during the fiscal year. In addition thereto, the budget shall set forth the anticipated revenues of the City government and any other additional means of financing the expenditures proposed.

### **§ 42-3. Contingent account.**

The Council in the City budget may allocate an amount in any year for a contingent account.

### **§ 42-4. Authority of Council Chairperson to sign warrants.**

The Chairperson of the Council shall sign warrants in the absence of the Mayor from the City or when the Mayor is incapacitated.

### **§ 42-5. Councilmembers authorized to countersign warrants.**

[Amended 2-6-1991 by Ord. No. 16; 11-20-2006 by Ord. No. 186]

The following Councilmembers are hereby authorized to countersign warrants in accordance with Article VII, § II, of the Charter as amended:[\[1\]](#)

[A.](#)

Inauguration of City Council through April 4, odd years: Ward 1 Councilmember.

[B.](#)

April 5 through July 4, odd years: Councilmember At-Large selected by alphabetical order.

[C.](#)

July 5 through October 3, odd years: Ward 2 Councilmember.

[D.](#)

October 4, odd years, through January 2, even years: Councilmember At-Large next selected by alphabetical order.

[E.](#)

January 3 through April 2, even years: Ward 3 Councilmember.

[F.](#)

April 3 through July 2, even years: Councilmember At-Large next selected by alphabetical order.

[\[1\]](#)

Editor's Note: So in original. See Charter Art. VII, Sec. 9, Payments.

#### **§ 42-6. Council approval required for use of surplus fund.**

All monies to be expended or transferred from the surplus fund for any use must be approved by a majority vote of the Council.

#### **§ 42-7. Obligations not to exceed appropriations.**

No officer of the City nor any department whose duty it is to expend money under an appropriation shall contract any bill or incur any obligation on behalf of the City in excess of the appropriation.

#### **§ 42-8. Council advice required when estimates exceed appropriations.**

In all contracts or expenditures to be made under the authority of the Council, whenever the estimates shall exceed the appropriations specially made therefor, or whenever any officer shall have expended the sum specially appropriated for his use, and in either case shall require a further sum, it shall be the duty of each officer having such matter in charge to submit the same to the Council for instructions before such contract is made or any further expenditure for the object is incurred.

#### **§ 42-9. Additional expenditures after passage of order of appropriation.**

After the annual order of appropriations shall have been passed, no subsequent expenditures shall be authorized for any purpose, unless provision for the same shall be made by special transfer from some of the appropriations contained in such annual order or by expressly creating therefor a City debt.

**§ 42-10. Surplus fund established; overdraft of appropriation carried as debt.**

**A.**

All unexpended balances of all appropriations at the end of each municipal year shall be merged into one fund to be designated "The Surplus Fund."

**B.**

All overdrafts of all appropriations at the end of each municipal year shall be charged to the surplus account, and if such account is insufficient, it shall be carried as a debt to the City and a like amount shall be appropriated the following year to liquidate such debt.

**§ 42-11. Collector and Treasurer to give bond.**

The Collector and the Treasurer shall give a corporate surety bond in the amount to be set from time to time conditioned for the faithful discharge of the duties of his office to be filed with the City Clerk and to be paid for by the City.

**§ 42-12. Record of accounts receivable; outstanding debts.**

**A.**

The Treasurer shall keep and maintain at all times an accurate and true record of all accounts receivable that may be due the City.

**B.**

Whenever any person owes any monies to the City, the Treasurer shall withhold an equal amount of money, including interest, that is due that person until the debt to the City is satisfied.

**§ 42-13. Record of payments to City.**

Upon payment to the City, the Treasurer shall maintain a record of such payment and take proper receipts or cancelled checks thereof and submit such information to the Collector as well as send receipts to the taxpayer along with an explanation of such.

**§ 42-14. Issuance of quitclaim deeds upon payment of taxes.**

**A.**

The Treasurer is hereby authorized to execute and deliver upon behalf of the City quitclaim deeds of property acquired by tax deeds and tax liens to the person to whom the taxes were assessed or to his successor in interest, upon his paying such taxes in full with all interest and costs.

**B.**

The Treasurer shall require such taxpayer, prior to receiving a quitclaim deed, to pay any personal property taxes owed by him, other real estate taxes owed and taxes owed by any corporation of which he is a principal owner, or any taxes owed by the principal owner if the person requesting the quitclaim deed is a corporation.

**C.**

The Treasurer shall also collect, prior to giving a quitclaim deed, any tax equivalent to the tax that could have been assessed on the property since perfection of the lien with interest and costs.

D.

If the City directly prepares such deed, there shall be a fee imposed on the taxpayer or person requesting a deed. Such fee will be determined by Corporation Counsel. Fees are subject to change depending upon the fee assessed by the Corporation Counsel.

**§ 42-15. Joint Audit Committee.**

[Added 2-4-2008 by Ord. No. 022]

A.

There is hereby established a Joint Audit Committee composed of two Councilors appointed by the Mayor, two School Board members appointed by the Chairperson of the School Board, and one member at-large appointed by the Mayor. The terms of the Councilors and School Board members are to coincide with their respective terms of office. The at-large member term shall be three years.

B.

The Committee shall lead the process of selecting an independent auditor, direct the work of the independent auditor as to the scope of the annual audit and any matters of concern with respect to internal controls. Finally, the Committee shall receive the report of the independent auditor and present that report to the City Council and School Board with any recommendation from the Committee.

**Chapter 64. Museums**

[HISTORY: Adopted by the City Council of the City of Augusta 8-20-1984 by Ord. No. 494; amended in its entirety 4-1-1996 by Ord. No. 391 (Ch. 6.5, Art. V, of the 1990 Code). Subsequent amendments noted where applicable.]

**Article I. Management and Operation of Old Fort Western**

**§ 64-1. Director/Curator.**

A.

Upon the nomination by the Board of Trustees of a candidate for consideration, a Director/Curator of the Old Fort Western shall be appointed by the City Manager, with the advice and consent of the City Council.

B.

The Director/Curator is immediately responsible to the Board of Trustees for the executive management of Old Fort Western, and to the City Manager as a Bureau Director in the Department of Community Services.

C.

The Director/Curator, with the approval of the Board, shall employ such other professional staff as may be necessary in the operation of Old Fort Western.[\[1\]](#)

[\[1\]](#)

Editor's Note: Ord. No. 391, adopted 4-1-1996, repealed original § 6.5-242 of the 1990 Code, regarding consultants, as amended 8-20-1984 by Ord. No. 494 and 8-17-1987 by Ord. No. 165, which immediately followed this section.

#### **§ 64-2. Admission fees.**

The Board of Trustees shall determine from time to time the schedule of admission fees.

#### **§ 64-3. Gifts and loans.**

The Board of Trustees shall have the authority to accept or reject gifts and loans to Old Fort Western and the authority to accession and deaccession collection items, in each case after receiving the recommendations of the Curator and the Board's Collections Committee.

#### **§ 64-4. Separate fund established.**

##### **A.**

Monies received by Old Fort Western from all sources of contribution shall remain separate and independent from City appropriations and the purposes for which those appropriations are expended. These separate funds shall be managed and expended at the discretion of the Board of Trustees for the improvement of Old Fort Western, for increasing its collections, or for development of its programs.

##### **B.**

In keeping with this authority, the Trustees of Old Fort Western may establish and operate a separate nonprofit corporation to receive and manage said separate funds for the purposes outlined above.<sup>[1]</sup>

##### **[1]**

Editor's Note: Ord. No. 391, adopted 4-1-1996, repealed original § 6.5-246, pertaining to the Friends of Fort Western, as amended 8-20-1984 by Ord. No. 494 and 8-17-1987 by Ord. No. 165, which immediately followed this section.

## **Article II. Board of Trustees**

#### **§ 64-5. Appointment; membership; terms of office.**

[Amended 9-17-2009 by Ord. No. 119]

##### **A.**

The Board of Trustees shall consist of nine members to be appointed by the Mayor with the advice and consent of the City Council. A majority of the Board, including the Chair, shall be residents or real estate taxpayers of the City of Augusta. Members shall be appointed to three-year terms, beginning in October, in such a manner that no more than 1/3 of the terms shall expire in any one fiscal year.

##### **B.**

The Board, upon the recommendation of its Nominating Committee, shall present to the Mayor in a timely manner the names of candidates nominated for consideration for appointment to membership on the Board.

C.

Unexpired terms occasioned by resignation or other cause shall be filled by appointment in the same manner, for the balance of such terms.

**§ 64-6. Meetings; quorum; committees.**

A.

The Board of Trustees shall meet as necessary, upon the call of the Chair, but not less than six times during each calendar year, to conduct the business of Old Fort Western.

B.

A quorum consisting of the majority of the existing Board members shall be required to transact the business of the Board.

C.

The October meeting of the Board shall be designated the annual meeting, at which time the Board shall elect a Chair and such other officers as it shall deem necessary, and establish committees to assist in the management, care and control and administration of the affairs of Old Fort Western. Reports of committees and of the Director will be received, and such other business as may properly come before the Board will be conducted.

D.

Special meetings of the Board of Trustees may be called by the Chair or by a majority of its members for purposes outlined in the call to such a meeting.

**§ 64-7. Duties; bylaws.**

[Amended 9-17-2009 by Ord. No. 119]

A.

The Board of Trustees of Old Fort Western is charged with responsibility to protect, preserve, and interpret the historic site and structures of Old Fort Western, the birthplace of Augusta, and to relate that interpretation, through collections, educational programs, civic engagement and research, to the history of the Kennebec River Valley, Maine and New England. In fulfilling this responsibility, the Board of Trustees is the sole policy-making body acting on behalf of Old Fort Western.

B.

Procedures governing the Board of Trustees' conduct on behalf of Old Fort Western shall be contained in a set of bylaws written, adopted, and revised as necessary by the Board of Trustees.

**§ 64-8. Budget; expenditures.**

The Board of Trustees shall annually prepare a budget to meet the financial needs of Old Fort Western and its programs. That portion of the budget covering the preservation and management of Old Fort Western, to be submitted to the City Manager by the Director/Curator and the Board Treasurer as an appropriation of City funds, shall be in accordance with the provisions of the City Charter. The City appropriation shall include, but not be limited to, maintenance of the historic site and structures, employment of a Director/Curator and clerical staff, and expenditures associated with the executive management of Old Fort Western.

## **Chapter 70. Officers and Employees**

[HISTORY: Adopted by the City Council of the City of Augusta as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Finances — See Ch. [42](#).

Personnel — See Ch. [75](#).

## **Article I. City Clerk**

[Adopted as Ch. 2, Art. III, Div. 4, of the 1990 Code]

### **§ 70-1. Duties.**

The City Clerk shall perform such duties as may be prescribed by the City Council or City Manager, and shall generally do and perform all duties and exercise all the powers by law incumbent upon or vested in a Town or City Clerk.

### **§ 70-2. Clerk of municipal officers.**

The City Clerk shall be the Clerk of the municipal officers.

## **Article II. Corporation Counsel**

[Adopted as Ch. 2, Art. III, Div. 5, of the 1990 Code]

### **§ 70-3. Qualifications and duties.**

The Corporation Counsel shall be an attorney at law and it shall be his duty to draft all contracts, bonds, deeds and other instruments which may be required of him by any ordinance, or by order of the City Manager or Council, and which by law, usage or agreement are to be drawn at the expense of the City. It shall be his duty to draft any ordinance when requested by the City Manager or City Council.

### **§ 70-4. Duty to prosecute and defend suits.**

The Corporation Counsel shall commence and prosecute any suit for a breach of the Code, when requested by the City Manager; also any other suit by order of the City Manager in writing, or by direction of the Council, on account of any of the estates, rights, privileges, claims or demands of the City; and to defend all actions against the City or any officer thereof, whenever any of the estates, rights, privileges, ordinances, orders or acts of the City government may be brought in question.

### **§ 70-5. Duty to render legal opinions and advise City officers.**

[Amended 11-17-1986 by Ord. No. 514]

The Corporation Counsel shall, when required, furnish the City Manager or Council with his opinion on any legal subject which may be submitted to him. He shall render professional advice to officers of the City government who may require his opinion on any subject touching the duties of their respective offices. In the event of a conflict, any request from the Council for the service of the Corporation Counsel shall have priority over any request from any City officer.

**§ 70-6. Duty to attend Council meetings and render services.**

The Corporation Counsel shall attend all meetings of the Council, except budget meetings, for the purpose of giving such advice or drafting such ordinances, orders or reports as may be required of him.

**§ 70-7. Collection of taxes and accounts receivable.**

When the collection of accounts receivable are turned over to the Corporation Counsel, such collection shall be handled on the basis of the Commercial Law League rates.

**§ 70-8. Responsibility in matters of bankruptcy or wage earner plans.**

The Corporation Counsel shall have the responsibility for matters involving bankruptcy and wage earner plans.

**§ 70-9. Payment of monies to Treasurer.**

It shall be the duty of the Corporation Counsel to account for and pay over to the Treasurer all monies received by him in any prosecution or suit wherein the City is or may be interested, and he shall notify the City Manager of the payment thereof.

**Article III. City Auditor**

[Adopted as Ch. 2, Art. III, Div. 6, of the 1990 Code]

**§ 70-10. General duty to render services.**

It shall be the duty of the Auditor to render any service that the City Manager or Council may direct.

**§ 70-11. Deputy Auditor.**

The position of Deputy City Auditor is hereby created for the sole purpose of signing warrants in the absence of the Auditor or when the Auditor is incapacitated.

**§ 70-12. Records to be maintained.**

It shall be the duty of the Auditor to keep, in a neat, methodical style and manner, a complete set of records, under the direction of the City Manager, wherein shall be entered, among other things, the various appropriations made by the Council, each under its appropriate head, and wherein shall be charged to each appropriation the different expenditures and payments that from time to time shall be made therefrom.

**§ 70-13. Duty to receive bills and maintain accounts.**

The Auditor shall receive all bills and accounts from persons having demands against the City, examine them carefully in detail and maintain records of such bills and accounts in accordance with the state statutes.

**§ 70-14. Authority to charge off collection costs of Counsel.**

In instances where the Treasurer has turned over accounts receivable to the Corporation Counsel for collection, the Auditor shall have the authority to charge off the actual cost of such collection.

**§ 70-15. Access to City records.**

The Auditor shall have access to all of the records of the departments of the City; and upon exercising such authority, he shall make recommendations for improvements in such recordkeeping to the City Manager.

**§ 70-16. Preaudit required.**

The Auditor shall preaudit the records of the City; and upon discovering any discrepancies therein, he shall give written notice of such fact to the City Manager and Council.

**§ 70-17. Continuous postaudit of financial transactions.**

The Auditor shall conduct a continuous postaudit of the account books, records and other evidences of financial transactions kept in the other departments and agencies of the City government. If he shall find in the course of such audit evidence of improper transactions, or of incompetence in keeping accounts or handling funds or of any other improper practice of financial administration, he shall report the same to the City Manager and Council immediately.

**§ 70-18. Safekeeping of records; delivery to successor.**

The Auditor shall cause all books, papers, vouchers and documents under his care, belonging to the City, to be securely deposited in some fireproof safe or vault or computer tape and shall deliver them to his successor in office.

**§ 70-19. Notice of appropriation exhaustion.**

In case an appropriation shall be exhausted, the Auditor shall immediately give written notice of such fact to the Manager.

## **Article IV. Director of Finance and Administration**

[Adopted 7-21-1986 by Ord. No. 450(1); amended 1-15-1989 by Ord. No. 189; 6-1-1998 by Ord. No. 550 (Ch. 2, Art. III, Div. 3, of the 1990 Code)]

### **§ 70-20. Position created; duties.**

The position of Director of Finance and Administration is hereby created, which position shall be appointed by the City Manager with the advice and consent of the City Council. The Director of Finance and Administration shall serve as the chief financial and administrative officer for the City and be responsible for directing the accounting, budgeting, and collection, treasury management, data processing, and personnel functions of the City government. The duties of the Director of Finance and Administration include providing broad technical supervision to department heads as well as the formulation and execution of financial administrative policies. Assignments and direction to accomplish the various functions of the position shall be made by the City Manager. The Director of Finance and Administration shall also hold the title of Assistant City Manager. The person holding this position shall, in addition to the duties set forth above, perform general administrative duties assigned and/or delegated to that person by the City Manager.

## **Article V. Director of Development Services**

[Adopted 12-2-2010 by Ord. No. 175 (Ch. 6, Art. I, of the 1990 Code)]

### **§ 70-21. Position created; duties.**

The position of Director of Development Services is hereby created, which position shall be appointed by the City Manager with the advice and consent of the City Council. The Director of Development Services is responsible for the direction and coordination of the following bureaus: Engineering, Facilities Maintenance, Code Enforcement and City Planning. The duties of the Director of Development Services include providing broad technical and administrative direction to the bureaus listed in this section and planning and coordinating all activities carried out by City personnel in such bureaus. The duties include the development of City policies and programs with respect to the City's infrastructure, long-term capital needs and physical plan and the implementation of such programs and policies as adopted by the City Council. Assignments and direction to accomplish the various functions of the position shall be made by the City Manager. The Director of Development Services shall, in addition to the duties set forth above, perform general administrative duties assigned and/or delegated to that person by the City Manager, oversee and direct the personnel and resources of the Office of Economic and Community Development and oversee and direct the personnel and resources related to the operation of the Augusta Airport.

## **Article VI. Director of Public Works**

[Adopted 12-2-2010 by Ord. No. 175 (Ch. 6.2, Art. I, of the 1990 Code)]

### **§ 70-22. Position created; duties.**

The position of Director of Public Works is hereby created, which position shall be appointed by the City Manager with the advice and consent of the City Council. The Director of Public Works is responsible for the direction and coordination of streets and sidewalks, the central garage and the Hatch Hill solid waste facility. The duties of the Director of Public Works include providing broad technical and administrative direction to and planning and coordinating all activities carried out by City personnel in these areas. The duties include the development of City policies and programs with respect to maintenance of the City's infrastructure, long-term capital needs and the implementation of such programs and policies as adopted by the City Council. Assignments and direction to accomplish the various functions of the position shall be made by the City Manager. The Director of Public Works shall, in addition to the duties set forth above, perform general administrative duties assigned and/or delegated to that person by the City Manager, and oversee and direct the personnel and resources of the Public Works Department.

## **Article VII. Director of Community Services**

[Adopted as Ch. 6.5, Art. I, § 6.5-1, of the 1990 Code; amended 7-21-1986; by Ord. No. 450; 4-1-1996; by Ord. No. 391; 11-6-1996 by Ord. No. 623]

### **§ 70-23. Position created; duties.**

The position of Director of Community Services is hereby created, which position shall be appointed by the City Manager with the advice and consent of the City Council. The duties of the employee holding this position include administrative work in planning and directing municipal recreation, buildings and grounds, parks, Lithgow Library, cemeteries, health and welfare, Old Fort Western, and harbor master programs and bureaus. The Director has ultimate responsibility for budget preparation and administration, records maintenance and making of reports for all assigned programs and bureaus. The Director also oversees and coordinates the development of telecommunications capabilities that enhance community services and provide improved citizen access to City government, including the use of cable TV channel(s) as provided to the City under franchise agreement. The Director shall serve as liaison to the City Manager and City Council for all assigned programs and bureaus. The Director may be assigned other special projects as determined by the City Manager.

## **Article VIII. Truant Officers**

[Adopted as Ch. 6.5, Art. I, § 6.5-2, of the 1990 Code]

### **§ 70-24. Appointment.**

In accordance with 20-A M.R.S.A. § 5052,[\[1\]](#) the Board of Education shall annually elect one or more persons to be truant officers.

[\[1\]](#)

Editors' Note: 20-A M.R.S.A. § 5052 was repealed by L. 1989, c. 415, § 20. See now 20-A M.R.S.A. § 5052-A, Attendance coordinators.

## **Chapter 75. Personnel**

[HISTORY: Adopted by the City Council of the City of Augusta as Ch. 2, Art. IV, of the 1990 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Boards, commissions and committees — See Ch. [14](#).

Officers and employees — See Ch. [70](#).

## **Article I. General Requirements**

### **§ 75-1. Statement of policy.**

It is hereby the declared personnel policy of the City that:

#### **A.**

Employment in the City government shall be based on merit and fitness, free of personal and political considerations.

#### **B.**

Just and equitable incentives and conditions of employment shall be established and maintained to promote efficiency and economy in the operation of the City government.

#### **C.**

Appointments, promotions and other actions requiring the application of the merit principle shall be based on fair evaluations.

#### **D.**

High morale shall be maintained by fair administration of this article and by every consideration of the rights and interests of employees consistent with the best interests of the public and the City.

#### **E.**

Tenure of employees covered by this article shall be subject to good behavior, the satisfactory performance of work, necessity for the performance of work, and the availability of funds, but shall not be inconsistent with the Charter.

#### **F.**

The City shall adhere to all applicable sections of the Fair Labor Standards Act as they relate to employment with the City.

### **§ 75-2. Policy Manual.**

The City Manager shall prepare and present to the Council for approval, by order, a personnel policy manual which will govern the administration of the City's personnel program.

Amendments shall be presented to the Council for approval as deemed necessary by the Manager.

### **§ 75-3. Personnel Officer.**

[Added 7-21-1986 by Ord. No. 450; amended 7-1-1991 by Ord. No. 167]

The position of Personnel Officer is hereby created, which position shall be appointed by the City Manager with the advice and consent of the City Council. The Personnel Officer is responsible for administering a central personnel program to provide the City with competent employees and to promote desirable and adequate conditions of employment. Duties include administering the technical phases of employee selection and placement, assisting in the negotiation and administration of collective bargaining agreements, classification and compensation, personnel records, employee benefits, the development and maintenance of an employee handbook and preparing and administering a budget. Assignments and direction to accomplish the various functions of the position shall be made by the City Manager.

#### **§ 75-4. Scope of regulations.**

The provisions of this article shall not apply to those employees covered by collective bargaining agreements except if such agreements do not contain the same or similar provisions.

#### **§ 75-5. Residency requirement for City Manager.**

[Amended 9-17-1984 by Ord. No. 553]

Notwithstanding any other provisions of the ordinances of the City, it shall be a condition of employment for any new City Manager hired by the City after September 17, 1984, that the new City Manager move within the corporate limits of the City within one year of accepting such employment. Employment contracts for the new City Manager shall not be considered final and binding upon the City until such condition is met.

#### **§ 75-6. Annual evaluation of City Manager.**

[Added 6-17-1985 by Ord. No. 113(1)]

The City Manager shall be evaluated by the City Council once a year. The procedure, process and forms used in the evaluation shall be set forth and established by the City Council.

#### **§ 75-7. Political considerations.**

Employees shall be selected without regard to political consideration, shall not be required to contribute for any political purpose, shall not hold nor be a candidate for any public office or position, and shall not be a member of any local, state or national committee of a political party.

## **Article II. Civil Service**

#### **§ 75-8. Title.**

This article shall be known as the "Civil Service Ordinance."

#### **§ 75-9. Commission established.**

The Augusta Civil Service Commission is hereby established.

### **§ 75-10. Commission hearings.**

It shall be the responsibility of the Civil Service Commission to hold hearings for the following purposes:

#### **A.**

Any employee of the City who claims to have been discriminated against on the basis of race, age, religion, creed, color or gender as provided for in Article VIII of the Charter.<sup>[1]</sup>

#### **[1]**

Editor's Note: So in original; Article VIII of the 2008 Charter no longer seems to apply.

#### **B.**

Any employee who has been suspended for a period of over seven days, demoted or dismissed.

### **§ 75-11. Hearing process.**

[Amended 12-19-1988 by Ord. No. 528]

#### **A.**

An employee who wishes to request a hearing must do so in writing to the Civil Service Commission within 10 working days of the action or knowledge of the action leading to the request.

#### **B.**

The Civil Service Commission will hold an informal hearing within 10 working days of receipt of a written request.

#### **C.**

The Civil Service Commission may request witnesses at the hearing and the witnesses shall be required to testify under oath. Refusal to testify may be grounds for dismissal.

#### **D.**

The Civil Service Commission will prepare and present to the City Manager and the employee a written response to the complaint within 10 working days of the hearing.

#### **E.**

Decisions of the Civil Service Commission shall be deemed final except in cases of alleged discrimination, in which case they shall be advisory.

### **§ 75-12. Recordkeeping.**

#### **A.**

The Civil Service Commission shall maintain adequate records of the proceedings of the Commission, of its own official acts and the examination records of new candidates.

#### **B.**

The City Manager shall furnish adequate secretarial help to maintain the Commission's records.

## **Chapter 79. Police Department**

[HISTORY: Adopted by the City Council of the City of Augusta 1-6-1992 by Ord. No. 244 (Ch. 16, Art. II, of the 1990 Code). Amendments noted where applicable.]

### **§ 79-1. Chief of Police.**

The City Manager shall appoint a Chief of Police with the advice and consent of the City Council.

**§ 79-2. Residency requirement for Chief of Police.**

[Amended 2-3-1992 by Ord. No. 360; 10-6-2011 by Ord. No. 11-148]

The Chief of Police must be a resident of the City of Augusta within 90 days of his/her appointment. The City Council, upon recommendation of the City Manager, may waive this requirement at its discretion.

**§ 79-3. Duties of Chief of Police.**

[Amended 1-30-1995 by Ord. No. 8]

The Chief of Police is the chief law enforcement officer of the City, and he shall have all the powers vested in him by statute. The Chief shall be responsible for enforcing the local, state and federal laws, and he shall perform such other duties as the Council shall prescribe. The Chief of Police is authorized to represent the City in District Court in the prosecution of alleged violations of those ordinances which the Police Department is empowered to enforce, if duly certified in accordance with 25 M.R.S.A. § 2803-A, or successor statute. The Chief of Police may designate any officer within the Department, if so certified, to perform this prosecutorial function.

**§ 79-4. Appointment of special police officers.**

The Chief of Police, with the approval of the City Manager, shall appoint such number of special police officers as he deems necessary.

**§ 79-5. Appointment of school crossing guards.**

The Chief of Police, with the approval of the City Manager, shall appoint school crossing guards.

**§ 79-6. Processing of notifications and precepts.**

The Chief of Police shall receive, post, deliver and execute all notifications and precepts issued by the Mayor, a Councilmember, the City Clerk, Council or any committee of the same, and make due return thereof.

**§ 79-7. Deputy Chief; liability for conduct.**

**A.**

During the absence or disability of the Chief of Police, an officer designated by the Chief shall have and exercise all the power and authority and perform all the duties pertaining to the office of Chief of Police. Such person shall give bond for the faithful discharge of his duties.

**B.**

The Chief of Police shall be personally responsible for all acts of the individual assuming his duties while absent or disabled.

### **§ 79-8. Duties and supervision of police officers.**

#### **A.**

The police officers shall, to the utmost of their power, preserve the public peace and prevent all riots, disorders and unlawful practices within the City.

#### **B.**

They shall be under the direction of the Chief of Police and shall perform such police duty as he may require of them by day or by night.

### **§ 79-9. Powers of police officers.**

All police officers of the Police Department shall have and exercise all powers given to and shall perform all duties imposed upon constables within the limits of the City,<sup>[1]</sup> except service of civil process, and all powers given to and all duties imposed upon police officers by the state statutes, the Charter and the City ordinances.

#### **[1]**

Editor's Note: Ord. No. 367, adopted 2-3-1992, provided as follows regarding constables: "Notwithstanding any provisions of state law, the City of Augusta shall not allow for the appointment of constables to act as law enforcement officers and/or process servers. This provision does not apply to election constables or employees of the City appointed constables in the performance of their duties. The terms of all constables appointed prior to the effective date of this ordinance shall be terminated on the effective date of this ordinance."

### **§ 79-10. Restrictions on offices and political activities of police officers.**

No police officer shall hold any other public office or take any active part in politics. Any violation hereof shall be considered cause for removal.

## **Chapter 83. Procurement**

[HISTORY: Adopted by the City Council of the City of Augusta 10-2-2006 by Ord. No. 152 (Ch. 2, Art. VI, of the 1990 Code). Amendments noted where applicable.]

## **Article I. Purpose and Definitions**

### **§ 83-1. Purpose and applicability; requirement of good faith.**

#### **A.**

Purpose.

#### **(1)**

Interpretation. This chapter shall be constituted and applied to promote its underlying purpose and policies.

#### **(2)**

Purpose and policies. The underlying purpose and policies of this chapter are to manage the procurement process in accordance with the law; to maximize the purchasing value of public

funds in procurement and to provide safeguards for maintaining a procurement system of quality and integrity; and to best meet the needs of City of Augusta departments through continuous improvement of purchasing systems and procedures.

B.

Applicability. The City of Augusta Purchasing Ordinance applies to contracts for procurement of goods, supplies, services, and construction entered into by the City after the effective date of this chapter. It shall apply to every expenditure of public funds by a City agency for public purchasing irrespective of its source, except as otherwise provided by the federal or state law, federal or state regulation, City of Augusta ordinance, or administrative policy. When the procurement involves the expenditure of state or federal assistance or contract funds, the procurement shall be conducted in accordance with any applicable mandatory state and/or federal law. Nothing in this chapter shall prevent any City agency from complying with the terms and conditions of any grant, gift, bequest, or cooperative purchasing agreement that is otherwise consistent with law. The City may adopt administrative procedures to ensure compliance with all bidding requirements, and those procedures may be more restrictive than required by statute.

C.

Requirement of good faith. This chapter requires all parties involved in the procurement, negotiation, performance, or administration of City contracts to act in good faith.

**§ 83-2. Word usage and definitions.**

A.

Singular-plural and gender rules.

(1)

Singular-plural. Words in the singular number include the plural, and those in the plural include the singular.

(2)

Gender. Words of a particular gender include any gender and the neuter; and when the senses indicate, words of the neuter gender may refer to any gender.

B.

Definitions. The words defined in this section shall have the meanings set forth below whenever they appear in this chapter:

**ARCHITECT-ENGINEER AND LAND SURVEYING SERVICES**

Those professional services within the practice of architecture, professional engineering, structural engineering or land surveying, as defined by the State of Maine Professional Services Selection Act.

**BID SECURITY**

A guarantee that the bidder will enter into a contract if it is offered within the specified period of time; failure to do so will result in forfeiture of bid security. Companies providing bid security bonds must be registered on the federal registry to do business in the State of Maine and must have an A1-A rating.

**BRAND NAME OR EQUAL SPECIFICATION**

A specification limited to one or more items by manufacturers' names or catalog numbers to describe the standard of quality, performance and other salient characteristics needed to meet City requirements, and which provides for the submission of equivalent products.

**BRAND NAME SPECIFICATION**

A specification limited to one or more items by manufacturers' names or catalog numbers.

#### BUSINESS

Any corporation, partnership, individual, sole proprietorship, joint venture, or any other private legal entity.

#### CHANGE ORDER

A purchaser's written authorization to the contractor to modify or change an existing purchase order or contract; these changes generally must be within the scope of the contract.

#### CITY AGENCY

A City officer, employee, department, bureau, office of, or agency whose purchasing authority is subject to this chapter.

#### COMMITTEE

A standing or ad-hoc committee established by the City of Augusta City Council with specific using agency jurisdiction and responsibilities.

#### CONFIDENTIAL INFORMATION

Any information which is available to an employee only because of the employee's status as an employee of the City and which is not a matter of public knowledge or available to the public on request.

#### CONSTRUCTION

The process of building, altering, repairing, improving, or demolishing any structure or building or other improvements of any kind to any real property.

#### CONSTRUCTION MANAGEMENT AT RISK

The contractor provides services to the owner, including design services, scheduling, cost control, value engineering and construction coordination. After providing preconstruction services, the contractor takes on the financial obligation to complete the project under a specified cost agreement.

[Added 10-16-2014 by Ord. No. 14-177]

#### CONTRACT

All types of City agreements, regardless of what they may be called, for the procurement of goods, services or construction; for example, payment vouchers, purchase orders, maintenance contracts, service contracts, systems contracts, oral agreements, etc.

#### CONTRACT RENEWAL

A continuation for an additional period under the original terms and conditions, where the renewal clause is included in the bid document. If the bid document does not include the terms and conditions of a renewal, any continuation of the contract is considered a new contract, which must be rebid.

#### CONTRACTOR

Any person or entity who or which is a party or beneficiary of a contract with the City or through a using agency thereof.

#### DESIGN/BUILD SERVICES

A combination of professional and general services as defined under this chapter, to be performed by one contractor under competitive proposal process with the approval of the Purchasing Officer.

#### EMERGENCY PROCUREMENT

An emergency situation shall be defined as an imminent disruption of essential operations or conditions adversely affecting the safety, health or security of persons or property, where it is unfeasible to remedy such disruption or conditions through the use of normal competitive bidding procedures. An emergency situation does not include states of emergency or disaster declared under Chapter [35](#), Emergency Management, of the City Code.

#### EMPLOYEE

Individuals, including elected and appointed officials, providing services for the City and drawing a salary from the City.

#### FISCAL OFFICER

The City Finance Director or School Business Manager.

#### GOODS

All tangible maintenance, repairs, and operation supplies, physical computer software and equipment necessary to sustain day-to-day City operations.

#### INVITATION TO BID

All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.

#### LOCAL VENDOR

A vendor whose principal place of business is located in the City.

#### MULTIYEAR CONTRACTS

Procurement contracts extending more than one year.

#### PERSON

Any individual or group of individuals, business, union, firm, corporation, trustee, partnership association, joint venture, committee, or other entity.

#### PROCUREMENT

The buying, purchasing, renting, leasing, or otherwise acquiring of any goods, services, or construction; includes all functions that pertain to the obtaining of any goods or services, or construction, including descriptions of requirements, selection and solicitation of sources, preparation, and award of contracts, and all phases of contract administration.

#### PROFESSIONAL SERVICES

The service of a person(s) possessing a high degree of professional skill where the judgment, artistic or subjective talent, ability, experiences, qualifications and fitness of the provider(s) plays an important part in the selection and primary reason for the service provided, and as further defined in § [83-16](#) of this chapter.

#### PUBLIC PROCUREMENT UNIT

The State of Maine, any county, city, town and any other subdivision of the state, or public agency of any such subdivision, public authority, education, health or other institution, any agency of the United States and, to the extent provided by law, any other entity which expends public funds for the procurement of goods, services, and construction.

#### PURCHASE ORDER

A contract for the purchase of goods, services, or construction.

#### PURCHASE REQUISITION

An internal document by which a department sends, to the Finance Director, details of goods, materials or services to meet its needs for a specific job.

## PURCHASING CARD

A payment method whereby requisitioners are empowered to deal directly with suppliers for low-dollar, high-frequency type purchases by using a card issued by a bank or major credit card provider. The cards reduce paperwork and enable purchasing and accounts payable personnel to focus on more value-added activities.

## REQUEST FOR PROPOSALS

All documents, whether attached or incorporated by reference, utilized for soliciting proposals.

## RESPONSIBLE BIDDER OR OFFEROR

A person (firm) who has the capability in all respects to perform fully the contract requirements, and the experience, personnel, integrity, reliability, facilities capacity, equipment, acceptable past performance and credit which will assure good faith performance.

## RESPONSIVE BIDDER

A person who has submitted a bid which conforms in all material respects to the requirements set forth in the invitation to bid.

## SERVICES

The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This definition shall not apply to employment agreements, collective bargaining agreements or to the definition of "professional services" as provided in this section and items paid by direct payment forms, payment vouchers and grant payment forms.

## SPECIFICATION

Any description of the physical or functional characteristics or the nature of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing or preparing a supply, service or construction item for delivery.

## STRING PURCHASING

For purposes of this chapter, splitting or stringing purchases is the practice of issuing multiple purchase orders, procurement card transactions, or requisitions for purchasing like items or services, with the willful intent to circumvent the purchasing policy. Splitting or stringing purchases will be dealt with as an impropriety and may result in withdrawal of delegated purchase authority. In addition, the person(s) responsible may be subject to disciplinary action.

## SUPPLIES

All consumables or property, including but not limited to equipment, materials, printing and leases for real property, excluding land or a permanent interest in land.

## UNAUTHORIZED PURCHASES

An unauthorized purchase occurs when a person who has not been given such authority charges the materials, services, or any expense to the City of Augusta. This includes ordering materials without an approved purchase order. The individual making an unauthorized purchase may incur a personal obligation to the vendor or the City for the expense incurred even though the materials or services are used for City business. Except as herein provided, it shall be unlawful for any City officer or officers to order to purchase any supplies, services and construction within the purview of this chapter other than through the Purchasing Officer, and any purchase ordered or contract made contrary

to the provisions hereof shall not be approved by the City officials, and the City of Augusta shall not be bound thereby.

#### USED EQUIPMENT

Equipment that:

(1)

Has been in service for at least 1/2 its commercially reasonable life, or if its life is less than 24 months, is at least one year old; or

(2)

Is a floor or demonstration model that is offered at a price at least 25% below current market price; or

(3)

Is otherwise determined by the Audit Bureau on a case-by-case basis to be a bona fide used item.

#### USING DEPARTMENT or USING AGENCY

Any City agency requiring goods, services or construction procured pursuant to this chapter.

## Article II. Scope of Authority

### § 83-3. Decentralized purchasing process.

The current policy of the City is to maintain a decentralized purchasing process which shall be monitored by the City Manager or Superintendent of Schools. Each department head and/or authorized bureau directors within this decentralized purchasing function shall be responsible for the function of procurement of suitable supplies, services, goods or construction for their using departments, except as may be otherwise noted in these regulations. In all cases, purchase orders, claims, invoices and any other such supporting documentation shall channel through the City Auditor's Office or Superintendent of School's Office in order that proper purchasing records may be maintained.

### § 83-4. Responsibility of department or bureau directors.

The responsibility of department/bureau directors regarding procurement shall be as follows:

A.

Development of specifications for supplies, services or construction shall be the responsibility of department heads or bureau directors. Any specifications to be included in an invitation for competitive sealed bids or proposals shall be submitted to the Purchasing Officer.

B.

Procuring the highest quality item(s) for a specified use at the lowest possible expense is required by all department heads, bureau directors or their delegates who have authority to purchase.

C.

Department heads and authorized bureau directors are required to control, supervise and maintain any necessary inventories in a storeroom. Such storerooms shall serve as the receiving and distribution points for materials purchased by a using department. Department heads will report to the City Auditor on inventories in all storerooms under their jurisdiction as of the last

day of the fiscal year. Department heads will conduct an interim inventory of any storeroom under their jurisdiction at such time as there is a change in personnel directly responsible for the storeroom. Interim inventory audits are recommended.

D.

Local purchasing is encouraged where competitive market prices exist except when Subsection F of this section and § 83-15 apply, local purchasing is required unless non-local purchasing is more cost effective. The following factors shall be considered to determine cost effectiveness:

(1)

Price.

(2)

Comparable quality.

(3)

Cost/Time to secure prices.

(4)

Shipping and handling cost.

(5)

Convenience of follow-up service.

(6)

Time to secure the supply, item or service.

E.

Inspection of incoming materials or services shall be performed for compliance with specifications. These inspections are to be maintained under rigorous review by department heads and authorized bureau directors.

F.

Unless otherwise provided, the single purchase of a supply or construction item in an amount estimated at \$10,001 or above shall be made only by written contract award through the formal bidding procedure. No supply, service, or construction generally purchased in the whole shall be purchased as a sum of the parts for the purpose of avoiding the requirement to solicit bids. A single purchase of services in an amount estimated at \$10,001 or more shall be made only by written contract award through the appropriate proposal procedure. Sole-source purchases and emergency purchases shall be exceptions to these rules.

**§ 83-5. Appointment of Purchasing Agent.**

Pursuant to Article VII, Sec. 12, of the City Charter, the City Manager, or a person formally designated by the City Manager, shall be the Purchasing Agent for the City. The Purchasing Agent may appoint one or more Purchasing Officers to carry out the duties of Purchasing Officer as provided in § 83-6.

**§ 83-6. Authority and duties of Purchasing Officers.**

The authority and duties of the Purchasing Officer shall be as follows:

A.

Except as may be otherwise provided, the Purchasing Officer shall serve as the principal purchasing official for the City, and shall be responsible for the procurement of supplies, services

and construction in accordance with this chapter, as well as the management and disposal of supplies.

B.

In accordance with this chapter, the Purchasing Officer shall:

(1)

Procure or supervise the procurement of all supplies, goods, services and construction needed by the City.

(2)

Exercise direct supervision over the City's central stores and general supervision over all other inventories belonging to the City.

(3)

Sell, trade or otherwise dispose of surplus supplies belonging to the City.

(4)

Assist the departments and bureaus of the City using supplies, services and construction in the establishment and maintenance of programs for specification development, contract administration and product inspection and acceptance.

C.

Consistent with this chapter, and with the approval of the City Manager, the Purchasing Officer may adopt operational procedures relating to the execution of his or her duties.

## **Article III. Bid Security and Bonding Requirements**

### **§ 83-7. Bid security.**

A.

Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the designated official for construction contracting management to exceed \$50,000. Bid security shall be a bond provided by a surety company authorized to do business in the state, or the equivalent in cash, or otherwise supplied in a form satisfactory to the Director of Finance and Administration. Nothing herein shall prevent the requirement of such bonds on construction contracts under \$50,000 when the circumstances warrant.

B.

Bid security shall be in an amount equal to at least 5% of the amount of the bid.

C.

When the invitation for bids requires security, noncompliance requires that the bid be rejected unless it is determined that the bid fails to comply only in a nonsubstantial manner with the security requirements.

D.

If a bidder is permitted to withdraw a bid before award as provided in § [83-15F](#), no action shall be taken against the bidder or the bid security.

### **§ 83-8. Contract performance and payment bonds.**

A.

When a construction contract is awarded in excess of \$50,000, the following bonds or security shall be delivered to the City and shall become binding on the parties upon the execution of the contract:

(1)

A performance bond executed by a surety company authorized to do business in Maine and who is listed on the U.S. Treasury Department list of acceptable sureties as published in Department Circular 570 or otherwise secured in a manner satisfactory to the City in an amount equal to 100% of the price specified in the contract; and

(2)

A payment bond executed by a surety company authorized to do business in the State of Maine and who is listed on the U.S. Treasury Department list of acceptable sureties as published in Department Circular 570 or otherwise secured in a manner satisfactory to the City for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to 100% of the price specified in the contract.

B.

The Purchasing Officer may reduce the amount of performance and payment bonds to 50% of the contract price for each bond when a written determination is made that it is in the best interests of the City to do so.

C.

Nothing in this section shall be construed to limit the authority of the City to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in Subsection A of this section; nor shall this section be construed to limit the authority of the City to require warranties or guarantees against defects where circumstances recommend them.

**§ 83-9. Insurance requirements.**

For all contracts, the contractor and all subcontractors shall be required to maintain adequate insurance coverage for the duration of the contract. The City shall determine the types and amounts of coverage that shall be required, as recommended by the City's insurance consultants. The contractor shall have the City named as an additional insured as its interest may appear and furnish the City with satisfactory evidence of said insurance.

**§ 83-10. Bid and/or request for proposal document addenda and questions.**

Once the bid/request for proposal document has been issued, all questions regarding this document shall be submitted in writing to the Purchasing Officer or issuing department/bureau. Any and all addenda shall be issued by the Purchasing Officer or issuing department or bureau pursuant to any alterations required in the bid document. If it is determined that a bidder/offeror received an unfair advantage from information obtained through other departments or agencies, the bid or request for proposal may be canceled.

**§ 83-11. Council and School Board notification.**

A.

Council notification. The City Council shall be notified of all non-School Department purchases of supplies, construction and/or purchase of services which require competitive sealed bidding or competitive sealed proposals under this chapter.

B.

School Board notification. The School Board shall be notified of all School Department purchases of supplies, construction and/or purchase of services which require competitive sealed bidding or competitive sealed proposals under this chapter.

**§ 83-12. Public access to procurement information.**

Procurement information shall be a public record subject to the exceptions of disclosure to the extent provided in the Maine Freedom of Information Act, and shall be available to the public as provided by the City of Augusta policy implementing said Act.

**Article IV. Source Selection and Contract Formation**

**§ 83-13. Purchases \$1,500 and under.**

[Amended 10-4-2012 by Ord. No. 12-149]

A.

Conditions of use. These purchases are limited in frequency related to individual commodities and services. Contract requirements shall not be artificially divided so as to constitute a small procurement or evade the competitive procurement requirements for amounts in excess of \$1,500 under this section.

B.

Minimum requirements. Procurements up to \$1,501 may be obtained in a way that it is in the best interest of the City as determined by the department head.

C.

Payment of purchases. The payment of purchases more than \$600 and less than \$1,501 will be made either on purchase order forms or by using a purchasing card. The use of purchasing cards does not require a purchase order number. Certain circumstances may require the use of a purchase order under \$1,501 (e.g., vendor required, expenditures from certain accounts, etc.).

D.

Purchasing cards. Notwithstanding the other provisions of this section, each City department head and designees shall have the authority to make purchases in an amount less than \$1,501 on so-called "purchasing cards" in such manner and on such cards as may be prescribed by the agent.

**§ 83-14. Small purchases between \$1,501 and \$10,000.**

A.

Conditions of use. These purchases are limited in frequency related to individual commodities and services. Contract requirements shall not be artificially divided so as to constitute a small procurement or evade the competitive procurement requirements for amounts in excess of \$10,000 under this section.

B.

Minimum requirements. For procurements over \$1,501 and not more than \$10,000, insofar as it is practical for small purchases, no less than three businesses shall be solicited to submit quotations. Quotations may be accepted by telephone. Award shall be made to the business offering the lowest acceptable quotation. The names of the businesses submitting quotations, and the date and amount of each quotation, shall be recorded with purchase orders and maintained as a public record.

C.

Minimum quotation requirements. For purchases of \$1,501 to \$10,000, the using department shall obtain quotations/proposals (these may be in written form, fax or e-mail) from at least three vendors. Where it is not feasible to obtain three quotes, a decision memo must be submitted. Purchases requisitions not in compliance with this chapter and all applicable statutes shall not be processed and shall be returned to the using department.

D.

Evaluation factors. Evaluation factors which may justify an award to a vendor who has not provided the lowest quotation include, but are not limited to, delivery requirements, quantity requirements, quality and past vendor performance. Whenever it is determined that it is in the best interest to award a purchase contract to a vendor who did not submit the lowest acceptable quotation, the reason for the determination shall be indicated in a decision memo and retained with the contract. The decision memo documents and determines the appropriateness of the requested procurement process and approvals.

E.

Award. Except as provided below, award shall be made to the vendor offering the lowest responsive and responsible quote who meets the specifications. Adequate records to document the competition solicited and award determination made shall be retained with the contract.

F.

Sole source. Circumstances may exist where the Purchasing Officer determines that it is not feasible to secure three quotations. In other situations, the Purchasing Officer may determine that it is in the best interests of the City to consider only one supplier who has previous expertise relative to procurement. Whenever the City determines that it is not feasible or is not in the City's best interest to satisfy the minimum quotation requirements of Subsection B, the reason for this determination shall be indicated in writing on a decision memo and retained with the contract.

**§ 83-15. Purchases over \$10,000: competitive sealed bidding.**

A.

Conditions of use. All purchases by the City (excluding professional services) where the value exceeds \$10,000 (except where allowed by statute) shall be awarded by competitively sealed bidding except as otherwise provided (request for proposals, emergency procurements, cooperative purchases), or as provided by state statute. String purchasing is forbidden and purchases shall not be artificially divided for purposes of evading the competitive sealed bidding requirement.

B.

Invitation for bids. An invitation for bids shall be issued and include specifications or general descriptions, and material nonnegotiable contractual terms and conditions applicable to the procurement.

C.

Public notice. Adequate public notice of the invitation for bids shall be given within a reasonable time, no less than 10 calendar days prior to the date set forth therein for the submittal and opening of bids. For bids with a mandatory pre-bid meeting, the public notice must be published at least seven calendar days prior to the meeting date. The public notice shall state the project, place, submittal date, any statutory requirements and time of bid opening. The bid notice will not be published until plans are finalized.

D.

Bid opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid, or such other relevant information as the Purchasing Officer deems appropriate, together with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection in accordance with Public Access to Procurement Information, subject to exemptions from disclosure under the Freedom of Information Act.

E.

Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this chapter. The issuing department/bureau, based on the requirements set forth in the invitation for bids, shall evaluate bids for responsiveness. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life-cycle costs. The invitation for bid shall set forth the evaluation criteria to be used. No criteria may be used in the evaluations that are not set forth in the invitation for bid. Alternative bids may be considered and accepted only if they are specifically provided for in the invitation for bids and meet the evaluation criteria set forth.

F.

Correction or withdrawal of bids; cancellation of award.

(1)

Bids withdrawn prior to opening. Bids may be withdrawn prior to the bid opening upon written request of the bidder and in accordance with the terms and conditions contained in the bid document.

(2)

Correcting bid totals. After the bid opening, no changes in prices or other provisions shall be permitted, except to correct calculations, as stated in the terms and conditions contained in the bid document.

(3)

Clarifications. The Purchasing Officer may obtain clarification from any bidder, after opening, deemed necessary to fully evaluate the bid.

(4)

Bid withdrawal after bid opening. Correction or withdrawal of inadvertently erroneous bids before or after bid opening or cancellation of awards or contracts based on such bid mistakes may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written or telegraphic notice received in the office designated in the invitation for bids prior to the time set for the bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the City or fair competition shall be permitted. In lieu of bid

correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:

(a)

The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or

(b)

The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Purchasing Officer.

G.

Lowest responsible bidder. Bids shall be awarded to the lowest responsible bidder. In determining "lowest responsible bidder," in addition to price and compliance with all applicable bid specifications, the agent, where appropriate, shall consider:

(1)

The ability, capacity, and skill of the bidder to perform the bid or provide the service required.

(2)

Whether the bidder can perform the bid or provide the service promptly, or within the time specified, without delay or interference.

(3)

The character, integrity, reputation, judgment, experience and efficiency of the bidder.

(4)

The quality of performance of previous bids.

(5)

The previous existing compliance by the bidder with the laws and ordinances relating to the bid.

(6)

The sufficiency of the financial resources and ability of the bidder to perform the bid.

(7)

The quality, availability, and adaptability of the supplies, or general services to the particular use required.

(8)

The ability of the bidder to provide future maintenance and service for the use of the subject of the bid.

(9)

The number and scope of conditions attached to the bid.

(10)

The agent demonstrating that the bid is not in the City's best interest and does not promote the underlying purposes of this chapter may indicate such other factors in writing.

H.

Tie bids.

(1)

Local vendors. If all bids received are for the same total amount or the unit price, quality and service being equal, the bid shall be awarded to the bidder whose principal place of business is located in the City.

(2)

Outside vendors. Should tie bids between equally responsive responsible bidders be received, the award will be made by a coin toss or otherwise by random selection by the Purchasing Officer.

I.

Right of rejection. The City of Augusta reserves the right to accept or reject any or all bids/proposals and to waive any technicalities in the document.

J.

Award.

(1)

The contract shall be awarded with reasonable promptness by appropriate written notice to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids. In the event the low responsive and responsible bid for a construction project exceeds available funds as certified by the City and such bid does not exceed such funds by more than 20%, the Purchasing Officer is authorized to negotiate an adjustment of the bid price and amendments to the specifications and contractual terms and conditions applicable to the construction project with the low responsive and responsible bidder in order to bring the bid within the amount of available funds.

(2)

When it is considered impractical to prepare initially a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of non-priced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.

**§ 83-16. Purchases over \$10,000: request for proposals.**

A.

Condition for use. In cases where the City seeks to contract for a project or service whose goals, tasks or results are known, but for which the procedure or method of accomplishing same either may not be specified or is otherwise undetermined, a contract may be entered into by use of the request for proposal procedure.

B.

Request for proposal. Proposals shall be solicited through the Purchasing Officer and shall include specifications or general descriptions, and material nonnegotiable contractual terms and conditions applicable to the procurement. Persons engaged in providing the described professional services may submit statements of qualifications and expressions of interest in providing such professional services. The department or bureau of the City using such professional services may specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement.

C.

Public notice. Adequate public notice of the request for proposal shall be given in the same manner as public notice for invitation for bids.

D.

Evaluation criteria. Criteria, including the weight to be given to each factor, must be developed for evaluation of the proposal prior to notice. The completed evaluations must be attached to the using department recommendation.

E.

Receipt of sealed proposals. Names of offerors will be acknowledged in the presence of one or more witnesses at the time and place designated in the public notice. Contents of the proposals shall not be disclosed to any of the competition or offerors during the negotiation process. A register of the proposals shall be prepared containing the name of each offeror and a description sufficient to identify the item offered. The register of proposals shall be open for public inspection only after the contract is awarded, subject to exemptions from disclosure under the Freedom of Information Act.

F.

Discussions with responsible offeror and revisions to proposals. As provided in the request for proposals, discussions may be conducted with the responsible offerors who submitted proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to a successful understanding of and conformance to the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion, and revision of proposals and such revision may be permitted after submission and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

G.

Award. Award shall be made to the offeror determined in writing by the head of the City department or bureau procuring the required professional services to be best qualified based on evaluation factors set forth in the request for proposals, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best qualified offeror, then negotiations will be formally terminated with the selected offeror. If proposals were submitted by one or more other offerors determined to be qualified, negotiations may be conducted with such other offer or offerors, in the order of their respected qualification ranking, and the contract may be awarded to the offeror then ranked best qualified if the amount of compensation is determined to be fair and reasonable.

**§ 83-17. Purchases under and over \$10,000: design/build services and construction management at risk.**

[Amended 10-16-2014 by Ord. No. 14-177]

A.

Services requiring formal competitive proposal process. Purchases of special or professional services, as defined above, which are anticipated to exceed \$10,000, design/build services or construction management at risk shall be made by a competitive proposal process as described in item (1) of this section.<sup>[1]</sup> The award of any contract for design/build services or construction management at risk shall require the approval of the Purchasing Officer. Notwithstanding the requirements of this section, said purchases may be made by competitive bid if the selection of a provider can reasonably be based upon the lowest possible price as determined by the department head.

[1]

Editor's Note: So in original; apparently refers to § [83-15](#).

B.

Purchase requiring informal competitive proposal process. Purchases of special or professional services, which do not exceed \$10,000 but are in excess of \$1,500, shall be based upon a reasonable and documented attempt to solicit proposals.

(1)

Proposals shall be solicited from at least three qualified or pre-qualified service providers. The refusal to submit a proposal from an otherwise valid provider shall qualify as a proposal. The process shall be documented in writing by the purchaser. If a single reasonable source exists for the service, this shall be documented in writing.

(2)

The soliciting of proposals may be waived for any critical emergency, as defined in this chapter, or for any of the reasons for waiving a proposal process. Said waivers shall require the approval of the department head or designee, who shall certify in writing to the Purchasing Officer the need for a waiver, and the approval of the Purchasing Officer or designee. No further approval shall be required.

**§ 83-18. Pre-qualification of bidders.**

A.

The City Manager or designee may require a pre-qualification process for bidders, suppliers, or professionals [hereinafter collectively referred to as "bidder(s)"]. The pre-qualification process shall require at a minimum that prospective bidders answer questions that are contained in a pre-qualification questionnaire. Notice of the pre-qualification requirement shall be given in the same manner as is required to receive bids or proposals; and once pre-qualification notice is given, additional notice shall not be required to receive the bids or proposals. Responses to the pre-qualification requirements shall be provided within the time frames designated and any written responses shall be provided in a sealed envelope under penalty of perjury.

B.

The pre-qualification questionnaire shall include, but not be limited to, questions pertaining to the following criteria:

(1)

The familiarity and experience of the prospective bidder with the particular type of purchase or contract designated.

(2)

The sufficiency and availability of personnel, equipment, materials, and other facilities or resources of the prospective bidder to accomplish the designated work or provide the construction or contract supplies, materials, or reports and opinions.

(3)

The ability of the prospective bidder to provide required bonds and insurance, including indemnity.

(4)

The financial ability/condition of the prospective bidder to accomplish the work designated.

(5)

The experience of the prospective bidder to perform the designated work as well as the experience in performing similar work.

(6)

The safety record of the prospective bidder.

(7)

The record of the prospective bidder within the preceding five years regarding claims, arbitration, mediation, or litigation filed by or against the prospective bidder regarding public or private construction contracts or other contracts where the prospective bidder provided services, supplies, materials, opinions or reports.

(8)

Such other information as is deemed appropriate for the particular purchase or contract.

C.

The City Manager or designee shall apply a uniform rating system to the prospective bidders for each purchase or contract. Bidders that are deemed qualified shall be provided the opportunity to submit bids or proposals in the manner set forth in this chapter; no other bids are required to be sought, although the City may solicit additional bids if, in the exercise of its discretion, it determines it to be in the City's best interests.

#### **§ 83-19. Appeal from denial of pre-qualification.**

If a person disputes a pre-qualification denial, an appeal may be filed with the City Manager or designee not later than 10 calendar days after the decision. Notice of the pre-qualification denial shall be provided by certified mail to the address provided by the bidder on its application for pre-qualification, along with designation of the time period for dispute. A bidder may request the basis for the denial and any evidence relied upon by the City. The decision shall be final if no timely appeal is filed. An appeal shall be in writing specifying the particular grounds for appeal. All matters not set forth in the written request for reconsideration shall be deemed waived. The City Manager or designee shall designate a time to receive evidence and further shall establish the procedures for the appeal. The City Manager or designee shall allow a disqualified bidder to rebut any evidence previously received by the City and to submit additional evidence of qualification. The decision of the City Manager or designee shall be made prior to the receipt of bids to which the pre-qualification applies and shall be final.

#### **§ 83-20. Sole-source procurement.**

A contract may be awarded where the Purchasing Officer determines that it is not feasible to secure bids. In other situations, the Purchasing Officer may determine that it is in the best interests of the City to consider only one supplier who has previous expertise relative to procurement. Whenever the Purchasing Officer determines that it is not feasible or is not in the City's best interest to satisfy the minimum bid requirements, the reason for this determination shall be indicated in writing on a decision memo, where required, and retained with the contract.

#### **§ 83-21. Emergency procurements.**

Notwithstanding any other provisions of this chapter, the City Manager may make or authorize others to make emergency procurements of supplies, services or construction items when there exists a threat to public health, welfare or safety; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances.

#### **§ 83-22. Cooperative joint purchasing.**

A.

The Purchasing Officer shall have the authority to join with other units of government in cooperative purchasing plans when the best interest of the City would be served thereby. The requirements of formal and informal bidding shall not apply to such cooperative arrangements.

B.

Such cooperative purchasing may include, but is not limited to, joint or multiparty contracts between public procurement units and open-ended state public procurement unit contracts, which are made available to other public procurement units after having been bid by another public procurement unit where required.

C.

The agent shall have the authority to join with all other units in government, including local, county, state and federal, in cooperative purchasing plans when the best interest of the City would be served thereby. The requirements of formal and informal bidding shall not apply to such cooperative arrangements.

**§ 83-23. Cancellation of invitations for bids or requests for proposals.**

An invitation for bids, a request for proposals or other solicitation may be cancelled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the best interests of the City. The reasons therefor shall be made part of the contract file. Each solicitation issued by the City shall state that the solicitation may be cancelled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interest of the City. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurement of similar items. Reasons for rejection shall be provided upon request by unsuccessful bidders or offerors.

**§ 83-24. Construction contract management.**

The City Manager shall designate the official(s) to be responsible for any construction project in excess of \$50,000. The designated official shall have discretion to select the appropriate method of construction contracting management for a particular project. In determining which method to use, the designated official shall consider the City's requirements, its resources and the potential contractor's capabilities. The designated official shall execute and include in the contract file a written statement setting forth the facts which led to the selection of a particular method of construction contracting management for each project.

**§ 83-25. Maximum practicable competition.**

All specifications shall be drafted to promote overall economy for the purposes intended and encourage competition in satisfying the City's needs, and shall not be unduly restrictive. The policy enunciated in this section applies to all specifications, including, but not limited to, those prepared for the City by architects, engineers, designers and draftsmen.

**§ 83-26. Brand name or equal specification.**

A.

Brand name or equal specification may be used when the Purchasing Officer determines in writing that:

(1)

No other design or performance specification or qualified products list is available;

(2)

Time does not permit the preparation of another form of purchase description, not including a brand name specification;

(3)

The nature of the product or the nature of the City's requirements makes use of a brand name or equal specification suitable for procurement; or

(4)

Use of a brand name or equal specification is in the City's best interests.

B.

Brand name or equal specifications shall seek to designate three, or as many different brands as are practicable, as "or equal" references and shall further state that substantially equivalent products to those designated will be considered for award.

C.

Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition.

**§ 83-27. Brand name specification.**

A.

Since use of a brand name specification is restrictive of product competition, it may be used only when the Purchasing Officer makes a written determination that only the identified brand name item or items will satisfy the City's needs.

B.

The Purchasing Officer shall seek to identify sources from which the designated brand name item(s) can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under § 83-20.

**§ 83-28. Exemption for public utilities.**

Public utilities are not subject to the provisions of this chapter.

**§ 83-29. Grant programs and special circumstances.**

A.

Under certain grant programs the City acts as a third-party administrator of local, state, and federal funds and does not procure goods and services for the City. The processing of a grant requisition is done to facilitate the method of payment and does not require any of the normal procurement procedures or approvals under this chapter.

B.

In any situation wherein federal or state grant funds are utilized to support a City purchase of goods or services, and either a majority of the funding is provided by the federal or state government, or as a condition of such grant the City is required to follow the grantor's procurement regulations, such grantor's procurement regulations may be followed in lieu of compliance with this chapter.

**§ 83-30. Negotiated purchases; exemption from bidding procedure.**

Where there has been competitive bidding, either formal or informal, but no bids were received or the City Manager rejected all bids because the bid prices were unreasonable, the Purchasing Officer may negotiate for purchases if it is determined:

A.

That it is not feasible or practical to rebid the purchase;

B.

Each qualified and responsible supplier on the bidders' list has been notified of the City's intention to negotiate and is given reasonable opportunity of negotiate; and

C.

The final negotiated price is the lowest negotiated price offered by any qualified and responsible supplier.

**§ 83-31. Set-off of property taxes owed to City.**

A.

The City shall have the right to set-off or withhold any payment or portion thereof due to any business enterprise pursuant to any contract or purchase order for the purchase of any supplies, material, equipment and services if any taxes levied by the City against any property, both real and personal, owned by such business enterprise are delinquent and have been so delinquent for a period of not less than one year; provided, however, that no such amount withheld shall exceed the amount of tax, plus penalty, lien fees and interest, outstanding at the time of withholding.

B.

A statement that the City shall have said right of set-off or withholding shall be included in all documents used for the purchase of goods and services, including but not limited to bid documents, requests for proposals, purchase orders and contracts. The Corporation Counsel and Finance Director shall prepare or cause to be prepared all such documents. Any contractor or vendor signing a contract or executing a purchase order with the City shall thereby authorize the City to execute such set-off.

C.

Procedure.

(1)

Within one month after the due date of the payment of real or personal taxes, the Tax Collector shall notify the Finance Director of all property taxes delinquent for a period of one year or more. The Finance Director shall have the authority to withhold any payment owed to any business enterprise as provided above.

(2)

Any contractor or vendor shall have the opportunity to dispute the delinquency and/or to negotiate a reasonable and acceptable payment arrangement. The Finance Director shall have the authority to make any such payment arrangement. The Finance Director shall have the authority to withhold payment, pending resolution of such appeal.

(3)

A procedure to accomplish the set-off or withholding of payments, as provided above, shall be developed by the Finance Director with review and approval by Corporation Counsel.

**§ 83-32. Nonresponsible bidders or offerors.**

If a bidder, designee, or offeror who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility, setting forth the basis of the findings, shall be prepared by the using department. In determining responsibility of any bidder, the City may take into account, in addition to financial responsibility, past records of transactions with the bidder, experience, adequacy of equipment and ability to complete performance within a specific time. (For example, the ability to meet the specified completion date in accordance with the specifications.) A detailed explanation shall be sent promptly to the nonresponsible bidder or offeror, who shall then have three days to provide evidence to defeat the determination. The final determination shall be made part of the contract file. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for such determination.

**Article V. Contract Administration**

**§ 83-33. Purpose; responsibilities.**

A contract administration system is designed to ensure that the contractor is performing in accordance with the terms and conditions of the contract. It is the using department's responsibility to match contract terms and prices with invoices. The City's procedures specifying the structure of review are to be followed. In addition, contract administration results may be utilized by the Purchasing Officer for vendor evaluation.

**§ 83-34. Procurement records.**

City procurement records shall be maintained by the Purchasing Officers.

**§ 83-35. Fiscal responsibility.**

Prior to the issuance of any purchase order, contract, change order or contract modification, the Finance Officer shall certify that sufficient budgeted funds are available.

**§ 83-36. Change orders and contract modifications.**

All change orders and contract modifications will be approved by the City Manager or Superintendent of Schools.

### **§ 83-37. Multiyear contracts.**

The City's policy on multiyear contracts includes the following:

**A.**

All multiyear contracts presented for approval shall contain the total value of the award for the multiyear period.

**B.**

Only the current fiscal year portion shall be encumbered.

### **§ 83-38. Contract renewals.**

The following governs contract renewals:

**A.**

All contracts that contain an optional renewal clause shall be presented for approval to the total dollar value for the initial period of award.

**B.**

All requests for contract renewals shall originate from the using department in the form of a requisition indicating the desire for the renewal, the subsequent renewal term and the total dollar value for the renewal period.

**C.**

The request shall be submitted at least 30 days prior to the expiration date of the current period.

**D.**

The Purchasing Officer will obtain contractor approval and submit the necessary correspondence for approval.

**E.**

All renewals shall be for the time period specified in the original contract document.

## **Article VI. Specifications**

### **§ 83-39. Responsibility for specifications.**

The Purchasing Officer or designee (normally the using department) shall prepare, revise, maintain, and monitor specifications for goods, services, and construction required by the City, except that specifications for any public work involving professional engineering shall be prepared by a professional engineer. The Department of Public Works and the Engineering Bureau may prepare specifications for construction and maintenance of highways, bridges, and culverts.

## **Article VII. Declaration of Nonresponsibility**

### **§ 83-40. Authority to issue declaration of nonresponsibility.**

**A.**

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Purchasing Officer is authorized to declare the person nonresponsible for purposes of

supplying goods, services, and construction to the City. The declaration shall be in effect for a period of not more than two years, for all solicitations.

B.

The causes for such a declaration include:

(1)

Conviction for commission of a criminal offence as an incident to obtaining or attempting to obtain public or private contracts or subcontracts, or in the performance of such contract or subcontract.

(2)

Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offences indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a City contractor.

(3)

Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals.

(4)

Violation of contract provisions, as set forth below, of a character which is regarded by the City to be so serious as to evidence nonresponsibility:

(a)

Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

(b)

A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance is not caused by acts beyond the control of the contractor.

(5)

Any other cause the City determines to be so serious and compelling as to affect responsibility as a City contractor, including suspension by another governmental entity for any cause listed in this chapter.

**§ 83-41. Decision to declare nonresponsible.**

The City shall issue a written determination, which shall state the reasons for the action taken and inform the affected person involved of his rights concerning administrative review.

**§ 83-42. Notice of decision.**

A copy of the decision shall be mailed by certified return receipt.

**§ 83-43. Finality of decision.**

A decision shall be final or conclusive, unless fraudulent or the affected person, within 10 business days after receipt of the decision by certified mail, makes an appeal to the City.

**§ 83-44. Authority of City to settle bid protests and contract claims.**

A.

Authority. The City Manager or Superintendent of Schools is authorized to resolve any procedural protest regarding the solicitation or award of any bid under his/her purview.

B.

Right to protest. Any actual or prospective bidder, offeror, or contractor who believes he/she has been adversely affected in connection with the solicitation or award of a contract may, within seven calendar days of the solicitation, bid opening or award, by mail, fax or have served, a letter of protest to the City Manager or Superintendent of Schools. The City Manager or Superintendent of Schools must submit a response in writing to the protesting entity, within a reasonable period of time.

C.

Delay of procurement during protest. In the event of a timely protest under Subsection B of this section, the City shall determine whether it is in its best interest to proceed with the solicitation of the bid, bid opening, or award of the contract.

D.

Notice to the protestor of the City Manager's or Superintendent of Schools' decision. If the protest or claim is not resolved by mutual agreement, the City Manager or Superintendent of Schools shall promptly issue a decision in writing, and it shall be immediately mailed or otherwise furnished to the protesting entity. The decision shall state the reasons for the decision reached, and shall inform the protestor of his/her option to appeal under Subsection E of this section.

E.

Protestor right to appeal. The City Manager's or Superintendent of Schools' decision shall be final and conclusive unless, within five business days from the date of receipt of the decision, the City Manager or Superintendent of Schools receives a written appeal regarding the City Manager's decision. The City Manager or Superintendent of Schools shall, in writing, render a decision within 10 business days.

F.

Failure to render timely decision. In the event the City Manager or Superintendent of Schools does not issue a written decision within the specified time period prescribed under Subsection B of this section or within such longer period as may be agreed upon between the parties, the protesting entity may proceed as if an adverse decision had been received.

**§ 83-45. Remedies for solicitations or awards in violation of law.**

A.

Prior to bid opening or the closing date for receipt of proposals. If, prior to the bid opening or the closing date for receipt of proposals, the Purchasing Officer determines that a solicitation is in violation of federal, state or local law, then the solicitation shall be canceled or revised to comply with applicable law.

B.

Prior to award. If, after bid opening or the closing date for receipt of proposals, the Purchasing Officer determines that a solicitation or a proposed award of a contract is in violation of federal, state or local law, then the solicitation or proposal award shall be canceled in accordance with this chapter.

C.

After award. If, after an award, the Purchasing Officer determines that a solicitation or award of a contract was in violation of applicable law, then:

(1)

If the person awarded the contract has not acted fraudulently or in bad faith, the contract may be terminated in accordance with the terms and conditions of the contract.

(2)

If the person awarded the contract has acted fraudulently or in bad faith, the contract may be declared null and void.

## **Article VIII. Ethics**

### **§ 83-46. Compliance with City ordinances.**

Any or all actions related to this Purchasing Ordinance shall comply with approved City ethics and personnel regulations.

### **§ 83-47. Violations.**

Nonconformance with this chapter may violate City rules, State of Maine civil and criminal laws and may result in legal actions and sanctions.

### **§ 83-48. Reporting of anticompetitive practices.**

When for any reason collusion or other anticompetitive practices are suspected among any bidders or offerors, or by any City employees or officers, an employee with knowledge of such reason shall report the anti-competitive practice to his/her immediate supervisor. Facts may also be presented to the Purchasing Officer for appropriate investigation.

## **PART III: GENERAL LEGISLATION**

### **Chapter 115. Amusements and Public Gatherings**

[HISTORY: Adopted by the City Council of the City of Augusta as Ch. 3 of the 1990 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention — See Ch. 148.

Smoking — See Ch. 233.

### **Article I. Notification and Supervision; Skating Rinks; Bowling Alleys and Billiard Rooms**

#### **§ 115-1. Police Chief to be notified of public gatherings; assignment of supervisors.**

[Amended 1-6-1992 by Ord. No. 244]

A.

Any person sponsoring or providing for any dance, athletic or public gathering shall notify the Police Chief of such entertainment 48 hours in advance.

B.

The Police Chief shall determine and assign the number of people needed to supervise such gathering.

**§ 115-2. Officers supervising gathering to be in uniform and represent department.**

[Amended 1-6-1992 by Ord. No. 244]

An officer of the Police Department or a firefighter on duty at a public gathering shall attend such gathering in uniform, shall represent his department in an official capacity and shall not in any way represent the party running such gathering.

**§ 115-3. Cost of official supervision.**

[Amended 11-18-1985 by Ord. No. 226]

A.

Payment of the cost of fire and police supervision at dances, athletic or public gatherings, and other events where the presence of a police officer or firefighter is required or desired shall be borne by the party organizing such event. The rate of pay for such services will be based on a scale set by current union contracts.

B.

The rate will apply for any period of time up to and including four hours plus an additional charge for each additional 1/4 hour or fraction thereof.

C.

The charge for services provided on New Year's Eve will be two times the regular rate.

D.

The rate includes the employer's contribution for retirement benefits, workers' compensation benefits and any other benefits required to be borne by an employer. The employer's share in addition to the employee's contribution for such benefits shall be deducted prior to payment of any money to the employee.

**§ 115-4. Roller skating rink license; fee.**

No person shall operate a roller skating rink or room without first obtaining a license from the City Council. The fee for a license to operate a roller skating rink shall be set from time to time and the amount of such fee is on file in the City Clerk's office. Any license issued pursuant to this section shall be renewed annually on or before the first day of May.

**§ 115-5. Bowling alley, shooting gallery, pool, billiard room and mechanical ride license; fee.**

No person shall operate a bowling alley, shooting gallery, pool or billiard room, merry-go-round, ferris wheel, roller coaster, riding gallery or other mechanical ride without obtaining a license from the City and paying the required fee. A schedule of such fees is on file in the City Clerk's

office. Any license issued pursuant to this section shall be renewed annually on or before the first day of May.

## **Article II. Coin-Operated Amusement Devices**

### **§ 115-6. Definition.**

For the purposes of this article, the term "coin-operated amusement devices" means all of those machines, whether mechanical or electronic, which, upon insertion of a coin, slug, token plate or disc, may be operated by the public generally, for use as a game, entertainment or amusement, but not limited solely to musical entertainment, whether or not registering the score; and which are operated for amusement only and do not dispense any form of payoff, prize or reward except free replays.

### **§ 115-7. License requirements; fee.**

[Amended 6-19-1989 by Ord. No. 113(2)]

#### **A.**

It shall be unlawful for any person to keep for public patronage or to permit or allow thereupon any coin-operated amusement device in or on any premises or location under his charge, control or custody without having first obtained a license therefor from the City Clerk. The license shall be issued by the Clerk upon the payment of an annual fee for each machine located at the premises. The license shall expire on June 30 of each year. The fee for such license shall be set from time to time and a schedule of such fees is on file in the City Clerk's office.

#### **B.**

A seven-day temporary license may be issued to a bona fide nonprofit organization, fraternal, church or fair association, so long as that organization is located in the county. Such license shall not exceed seven days in any calendar year. Such license shall be issued by the Clerk upon payment of a fee which shall be set from time to time and a schedule of such fees is on file in the City Clerk's office.

#### **C.**

The license required by this section shall be posted securely and conspicuously on the premises for which it is granted. The license shall not be transferable to any other person, or from location to location, and shall be valid only at the location and for the person designated therein. The license shall not be granted to any person under the age of 18 years nor to any firm, corporation or association whose officers are under that age.

#### **D.**

It shall only be necessary to obtain one license for each machine in operation. Substitutions of new or substitute coin-operated amusement devices shall be permitted.

### **§ 115-8. Exceptions; conditions of license.**

[Amended 7-20-1987 by Ord. No. 140; 1-6-1992 by Ord. No. 244]

Notwithstanding the provisions of § [115-7](#), the City Clerk shall not issue any license involving a location for which the applicant does not already have other such licenses until authorized to do so by the City Council following a public hearing. The City Clerk shall post notice of the public

hearing in two public places at least seven days previously, stating the purpose of the meeting. Such hearing shall be held within 30 days of the receipt of such license application, and authorization or denial by the Council shall be by written decision stating the reasons therefor. At the public hearing, the City Council shall receive testimony and take evidence as to the good moral character of the applicants and shall base its judgment in this regard on the criteria set forth in 25 M.R.S.A. § 2032(3).<sup>[1]</sup> The Council shall also take evidence and receive testimony regarding potential traffic hazards at the location in question, the effect on neighboring properties, and the general health and safety of the premises to house the coin-operated amusement devices. In this regard, the Police Chief shall be required to submit written reports on the evaluation of the premises.

[\[1\]](#)

Editor's Note: 25 M.R.S.A. § 2032(3) was repealed by L. 1985, C. 478, § 3. See now 25 M.R.S.A. § 2003, Permits to carry concealed handguns.

### **§ 115-9. Violations and penalties.**

Any person or, in the case of a corporation or association, any official or agent thereof violating any of the provisions of this article shall upon conviction in a court of law be punished in accordance with Chapter [1](#), Article [III](#), General Penalty, of the City Code.

### **§ 115-10. Revocation of license.**

Any license issued under this article may be revoked by the City Clerk, after hearing before the City Council, when any of the following violations are found:

[A.](#)

There are machines located on the premises which have not been licensed.

[B.](#)

Any of the other specifics of this article have been violated.

## **Article III. Public Dances**

### **§ 115-11. License required; fee.**

All public dance halls and public places offering dancing shall be licensed by the City Council upon the payment of the required fee for each such dance hall or public place. The fee shall be set from time to time and a schedule of such fees is on file in the City Clerk's office.

### **§ 115-12. Lighting of premises.**

[Amended 1-6-1992 by Ord. No. 244]

The lighting effects at a dance regulated by the provisions of this article shall be subject to the approval of the Fire Chief, and the general lights in the dance hall shall neither be dimmed nor extinguished during a dance.

### **§ 115-13. Fireproof decorations.**

Decorations in any place where there is public dancing shall be fireproof.

**§ 115-14. Toilet facilities.**

There shall be in every public dance hall and in every public place offering dancing separate toilet facilities for men and women.

**§ 115-15. Special amusement permits.**

**A.**

Permit required.

**(1)**

No licensee for the sale of liquor to be consumed on his licensed premises shall permit, on his licensed premises, any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee has first obtained from the City a special amusement permit approved by the City Council.

**(2)**

Applications for all special amusement permits shall be made in writing to the City Clerk and shall state:

**(a)**

The name of the applicant;

**(b)**

The applicant's residence address;

**(c)**

The name of the business to be conducted;

**(d)**

The applicant's business address;

**(e)**

The nature of the business;

**(f)**

The location to be used;

**(g)**

Whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances specifically;

**(h)**

Whether the applicant, including all partners or corporate officers, has ever been convicted of a felony and, if so, the applicant shall describe specifically those circumstances; and

**(i)**

Any additional information as may be needed by the Council in the issuing of the permit, including but not limited to a copy of the applicant's current liquor license.

**(3)**

No permit shall be issued for any thing, act or premises if the premises and building to be used for the purposes do not fully comply with all ordinances of the City.

**(4)**

The fee for a special amusement permit shall be set from time to time and a schedule of such fees is on file in the City Clerk's office. Such fee shall be waived in situations requiring payment of a fee under § [115-11](#).

[\(5\)](#)

The Council shall, prior to granting a permit and after reasonable notice to the City and the applicant, hold a public hearing within 15 days of the date the request was received, at which the testimony of the applicant and that of any interested members of the public shall be taken.

[\(6\)](#)

The Council shall grant a permit unless it finds that issuance of the permit will be detrimental to the public health, safety or welfare, or would violate municipal ordinances.

[\(7\)](#)

The applicant shall be notified of the decision of the Council within 14 days of the public hearing, and in the case of a denial, the applicant shall be notified of the reasons for the denial.

[\(8\)](#)

Permits that are approved may be granted with conditions governing noise levels and hours of operation.

[\(9\)](#)

A permit shall be valid only for the license year of the applicant's existing liquor license.

[B.](#)

Suspension or revocation of permit. The Council may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permit which has been issued under this section on the grounds that the music, dancing or entertainment so permitted constitutes a detriment to the public health, safety or welfare, or violates any municipal ordinances.

## **Article IV. Carnivals and Circuses**

### **§ 115-16. License required; fee; application; hearing.**

[A.](#)

The City Council may grant licenses for exhibitions or performances of circuses or traveling amusement shows, upon payment to the Treasurer of the required fees by the person owning or operating such circus or show. The fee for such license shall be set from time to time and a schedule of such fees is on file in the City Clerk's office.

[B.](#)

Application for such license shall be made to the City Clerk, and notice of such application shall be published in a newspaper published in the City at least once a week for three weeks prior to a hearing on such application by the Council. The applicant shall prepay the cost of such notice.

### **§ 115-17. Location.**

A license provided by this article shall be granted by the City Council only for locations where the performance will not disturb nearby residences and will not interfere with or obstruct traffic on main highways.

### **§ 115-18. Proximity to built-up section.**

Circuses or traveling amusement shows shall be located at least 2,000 feet from a compact or built-up section of residences.

**§ 115-19. Performance bond; cleanup of grounds.**

**A.**

The person owning, operating or sponsoring a circus or show shall file a performance bond with the City Clerk with the condition that the grounds are to be properly cleaned to the satisfaction of the Sanitation Officer within 72 hours after the circus or show closes.

**B.**

The performance bond required by this section shall be in the amount of \$2,500 and shall be supplied by an insurance company licensed to do business in the state.

**Article V. Boxing**

**§ 115-20. State statutes and regulations apply.**

All boxing contests or exhibitions shall be conducted in accordance with the state statutes and with the rules and regulations adopted by the Maine Athletic Commission.<sup>[1]</sup>

**[1]**

Editor's Note: The Maine Athletic Commission (8 M.R.S.A. Ch. 6-A) was repealed by L. 1987, C. 395, § a, 32, effective 6-24-1987. Replacement provisions found in 32 M.R.S.A. Ch. 115 were then repealed by L. 2007, C. 621, § 13. See now the Combat Sports Authority of Maine established in 2009 (8 M.R.S.A. § 522).

**§ 115-21. Permit required; operating standards.**

**A.**

No person shall conduct any boxing contest, exhibition or bout, within the City, either professional or amateur, to which admission to witness the same is charged to the public, without first securing a permit for each set of such contests, exhibitions or bouts for which one admission charge is made.

**B.**

Such permit shall be issued by the City Council on application and upon the applicant filing a sufficient bond in the sum of \$300, conditioned that such contests, exhibitions or bouts will be conducted as to the number of bouts as advertised and in accordance with the provisions of the laws of the state relative to such contests, exhibitions or bouts and particularly as to number and length of rounds; gloves; weight and physical examination of contestants; decisions and receipts; that accurate standard scales shall be provided by the applicant at a time and place designated for weighing in, and that no person under the age of 16 years shall be admitted to such contests, exhibitions or bouts unless accompanied by a parent or legal guardian.

**§ 115-22. Permit fee.**

A fee shall be made for granting those permits required by this article, which fee shall be set from time to time, and a schedule of such fees is on file in the City Clerk's office.

### **§ 115-23. Promoter responsible for compliance with regulations.**

[Amended 1-6-1992 by Ord. No. 244]

#### **A.**

A boxing promoter shall be responsible for ensuring all rules and regulations are complied with, and that the boxing contest shall be as advertised.

#### **B.**

Any promoter not complying with such rules and regulations will be denied the right to promote boxing contests within the City until the promoter has been reinstated by the Police Chief and the Licensing Commission.

### **§ 115-24. Referees.**

[Amended 1-6-1992 by Ord. No. 244]

It shall be the duty of a boxing promoter to supply a suitable referee who will meet with the approval of the Police Chief and the Licensing Commission.

### **§ 115-25. Contests to start at advertised time.**

Boxing contests, exhibitions or bouts must start at such time as is advertised.

## **Article VI. Mass Outdoor Gatherings**

[Amended 9-8-2003 by Ord. No. 105]

### **§ 115-26. Permit required.**

#### **A.**

It is recognized that a mass outdoor gathering attended by 200 or more persons may create a hazard to public health and safety. Accordingly, it is deemed to be appropriate and in the interest of the public welfare to regulate the conduct of such gatherings in order to protect the public health and safety.

#### **B.**

No person shall sponsor, promote or conduct a mass outdoor gathering with the intent to attract or the understanding that the gathering may attract 200 or more persons until a permit has been obtained therefor from the Augusta Police Chief or his designee. The application for a permit must be submitted no less than 30 days prior to the mass gathering, unless the City Manager allows a shorter time frame for good cause shown.

### **§ 115-27. Granting or denial of permit; hearing.**

The Police Chief shall grant a permit to sponsor, promote or conduct a mass outdoor gathering to be attended by 200 or more persons upon written application therefor unless it appears to the Police Chief within a reasonable certainty that such gathering will unreasonably endanger the public health or public safety. An applicant who has been denied a permit shall be granted a prompt hearing for reconsideration of such denial if the applicant so requests in writing

submitted to the City Clerk within five days after notice of such denial; such hearing shall be before the City Council.

#### **§ 115-28. Conditions of permit issuance.**

##### **A.**

Prior to the issuance of a permit under this article, the applicant shall furnish the Police Chief with adequate proof that the following will be available at the gathering:

##### **(1)**

Adequate and satisfactory water supply and sewer facilities;

##### **(2)**

Adequate refuse storage and disposal facilities;

##### **(3)**

Adequate medical facilities;

##### **(4)**

Adequate fire and police protection; and

##### **(5)**

Such other matters as may be appropriate for security of health and safety.

##### **B.**

The Police Chief may require such plans, specifications and reports as are deemed necessary for a proper review of the proposed mass gathering.<sup>[1]</sup>

##### **[1]**

Editor's Note: Original § 3-119 of the 1990 Code, regarding bonds and other security, which immediately followed this section, was repealed 4-5-2004 by Ord. No. 55.

#### **§ 115-29. Permit fee.**

The fee for a permit under this article shall be \$100, plus the cost estimated by the City for cleanup and traffic control. The fee of \$100 is payable at the time of application and the balance when the permit is issued. The City Council may modify this fee from time to time by order.

#### **§ 115-30. Violations and penalties.**

Any person violating any provision of this article shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 30 days, or by both.

#### **§ 115-31. Exemptions.**

This article does not apply to athletic events conducted by the Board of Education, Little League or other organizations, provided alcohol is not available.

## **Chapter 119. Animals and Fowl**

[HISTORY: Adopted by the City Council of the City of Augusta as Ch. 4 of the 1990 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and recreation areas — See Ch. [215](#).

## **Article I. In General**

[Amended 12-19-1988 by Ord. No. 532; 1-6-1992 by Ord. No. 244; 8-2-1999 by Ord. No. 185]

### **§ 119-1. Maintenance of livestock, domestic animals, or reptiles in compact areas.**

#### **A.**

No livestock, domestic animals, or reptiles shall be kept within the compact or built up area of the City in such a manner as to constitute a public nuisance.

#### **B.**

On complaint, the Police Chief or his/her designee may give notice to any person so keeping livestock, domestic animals, or reptiles to abate the nuisance, and upon his/her failure to comply therewith and upon conviction, such person shall be fined in accordance with Chapter [1](#), Article [III](#), General Penalty, of the City Code.

### **§ 119-2. Stray animals.**

It shall be unlawful to permit any cattle, horse, swine, sheep, goats or poultry to run at large in the City. Any such animal running at large may be impounded by or at the direction of a police officer or Animal Control Officer at a location where such animal may be safely kept for a maximum period of six days. The owner of such animal or animals may, within such period, claim the animal or animals upon payment of expenses incurred in the impounding and keeping of the animal. The owner shall be responsible to pay all damages caused by such animal or animals to public or private property prior to the release of such animal. If the animal is not claimed within the six-day period, the City or designee keeper of the animal may give away, sell or otherwise humanely dispose of such animal.

## **Article II. Dogs and Pets**

[Amended 11-18-1985 by Ord. No. 225; 12-19-1988 by Ord. No. 532; 1-6-1992 by Ord. No. 244; 6-17-1999 by Ord. No. 123; 10-6-2008 by Ord. No. 162; 11-6-2008 by Ord. No. 183; 12-16-2010 by Ord. No. 183]

### **§ 119-3. Appoint of Animal Control Officer.**

The Chief of Police, with the approval of the City Manager, shall appoint one or more Animal Control Officers.

### **§ 119-4. Impounding of unlicensed dogs.**

#### **A.**

Any dog not licensed in accordance with 7 M.R.S.A. § 3923-A and found at large may be taken by a police officer or Animal Control Officer to a licensed veterinarian or Humane Society shelter and kept there for a maximum period of six days.

B.

The owner of such dog may, within such period, claim the dog upon payment of the daily boarding fee for the time such dog was retained plus an impound fee which shall be set from time to time, and a schedule of such fees is on file in the office of the City Clerk.

C.

In addition to all boarding and impound fees, the owner/keeper must provide evidence that the dog, if more than six months of age, is currently licensed prior to its release from impound.

D.

If a dog is not claimed, the veterinarian or shelter, at the end of the six-day period, may give away, sell or otherwise humanely dispose of such dog.

**§ 119-5. Nuisances by dogs or cats prohibited.**

A.

Any dog found upon any public way within the City which, after written or verbal notice from the Animal Control Officer or police officer to its owner or keeper, chases motor vehicles, does damage to persons or property, or constitutes a public nuisance may be taken by a police officer or Animal Control Officer to a licensed veterinarian or Humane Society shelter, retained and disposed of as provided for in § 119-4.

B.

A dog or cat shall be considered a nuisance if it damages, soils, defiles or defecates on public walks and recreation areas, or private property other than the owner's unless such waste is immediately removed and properly disposed of by the owner or keeper; causes unsanitary, and dangerous, or offensive conditions; causes a disturbance by excessive barking or other noisemaking; chases vehicles; or molests, attacks or otherwise interferes with any person or other domestic animals on public property. Notwithstanding other provisions in this Code, any owner or keeper who allows a dog to be in violation of this subsection shall be subject to a fine of \$100.

**§ 119-6. Noise disturbances prohibited.**

A.

No owner or keeper having custody of any animal or bird which causes a noise disturbance shall allow the animal or animals or bird or birds to unnecessarily annoy or disturb any person by continued or repeated barking, howling, or making other sounds common to its species.

B.

Upon written complaint, signed by the complainant, the Animal Control Officer or police officer shall investigate and may give notice to the owner or keeper of such animal or bird that the annoyance or disturbance must cease.

C.

Thereafter, upon continuation of such annoyance or disturbance, such owner or keeper shall be subject to the penalty of Chapter 1, Article III, General Penalty, of the City Code.

**§ 119-7. Female dogs in heat.**

A.

The owner or keeper of any bitch in heat shall keep the same confined or on a leash at all times and shall not permit such dog to be at large within the City or any premises other than those of the owner.

B.

Every bitch found running at large in violation hereof may be taken by a police officer or Animal Control Officer to a licensed veterinarian or Humane Society shelter, retained and disposed of as provided for in § 119-4.

**§ 119-8. Dogs upon public way or at large.**

A.

No owner or keeper of a dog shall permit such animal to be upon a public way as defined in Chapter 1, Article II, Definitions; Interpretation, unless such animal is controlled by a leash (as defined in § 119-10) or within a vehicle being driven or parked on the streets or within the property limits of its owner or keeper. Nothing in this section shall be held to require the leashing of any dog while on private premises. If any person violates the provisions hereof, he shall be deemed guilty of a misdemeanor.

B.

Any police officer or Animal Control Officer within the City shall seize, impound or restrain any dog kept in violation of this section and any dog running at large and deliver such dog to a licensed veterinarian or Humane Society shelter, to be kept there and disposed of in accordance with § 119-4.

C.

No dog shall be released by the veterinarian or Humane Society shelter unless such owner or keeper has paid the current impoundment fee to the Augusta Police Bureau.

**§ 119-9. Leashing of dogs on public property.**

The owner, keeper or any other individual who has responsibility of a dog shall keep such animal controlled by a leash when such animal is on the property of a school, City park, community center, playground, the Rail Trail, Greenway Trail, Augusta Nature Center trails and other designated trails.

**§ 119-10. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**ATHLETIC FIELDS/FACILITIES**

Areas and facilities that are under the City's or School Department's ownership and/or care, custody and control that are designated and used for the conduct of athletic or other City and/or school-affiliated and -sanctioned events.

**DOG PARK**

An area physically defined and designated by City as an off-leash area where dogs may move about without a leash attached. The area will be designated by signage stating as such.

**DOG WASTE**

Feces (also called "stool"); the solid waste that is left after food is digested.

#### LEASH

A physical tether designed to be used as a lead that is attached to the dog's collar and not more than eight feet in length; includes the use of retractable leads that shall be extended no more than eight feet while in City parks, schools grounds, designated trails and others areas where the eight-foot designation is in effect. A leash is not an electronic collar device or any other electronic device that can be used to control behaviors.

#### PARK

Any area under the City's ownership and/or care, custody and control that has been designated and used as a public gathering place by the public where a playground may or may not exist.

#### PLAYGROUND

A public area contained within a City park that is managed by the City that has play structures such as swings, slides, climbing structures and swimming pools.

#### SERVICE ANIMALS

As defined under the Maine Human Rights Act 95 M.R.S.A. § 4551 et seq.) and the Federal Americans with Disabilities Act.

### § 119-11. Dog park at Mill Park.

#### A.

Rules.

##### (1)

You enter the park at your own risk.

##### (2)

The park will be open from dawn to dusk.

##### (3)

You are legally responsible for your dog's behavior, and you alone are responsible for your dog's well-being.

##### (4)

All dogs must be leashed until they are inside the fenced, off-leash area.

##### (5)

Inside the fenced play area, watch your dog and have leash with you at all times.

##### (6)

No children four years old and under are allowed inside the dog park.

##### (7)

Children five years old through 12 years old must be with a supervising adult.

##### (8)

Bare feet are prohibited.

##### (9)

It is advisable for people of all ages to wear shoes, rather than sandals, in a dog park.

##### (10)

Dogs must be properly inoculated; licensed, wearing a collar with ID and rabies tags, and free of viral infections.

##### (11)

No aggressive dogs are allowed in the park.

(12)

Female dogs in heat or puppies under four months of age are not allowed in the park.

(13)

No more than two dogs per person may enter the group play areas.

(14)

Remove choke or pinch collars and head halters before entering the fenced area. If such a collar or halter catches on a fence or another dog's tooth, it can cause panic and serious injury.

(15)

Dog waste. Dog owners are required to pick up their dog's waste promptly inside and outside of the off-leash area.

(16)

Fill in all holes that your dog digs.

(17)

Humans shall not eat, smoke, or run inside the dog park.

(18)

Do not give treats to anyone else's dog.

(19)

Leave your dog's favorite toy and all rawhide chews at home.

(20)

If your dog seems timid, stressed, overly aroused, or aggressive, please take him or her out of the off-leash area.

(21)

Any dog park user may ask someone who is not abiding by the rules to leave.

(22)

In case of a dog bite, call the police at 626-2370; in an emergency, call 911. Any dog bite to a human being must be reported immediately to the Augusta Police Department.

(23)

Failure to abide by the dog park rules may be grounds for ejection from the dog park and City parks.

B.

Ejection from dog park. Dogs as a result of their behaviors and verified complaints or dogs who pose a threat to the welfare and well being of other dogs and/or people may be permanently banned from the dog park. The Director of Community Services, in cooperation with the City's Animal Control Officer and in consultation with the Chief of Police, will be responsible for making the ban determination and shall issue a "no trespass" order to the owner of the dog through the Office of the Chief of Police.

## **§ 119-12. Locations where dogs or pets are prohibited.**

A.

Dogs and other pets are prohibited from school and City park athletic fields/facilities, including during athletic events and other special events utilizing said facilities/areas.

B.

During athletic events utilizing the Augusta Nature Center trails, the prohibition against pets shall also include the Augusta Nature Center trails that are not under the City's or school's jurisdiction.

C.

Service animal exemption. Restrictions to access shall not be imposed on people with service animals; however, the handler is responsible for the immediate clean up of any waste from the service animal. Further, service animals shall be under the control of the handler at all times.

D.

Dogs and other pets may be permitted in these areas for special circumstances and as approved by the administration of either the school for school properties or City for City-managed properties on a case-by-case basis.

E.

Pet prohibited sign wording.

### **PETS PROHIBITED**

For the safety of your pet and people using this area, pets are prohibited on all athletic fields and are not allowed at this facility during athletic events and other sanctioned and special events unless so authorized by either the Augusta School Board or Augusta City Council.

#### **§ 119-13. Dog waste.**

All dog owners and keepers are required to immediately and properly dispose of their dog's solid waste deposited on any property, public or private, not owned or possessed by that person.

## **Article III. Reptiles**

[Added 8-2-1999 by Ord. No. 185]

#### **§ 119-14. Prohibited conduct; violations and penalties.**

A.

No person shall keep or display within the compact or built-up area of the City any reptile in such a manner as to constitute a public nuisance. No person shall display any reptile upon any public way or public place so as to cause an affront or alarm to any member of the general public.

B.

It shall be unlawful for any owner or keeper of any reptile whose body length is greater than 12 inches to be on a public way or in a public place so as to be visible by any member of the general public. Any owner, keeper or other person transporting a reptile within the compact or built-up area of the City shall do so with the reptile enclosed in an escapeproof enclosure.

C.

Nothing in this section is to prevent responsible businesses such as pet stores from exhibiting and sales of reptiles to the public. The exhibition of reptiles in a learning environment such as schools of learning and licensed animal-related facilities is also exempt from this chapter, provided that such reptile species are permitted by local, state, and federal laws.

D.

The exhibition of any reptile at any licensed event by the promoters of such event, where the general public pays a fee or enters an enclosed area for the purpose of viewing any reptile, shall be exempt from this section so long as precautions are in place to protect the public from any reptile that is capable of inflicting serious injury or illness to the public.

E.

The Chief of Police or his/her designee may issue a waiver for this chapter should it be deemed in the best interest of the City to do so.

F.

Any owner, keeper or other person in control or possession of any reptile who is found to be in violation of this article shall, upon conviction, be fined in accordance with Chapter 1, Article III, General Penalty, of the City Code.

**§ 119-15. Intent; applicability.**

A.

It is the intent of this Article III, Reptiles, to regulate the appearance of domesticated and nondomesticated reptiles within the compact or built-up area of the City as a result of the actions of any individual which cause an affront or alarm to the public.

B.

Acknowledging that the appearance of large reptiles, i.e., a snake, lizard or turtle, in a public setting, above described, is found to be extremely frightening to members of the general public without sufficient warning, this article is intended to establish guidelines to ensure the public order and well being.

C.

A large domesticated reptile shall be determined as follows:

(1)

Snakes with a body length of 12 inches or more.

(2)

Lizards with a body length of 12 inches or more, excluding the length of the tail.

D.

Any turtle that as a result of its size or species whose bite may result in injury or loss of a body part is prohibited in a public setting above described unless in an educational setting with safety precautions.

**Article IV. Waterfowl**

[Added 8-5-2002 by Ord. No. 247]

**§ 119-16. Intent.**

A.

The large number of fowl attracted by feeding and baiting in and around both public and private swimming and recreational areas, parks and boat launching areas of lakes, ponds, streams and the Kennebec River in Augusta increases the presence of harmful bacteria which present a threat to public health and well being. Fecal matter from waterfowl contributes to the phosphate loading of water bodies, thereby resulting in lessened water quality. Large numbers of waterfowl feeding, trampling and defecating cause property damage to structures, equipment, crops, and terrain and constitute a nuisance and health hazard to citizens.

B.

The purpose of this article is to control the feeding and baiting of migratory and nonmigratory waterfowl (hereinafter referred to as "fowl") and those fowl classified as gulls in order to protect the public health and property and the water quality of lakes, ponds, rivers and streams in Augusta by reducing the amount of fecal matter from these fowl deposited in the water and on the adjacent public and private shoreline and waterfront property caused in part by the feeding and baiting of these fowl by the public.

#### **§ 119-17. Feeding or baiting prohibited.**

##### **A.**

No person, except the Commissioner of the Maine Department of Inland Fisheries and Wildlife or his/her designee or the Director of the U.S. Fish and Wildlife Service or his/her designee in the conduct of waterfowl management practices, shall engage in the regular practice of feeding or baiting any migratory or nonmigratory waterfowl or fowl in or over the water within the shoreland protection area in the City of Augusta as identified in the Shoreland Zoning Ordinance of the City of Augusta in any manner that increases the public health risks identified in § [119-16](#).

##### **B.**

This article is not intended to prohibit the raising of domestic waterfowl as allowed by any other ordinance(s), except that domestic waterfowl must be securely contained or penned in an enclosure in an area so as to prevent fecal matter from the waterfowl entering into lakes, ponds, streams and the Kennebec River in the City of Augusta.

#### **§ 119-18. Definitions.**

As used in this article, the following definitions shall apply unless the context clearly indicates another meaning:

##### **FEEDING and BAITING**

The placing, exposing, depositing, distributing or scattering, directly or indirectly, of shelled corn, shucked or unshucked corn, wheat or other grains, bread, salt or any other feed or nutritive substances, in any manner or form, so as to lure, attract, or entice fowl to, on or over any such areas where such feed items and/or materials have been placed, exposed, deposited, distributed or scattered.

##### **WATERFOWL and FOWL**

Any waterfowl of the family Anatidae (ducks and geese) and/or the family Laridae (gulls), either migratory, nonmigratory or resident fowl.

#### **§ 119-19. Enforcement.**

This article may be enforced by any Animal Control Officer, Code Enforcement Officer, Health Officer or his/her designee or police officer of the City of Augusta.

#### **§ 119-20. Violations and penalties.**

Whoever violates any provisions of this article shall be fined \$100 for each offense to be recovered, on complaint, to the use of the City of Augusta. Each day in which a violation is proved shall constitute a separate and new offense under this section. If the City is the prevailing

party in any action brought to enforce this article, the City must be awarded reasonable attorney's fees, expert witness fees, and costs. Civil process of the complaint may be waived by payment to the City of Augusta of the fine within seven days of the date of the complaint.

## **Chapter 126. Bicycles**

[HISTORY: Adopted by the City Council of the City of Augusta as Ch. 5 of the 1990 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Parks and recreation areas — See Ch. [215](#).

Vehicles and traffic — See Ch. [270](#).

### **§ 126-1. Definitions.**

[Amended 1-6-1992 by Ord. No. 244]

#### A.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

#### BICYCLE

Includes a vehicle having a minimum of two wheels, neither of which is less than 20 inches in diameter, with solid or pneumatic tires, having a steering bar, handle or wheel and propelled by human power.

#### LICENSEE

Any person who procures from the City a license plate or tag and a registration card for any bicycle.

#### OPERATE

Includes any form or tense thereof and shall mean and refer to the use, putting into action or motion, or causing to function of a bicycle by any person mounted thereon.

#### POLICE CHIEF

The Police Chief of the City of Augusta or his designee unless otherwise specified.

#### RESIDENT

A resident of the City of Augusta, Maine.

#### B.

In addition to the above definitions, any applicable definition contained in the traffic ordinances or elsewhere in this Code shall be deemed applicable and included.[\[1\]](#)

#### [1]

Editor's Note: See Ch. [270](#), Vehicles and Traffic.

### **§ 126-2. Registration and licensing requirements.**

[Amended 1-6-1992 by Ord. No. 244]

#### A.

It shall be unlawful for any resident to operate any bicycle upon any street, sidewalk, public way or in any other public place or place where the public is afforded access on a regular basis without having first registered such bicycle and displaying a license plate or tag as required.

#### B.

Application for registration and license for a bicycle shall be made on forms provided by the Police Department.

C.

The Police Chief may establish a fee necessary to cover the cost of such licensing. Any such fee shall be subject to the review and approval of the City Council.

D.

The Police Chief shall, upon receiving an application, issue to the owner of any bicycle a registration form which contains the name and address of the owner of the bicycle, a complete description of the bicycle, including the serial number thereof, and any other information deemed necessary. The Police Chief shall also issue a license plate or tag that indicates the license number and date of expiration for such license. This license plate or tag shall be attached to, and displayed from, the front of the bicycle immediately below the steering handle.

E.

All licenses issued shall be for an indefinite term.

F.

No license so issued shall be transferable. In the event that any such bicycle is sold, lost or stolen, the owner shall immediately notify the Police Chief.

G.

The Police Chief shall maintain a record of all bicycle licenses and registrations for the City.

**§ 126-3. Rules for riding and operation.**

A.

When two or more persons are riding in a group on a roadway, they shall ride single file and as far to the right as is practicable.

B.

No person shall, while operating a bicycle, cling to or attach himself or the bicycle to any other moving vehicle.

C.

No person operating any bicycle shall ride other than astride a regular and permanent seat attached thereto. No person shall ride or carry another person on the handlebars of a bicycle or in such a manner as to affect the safe and proper operation of the bicycle. This section shall not be construed as prohibiting the use of an infant seat or child carrier, so-called, as long as the same is securely attached to the bicycle, its use does not affect the safe operation of the bicycle and there is an adequate restraint system, for the child, in use.

D.

No person shall operate a bicycle while under the influence of intoxicating liquor or drugs.

E.

No bicycle shall be operated within the period from sunset to sunrise unless the bicycle shall have a lighted headlight attached to the front of the bicycle and visible under normal atmospheric conditions for a distance of not less than 200 feet; and a red reflector or taillight clearly visible to the rear of said bicycle for a distance of 200 feet. In addition, any bicycle manufactured and originally equipped with pedal reflectors or wheel reflectors shall be required to maintain such reflectors.

F.

No person shall operate any bicycle that is not in such mechanical condition so as to be operated safely.

G.

No person shall operate any bicycle on any sidewalk or pedestrian walkway so as to interfere with any pedestrian thereon.

H.

No person shall operate any bicycle in other than a reasonable and prudent manner. The operator shall be required to have his hands on the handlebars when said bicycle is operated. No bicycle shall be operated at an unsafe speed. When operated on a public way, no person shall permit his bicycle to weave in and out of traffic lanes, except that he may move across lanes to engage in allowed turning movements when such movements can be accomplished with a reasonable degree of safety.

I.

When on a roadway, the operator of any bicycle shall conform to all traffic laws, ordinances and regulations.

J.

All bicycles shall be equipped with brakes capable of stopping said bicycle within a reasonable distance.

**§ 126-4. Inspections; registration and serial numbers.**

[Amended 1-6-1992 by Ord. No. 244]

A.

Inspections. Any officer of the Police Department is hereby authorized to inspect any bicycle, at any time, for the purpose of making a check of the license plate and number, serial number, and for the purpose of determining the mechanical condition of the bicycle.

B.

Removal or alteration of plate, tag or registration card. It shall be unlawful for any person knowingly and willfully to remove, destroy, mutilate or alter the serial number of any bicycle; or to remove, destroy, mutilate or alter the license plate, tag or registration card during the time such license or registration is in effect.

C.

Unauthorized use of bicycle. It shall be unlawful for any person to use or operate any bicycle within the City without the consent of the owner.

D.

Receipt of bicycles from which serial number removed. It shall be unlawful for any person residing in the City, or any dealer in bicycles operating within the City, to purchase, receive in trade or otherwise acquire any bicycle from which the serial number on the frame has been removed, destroyed, mutilated or altered, without first reporting the same to the Police Chief.

E.

Identification numbers. The Police Chief is hereby authorized to stamp or otherwise permanently affix to the frame of any bicycle, in a legible manner, numbers for the purpose of identification, if such bicycle displays no serial number or if the serial number is illegible or insufficient for identification purposes.

**§ 126-5. Enforcement; violations and penalties.**

A.

Enforcement. The Police Chief shall enforce the provisions of this chapter.

B.

Penalties. Any person of the age of 17 years or over who violates any provisions of this chapter shall, upon adjudication, be punished by a fine of not more than \$10. The Police Chief, when satisfied that a juvenile under the age of 17 years has violated any of the provisions of this chapter, may impound the bicycle for a period not to exceed five days for the first offense, for a period not to exceed 10 days for a second offense and for a period not to exceed 30 days for any subsequent offense.

## **Chapter 130. Blasting**

[HISTORY: Adopted by the City Council of the City of Augusta 7-21-2008 by Ord. No. 113 (Ch. 6, Art. II, Div. 4, of the 1990 Code). Amendments noted where applicable.]

### GENERAL REFERENCES

Mining and excavations — See Ch. 198.

Land use — See Ch. 300.

### **§ 130-1. Purpose; statutory authority; enforcement.**

A.

Blasting is an activity essential to the economic viability of Augusta. Unregulated blasting and/or irresponsible blasting may cause undue psychological, physical or nuisance damage to the people, property and environment of the City.

B.

This chapter establishes specific standards for blasting operations, notice requirements, instrument monitoring requirements of blasting operations, a permit process for blasting and other associated standards and requirements.

C.

It is intended to minimize the effects of airblast overpressure, ground vibration, dust, and noise associated with blasting which may be detrimental to the enjoyment of life, property and the conduct of business for those individuals affected.

D.

It is also intended to provide standards that will also prevent permanent damage to the geologic, hydrogeologic and wildlife resources and ecological balance in the region outside the immediate blast area. The chapter is intended to protect the quality of life and the homes of residents, neighborhoods, property, groundwater, wildlife resources, scenic beauty and/or businesses, all lying outside the approved work area and potentially affected by the blasting.

E.

It is intended to be effectively and efficiently administered without causing undue financial and administrative hardship to blasting operators.

F.

It is intended to provide standards and requirements in conjunction with the City of Augusta Mineral Extraction Ordinance (MEO) if quarrying is to be utilized in the mineral extraction process.<sup>[1]</sup>

[1]

Editor's Note: See Ch. [198](#), Art. [I](#), Mineral Extraction.

[G.](#)

This chapter is enacted pursuant to 30-A M.R.S.A. § 3001, Ordinance power, and shall be administered by the Code Enforcement Officer.

### [§ 130-2. Definitions.](#)

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

#### [AIRBLAST](#)

An airborne shock wave resulting from detonation of explosives. Airblast may be caused by burden movement or the release of expanding gas into the air. Airblast may or may not be audible.

#### [APPLICANT](#)

The owner or other individual, corporation or other business entity who or which applies for the legal right to conduct blasting at real property which it has the legal right to use.

#### [BLAST SITE](#)

The area where explosive material is handled during the loading of drilled blastholes, including the perimeter formed by the loaded blastholes and 50 feet in all directions from loaded blastholes [see 38 M.R.S.A. § 490-W(5)].

#### [BLASTER](#)

An applicant who has been awarded a permit to conduct blasting.

#### [BLASTING](#)

The use of explosives to break up or otherwise aid in the extraction or removal of rock or other consolidated material.

#### [BLASTING OPERATIONS](#)

All processes conducted in association with site or other preparation for blasting, and the detonation of explosives.

#### [DECIBEL](#)

The unit of sound pressure commonly used to measure airblast from explosives. The decibel scale is logarithmic.

#### [EXPLOSIVES](#)

Any substance, chemical compound or mechanical mixture that is used for the purpose of producing an explosion to fragment rock for mining, quarrying, excavation and construction. Initiating devices (detonators, detonating cords, etc.) are also included under this definition.

#### [FLYROCK](#)

Rock that is propelled through the air or along the ground, which leaves the secured blast area as a result of the detonation of explosives.

#### [GROUND VIBRATIONS](#)

Shaking of the ground caused by blasting. Ground vibrations are to be measured along three principal axes (x, y, z); namely, transverse, vertical, and longitudinal, all of which are subject to the performance standards herein.

#### [GROUNDWATER](#)

Water beneath the earth's surface often between saturated soil and rock that supplies wells and streams.

## HERTZ

A term used, in the case of blasting, to express the frequency of ground vibrations and airblast. One hertz is one cycle per second.

## PARTICLE VELOCITY

A measure of ground vibration in the case of blasting. Particle velocity describes the velocity at which a particle of ground vibrates when excited by a seismic wave. It is measured in inches per second.

## PRODUCTION QUARRY

A quarry where the primary use of the quarry is to produce material for commercial sale or beneficiation. The distinguishing characteristic is that the quarry is not being operated in association with an approved and permitted on-site development or construction project.

## QUARRY

The property designated in the application and permit where rock is excavated [see 38 M.R.S.A. § 490-W(17)].

## SECURED BLAST AREA

The area designated by permit in which blasting is permitted.

## SEISMOGRAPH

An instrument that measures and has the capability to provide a permanent record of hertz and decibel readings concerning ground vibrations caused by blasting.

### **§ 130-3. Blasting permit required; effect on other regulations.**

#### A.

No blasting within the City of Augusta shall be allowed unless a permit has been obtained from the Bureau of Code Enforcement, except as otherwise exempted per this chapter.

#### B.

The requirements of this chapter are in addition to any other applicable ordinances, regulations and statutes; and where different standards are contained therein, the more restrictive standards shall apply.

#### C.

This chapter does not replace or negate federal and/or state requirements pertaining to explosives.

### **§ 130-4. Permit requirements.**

#### A.

Blasting permit required. The following shall require a permit:

##### (1)

Production quarry. Production quarries shall require approval by the Planning Board as required by Chapter [198](#), Article [I](#), Mineral Extraction, or Chapter [300](#), Land Use. After the Planning Board issues an approval authorizing production quarrying, a blasting permit may be issued by the Bureau of Code Enforcement, subject to conditions as set forth in the ordinance required by the Planning Board.

##### (2)

Project. The following construction projects require a blasting permit:

(a)

Planning Board approved. Construction projects required by Chapter [300](#), Land Use, to be reviewed and approved by the Planning Board shall follow the process for approval outlined in Chapter [300](#). After Planning Board review and approval, the Bureau of Code Enforcement may issue a blasting permit.

(b)

Non-Planning Board approved. Any construction project that does not require Planning Board review, requires a building permit, and is not exempt from the permit process by § [130-3](#) of this chapter shall be required to obtain a blasting permit from the Bureau of Code Enforcement.

B.

Notice required. The following activities shall not require a blasting permit from the Bureau of Code Enforcement, but shall require notice of blasting to be given to the Bureau of Code Enforcement. Notice shall be provided in writing to the Bureau of Code Enforcement at least one business day prior to the proposed start of blasting.

(1)

Public roadway: road projects conducted by the MaineDOT, City of Augusta, or a contractor under contract with MaineDOT or the City of Augusta.

(2)

Utility: projects that are undertaken by any entity whose business it is to provide water, sewer, electricity, telephone, gas, cable television or other underground services.

(3)

Other. For any project that does not fit into another category, the Code Enforcement Officer will determine if an application for a blasting permit is required.

C.

Blasting application information. All applications for permits to conduct blasting shall contain the following information, referred to as the "blast plan":

(1)

Applicant: the applicant's name, address, daytime telephone number, fax number, and e-mail address.

(2)

Blasting contractor: the blasting contractor's name, address, daytime telephone number, fax number, and e-mail address (if other than the blaster).

(3)

General contractor: the general contractor's name, address, daytime telephone number, fax number, and e-mail address.

(4)

Work site: the street address and Tax Assessor's map and lot number for the proposed blasting activity.

(5)

Volume of material: the estimated number of cubic yards (measured in place) of material to be removed by blasting.

(6)

Number of blasts: the estimated number of blasts required to remove the specified amount of material.

(7)

Blast period: the planned starting and ending dates of the blasting activity.

(8)

Purpose of blast: a brief description of the work for which the blasting activity is requested.

(9)

Site diagram: a sketch or diagram showing the property where blasting will be conducted, including the location of adjacent structures and distance to those structures.

D.

Insurance. Prior to commencing blasting operations, evidence of liability insurance shall be submitted to the Code Enforcement Office in a minimum amount of \$5,000,000 combined single limit per occurrence.

E.

Public hearing. A public hearing shall be required for all blasting permits issued by the Planning Board.

F.

Fees. Fees for blasting permits shall be as determined, and amended from time to time, by City Council order.

G.

Permit duration.

(1)

Production quarry: as stipulated by the Planning Board.

(2)

Project, Planning Board approved. Blasting permits for projects approved by the Planning Board shall be valid for one year from the date they are issued.

(3)

Project, non-Planning Board approved. Blasting permits for projects that do not require Planning Board approval shall be valid for 90 days from the date of issue.

H.

Pre-blast survey. The following pre-blast survey requirements shall be required for all blasting permits prior to commencing blasting:

(1)

Production quarry: as stipulated by the Planning Board.

(2)

Project, Planning Board approved. A pre-blast survey shall be indicated for all occupied structures within 500 feet of the blast site.

(3)

Project, non-Planning Board approved. A pre-blast survey shall be indicated for all occupied structures within 300 feet of the blast site.

(4)

All other blasting. No pre-blast survey shall be required, but one may be conducted at the discretion of the blaster.

### **§ 130-5. Performance standards.**

All blasters must comply with the following performance standards:

A.

Hours of detonation.

(1)

Production quarry. As stipulated by the Planning Board, or as required by Chapter [198](#), Article [I](#), Mineral Extraction, of the City Code, which allows production blasting between 11:00 a.m. and 3:00 p.m., Monday through Saturday, with the exception of New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day. Emergency blasting for misfires shall be allowed after the 3:00 p.m. cutoff time, provided that the City and abutters are notified prior to detonation.

[Amended 9-4-2014 by Ord. No. 14-148]

[\(2\)](#)

All other blasting. Hours of detonation are limited to between sunrise and sunset or between 7:00 a.m. and 7:00 p.m., whichever is greater, Monday through Friday inclusive, except by special exception as allowed under § [130-9](#) of this chapter. In no case shall a blast occur on the following legal holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Veterans Day, Thanksgiving and Christmas. Blasting which occurs as part of a mineral extraction license must occur between 11:00 a.m. and 3:00 p.m. pursuant to Chapter [198](#), Article [I](#), Mineral Extraction, § [198-8B\(9\)\(b\)](#), of the Code of Ordinances.

[Amended 7-17-2014 by Ord. No. 14-108]

[\(3\)](#)

Emergency situations. Blasting of any type may occur at any time in situations deemed to be emergencies by the Bureau of Code Enforcement, after possible consultation with other City staff. Emergency situations may include, but are not limited to, blasting to install utilities damaged by weather events or blasting to correct a misfire of explosives in an otherwise permitted blast event.

[B.](#)

Water quality protection. Water is a precious resource and the applicant must take measures to assure that the quality of the groundwater is protected. Prior to the initial blast, the applicant must conduct water quality tests on all non-applicant-owned wells within 300 feet of the property line or as determined by the Planning Board for production blasting and Planning Board approved projects. Water quality testing must also be done post-blast if requested by the property owner because of evidence of a substantive change in water quality. Turbidity in wells tested shall be no greater than that which existed prior to the blasting as established in the pre-blast survey.

[C.](#)

Ground vibration.

[\(1\)](#)

Peak particle velocity. Peak particle velocity limits (inches per second) not to be exceeded at any time, and in any one of the three principal directions:

[\(a\)](#)

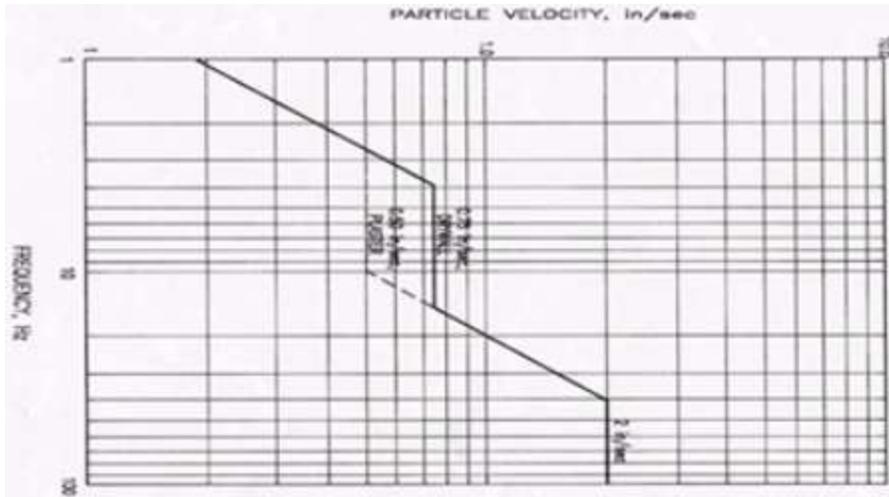
Production quarry:

**Distance From Blast Maximum Peak Particle Velocity**

<b>(feet)</b>	<b>(inches/second)</b>
Less than 300	1.25
300 to less than 500	0.94
500 to less than 5,000	0.75
5,000 or more	0.54

[\(b\)](#)

Other.



Source: U.S. Bureau of Mines USBM RI 8507, 1980

[\[1\]](#)

Up to 30 hertz: 0.5 inch per second.

[\[2\]](#)

Thirty to 40 hertz: 1.0 inch per second.

[\[3\]](#)

More than 40 hertz: 2.0 inches per second.

[\(2\)](#)

Measurement. Ground vibration shall be measured as particle velocity. Particle velocity shall be recorded in three mutually perpendicular directions (x, y, z). The maximum allowable peak particle velocity shall apply to each of the three measurements.

[\(3\)](#)

Seismographic record. A seismographic record for all blasts shall be retained by the applicant and provided to the Bureau of Code Enforcement or the Planning Board, if requested. The applicant is responsible for such record and for providing proper instrumentation as specified in this chapter. Personnel conducting such monitoring shall be properly trained in the operation of the equipment being used.

[D.](#)

Airblast overpressure. Level not to be exceeded at any time: 133 peak dB (linear) two hertz high-pass system.

[E.](#)

Instrumentation. All seismographs used for compliance with this chapter shall meet the following minimum specifications:

[\(1\)](#)

Seismic frequency range: two Hz to 200 Hz ( $\pm$ three $\pm$  Hz).

[\(2\)](#)

Acoustic frequency range: two Hz to 200 Hz ( $\pm$ one $\pm$  dB).

[\(3\)](#)

Velocity range: 0.02 inch to 4.0 inch per second.

[\(4\)](#)

Sound range: 110 dB to 140 dB linear.

[\(5\)](#)

Transducers: three mutually perpendicular axes.

(6)

Recording: provide time-history of waveform.

(7)

Calibration: laboratory-calibrated as often as necessary, but at least once every 12 months or according to manufacturer's recommendations, whichever is less.

(8)

Measurements. The requirements established herein shall be measured at the closest building(s) on abutting properties as determined by the Code Enforcement Officer or Planning Board.

F.

Other permits. The applicant must also comply with all standards and conditions contained in other permits issued for such projects and local, state and federal statutes and regulations.

### § 130-6. Notices.

A.

Required notification of blasting. The following notice requirements for any blast requiring a blasting permit shall be adhered to by the blaster.

(1)

Initial notice. The following initial notice of blasting shall be required:

(a)

Production quarry. Notice shall be sent no later than 10 calendar days and no earlier than 14 calendar days prior to the initiation of blasting. The blaster must develop and implement a plan that provides an opportunity for prior notification of a blast to all property owners located within 2,000 feet of the blast site. Notification may be made by telephone, and/or by mail, and/or by public notice in the local newspaper, as set forth in the permit.

(b)

Project blasting (any type). The blaster must deliver, or send by first class mail, an advisement notice to all property owners within 300 feet of the secured blasting area. If notification is sent by first class mail, it shall be mailed no later than five calendar days prior to the initiation of blasting. If notification is hand delivered, it shall be delivered no later than two calendar days prior to the initiation of blasting. Such notice must include the description of the blasting signals to be utilized during the operation. The blaster of either a production quarry or project must provide notice to a property owner who has made a written request to the blaster.

(2)

Twenty-four-hour requirement. Prior to every blast, the blaster shall notify all property owners within 300 feet of the secured blasting area for project blasting and 2,000 feet for production quarries. This will be done whether or not the property owners requested to be notified. The blaster shall also notify all others who have requested in writing to be so notified. Such notification shall be given by telephone, or by door hangers on the door of the residence or business, between 24 hours and 48 hours prior to the blast. The notification shall state the time the blast is proposed to occur, and the blast may occur as early as one hour prior to the noticed time and as late as one hour after the noticed time. The burden of proof of notification is the responsibility of the blaster.

[Amended 9-4-2014 by Ord. No. 14-148]

B.

Waiver of notice. The requirement of notice in accordance with this section for a project blast may be waived by the Bureau of Code Enforcement for the removal of less than 50 cubic yards of rock, as estimated in place, when that rock is unexpectedly encountered after work on the project has begun.

#### **§ 130-7. Inspection, monitoring, and recordkeeping.**

##### **A.**

Entry and testing. The Code Enforcement Officer or his authorized representative may enter the secured blasting area or adjacent area to conduct tests and observe any authorized blasting operations and may order that additional ground vibration and airblast overpressure measurements using approved instrumentation be made by persons responsible for blasting operations to ensure that the limits specified in this chapter are not exceeded, if excess readings are indicated.

##### **B.**

Additional monitoring. The blaster shall maintain a record of each blast. All records shall be retained at least three years following cessation of the blasting operation, and shall be available for inspection by the Code Enforcement Officer and shall contain the following minimum data for traceability purposes:

##### **(1)**

Name of responsible party: the name of the person(s) responsible for the blasting operation.

##### **(2)**

Location, date, time: the location, date and time of each blast.

##### **(3)**

Blaster: the name(s) of blaster in charge.

##### **(4)**

Weather: the weather conditions (including such factors as wind direction, cloud cover, etc.).

##### **(5)**

Data: seismograph and airblast readings, including date, time, and location of instrument.

##### **(6)**

Notice: name, addresses, date and time of all persons who were notified prior to every blast.

#### **§ 130-8. Compliance schedule.**

##### **A.**

Applicability. Upon adoption of this chapter, all existing and new blasting operations are subject to its terms and must obtain a permit to conduct any further blasting.

##### **B.**

Review. A complete review of all activities under this chapter shall be undertaken by the Code Enforcement Officer 12 months after adoption of this chapter to determine if the levels are adequate and reasonable to achieve the purpose for which this chapter is intended. The results of this review shall be reported to the Planning Board, which will report to the City Council with recommendations of the review.

#### **§ 130-9. Exceptions for undue hardship.**

A.

Application. Applications for a permit for exception from the performance standards designated in this chapter may, on the basis of hardship, be made to the Code Enforcement Officer. Any permit granted hereunder shall contain all conditions upon which said permit has been granted and shall specify a reasonable time that the permit shall be effective.

B.

Standards. The Code Enforcement Officer may grant the exception as applied for only if:

(1)

Limited in scope: the activity or operation will be of a temporary duration, i.e., a limited number of blasts at a specific site, and cannot be done in a manner that would comply with this chapter;

(2)

Reasonable alternative: no other reasonable alternative is available to the applicants; and

(3)

Safety: the applicants represent, and the Code Enforcement Officer finds, that blasting as permitted will not violate recognized safety standards.

C.

Conditions. Upon the issuance of any exception permit, the Code Enforcement Officer may limit the scope of the exception and prescribe any reasonable conditions or requirements he deems necessary to minimize adverse effects.

**§ 130-10. Violations and penalties.**

[Amended 10-1-2009 by Ord. No. 123]

A.

Penalties. The submission of willful false information required by this chapter, or the violation of this chapter or the violation of any condition attached to a permit granted under this chapter shall constitute a land use violation for which an enforcement action may be commenced by the City in accordance with 30-A M.R.S.A. § 4452.

B.

Reporting. A copy of the violation report and consent agreement reached between the City and the person or entity found in violation of any portion of this chapter will be filed in the permit or license file and the same shall be reported in writing to the City Council.

**Chapter 134. Building Construction**

[HISTORY: Adopted by the City Council of the City of Augusta as Ch. 6, Art. II, Div. 1, of the 1990 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention — See Ch. [148](#).

Historic preservation — See Ch. [169](#).

Housing Code — See Ch. [173](#).

Sanitation — See Ch. [229](#).

Land use — See Ch. [300](#).

**§ 134-1. Adoption of Building Codes.**

[Amended 9-15-1986 by Ord. No. 547; 1-12-1987 by Ord. No. 16; 2-19-1991 by Ord. No. 30; 2-7-2005 by Ord. No. 115]

A.

Building Code. The International Building Code, latest edition, as published by the International Code Council, is hereby adopted as the building code of the City for the control of buildings and structures, except one- and two-family dwellings and townhouses, as herein provided; and each and all of the regulations, provisions, penalties, conditions, and terms of the International Building Code are hereby referred to, adopted and made a part hereof, excluding:

Chapter 13 Energy Efficiency

Chapter 21 Masonry (Fireplaces, Chimneys)

Chapter 27 Electrical

Chapter 28 Mechanical Systems

Chapter 29 Plumbing Systems

Chapter 30 Elevators and Conveying Systems

Chapter 31 Special Construction (Signs)

Chapter 35 Referenced Standards

B.

Residential Building Code. The International Residential Code, latest edition, as published by the International Code Council, is hereby adopted as the residential building code of the City for the control of one- and two-family dwellings and townhouses, as herein provided; and each and all of the regulations, provisions, penalties, conditions, and terms of the International Residential Code are hereby referred to, adopted and made a part hereof.

(1)

To include:

Chapter 1 Scope and Administration

Chapter 2 Definitions

Chapter 3 Building Planning

Chapter 4 Foundations

Chapter 5 Floors

Chapter 6 Wall Construction

Chapter 7 Wall Covering

Chapter 8 Roof-Ceiling Construction

Chapter 9 Roof Assemblies

(2)

And excluding Chapters 10 through 43.

**§ 134-2. Amendments to Building Code.**

(Reserved)

**§ 134-3. Building permit fees.**

[Amended 12-17-1984 by Ord. No. 628; 6-20-1988 by Ord. No. 406; 8-21-1989 by Ord. No. 165]

The permit fees for the construction or alteration of a building or structure shall be set from time to time and a schedule of such fees is on file in the City Clerk's office.

**§ 134-4. Approval of sewerage and water connections prerequisite to issuance of building permit.**

[Amended 4-16-1991 by Ord. No. 75]

**A.**

No building permit for new construction, or remodeling where sewerage or water connections are necessary, shall be issued and no plot plan of a new development shall be approved unless and until the City Engineer, the Augusta Water District and the Augusta Sanitary District have been notified and the authorized official of the respective agency involved has approved the building or development for water, sewer and street purposes.

**B.**

In addition to the above requirements, no building permit applied for by the State of Maine or any state agency for new construction or remodeling shall be issued unless and until the applicant provides a certificate from the Department of City Services certifying that all zoning, Planning Board, health and safety ordinances and/or requirements have been addressed and will be complied with by the applicant.

**§ 134-5. Demolition and delay of demolition.**

[Amended 8-21-1989 by Ord. No. 166; 4-17-1990 by Ord. No. 378; 6-17-1991 by Ord. No. 128; 9-20-2012 by Ord. No. 12-111]

**A.**

Purpose.

**(1)**

This section is duly enacted by the City in order to:

**(a)**

Preserve and protect significant buildings within the City which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the City;

**(b)**

Limit the detrimental effect on community character and heritage that may result from the demolition of such buildings; and

**(c)**

Provide an efficient system for obtaining a demolition permit.

**(2)**

Under this section, the City shall impose a waiting period of not more than 90 calendar days before granting a permit for the demolition of any building that is designated as significant according to the definitions in Subsection **C** (below).

**(3)**

By this section, City residents are alerted to the anticipated demolition of significant buildings and the owners of such buildings are encouraged to consider preservation, restoration, rehabilitation or relocation as alternatives to demolition. To achieve this purpose, the Augusta Historic Preservation Commission is authorized to advise the local Code Enforcement Officer with respect to demolition permit applications.

## B.

Applicability.

### (1)

This section shall not apply to applications for demolition due to a threat to public health or to emergency demolition orders issued by the Code Enforcement Officer due to a threat to public safety.

### (2)

This section shall not be construed to prevent the ordinary maintenance or repair of any exterior architectural features; nor shall it prevent the erection, alteration or removal of any such feature which the Code Enforcement Officer certifies is required by the public safety because of a condition which is unsafe or dangerous due to deterioration.

## C.

Definitions. As used in this section, the following terms shall have the meanings indicated:

### ABUTTER

Any property within 500 feet of the subject property line within the State Urban Compact boundary or 1,000 feet of the subject property line outside the State Urban Compact boundary.

### APPLICANT

Any person or entity who or which files an application with the City for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner's consent or endorsement of the proposed application must be provided on the permit application.

### APPLICATION

A written request to the City in an authorized format to issue a permit for the demolition of a building.

### BUILDING

Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind which is 200 square feet or larger.

### COMMISSION

The Augusta Historic Preservation Commission.

### DELAY

A period of up to 90 calendar days imposed by the City, beginning on the date of application for a demolition permit, during which the owner of a significant property shall consider any viable alternatives to demolition, including preservation, restoration, rehabilitation, relocation or detailed recordation.

### DEMOLITION

The intentional act of substantially pulling down, destroying, dismantling, removing or razing a building, or commencing the work of a total, substantial, or partial destruction with the intent of completing the same.

### DEMOLITION PERMIT

The City permit issued by the Code Enforcement Officer authorizing the full or partial demolition of an existing building, excepting for this section only any permit issued solely for the demolition or removal of interior features with no effect on the exterior appearance of the building.

### POTENTIALLY SIGNIFICANT BUILDING

A building that has been determined by the Augusta Historic Preservation Commission or designee to be 50 years old and has a reasonable likelihood of meeting the criteria to be classified as a significant building.

### SIGNIFICANT BUILDING

Any building within the municipal boundaries which, in whole or in part, is known or presumed to be at least 50 years old and which has been determined by the Augusta Historic Preservation Commission to be significant to the community or appears on a list created by the Augusta Historic Preservation Commission and adopted by City Council. Items on the adopted list may include buildings and structures with less than 200 square feet of floor area.

#### D.

Permit required. No person, firm, corporation, or other entity shall demolish any building without obtaining a permit from the Code Enforcement Officer. In addition to a complete demolition of a building, the following actions shall require a demolition permit under this section:

##### (1)

Removal of more than 200 square feet of a larger building outside an historic district identified in Chapter 300, Land Use, as determined by the Bureau of Code Enforcement.

##### (2)

The lifting and relocating of a building on its existing site or to another site or new location on the same site.

##### (3)

Demolition of any square footage of a building within an historic district identified in Chapter 300, Land Use.

#### E.

Application contents. Any person wishing to obtain a permit to demolish a building, in whole or in part, shall file an application in the office of the City Code Enforcement Officer on a form approved by the City Code Enforcement Officer. The application shall include the following:

##### (1)

The common name, if any, and actual street address of the building to be demolished;

##### (2)

The name, address and telephone number of the owner(s) and his/her duly appointed agent of the building to be demolished;

##### (3)

The age of the building to be demolished;

##### (4)

The square footage or dimensions of the building to be demolished;

##### (5)

A brief description of the materials, configuration and use of the existing building;

##### (6)

One or more recent photographs of the building showing at least two elevations; and

##### (7)

The names and addresses of the owners of all properties within 500 feet of the subject property in the urban zoning districts and 1,000 feet of the subject property in the rural zoning districts, as provided by the City.

#### F.

Procedures. All notifications to the Code Enforcement Officer shall also be provided to the Planning Board in cases where the demolition request is related to a pending Planning Board application.

(1)

For every building that is less than 50 years old for which a demolition permit application has been filed, a permit may be issued without further determination of the building's historical significance. If the Planning Board is reviewing an application for redevelopment of the site where the demolition is to occur, a demolition permit for the site may not be issued without written authorization from the Planning Board.

(2)

By majority vote at a duly posted meeting, the Commission may delegate to one or more members of the Commission or to a qualified City employee the authority to make determinations of potential significance under this section.

(3)

For every building that is 50 years old or older for which a demolition permit application has been filed, the following process shall apply. If the Planning Board is reviewing an application for redevelopment of the site where the demolition is to occur, this process shall be concurrent with any Planning Board process.

(a)

Within two business days of receipt of the application, the Code Enforcement Officer shall forward a copy of the application to the Augusta Historic Preservation Commission.

(b)

Within 15 business days of receipt of the application, the Commission, or its designee, shall provide the Code Enforcement Officer and the owner/applicant with a copy of the written determination listing the reason(s) that the building is potentially significant or is not significant.

(c)

If the Commission, or its designee, determines that the building is not significant, or if the Commission, or its designee, fails to notify the Code Enforcement Officer of its determination within the allotted time, the Code Enforcement Officer may proceed with issuance of the demolition permit, unless an application related to the property is currently pending before the Planning Board. In the case of a pending Planning Board application, no permit may be issued without written authorization from the Planning Board.

(d)

In the case where the Commission, or its designee, determined that the building is potentially significant, and if the application involves a building located on a site which is being redeveloped that does not require Planning Board review, within 30 business days of receipt of the application, the Commission shall hold a public hearing to solicit public comment on any building that the Commission has determined to be potentially significant. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in the City Center for a period of not less than seven business days prior to the date of said hearing and abutters shall be notified by first class mail. The Commission shall also notify the Code Enforcement Officer and the owner/applicant in writing of the meeting time and place. Any interested party shall have the opportunity to speak at the public hearing, subject to normal limitations and procedures. If redevelopment requires Planning Board review, the determination of significance and demolition delay shall be decided by the Planning Board, with advice from the Commission. The Commission shall use the process outlined in this subsection. The Commission shall render

its decision or recommendation to the Planning Board within seven business days after the public hearing.

(e)

Upon notification that the building is significant, the Code Enforcement Officer shall delay the issuance of a demolition permit for 90 calendar days from the date of application unless otherwise agreed in writing by the Commission or the Planning Board, depending on which entity instituted the delay. In no case may a delay period be longer than 90 calendar days from the date of application for a demolition permit. During that period, the Code Enforcement Officer shall not issue any permits for new construction or alterations on the subject property.

G.

Criteria for determination that a building is significant. The following criteria shall be used to determine if a building is significant:

(1)

The building is listed on the State or National Register of Historic Places, or is partially or completely within the boundaries of an area so listed; or

(2)

The building has been determined by the State Historic Preservation Office and/or the National Park Service to be eligible for listing on the State or National Register of Historic Places; or

(3)

The building is on a list of historic buildings adopted by the City Council; or

(4)

The building has documented associations, to the satisfaction of the Historic Preservation Commission, with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the City, the state or the nation; or

(5)

The building has documented historical or architectural importance in terms of period, style, method of construction, specific use, or association with a recognized builder or architect, either by itself or in the context of a group of buildings.

H.

Emergency demolition. If, after a thorough inspection, the Code Enforcement Officer finds that a building subject to this section poses an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building, then the Code Enforcement Officer may issue an emergency demolition permit to the owner of the building.

I.

Deposit. Before a permit is issued, the applicant shall deposit with the City Treasurer a sum up to \$10,000 or provide an equivalent performance bond or letter of credit to ensure that the property is in a safe and proper condition after such wrecking or demolition is completed. The City Engineer shall determine if the appropriate amount of security should exceed \$10,000 and determine the appropriate amount for a security deposit to ensure that the project is in a safe and proper condition after such wrecking or demolition is completed. Such deposit shall also be used to ensure that the salvage site meets the requirements of the performance standards. The deposit is refundable, as determined by the Code Enforcement Officer, upon satisfactory completion and clean up of the demolition project. The amount of the deposit shall be set from time to time and a schedule of such deposits will be on file in the City Clerk's office. "Proper and safe condition" means that all debris is cleared away, that any excavation remaining is either filled in and tamped

down, or surrounded by a chain link fence at least six feet in height, if such property is not to be put in immediate use. If such property is to be used for any purpose within two months of such demolition, then adequate barricades, to the satisfaction of the Code Enforcement Officer, shall be installed around the perimeter of such excavation. If the Code Enforcement Officer finds that such property and the salvage site, if applicable, has been put into the proper condition as provided for in this section, he shall instruct the City Treasurer to return the deposit. If the demolition site and the salvage site, if applicable, have not been put into proper and safe condition as provided for in this section, and in conformance with the performance standards, the City shall proceed with the work, and the cost of such work shall be deducted from the deposit; or demand on the bonding company or bank furnishing said letter of credit will be made. If any amount is left from such deposit after the City has performed the work, such balance shall be returned to the person who deposited it.

J.

A certificate showing that public liability insurance in the amount of \$300,000 has been obtained by the applicant shall accompany any such application.

K.

Inspection of premises. Before any such permit shall be approved, the Code Enforcement Officer shall inspect the premises where the demolition work is to take place and ascertain that provision for proper care has been made so as not to endanger any sewer or water connections or any electrical wires or installations.

L.

Delay period. During the demolition delay period of up to 90 calendar days from application, the owner of a significant building shall give due consideration to all possible alternatives to demolition, including preservation, restoration, rehabilitation, relocation or detailed recordation of the affected building. In order to avoid or mitigate the anticipated effects of demolition, the owner shall make a good faith effort to accommodate reasonable requests from any interested parties for information about or access to the building for the purpose of evaluating alternatives to demolition. The owner shall allow a member of the Augusta Historic Preservation Commission reasonable access to the interior and exterior areas of the building proposed to be demolished to enable documentation of the building via photography, video recording, written observations, and other methods of documentation of the building and its historical features.

(1)

All approvals necessary for the issuance of such building permit, including without limitation any necessary zoning variances, Planning Board approvals, or special permits, must have been granted and all appeals from the granting of such approvals must have been concluded prior to the issuance of a demolition permit for a significant building under this chapter. Upon recommendation by the Augusta Historic Preservation Commission, the Planning Board may, as part of an otherwise required review, require the owner to install and maintain an historic marker at the site of a demolished significant historic building.

(2)

If no viable alternatives to demolition are identified and accepted within the demolition delay period, the Code Enforcement Officer may proceed to act on the permit application.

M.

Period of permit validity. Any permit issued pursuant to this chapter shall be valid for a period of one year from the date of issuance. If the demolition contemplated by the permit has not commenced within a one-year period, the owner of such building shall be required to apply for a

new permit and satisfy all notification requirements of this section should the owner wish to demolish the building.

N.

Violations and penalties.

(1)

The Code Enforcement Officer is authorized to institute any and all actions or proceedings, in law or in equity, as may be deemed necessary and appropriate to obtain compliance with the requirements of this section or to prevent a threatened violation thereof. The enforcement and penalties clause of Chapter 300, Land Use, shall apply to violations of this section.

(2)

During the application processing period and during a demolition delay period, if applicable, the owner of said property shall adequately maintain and protect the building in order to prevent any further deterioration. Failure to do so shall be considered demolition by neglect and may be subject to penalties.

O.

Approval and issuance of permit. If the Code Enforcement Officer finds that the terms of this section are being complied with by the applicant, the Code Enforcement Officer shall approve the application and issue a permit for such wrecking or demolition in accordance with the following fees:

(1)

Residential properties: no fee schedule.

(2)

Commercial properties: \$0.02 per square foot of total floor area.

[1]

Editor's Note: See also Ch. 169, Historic Preservation.

**§ 134-6. Smoke detectors.**

[Added 4-5-1993 by Ord. No. 42]

A.

Definition. "Smoke detector" means any device which, when activated by the presence of smoke, provides an audible alarm suitable to warn the occupants within the individual dwelling unit in which it is attached, which device must be continuously powered from the building electrical system where it is located and must be permanently wired to the building's electrical system, and a secondary power source provided by standby batteries.

B.

Smoke detectors required. The owner of any residential rental dwelling unit, including, but not limited to, apartment buildings and multifamily residences (having three or more living units), shall install or cause to be installed, and cause to be in operating order, not less than one smoke detector upon or near the ceiling in areas within or giving access to all bedrooms of said residential rental dwelling unit. The intent of this section is to include in the definition of "residential rental dwelling unit" all buildings or structures (having three or more units) that are rented out or leased out by an owner to a tenant or tenants for occupancy.

C.

Multi-apartment buildings. In multi-apartment buildings more than three stories in height, smoke detectors shall also be installed in each corridor and hallway on each floor.

D.

Penalties. Whoever violates this section is guilty of a civil infraction and shall be subject to a forfeiture of not more than \$100 for each violation. The court may waive any penalty or cost against any violator upon satisfactory proof that the violation was corrected within 10 days of the issuance of a complaint. Any person who fails to maintain, disconnects, or causes any smoke detector installed in accordance with this section to be inoperable shall be guilty of a civil infraction and shall be subject to forfeiture of not more than \$100 for each violation.

E.

Liability. Nothing in this section gives rise to an action against an owner required to comply with Subsection B above if the owner has conducted an inspection of the required smoke detectors immediately after installation and has reinspected the smoke detectors prior to occupancy by each new tenant, unless the owner has been given at least 24 hours' actual notice of a defect or failure of the smoke detector to operate properly and has failed to take action to correct the defect or failure.

F.

Effective date. The provisions of this section shall not take effect until September 1, 1994, for all structures with 12 or more units; and March 1, 1995, for all structures with more than two units but fewer than 12 units.

## **Chapter 137. Buildings, Vacant and Abandoned**

[HISTORY: Adopted by the City Council of the City of Augusta 10-1-2015 by Ord. No. 15-141 (Ch. 6, Art. II, §§ 6-92 through 6-99, of the 1990 Code). Amendments noted where applicable.]

### GENERAL REFERENCES

Building construction — See Ch. 134.

Housing Code — See Ch. 173.

Sanitation — See Ch. 229.

Land use — See Ch. 300.

### **§ 137-1. Purpose.**

A.

Vacant or abandoned properties create and pose significant and costly problems for the City. These properties often become a drain on the City budget and detract from the quality of life of the neighborhood and the City as a whole. Vacant buildings are an impediment to neighborhood redevelopment and rehabilitation, decrease property values, and prevent neighborhood stabilization. These structures are unsightly, often structurally unsound or otherwise dangerous, attract criminal activity, and otherwise create a threat to public health, safety, and welfare of neighboring properties and the general public.

B.

A significant obstacle in providing effective and prompt enforcement of the current City codes, as they relate to vacant buildings, is the inability to contact the owners of abandoned properties. These buildings are often also the subject of foreclosure actions by lien holders, which take considerable time to resolve.

C.

Certain categories of vacant properties, such as homes of "snowbirds," members of the armed forces, including the National Guard on deployment, or those who have moved into assisted-living facilities, or homes that are actively on the market, managed, or undergoing renovation, are less likely to cause problems and accompanying City costs and are exempt from this chapter.

D.

The purpose of this chapter is to provide a just, equitable and practicable method for identifying, managing and responding to the numerous issues associated with vacant buildings that have been abandoned. This chapter is intended to prevent or mitigate dangers to health, safety and welfare, promote responsible management, provide a safe neighborhood for residents, safeguard property values, expedite housing repairs, and provide for prompt contact with owners or managers by police, fire, and code enforcement when issues or emergencies develop.

**§ 137-2. Definitions.**

A.

If a term is not defined in this chapter or Chapter 300, Land Use, it shall have its customary dictionary meaning.

B.

For the purpose of interpreting this chapter, the following terms, phrases, words and their derivations shall have following meanings:

**ABANDONED BUILDING**

(1)

Any building or structure that is vacant and is under a current notice of default; under a current notice of trustee's sale; pending a Tax Assessor's lien sale; any property that has been the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure; and any property transferred under a deed in lieu of foreclosure/sale.

(2)

Any building that meets one or more of the conditions cited in 14 M.R.S.A. § 6326, Subsection 2, Paragraphs A through I, and as may be amended, for establishing abandonment by statute:

(a)

Doors and windows on the mortgaged premises are continuously boarded up, broken or left unlocked;

(b)

Rubbish, trash or debris has observably accumulated on the mortgaged premises;

(c)

Furnishings and personal property are absent from the mortgaged premises;

(d)

The mortgaged premises are deteriorating so as to constitute a threat to public health or safety;

(e)

A mortgagee has changed the locks on the mortgaged premises and neither the mortgagor nor anyone on the mortgagor's behalf has requested entrance to, or taken other steps to gain entrance to, the mortgaged premises;

(f)

Reports of trespassers, vandalism or other illegal acts being committed on the mortgaged premises have been made to local law enforcement authorities;

(g)

A code enforcement officer or other public official has made a determination or finding that the mortgaged premises are abandoned or unfit for occupancy;

(h)

The mortgagor is deceased and there is no evidence that an heir or personal representative has taken possession of the mortgaged premises; and

(i)

Other reasonable indicia of abandonment.

#### OWNER

Any person, agent, firm, corporation or other legal entity having a legal or equitable interest in a vacant building that has been abandoned, including but not limited to a mortgagee in possession, the beneficiary of a trust, or the holder of a life estate.

#### PROPERTY MANAGER

A Maine-based entity, corporation, or individual or the designee of the owner that is responsible for maintaining, securing, and inspecting vacant buildings.

#### VACANT BUILDING

Any building or other structure that is unoccupied by a person or occupied by unauthorized persons for 60 days, except permitted garages or accessory buildings.

### § 137-3. Applicability.

A.

This chapter applies to all vacant buildings that have been abandoned and are located within the City of Augusta.

B.

This chapter does not apply to primary residences of members of the armed forces, including the National Guard on deployment, vacation or resort facilities, or residences of persons on extended vacations or alternative living arrangements with the intention to return to the property and live (e.g., "snowbirds" or those in assisted-living facilities), or residences that are actively on the market, managed, or undergoing renovation.

### § 137-4. Registration required.

A.

The owner of a vacant building that has been abandoned must obtain a vacant building registration permit for the period during which it is vacant.

B.

When an abandoned building becomes vacant, the owner of the building must apply for and obtain a vacant building registration permit and pay the fee within 60 days of the building becoming vacant.

C.

Standard vacant building registration permit.

(1)

The Code Enforcement Division shall issue a standard vacant building registration permit upon being satisfied that the building has been inspected and is in compliance with the vacant building standards set forth in this chapter, and is adequately protected from intrusion by trespassers and from deterioration by the weather.

(2)

A standard vacant building registration permit is valid for six months from the date of approval.

D.

Interim vacant building inspection permit.

(1)

If a vacant building that has been abandoned is inspected and determined not to meet one or more local or state life safety codes, the Code Enforcement Division shall issue an order for any work needed to:

(a)

Adequately protect the building and property (i.e., swimming pools, hot tubs, children's equipment, including "jungle gyms") from intrusion by trespassers and from deterioration by weather by bringing it into compliance with all existing local and state life safety codes; and

(b)

Ensure that allowing the building to remain will not be detrimental to the public health, safety and welfare, will not unreasonably interfere with the reasonable and lawful use and enjoyment of other premises within the neighborhood, and will not pose an extraordinary hazard to police officers or firefighters entering the premises in times of emergency.

(2)

When issuing orders under Subsection D(1), the Code Enforcement Division shall specify the time for completion of the work. The order will act as an interim vacant building registration permit, the duration of which will be for the time set forth in the order. No interim registration permit may be effective for a period of more than 90 days.

(3)

All work done pursuant to this chapter must be done in compliance with the applicable building, fire prevention, life safety and zoning codes.

E.

After the vacant building registration permit is issued, the Code Enforcement Division shall add the property to a registry maintained by the City of Augusta and made available for public inspection. This registration data shall include, but not be limited to, the name, address, phone number and e-mail address of the owner or its agent, and contact information of the designated property management company.

F.

Upon the expiration of a vacant building registration permit, if the building or structure is still vacant, the owner must arrange for an inspection of the building and premises with the appropriate code enforcement, police, fire, public health and safety officials, and renew the permit within 10 days of expiration. All permit renewals shall be subject to all conditions and obligations imposed by this chapter and any previous permits unless expressly exempted therefrom.

**§ 137-5. Permit application; fee.**

A.

Application by the owner of a vacant building that has been abandoned for a vacant building registration permit must be made on a form provided by the Code Enforcement Division. Applicants must disclose all measures to be taken to ensure that the building will be kept weather-tight and secure from trespassers, safe for entry of Code Enforcement, Police, Fire, Public Health and Safety Officials in times of exigent circumstances or emergency, and together with its premises be free from nuisance and in good order in conformance with life safety, and other codes adopted by the City of Augusta.

B.

The application shall include a "statement of intent." The statement of intent shall include information as to the expected period of vacancy (including the date of vacancy), the plan for regular maintenance during the vacancy to comply with the life safety code requirements and a plan and timeline for the lawful occupancy, rehabilitation, or removal or demolition of the structure.

C.

The application shall include a list of persons authorized to be present in the building, along with a statement that any persons not listed shall be considered trespassers. The owner shall update the authorized person list as needed.

D.

Contact information.

(1)

The application shall include the following:

(a)

The name, street address, telephone number, and e-mail address of an individual designated by the owner or owners of the vacant building that has been abandoned as their authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding in connection with the enforcement of this code regarding the vacant building.

(b)

The name of at least one property manager responsible for management and maintenance of the property, along with their twenty-four-hour-a-day contact information.

(c)

The name of any bank/lender/lien holder with an interest in the property and its contact information, including the mailing address of the bank/lender/lien holder.

(2)

If any contact information required under this subsection changes or becomes out-of-date, the owner must notify the Code Enforcement Department in writing within 15 days of such change.

E.

A fee of \$200 for commercial entities (banks or financial service companies) or \$100 for individuals (individual owners of single-occupancy dwellings) shall be charged for a vacant building registration permit or an interim permit. This fee shall also be charged upon the renewal of such permits. The fee must be paid at the time of application or renewal. No permit shall be issued prior to payment of the permit or renewal fee. If an owner has undertaken the demolition permitting process, no fee will be required.

**§ 137-6. Inspection.**

A.

Upon and at the time of application, the owner of a vacant building that has been abandoned shall arrange for an inspection of the premises by staff of the Code Enforcement Division. The purpose of such inspections is to determine and ensure compliance with existing life safety codes and security of the premises. The Code Enforcement Division may bring on the inspection such other government officials as it deems prudent to ensure the safety of the building and the Code Enforcement Division, including but not limited to police, fire and public health officials.

B.

If code officials have reason to believe that an emergency or imminent danger exists tending to create an immediate danger to the health, welfare, or safety of the general public, code, police and fire officials have the authority to enter and inspect the vacant building that has been abandoned and the premises upon which it stands without notification or a warrant being required.

**§ 137-7. Vacant building maintenance standards.**

An owner of a vacant building that has been abandoned must adequately protect it from intrusion by trespassers and from deterioration by the weather. A vacant building shall be deemed adequately protected from intrusion by trespassers and from deterioration by the weather if it satisfies the following vacant building maintenance standards:

A.

Building openings. Doors, windows, areaways and other openings must be weathertight and secured against entry by birds, vermin and trespassers. Missing or broken doors, windows and other such openings must be covered by glass or other rigid, transparent materials which are weather-protected and tightly fitted and secured to the opening.

B.

The owner of a vacant building must comply with all building, fire, life safety, zoning, and other applicable codes or ordinances and must apply for any building, fire prevention, and zoning permits necessary to perform work required by this chapter.

**§ 137-8. Violations and penalties.**

Any person who is found to be in violation of any provision or requirement of this chapter shall be subject to a civil penalty, including the City's attorney's fees and other remedies as set forth in 30-A M.R.S.A. § 4452. Each violation of a separate provision or requirement, and each day of violation, shall constitute a separate offense.

**Chapter 142. Environmental and Energy Conservation**

[HISTORY: Adopted by the City Council of the City of Augusta as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Housing Code — See Ch. [173](#).

Land use — See Ch. [300](#).

# **Article I. PACE Program**

[Adopted 10-21-2010 by Ord. No. 155 (Ch. 6, Art. VI, of the 1990 Code)]

## **§ 142-1. Purpose and authority.**

### **A.**

Purpose. By and through this article, the City of Augusta declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy ("PACE") program so that owners of qualifying property can access financing for energy-saving improvements to their properties located in the City. The City declares its purpose and the provisions of this article to be in conformity with federal and state laws.

### **B.**

Enabling legislation. The City enacts this article pursuant to Public Law 2009, Chapter 591 of the 124th Maine State Legislature, "An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "The Property Assessed Clean Energy Act" or "The PACE Act" (codified at 35-A M.R.S.A. § 10151 et seq.).

## **§ 142-2. Title.**

This article shall be known and may be cited as "the City of Augusta's Property Assessed Clean Energy (PACE) Ordinance" ("this article").

## **§ 142-3. Definitions.**

Except as specifically defined below, words and phrases used in this article shall have their customary meanings. As used in this article, the following words and phrases shall have the meanings indicated:

### **CITY**

The City of Augusta.

### **ENERGY-SAVING IMPROVEMENT**

An improvement to qualifying property that is new and permanently affixed to qualifying property and that:

#### **A.**

Will result in increased energy efficiency and substantially reduced energy use and:

##### **(1)**

Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Star program or similar energy efficiency standards established or approved by the Trust; or

##### **(2)**

Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or

#### **B.**

Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the Trust.

### **PACE AGREEMENT**

An agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

**PACE ASSESSMENT**

An assessment made against qualifying property to repay a PACE loan.

**PACE DISTRICT**

The area within which the City establishes a PACE program hereunder, which is all that area within the City's boundaries.

**PACE LOAN**

A loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy-saving improvements.

**PACE MORTGAGE**

A mortgage securing a loan made pursuant to a PACE program to fund energy-saving improvements on qualifying property.

**PACE PROGRAM**

A program established under state statute by the Trust or a municipality under which property owners can finance energy-saving improvements on qualifying property.

**QUALIFYING PROPERTY**

Real property located in the PACE district of the City.

**RENEWABLE ENERGY INSTALLATION**

A fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas-to-energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal qualified energy conservation bonds or federal clean renewable energy bonds.

**TRUST**

The Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

**§ 142-4. Program established; amendments.**

**A.**

Establishment; funding. The City hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy-saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that:

**(1)**

Adopt a PACE Ordinance;

**(2)**

Adopt and implement a local public outreach and education plan;

**(3)**

Enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust's administration of the municipality's PACE program; and

(4)

Agree to assist and cooperate with the Trust in its administration of the municipality's PACE program.

B.

Amendment to PACE program. In addition, the City may from time to time amend this article to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the City shall be responsible for administration of loans made from those other funding sources.

#### **§ 142-5. Conformity with requirements of Trust.**

If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the City's adoption of this article and those standards, rules or model documents substantially conflict with this article, the City shall take necessary steps to conform this article and its PACE program to those standards, rules, or model documents.

#### **§ 142-6. Administration; municipal liability.**

A.

Program administration.

(1)

PACE administration contract. Pursuant to 35-A M.R.S.A. § 10154(2)(A)(2) and (B), the City will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the City. The PACE administration contract with the Trust will establish the administration of the PACE program, including, without limitation, that:

(a)

The Trust will enter into PACE agreements with owners of qualifying property in the City's PACE district.

(b)

The Trust, or its agent, will create and record a notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage.

(c)

The Trust, or its agent, will disburse the PACE loan to the property owner.

(d)

The Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner.

(e)

The Trust, or its agent, will be responsible for collection of the PACE assessments.

(f)

The Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment.

(g)

The City, or the Trust or its agent on behalf of the City, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

(2)

Adoption of education and outreach program. In conjunction with adopting this article, the City shall adopt and implement an education and outreach program so that citizens of the City are

made aware of home energy saving opportunities, including the opportunity to finance energy-saving improvements with a PACE loan.

(3)

Assistance and cooperation. The City will assist and cooperate with the Trust in its administration of the City's PACE program.

(4)

Assessments not a tax. PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

B.

Liability of municipal officials; liability of City.

(1)

Notwithstanding any other provision of law to the contrary, City officers and City officials, including, without limitation, Tax Assessors and Tax Collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

(2)

Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Subsection A(1) above, the City has no liability to a property owner for or related to energy-saving improvements financed under a PACE program.

## **Article II. Pesticides**

[Adopted 3-15-2012 by Ord. No. 12-030 (Ch. 6.5, Art. I, § 6.5-4, of the 1990 Code)]

### **§ 142-7. Regulations governing use.**

The Director of the Community Services Department and Director of the Department of Public Works, after notice and public hearing, and after an opportunity for the public to submit written comments, shall recommend policies and procedures governing the use of pesticides. All policies and procedures must be in compliance with applicable State of Maine statutes and regulations of the Board of Pesticides Control. The recommended policies and procedures shall become effective upon approval by City Council.

## **Chapter 148. Fire Prevention**

[HISTORY: Adopted by the City Council of the City of Augusta 11-18-1985 by Ord. No. 230; amended 1-6-1992 by Ord. No. 244 (Ch. 16, Art. III, of the 1990 Code). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 134.

Housing Code — See Ch. 173.

Streets and sidewalks — See Ch. 241.

## **Article I. General Provisions**

### **§ 148-1. Appointment of Fire Chief.**

The City Manager, with the advice and consent of the City Council, shall appoint the Fire Chief.

### **§ 148-2. Fire Chief residency requirement.**

[Amended 2-3-1992 by Ord. No. 360]

The Fire Chief must be a resident of the City of Augusta within 90 days of his/her appointment. This provision does not apply to the person holding said position on the effective date of Ordinance No. 360.

### **§ 148-3. Fire Chief authority; assistance to other cities and towns.**

The Fire Chief is responsible for the fire prevention and suppression programs for the City and for the administration and operation of emergency medical services.

#### **A.**

The Fire Chief is authorized to send his personnel and equipment to aid other cities and towns in extinguishing fires.

#### **B.**

In case of nearby towns not having full-time fire departments, the Fire Chief shall endeavor to secure contracts with such towns providing for mutual exchange of aid, compensation therefor, and payments in case of damage to a City vehicle or injury or death to personnel of the Department.

### **§ 148-4. Maintenance of vacant lots.**

The failure to cut and remove grass, weeds, bushes and underbrush from any vacant lot within the compact or built-up section of the City so as to bring about a condition dangerous in causing or promoting fires is hereby declared to be illegal. Failure of the owner or person in possession of such lot to remove the same within seven days of written notification by the Fire Chief shall be punishable in accordance with Chapter 1, Article III, General Penalty, of the City Code.

### **§ 148-5. False alarms; interference with alarm apparatus.**

No person shall willfully or mischievously give or cause to be given a false alarm of fire, or shall injure or in any way interfere with the fire alarm apparatus.

### **§ 148-6. Private alarm installation and maintenance.**

The expense of installing and maintaining wires running from the fire alarm boxes situated in and on private property to the central fire station or to any other fire station shall be borne by the person installing such fire alarm boxes on private property or using them.

### **§ 148-7. Unauthorized use of fire hydrants.**

No person except employees of the Augusta Water District or employees of the Fire Department shall open any fire hydrant.

**§ 148-8. Burning leaves prohibited.**

No person shall burn leaves upon any street or upon his own or another's property. Violation hereof shall constitute a misdemeanor punishable by a fine in accordance with Chapter 1, Article III, General Penalty, of the City Code.

**§ 148-9. Rapid entry to certain types of buildings.**

[Added 8-18-2008 by Ord. No. 133]

A.

Purpose. The purpose of this section is to establish criteria which provide a method by which the Fire Department may gain rapid entry into specific buildings for lifesaving or fire-fighting purposes without forcible entry.

B.

Applicability.

(1)

This section shall apply to the following types of buildings:

(a)

All new or existing buildings that require either a fire alarm or fire suppression system by Maine State Fire or local Life Safety Code.

(b)

New residential buildings which contain more than six living units and utilize common corridors to access the living units.

(c)

All existing residential buildings which contain more than 12 living units and utilize common corridors to access the living units.

(2)

Buildings containing sensitive materials vital to national security or defense are exempt from the above.

(3)

An existing building shall be considered a new building:

(a)

When alterations or repairs are made within any period of 12 months, costing in excess of 50% of the physical value of the building before the repairs are made, as determined by the Assessor.

(b)

If the building is damaged by fire or other cause to an extent in excess of 50% of the physical value of the building before the damage was incurred and the building is rebuilt as determined by the Assessor.

(c)

If the building is increased in floor area by 25% or additional stories are added.

(4)

Every building subject to the requirement of this section shall be equipped with a rapid-entry system. The rapid-entry system shall be Knox Company. Exceptions may be approved by the Fire Chief.

(5)

The Knox rapid-entry system shall consist of a key vault containing but not limited to keys necessary for entry into the building and controlling emergency systems. The key vault shall be of a type which utilizes the master key system of the City of Augusta Fire Department.

(6)

The installation of the system shall be subject to the following criteria:

(a)

The Fire Department or any employee thereof shall not sell rapid-entry system products.

(b)

All costs associated with the installation of the key vault shall be the responsibility of the building owner.

(c)

The key vault shall be installed in a location determined by the Fire Chief and/or designee.

(d)

The key vault shall be installed at an easily accessible location. The bottom of the vault shall be no less than five feet nor more than six feet in height above the finished grade.

(e)

No key or lock product used in the rapid-entry system shall be released from the factory without written authorization of the Fire Chief.

(f)

For new construction, the key vault location shall be determined during the building plan review by the Fire Chief and/or designee.

(7)

The building owner and/or occupant shall be responsible for notifying the Fire Department in the event locks or type of occupancy is changed.

C.

Compliance. All buildings subject to this section shall be in compliance 12 months after adoption of this section. The Fire Chief may approve extensions at his discretion.

D.

Penalty. Any building owner violating the provisions of this section after receiving due notice from the Fire Department shall be subject to a fine of \$100 each month until compliance is achieved.

## **Article II. Fire Department**

### **§ 148-10. Supervision.**

The Fire Chief shall have the sole control and command over the members of the Fire Department; and in the absence of the Fire Chief, the chief officer on duty shall have the powers and perform the duties that belong to and are required of the Fire Chief.

### **§ 148-11. Employment of extra firefighters.**

Whenever the magnitude of a fire shall make it necessary, the Fire Chief or, in his absence, the chief officer on duty is authorized to employ special firefighters for the occasion.

#### **§ 148-12. Maintenance of equipment and buildings.**

The Fire Chief shall be responsible for the proper maintenance of the equipment and buildings of the Fire Department.

#### **§ 148-13. Investigation of fires.**

It shall be the duty of the Fire Chief to immediately investigate the cause, circumstances and origin of each and every fire in the City, and especially to examine whether it was the result of carelessness or design.

#### **§ 148-14. Examination of premises; order to abate dangerous conditions.**

##### **A.**

The Fire Chief shall perform the duties of fire inspector under the state statutes, and shall have the powers thereof. The Fire Chief may, with the Code Enforcement Officer and City Councilmembers at all reasonable hours, for the purpose of examination, enter into and upon all buildings and premises within his jurisdiction.

##### **B.**

Whenever the Fire Chief shall find in any building or upon any premises combustible material or inflammable conditions dangerous to the safety of such building or premises, he shall order the same to be removed or remedied, and such order shall be forthwith complied with by the owner or occupant of such building or premises.

##### **C.**

The Fire Chief shall make, or cause to be made, an immediate investigation as to the presence of combustible material or the existence of inflammable conditions in any building or upon any premises under his jurisdiction upon complaint of any person having an interest in the building or premises or property adjacent thereto.

##### **D.**

Any owner or occupant failing to comply with his orders shall be punished in accordance with 25 M.R.S.A. § 2360.

#### **§ 148-15. Auxiliary Fire Department.**

There is hereby created an Auxiliary Fire Department to consist of up to 30 people to assist the regular full-time Department when needed for the purpose of fire fighting.

#### **§ 148-16. Adoption of Life Safety Code.**

The current edition of the National Fire Protection Association's No. 101 Life Safety Code, as adopted by the State of Maine, is hereby adopted by reference by the Fire Department.

### **Article III. Private Hydrants**

[Added by Ord. No. 13-112]

**§ 148-17. Authority.**

The following article is promulgated in order to regulate the inspection, testing, maintenance, correction, and repair of fire hydrants located on private property in the City of Augusta and those fire hydrants located in the rights-of-way of public highways of the City of Augusta that the Greater Augusta Utility District does not own.

**§ 148-18. Purpose.**

The purposes of this article are to:

**A.**

Provide standards and requirements for the inspection, testing, maintenance, correction, and repair of fire hydrants located on private property of the City of Augusta, as well as fire hydrants located in the rights-of-way of public highways in the City of Augusta that are not owned by the Greater Augusta Utility District.

**B.**

Ensure that every private fire hydrant to which the Fire Department of the City of Augusta or other municipal fire department connects in the event of a fire or other emergency will function as designed to produce the water necessary to respond appropriately to the fire or other emergency.

**C.**

Protect the public health, safety and general welfare of the City of Augusta.

**§ 148-19. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**EMERGENCY IMPAIRMENT**

A condition where a private fire hydrant is out of service due to an unexpected occurrence, such as frozen or ruptured hydrant components or an interruption of the water supply to the system.

**FIRE DEPARTMENT**

The Fire Department of the City of Augusta.

**HYDRANT**

A private fire hydrant as defined below.

**IMPAIRED HYDRANT**

A private fire hydrant which is not operational due to an emergency impairment or a preplanned impairment.

**IMPAIRMENT**

A shutdown of a private fire hydrant which renders the hydrant nonoperational and therefore out of service.

**IMPAIRMENT TAG**

A tag affixed to a private fire hydrant to indicate that the hydrant is out of service. The Fire Department may determine the requirements of an impairment tag and the means and location of its attachment to a hydrant.

## INSPECTION

An examination of a private fire hydrant to verify that it appears to be in operating condition and is free from physical damage.

## MAINTENANCE

Work performed to keep a private fire hydrant operable or to make repairs.

## NFPA STANDARD

Publication 25 of the National Fire Protection Association (NFPA), titled "Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems," 2002, and any subsequent amendments or revisions thereto.

## OWNER

The person that holds record title to the property upon which a private fire hydrant is located. For fire hydrants located in the right-of-way of a public highway in the City of Augusta that are not owned by the Greater Augusta Utility District, the owner is the person that owns the fire hydrant itself.

## OWNER'S DESIGNEE

Where the owner is not the occupant of the premises upon which a private fire hydrant is located, the occupant, management firm, or managing individual designated by the owner through specific provisions in the lease, written use agreement, or management contract to assume the responsibility to inspect, test, and maintain, correct and repair a private fire hydrant located on the owner's property.

## PERSON

Any institution, public or private corporation, individual, partnership, or other entity.

## PREPLANNED IMPAIRMENT

A condition where a private fire hydrant is out of service due to work that has been planned in advance.

## PRIVATE FIRE HYDRANT

A valved connection to a water main for the purpose of supplying water to a fire hose or other fire protection apparatus and that is not located within the right-of-way of a public highway of the City of Augusta. A private fire hydrant also includes any fire hydrant located in a right-of-way of a public highway in the City of Augusta that is owned by any person other than the Greater Augusta Utility District.

## QUALIFIED

Having knowledge of the installation, construction, operation, maintenance, correction or repair of a fire hydrant and the hazards involved.

## RECORD

Written documentation of the inspection, testing, maintenance, correction, or repair of a private fire hydrant.

## SHALL

Indicates a mandatory requirement.

## TESTING

A procedure of periodic physical and operational checks used to determine whether a private fire hydrant is capable of being operated as intended and will perform as intended, e.g. water-flow tests. These tests follow up on the original tests at intervals specified in this article.

## § 148-20. Maintenance requirements.

A.

Responsibility for properly maintaining a private fire hydrant shall be that of the owner of the property or the owner's designee. Where the owner of a private fire hydrant has designated an occupant, management firm, or managing individual, through specific provisions in the lease, written use agreement, or management contract, to be responsible for the inspection, testing and maintenance of a private fire hydrant in accordance with this article, the owner's designee shall comply with the requirements of this article and shall be subject to enforcement of this article in the event of a failure to so comply.

B.

By means of periodic inspections, tests, maintenance, correction, and repair, every private fire hydrant shall be maintained in proper working condition, consistent with this article, the NFPA standard, and the manufacturer's specifications or recommendations.

C.

Inspection, testing, maintenance, correction and repair shall be implemented with the procedures meeting or exceeding those established in this article and the NFPA standard, and shall be in accordance with the manufacturer's specifications or recommendations. This article shall control in the event of a conflict among any of the aforementioned applicable standards. Inspection, testing, maintenance, correction, and repair shall be performed by qualified maintenance personnel or a qualified contractor.

D.

The owner or owner's designee shall notify the Fire Department of the City of Augusta and the Greater Augusta Utility District before testing or shutting down a private fire hydrant or its water supply. This notification shall include the purpose for the shutdown, the private fire hydrant involved, and the estimated time that the hydrant will be impaired.

E.

The owner or owner's designee shall notify the Fire Department and the Greater Augusta Utility District when the private fire hydrant is returned to service.

F.

The owner or owner's designee shall, within 30 days, correct or repair any deficiencies, damaged parts, or impairments found while performing the inspection, testing, and maintenance requirements of this article.

G.

The owner or owner's designee shall promptly correct or repair any deficiencies, damaged parts, or impairments of any private fire hydrant of which the owner or owner's designee has knowledge or, in the exercise of reasonable care, ought to have knowledge.

**§ 148-21. Inspection, testing, maintenance, correction and repair.**

This section provides the minimum requirements for the routine inspection, testing, maintenance, correction, and repair of private fire hydrants. These functions shall be permitted to be carried out simultaneously.

A.

On or before November 1 of each year, the owner or the owner's designee shall inspect, test, maintain and, if necessary, correct and repair each private fire hydrant to ensure proper functioning, with the necessary repair or corrective action taken as shown in Table 1. Records of

these actions will be recorded pursuant to § [148-23](#) of this article. The owner or owner's designee shall also conduct an inspection of a private fire hydrant after each operation of the hydrant.

[B.](#)

Opening and closing hydrants too fast can have the potential of causing some major problems as well as stir up discolored water. Designees acting or testing a hydrant on behalf of the hydrant owner shall register with the Greater Augusta Utility District. Testing of any private fire hydrant as outlined in this article requires twenty-four-hour notification to the Greater Augusta Utility District.

[C.](#)

When conducting a test of a private fire hydrant, the hydrant shall be opened fully and water flowed until all foreign material has cleared. Flow shall be maintained for not less than one minute.

[D.](#)

Private fire hydrants shall be lubricated annually to ensure that all stems, caps, plugs, and threads are in proper operating condition.

[E.](#)

Private fire hydrants shall be kept free of snow, ice, or other materials and protected against mechanical damage so that free access is ensured.

[F.](#)

Repairs.

[\(1\)](#)

The owner or the owner's designee shall repair as soon as possible a private fire hydrant which is impaired or otherwise does not function as required by this article, the NFPA standard, or the manufacturer's specifications.

[\(2\)](#)

After completing all necessary repairs to a private fire hydrant, the owner or the owner's designee shall inspect and test the hydrant as necessary consistent with the standards of this article, including without limitation Table 1, to ensure that the hydrant is operational.

**Table 1**

**Fire Hydrant Inspection, Maintenance and Repair**

<b>Condition</b>	<b>Remedy</b>
Hydrant is inaccessible	Make accessible
Barrel contains water or ice (presence of either could indicate a faulty drain, a leaky hydrant valve, or a high groundwater table)	Repair and drain; for high groundwater, it could be necessary to plug the drain and pump out the barrel after each use
Improper drainage from barrel	Repair drain
Leaks at outlets or at top of hydrant	Repair or replace gaskets, packing, or parts as necessary
Cracks observed in hydrant barrel	Repair cracks or replace barrel
Tightness of outlets	Lubricate if necessary; tighten if necessary
Worn nozzle threads	Repair or replace worn hydrant operating nut
Availability of operating wrench	Make sure wrench is available
Cracked or peeled paint; exposed rust; unpainted metal	Remove rust; paint hydrant as necessary

**§ 148-22. Identification and notification of impaired hydrant.**

**A.**

The owner or owner's designee shall notify the Augusta Fire Department and the Greater Augusta Utility District in advance of a preplanned impairment of a private fire hydrant.

**B.**

The owner or the owner's designee shall notify the Fire Department immediately of an emergency impairment of a private fire hydrant.

**C.**

The owner or owner's designee shall affix an impairment tag approved by the Augusta Fire Department to an impaired hydrant at the commencement of a preplanned impairment and at the time of discovery of an emergency impairment.

**D.**

Once the necessary inspection and testing confirm that repairs have restored a private fire hydrant to operational status, the owner or the owner's designee shall remove the impairment tag and shall notify the Augusta Fire Department and the Greater Augusta Utility District that the hydrant is operational.

**§ 148-23. Records.**

**A.**

Records shall indicate the procedure performed to inspect, test, maintain, correct, and repair a private hydrant. Such records shall include the organization that performed the work, the results, the date work was performed, and other pertinent information as the Fire Department shall require.

**B.**

Records shall be maintained by the owner or the owner's designee.

**C.**

By December 31 of each calendar year, the owner or owner's designee shall submit to the Fire Chief of the City of Augusta a record documenting the annual inspection, test, maintenance, correction and repair of each private fire hydrant and its components.

**D.**

The owner shall retain the original purchase, installation and maintenance records of a private fire hydrant for the life of the private fire hydrant.

**E.**

Inspection records shall be retained for a period of one year after the subsequent annual inspection required by this article.

**§ 148-24. Enforcement; violations and penalties.**

**A.**

A civil penalty of not more than \$100 may be imposed for a violation of this article. Each week that the violation continues shall constitute a separate violation of this article.

**B.**

Corporation Counsel may file a complaint to recover civil penalties for violations of this article.

**C.**

Other relief. In addition to the enforcement procedures available, the City of Augusta may pursue any remedy authorized by law, including, without limitation, the maintenance of a civil action in Superior Court to obtain injunctive and other appropriate relief.

## **Chapter 151. Fireworks**

[HISTORY: Adopted by the City Council of the City of Augusta 11-17-2011 by Ord. No. 11-164 (Ch. 16, Art. IV, of the 1990 Code). Amendments noted where applicable.]

### **§ 151-1. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

#### **CONSUMER FIREWORKS**

Has the same meaning as the term set forth in 27 CFR 555.11, as may be amended from time to time, but includes only products that are tested and certified by a third-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 U.S.C. Chapter 47. "Consumer fireworks" does not include the following products:

##### **A.**

Missile-type rockets, as defined by the State Fire Marshal by rule;

##### **B.**

Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and

##### **C.**

Sky rockets and bottle rockets. For purposes of this subsection, "sky rockets and bottle rockets" mean cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability, that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

#### **FIREWORKS**

As defined under Maine state law, 8 M.R.S.A. § 221-A(4), as may be amended from time to time.

### **§ 151-2. Use or sale prohibited; exception.**

No person shall use, sell, or offer for sale fireworks or consumer fireworks in the City of Augusta; provided, however, that this chapter does not apply to a person issued a fireworks display permit by the City and/or State of Maine pursuant to 8 M.R.S.A. § 227-A, as may be amended from time to time.

### **§ 151-3. Violations and penalties.**

##### **A.**

Any person who uses fireworks or consumer fireworks in the City of Augusta shall be punished by a fine of not less than \$200 and not more than \$400 plus costs. For second and subsequent offenses, a fine of not less than \$300 and not more than \$600 per violation plus costs shall be imposed.

B.

Any person who sells or offers for sale fireworks or consumer fireworks in the City of Augusta shall be punished by a fine of not less than \$500 plus costs. For second and subsequent offenses, a fine of not less than \$1,000 per violation plus costs shall be imposed.

§ 151-4. Seizure and disposal.

The City of Augusta may seize fireworks or consumer fireworks that the City has probable cause to believe are used, sold or offered for sale in violation of this chapter or in violation of state law and shall forfeit the seized consumer fireworks to the State of Maine for disposal.

## Chapter 157. General Assistance Program

[HISTORY: Adopted by the City Council of the City of Augusta 4-6-1992 by Ord. No. 404; amended in its entirety 3-3-1997 by Ord. No. 659 (Ch. 6.5, Art. III, Div. 2, of the 1990 Code). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Housing Code — See Ch. 173.

## Article I. Statement of Policy

§ 157-1. Policy statement.

A.

The City administers a program of general assistance available to all persons who are eligible to receive assistance in accordance with the standards of eligibility as provided herein and in 22 M.R.S.A. § 4301 et seq.

B.

Every effort will be made to recognize the dignity of the applicant and to encourage self-reliance. The program will help each person achieve self-maintenance and will encourage the work incentive. When possible, it will seek to alleviate needs other than financial through rehabilitative, preventive and protective services. General assistance will promote strengthening the family, especially with regard to the care and protection of children.

C.

The general assistance program will place no restrictions on the personal rights of the applicant or recipient, nor will there be any unlawful discrimination based on sex, age, race, religion, disability or political affiliation. The applicant or recipient will be informed of his/her rights and responsibilities under the general assistance program.

D.

The General Assistance Administrator will act promptly on all applications for assistance and requests for fair hearings. Within 24 hours of receiving an application, the Administrator will give the applicant a written decision, whether or not assistance is granted, that will state the specific reasons for the decision. The Administrator will also give the applicant written notice that the applicant may appeal to the City of Augusta Fair Hearing Authority if dissatisfied with the decision. When an applicant is determined to be eligible, assistance appropriate to the need

will be furnished within 24 hours after the completed application is submitted except when the Administrator issues nonemergency assistance conditionally on the successful completion of a workfare assignment (see § [157-22](#) of this chapter).

[E.](#)

The Administrator will maintain complete and accurate records pertaining to each applicant and recipient. These records are confidential.

[F.](#)

The Administrator will post notice stating the day(s) and hours the services will be available. The Administrator, or other designated person, will be available to take applications in the event of an emergency at all other times. A copy of Ordinance No. 659 (this chapter) and the state general assistance statute will be readily available to any member of the public upon request to read in the City Health and Welfare Offices. Notice to this effect will be posted. Copies of Ordinance No. 659 will be furnished at the expense of the person who requests the copy.

## **Article II. Definitions**

### **§ 157-2. Word usage.**

Unless otherwise apparent or defined, all words in this chapter will have their common meaning.

### **§ 157-3. Definitions.**

As used in this chapter, the following words and terms shall have the meanings indicated:

#### **APPLICANT**

A person who has submitted, either directly or through an authorized representative, an application for general assistance or who has, in an emergency, requested assistance without first completing an application. In addition, all persons on whose behalf an application has been submitted or on whose behalf benefits have been granted shall be considered applicants.

#### **APPLICATION FORM**

A standardized form used by the General Assistance Administrator for the purpose of allowing a person to apply for general assistance and confirming the fact that a person has made an application. The application form must be signed by the applicant to be considered complete.

#### **BASIC NECESSITIES**

Food, clothing, shelter, fuel, electricity, nonelective medical services as recommended by a physician, nonprescription drugs, telephone where it is necessary for medical reasons and any other commodity or service determined essential by the City. Basic necessities do not include security deposits for rental property, except for those situations where no other permanent lodging is available unless a security deposit is paid, and a waiver, deferral or installment arrangement cannot be made between the landlord and tenant to satisfy the need for the immediate payment of the security deposit or payment in full [22 M.R.S.A. § 4301(1)].

#### **CASE RECORD**

An official file containing application forms, correspondence, narrative records and all other communications pertaining to an applicant or recipient, determinations of initial or

subsequent eligibility, written decisions, including reasons for those decisions, as well as types and amounts of assistance provided each recipient and all records concerning an applicant's request for fair hearing and those fair hearing decisions.

#### CATEGORICAL ASSISTANCE

All state and federal income maintenance programs.

#### CLAIMANT

A person who has requested a fair hearing.

#### DEFICIT

An applicant's deficit is the appropriate overall maximum level of assistance for the household as provided in § [157-30](#) of this chapter less the household income as calculated pursuant to § [157-31](#) of this chapter, provided such a calculation yields a positive number. If the household income is greater than the appropriate overall maximum level of assistance, the household has no deficit.

#### DISABLED PERSON

A person who is presently unable to work or maintain a home due to a physical or mental disability that is verified by a physician.

#### DWELLING UNIT

A building or part thereof used for separate living quarters for one or more persons living as a single housekeeping unit [22 M.R.S.A. § 4301(2)].

#### ELIGIBLE PERSON

A person who is qualified to receive general assistance from the City according to the standards of eligibility set forth in this chapter [22 M.R.S.A. § 4301(3)].

#### EMERGENCY

Any life-threatening situation or a situation beyond the control of the individual which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of a person [22 M.R.S.A. §§ 4301(4), 4308(2), 4310].

#### GENERAL ASSISTANCE ADMINISTRATOR

A municipal official designated to administer the general assistance program. He/She will receive applications, make decisions concerning an applicant's right to receive assistance, and prepare records and communications concerning assistance. He/She may be an overseer or an authorized agent such as a town manager, welfare director, or caseworker [22 M.R.S.A. § 4301(12)].

#### GENERAL ASSISTANCE PROGRAM

A service administered by a municipality for the immediate aid of persons who are unable to provide the basic necessities essential to maintain themselves or their families. A general assistance program provides a specific amount and type of aid for defined needs during a limited period of time and is not intended to be a continuing "grant-in-aid" or "categorical" welfare program. This definition shall not in any way lessen the responsibility of each municipality to provide general assistance to a person each time that the person has need and is found to be otherwise eligible to receive general assistance [22 M.R.S.A. § 4301(5)].

#### HOUSEHOLD

An individual or two or more individuals who share a dwelling unit. When an applicant shares a dwelling unit with one or more individuals, even when a landlord-tenant relationship may exist between individuals residing in the dwelling unit, eligible applicants may receive assistance for no more than their pro-rata share of the actual costs

of the shared basic needs of that household according to the maximum levels of assistance established in the municipal ordinance. The income of household members not legally liable or otherwise responsible for supporting the household shall be considered as available to the applicant only when there is a pooling of income [22 M.R.S.A. § 4301(6)].

## INCOME

### A.

Any form of income in cash or in kind received by the household, including net remuneration for services performed, cash received on either secured or unsecured credit, any payments received as an annuity, retirement or disability benefits, veterans' pensions, workers' compensation, unemployment benefits, benefits under any state or federal categorical assistance program, supplemental security income, social security and any other payments from governmental sources unless specifically prohibited by any law or regulations, court-ordered support payments, income from pension or trust funds and household income from any other source, including relatives or unrelated household members.

### B.

The following items shall not be considered as income or assets which must be liquidated for the purposes of deriving income:

#### (1)

Real or personal income-producing property, tools of trade, governmental entitlement specifically treated as exempt assets by state or federal law;

#### (2)

Actual work-related expenses, whether itemized or by standard deduction, such as taxes, retirement fund contributions, union dues, transportation costs to and from work, special equipment costs and child-care expenses; or

#### (3)

Earned income of children below the age of 18 years who are full-time students and who are not working full-time.

### C.

In determining need, the period of time used as a basis for the calculation shall be a thirty-day period commencing on the date of the application. This prospective calculation shall not disqualify an applicant who has exhausted income to purchase basic necessities, provided that the income does not exceed the income standards established by the City [22 M.R.S.A. § 4301(7)].

## JUST CAUSE

A valid, verifiable reason that hinders an individual from complying with one or more conditions of eligibility [22 M.R.S.A. § 4301(8), § 4316-A(5)].

## LUMP-SUM PAYMENT

A one-time or typically nonrecurring sum of money issued to an applicant or recipient after an initial application. Lump-sum payment includes, but is not limited to, retroactive or settlement portions of social security benefits, worker's compensation payments, unemployment benefits, disability income, veterans' benefits, severance pay benefits, or money received from inheritances, lottery winnings, personal injury awards, property damage claims or divorce settlements. A lump-sum payment includes only the amount of money available to the applicant after payment of required deductions has been made

from the gross lump-sum payment. A lump-sum payment does not include conversion of a nonliquid resource to a liquid resource if the liquid resource has been used or is intended to be used to replace the converted resource or for other necessary expenses. The term "conversion of a nonliquid resource to a liquid resource" refers, in general, to a settlement of an insurance claim filed as a result of damaged or destroyed property [22 M.R.S.A. § 4301(8-A)].

#### MATERIAL FACT

A fact that necessarily has some bearing on the determination of an applicant's general assistance eligibility, and which would, if disclosed to the Administrator, have some determinable effect on the calculation of eligibility or the issuance of a grant of assistance.

#### MAXIMUM LEVELS OF ASSISTANCE

The amount of assistance as established in § [157-32](#) or the actual cost of any basic necessity, whichever is less.

#### MISCONDUCT

Conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violations or disregard of standards of behavior which the employer has a right to expect of his employee, or in carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his/her employer [26 M.R.S.A. § 1043(23)].

#### MUNICIPALITY

Any city, town or plantation administering a general assistance program.

#### MUNICIPALITY OF RESPONSIBILITY

The municipality which is liable for the support of an eligible person at the time of application [22 M.R.S.A. §§ 4301(9), 4307].

#### NEED

The condition whereby a person's income, money, property, credit, assets or other resources available to provide basic necessities for the individual and the individual's family are less than the maximum levels of assistance [22 M.R.S.A. §§ 4301(10), 4308].

#### NET GENERAL ASSISTANCE COSTS

Those direct costs incurred by a municipality in providing assistance to eligible persons according to standards established by the municipal officers. These do not include the administrative expenses of the general assistance program [22 M.R.S.A. §§ 4301(11), 4311].

#### PERIOD OF ELIGIBILITY

The time for which a person has been granted assistance. The period of eligibility may vary depending on the type of assistance provided; however, in no event shall this period extend beyond one month [22 M.R.S.A. § 4309(1)].

#### POOLING OF INCOME

The financial relationship among household members who are not legally liable for mutual support in which there occurs any commingling of funds or sharing of income or expenses. Municipalities may, by ordinance, establish as a rebuttable presumption that persons sharing the same dwelling unit are pooling their income. Applicants who are requesting that the determination of eligibility be calculated as though one or more

household members are not pooling their income have the burden of rebutting the presumption of pooling income [22 M.R.S.A. § 4301(12-A)].

#### REAL ESTATE

Any land, buildings, homes, mobile homes and any other things affixed to the land [22 M.R.S.A. § 4301(13)].

#### RECIPIENT

A person who has applied for and is currently receiving general assistance.

#### RESIDENT

A person who is physically present in a municipality with the intention of remaining in that municipality in order to maintain or establish a home and who has no other residence. A person who applies for assistance in a municipality who is not a resident of that municipality or any other municipality is the responsibility of the municipality where the person first applies. That municipality must take an application and grant assistance to the applicant if he/she is eligible, until he/she establishes a new residence in another municipality (see § [157-16](#)) (22 M.R.S.A. § 4307).

#### RESOURCES

Include any program, service, or other sources of support which are an alternative to or supplement for general assistance. There are two kinds of resources: available and potential.

##### A.

Potential resources are programs, services, nonliquid assets, or trusts which typically require people to apply in writing and/or wait a period of time before eligibility is determined or the potential income is released. Potential resources include but are not limited to any state or federal assistance program, employment benefits, governmental or private pension program, available trust funds, support from legally liable relatives, child support payments, and jointly held resources where the applicants' or recipients' share may be available to the individual (22 M.R.S.A. § 4317). Potential resources include TANF/AFDC, food stamps, fuel assistance (HEAP), subsidized housing, and similar programs.

##### B.

Available resources include resources which are immediately available to the applicant or which can be conveniently secured by the applicant without delay, such as cash on hand or in bank accounts, assets for which there is an immediate and available market, or support from relatives which is being made available at the time of application and for which the applicant does not have to take any unreasonable steps to secure (e.g., relocation beyond the immediate region). Available resources also include the services, commodities or facilities made available by private organizations when:

##### (1)

The applicant voluntarily agrees to utilize such services;

##### (2)

The City has established a contractual relationship with the private organization to provide services or commodities when requested;

##### (3)

The City is able to secure the services or commodities needed by an applicant from the private organization for any consideration acceptable to both the organization and the City; or

(4)

The service is available and offered at no cost to the applicant and deemed necessary by a physician, psychologist or other professional retraining or rehabilitation specialist.

C.

Charities may be considered private organizations which are available resources only if the charity places no unreasonable requirements on the applicant which are violative of the applicant's fundamental rights (Fjeld v. Lewiston, Andro. Sup. Ct. #CV 87-4; Bolduc v. Lewiston, Andro., Sup. Ct. #CV 87-248).

#### THIRTY-DAY NEED

An applicant's thirty-day need is the sum of the household's prospective thirty-day costs, from the date of application, for the various basic necessities. For the purpose of this calculation, the thirty-day cost for any basic need shall be the household's actual thirty-day cost for the basic necessity or the maximum thirty-day cost for the basic necessity as established by this chapter, whichever is less.

#### UNMET NEED

An applicant's unmet need is the household's thirty-day need as established by § [157-30](#) of this chapter less the household income as calculated pursuant to § [157-30](#) of this chapter, provided such a calculation yields a positive number. If the household income is greater than the household's thirty-day need, the household does not have an unmet need.

#### WORK REQUIREMENTS

Those obligations the municipal administrator places on applicants for general assistance as directed or authorized by 22 M.R.S.A. § 4316-A to the extent such obligations ensure a continuing potential eligibility for general assistance when complied with, result in disqualification when violated, and are not merely optional, discretionary, or advisory. Work requirements include registering for work, looking for work in good faith, accepting all suitable job offers, performing workfare, and participating in training, educational, or rehabilitation programs that will assist the participant in securing employment.

## **Article III. Administrative Rules and Regulations**

The following are rules and regulations for the administration of general assistance.

### **§ 157-4. Confidentiality of information.**

A.

Case records and all other information relating to an applicant or recipient of general assistance are confidential and will not be disclosed to the general public, unless the applicant or recipient states in writing what information is to be released (22 M.R.S.A. § 4306; Janak v. D.H.S., Aroostook Cty. #CV-89-116).

B.

Release of information. All files are under the jurisdiction of the GA Administrator, who is responsible for their safekeeping. Applicants, recipients and their legal representatives have the right to review their case records in the presence of and under the supervision of the GA Administrator at a time and date designated by the Administrator. No record will be released to a legal representative or other third party, however, unless the Administrator receives a consent

form signed by the applicant expressly authorizing the release of his/her records to the specified parties. Whenever the Administrator releases any information, he/she will make a notation in the applicant's file stating to whom the record was released and the date. The Administrator will charge a reasonable fee for the reproduction of any records when appropriate.

C.

Fair hearing authority. If an applicant requests a fair hearing (see Article [VII](#), Fair Hearing), the fair hearing authority will be given copies of the record prior to the hearing. The claimant will have access to information that is available to the hearing authority.

D.

Information from other sources. Information furnished to the City by the Department of Health and Human Services or any other agency or institution pursuant to 22 M.R.S.A. § 4314 is confidential. The General Assistance Administrator will also comply with laws relating to the confidentiality of records concerning birth, marriage and death (22 M.R.S.A. § 2706).

E.

Any representative of a financial institution (except national banks) or any employer of a general assistance applicant who refuses to provide necessary information to the Administrator in order to verify an applicant's eligibility must state in writing the reason for the refusal. Any such person who refuses to provide information, without just cause, may be subject to a civil penalty of not less than \$25 nor more than \$100. Any person, including the applicant, who knowingly and willfully gives false information to the Administrator is committing a Class E crime (22 M.R.S.A. §§ 4314, 4315).

F.

Misuse of information. Misuse of any information relating to an applicant or recipient is a punishable offense [22 M.R.S.A. § 42(2)].

**§ 157-5. Maintenance of records.**

A.

The General Assistance Administrator will keep complete and accurate general assistance records (22 M.R.S.A. § 4306). These records are necessary to:

(1)

Provide a valid basis of accounting for municipal expenditures.

(2)

Document and support decisions concerning an applicant or recipient.

(3)

Ensure the availability of all relevant information in the event of a fair hearing or judicial review of a decision by the General Assistance Administrator.

B.

Case records. The Administrator will establish and maintain a separate case record for each applicant or recipient. Each case record will include at least the household's applications, budget sheets, information concerning the types and amounts of assistance provided, narrative statements describing the nature of the emergency situation whenever general assistance is granted in amounts greater than the applicant's mathematical eligibility (i.e., deficit or unmet need, whichever is less), written decisions, any requests for fair hearings and the fair hearing authority decisions. Workfare participation will also be recorded, as will any cash repayments to the municipality. The record may also include a narrative history documenting the need for

general assistance, the results of home visits, collateral information, referrals, changes in status, the reason(s) for the release of confidential information, adjustments in aid and suspension or termination of eligibility.

C.

Case records will not include information or material that is irrelevant to an applicant's or recipient's application or to the General Assistance Administrator's decisions.

**§ 157-6. Housing, lodging, rooming and licensed hotel habitability.**

[Added 11-21-2013 by Ord. No. 13-186]

Any property owner, property manager, or agent receiving or wishing to receive rental payments from the City on behalf of any applicant must comply with 25 M.R.S.A. §§ 2464 and 2468, the most recent version as adopted by the State of Maine of the NFPA Life Safety 101 codes, Chapter [300](#), Land Use, of the City Code and Chapter [173](#), Housing Code, as amended. The City reserves the right to inspect any rental unit and lodging, rooming and licensed hotel unit for housing assistance prior to occupancy or as needed. The purpose of the inspection is to determine whether that unit or dwelling, in addition to all common spaces, is safe to occupy and in compliance with the laws, ordinances, and codes outlined here. The City Manager is authorized to promulgate rules detailing such inspection requirements, consistent with City Council policies. The City may withhold payments of rent or other assistance if any portion of a property is found to be unsafe for occupancy due to violations of the laws, ordinances, and codes outlined here.

**Article IV. Application Procedure**

**§ 157-7. Right to apply.**

A.

Who may apply. Anyone may apply for general assistance. The head of the household or family, any other responsible household member, or an authorized representative may apply for the household. Applications must be made in person except in an emergency situation as provided in [§ 157-15](#) of this chapter or except when the applicant is a resident of an emergency shelter and the City has made an agreement with that emergency shelter to presume shelter residents to be eligible for general assistance [22 M.R.S.A. § 4304(3)]. The Administrator may require a representative to present a signed statement documenting that he/she is in fact authorized to apply for general assistance on behalf of the named applicant. The applicant or representative must complete a written application and any other required forms so that the Administrator can determine eligibility (22 M.R.S.A. §§ 4305, 4308). With notice, all members of the household receiving general assistance may be required to physically present themselves to the Administrator.

B.

Application via telephone. When a person has an emergency but is unable to apply in person due to illness, disability, lack of child care, lack of transportation or other good cause, and he/she cannot send an authorized representative, the Administrator will accept an application by telephone. This application will be subject to the Administrator receiving written verification via mail or visiting the applicant's home with his/her permission (22 M.R.S.A. § 4304).

C.

Written application upon each request. Each request for assistance will be administered in accordance with these guidelines. The Administrator will make an independent determination of eligibility for general assistance each time a person applies (22 M.R.S.A. §§ 4308, 4309).

D.

Applications accepted; posted notice. Application forms will be available during regular business hours at the municipal office and when the General Assistance Administrator is conducting interviews with applicants. Notice will be posted stating when and where people may apply for assistance and the name of the Administrator available to take emergency applications at all other times. In addition, the posted notice shall include the fact that the municipality must issue a written decision on all applications within 24 hours, and the Department of Health and Human Services' toll-free telephone numbers for reporting alleged violations or complaints. Completed applications will be accepted and interviews given only during the regular hours established and posted by the Administrator. In an emergency, however, the Administrator will be available to accept applications for assistance whenever necessary (22 M.R.S.A. § 4304).

**§ 157-8. Application interview.**

Except when it is impractical, the General Assistance Administrator will interview each applicant personally before making a decision. The interview will be conducted in private, although the applicant may be accompanied by a legal representative, friend or family member. Those present will not dominate the interview or obstruct the Administrator from conversing with the applicant and obtaining information directly from the applicant. The interview may be tape recorded by the Administrator for administrative purposes as long as the applicant is so informed and the recorder is clearly visible.

**§ 157-9. Contents of application.**

At a minimum, the application will contain the following information:

A.

Applicant's name, address, phone number, birth date and social security number.

B.

Name(s), date(s) of birth, and social security number(s) of other household members for whom the applicant is seeking assistance.

C.

Total number of individuals in the building or apartment where the applicant is residing.

D.

Employment and employability information.

E.

All household income, resources, assets and property.

F.

Expenses.

G.

Types of assistance and reason being requested.

H.

Penalty for false representation.

I.

Applicant's permission to verify information.

J.

Signature of applicant and date.

### **§ 157-10. Administrator's responsibilities at time of application.**

A.

The Administrator will make every effort to inform all applicants of their rights and responsibilities as well as the general program requirements associated with applying for and receiving general assistance, including application requirements, eligibility guidelines, applicant rights, and reimbursement obligations.

B.

Application requirements. The Administrator will help the applicant fill out the application form as described in the preceding section. The Administrator will inform the applicant of any other information or documentation that the applicant will have to provide in order for the Administrator to evaluate the applicant's eligibility for assistance. The Administrator will fully explain the purpose of any release-of-information form or reimbursement agreement before seeking to obtain the applicant's signature or written authorization.

C.

Eligibility requirements. The Administrator will inform the applicant of the eligibility requirements of the program, including:

(1)

The income standard of need;

(2)

The applicant's ongoing use-of-income, work-related, and resource-related responsibilities, as directed in the section immediately below;

(3)

The financial reduction in assistance that is the consequence of spending household income on non-necessities; and

(4)

The disqualification penalties associated with committing fraud, failing to perform work-related assignments without just cause, or failing to make a good-faith effort to secure potential resources when the requirement to attempt to obtain those resources has been explained to the applicant in writing.

D.

Applicants' rights. The Administrator will inform all applicants of their rights to:

(1)

Review the municipal General Assistance Ordinance and Maine General Assistance Law.

(2)

Apply for assistance.

(3)

Receive a written decision concerning eligibility within 24 hours of applying for assistance.

(4)

Confidentiality.

(5)

Contact the Department of Health and Human Services.

(6)

Challenge the Administrator's decision by requesting a fair hearing.

E.

Reimbursement. The Administrator will inform the applicant that he/she must reimburse the City for the amount of general assistance he/she has been granted in the event of a subsequent ability to pay. In addition to seeking repayment from a recipient, the City also may recover the amount of assistance granted to a recipient during the previous 12 months from any relative legally liable for the applicant's support (spouses, parents of persons under the age of 25; see Article VIII, Recovery of Expenses) (22 M.R.S.A. §§ 4318, 4319). Whenever applicable, the Administrator will explain the various liens a municipality may place against a recipient's real or personal property, such as the mortgage or capital improvement lien, the workers' compensation lump-sum payment lien, or the SSI "interim assistance agreement" lien, as these liens are described in Article VIII, Recovery of Expenses.

**§ 157-11. Applicant's responsibilities at time of application.**

A.

The applicant has the following responsibilities at the time of each application:

(1)

To provide accurate, complete and current information and verifiable documentation concerning his/her income, resources, assets, household, employment, how the applicant has spent his/her income and any changes in this information that would affect his/her eligibility or that of the household (22 M.R.S.A. § 4309).

(2)

To apply each week so that his/her need and eligibility for assistance can be redetermined/updated weekly and job searches and work requirements can be accounted for each week.

(3)

To inform the Administrator of the names and addresses of relatives who are liable for the applicant's support (22 M.R.S.A. §§ 4317, 4319, 19 M.R.S.A. §§ 441 through 443<sup>[1]</sup>).

[1]

Editor's Note: 19 M.R.S.A. § 441 was repealed by L. 1995, C. 694, § B-1, effective 10-1-1997; 19 M.R.S.A. §§ 442 and 443 were repealed by L. 1991, C. 376, §§ 29 and 30, effective 6-18-1991.

B.

In addition, the applicant must accurately report and provide verifiable documentation that shows the applicant has:

(1)

Remained employed, if previously employed, and not quit work without just cause or been discharged from employment for misconduct;

(2)

Been seeking employment, if previously unemployed or employed on a part-time basis, has accepted any suitable offer of employment, and has satisfactorily performed all workfare assignments or had just cause not to perform those assignments;

(3)

Made use of all available and potential resources when directed in writing to such a program by the Administrator, including, but not limited to, other government benefit programs or the assistance of liable relatives of sufficient means; and

(4)

Participated in any training, retraining, educational or rehabilitative program when appropriate and when directed in writing to such a program by the Administrator, in order to diminish the applicant's need for general assistance (22 M.R.S.A. §§ 4316-A, 4317).

### **§ 157-12. Action on application.**

A.

Written decision. The General Assistance Administrator will give a written decision to the applicant concerning his/her eligibility within 24 hours after he/she submits a written application and will furnish assistance to eligible applicants within that period except when the municipality is permitted by law (and pursuant to § 157-22 of this chapter) to issue assistance conditionally on the successful completion of a workfare assignment (22 M.R.S.A. §§ 4305, 4321). A written decision will be given each time a person applies, whether assistance is granted, denied, reduced or terminated.

B.

Content. The written decision will contain the following information:

(1)

The type and amount of aid the applicant is eligible to receive or the applicant's ineligibility;

(2)

The period of eligibility if the applicant is eligible for assistance;

(3)

The specific reasons for the decision;

(4)

The applicant's right to a fair hearing; and

(5)

The applicant's right to notify the Department of Health and Human Services if he/she believes the City has acted illegally (22 M.R.S.A. § 4321).

### **§ 157-13. Withdrawal of application.**

An application is considered withdrawn if:

A.

The applicant requests in writing that his/her application be withdrawn; or

B.

The applicant refuses to complete or sign the application or any other form needed by the General Assistance Administrator.

### **§ 157-14. Temporary refusal to accept application.**

Under special circumstances, the General Assistance Administrator may temporarily refuse to accept applications for 24 hours. Such circumstances may include, but are not limited to, the following:

A.

When the applicant's conduct is abusive, disruptive, or harassing, or when the applicant is under the influence of drugs or alcohol. In these situations, the applicant will be asked to leave, and if the applicant refuses to leave, the police may be summoned. The applicant will be informed that an application will be accepted when his/her conduct is under control.

B.

When a third party applies for assistance on behalf of the applicant. That person may be required to provide written verification that he/she has been duly authorized to act as a representative for the applicant (22 M.R.S.A. § 4308).

C.

When it is not possible to communicate with the applicant due to a language barrier or severe physical or mental impairment, and it is determined that it may be necessary to obtain an interpreter or social worker or health worker to assist.

**§ 157-15. Emergencies.**

A.

An emergency is considered to be any life-threatening situation or a situation beyond the control of the applicant which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of the applicant or a member of the household [22 M.R.S.A. § 4301(4)]. Although they may be considered otherwise ineligible to receive general assistance, people who apply for assistance to alleviate an emergency will be granted assistance, except as provided below, if they do not have sufficient income and resources to meet an actual emergency need and have not had sufficient income and resources to avert the emergency (22 M.R.S.A. § 4308).

B.

Disqualification. A person who is currently disqualified from receiving general assistance due to a violation of § 6.5-145, 157-22, 157-23 or 157-28 is ineligible to receive emergency assistance [22 M.R.S.A. § 4308(2)(A)]. Dependents of a disqualified person may be eligible for assistance. For the purposes of this section, "dependents" are defined as:

(1)

A dependent minor child;

(2)

An elderly, ill or disabled person; or

(3)

A person whose presence is required to provide care for any child under the age of six years or any ill or disabled member of the household [22 M.R.S.A. § 4309(3)]. In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated as though the household is comprised of the dependents only, except that all household income will be considered available to them.

C.

Assistance prior to verification. Whenever an applicant informs the Administrator that he/she needs assistance immediately, the Administrator will grant, pending verification, the assistance within 24 hours, provided that:

(1)

After interviewing the applicant, the Administrator has determined that he/she will probably be eligible for assistance after a verification of information is completed; and

(2)

The applicant submits documentation, when possible, to verify his/her need.

D.

The Administrator may contact at least one other person to confirm the applicant's statements about needing emergency assistance. No further assistance will be authorized until the applicant's eligibility is confirmed (22 M.R.S.A. § 4310).

E.

Telephone applications. If a person has an emergency need and cannot apply in person due to illness, disability, lack of transportation, lack of child care, or other good cause, and if there is no authorized representative who can apply for the applicant, the Administrator will accept an application over the telephone [22 M.R.S.A. § 4304(3)].

F.

The Administrator will not grant any assistance as the result of a telephone application if the applicant refuses to allow the Administrator to verify the information either by visiting his/her home or by mail and the Administrator cannot determine his/her eligibility through any other means.

G.

Limitation on emergency assistance. Applicants are not automatically eligible for emergency assistance. If applicants had income which could have been used to prevent all or part of an emergency, but they spent that income on items which are not basic necessities, they will not be eligible to receive general assistance to replace that money. Applicants have the responsibility to provide the Administrator with verifiable documentation demonstrating that the applicant did not have sufficient income to avert the emergency situation. According to the following criteria, the Administrator may limit emergency assistance to cover only the difference between the amount of money necessary for the household to avoid the emergency and the amount of income available to the household during the applicable time period.

(1)

The applicable time period shall be the 30 days preceding the application for emergency assistance, except in those cases where the emergency was created by a negative account balance for a commodity or service (such as rent, mortgage or utility payments), and the negative account balance was created over a longer period of time. In such cases, the applicable time period shall be the consecutive length of time the account balance has been in the negative.

(2)

The Administrator shall seek from the applicant all information pertinent to the applicant's ability to provide for his/her basic necessities for the applicable time period, including evidence of all income and resources received and expenses incurred for the applicable time period.

(3)

The Administrator shall compute all costs for the household's basic necessities during the applicable time period, per month, in accordance with the maximum levels established by this chapter for the specific basic necessities or the actual monthly cost, whichever is less, including all costs associated with averting the particular emergency situation for which the applicant is seeking assistance.

(4)

From the total household costs for basic necessities during the applicable time period, the Administrator shall subtract the total income and lump-sum payments available to the household for the applicable time period as well as the total general assistance actually received during the applicable time period.

(5)

The Administrator may restrict the issuance of emergency assistance to the difference yielded by the computation in Subsection G(4), even when such a grant will not totally alleviate the emergency situation.

(6)

The Administrator may waive this limitation on emergency assistance in life-threatening situations or for first-time applicants; that is, persons who have never before applied for or received general assistance.

(7)

Nothing in these criteria may be construed as prohibiting a municipality from electing to alleviate an emergency situation in the most cost-effective manner available, provided such a determination of eligibility of emergency assistance is in conformance with general assistance law.

#### **§ 157-16. Residency.**

A.

Residents. The Administrator shall provide general assistance to all eligible persons applying for assistance who are residents of this City. A resident is a person who has no other residence and is physically present in this City and who intends to remain here and establish a household.

B.

Nonresident. The City also recognizes its responsibility to provide assistance to eligible persons who apply here and who are not residents of this City or any other municipality. If a person who is not a resident of any municipality applies in this City first, the Administrator will determine his/her eligibility and, if eligible, will grant assistance until he/she establishes a residence in another municipality (22 M.R.S.A. § 4307).

C.

Moving/Relocating. The City will not move or transport a person into another municipality to avoid general assistance support for that person [22 M.R.S.A. § 4307(1)]. Furthermore, it is the policy of the City of Augusta to provide assistance to all eligible applicants for necessary and suitable housing within City boundaries. Therefore, any housing assistance which the applicant is eligible to receive will be furnished for housing within the City of Augusta, unless it can be demonstrated that no suitable housing is available.

D.

Institutions. If a resident of this City enters an institution located in another City (such as a group home, shelter, rehabilitation center, nursing home, or hospital) and requests assistance while at the institution, he/she will be the responsibility of this City for up to six months after he/she enters the institution. The City thereafter retains responsibility for an applicant in an institution only if the applicant has maintained a home in this City to which he/she intends to return. All aforesaid responsibility ends at the time of discharge or leaving the institution. Responsibility then reverts to criteria stated under Subsections A and B of this section. The City also recognizes

its responsibility for an applicant residing in an institution in this City if he/she had no residence prior to entering the institution [22 M.R.S.A. § 4307(4)].

E.

Temporary housing. Hotels/Motels and similar places of temporary lodging are considered institutions (see above) if the City grants financial assistance for, makes arrangements for, or advises or encourages an applicant to stay in temporary lodging. [Note: Municipalities which illegally deny housing assistance, and as a result of the denial the applicant stays in temporary lodging, are responsible for the applicant for up to six months and may be subject to other penalties (22 M.R.S.A. § 4307(4)).]

F.

Disputes.

(1)

When the Administrator believes that an applicant is a resident of another city but that city disputes its responsibility, the Administrator will notify the Department of Health and Human Services in Augusta (287-3654 or 1-800-442-6003). If the applicant applies in this City first, the Administrator will determine his/her eligibility and, if eligible, will grant assistance until the Department has concluded which city is responsible for providing assistance. If another city was responsible, the Department will recover the amount due from the other city [22 M.R.S.A. § 4307(5) and (6)].

(2)

This provision will not be interpreted to prohibit the Administrator from advising uninformed applicants of the name of the city to which their application should correctly be made, especially when that municipality is an accessible, adjacent town and/or the applicant is unaware of the correct process, or is not aware of his correct legal residence or has been misdirected by another agency, etc.

## **Article V. Eligibility Factors**

A person will be eligible for general assistance if he/she is in need and has complied with the eligibility requirements set forth below.

### **§ 157-17. Initial application.**

A.

Initial application. For initial applicants, except as provided immediately below, need will be the sole condition of eligibility. The exception to this general rule, as provided by law, applies to all applicants, including initial applicants, who are disqualified for a defined period for quitting employment without just cause or for being discharged from employment for misconduct [22 M.R.S.A. § 4316-A(1-A), § [157-21](#) of this chapter]. An initial applicant is a person who has never before applied for general assistance in any municipality in Maine [22 M.R.S.A. § 4308(1)].

B.

Need. "Need" means that the applicant's income (including pro-rated income, where applicable), property, credit, assets or other resources are less than the overall maximum level of assistance contained in § [157-32](#) or the applicant's thirty-day need, whichever is less, and he/she does not have adequate income or other resources available to provide basic necessities.

C.

Subsequent applicants. Persons who are not initial applicants are repeat applicants. Repeat applicants are people who have applied for general assistance at any time in the past. Repeat applicants are also people on whose behalf a general assistance application was made at any time in the past, provided that at such a time the applicant was not a dependent minor in the household. For repeat applicants to be eligible for general assistance, they must be in need and meet all other eligibility requirements. The eligibility of repeat applicants may also be adversely affected to the extent they have not used their income and resources to secure basic necessities.

**§ 157-18. Receipt of categorical assistance.**

A.

Receipt of categorical assistance will not disqualify a person from receiving general assistance, if he/she is otherwise eligible. Benefits received from other assistance programs will be considered as income when determining need, with the exception of food stamps, which will not be counted as income or resources or otherwise taken into consideration when determining need [7 U.S.C. § 2017(b)]. Also, any fuel assistance (HEAP/ECIP) received by an applicant will not be considered as income or resources; that is, the Administrator will always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid all costs associated with his/her fuel needs [42 U.S.C. § 8624(f)]. The computation of general assistance for heating energy needs when an applicant has received HEAP or ECIP shall be accomplished in accordance with Subsection C under types of income at § 157-30.

B.

Applicants or recipients must apply for other program benefits within seven calendar days after being advised in writing to do so by the General Assistance Administrator. Persons who, without just cause, make no good-faith effort to secure a potential resource will be disqualified from receiving assistance until they make a good-faith effort to obtain the benefit (22 M.R.S.A. § 4317).

**§ 157-19. Personal property.**

A.

Liquid assets. No person owning assets easily convertible into cash, including, but not limited to, bank deposits, stocks, bonds, certificates of deposit and other marketable security, will be eligible for general assistance unless and until he/she uses these assets to meet his/her basic needs and thereby exhausts them.

B.

Tangible assets. No person owning or possessing personal property consisting of more than one motor vehicle, or a boat, motor, trailer, recreation vehicle or other assets that are convertible into cash and are nonessential to the maintenance of the applicant's household will be eligible for general assistance. Exceptions may be made when a person is making an initial application and when reasonable efforts to convert assets to cash at fair market value are unsuccessful.

(1)

Other examples of property which should be converted to cash if of significant value include: antiques, paintings, furs, jewelry, cameras, musical instruments, video and sound equipment,

guns, fishing equipment, golf, tennis, other sport and fitness equipment, various collections, including stamps, coins, cards, glass, etc., exotic pets and equipment, etc.

(2)

Tools of a trade, livestock, farm equipment and other equipment used for the production of income are exempt from the above category and are not considered available assets.

C.

Automobile ownership. Ownership of one automobile per household will not make a person ineligible for assistance if such vehicle is essential for transportation to employment, medical care, rehabilitation or training facilities, or if it is essential to the maintenance of the applicant's household. Recipients of general assistance who own an automobile with a market value greater than \$5,000 may be required, with written, thirty-day notice, to make a good-faith effort to trade that automobile in to a reputable automobile dealer for an automobile with a market value of less than \$5,000. Any income received by the applicant by virtue of such a trade-down must be used for his/her basic necessities. Failure to liquidate or trade down the excess value of an automobile asset can result in disqualification (22 M.R.S.A. § 4317). The City will neither pay nor consider as necessary expenses any car payment for which the applicant is responsible. General assistance for travel-related needs shall be computed in accordance with § [157-32C\(6\)\(f\)](#) and [\(g\)](#), regarding travel and work-related expenses.

D.

Insurance. Insurance that is available to an applicant on a noncontributory basis or that is required as a condition of employment will not be a factor in determining eligibility for general assistance. Life insurance with a cash surrender value may be considered as a tangible asset when an applicant has received assistance for four weeks or more after an application for assistance.

E.

Transfer of property. Applicants who transfer assets for less than fair market value to someone else solely for the purpose of establishing eligibility for general assistance will not be granted general assistance to replace the uncompensated value of the transferred assets. Assistance will be denied within a one-hundred-twenty-day limit up to the uncompensated value of the asset which was transferred unless the transfer of asset is fraudulently misrepresented, in which case, a one-hundred-twenty-day disqualification will be issued. There will be a presumption that the applicant transferred his/her assets in order to be eligible for general assistance whenever property is sold for less than the fair market value or when the transfer occurred within 30 days prior to applying for general assistance unless the applicant can demonstrate the existence of an arms-length transaction.

**§ 157-20. Ownership of real estate.**

A.

If the applicant or dependents own real property other than that occupied as the principal home, continued eligibility will depend on the applicant making a reasonable effort to:

(1)

Dispose of the property at fair market value in order to convert the property into cash which can be applied toward meeting present need; or

(2)

Obtain a loan against such property which may be used to meet present need.

B.

Applicants who transfer their excess property to someone solely to appear eligible for general assistance will be ineligible.

C.

If an applicant is granted assistance in the form of a mortgage payment or capital improvement payment, the City may claim a lien against the property. The lien shall not be enforceable until the time of sale of the property or upon the death of the recipient (22 M.R.S.A. § 4320; see also § [157-32](#)).

**§ 157-21. Work requirement.**

A.

All general assistance recipients are required to register for work, look for work, work to the extent of available employment, and otherwise fulfill the work requirements, unless the applicant is exempt from such requirements as provided below.

B.

Employment; rehabilitation. All unemployed applicants and members of their households who are 16 years of age or older will be required to accept any suitable job offer or opportunity for rehabilitative services, except as provided below (see exemptions). Applicants must demonstrate to the Administrator that they are available for work and are actively seeking employment.

C.

A "suitable job" means any job which the applicant is mentally and physically able to perform.

D.

"Available for work" means that applicants must make themselves available for work during normal business hours prevailing in the area, and show that no circumstance exists which would prevent them from complying with the work requirement.

E.

Verification of job search. Unemployed applicants or applicants employed on a part-time basis will be required to provide verifiable documentation of their pursuit of employment at the time of each application. At a minimum, such documentation shall consist of a list of the employers contacted, the date and time of the application contact, the name of the employer representative contacted and the job applied for. "Pursuit of employment" means actually submitting a written application or applying for a job in person when reasonable, or submitting a written application or letter of inquiry to employers. For the duration of any repeat applicant's period of unemployment or partial employment, the Administrator will establish the number of employers per week to whom each nonexempt applicant shall be required to apply in order to fulfill his/her work search requirements. The number of weekly employer contacts required by the Administrator shall be reasonably related to the number of potential employers in the region and the number of hours in the week the applicant has available for work search activities after considering all time the applicant must devote to existing employment obligations, workfare obligations, and required classroom or on-site participation in job training, educational, or rehabilitation programs. Fulfillment of these requirements will not be expected at the time of the initial application, but will be a condition of eligibility for subsequent assistance. The City will provide the applicant with a form to be used for the purpose of verification of job applications/searches and of employment. The completed form must be returned each week to maintain weekly eligibility and in some cases may be required daily.

F.

Disqualification. After being granted assistance at the time of initial application, applicants will be considered ineligible for further assistance for 120 days if they, without just cause:

(1)

Refuse to register for employment with the Maine Job Service;

(2)

Refuse to search diligently for employment when the search is reasonable and appropriate.

Recipients who unreasonably seek work at the same places repeatedly will not be considered to be performing a diligent work search and will be disqualified, as will persons falsifying their job search;

(3)

Refuse to accept a suitable job offer;

(4)

Refuse to participate in an assigned training, education or rehabilitation program that would assist the applicant in securing employment;

(5)

Fail to be available for work;

(6)

Refuse to participate or participate in a substandard manner in the municipal work program (see § [157-22](#)).

G.

Period of ineligibility for job quit or discharge for misconduct. No applicant, whether an initial or repeat applicant, who has quit his/her full-time or part-time job without just cause or who has been discharged from employment for misconduct will be eligible to receive general assistance of any kind for a one-hundred-twenty-day period from the date of separation from employment [22 M.R.S.A. §§ 4301(8), 4316-A(1-A)].

H.

Just cause. Applicants will be ineligible for assistance for 120 days if they refuse to comply with the work requirements of this section without just cause. With respect to any work requirement, just cause will be considered to exist when there is reasonable and verifiable evidence furnished to the Administrator that:

(1)

The applicant has a physical or mental illness or disability which prevents him/her from working;

(2)

The work assignment pays below minimum wages;

(3)

The applicant was subject to sexual harassment;

(4)

The applicant is physically or mentally unable to perform required job tasks, or to meet piece work standards;

(5)

The applicant has no means of transportation to or from work or a training or rehabilitation program;

(6)

The applicant is unable to arrange for necessary child care or care of ill or disabled family members;

(7)

Any reason found to be good cause by the Maine Department of Labor, or any other verifiable reason which the Administrator considers reasonable and appropriate will be accepted as just cause [22 M.R.S.A. § 4316-A(5)].

I.

Applicant's burden of establishing just cause. If the Administrator finds that the applicant has violated a work-related rule without just cause, it shall be the responsibility of the applicant to establish the presence of just cause (22 M.R.S.A. § 4316-A).

J.

Eligibility regained. Persons who are disqualified for 120 days because they violated the work requirement may regain their eligibility if and only when they become employed or otherwise satisfy the Administrator that they are complying with the work requirement by fulfilling the work requirement or requirements they violated.

K.

For the purpose of regaining eligibility under §§ [157-21](#) and [157-22](#) of this chapter by becoming employed, "employment" shall mean employment by an employer as defined in 26 M.R.S.A. § 1043 et seq., or the performance of a service for an employer who withholds from the employee a social security tax pursuant to federal law.

L.

The special provisions regarding the opportunity to regain eligibility after a disqualification for workfare violations are detailed in § [157-22](#) of this chapter, Subsection [G](#), Eligibility regained.

M.

Dependents. Failure of an otherwise eligible person to comply with the work requirements shall not affect the eligibility of any member of the person's household who is not capable of working, including:

(1)

A dependent minor child;

(2)

An elderly, ill, or disabled person; and

(3)

A person whose presence is required in order to provide care for any child under six years of age or for any ill or disabled member of the household [22 M.R.S.A. § 4309(3)].

N.

In the event one (or more) member(s) of a household is disqualified and assistance is requested for the remaining members of the household who are dependents, the eligibility of those dependents will be calculated as though the household is composed of the dependents only, except that all household income will be considered as available to them.

O.

Exemptions. The above work requirements do not apply to any person who is elderly, physically or mentally ill or disabled. Any person whose presence is required to care for any pre-school-age child or for any ill or disabled member of the household is also exempt from these requirements.

P.

The requirements of this section will not be imposed so as to interfere with an applicant's existing employment, ability to pursue a bona fide job offer, ability to attend an interview for possible employment, classroom or on-site participation in a primary or secondary educational program intended to lead to a high school diploma, classroom participation in a training program

which is either approved or determined by the Department of Labor to be expected to assist the applicant in securing employment, or classroom participation in a degree-granting program operated under the control of the Department of Health and Human Services or Department of Labor.

Q.

Verification. The applicant will be required to provide verifiable documentation of any of the aforesaid exemptions from work requirement participation and to provide notice in advance of occurrence. The applicant will furnish copies of any agreements, plans, contracts, etc. for educational, training, or rehabilitative services entered into with or provided by any municipal, county, state or federal agency. Any supportive services or aid, financial or otherwise, available to the applicant will be reported and verified when applied for and when received. Schedules for participation and verification of attendance on a weekly or daily basis will be required. This Subsection Q applies to both work requirements and the municipal work program (see § 157-22).

R.

A person who indicates on his/her application or on his/her municipal work order that he/she is physically or mentally unable or is limited in his/her ability to fulfill any work requirements, including any bona fide employment, or to participate in the workfare program will be required to provide verification of his/her condition from a physician within 48 hours. A person who fails to complete any work requirements or workfare assigned and claims to be sick more than two consecutive days or who makes repetitive claims of illness over a period of time will be required to provide medical verification as to his/her condition from a physician. The City will pay for the examination if the applicant has no means to pay, in which case, the Administrator will choose the physician and may refer the applicant to free or reduced-cost medical services available. The Administrator will not require verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention [22 M.R.S.A. § 4316-A(5)]. This Subsection R applies to both work requirements and the municipal work program (see § 157-22).

**§ 157-22. Municipal work program (workfare).**

A.

Each applicant and any member of the household who is capable of working may be required to perform work for the City, including work for a nonprofit organization, as a condition of receiving assistance. The municipality may also require recipients, as a part of the municipal work program, to participate in training, education or rehabilitative programs that will assist the recipient in securing employment [22 M.R.S.A. § 4316-A(2)]. The work requirement provisions found in § 157-21 regarding just cause, dependents, exemptions and verification also apply to the municipal work program. A person's performance obligations and conduct requirements in fulfilling workfare assignments will be considered comparable to those inherent in bona fide employment. Persons participating in the City work program are not compensated for work performed.

B.

Consent/Work order. Persons assigned to the work program are required to sign a form stating that they understand the requirements of general assistance and the work program (workfare). Prior to signing the form, the Administrator will read it to the applicants or the applicants will read it themselves. The form will also state the dates and the number of hours the applicants must

work or attend training or educational programs, the job or training site and the hourly rate by means of which the duration of the work assignment is calculated. In addition, the consent form shall describe the consequences of failing to adequately perform part or all of the workfare or workfare-first assignment.

C.

Limitations. The municipal program work requirements are subject to the following limitations [22 M.R.S.A. § 4316-A(2) and (3)]:

(1)

No person shall, as a condition of eligibility, be required to do any amount of work that exceeds the value of the net general assistance that the person receives under municipal general assistance standards. Any person performing work under this subsection shall be provided with net general assistance, the value of which is computed at a rate of at least the prevailing minimum wage under state or federal law. (Note: The federal minimum wage is \$4.75/hour as of October 1, 1996, and shall be increased to \$5.15/hour on September 1, 1997.[1])

[1]

Editor's Note: The federal minimum wage was last updated in 2009 to \$7.25/hour.

(2)

No workfare participant shall be required to work for a nonprofit organization if that work would violate the participant's basic religious beliefs;

(3)

In no case shall eligible persons performing work under this subsection replace regular municipal employees.

(4)

In no case will work performed under this subsection interfere with an eligible person's:

(a)

Existing employment;

(b)

Ability to follow up on a bona fide job offer;

(c)

Attendance at an interview for possible employment;

(d)

Classroom participation in a primary or secondary educational program intended to lead to a high school diploma; or

(e)

Classroom or on-site participation in a training program which is approved or determined by the Department of Labor to be reasonably expected to assist the person in securing employment or classroom participation in a degree-granting program operated under the control of the Department of Health and Human Services or the Department of Labor.

(5)

In no case may an eligible person be required to work more than 40 hours per week. An eligible person who has full- or part-time employment shall be exempt from the work requirement to the extent that the work requirement in combination with his/her regular employment would result in the person working more than 40 hours per week.

(6)

In no case will an eligible person be required to perform work beyond his/her capabilities. However, when an illness or disability is claimed, an eligible person will be required, as a

condition of receiving assistance, to present a doctor's statement detailing the extent of the disability or illness (22 M.R.S.A. § 4309). If the Administrator requires a doctor's statement to verify an applicant's illness or disability, the municipality will pay for the doctor's evaluation if the applicant cannot access free or reduced-cost services and has no means to pay for the exam; however, in such a case the Administrator will choose the doctor. The Administrator will not require verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention [22 M.R.S.A. § 4316-A(5)]. The receipt of SSI benefits, VA benefits, etc., is not sufficient evidence to constitute inability to participate in a municipal workfare program. Workfare programs can be structured to accommodate the individual abilities of most clients and, in most instances, can be considered beneficial to health and well being as well as rehabilitative. Good work habits can be developed, training acquired and work references acquired.

(7)

In no case may an eligible person with an immediate need (i.e., a person in an emergency situation who has not been disqualified from receiving assistance for committing a program violation) be required to perform work under this subsection prior to receiving general assistance. The Administrator shall meet immediate needs upon receiving written assurance from the eligible person that he/she is willing to work to maintain eligibility for general assistance. When the recipient has no immediate need, workfare participation may be required prior to receiving general assistance in accordance with the following "workfare first" policy.

D.

"Workfare first" policy. Under the authority of 22 M.R.S.A. § 4316-A(2)(D), the Administrator may, in accordance with the following guidelines, require a recipient of general assistance to perform a workfare assignment prior to the actual issuance of the general assistance benefit conditionally granted.

(1)

In no circumstance will emergency general assistance for which an applicant is eligible be withheld pending the satisfactory performance of workfare.

(2)

All workfare participants under this policy will be provided a written decision, as otherwise required by law, within 24 hours of submitting an application for general assistance and prior to performing any workfare for the municipality associated with that request for assistance. That written decision must include:

(a)

A specific description of the amount of general assistance being conditionally granted to the household, and for which basic needs;

(b)

The period of eligibility for which the general assistance grant is being issued (in days or weeks, but not to exceed 30 days);

(c)

The rate, at a dollar-per-hour basis (but not less than the prevailing minimum wage), upon which the duration of the workfare assignment is calculated;

(d)

The actual duration of the workfare assignment that must be performed, in hours, before the general assistance grant will be actually issued;

(e)

The specifics of the workfare assignment(s), including the general nature of the type of work being assigned, location(s) of work-site, date(s) and time(s) of assigned workfare, workfare supervisors, names and contact telephone numbers; and

(f)

Any other pertinent information related to the workfare assignment(s) the recipient will be expected to perform.

(3)

As previously provided in this section, all workfare participants under this policy must sign a consent form that informs the participant of his/her workfare-related rights and responsibilities, including the consequences of failing to perform all or part of the workfare assigned without just cause.

(4)

In addition to any disqualification penalty that may apply, the consequences of refusing to perform or completely failing to perform the workfare assignment, without just cause, or performing the entire workfare assignment below the average standards of that job without just cause, will be the termination of the entire general assistance grant. Notice of the grant termination will be provided the workfare participant in accordance with § [157-33](#) of this chapter.

(5)

If some of the workfare-first assignment is satisfactorily performed but there has been a failure to perform the remainder of the assignment, without just cause, the Administrator shall issue a grant of general assistance in the amount of the number of workfare hours satisfactorily performed times the hourly rate used to calculate the duration of the workfare assignment. In addition to any disqualification penalty that may apply, the remaining value of the conditionally issued general assistance grant shall be terminated, and notice of the partial termination, and the reasons therefor, will be issued to the workfare participant in accordance with § [157-33](#) of this chapter.

(6)

Any amount of the workfare assignment that is not performed because the workfare participant was temporarily unable to perform the assignment for just-cause reasons shall be reassigned.

E.

Work-related expenses. A participant's expenses related to work performed under this subsection will be added to the amount of net general assistance to be provided to the person [22 M.R.S.A. § 4316-A(2)(E)]. The City will provide any special clothes or equipment the recipient needs to perform his/her work assignment.

F.

Disqualification. Any person who willfully fails to perform or willfully performs below average standards the work assigned by the City, without just cause, will be ineligible for either regular or emergency assistance for 120 days [22 M.R.S.A. § 4316-A(1)]. As soon as the Administrator knows that a recipient failed to fulfill the work assignment, the Administrator will notify the recipient that he/she is disqualified for 120 days unless the recipient can show just cause.

(1)

The burden of demonstrating a just-cause failure to perform a workfare assignment falls on the workfare participants.

(2)

Persons who are disqualified for violations of the work requirement or the municipal work program are not eligible for any form of general assistance, including emergency assistance,

during the period of time for which the person is disqualified, nor will any person be retroactively eligible for general assistance to cover a debt for a basic necessity incurred during a period of time for which that person has been disqualified [M.R.S.A. § 4308(2)(A)].

(3)

Dependents in the household may continue to be eligible (see § [157-21M](#), Dependents).

G.

Eligibility regained. Recipients who are disqualified from receiving assistance because they have violated the requirements of the municipal work program may regain their eligibility under the following conditions:

(1)

If during the one-hundred-twenty-day disqualification period the recipient makes a timely and reasonable request to perform the work assignment which he/she, without just cause, failed to perform, the disqualified recipient will be given one opportunity to regain eligibility. The Administrator will give the recipient a work assignment as soon as possible.

(2)

Recipients who have asked to regain their eligibility during a one-hundred-twenty-day disqualification period and who agreed to fulfill the assignment which they previously failed to perform and who, without just cause, again fail to fulfill their municipal work assignment will be considered to have acted in bad faith. In such a circumstance, the Administrator will enforce the one-hundred-twenty-day disqualification for the term of its initial duration.

(3)

If a workfare participant regains eligibility under this section but is subsequently disqualified within the initial one-hundred-twenty-day period of disqualification for failing to comply with the municipal work program, that participant will be ineligible for a new one-hundred-twenty-day period beginning with the new disqualification date, but with no opportunity to requalify.

(4)

Assistance issued to workfare participants who were disqualified but regained eligibility will commence at the point in time eligibility is regained. The recipient is not eligible for assistance applicable to any period during which he/she was disqualified.

(5)

Any recipient who intentionally causes damage to property or harms or endangers other employees by his/her actions and is discharged by the work supervisor will not be entitled to regain eligibility by returning to the work program. Eligibility may be regained by otherwise becoming employed and meeting the definition of need (see § [157-21](#) for definition of becoming employed).

(6)

Persons who establish just cause for failure to fulfill work assignments are not disqualified and remain eligible for assistance. When appropriate, the work assignment(s) missed will be reassigned at a later date during the eligibility period.

H.

Reports. The Administrator will itemize the assistance that has been provided to persons who work for the municipality in reports in the Department of Health and Human Services [22 M.R.S.A. § 4316-A(2)].

**§ 157-23. Use of resources.**

A.

Each applicant has the responsibility to make a good-faith effort to secure every available or potential resource which may reduce his/her need for general assistance (see definition of "resources" in § [157-3](#)). People who refuse or fail to make a good-faith effort to utilize a potential resource after receiving a written seven-day notice to do so are disqualified from receiving assistance until they make an effort to secure the resource. Applicants are required to prove that they have made a good-faith effort to secure the resource (22 M.R.S.A. § 4317).

B.

Minors.

(1)

A minor under the age of 18 who has never married and is applying independently for general assistance and who is pregnant or has a dependent child or children will be eligible to receive general assistance only if the minor is residing in the home of his/her parent, legal guardian or other adult relative, in which case the entire household will be evaluated for eligibility.

Exceptions to this limitation on eligibility will be made when:

(a)

The minor is residing in a foster home, maternity home, or other adult-supervised supportive living arrangement; or

(b)

The minor has no living parent or the whereabouts of the parents are unknown; or

(c)

No parent will permit the minor to live in the parent's home; or

(d)

The minor has lived apart from both parents for at least one year before the birth of any dependent child; or

(e)

The Department of Health and Human Services determines that the physical or emotional health or safety of the minor or the minor's dependent child or children would be jeopardized if the minor and his/her child or children lived with a parent; or

(f)

The Department of Health and Human Services determines, in accordance with its regulation, that there is good cause to waive this limitation on eligibility [22 M.R.S.A. § 4309(4)].

(2)

Any person under the age of 25 who is applying independently from his/her parents for general assistance will be informed that until he/she reaches the age of 25, the applicant's parents are still legally liable for his/her support (19 M.R.S.A. §§ 441 through 443<sup>[1]</sup>) and the municipality has the right to seek recovery from the parents of the cost of all assistance granted to such an applicant to the extent his/her parents are financially capable of repaying the municipality (22 M.R.S.A. § 4319). With regard to any such application, the City may seek verification of the applicant's need for general assistance by contacting his/her parents (City of Bangor v. DHS, Penob. Cty #CV-90-28). If the applicant's parents declare a willingness to provide the applicant with his/her basic needs directly, and there is no convincing evidence that the applicant would be jeopardized by relying on his/her parents for basic needs, the Administrator may find the applicant to be in no need for general assistance for the reason that his/her needs are being provided by a legally liable relative.

<sup>[1]</sup>

Editor's Note: 19 M.R.S.A. § 441 was repealed by L. 1995, C. 694, § B-1, effective 10-1-1997; 19 M.R.S.A. §§ 442 and 443 were repealed by L. 1991, C. 376, §§ 29 and 30, effective 6-18-1991.

C.

Mental or physical disability. Any applicant who has a mental or physical disability must make a good-faith effort to utilize any medical or rehabilitative services which have been recommended by a physician, psychologist or other professional retraining or rehabilitation specialist when the services are available to the applicant and would not constitute a financial burden or create a physical risk to the individual.

D.

Written notice; disqualification.

(1)

The Administrator will give each applicant written notice whenever the applicant is required to utilize any potential resources. Any applicant who refuses to utilize potential resources, without just cause, after receiving a written seven-day notice will be ineligible for further assistance, including emergency assistance, until he/she has made a good-faith effort to utilize the resources.

(2)

General assistance will not be withheld from the applicant pending receipt of a resource if the applicant has made, or is in the process of making, a good-faith effort to obtain the resource.

E.

Forfeiture of benefits. Any applicant who forfeits receipt of or causes a reduction in benefits from another public assistance program due to fraud, misrepresentation, or a knowing or intentional violation of program rules or a refusal to comply with that program's rules without just cause will be ineligible to receive general assistance to replace the forfeited benefits. To the extent the forfeited benefits can be considered income under general assistance law, the worth of the forfeited benefits will be considered income that is available to the applicant for the duration of the forfeiture. To the extent the forfeited benefits were provided not in the form of income but, rather, in the form of specific, regularly issued resources of a calculable value, that resource, up to its forfeited value, need not be replaced with general assistance for a period of 120 days from the date of the forfeiture unless the municipality is prohibited by federal or state law from considering the forfeited resource as available with respect to local public assistance programs (22 M.R.S.A. § 4317).

**§ 157-24. Period of disqualification.**

A.

No one will have his/her assistance terminated, reduced, or suspended prior to being given written notice and an opportunity for a fair hearing (22 M.R.S.A. §§ 4321, 4322). Each person will be notified in writing of the reasons for his/her ineligibility or disqualification and of the period of ineligibility or disqualification. He/She will also be notified that disqualifications are effective statewide and disqualified recipients are not to be found eligible for general assistance anywhere in the state unless the disqualification is lifted by the municipality which initiated the disqualification.

B.

As stated in 22 M.R.S.A. § 4308(2)(A), persons who are disqualified for violations stated in this section are not eligible for any form of general assistance, including emergency assistance,

during the period of time for which the person is disqualified; nor will any person be retroactively eligible for general assistance to cover a debt for a basic necessity incurred during a period of time for which that person has been disqualified.

C.

Work requirement. People who do not comply with a work requirement are disqualified from receiving assistance for a period of 120 days (unless they regain their eligibility; see §§ [157-21](#), [157-22](#)). People who do not comply with the work requirement associated with their grant of assistance and are disqualified before the period covered by the grant of assistance expires shall be disqualified for 120 days following the end of the period covered by the assistance grant. People who do not comply with a work requirement and are disqualified after the period covered by the grant of assistance expires will be disqualified for 120 days from the date of the written notice of disqualification. The Administrator shall give recipients written notice that they are disqualified as soon as the Administrator has sufficient knowledge and information to render a decision of disqualification.

D.

Use of resources. See § [157-23](#). Disqualification continues until a good-faith effort is made to utilize the resources.

E.

Forfeiture of benefits. See § [157-23](#). The worth of the forfeited benefit is considered available income for 120 days.

F.

Fraud. People who commit fraud are disqualified from receiving assistance for a period of 120 days. (See § [157-28](#), Fraud.) The Administrator will notify recipients in writing that they are disqualified as soon as the Administrator has sufficient knowledge and information to render a decision. If a disqualification for fraud is issued before the expiration of a grant of assistance, the period of disqualification shall commence on the day following the end of the period covered by the grant of assistance or on the day the fair hearing authority renders its decision, whichever is later. If fraud is discovered after the period covered by the grant of assistance has expired, the period of ineligibility will commence on the day of the written notice of disqualification.

## **Article VI. Determination of Eligibility**

### **§ 157-25. Recognition of dignity and rights.**

Any determination or investigation into an applicant's eligibility will be conducted in a manner that will not violate the applicant's privacy or personal dignity or violate his/her individual rights.

### **§ 157-26. Determination; redetermination.**

A.

The Administrator will make an individual factual determination of eligibility each time a person applies or reapplies for general assistance. The Administrator will make a redetermination of eligibility at least monthly but may do so as often as necessary to administer the program efficiently and meet the needs of the applicants. Upon any application, the Administrator will determine the applicant's eligibility on the basis of a thirty-day prospective analysis, but may

elect to disburse that applicant's assistance periodically, e.g., weekly, throughout the period of eligibility as established pursuant to that initial eligibility determination.

B.

The Administrator may redetermine a person's eligibility at any time during the period he/she is receiving assistance if the Administrator is notified of any change in the recipient's circumstances which may alter the amount of assistance which the recipient may receive. Once a recipient has been granted assistance, the Administrator may not reduce or rescind the grant without giving prior written notice to the recipient explaining the reasons for the decision and offering the recipient an opportunity to appeal the decision to the fair hearing authority (22 M.R.S.A. § 4309).

**§ 157-27. Verification.**

A.

Applicant's responsibility.

(1)

Each applicant and recipient has the responsibility at the time of application and continuing thereafter to provide complete, accurate and current information and documentation concerning his/her need, income, use of income, expenses, and any changes in information previously reported on the application. The Administrator will require documentation of the applicant's income, use of income, assets and resources plus actual bills and receipts for rent, utilities, fuel, telephone, medical services and other basic necessities that are reasonably obtainable. The recipient is responsible for notifying the Administrator of any changes in his/her household or income that may affect his/her eligibility.

(2)

When determining an applicant's eligibility, the Administrator will seek all necessary information first from the applicant. Information needed from other sources, with the exception of public records, will be gathered only with the knowledge and consent of the applicant [22 M.R.S.A. § 4309(1-B)].

B.

Decision. If an applicant does not have the necessary information at the time of application, the Administrator will give him/her the opportunity to provide the information prior to the expiration of the twenty-four-hour period within which the Administrator must act on the application. Except when assistance is conditionally granted pursuant to this municipality's workfare-first policy (see § [157-22](#)), if all the necessary information has been provided and the applicant is eligible, assistance will be granted. If the applicant does not provide the required information needed within the twenty-four-hour period, and the Administrator cannot determine the applicant's eligibility, the applicant will be denied assistance for that reason [22 M.R.S.A. § 4309(1-B)]. The applicant will be advised he/she may reapply when required information can be provided.

C.

Denial of assistance. The Administrator will not grant assistance to any applicant who refuses to supply necessary information and documentation concerning his/her needs, income and other resources, or who refuses to grant permission for the Administrator to contact other persons to verify the information. If the Administrator has attempted to verify the information but is unable to determine if the applicant is eligible because the applicant has refused to provide or allow the

Administrator to verify the necessary information, the applicant will be denied assistance until the necessary verification has been accomplished [22 M.R.S.A. § 4309(1-B)].

D.

Right to verify. It is the Administrator's responsibility to determine and verify the eligibility of each applicant. The Administrator may seek and verify information from all appropriate sources, including, but not limited to: the Department of Health and Human Services and any other department of the state having information that has a bearing on an applicant's eligibility, financial institutions, employers, landlords, physicians, and legally liable relatives. The Administrator will request the applicant's written consent authorizing the Administrator to receive the necessary information (22 M.R.S.A. § 4314).

E.

Penalty for refusing to release information. Any person governed by 22 M.R.S.A. § 4314 who refuses to provide necessary information to the Administrator after it has been requested must state in writing the reasons for the refusal within three days of receiving the request. Any person who refuses to provide the information, without just cause, commits a civil violation and may be subject to a fine of not less than \$25 nor more than \$100, which may be adjudged in any court of competent jurisdiction. Any person who willfully renders false information to the Administrator is guilty of a Class E crime [22 M.R.S.A. §§ 4314(5) and (6), 4315].

**§ 157-28. Fraud.**

A.

It is unlawful for a person to knowingly and willfully make a false representation of a material fact to the Administrator in order to receive general assistance or cause someone else to receive general assistance (22 M.R.S.A. § 4315). A material fact is any information which has direct bearing on the person's eligibility.

(1)

False representation shall include any individual knowingly and willfully:

(a)

Making a false statement to the General Assistance Administrator, either orally or in writing, in order to obtain assistance to which the applicant or the applicant's household is not entitled;

(b)

Concealing information from the General Assistance Administrator in order to obtain assistance to which the applicant or applicant's household is not entitled; or

(c)

Using general assistance benefits for a purpose other than that for which they were intended.

(2)

No person may be denied assistance solely for making a false representation prior to being given an opportunity for a fair hearing.

B.

Period of ineligibility. When the General Assistance Administrator finds that a person has knowingly and willfully misrepresented material facts for the purpose of making himself/herself eligible for general assistance, the Administrator shall notify that applicant in writing that he/she has been disqualified from receiving assistance for 120 days. For the purpose of this section, a material misrepresentation is a false statement about an eligibility factor in the absence of which some or all of the assistance would not be or would not have been granted. The notification of

disqualification issued by the Administrator shall inform the applicant of his/her right to appeal the Administrator's decision to the fair hearing authority within five working days of receipt. The period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance fraudulently received or upon the date of notification of disqualification, whichever is later.

C.

Right to a fair hearing. Any applicant who is denied assistance for making a false representation will be afforded the opportunity to appeal the decision to the fair hearing authority in accordance with Article [VII](#) of this chapter. No recipient shall have his/her assistance reduced or revoked during the period of eligibility before being notified and given the opportunity to appeal the decision. Any person who is dissatisfied with the decision of the fair hearing authority may appeal that decision to the Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure [22 M.R.S.A. § 4309(3)].

D.

Reimbursement. If a recipient does not appeal the decision or if the fair hearing authority determines that a recipient did make a false representation, he/she will be required to reimburse the City for any assistance received to which he/she was not entitled.

E.

Dependents. In no event will the disqualification of a person under this section serve to disqualify any eligible dependent in that household (22 M.R.S.A. § 4315). In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated as though the household is comprised of the dependents only, except that the entire household income will be considered available to them.

**§ 157-29. Period of eligibility.**

The Administrator will grant assistance to all eligible persons for a period that is sufficient to meet their immediate need but in no event may a grant of assistance cover a period in excess of one month (22 M.R.S.A. § 4309). Upon any application, the Administrator will determine the applicant's eligibility on the basis of a thirty-day prospective analysis. For reasons of administrative efficiency and accuracy, however, the Administrator may elect to disburse that applicant's assistance for shorter periods of time, such as weekly, throughout the established period of eligibility. When the Administrator elects to disburse general assistance for a period of time less than 30 days, subsequent grants of assistance during that thirty-day period may be issued pursuant to the initial determination of need unless the applicant's financial situation changes substantially enough to warrant a redetermination of eligibility.

**§ 157-30. Determination of need.**

A.

Thirty-day calculation. The period of time used to calculate need will be the next thirty-day period from the date of application [22 M.R.S.A. § 4301(7)]. The Administrator will calculate applicants' expenses according to the actual expense of the basic necessity or the maximum levels for the specific necessities allowed in § [157-32](#), whichever is less. The sum of these expenses, as calculated for a prospective thirty-day period, is the applicant's thirty-day need.

Applicants will not be considered eligible if their income and other resources exceeds this calculation except in an emergency [see § [157-15](#), 22 M.R.S.A. § 4308(2)].

[B.](#)

Overall maximum; deficit. Applicants will also not be considered in need of general assistance if their income, property, credit, assets or other resources available to provide basic necessities for their household are greater than the applicable overall maximum level of assistance set forth in the beginning of § [157-32](#) [M.R.S.A. §§ 4301(10), 4305(3-B)]. The difference between the applicant's income/resources and the overall maximum levels of assistance established by this chapter is the applicant's deficit. Once an applicant's deficit has been determined, the specific maximum levels of assistance for each basic necessity listed in § [157-32](#) shall be used by the Administrator to guide the distribution of assistance for which the applicant is eligible. The specific maximum levels of assistance for each basic necessity are intended to be reasonable and sufficient to help recipients maintain a standard of health and decency [22 M.R.S.A. § 4305(3-A)].

[C.](#)

Income for basic necessities. Applicants are required to use their income for basic necessities. Except for initial applicants, no applicant is eligible to receive assistance to replace income that was spent within the thirty-day period prior to an application for assistance on goods and services that are not basic necessities. All income spent on goods and services that are not basic necessities will be considered available to the applicant and combined with the applicant's prospective thirty-day income for the purposes of computing eligibility (22 M.R.S.A. § 4315-A). Applicants who have sufficient income to provide their basic necessities but who use that income to purchase goods or services which are not basic necessities will not be considered eligible for assistance. Persons who exhaust their income on basic necessities and who still need assistance with other basic necessities will be eligible, provided that their income does not exceed the overall maximum level of assistance.

[D.](#)

Use-of-income verification. Anyone applying for general assistance must document his/her use of income to the Administrator; otherwise, income received can be assumed to still be available. First-time applicants will be asked to provide this information to establish that need exists but will not be penalized for income used for goods and services that are not basic necessities. Required documentation can take the form of cancelled checks and/or receipts for payment which demonstrate that the applicant has exhausted all his/her income received over the last thirty-day period. Personal check stubs and copies of money orders are not considered adequate verification of payment.

[\(1\)](#)

Allowable expenditures include reasonable shelter costs (rent/mortgage); the actual costs of heating fuel, electricity and food, up to the ordinance maximums; telephone costs at the base rate if the household has verified a telephone is needed for medical reasons; the costs of nonelective medical services as recommended by a physician which are not otherwise covered by medical entitlement, insurance or sliding scale service; the reasonable cost of essential clothing and nonprescription drugs; and the costs of any other commodity or service determined essential by the Administrator.

[\(2\)](#)

Cable television, cigarettes/alcohol, gifts purchased, costs of celebrations, trips or vacations, court fines paid, repayments of unsecured loans, credit card debt, costs associated with pet care, etc. are not considered basic necessities and will not be included in the budget computation.

E.

Use of income prioritized.

(1)

Applicants will be notified in writing that the City of Augusta requires that recipients utilize their income and resources for specific basic necessities within amounts established by this chapter in the following order of priority:

(a)

Rent or other housing costs for the current month (receipt required).

(b)

Energy costs (lights and fuel) for the current month (bill and receipt of payment required).

(c)

Personal/Household needs (reasonable amounts up to ordinance maximums).

(d)

Food (up to the ordinance maximum).

(e)

Other additional current priority needs such as medicines, work-related expenses must be verified in order to be considered (bills, prescriptions and any receipts required).

(2)

The GA Administrator may provide that items in Subsection E(1)(e) take precedence over any item or items listed in Subsection E(1)(a) through (d) when deemed appropriate after considering the needs and circumstances of the particular applicant(s).

(3)

Families or individuals with regular income such as wages, AFDC, SSI, social security benefits, veterans benefits, etc. will be required to show verification each month when they apply that their total income is used to pay necessities as stated above. After verification (receipts) that the recipient paid those expenses, the City will apply any additional assistance the recipient is eligible for and in need of to remaining necessities in this order:

(a)

Food.

(b)

Personal/Household needs.

(c)

Others from the list in Subsection E(1)(a) through (e) above as approved by the GA Administrator.

(4)

Assistance will generally be furnished on a weekly basis with attention directed to dates that income and resources will be received and to dates that expenses are due and services or goods are needed.

(5)

If it is determined that the recipient household's income was not used as directed and also was not used for basic necessities, the recipient's household will not be eligible to receive either regular or emergency general assistance to replace that income. Assistance will not be reduced if

the recipient's household can verify income was exhausted to purchase basic necessities (22 M.R.S.A. § 4315-A).

F.

Computation of income and expenses.

(1)

In determining eligibility, the Administrator will subtract the applicant's net income from the overall maximum level of assistance found at the beginning of § [157-32](#). If income is greater than the overall maximum level of assistance, the applicant will not be eligible except in an emergency (see § [157-15](#)). If income is less than the overall maximum, the applicant has a deficit.

(2)

The City will provide assistance in an amount up to the deficit to the extent the applicant also has an unmet need and is in need of basic necessities. The City will not grant assistance in excess of the maximum amounts allowed in § [157-32](#) of this chapter, except in an emergency or when the Administrator elects to consolidate the applicant's unmet need, as provided immediately below.

G.

Consolidation of deficit. As a general rule and to the extent of their deficit, applicants will be eligible for assistance for any basic necessity up to, but not exceeding, the maximum amount allowed for that necessity in this chapter or the actual thirty-day cost of the necessity, whichever is less. Under certain circumstances, however, and in accordance with the following conditions, the Administrator may consolidate the applicant's deficit and apply it toward a basic necessity in an amount greater than the ordinance maximum for that necessity.

(1)

The practice of consolidating the deficit and applying it toward a basic necessity in amounts greater than the ordinance maximum shall be the exception rather than the rule;

(2)

The total general assistance grant cannot exceed the total deficit unless the applicant is in an emergency situation; and

(3)

The need for the application of the recipient's consolidated deficit toward a basic necessity was not created by the recipient mispending his/her income or resources in violation of the use-of-income requirements of this chapter.

**§ 157-31. Income.**

A.

Income standards. Applicants whose income exceeds the overall maximum level of assistance provided in § [157-32](#) shall not be eligible for general assistance except in an emergency. The Administrator will conduct an individual factual inquiry into the applicant's income and expenses each time an applicant applies.

B.

Calculation of income. To determine whether applicants are in need, the Administrator will calculate the income they will receive during the next thirty-day period commencing on the date of application and identify any assets or resources that would alleviate their need. For all applicants other than initial applicants, the Administrator will also consider as available income any income that was not spent during the previous thirty-day period on basic necessities, as well

as any income that was spent on basic necessities in unreasonable excess of the ordinance maximums for specific basic necessities. If the household's income exceeds the amount the household needs for basic necessities, up to the maximum levels contained in § [157-32](#), applicants will not be considered in need. Exceptions will be made in emergency situations which may necessitate that the maximum levels be exceeded (22 M.R.S.A. § 4308; see § [157-15](#)). Income and expenses should not be averaged or generalized. Attention will be focused on the actual dates and the actual amounts of income received and expended as applicable to the computation period.

### C.

Types of income. Income which will be considered in determining an applicant's need includes:

#### (1)

Earned income. Income in cash or in kind earned by the applicant/household through wages, salary, commissions, or profit, whether self-employed or as an employee, is considered earned income. If a person is self-employed, total income will be computed by subtracting reasonable and actual business expenses from gross income. When income consists of wages, the amount computed will be that available after taxes, social security and other payroll deductions required by state, federal, and local law. Rental income and profit from produce that is sold is considered earned income. Income that is held in trust and unavailable to the applicant or the applicant's dependents will not be considered as earned income. NOTE: Actual work-related expenses such as union dues, transportation to and from work, special equipment or work clothes, and child-care costs will not be considered available income and will be deducted [22 M.R.S.A. § 4301(7)].

#### (2)

Income from other assistance or social services programs. State categorical assistance benefits, SSI payments, social security payments, VA benefits, unemployment insurance benefits, and payments from other government sources will be considered as income, unless expressly prohibited by federal law or regulation. Federal law prohibits food stamps and fuel assistance payments made by the Home Energy Assistance Program (HEAP and ECIP) from being considered income. The value of the food stamps or fuel assistance will not be used to reduce the amount of general assistance the applicant is eligible to receive, although applicants may have only a limited or reduced need for general assistance for heating fuel or electricity if a recently received HEAP/ECIP benefit has sufficiently credited their account or otherwise obviated an actual fuel-related cost over the prospective thirty-day period. The Administrator's obligation is to always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid for his/her total fuel costs. Accordingly, in such cases, the Administrator will budget for the household's heating energy needs according to actual usage, up to the ordinance maximums, but the Administrator may, with written notice to the applicant, hold in reserve the heating energy portion of the applicant's deficit until such a time during the period of eligibility that the applicant has a demonstrable need for the disbursement of heating energy assistance; that is, the applicant's fuel tank can accept a minimum fuel delivery or the applicant no longer has a positive credit balance with his/her utility company. The City is not obligated to divert any recipient's heating energy allowance toward non-heating purposes solely on the basis of the recipient's receipt of HEAP/ECIP.

#### (3)

Court-ordered support payments. Alimony and child-support payments will be considered income only if actually received by the applicant. The General Assistance Administrator will

refer cases where support payments are not actually received to the State Department of Health and Human Services' Support Enforcement and Location Unit.

(4)

Income from other sources. Payments from pensions and trust funds will be considered income. Payments from boarders or lodgers will be considered income, as will cash or in-kind contributions provided to the household from any other source, including relatives [22 M.R.S.A. § 4301(7)].

(5)

Earnings of a son or daughter. Earned income received by sons and daughters below the age of 18 who are full-time students and who are not working full-time will not be considered income. The unearned income of a minor in the household will be considered available to the household.

(6)

Income from household members. Income from household members will be considered available to the applicant, whether or not the household member is legally obligated for the support of the applicant, if the household members pool or share their income and expenses as a family or intermingle their funds so as to provide support to one another (*Boisvert v. Lewiston*, Andro. Sup. Ct. CV #80-436).

(7)

The pooling or nonpooling of income. When two or more individuals share the same dwelling unit but not all members of the household are applying for general assistance, the Administrator shall make a finding under a rebuttable presumption that the entire household is pooling income [22 M.R.S.A. § 4301(12-A)]. One or more applicants for assistance can successfully rebut the presumption that all household income is being pooled by providing the Administrator with verifiable documentation affirmatively demonstrating a pattern of nonpooling for the duration of the shared living arrangement. Such documentation would include evidence of the entire household expenses as well as bank statements, canceled checks, receipts, landlord statements or other vendor accounts clearly supporting a claim that the applicant has been and is presently solely and entirely responsible for his/her pro-rata share of household costs. If the applicant is unable to successfully rebut the City's presumption that all household income is being pooled, eligibility of the entire household will be determined based on total household income. If the applicant successfully rebuts the municipality's presumption that all household income is being pooled, the applicant's eligibility will be determined on the basis of his/her income and his/her pro-rata share of actual household expenses.

(8)

Lump sum income. A lump-sum payment received by a repeat applicant's household prior to the date of application for general assistance shall be considered as income available to the household, with the exception of any required payments (i.e., any third-party payment which is required as a condition of receiving the lump-sum payment, or any payments of bills earmarked for the purpose for which the lump-sum payment was made) and any amount of the lump-sum payment which the applicant can document was spent on basic necessities, as described below.

(a)

In the case where a lump-sum payment was received by a household at any time prior to the date of application for general assistance, the Administrator must prorate an applicant's eligibility for general assistance according to the following criteria of 22 M.R.S.A. § 4301(7):

[1]

Identify the date the lump-sum payment was received.

[\[2\]](#)

Subtract from the lump-sum payment all required payments.

[\[3\]](#)

Subtract from the lump sum any amount the applicant can demonstrate was spent on basic necessities, including all basic necessities provided by general assistance in reasonable conformance with the specific maximum levels of assistance, per month, provided in this chapter; any reasonable payment of funeral or burial expenses for a family member; any reasonable travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities [22 M.R.S.A. § 4301(7)].

[\[4\]](#)

Add to the remainder all income received by the household between the date of receipt of the lump-sum payment and the date of application for general assistance.

[\[5\]](#)

Divide the sum created by Subsection [C\(8\)\(a\)\[4\]](#), above, by the aggregate maximum monthly allocation of general assistance available to the household pursuant to 22 M.R.S.A. § 4305(3-B) [[§ 157-32A\(2\)](#)].

[\(b\)](#)

The dividend remaining after following the above guidelines represents the number of months from the receipt of the lump-sum payment during which an income level equivalent to the maximum monthly allocation of general assistance for the household will be deemed available to that household. No proration of lump sum income can extend longer than 12 months from the date of application. Applicants who have been declared ineligible for reasons of lump sum proration will not be eligible for emergency general assistance during the period of proration.

### **[§ 157-32. Basic necessities; maximum levels of assistance.](#)**

[Amended 6-7-2012 by Ord. No. 12-079; 10-1-2015 by Ord. No. 15-161]

[A.](#)

Overall maximum levels of assistance.

[\(1\)](#)

Notwithstanding any of the maximum levels of assistance for specific basic necessities listed in this section, an applicant's eligibility for general assistance will be first determined by subtracting his/her income from the overall maximum level of assistance designated immediately below for the applicable household size [22 M.R.S.A. § 4305(3-B)]. The difference yielded by this calculation shall be the applicant's deficit. Applicants will be eligible for general assistance up to the calculated deficit to the extent the applicant is unable to otherwise provide the basic necessities essential to maintain himself/herself or his/her family. Applicants with no deficit shall be found ineligible for general assistance unless they are in an emergency, in which case eligibility for emergency general assistance will be determined according to [§ 157-15](#) of this chapter.

[\(2\)](#)

The Administrator will accurately record computations and supporting reasons which are the basis for any eligibility or ineligibility determination. If the initial thirty-day eligibility computation indicates no deficit or unmet need or an insufficient deficit to meet an applicant's

expressed immediate emergency need, the Administrator must always proceed to make a second emergency computation and determination. Both of these determinations are to be recorded with explanatory narratives and/or supporting verification. Any emergency assistance granted will be clearly identified as such.

**Overall Maximum GA**

<b>No. in Household</b>	<b>Monthly</b>
1	\$570
2	\$659
3	\$843
4	\$1,057
5	\$1,126
6	\$1,201

Each additional person +\$75

**B.**

Maximum levels of assistance for specific basic necessities. The City will grant assistance to eligible applicants for basic necessities according to the maximum levels for specific types of assistance set forth below and according to priority standards established in this chapter (§ [157-30](#)). The maximum levels will be strictly adhered to; although if the Administrator determines that there are exceptional circumstances and an emergency is shown to exist, the absolute levels will be waived in order to meet immediate needs (*Glidden v. Town of Fairfield*, Som. Sup. Ct. CV#79-17). In all cases, either the actual expenses the applicant incurs for basic necessities or the maximum amount allowed in each category, whichever is less, will be used in determining need.

**(1)**

In roommate situations, the applicant's need for common living expenses for food, rent, fuel, etc. will be presumed to be reduced by an amount equal to the other household members' proportionate fair share of the common living expenses. No applicant will be allowed to claim a need for any expense which has been or will be paid by another person.

**(2)**

In addition, as a general rule the municipality will not provide a benefit toward a basic need by paying a bill that is issued to a person not living with the applicant's household or that has otherwise been incurred by a person who has not been found eligible to receive assistance. Temporary exceptions to this general rule may be made by the Administrator in the following circumstances:

**(a)**

A recent, unplanned separation has occurred in the household resulting in the sustained or permanent absence of a former household member in whose name the bill was customarily issued;

**(b)**

The applicant and members of the applicant's household were or will be the sole recipients of the commodities or services covered by any bill to be paid or partially paid with general assistance; and

**(c)**

The applicant will make a good-faith effort to direct the vendor to issue future bills in the name of the applicant or other responsible person residing in the household.

C.

Allowable maximums for specific basic necessities follow by categories.

(1)

Food. The Administrator will provide food assistance to eligible persons up to the allowed maximum amounts designated by the U.S.D.A. Thrifty Food Plan for the appropriate household size. For this purpose, the City hereby incorporates by reference the U.S.D.A. Thrifty Food Plan, as distributed to the City by the Maine Department of Health and Human Services on or about October of each year. In determining need for food, the Administrator will not consider the value of the food stamps an applicant receives as income [22 M.R.S.A. § 4301(7)(A); Dupler v. City of Portland, U.S. Dist. Ct. CV#74-134 SD]. The City will authorize purchase orders to be used solely for approved food products. Moderately priced products may be specified. Food orders will be issued on a weekly basis or daily basis when appropriate.

(a)

The maximum amounts allowed for food are:

	<b>Food</b>	
<b>No. in Household</b>	<b>Weekly</b>	<b>Monthly</b>
1	\$45.12	\$194
2	\$83.02	\$357
3	\$118.84	\$511
4	\$150.93	\$649
5	\$179.30	\$771
6	\$215.12	\$925
7	\$237.67	\$1,022
8	\$271.86	\$1,169

Each additional member add:                   +\$146

(b)

The Administrator will exceed the above maximums when necessary for households having members with special dietary needs. The Administrator may require a doctor's statement which verifies that there is a special dietary need that requires an expenditure for food which is greater than the ordinance maximums.

(2)

Housing. The Administrator will provide assistance with rent or mortgage payments that are reasonable and within the allowed maximum levels below. It is the applicant's responsibility to find suitable housing, although the Administrator may help the applicant find housing when unusual circumstances so require. The Administrator will inform the applicant of the allowed housing maximums to assist him/her in his/her search for housing. The allowed maximum for any applicant will be the categorical housing maximum representing the minimum dwelling unit space necessary to adequately shelter the applicant household. Applicants requesting assistance for housing that contains more bedrooms than are necessary for the number of household members will be provided assistance according to the maximum level for the number of rooms actually needed. The same condition may be made regarding excess land, acreage or buildings in various computations regarding payment for shared housing, rent, mortgages, taxes, etc. Mobile home rentals will include the lot rental as part of the total rent.

(a)

Housing availability form. Applicants will be required to verify housing availability and costs by obtaining a statement completed by the landlord. The City will provide a form for that purpose, listing the necessary information. Housing assistance will be furnished on a weekly basis or daily when appropriate. Monthly rates will be converted to weekly and daily rates by dividing the monthly total by the number of days in the appropriate month to establish a daily rate for each month. The correct daily rate for each month involved will be used to arrive at the correct weekly rate.

[\(b\)](#)

Rental payments to relatives. The City will not authorize any rental payment to an applicant's relatives unless the rental relationship has existed for at least three months and the applicant's relative(s) relies on the rental payment for his/her basic needs. For the purpose of this section, a "relative" is defined as the applicant's parents, grandparents, children, grandchildren, siblings, parents' siblings, or any of those relatives' children [22 M.R.S.A. § 4319(2)].

[\(c\)](#)

Rental payments to private homes. When the applicants are living in private homes or sharing dwelling units with other people who are not requesting general assistance, the amount allowed as the applicant's shelter expense will be the applicant's pro-rata share of the actual, total shelter cost, up to the ordinance maximum [22 M.R.S.A. § 4301(6)].

[\(d\)](#)

Any housing assistance issued to a recipient in such a circumstance shall be issued, whenever reasonably possible, to the landlord or property owner with most superior legal or equitable interest in the property.

[\(e\)](#)

When the City issues in aggregate more than \$600 total in rental payments to any landlord in any calendar year, a 1099 form declaring the total amount of rental payments during the calendar year will be issued to the Internal Revenue Service (IRS) pursuant to IRS regulation. Rental payments constitute services rendered. [See § 6041(a) of Internal Revenue Code; see also § [157-34](#) of this chapter regarding disbursement.]

[\(f\)](#)

Mortgage payments.

[\[1\]](#)

In the case of a request for assistance with a mortgage payment, the General Assistance Administrator will make an individual factual determination of whether the applicant has an immediate need for such aid. In making this determination, the Administrator will consider the extent and liquidity of the applicant's proprietary interest in the housing.

[\[a\]](#)

Factors to consider in making this determination include:

[\[i\]](#)

The marketability of the shelter's equity;

[\[ii\]](#)

The amount of equity;

[\[iii\]](#)

The availability of the equity interest in the shelter to provide the applicant an opportunity to secure a short-term loan in order to meet immediate needs;

[\[iv\]](#)

The extent to which liquidation may aid the applicant's financial rehabilitation;

[\[v\]](#)

A comparison between the amount of mortgage obligations and the anticipated rental charges the applicant would be responsible for if he/she were to be dislocated to rental housing;

[\[vi\]](#)

The imminence of the applicant's dislocation from owned housing because of his/her inability to meet the mortgage payments;

[\[vii\]](#)

The likelihood that the provision of housing assistance will prevent such dislocation; and

[\[viii\]](#)

The applicant's age, health and social situation.

[\[b\]](#)

These factors shall be considered when determining whether the equity in the shelter is an available asset which may be substituted for the assistance the City would otherwise be required to provide. If after reviewing the above criteria the Administrator determines that (1) the monthly mortgage obligation is in accordance with the maximum levels of assistance available for housing appropriate to the applicant's household size; (2) there is no capacity in the accumulated equity in the property, when considered in the context of the applicant's borrowing capacity with the mortgagee or the general lending community, to suspend the mortgage obligation temporarily or reamortize the mortgage in such a way as to suspend or reduce the mortgage obligation; and (3) the failure to provide a mortgage payment in a timely manner could jeopardize the applicant's continued right of possession of the property, then the Administrator shall consider issuing a benefit in response to the applicant's request for mortgage assistance to the extent the applicant is otherwise eligible for general assistance.

[\[2\]](#)

If a mortgage payment is necessary, the Administrator will pay the actual amount due, up to the amount allowed according to the maximum levels listed below, whichever is less. After an initial application, assistance with such payments will be given only after the applicant has made all reasonable effort to borrow against the equity of his/her home. If there is not sufficient equity in the home with which to secure a loan, and if the monthly mortgage payments are not realistically in line with the rental rates for similar housing in the area that could meet the applicant's needs, the Administrator will inform the applicant that he/she is responsible for finding alternative housing within his/her ability to pay and will be obligated to make all reasonable efforts to secure such housing.

[\(g\)](#)

Liens. When the City makes mortgage payments, the City may place a lien on the property in order to recover its costs of granting assistance with mortgage payments (22 M.R.S.A. § 4320). No lien may be enforced against a recipient except upon his/her death or the transfer of the property. Further, no lien may be enforced against a person who is currently receiving any form of public assistance or who would again become eligible for general assistance if the lien were enforced.

[\[1\]](#)

If the City determines that it is appropriate to place a lien on a person's property to recover its costs of providing general assistance for a mortgage payment, it must file a notice of the lien with the County Registry of Deeds where the property is located within 30 days of making the mortgage payment. That filing shall secure the City's or the state's interest in an amount equal to the sum of that mortgage payment and all subsequent mortgage payments made on behalf of the

same eligible person plus interest and cost. Not less than 10 days prior to filing the lien notice in the Registry, the municipal officers must send notice to the owner of the real estate, the general assistance recipient, and any record holder of the mortgage by certified mail, return receipt requested, that a lien on the property is going to be filed with the Registry. This notice must clearly inform the recipient of the limitations upon enforcement plus the name, title, address and telephone number of the person who granted the assistance. The municipal officers must also give written notice to the recipient each time the amount secured by the lien is increased because of an additional mortgage payment or the imposition of interest. This notice must include the same information that appeared on the original notice of proposed filing sent to the recipient.

[\[2\]](#)

The City will charge interest on the amount of money secured by the lien. The municipal officers will establish the interest rate, not to exceed the maximum rate of interest allowed by the State Treasurer. The interest will accrue from the date the lien is filed.

[\(h\)](#)

Property taxes. In the event an applicant requests assistance with his/her property taxes, the Administrator will inform the applicant that there are two procedures on the local level to request that relief: the poverty abatement process [36 M.R.S.A. § 841(2)] and general assistance. If the applicant chooses to seek property tax assistance through general assistance, or if the applicant is denied a poverty tax abatement, the Administrator may consider using general assistance to meet this need only if:

[\[1\]](#)

The property tax in question is for the applicant's place of residence;

[\[2\]](#)

There is a tax lien on the property which is due to mature within 60 days of the date of application;

[\[3\]](#)

As a matter of policy or practice it is reasonably certain that a tax lien foreclosure will result in subsequent eviction from the residential property; and

[\[4\]](#)

The applicant, with sufficient notice, applies for property tax relief through the Maine Resident Property Tax Program, when available.

[\(i\)](#)

Safe and sanitary housing. For the purpose of clarifying the City's intent to provide decent and adequate housing to general assistance recipients, this chapter will clearly incorporate herewith by reference Chapter [173](#), Housing Code, of the City Code. Commercial rooming houses and motels, hotels, and shelters do not usually meet the standards of self-sufficiency for permanent dwelling units required in Chapter [173](#) but are available and suitable temporary or long-term housing options for many people. To assure that decent, safe and adequate housing is provided in these facilities, authorization of general assistance funds for housing needs will be contingent on verification that the landlord, owner or operator has a current valid lodging license for the premises from the Department of Health and Human Services, Division of Health Engineering, pursuant to 10-144 Code of Maine Rules, Chapter 201.

[\(j\)](#)

Code violations. Violations of Chapter [173](#), Housing Code, of the City Code or of State of Maine licensing requirements of the Department of Health and Human Services, Division of Health

Engineering, which result in citations requiring corrective action for health and/or safety reasons will result in the following action:

[1]

If an eligible person who is requesting housing assistance proposes to obtain occupancy for housing which is under citation, the Administrator will refuse to issue any assistance for the substandard housing but will provide assistance for suitable alternative housing.

[2]

If an eligible person requests assistance for housing which that person already occupies and which is currently under citation or subsequently cited as substandard, the Administrator will promptly issue a written notice to the eligible person stating that at the end of 30 days from the issuance date of the notice, the Administrator will refuse to issue any assistance for the substandard housing but will provide assistance for suitable alternative housing.

(k)

Housing maximums. The maximum levels of housing assistance contained in this chapter have been derived either from a locally accomplished fair market rental survey or the fair market rental values developed by the United States Department of Housing and Urban Development (HUD). If the maximum levels of housing are derived from the HUD values as those values are prepared and distributed by the Maine Department of Health and Human Services on or about October 1 of each year are hereby incorporated by reference. If and when the maximum levels of housing contained in this chapter are derived from a locally developed fair market rental survey, a record of that survey will be submitted to the Department of Health and Human Services, General Assistance Unit, and the maximum levels of housing assistance will be incorporated into this chapter pursuant to the ordinance adoption and amendment procedures found at 22 M.R.S.A. § 4305. The maximum amounts allowed for housing meeting safe and sanitary housing codes are:

No. of Bedrooms	Housing		Housing	
	Unheated	Unheated	Heated	Heated
	Weekly	Monthly	Weekly	Monthly
0	\$94	\$403	\$118	\$507
1	\$107	\$460	\$137	\$589
2	\$140	\$601	\$177	\$761
3	\$178	\$766	\$224	\$962
4	\$181	\$778	\$236	\$1,116

(l)

Emergency shelters. The Administrator may enter into agreements with local emergency shelters regarding arrangements for services which may or may not include temporary presumption of eligibility for some occupants [22 M.R.S.A. § 4304(3)]. Any agreements made regarding shelter services and charges shall be completed in writing mutually agreed upon and cosigned by the parties participating, with copies to be retained by both. Such agreements shall be limited to no longer than a one-year duration to coincide with the City's fiscal year and shall conform to the general assistance statutes and this chapter.

(3)

Utilities. Expenses for lights, cooking, and hot water will be budgeted separately if they are not included in the rent. Applicants are responsible for making arrangements with the utility company regarding service, including entering into a special payment arrangement if necessary. It is the applicant's responsibility to conserve and to keep utility costs as low as possible. Air

conditioning, excessive hot water use, deep freezer operation and waterbeds and fish tanks are examples of usage not necessary to maintain good health and should be discontinued temporarily.

[\(a\)](#)

Assistance will be granted to eligible applicants on the basis of their most recent bill. The City is not obligated to pay back bills or utility security deposits. Exceptions may be made in emergency situations pursuant to § [157-15](#). Disconnection of utility service will not be considered an emergency in all cases. The Administrator will make an individual, factual analysis to determine if the termination of utility service constitutes an emergency. The Administrator will consider the household composition, the time of year, the health of the household members, and other appropriate factors in reaching a decision. Applicants who had sufficient income, money, assets or other resources to pay their utility bill when it was received, but who spent all or part of their income on items which were not basic necessities, will not be eligible to receive general assistance to replace those funds. Applicants have the burden of providing evidence of their income and expenses and use of their income for the applicable time period [22 M.R.S.A. § 4308(2); see § [157-15](#)]. The Administrator will notify applicants in writing that they must give the Administrator prompt notice if their electric service is to be terminated or if their fuel supply is low. It is the applicant's responsibility to attempt to make arrangements with the utility company to maintain their service and to notify the Administrator if assistance is needed with a utility bill prior to service being terminated.

[\(b\)](#)

The maximum amounts allowed for electrical services, including lights, cooking and other electric uses, excluding heat, are:

[\[1\]](#)

Households without electric hot water.

No. in Household	Electricity	
	Weekly	Monthly
1	\$14.00	\$60.00
2	\$15.70	\$67.50
3	\$17.45	\$75.00
4	\$19.70	\$86.00
5	\$23.10	\$99.00
6	\$25.00	\$107.00

[\[2\]](#)

Households with electrically heated hot water.

No. in Household	Electricity	
	Weekly	Monthly
1	\$19.10	\$86
2	\$23.75	\$102
3	\$27.70	\$119
4	\$32.25	\$139
5	\$37.30	\$160
6	\$41.00	\$176

NOTE: For electrically heated households, the maximum amount allowed for electrical utilities per month shall be the sum of the appropriate maximum amount under this subsection and the

## Electricity

### No. in Household

### Weekly

### Monthly

appropriate maximum for heating fuel as provided below.

#### (c)

In accordance with the following conditions, the Administrator may allow as a budgetable expense the amount of an applicant's summer-loaded special payment arrangement (SPA) or budget payment arrangement (BPA), as calculated by the electric utility and entered into by the applicant, even when the arranged payment amount exceeds the above maximums or actual usage:

#### [1]

The SPA or BPA, when annualized, does not exceed the above monthly maximums, when annualized, for non-electrically heated dwelling units.

#### [2]

The SPA or BPA, when annualized, does not exceed the above monthly maximums and the fuel assistance maximums, when annualized, for electrically heated dwelling units.

#### [3]

The Administrator determines, in consultation with the utility, that the payment arrangement does not include in any part the installment payment of past debt unless the City guaranteed to the utility the allowance of such an arrangement as a condition of averting a disconnection.

#### (d)

Pursuant to the use-of-income requirements in § [157-30](#) of this chapter, whenever the Administrator budgets for SPAs or BPAs under this section, the recipient will be required to pay the SPA or BPA himself/herself to the extent of the income capacity of the household.

#### (e)

Nonelectric utilities. The allowed amount for water and sewer utility service will be budgeted at the actual thirty-day cost for those services. Gas utilities will be budgeted at the actual thirty-day cost up to maximum levels contained in the appropriate schedule of HUD § 8, Existing Housing Allowances for Tenant-Furnished Utilities and Other Services. Appropriate schedules are those which were original components of the HUD fair market housing values used in deriving housing maximums for this chapter.

#### (4)

Fuel. Expenses for home heating will be budgeted according to the actual need for fuel during the heating season (September through May), provided such expenses are reasonable, and at other times during the year when the Administrator determines the request for fuel assistance is reasonable and appropriate.

#### (a)

Assistance will be granted to eligible applicants on the basis of their most recent bill. The City is not responsible for back bills except in an emergency as provided in § [157-15](#). Applicants are responsible for monitoring their fuel supply and requesting assistance prior to depleting their fuel supply. When applicants who have been informed of this responsibility run out of fuel nonetheless, and can show no just cause for failing to give the Administrator timely notice of their need for fuel, the Administrator shall find that the emergency was not beyond the applicants' control, and process the emergency request accordingly, pursuant to § [157-15](#) of this chapter.

#### (b)

When considering requests for fuel, eligible applicants will be granted assistance with the actual amount necessary up to the following maximums:

**Fuel**

<b>Month</b>	<b>Gallons</b>	<b>Month</b>	<b>Gallons</b>
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
		May	50

(c)

When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon.

(d)

When fuels such as wood, coal and/or natural gas are used to heat, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than seven tons of coal per year, eight cords of wood per year or 126,000 cubic feet of natural gas per year or 1,000 gallons of propane.

(5)

Personal care and household supplies.

(a)

Expenses for ordinary personal and household supplies will be budgeted and allowed according to the applicant's actual need for these items, up to the maximums below. Personal and household supplies include: hand soap, toothpaste, shampoo, shaving cream, deodorant, dish detergent, laundry supplies, household cleaning supplies, razors, paper products such as toilet paper, tissues, paper towels, garbage/trash bags, and light bulbs.

**Personal Care and Household Supplies**

<b>No. in Household</b>	<b>Weekly Amount</b>	<b>Monthly Amount</b>
1-2	\$10.50	\$45
3-4	\$11.60	\$50
5-6	\$12.80	\$55
7-8	\$14.00	\$60
Each additional person	\$1.25	+\$5

(b)

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with children under five years of age for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

<b>No. of Children</b>	<b>Weekly Amount</b>	<b>Monthly Amount</b>
1	\$12.80	\$55
2	\$17.40	\$75
3	\$23.30	\$100
4	\$27.90	\$120

(6)

Other basic necessities. Expenses falling under this subsection will be granted when they are deemed essential to an applicant's or recipient's health and safety by the General Assistance Administrator and, in some cases, upon verification by a physician. Assistance will be granted only when these necessities cannot be obtained through the utilization of available resources.

[\(a\)](#)

Clothing. The City may assist a household with the purchase of adequate clothing. Before assistance will be granted for clothing, the General Assistance Administrator must be satisfied that the applicant has utilized all available resources to secure the necessary clothing. In some circumstances, clothing will be a postponable item. Exceptions to this would be, for example, if fire or unusual cold weather makes extra clothing an immediate necessity, special clothing is necessary for the applicant's employment, or a household member is without adequate clothing.

[\(b\)](#)

Medical. The municipality will pay for essential medical expenses, other than hospital bills (see below), provided that the municipality is notified and approves the expenses and services prior to their being made or delivered. Medical expenses include prescriptions, devices, treatments or services that are determined to be medically necessary by a licensed physician. The municipality will grant assistance for medical services only when assistance cannot be obtained from any other source and the applicant would not be able to receive necessary medical care without the municipality's assistance. The applicant is required to utilize any resource, including any federal or state program, that will diminish his/her need to seek general assistance for medical expenses. The municipality will grant assistance for nonemergency medical services only if a physician verifies that the services are essential. Provided there is no cost to the applicant, the Administrator may require a second medical opinion from a physician designated by the municipality to verify the necessity of the services.

[\[1\]](#)

Generally, the municipality will issue general assistance at the established Medicaid rates for all medical services, prescriptions, or other medical commodities. Before authorizing general assistance for any medical expenses, the Administrator will inform the pharmacy or medical service provider of the municipality's intention to pay for the medical service at the Medicaid rate and ask to be billed accordingly.

[\[2\]](#)

When deemed appropriate, the applicant will be required to seek to enter into an extended payment arrangement with the physician or other service deliverers based on Medicaid rates. The payment amount agreed upon must be for current necessary service and must be an amount that the applicant could reasonably be expected to afford if employed or receiving income. If a reasonable payment agreement is reached, the Administrator will include the monthly payment amount as an allowable expense in each month's budget computation thenceforth.

[\[3\]](#)

The applicant will be required to cooperate with the advice of the physicians whose services are being provided as regards to necessary patient participation, involvement and self-help. If medications or rehabilitation measures are necessary, the applicant will be expected to utilize them as directed and to cooperate in all ways so that the treatment will be beneficial and effective. The Administrator will require timely medical verification reports when treatment and medications are ongoing over a long period for other than chronic non-responding or terminal illnesses.

[\[4\]](#)

Ordinary medical supplies and nonprescription drugs will be budgeted at the actual amount not to exceed \$10 a month. Allowable supplies include bandages, aspirin, cough syrup, and other generic brand, nonprescription medicines. In addition, the basic monthly rate for telephone service will be budgeted when a telephone is essential to the health and safety of the household. In order for telephone service to be considered an allowable expense, the applicant must provide a written statement from a physician certifying that the telephone is essential. The statement is to be updated no less than every six months.

(c)

Hospital bills. In the event of an emergency admission to the hospital, the hospital must notify the Administrator within five business days of the admission. Notification must be by telephone, confirmed by certified mail, or by certified mail only. If a hospital fails to give timely notice to the Administrator, the City will have no obligation to pay the bill. The fact of notification establishes only that emergency services had to be provided to the patient before an application could be made for City assistance by the patient. The patient must still apply to the City at a later date for an eligibility determination as stated below.

[1]

Any person who cannot pay his/her hospital bill must apply to the hospital for consideration under the hospital's charity care program as provided in 22 M.R.S.A. § 396-F(1).[1] Anyone who is not eligible for the hospital's charity care program may apply for general assistance. Applicants must apply for assistance within 30 days of being discharged from the hospital and provide a notice from the hospital certifying that they are not eligible for the hospital's charity care program.

[1]

Editor's Note: 22 M.R.S.A. § 396-F was repealed by L. 1995, C. 653, § B-4, effective 1-1-1997.

[2]

Before the Administrator will consider whether to allow a hospital bill as a necessary expense, the applicant must enter into a reasonable payment arrangement with the hospital. The payment arrangement will be based upon the Medicaid rate. In determining an applicant's eligibility, the City will budget the monthly payment to the hospital the applicant has agreed to pay. The applicant's need for assistance with a hospital bill will be considered each time he/she applies by including the amount of the monthly payment in the applicant's monthly budget, but the recipient will be responsible for making any necessary payments to the hospital pursuant to the use-of-income requirements found at § 157-30 of this chapter.

(d)

Dental.

[1]

The City will pay for medically necessary dental services only. Full mouth extractions may be necessary at times. The applicant will be referred to a dental clinic in the area whenever possible. The Administrator will expect the applicant to bear a reasonable part of the cost for dental services, including extractions, taking into account the applicant's ability to pay. He/She will be expected to make a reasonable payment arrangement for preplanned dental services. The monthly payment on current bills is acceptable in the budget each month for essential services only.

[2]

As is the case with medical services generally, any general assistance the municipality issues for dental services will be at the established Medicaid rates for those services; and before

authorizing the general assistance benefit for dental services, the Administrator will inform the dentist or dental surgeon of the municipality's intention to pay at the Medicaid rate.

(e)

Eye care. In order to be eligible to receive general assistance for eyeglasses, an applicant must have his/her medical need certified by a person licensed to practice optometry. The General Assistance Administrator will provide assistance for eyeglasses to eligible persons only after the applicant has exhausted all other available resources. If a payment agreement can be worked out, the monthly payment (on current bill) will be acceptable in the budget for basic costs as approved in advance.

(f)

Work-related expenses. In determining need, reasonable and actual work-related expenses will be deducted from earned income. These expenses include transportation at the actual costs not to exceed \$0.28 per mile, child-care costs, work clothes and supplies. The applicant is required to provide documentation substantiating the costs and that the expenses were necessary. Public transportation or carpooling should be used when available. If within walking distance, transportation costs should not be necessary.

(g)

Travel expenses. In determining need, reasonable and necessary travel which is not work-related will be budgeted if the applicant can satisfy the Administrator that the prospective need for travel is necessary and not obtainable by public transportation, car pooling, relatives, low-cost or free services or within walking distance. For applicants in rural areas, limited trips on a weekly basis to a supermarket may be considered, as will any medically necessary travel. The rate at which such necessary travel will be budgeted is at actual cost not to exceed \$0.28 per mile, and this rate shall be construed to subsidize all costs associated with automobile ownership and operation, including gas/oil, tires, maintenance, insurance, financing, licensing/registration, excise tax, etc.

(h)

Burial, cremations. Under the circumstances and in accordance with the procedures and limitations described below, the municipality recognizes its responsibility to pay for the burial or cremation of eligible persons.

[1]

Funeral director must give timely notice. In order for the municipality to be liable for a burial or cremation expense, the funeral director must notify the Administrator prior to the burial or cremation or by the end of the next business day following the funeral director's receipt of the body, whichever is earlier [22 M.R.S.A. § 4313(2)]. This contact by the funeral director shall begin the process of developing an application for burial/cremation assistance on behalf of the deceased. It is the funeral director's responsibility to make a good-faith effort to determine if the family or any other persons are going to pay all or part of the burial expenses. If family members or others are unable to pay the expenses, and the funeral director wants the municipality to pay all or part of the expenses, the funeral director must make timely contact with the Administrator. In addition, the funeral director may refer legally liable relatives to the Administrator so that a timely determination of financial capacity may be accomplished. Application for assistance shall be created on behalf of the deceased. For the purposes of determining residency, calculating eligibility and issuing general assistance for burial or cremation purposes, an application for assistance shall be created by the Administrator on behalf of the deceased.

[a]

If the Administrator finds in preparing the application that there appears to be significant value in cash, liquid assets, tangible assets, personal property, real property, etc. owned by, in the possession of, or available within the estate of the deceased person and there are no liable relatives or other persons responsible on behalf of the deceased, the Public Administrator shall be contacted to probate the estate and the burial expense will be submitted as a claim against the estate.

[\[b\]](#)

With regard to residency, the municipality of responsibility for burial expenses shall be the municipality in which the eligible deceased person was a resident at the time of death as residency is determined under § [157-16](#) of this chapter.

[\[c\]](#)

Although legally liable relatives may be asked to provide information regarding their income, assets, and basic living expenses, that information will not be construed as an application for general assistance inasmuch as living persons are not eligible for burial assistance. To clarify this point of law, although legally liable relatives have a financial responsibility, it only exists to the extent the legally liable relatives have a financial capacity to do so. Therefore, legally liable relatives who are eligible for general assistance, by virtue of their eligibility, have no legal obligations to pay for the burial or cremation of their relatives. For these reasons, all general assistance issued for burial or cremation purposes shall be issued on behalf of, and in the name of, the deceased.

[\[2\]](#)

Financial responsibility of certain family members. Grandparents, parents, siblings, children and grandchildren of the deceased, who live in Maine or own property in Maine, are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Accordingly, at the request of the Administrator, all legally liable relatives must provide the Administrator with any reasonably requested information regarding their income, assets and basic living expenses.

[\[3\]](#)

Consideration of the financial responsibility of family members. Generally, when the Administrator can make a finding that one or more of the deceased's legally liable relatives have an obvious and demonstrable financial capacity to pay for the burial or cremation, by lump-sum payment or by means of a reasonable payment arrangement, the municipality will not grant the requested burial or cremation assistance. When the Administrator is unable to make such a finding, the following proration of familial responsibility will be implemented.

[\[4\]](#)

Proration of familial responsibility. A proration of familial financial responsibility will be used when no legally liable relative possesses an obvious and demonstrable capacity to pay for the burial or cremation, but one or more of the financially liable relatives is found to have a financial capacity to make a partial financial contribution, or the Administrator is unable to determine the financial capacity of one or more of said relatives. Under these circumstances, each legally liable relative is considered to be responsible for his/her pro-rata share of the total municipal contribution that would exist if no legally liable relatives had a financial capacity to contribute. Furthermore, and as long as all other eligibility factors have been satisfied, the municipality will provide as a burial or cremation benefit the aggregate of all pro-rata shares less the share of any legally liable relative who refuses to cooperate with the Administrator by providing information

or documentation reasonably necessary to determine that relative's financial capacity, and less any share or part of a share attributable to a legally liable relative who can financially contribute or partially contribute toward the burial or cremation to the extent of that relative's share.

[\[5\]](#)

Ten days to determine eligibility. The Administrator may take up to 10 days from the date of contact by the funeral director to issue a written decision regarding the amount of the municipal contribution toward the burial or cremation. The ten-day eligibility determination period from the date of contact by the funeral director shall be used as necessary to make third-party collateral contacts, verify the listing of legally liable family members and determine their respective financial capacities to contribute to the burial or cremation, contact the personal representative of the deceased's estate, if any, and other related administrative tasks. The Administrator shall not use this ten-day period allowed by law to unreasonably delay the municipality's decision.

[\[6\]](#)

Municipal obligation to pay when legally liable relatives or others can contribute. The figures provided in this subsection are the maximum benefits provided by the municipality when no contributions toward the burial or cremation are available from any other source. To the extent any legally liable relatives of the deceased have a financial capacity to pay for the burial or cremation, that financial capacity shall be deducted from the maximum burial costs allowed by this section. In addition, any other benefits or resources that are available, such as social security burial benefits, veterans' burial benefits, or contributions from other persons, will be deducted from the maximum amount the municipality will pay, except there will be no deduction from the municipal benefit level with respect to any contribution provided for the purpose of publishing an obituary notice up to an aggregate contribution limit for this purpose of \$75 when a paid receipt demonstrating the purchase of an obituary notice is provided to the Administrator.

[\[7\]](#)

Burial expenses.

[\[a\]](#)

The Administrator will respect the wishes of family members with regard to whether the deceased is interred by means of burial or cremated. If relatives, other persons, or other sources cannot cover the burial expenses of an indigent person, the maximum amount of general assistance granted for the purpose of burial is \$1,800. There will be no additional money for opening and closing of the grave, mandatory vault, cement liner, lot or marker.

[\[b\]](#)

The municipality's obligation to provide funds for burial purposes is limited to a reasonable calculation of the funeral director's direct costs, not to exceed the maximum amounts of assistance described in this subsection. Allowable burial expenses are limited to: removal of the body from a local residence or institution; a secured death certificate or obituary; embalming; a minimum casket; a reasonable cost for necessary transportation; and other reasonable and necessary specified direct costs, as itemized by the funeral director and approved by the Administrator.

[\[8\]](#)

Cremation expenses. In the absence of any objection by any family members of the deceased, or when neither the Administrator nor the funeral director can locate any family members, the Administrator will issue general assistance for cremation services. The maximum amount of

assistance granted for a cremation shall be \$975. There will be no additional payments for a lot, a burial urn, or transportation costs.

(i)

Capital improvements.

[1]

The costs associated with capital improvements/repairs (e.g., heating/water/septic system repair) will generally not be budgeted as a basic necessity. Exceptions can be made only when the capital improvement/repair has been preapproved by the Administrator as a necessary expense and the monthly cost of the capital improvement/repair has been reduced as far as reasonably possible; for example, by means of the applicant entering into an installment payment arrangement with the contractor. The Administrator may grant general assistance for capital improvements when:

[a]

The failure to do so would place the applicant(s) in emergency circumstances;

[b]

There are no other resources available to effect the capital repair; and

[c]

There is no more cost-effective alternative available to the applicant or City to alleviate an emergency situation.

[2]

In some cases, the entire immediate cost of the capital improvement can be mitigated by the applicant entering into an installment payment arrangement with a contractor. The City reserves the right to place a lien on any property pursuant to 22 M.R.S.A. § 4320 when general assistance has been used to effect a capital improvement. The lien process shall be accomplished in the same manner as for mortgage payments as described in § [157-32](#), Subsection [C\(2\)\(d\)](#).

**§ 157-33. Notice of decision.**

A.

Written decision. The Administrator will give a written decision to each applicant after making a determination of eligibility each time a person applies. The decision will be given to the applicant within 24 hours of receiving an application [22 M.R.S.A. §§ 4305(30), 4321; see § [157-12](#)]. In order to ensure that applicants understand their rights, the decision must also inform the applicant of his/her right to a fair hearing and of the review process.

B.

Contents. After an application has been completed, applicants will be given written notice of any decision concerning their eligibility for assistance.

(1)

In addition to the contents of a written decision listed in § [157-12](#) of this chapter, the notice will state that applicants:

(a)

Have the right to a fair hearing and the method by which they may obtain a fair hearing.

(b)

Have the right to contact the Department of Health and Human Services if they believe the City has violated the law. The decision will state the method for notifying the Department.

(2)

The written notice shall include the procedures for the conduct of fair hearings as contained in § [157-38](#) of this chapter.

#### **§ 157-34. Disbursement of general assistance.**

Except when determined impractical by the Administrator, all general assistance will be provided in the form of a voucher or purchase order payable to a vendor or through direct municipal payment to a provider of goods or services. General assistance will not be issued in the form of a cash payment to an applicant unless there is no alternative to making such a cash payment, in which case the Administrator shall document the circumstances for issuing general assistance in the form of cash [22 M.R.S.A. § 4305(6)].

##### **A.**

Payment by the City of purchase orders issued for services rendered will require that the vendor submit with the first payment request a completed Federal Withholding Form W-9 for the City Treasurer's records. Payment will not be made until the completed form is filed. When the City issues in aggregate more than \$600 total in any calendar year to a vendor for services rendered, a 1099 form declaring the total amount issued will be provided to the Internal Revenue Service (IRS) pursuant to IRS regulation. [See § 6041(a) of Internal Revenue Code.]

##### **B.**

The City may also physically issue goods directly to eligible persons from a City food pantry and supply closet maintained for this purpose. The cash value of these items will be determined from the actual cost of purchasing and will be documented and accounted for in the same manner as other assistance issued. No value will be attributed to donated goods distributed to eligible persons, but the items will be noted in the case file.

## **Article VII. Fair Hearing**

#### **§ 157-35. Right to fair hearing.**

Within five working days of receiving a written notice of denial, reduction or termination of assistance, or within 10 working days after any other act or failure to act, the applicant or his/her authorized representative has the right to request a fair hearing (22 M.R.S.A. § 4322). The right to review a decision by the General Assistance Administrator is a basic right of the applicant to a full evidentiary hearing and is not limited solely to a review of the decision [Carson v. Oakland, 442 A.2d 170 (Me. 1982); Thibodeau v. Lewiston, Andro. Sup. Ct. CV# 78-388].

#### **§ 157-36. Method of obtaining fair hearing.**

##### **A.**

Upon receiving notification of the decision of the General Assistance Administrator, all claimants will be informed of the method of obtaining a fair hearing. All complaints that are not clear requests for a fair hearing will be answered by a personal interview or in writing by the General Assistance Administrator. If the client is satisfied with the adjustment or explanation, the Administrator will make an entry in the case record and file any correspondence involved.

##### **B.**

Written request. To obtain a fair hearing, the claimant, or his/her authorized representative, must make a written request within five working days of receiving the Administrator's decision to deny, reduce or terminate assistance, or within 10 working days after any other act or failure to act. The Administrator will make available a printed form for requesting a fair hearing and will assist the claimant in completing it if necessary. On the printed form, the claimant will give the following information:

(1)

The decision on which review is sought;

(2)

The reason(s) for the claimant's dissatisfaction and why he/she believes he/she is eligible to receive assistance; and

(3)

The relief he/she seeks.

C.

The Administrator cannot deny or dismiss a request for a hearing unless it has been withdrawn by the claimant.

D.

Scheduling the fair hearing. Upon receipt of the completed written request, the fair hearing authority must meet and hold the hearing within five working days. The Administrator will notify the claimant in writing when and where the hearing will be held (22 M.R.S.A. § 4322). In addition to the date, time and place of the hearing, the notice of fair hearing sent to the claimant shall include, at a minimum, the claimant's rights to:

(1)

Be his/her own spokesperson at the fair hearing, or be represented by legal counsel or other spokesperson at the hearing, at the claimant's own expense.

(2)

Confront and cross-examine any witnesses presented at the hearing against the claimant.

(3)

Present witnesses on his/her own behalf. Arrangements for the date, time, and place of the hearing will take into consideration the convenience of the claimant and hearing authority. The claimant will be given timely notice to allow for preparation and will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his/her case.

### **§ 157-37. Fair hearing authority.**

A.

The municipal officers will appoint a fair hearing authority which will review decisions of the General Assistance Administrator when requested by any claimant or the claimant's authorized representative. The authority is charged with the responsibility of ensuring that general assistance is administered in accordance with the state law and local ordinance.

B.

The fair hearing authority may consist of the municipal officers, one or more persons appointed by the municipal officers to act as the hearing authority, or, if designated, the Board of Appeals created under 30-A M.R.S.A. § 2691 (22 M.R.S.A. § 4322). In determining the organization of

the fair hearing authority, the municipal officers will use the following criteria. The person(s) serving as fair hearing authority must:

(1)

Not have participated in the decision which is the subject of the appeal.

(2)

Be impartial.

(3)

Be sufficiently skilled in interviewing techniques to be able to obtain evidence and the facts necessary to make a fair determination.

(4)

Be capable of evaluating all evidence fairly and realistically, explaining to the claimant the laws and regulations under which the Administrator operated, and interpreting to the Administrator any evidence of unsound, unclear, or inadequate policies, practices or actions.

### **§ 157-38. Fair hearing procedure.**

A.

When a claimant requesting a fair hearing is notified of the date, time, and place for the hearing in writing, he/she will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his/her case. The claimant shall be permitted to review his/her file prior to the hearing. At a minimum, the claimant will be furnished the following information which will govern all fair hearings. All fair hearings will:

(1)

Be conducted privately, and will be open only to the claimant, witnesses, legal counsel, or others whom the claimant wants present, and the General Assistance Administrator, his/her agents, counsel and witnesses;

(2)

Be opened with a presentation of the issue by the fair hearing authority;

(3)

Be conducted informally, without technical rules of evidence, but subject to the requirements of due process;

(4)

Allow the claimant and the Administrator the option to present their position for themselves or with the aid of others, including legal counsel;

(5)

Give all participants an opportunity to present oral or written testimony or documentary evidence, offer rebuttal; question witnesses; and examine all evidence presented at the hearing;

(6)

Result in a decision, based exclusively on evidence or testimony presented at the hearing; and

(7)

Be tape recorded by the City and result in a written decision that is given to the claimant and filed with evidence introduced at the hearing. The fair hearing authority will allow the claimant to establish all pertinent facts and circumstances, and to advance any arguments without undue interference. Information that the claimant does not have an opportunity to hear or see will not be used in the fair hearing decision or made part of the hearing record. Any material reviewed by the fair hearing authority must be made available to the claimant or his/her representative. The

claimant will be responsible for preparing a written transcript if he/she wishes to pursue court action.

B.

The fair hearing authority shall admit all evidence if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.

**§ 157-39. Fair hearing decision.**

A.

The decision of the fair hearing authority will be binding on the General Assistance Administrator, and will be communicated in writing to the claimant within five working days after completion of the hearing. Written notice of the decision will contain the following:

(1)

A statement of the issue.

(2)

Relevant facts brought out at the hearing.

(3)

Pertinent provisions in the law or general assistance ordinance related to the decision.

(4)

The decision and the reasons for it.

B.

A copy of the notice of the decision will be given to the claimant. The hearing record and the case record will be maintained by the General Assistance Administrator.

C.

The written notice of the decision will state that if the claimant is dissatisfied with the fair hearing decision, he/she has a further legal right to appeal the decision pursuant to the Maine Rules of Civil Procedure, Rule 80B. To take advantage of this right, the claimant must file a petition for review with the Superior Court within 30 days of receipt of the fair hearing decision.

D.

When the decision by the fair hearing authority or court authorizes assistance to the claimant, that assistance will be provided within 24 hours.

**Article VIII. Recovery of Expenses**

**§ 157-40. Recipients.**

The City may recover the full amount of assistance granted to a person from either the recipient or from any person liable for the recipient, or his/her executors or administrators in a civil action. Prior to taking a recipient to court to recover the amount of assistance, the City will seek voluntary repayment from the recipient by notifying him/her in writing and discussing it with the recipient. The City shall not attempt to recover such costs if, as a result of the repayment, the person would again become eligible for general assistance (22 M.R.S.A. § 4318).

**§ 157-41. Recipients anticipating worker's compensation benefits.**

A.

The City shall claim a lien for the value of all general assistance payments made to a recipient on any lump-sum payment made to that recipient under the Workers' Compensation Act or similar law of any other state (22 M.R.S.A. § 4318; 39 M.R.S.A. § 67<sup>[1]</sup>).

[\[1\]](#)

Editor's Note: 39 M.R.S.A. § 67 was repealed by L. 1991, C. 885, § A-7, effective 1-1-1993. See now 39-A M.R.S.A. § 106.

[B.](#)

After issuing any general assistance on behalf of a recipient who has applied for or is receiving workers' compensation, the City shall file a notice of the municipal lien with the general assistance recipient and the Office of Secretary of State, Uniform Commercial Code Division. The notice of lien shall be filed on a UCC-1 form which must be signed by the recipient of general assistance who has applied for or is receiving workers' compensation. Any general assistance applicant who has applied for or who is receiving worker's compensation benefits and who refuses to sign a properly prepared UCC-1 form will be found ineligible to receive general assistance until he/she provides the required signature. The City shall also send a photocopy of that filing to the recipient's worker's compensation attorney, if known, the obligor (i.e., the applicable compensation insurance company), and the Workers' Compensation Commission. The lien shall be enforced at the time any lump-sum workers' compensation benefit is issued.

#### **§ 157-42. Recipients of SSI.**

All applicants who receive general assistance while receipt of their supplemental security income (SSI) assistance is pending or suspended, and which therefore may be retroactively issued to the applicant at a later date, will be required to sign a statement on an interim assistance agreement form distributed by the Department of Health and Human Services which authorizes the Social Security Administration to direct a portion of any retroactive SSI payment to the City and/or the state in repayment for the general assistance granted. Any general assistance applicant who has applied for or who may be applying for SSI, or who may be required to apply for SSI pursuant to 22 M.R.S.A. § 4317, and who refuses to sign the interim agreement SSI authorization form, will be found ineligible to receive general assistance until he/she provides the required signature (22 M.R.S.A. § 4318).

#### **§ 157-43. Relatives.**

The spouse of an applicant, or the parents of an applicant under the age of 25, are liable for the support of the applicant (22 M.R.S.A. § 4319). In addition, children and grandchildren, siblings, parents and grandparents are liable for the burial costs of each other. The City considers these relatives to be available resources and liable for the support of their relatives in proportion to their respective ability. The City may complain to any court of competent jurisdiction to recover any expenses made on the behalf of a recipient if the relatives fail to fulfill their responsibility (22 M.R.S.A. § 4319).

## **Chapter 165. Health Services**

[HISTORY: Adopted by the City Council of the City of Augusta as Ch. 6.5, Art. III, Div. 1, of the 1990 Code. Amendments noted where applicable.]

**§ 165-1. Bureau of Health and Welfare created; Director.**

There is hereby established a Bureau of Health and Welfare to be under the direct supervision and control of the Director of Health and Welfare.

**§ 165-2. Office of Director of Health and Welfare.**

The office of the Director of Health and Welfare is hereby established.

**§ 165-3. Enforcement.**

[Amended 1-6-1992 by Ord. No. 244]

It shall be the duty of the Police Chief or the Health Officer to cause the enforcement of the provisions of this chapter relating to health and to prosecute any and all persons violating such provisions.

**§ 165-4. Violations and penalties.**

Any person violating any of the provisions of this chapter or failing, or neglecting, or refusing to obey any lawful order or direction of a person authorized to investigate and enforce the provisions of this chapter shall be guilty of a misdemeanor and shall be subject to the provisions of Chapter 1, Article III, General Penalty, of the City Code.

**§ 165-5. Health Officer.**

**A.**

The City Manager shall appoint a Health Officer.

**B.**

The City Clerk shall notify the State of Maine Department of Health and Human Services of the name, address and term of appointment of the person appointed Health Officer.

**C.**

The Health Officer shall serve under the Bureau of Health and Welfare.

**D.**

In accordance with the state statutes, the Health Officer or any person employed by him may, when obstructed in the performance of his duty, call to his assistance any constable or other person he thinks fit, and every such police officer or person so called upon shall render assistance.

**E.**

The Health Officer shall perform those duties ascribed to him by statutes and by the City Manager or Council. The Health Officer shall specifically act on complaints and make inspections for health and sanitation conditions in eating establishments and places of public gathering, such inspection to be at least once a year.

[Amended 10-2-1989 by Ord. No. 194]

**§ 165-6. Neglect or refusal to obey orders of Health Officer.**

Whoever wilfully neglects or refuses to obey any order or direction of the Health Officer shall be punished in accordance with Chapter [1](#), Article [III](#), General Penalty, by a fine or imprisonment.

### **§ 165-7. Health nurses.**

The Director of Health and Welfare, with the approval of the Director of Community Services, shall appoint one or more public health nurses.

#### **A.**

The health nurses shall serve under the Bureau of Health and Welfare.

#### **B.**

Public health nurses appointed pursuant to this chapter shall:

##### **(1)**

Carry on a general health nursing program within the City under the direction of the Director of Health and Welfare.

##### **(2)**

Receive whatever supervision is available from the State Division of Health Nursing.

##### **(3)**

Report to the Health Officer all cases of infectious and contagious diseases, complaints and instances of nuisances, conditions dangerous to life and health, and shall, under his supervision, recommend medical treatment for indigents and those who cannot otherwise be provided for.

##### **(4)**

In carrying on their public health nursing program, cooperate with any agency or company providing funds for the public health nursing program within the City.

## **Chapter 169. Historic Preservation**

[HISTORY: Adopted by the City Council of the City of Augusta 10-15-1984 by Ord. No. 561 (Ch. 6, Art. III, Div. 5, of the 1990 Code). Amendments noted where applicable.]

### GENERAL REFERENCES

Demolition delay — See Ch. [134](#), § [134-5](#).

Land use — See Ch. [300](#).

### **§ 169-1. Authority and purpose.**

#### **A.**

This chapter is adopted by the City Council in accordance with this Code and pursuant to the legislative authority vested in the City by state statute.

#### **B.**

The purposes of this chapter are to:

##### **(1)**

Preserve and enhance districts, sites and landmarks within the City which possess particular historic or architectural significance and represent the essential characteristics of their neighborhoods and the unique legacy that defines this community; and

##### **(2)**

Promote the educational, cultural and economic welfare of the citizens of the City.

#### **C.**

To achieve these purposes, it is intended that owners of property with historic or architectural value consent to the designation of such property for historic preservation, and that districts, sites and landmarks be designated; that an Augusta Historic Preservation Commission be established; and that procedures and standards be adopted to preserve, protect and enhance historic districts, sites and landmarks.

### **§ 169-2. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

#### **HISTORIC**

A significant event, object, structure or area that exemplifies local, state or national history; or that has contributed significantly to the aesthetic, social, economic, political or cultural heritage of the City.

#### **HISTORIC DISTRICT**

A place or area which includes or encompasses such historic sites, landmarks, buildings, signs, appurtenances, structures or objects as may be designated for historic preservation in accordance with this chapter.

#### **HISTORIC LANDMARK**

Any improvement, building or structure of particular historic or architectural significance to the City relating to its heritage, cultural, social, economic or political history, or which exemplifies historic personages or important events in local, state or national history as may be designated in accordance with this chapter.

#### **HISTORIC SITE**

A parcel of land as may be designated for historic preservation in accordance with this chapter. The term "historic site" shall also include any improved parcel thereof used as and constituting part of the premises on which an historic landmark is situated.

#### **PRESERVATION**

An action to retain and protect districts, sites and landmarks which are associated with historic events, persons, objects, structures or areas in the City; or which have architectural value related to style, period or construction.

### **§ 169-3. Historic Preservation Commission.**

[Amended 4-17-2007 by Ord. No. 066]

Subsequent to and within 30 days of the adoption of this chapter by the City Council, the Council shall appoint members of the Augusta Historic Preservation Commission, as follows:

#### **A.**

Establishment; membership.

#### **(1)**

The membership of the Commission shall consist of seven persons who shall be residents of the City. Members of the Commission shall be appointed on the basis of demonstrated interest, knowledge or training in fields closely related to historic preservation (e.g., history, architecture, urban design, archeology) and should represent such professionals to the extent that they are available in the community. Information on the credentials of the Commission members will be kept on file and will be available to the public. Each Commission member is required to attend at

least one informational or educational meeting per year, approved by the state historic preservation officer, pertaining to the work and functions of the Commission or to historic preservation.

(2)

Two members of the Commission shall be initially appointed to terms of three years; two shall be appointed to terms of two years; one shall be appointed to a term of one year. All appointments thereafter shall be for terms of three years, except to fill a vacancy created by an unexpired term, in which case the appointment shall be for the remainder of the term. All vacancies shall be filled by appointment of the City Council within 60 days.

(3)

The Commission shall, within 30 days of the adoption of this chapter, and, after due notice and public hearing, adopt rules and regulations of the Augusta Historic Preservation Commission, and may from time to time amend the same.

(4)

Each member of the Commission shall serve without compensation.

(5)

The City Council may appoint other persons, not necessarily residents of the City, who shall serve on an advisory or consultant basis to assist the members of the Commission in the performance of their functions.

B.

Organization, rules and meetings.

(1)

A quorum shall consist of four members of the Historic Preservation Commission and shall be required to conduct all business. A majority vote of the total members of the Commission shall be required for action to be taken on any matter.

(2)

The Commission shall annually elect a Chairperson and other officers from its membership, and a Secretary who need not be a member.

(3)

The Chairperson shall call meetings as required, but no less frequently than four times a year. The Chairperson shall also call meetings when requested by a majority of its membership, the Mayor or the City Manager.

(4)

All meetings of the Historic Preservation Commission must be publicly announced, be open to the public, and have a previously available agenda. Public notice must be provided prior to any special meetings.

(5)

The Secretary shall maintain a permanent record of all Commission proceedings and any actions taken and all correspondence of the Commission. All records to be maintained or prepared by the Secretary are deemed public information and shall be kept at the City Planning Office, where they may be inspected during regular business hours.

C.

Administration.

(1)

The Historic Preservation Commission shall serve as a review board for the City Planning Bureau.

(2)

The Planning Bureau and the Commission shall prepare and present a budget to the City Council for an annual appropriation to the Commission in an amount they may deem necessary to fund the activities of the Commission.

(3)

The Planning Bureau, on behalf of the Commission, may secure clerical, technical, and professional assistance or consultation, accept grants, gifts of monies, or of service, and may hold or expend the same for any of the purposes of this chapter.

D.

Duties. The duties of the Historic Preservation Commission shall be to:

(1)

Assist and advise owners proposing properties to be designated as historic districts, sites or landmarks and assist with completion of the requirements for issuance of certificates of appropriateness. The Commission may erect signs or markers indicating the significance of any designated historic district, site or landmark, subject to obtaining written permission from the owners of said properties.

(2)

Work with the City Planner to prepare an annual budget.

(3)

Review applications for alterations, relocation and demolition of properties under its jurisdiction, as well as all proposed National Register nominations within its jurisdiction. When the Commission considers a National Register nomination which is normally evaluated by a professional in a specific discipline not currently represented on the Commission, the Commission shall seek expertise in this area before rendering its decision.

(4)

Conduct or cause to be conducted a continuing survey of cultural resources in the community according to guidelines established by the state historic preservation officer.

(5)

Make recommendations for designation of local landmarks and historic districts to the Planning Board and the City Council.

(6)

Act in an advisory role to other officials and departments of City government regarding the protection of local cultural resources.

(7)

Act as a liaison on behalf of the City Council to individuals and organizations concerned with historic preservation.

(8)

Work toward the continuing education of the citizens of Augusta regarding historic preservation issues and concerns.

(9)

Make an annual report of the activities of the Commission, which shall be submitted to the Planning Office, City Council, and a copy forwarded to the Maine Historic Preservation Commission under the conditions of agreement for a certified local government. Such reports shall include, but are not limited to, number and types of cases reviewed and their disposition (minutes of meetings would be appropriate), new designations made, revised resumes of

Commission members, appointments to the Commission, attendance records, and all minutes relating to National Register nominations.

**§ 169-4. Qualifications for historic designations.**

The historic districts, historic sites or historic landmarks established in accordance with this chapter shall have one or more or any combination of the following characteristics and qualifications, without limitations as to cultural or chronological period:

**A.**

Structures or sites at which events occur or have occurred that contribute to and are identified with or significantly represent or exemplify the broad cultural, political, economic, military, social or sociological history of the City and the nation, including sites and buildings at which visitors may gain insight or see examples either of particular items or of larger patterns in the North American heritage.

**B.**

Structures or sites associated with historic personages.

**C.**

Structures or sites associated with historic examples of a great idea.

**D.**

Structures or structural remains and sites embodying examples of architectural types or specimens valuable for study of a period, style or method of building construction, of community organization and living, or of landscaping; or a single notable structure or a single site representing the work of a master builder, master designer, architect or landscape architect.

**E.**

Structures contributing to the visual continuity of the historic district.

**F.**

Those sites or areas on or eligible for listing on the National Register of Historic Places or as a National Historic Landmark.

**G.**

The external appearance of a proposed district shall be cohesive and homogeneous, and shall be based on a common historical or architectural appearance or significance. Such boundaries shall not be established arbitrarily or for reasons other than those set forth in this section.

**§ 169-5. Establishment of historic districts, sites or landmarks.**

**A.**

Historic districts, historic sites or historic landmarks shall be established by amendment to § [169-6](#), and no property shall be included within a district nor become an historic site or historic landmark without the written consent of the property owner or owners. All such amendments shall be initiated by the completion of a form directed to the Chairperson of the Historic Preservation Commission and filed with the City Manager at City Center. The City Manager shall thereafter call a meeting of the Commission for purposes of formulating the Commission's recommendation concerning the request.

**B.**

The Commission will make an annual report to the Council on every request received. Drafts of the report shall also be mailed to the Maine Historic Preservation Commission for review and

comment before making its recommendation concerning the proposed establishment of an historic district, site or landmark.

C.

The Commission shall hold a public hearing on the request, after due notice, before a final report is made to the Council. Written notice of the proposal shall be given to the applicant, the Kennebec Journal, the Planning Board, the Zoning Board of Appeals, owners of all properties abutting or to be included within the proposed designation, and all other persons found by the Commission to have a special interest in the proposal at least 10 days in advance, of the time, place and subject of the hearing. The Commission shall submit a final report with its recommendations to the City Council, not later than 30 days after the public hearing.

D.

After receipt of the Commission's recommendations, as provided above, the City Council, at its next regular meeting, shall consider and take all appropriate action on the proposed amendment in accordance with the Charter, the Council's rules of procedure adopted pursuant thereto, and the laws of the State of Maine. Due consideration shall be given to the written views of owners of affected property and, in its discretion, the City Council may hold public hearings on any proposed structure or district for historic preservation designation. Within 10 days after the designation of any historic district, site or landmark, the owner of each property so designated shall be given written notice of such designation by the City Clerk. Such designation shall become effective 30 days after a vote of the City Council.

**§ 169-6. Historic districts, sites and landmarks designated.**

Descriptions of the lands, buildings, structures, and areas of the City designated as historic districts, historic sites or historic landmarks may be found on file in the office of the City Clerk.

**§ 169-7. Signage/Markers for designated historic districts, landmarks, sites or trails.**

[Added 8-4-2003 by Ord. No. 87]

A.

Historic districts. Up to four markers may be erected to locate the major boundaries or gateways of a locally or nationally designated historic district within the City. The maximum allowable area of the marker used for description/depiction of the district (not including structural support framing) shall not exceed 16 square feet; and the maximum height of each marker (measured from the existing ground level) shall not exceed eight feet. Markers may be proposed to be placed on public property, or proposed upon private property if the owner of said private property will grant to the City an acceptable easement for the City's placement and maintenance of said marker. The design of all signage/markers shall be complementary to the character of the historic area in terms of the choice of materials, colors, and lettering style; and the location of all proposed signage/markers shall promote vehicular and pedestrian safety. The recommended design and location of these markers shall be brought to the City Council for approval not later than 60 days after the Augusta Historic Preservation Commission has held a duly advertised public hearing on the matter.

B.

Historic landmarks, historic sites, historic trails. Markers may be erected on the grounds of a locally or nationally designated historic landmark or historic site within the City. The maximum

allowable area of the marker used for description/depiction of the landmark or site (not including structural support framing) shall not exceed 10 square feet; and the maximum height of the marker (measured from the existing ground level) shall not exceed eight feet. Markers may be proposed to be placed on public property, or proposed upon private property if the owner of said private property will grant to the City an acceptable easement for the City's placement and maintenance of said marker. The design of all signage/markers shall be complementary to the character of the historic area in terms of the choice of materials, colors, and lettering style; and the location of all proposed signage/markers shall promote vehicular and pedestrian safety. The recommended design and location of the marker shall be brought to the City Council for approval no later than 60 days after the Augusta Historic Preservation Commission has held a duly advertised public hearing on the matter.

#### **§ 169-8. Uses permitted within historic districts, sites or landmarks.**

Uses permitted in designated historic districts, sites or landmarks shall be those set forth in Chapter [300](#), Land Use, for the zone in which such district, site, or landmark is located.

#### **§ 169-9. Certificate of appropriateness required.**

##### **A.**

A certificate of appropriateness is a statement of the Historic Preservation Commission giving assurance that alteration to historic sites and landmarks or new structures and major renovations constructed in historic districts, where a building permit is required, are compatible with the character of the historic district, site or landmark. In any historic district and with respect to any historic site or historic landmark, no building permit shall be issued by the Code Enforcement Officer for any construction, alteration or demolition until a corresponding certificate of appropriateness has been issued by the Historic Preservation Commission.

##### **B.**

A certificate of appropriateness issued by the Commission shall be required before a permit is issued for any of the following:

##### **(1)**

Material change in the exterior appearance of an historic landmark, site or any building in an historic district by addition, reconstruction or alteration. Changes which require a certificate of appropriateness shall be limited to the exterior of the structure and outdoor spaces.

##### **(2)**

New construction of a principal or accessory building or structure visible from a public street where such building or structure will be located in an historic district.

##### **(3)**

Demolition of an historic landmark or of any building in an historic district.

##### **(4)**

Moving of an historic landmark or any building in an historic district.

#### **§ 169-10. Application for certificate of appropriateness.**

##### **A.**

Written application for the certificate of appropriateness shall be submitted to the Historic Preservation Commission stating the location, site and nature of the matter or item for which such certificate is sought. Application for a certificate of appropriateness shall be obtained from and submitted to the Code Enforcement Officer, who shall transmit such application to the Historic Preservation Commission for action. If an application for review is incomplete, it shall be returned to the applicant with notification of missing documentation required for a complete application. When the Commission acts on the completed application, it shall be returned to the Code Enforcement Officer, who shall issue or deny permits as appropriate. All completed applications must be acted upon by the Commission within 60 days.

B.

The application shall state the location, use and nature of the matter for which such certificate is sought and shall contain at least the following information or documentation unless any such information or documentation is expressly waived by the Commission:

(1)

The applicant's name and address and his interest in the subject property.

(2)

The owner's name and address, if different from the applicant's.

(3)

The address or location of the subject property.

(4)

The present use and zoning classification of the subject property.

(5)

A brief description of the construction, reconstruction, remodeling, alteration, maintenance, demolition or moving requiring the issuance of a certificate of appropriateness.

(6)

A drawing or drawings indicating the design, texture, color and location of any proposed alteration or new construction for which the certificate is being applied. As used herein, "drawings" shall mean plans and exterior elevations drawn to scale, with sufficient detail to show, as far as they relate to exterior appearances, the architectural design of the building, including materials, textures and colors. Samples of materials and colors are required.

(7)

Photographs of the building involved and of adjacent buildings.

(8)

A site plan indicating improvements affecting appearance such as walls, walks, terraces, planting, accessory buildings, signs, lights and other elements. The Commission may waive the requirements for a site plan if the change involved would not affect the improvements shown on such a plan.

**§ 169-11. Administrative procedures.**

A.

Notice to owner. Prior to issuance or denial of a certificate of appropriateness, the Historic Preservation Commission shall take such action as may be reasonably required to inform the applicant (owner, if different), all persons owning abutting property and/or within 100 feet of the exterior boundaries of the real estate under consideration in the application and all such other persons as the Commission may deem appropriate of the pendency of the application, and shall

give such persons an opportunity to be heard. For purposes of the notice required hereunder, the owners of property shall be considered to be those against whom municipal taxes for the real estate are assessed.

(1)

Failure of any petitioner to receive such notice of such public hearing shall not necessitate another hearing, shall not constitute grounds for objections by such petitioner and shall not invalidate any recommendation by the Commission on such matter.

(2)

Notice must be served a reasonable time in advance of the meeting, which will be construed to mean 10 days before the date of such meeting. Notice shall be by any method of personal service or substituted personal service authorized by the ordinances of the City and the laws of the state.

(3)

The owner will supply names of abutters and will be charged a flat application fee to cover cost of such notices.

B.

Public hearings. A public hearing shall be held within 30 days of receipt of any written application. Notice of all public hearing dates shall be published 10 days prior to the meeting and have a previously available agenda.

C.

Approval. If the Commission determines that the proposed construction, reconstruction, alteration, moving or demolition is appropriate, it shall approve a certificate of appropriateness and return it to the Code Enforcement Officer for issuing of necessary permits. The owner of the property will be informed in writing by the Commission within seven days of the date of approval.

D.

Disapproval. If the Commission determines that a certificate of appropriateness should not be issued, it shall place upon its record the reasons for such determination and shall forthwith return the application to the Code Enforcement Officer, who shall notify the applicant of such determination within seven days of action for disapproval, furnishing him an attested copy of the reasons thereof, and the recommendations, if any, as appearing in the records of the Commission.

**§ 169-12. Standards of evaluation.**

A.

Generally. When alterations to an historic district or site or landmark require a certificate of appropriateness, the Historic Preservation Commission shall evaluate the proposed changes based on the standards set forth in this section and on the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (Revised 1983).

B.

Reconstruction, alterations, new construction and maintenance.

(1)

A building or structure classified as an historic landmark, or a building or structure located in an historic district, or any part thereof, or any appurtenance related to such structures, including but not limited to walls, fences, light fixtures, steps, paving and signs, shall not be reconstructed, altered or maintained, and no certificate of appropriateness shall be issued for such actions, unless they will preserve or enhance its historical and architectural character.

(2)

Reconstruction of historic structures shall be compatible with the original structure. New construction or reconstruction of any structure within an historic district shall be compatible with the environment of the historic district. Where contemporary design is approved by the Historic Preservation Commission, it shall be compatible with the environment of the historic district.

(3)

In all cases, visual compatibility shall be considered with respect to:

(a)

Scale.

(b)

Height.

(c)

Facade.

(d)

Location.

(e)

Open spaces.

(f)

Building orientation.

(g)

General exterior appearance.

(h)

Solids and voids.

(i)

Roof shapes.

(j)

Materials.

(k)

Textures.

(l)

Entrances.

(m)

Projections.

(n)

Windows.

(o)

Doors.

C.

Demolition or removal.

(1)

An historic landmark, or any building or structure in an historic district, or any appurtenance thereto, shall not be demolished or moved and a certificate of appropriateness shall not be approved until either:

(a)

In an historic district, such building or structure has been identified by the Commission as incompatible with the historic district in which it is located; or

(b)

The property owner can demonstrate that it is not capable of earning an economic return on its value in its present location as appraised by a qualified real estate appraiser. If such a demonstration can be made, issuance of a certificate for movement or demolition shall be delayed for a period of 180 days. Such time period shall commence when an application for certificate and the statement of sale, as outlined below, have been filed with the Commission. Notices shall be posted on the premises of the building or structure proposed for demolition in a location clearly visible from the street. In addition, notice shall be published in a newspaper of general local circulation at least three times prior to demolition, the final notice of which shall be not less than 15 days prior to the date of the permit, and the first notice of which shall be published no more than 15 days after the application for a permit to demolish is filed.

(2)

Prior to the issuance of such certificate for removal, the owners shall stipulate that the proper notices as required had been posted, that the property was properly offered for sale, that there had been no bona fide offers made, and that no contract for sale had been executed with interested parties. The owner shall, for the period of time set forth and at a price reasonably related to its face market value, make a bona fide offer to sell such building or structure, and the land pertaining thereto, to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the building or structure and the land pertaining thereto. Prior to making such offer to sell, an owner shall first file a statement with the Historic Preservation Commission, identifying the property, the offering price and the date the offer to sell shall begin. The time period set forth in this section shall not commence until such statement has been filed.

D.

Purpose. The purpose of this section is to further the purposes of this chapter by preserving historic buildings which are important to the education, culture, traditions, and the economic value of the City, and to afford the City, interested persons, historical societies or organizations the opportunities to acquire or to arrange for the preservation of such buildings. The Commission may at any time during such stay approve a certificate of appropriateness, in which event a permit shall be issued without further delay.

**§ 169-13. Maintenance.**

A.

Ordinary maintenance permitted; public safety.

(1)

Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior feature in an historic district or of any historic landmark which does not involve a change in the design, material or outer appearance thereof.

(2)

Nothing in this chapter shall prevent the construction, reconstruction, alteration, restoration, or demolition of any feature which the Code Enforcement Officer shall certify is required by the public safety because of an unsafe or dangerous condition.

B.

Maintenance and repair required.

(1)

Neither the owner of nor the person in charge of a structure within an historic district, or of an historic landmark, shall permit such historic structure or historic landmark to fall into a state of disrepair which may result in the deterioration of any exterior appurtenances or architectural feature so as to produce or tend to produce, in the judgment of the Commission, a detrimental effect upon the character of the historic district as a whole or the life and character of the historic landmark or structure in question, or which could lead to a claim that demolition is necessary for public safety, including, but not limited to:

(a)

The deterioration of exterior walls or other vertical supports.

(b)

The deterioration of roofs or other horizontal members.

(c)

The deterioration of exterior chimneys.

(d)

The deterioration or crumbling of exterior plaster or mortar.

(e)

The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors.

(f)

The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

(2)

Repair of the above conditions must meet code enforcement requirements.

#### **§ 169-14. Appeals.**

An owner whose property is proposed for historic preservation and whose proposal is disapproved by the Historic Preservation Commission, or an owner who is not granted a certificate of appropriateness, may appeal the decision of the Commission by requesting a hearing before the Board of Zoning Appeals, which shall determine whether the Commission has acted in a manner consistent with the procedures, standards, qualifications and criteria of this chapter.

#### **§ 169-15. Violations and penalties.**

A.

The Historic Preservation Commission and the Code Enforcement Officer are authorized to institute actions and proceedings, in law or equity, to obtain compliance with this chapter or to prevent violations thereof. Violations of any provision of this chapter can result in a fine in accordance with the provisions of Chapter 1, Article III, General Penalty, of the City Code.

B.

In addition to the remedies provided for in this section, the Commission and/or the Code Enforcement Officer are specifically authorized to institute any and all actions and proceedings, in law or in equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this chapter or to prevent a threatened violation of this chapter.

## **Chapter 173. Housing Code**

[HISTORY: Adopted by the City Council of the City of Augusta as Ch. 6, Art. II, Div. 2, of the 1990 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Building construction — See Ch. [134](#).

Fire prevention — See Ch. [148](#).

General assistance program — See Ch. [157](#).

Sanitation — See Ch. [229](#).

### **§ 173-1. Scope.**

#### **A.**

This chapter shall apply to residential premises as follows:

#### **(1)**

Lots, plots or parcels of land on which residential buildings, buildings of mixed occupancy or accessory structures are located.

#### **(2)**

Residential buildings, including one- and two-family dwellings, multiple dwellings and rooming houses or boardinghouses.

#### **(3)**

Residential occupancies in buildings of mixed occupancy.

#### **B.**

This chapter shall not apply to any single-family residence that is occupied by the owner or his immediate family.

### **§ 173-2. Definitions.**

For the purposes of this chapter, the terms "dwelling," "dwelling unit," "habitable room" and "rooming unit" shall have the definitions contained in applicable state statutes.

### **§ 173-3. Light and ventilation.**

Every habitable space shall have natural or artificial illumination as specified in the BOCA National Building Code, latest edition.[\[1\]](#)

#### **[1]**

Editor's Note: See now the International Code Council's International Building Code, latest edition.

### **§ 173-4. Access.**

[Amended 1-22-2008 by Ord. No. 007]

Every dwelling unit shall be usable and capable of being maintained without unauthorized use of other private properties and as in accordance with the International Code Council's International Building Code, latest edition.

#### **§ 173-5. Structure and materials.**

Every dwelling shall be maintained in a condition fit for human habitation.

#### **§ 173-6. Sanitary facilities.**

Every dwelling unit intended for year-round occupancy shall include its own sanitary facilities which are in proper operating condition. Such facilities shall include a flush toilet or an approved equal as specified by the State Plumbing Code in a separate private room, a fixed basin with running water and a shower or tub with running water. These facilities and any sink drains shall utilize an approved public or private disposal system.

#### **§ 173-7. Food preparation and refuse disposal.**

##### **A.**

Adequate space for the storage, preparation and serving of food shall be provided.

##### **B.**

There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary. In multiple dwellings, garbage and refuse shall not be stored or allowed to accumulate in public halls and stairways.

#### **§ 173-8. Thermal environment.**

Residential dwellings intended for year-round occupancy shall contain safe heating facilities which are in proper operating condition and are properly installed.

#### **§ 173-9. Electrical services.**

Sufficient electrical sources shall be provided to permit use of essential electrical appliances while assuring safety from fire.

#### **§ 173-10. Interior air quality.**

Every dwelling unit shall be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust and other harmful air pollutants. Air circulation shall be adequate throughout the unit. Bathroom areas shall have at least one openable window or other adequate exhaust ventilation.

#### **§ 173-11. Use of space.**

There shall be provided within each dwelling unit a living room, kitchen area and bathroom; and a dwelling unit shall contain at least one sleeping or living/sleeping room of appropriate size.

#### **§ 173-12. Lead-based paint.**

Every dwelling unit shall be in compliance with the United States Department of Housing and Urban Development regulations, 24 CFR Part 35, issued pursuant to the Lead Based Paint Poisoning Prevention Act, 42 U.S.C. § 4801 et seq.

#### **§ 173-13. Yard and court maintenance.**

Yards and courts shall be kept clean and free of physical hazards and the accumulation of debris and trash.

#### **§ 173-14. Responsibility of owners.**

Owners shall be responsible for compliance with this chapter.

#### **§ 173-15. Responsibilities of occupants.**

It shall be the duty of the occupant of each premises or portion thereof over which he has control to maintain the same.

#### **§ 173-16. Administration by Code Enforcement Bureau.**

This chapter shall be administered by the Department of City Services, Bureau of Code Enforcement.

#### **§ 173-17. Enforcement.**

##### **A.**

Orders. The Code Enforcement Officer shall issue an order in writing requiring the remedying of all conditions found to exist in or on any premises in violation of provisions of this chapter or amendments hereof of rules and regulations adopted hereunder. The order shall state a reasonable time for compliance, which in any case shall not exceed 90 days.

##### **B.**

Noncompliance. If an order is not complied with, the Code Enforcement Officer may request the Corporation Counsel to institute an appropriate action to bring compliance, prevent the use of the building or enforce the penalty provisions of this Code.

#### **§ 173-18. Violations and penalties.**

Any person found guilty of violating any provision of this chapter shall be subject to a fine in accordance with Chapter 1, Article III, General Penalty, of the City Code.

## **Chapter 186. Library**

[HISTORY: Adopted by the City Council of the City of Augusta as Ch. 6.5, Art. IV, of the 1990 Code. Amendments noted where applicable.]

## **Article I. Administration; Library Materials**

### **§ 186-1. Administration.**

[Amended 4-1-1996 by Ord. No. 391]

#### **A.**

The administrative management of the library shall be as a department of the City, with the Director of Community Services to appoint the Library Director with the advice and consent of the City Manager.

#### **B.**

The Library Director shall hire his own subordinate clerks and employees as needed, subject to the approval of the Director of Community Services and the City Manager. The Library Director shall furnish the Director of Community Services and the City Manager annually with a proposed budget.

#### **C.**

The Board of Trustees shall recommend to the Library Director and to the Director of Community Services and the City Manager from time to time proposals for the improvement of the library, shall be in charge of the investment of any endowment funds over which the Board now has control, and shall determine what books shall be purchased from time to time from the endowment income, all of which income may be used for such purpose unless otherwise restricted, as well as from any other monies that may be appropriated for that purpose.

### **§ 186-2. Willful detention of library material.**

[Amended 1-6-1992 by Ord. No. 244]

Whoever willfully detains any book, audiovisual material or other property belonging to Lithgow Library for seven days after written notice to return the same, delivered by certified mail or in hand by the Police Department, given after the expiration of the time which, by the rules of Lithgow Library, such article or other property may be kept, shall be punished in accordance with Chapter 1, Article III, General Penalty, of the City Code.

## **Article II. Board of Trustees**

### **§ 186-3. Appointment; terms; quorum; Chairperson.**

[Amended 10-2-1989 by Ord. No. 197]

The Mayor, with the advice and consent of the City Council, shall appoint a Board of Trustees of the Lithgow Library and Reading Room, to consist of seven members; and, in addition, the Mayor, or a member of the Council designated from time to time by him/her, and another member to be appointed by the Judge of Probate shall serve as members. The terms of the first five members shall be as presently in place, and subsequent appointments shall be for three years. The initial terms of the additional two members shall be one for two years and one for three years, and subsequent appointments shall be for three years. The member appointed by the Judge of Probate shall serve for three years. All members shall serve until their successors are duly appointed and qualified. Four members shall constitute a quorum. They shall appoint from

their membership a Chairperson, and no member shall serve as a Chairperson in excess of one year at a time.

#### **§ 186-4. Meeting rules and regulations.**

[Amended 10-2-1989 by Ord. No. 197]

The Board of Trustees of the Lithgow Library and Reading Room shall prescribe the rules and regulations of its meetings.

#### **§ 186-5. Duties.**

The Board of Trustees of the Lithgow Library and Reading Room shall do all things necessary to protect, preserve and take care of such library and reading room.

#### **§ 186-6. Use of library and reading room.**

The Board of Trustees of the Lithgow Library and Reading Room shall prescribe the rules and regulations under which the library and reading room may be used.

#### **§ 186-7. Use of funds for cultural activities.**

[Amended 6-17-1985 by Ord. No. 111; 4-1-1996 by Ord. No. 391]

Each fiscal year, the Board of Trustees of Lithgow Library and Reading Room may appropriate and spend from income earned on the library's unrestricted endowment funds up to \$1,200 for promoting cultural activities to be held at Lithgow Library. These activities must be in support of the humanities, free of charge to the public.

## **Chapter 190. Licensed Businesses**

[HISTORY: Adopted by the City Council of the City of Augusta as indicated in Part histories. Amendments noted where applicable.]

GENERAL REFERENCES

Sanitation — See Ch. [229](#).

Smoking — See Ch. [233](#).

## **Part 1. General Licensing Regulations**

[Adopted as Ch. 11, Art. I, of the 1990 Code]

### **Article I. Administration**

[Added 5-3-1999 by Ord. No. 79]

#### **§ 190-1. Compliance with license requirements.**

It shall be unlawful for any person, directly or indirectly, to conduct any business or activity or to use in connection therewith any vehicle, premises, machine or device, in whole or in part, for which a license or permit is required under this chapter or any other regulation or ordinance of the City of Augusta or under any state statute within the boundaries of the City of Augusta without a license or permit therefor being first procured and kept in effect at all times as required by this chapter, any other ordinance of the City or by state statute.

### **§ 190-2. Applications.**

Every person required to procure a license or permit under the provisions of this chapter, any other ordinance or any state statute shall submit an application for such license or permit to the City Clerk.

#### **A.**

Form of application. The application shall be a written statement upon forms provided by the City Clerk.

#### **B.**

Contents of application. Each application shall state the name of the applicant, the permit(s) or license(s) sought, the location of the premises to be licensed or the activity to be authorized and any other information which the City Clerk may deem necessary for the proper administration of this chapter.

#### **C.**

Special events. In the case of special events which are temporary in nature and sponsored by a nonprofit or charitable organization, one temporary food service permit shall be obtained by said organization listing all food service vendors.

### **§ 190-3. Licensing authority.**

All administrative powers and authority vested in the City Council to grant or deny the license(s) and permit(s) required hereunder shall be delegated to the City Clerk.

#### **A.**

Upon receipt of the application, the City Clerk shall inquire of such other departments, to include the Chief of Police, Code Enforcement, and Tax Collector, also known as the "Licensing Board," as to whether a license may be granted consistent with the provisions of the laws and ordinances enforced by such departments. Unless delayed for reasons beyond his/her control, including but not limited to the failure of the applicant to provide all required information, the City Clerk shall act on the application within 30 days after receipt thereof.

#### **B.**

In the event of denial of the application, the City Clerk shall give the applicant written notice of reason or reasons for his/her decision and shall make a finding of fact, in writing, sufficient to apprise the applicant and any interested member of the public as to the basis for his/her decision. A written record or copy thereof shall be kept by the Clerk and made available to any interested member of the public who may wish to review it as required under 1 M.R.S.A. § 407, Subsection 1.

### **§ 190-4. Fees.**

The license and permit fees for various businesses and occupations shall be set from time to time and a schedule of such fees is on file in the City Clerk's office.

A.

To accomplish such purposes:

(1)

All fees and charges for licenses or permits shall be paid in advance at the time of application therefor to the City Clerk.

(2)

All fees submitted shall be retained by the City Clerk, regardless of whether said license or permit is issued.

B.

The fees to be charged for such licenses and permits shall be kept on file by the City Clerk.

**§ 190-5. Licensing standards and criteria.**

A.

In determining whether to grant or deny a license or permit required hereunder, the City Clerk shall determine whether the applicant complies with all standards and criteria for the issuance of said license or permit as may be established by ordinance or statute.

B.

In addition, unless otherwise prohibited by law, there must be an affirmative showing by the applicant that he/she complies with the following:

(1)

The activity to be licensed or authorized is an authorized use in the zone in which it is to be located or conducted;

(2)

The applicant has obtained all necessary approvals and permits under this chapter;

(3)

The applicant has paid all real estate and personal property taxes, sewer user fees and other debts owed to the City then currently due; and

(4)

The applicant is of good moral character.

**§ 190-6. Appeals.**

A.

The issuance or denial of any license or permit required hereunder may be appealed by the applicant to the City Council of the City of Augusta within 10 days after the City Clerk renders his/her decision on the application. Notice of such appeal shall be filed, in writing, with the City Clerk and shall outline the grounds therefor. Upon receipt of such notice, the City Clerk shall cause such item to be considered at the next regular business meeting of the City Council.

B.

Scope of review. On appeal, the City Council shall review the decision of the City Clerk to determine whether the decision was based on substantial evidence. The Council may take additional evidence with respect to the City Clerk's decision and shall determine the appeal upon all the evidence.

### **§ 190-7. Suspension or revocation of license or permit.**

A license or permit issued under this chapter may be suspended or revoked by the City Clerk after written notice of the proposed suspension or revocation and the grounds therefor and after a hearing before the Licensing Board. The hearing shall be conducted in the same manner as hearings on appeals under § [190-6](#) above.

### **§ 190-8. De novo review by City Council.**

Any decision by the Licensing Board under this chapter may be appealed to the City Council for de novo review. Such review shall be conducted in public session at a regular City Council meeting or at a special City Council meeting called for that purpose within 30 days of the appeal date. Following the City Council's review and action on the appeal, the decision of the Council may be appealed to the Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure.

### **§ 190-9. Enforcement.**

All provisions of this chapter and applicable state statutes shall be enforced by the City Clerk. In the event that the Clerk determines that enforcement litigation is necessary, the Clerk shall refer the matter to the Corporation Counsel for assistance. The Clerk and Corporation Counsel are hereby authorized to commence all enforcement proceedings they deem necessary and to prosecute the same in the name of the City of Augusta without further act of the City Council. No enforcement action shall be filed by Corporation Counsel with respect to a particular violation until the time for appeal under § [190-6](#) above has expired or while an appeal to the Licensing Board or City Council remains pending.

### **§ 190-10. Violations and penalties.**

In addition to any action which may be taken by the City Clerk or the Licensing Board or the City Council with respect to the denial, suspension or revocation of a license or permit and unless otherwise provided by ordinance or statute, a violation of this chapter shall be a civil violation punishable by a fine of not less than \$50 nor more than \$500 for each offense. Each act of violation and every day upon which any such violation shall continue shall constitute a separate offense. All fines shall inure to the benefit of the City of Augusta.

## **Article II. Specific Licenses**

### **§ 190-11. Fees.**

The license and permit fees for various businesses and occupations shall be set from time to time and a schedule of such fees is on file in the City Clerk's office.

### **§ 190-12. Liquor licenses.**

In accordance with 28 M.R.S.A. § 251 et seq.,[\[1\]](#) the City Clerk shall have the authority to approve or disapprove applications for liquor licenses. Applicants for liquor licenses shall be required to pay to the City Clerk at the time of submission of an application an amount of money sufficient to cover the cost of all publication fees for the public notice of hearing, in an amount to be determined by the City Clerk.

[\[1\]](#)

Editor's Note: 28 M.R.S.A. § 251 et seq. was repealed by L. 1987, C. 45, § a. See now 28-A M.R.S.A. § 651 et seq.

### **§ 190-13. Transient sales.**

[Amended 1-6-1992 by Ord. No. 244]

[A.](#)

Every transient seller of consumer merchandise, as defined by 32 M.R.S.A. § 4681(7),[\[1\]](#) intending to sell merchandise, as defined by 32 M.R.S.A. § 4681(3),[\[2\]](#) in the City shall file his state license and an application prepared by the City Clerk and Police Chief for a local license with the Tax Collector. Before selling, offering or exposing for sale any merchandise, every transient seller of consumer merchandise shall pay the Collector a local license fee for sales in the City, which fee shall be set from time to time and a schedule of such fees is on file in the City Clerk's office. The local license will be valid for the calendar year.

[\[1\]](#)

Editor's Note: 32 M.R.S.A. § 4681 was repealed by L. 2001, c. 324, § 1. See now 32 M.R.S.A. § 14701(8).

[\[2\]](#)

Editor's Note: See now 32 M.R.S.A. § 14701(4).

[B.](#)

Any transient seller of consumer merchandise who sells, offers or exposes for sale, at public or private sale, any merchandise, without a local license shall be punished in accordance with 32 M.R.S.A. § 4688.[\[3\]](#)

[\[3\]](#)

Editor's Note: See now 32 M.R.S.A. § 14713.

### **§ 190-14. Pawnbrokers.**

[A.](#)

The City Clerk may grant licenses to persons of good moral character to be pawnbrokers for one year unless sooner revoked for violation of law.

[B.](#)

The annual license fee for pawnbrokers shall be set from time to time and a schedule of such fees is on file in the City Clerk's office.

[C.](#)

Whoever carries on such business without a license shall be punished in accordance with 30-A M.R.S.A. § 3961.

### **§ 190-15. Junkyards.**

A.

The City Clerk shall have the authority to grant permits to establish, operate or maintain automobile graveyards and junkyards.

B.

The City hereby adopts the provision of 30-A M.R.S.A. § 3751 et seq. pertaining to the regulation of automobile graveyards and junkyards.

**§ 190-16. Close-out sales.**

No person shall offer for sale a stock of goods, wares or merchandise under the designation of "closing-out sale," "going-out-of-business sale," "discontinuance-of-business sale," "entire stock must go," "must sell to bare the walls," or other designation of like meaning unless he has obtained a license to conduct such a sale from the City Clerk. Such license shall be granted by the City Council in accordance with the state statutes and for a fee which shall be set from time to time, and a schedule of such fees is on file in the City Clerk's office.

**§ 190-17. Innkeepers and victualers.**

[Amended 6-19-1989 by Ord. No. 113(2); 8-21-1989 by Ord. No. 193(2)]

A.

The City Clerk, Treasurer, Chief of Police and Code Enforcement Officer, called the "Licensing Board," shall meet annually and, after notice as provided in 30-A M.R.S.A. § 3812, shall license under their hands as many persons of good moral character and under such restrictions and regulations as they deem necessary to be innkeepers and victualers, and at any meeting so notified and held may revoke licenses so granted if in their opinion there is sufficient cause.

B.

Every person licensed as an innkeeper or victualer shall pay to the Treasurer for the use of the City a fee for such license, which fee shall be set from time to time, and a schedule of such fees is on file in the City Clerk's office.

**§ 190-18. Bakeries, Italian sandwich and pizza places.**

All bakeries preparing and wholesaling food and those persons preparing pizzas and Italian sandwiches in the City shall obtain a victualer's license.

**§ 190-19. Sale of food from vehicles.**

A.

The City Clerk may, if in his opinion public convenience so requires, issue a license to any reputable person upon payment of an annual license fee which shall be set from time to time, and a schedule of such fees is on file in the City Clerk's office, to maintain a vehicle for the sale of food in such part of any public way and during such hours as he may designate, provided that public travel is not incommoded thereby.

B.

No person licensed under this section shall offer prepared food for sale in a public way within 200 feet from any permanent establishment dispensing prepared foods of like kind.

**§ 190-20. Sale of food or food products from mobile or temporary facilities.**

[Added 4-9-1984 by Ord. No. 403]

**A.**

Permit required. Any person or other entity selling food or food products of any kind from a mobile or temporary facility must complete an application and obtain a permit from the City Clerk.

**B.**

Application. The application shall contain:

**(1)**

Name of applicant.

**(2)**

Address (legal/local).

**(3)**

Type of products to be sold.

**(4)**

Location where products will be sold.

**(5)**

Copy of state license, if applicable.

**(6)**

Length of time for which the right to do business is desired.

**(7)**

If a vehicle is to be used, a description of the same, together with registration number or other means of identification.

**C.**

Fee. A permit fee shall be charged by the City Clerk to cover the cost of processing the application and permit. The amount of such fee shall be set from time to time and kept on file in the office of the City Clerk.

**D.**

Display of permit. The permit under this section shall be displayed by the permit holder at all times.

**E.**

Exception. The provisions of this section shall not apply to persons or other legal entities that sell food products on property owned by them or to nonprofit fund-raising organizations.

**F.**

Provisions not covered by section. Nothing in this section shall prohibit or limit sale of food from vehicles as covered under the provisions of § [190-19](#).

**§ 190-21. Goods for sale on streets and sidewalks.**

[Amended 1-6-1992 by Ord. No. 244]

No person shall expose goods for sale on any street or sidewalk without a written permit from the Police Chief.

**§ 190-22. Concealed weapon permits.**

[Amended 11-18-1985 by Ord. No. 224; 1-6-1992 by Ord. No. 244]

A.

No permit for a concealed weapon shall be issued to any individual, except as provided herein and as provided in 25 M.R.S.A. § 2003. The Police Chief is hereby designated as the issuing authority for permits to carry concealed weapons.

B.

The Police Chief shall prepare an application form to be completed by all applicants for a concealed weapon permit, which shall be consistent with the provisions of 25 M.R.S.A. § 2003(1)(D).

C.

The fees for such permit for an original application and for a renewal permit shall be set from time to time and a schedule of such fees is on file in the City Clerk's office.

**§ 190-23. Sales, distribution or display of crafts, wares or tangible items near Civic Center.**

It shall be prohibited for any person, except with the permission of the City Clerk, to sell, vend, distribute or display crafts, wares or any other tangible items on any property in the vicinity of the Augusta Civic Center which is owned or leased by the City, including lawns, streets, sidewalks and parking lots, such streets and sidewalks being those on Community Drive and University Drive. Any violation of this section shall result in imposition of the penalty provisions of Chapter 1, Article III, General Penalty, of the City Code.

**§ 190-24. Overhanging banners.**

[Amended 6-3-1991 by Ord. No. 131; 4-4-1994 by Ord. No. 431; 6-20-1994 by Ord. No. 527]

No person shall place a banner or sign over any public street or way without first obtaining approval from the City Clerk. As a condition of such approval, the applicant must provide the City of Augusta with proof of liability insurance naming the City of Augusta as a named insured in an amount not less than \$300,000 to cover any claims for damages and/or injuries which might result from the placement of said banner or sign over a public street or way. The applicant shall provide proof of status as a nonprofit organization. A fee for such a permit shall be set from time to time and a schedule of such fees shall be filed in the City Clerk's office. Banners shall be displayed no more than 21 calendar days prior to an event and shall be removed no later than five days after an event.

**§ 190-25. Micropigmentation.**

[Added 5-17-1999 by Ord. No. 109]

The City Council may grant licenses to persons of good moral character to practice micropigmentation for one year unless sooner revoked for violation of law.

A.

The City hereby adopts the provisions of 32 M.R.S.A. § 4311 et seq. pertaining to the regulation of micropigmentation and all regulations enacted pursuant to M.R.S.A. Title 32, Chapter 63-A. The effective date for procurement of said license shall be July 1, 1999. In all appropriate places, the City of Augusta shall be known as the licensing authority.

B.

The annual license fee for a person to practice the art of micropigmentation shall be set from time to time and a schedule of such fees is on file in the City Clerk's office.

C.

Whoever carries on such business without a license shall be punished in accordance with Chapter 1, Article III, General Penalty, of this Code.

### **§ 190-26. Body piercing.**

[Added 5-17-1999 by Ord. No. 110]

The City Council may grant licenses to persons of good moral character to practice the art of body piercing for one year unless sooner revoked for violation of law.

A.

The City hereby adopts the provisions of 32 M.R.S.A. § 4321 et seq. pertaining to the regulation of body piercing and all regulations enacted pursuant to M.R.S.A. Title 32, Chapter 64. The effective date for procurement of said license shall be July 1, 1999. In all appropriate places, the City of Augusta shall be known as the licensing authority.

B.

The annual license fee for a person to practice the art of body piercing shall be set from time to time and a schedule of such fees is on file in the City Clerk's office.

C.

Whoever carries on such business without a license shall be punished in accordance with Chapter 1, Article III, General Penalty, of this Code.

## **Part 2. Bottle Clubs**

[Adopted as Ch. 11, Art. II, of the 1990 Code]

## **Article III. General Provisions**

### **§ 190-27. Definitions.**

The following words, terms and phrases, when used in this Part 2, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Unless defined in this section or in the text, all words used will have their common meaning.

#### **BOTTLE CLUB**

A.

Any establishment or premises which is operated on a regular basis in the following manner:

(1)

No alcoholic beverages sold on the premises.

(2)

All members, guests or members of the public must provide their own alcoholic beverages for consumption on the premises.

(3)

Fees or other charges are imposed on all members, guests or members of the public for admission to the premises, or for setups, i.e., liquor mixers, cups, ice and other items associated with the consumption of alcoholic beverages or for any other reason.

B.

For purposes of this Part 2, the term "bottle club" shall include, but not be limited to, all such premises designated for municipal regulation under 28 M.R.S.A. § 2.[1]

OFFICER

Any officer, director, stockholder, owner, manager or person who either has a financial interest of any nature in a bottle club or directs any policy of a bottle club.

[1]

Editor's Note: 28 M.R.S.A. § 2 was repealed by L. 1987, C. 45, § a. See now 28-A M.R.S.A. § 2.

**§ 190-28. Violations and penalties.**

In addition to any action which the City Council may take, violation of any provision of this Part 2 shall be a civil violation and a fine not exceeding \$200 may be imposed. Each day that a violation continues will be treated as a separate offense. All fines collected hereunder shall inure to and be recovered by the City.

**§ 190-29. Hours of operation.**

The hours of a bottle club shall be an opening for business no earlier than 11:00 a.m. to closing no later than 4:00 a.m. the following morning. During the hours that a bottle club must remain closed, no members, guests or other persons, other than regular employees, may be on the premises or remain therein, and the use by anyone of the premises or facilities of the bottle club for the drinking of alcoholic beverages during such hours when a bottle club must remain closed is prohibited.

**Article IV. Licensing**

**§ 190-30. License required.**

No person shall keep, maintain, operate, lease or otherwise furnish, either to its members and guests or to the general public, any premises in the City for use as a bottle club without first having obtained a license therefor, to be issued by the City Clerk after approval of the City Council, in accordance with this article.

**§ 190-31. Fee.**

The annual license fee for a bottle club shall be set from time to time and a schedule of such fees is on file in the City Clerk's office.

**§ 190-32. Application.**

A.

Every applicant for a bottle club license shall:

(1)

Complete and file an application on a form prescribed by the City Council;

(2)

Deposit the prescribed license fee in advance with the City Clerk;

(3)

Submit the following with the completed application to the City Clerk:

(a)

An attested copy of the articles of incorporation and bylaws if the applicant is a corporation, or articles of association and bylaws if the applicant is an association, or partnership documents if the applicant is a partnership, as well as a list of all principal officers of the bottle club.

(b)

An affidavit which will identify all principal officers, their places of residency at the present time and for the immediately preceding three years.

(c)

A description of the premises for which a license is desired, which shall set forth such other material information, description, or plan of that part of the premises where liquor will be consumed.

B.

If an application is denied or withdrawn, the license fee shall be refunded to the applicant.

### **§ 190-33. Investigation of applicant.**

[Amended 1-6-1992 by Ord. No. 244]

A.

Upon receipt of an application for a bottle club license:

(1)

The Code Enforcement Officer shall verify that the premises of the proposed bottle club comply with the applicable ordinances of the City, including, but not by way of limitation, the building code, and report his findings in writing to the City Council.

(2)

The Health Officer shall cause inspection to be made of the proposed location of the bottle club, for the purpose of determining whether the applicable ordinances relating to health and safety have been complied with. A report of his findings shall be made in writing to the City Council.

(3)

The Police Chief shall cause an inspection to be made of the proposed location of the bottle club, for the purpose of determining if City ordinances concerning fire and safety have been complied with. He shall submit a report of his findings in writing to the City Council.

B.

All reports required under this section shall be filed with the City Clerk.

### **§ 190-34. Notice of hearing.**

A.

After receipt of the written reports required to be submitted with an application for a bottle club license, the City Clerk shall give notice of a public hearing on the application, in the form and manner and to the persons herein specified:

(1)

The notice shall include the time and place of such hearing, the nature of the matter to be heard, and the address or location of the property involved. Where notice by mail is required, it shall be mailed at least seven days in advance of the hearing date, by regular United States mail.

(2)

Notices shall be given to each of the following, with cost of posting and mailing to be paid in advance by the applicant:

(a)

To the applicant;

(b)

To all residents of the City, by publication in a newspaper of general circulation in the City at least once, not more than 30 days nor less than five days before the date of the hearing;

(c)

To the owners of the property within 300 feet of such parcel or tract, by certified mail, return receipt requested.

B.

For the purpose of this section, the owners of property shall be considered to be the parties listed by the Assessor's office of the City as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the City Council.

#### **§ 190-35. Transfer.**

A separate license must be obtained for each bottle club. Each license shall authorize the operation of such an establishment only at the location described in such license and in conformity with all applicable ordinances and laws. No license shall be transferred to another person or to any other location.

#### **§ 190-36. Display.**

Every bottle club shall exhibit its license at all times in a conspicuous place on the premises.

#### **§ 190-37. Expiration.**

All licenses issued pursuant to this article shall expire on the last day of June in each year.

#### **§ 190-38. Denial, suspension or revocation.**

In addition to the standards set forth in this article, a bottle club license may be denied, suspended or revoked upon a determination that:

A.

Any principal officer or employee has not attained the age of 18 years.

B.

Any principal officer has been convicted of violating any of the laws of this state or the United States with respect to manufacture, transportation, importation, possession or sale of intoxicating

liquor within a period of five years from the date of hearing, or otherwise has a disqualifying criminal conviction.

C.

The premises where the applicant or licensee is to operate is situated within 300 feet of a public or private school, school dormitory, church, chapel or parish house, in existence as such at the time such license is applied for. The three-hundred-foot distance shall be measured from the principal entrance of the school, dormitory, church, chapel or parish house to the principal entrance of the licensed premises, by the ordinary course of travel.

D.

The premises where applicant or licensee is to operate is located in a location which could create a traffic hazard and/or have an adverse health and/or safety effect on the neighboring properties.

**§ 190-39. Appeals.**

An appeal from any final decision of the City Council under this article shall be taken by any party to the Superior Court, in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

**Part 3. Commercial Solid Waste and/or Septage Waste Facilities**

[Adopted 9-4-1990 by Ord. No. 480 (Ch. 11, Art. III, of the 1990 Code)]

**Article V. Licensing**

**§ 190-40. Findings and purpose.**

A.

It is the purpose of this Part 3 to establish a procedure for annual licensing of commercial solid waste and/or septage waste facilities in the City. It is determined that due to the health and safety concerns normally associated with waste, a system for continuous health and safety monitoring of all solid and/or septage waste facilities is in the public interest. Therefore, all solid waste and/or septage waste facilities located within the corporate boundaries of the City shall henceforth comply with the requirements outlined below.

B.

The City Council further finds that solid waste and septage waste are very malodorous, putrescible, and likely to contain large numbers of harmful viruses, bacteria and other microorganisms.

C.

Additionally, because most odorous pollutants have a complex chemical composition and may elicit a broad spectrum of responses by the receptors, special methods must be employed in their measurement and characterization. Although analytical data are more precise and may be useful in identifying a source, it is the human response of the sensory data that is most critical in determining the necessary degree of odor control. Analytical data may be used to specify

permissible emission levels from a source, but sensory data must be employed to assess the impact in the surrounding community. The latter is the City's primary concern.

### **§ 190-41. Definitions.**

As used in this Part 3, the following words shall have the following meanings:

#### **COMMERCIAL SOLID WASTE AND/OR SEPTAGE WASTE FACILITY**

A waste facility whose principal function is the storage, processing, disposal and/or handling of solid waste and/or septage waste.

#### **DISPOSAL**

The discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste or septage waste into or on any land or water so that the solid waste or septage waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including groundwaters.

#### **HANDLE (HANDLING)**

To store, transfer, collect, separate, salvage, process, reduce, recover, incinerate, treat or dispose of.

#### **PROCESSING or PROCESSING FACILITY**

Any structure, machine, device, system, or combination thereof, other than collection or transfer vehicles and incinerators, designed and operated to reduce the volume or change the chemical or physical characteristics of, or otherwise change the nature of, solid waste or septage waste.

#### **SEPTAGE WASTE**

Waste, refuse, effluent, sludge and any other materials from septic tanks, cesspools or any other similar facilities.

#### **SOLID WASTE**

Useless, unwanted or discarded solid material with insufficient liquid content to be free-flowing, including, but not limited to, rubbish, garbage, refuse-derived fuel, scrap materials, junk, refuse, inert fill material and landscape refuse. The fact that a solid waste or constituent of the waste may have value or other use or may be sold or exchanged does not exclude it from this definition. Not included in this definition are beverage container redemption centers.

#### **STORAGE**

The placement or containment of septage waste or solid waste on a temporary basis in such a manner as not to constitute disposal of such waste.

### **§ 190-42. License required.**

It shall be unlawful for any person, association, partnership, company, group, firm or corporation to commercially establish, construct, alter or operate a storage and/or processing establishment for solid waste and/or septage waste as defined above within the corporate limits of the City without having a license as hereinafter provided, or in violation of the terms of such license, or in violation of the provisions of this Part [3](#). Excluded from the provisions of this Part [3](#) are such facilities owned by public utilities, municipalities and/or public water and sanitary districts. A facility which is licensed as a junkyard under § [190-15](#) and operates only as a junkyard or automobile graveyard does not have to be licensed under this Part [3](#).

**§ 190-43. Fees.**

The annual license fee under this Part 3 shall be \$100.

**§ 190-44. Application and information.**

Every applicant for a license under this Part 3 shall:

**A.**

In the case of an application for a new license, complete and file with the City Clerk an application for either a building permit or special exception as required under the ordinances of the City. Within 15 days following a final decision by the Planning Board or by the Code Enforcement Officer, whichever is applicable, the entire public record of the proceedings on said application will be forwarded to the City Clerk and made part of the applicant's file.

**B.**

Complete and file an application on a form prescribed by the City Council.

**C.**

Deposit the prescribed license fee in advance with the City Clerk.

**D.**

Submit, with the completed application to the City Clerk, the following:

**(1)**

An attested copy of the articles of incorporation and bylaws if the applicant is a corporation, or articles of association and bylaws if the applicant is an association, or partnership documents if the applicant is a partnership, as well as a list of all principal officers of the entity making the application.

**(2)**

An affidavit which will identify all principal officers, their places of residency at the present time and/or the immediately preceding three years.

**E.**

Prior to the issuance of a license, provide a performance bond running to the City in the amount of \$100,000 to insure the performance and adherence to the terms and conditions of any license or special exception granted to the applicant for the operation of a commercial solid waste and/or septage waste facility.

**§ 190-45. Investigation of renewal application, revocation or suspension.**

[Amended 1-6-1992 by Ord. No. 244]

**A.**

Upon receipt of each application for a renewal license or prior to a hearing on revocation or suspension under this Part 3:

**(1)**

The Code Enforcement Officer (or designated representative) shall verify that the premises of the proposed commercial solid waste and/or septage waste facility comply with any requirements or conditions placed upon any special exception or variance granted to the facility and be in compliance with the applicable ordinances of the City and Maine state statutes, including, but not by way of limitation, the building code, noise standards and zoning ordinance, and report his/her findings in writing to the City Council.

(2)

The Sanitation Officer shall cause an inspection to be made of the proposed location of the commercial solid waste and/or septage waste facility, for the purpose of determining if City ordinances and Maine state statutes and any conditions placed upon any special exception or variance granted to the facility concerning health, safety and odor have been complied with. A report of his/her findings shall be made in writing to the City Council.

(3)

The Police Chief shall cause an inspection to be made of the proposed location of the commercial solid waste and/or septage waste facility, for the purpose of determining if City ordinances and Maine state statutes and any conditions placed upon any special exception or variance granted to the facility concerning fire and safety have been complied with. A report of his/her findings shall be submitted in writing to the City Council.

B.

All reports required under this section shall be filed with the City Clerk within 30 days of the filing of the application for a license unless an extension is granted for cause by the City Council.

#### **§ 190-46. Odor and noise.**

A.

With respect to the enforcement of this Part 3 and any license issued hereunder, an odor and/or noise will be deemed objectionable and is a public nuisance when any of the following occurs:

(1)

A public nuisance at common law or under the Maine Revised Statutes is created; or

(2)

Noxious exhalations or offensive smells and/or noise from the commercial solid waste and/or septage waste facility become injurious or dangerous to the health, comfort or property of individuals, or of the public; or

(3)

All the members of a panel consisting of the Code Enforcement Officer and three residents of the City appointed by the Mayor to assist the Code Enforcement Officer to investigate complaints and who are not aggrieved by the source determine, following concurrent, personal observation, that the odor and/or noise at the property line of the source, based on City Tax Maps, or elsewhere in the City is objectionable, taking into account its nature, concentration, location, and duration, and are able to identify the source.

B.

The Code Enforcement Officer, or any court, may order the abatement of objectionable odors and/or noise by injunction or other legal action.

#### **§ 190-47. Notice of hearing.**

After receipt of all written material required by this Part 3, the City Clerk shall give notice of a public hearing on the application, in the form and manner and to the persons herein specified:

A.

The notice shall include the time and place of such hearing, to be held by the City Council, which shall be within 30 days of such notice, the nature of the matter to be heard, and the address

or location of the property involved. Where notice by mail is required, it shall be mailed at least seven days in advance of the hearing date, by regular United States mail.

B.

Notice shall be given to each of the following, with cost of posting and mailing to be paid in advance by the applicant:

(1)

The applicant.

(2)

All residents of the City, by publication in a newspaper of general circulation in the City at least once, not more than 30 days nor less than five days before the date of the hearing.

(3)

The owners of the property within 1,000 feet of such parcel or tract by regular United States mail. For the purpose of this section, the owners of property shall be considered to be the parties listed by the Assessor's office of the City of Augusta as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the City Council.

**§ 190-48. License not transferable.**

A separate license must be obtained for each commercial solid waste and/or septage waste facility. Each license shall authorize the operation of such an establishment only at the location described in such license and in conformity with all applicable ordinances and laws. No license shall be transferred to another person or to any other location.

**§ 190-49. Display of license.**

Every commercial solid waste and/or septage waste facility shall exhibit its license at all times in a conspicuous place on its premises.

**§ 190-50. Expiration.**

All licenses issued pursuant to this Part 3 shall expire on the last day of June each year. A license may be renewed by following the procedures set forth in this article in §§ 190-44, 190-45 and 190-47.

**§ 190-51. Issuance and enforcement of license.**

A.

The City Council shall grant or grant with conditions a license under this Part 3 only after determining, following notice and hearing, that the applicant has established that the proposed facility will not:

(1)

Create a public nuisance;

(2)

Create a traffic hazard;

(3)

Create an adverse health effect on the neighboring properties;

(4)

Create an adverse safety effect on the neighboring properties; and

(5)

Cause or allow the emission of odors or noxious smells resulting in offensive or objectionable odors at or beyond the lot line of the facility.

B.

The applicant's failure to meet any one or more of the five subsections above requires the denial of a license application hereunder.

C.

After notice and hearing, the City Council may suspend or revoke a license upon determination that the applicant fails to meet one or more of the five subsections above, or upon determination that the standards, requirements and/or procedures set forth in this Part 3 have been violated.

#### **§ 190-52. Appeal from decision of City Council.**

An appeal from any final decision of the City Council shall be taken by any party to the Superior Court, in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

#### **§ 190-53. Violations and penalties.**

Any person, firm, partnership, company, group or association or corporation violating any of the provisions of this Part 3 or who fails to comply with any of its requirements, including violations of conditions and safeguards established in connection with granting of a license, shall, upon conviction thereof, be fined not more than \$1,000. Each day such violation continues shall constitute a separate offense. In addition to the above, the City has the right to seek and obtain equitable relief to enforce the provisions of this Part 3 because money damages do not constitute an adequate remedy for the enforcement of this Part 3.

#### **§ 190-54. Effective date and applicability.**

No commercial solid waste and/or septage waste facility as defined in § 190-41 shall be exempt from this Part 3 because of grandfathering or because of being an existing use or activity at the time this Part 3 is enacted. Because of the City Council's findings as set forth in § 190-40 above, this Part 3 applies to all commercial solid and/or septage waste facilities as defined above, odor sources, noise sources, land uses and activities in the City that are existing or are proposed to exist in any pending proceeding, application or petitions as of the enactment of this Part 3.

### **Part 4. Cable Television Systems**

[Adopted 3-7-1994 by Ord. No. 383 (Ch. 11, Art. IV, of the 1990 Code)]

## **Article VI. Franchising and Regulation**

#### **§ 190-55. Purpose and intent.**

A.

It is the purpose of this Part 4 to authorize the municipal officers of the City of Augusta to control and administer the franchising and regulation of cable television systems using public ways in the City of Augusta and to enter into agreements on behalf of the City of Augusta in order to assure that the needs and interests of the local citizens are adequately met; and to determine, according to the judgment of the municipal officers, the type and degree of regulations deemed to be in the best interests of the citizens of the City. The authority for this Part 4 is contained in 30-A M.R.S.A. § 3008, as amended. Cable television systems which are located in accordance with this Part 4 and the regulations of the franchise are not considered defects in public ways.

B.

Further, it is the intent of this Part 4 and subsequent amendments to provide the widest possible diversity of information sources and services to cable subscribers.

C.

For these purposes, the following goals underlie the regulations contained herein:

(1)

Where economically reasonable, residential cable television services should be offered to the maximum number of City residents.

(2)

The cable television system and the cable television operator should be capable of accommodating both the present and reasonably foreseeable cable television needs of cable subscribers.

(3)

The cable television system should be improved and upgraded during the franchise term when deemed necessary to meet the needs of cable subscribers.

(4)

The cable television system and the cable television operator authorized by this Part 4 shall be responsive to the needs and interests of the cable television subscribers.

**§ 190-56. Definitions.**

[Amended 5-16-1994 by Ord. No. 493; 3-15-1999 by Ord. No. 47]

As used in this Part 4, the following words and terms have the following meanings:

**BASIC SERVICE TIER**

Each cable operator of a cable system shall provide its subscribers a separately available basic service tier to which subscription is required for access to any other tier of service. Such basic service tier shall, at a minimum, consist of the following: all signals carried in fulfillment of the requirements of §§ 614 and 615 of the Communications Act of 1934, as amended. Each such tier shall also include any community, educational and governmental access programming required by the franchise of the cable system to be provided to subscribers; and any signal of any television broadcast station that is provided by the cable operator to any subscribers, except a signal which is secondarily transmitted by a satellite carrier beyond the local service area of such station.

**CABLE SERVICE**

A.

The one-way transmission to subscribers of video programming, or other programming service; and

B.

Subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

CABLE TELEVISION OPERATOR

Any person, group of persons, firm or corporation:

A.

Who provides cable service over a cable television system and directly or through one or more affiliates owns a significant interest in such cable system; or

B.

Who otherwise controls or is responsible for, through any arrangement, the management and operation of such cable system.

CABLE TELEVISION SYSTEM

Any facility, consisting of a set of closed transmission paths and associated signal generation, reception, and equipment that is designed to provide cable service which includes video programming and is provided to multiple subscribers within the City. Such terms shall not include a facility that serves only subscribers in one or more multiple-unit dwellings under common ownership, control or management, unless such facility uses any public right-of-way. The term also shall not include any facilities of any electric utility used solely for operating its electric utility systems.

CITY

The City of Augusta, Maine, organized and existing under the laws of the State of Maine, and the area within its territorial limits.

CITY COUNCIL or COUNCIL

The City Council of the City of Augusta, Maine.

FEDERAL COMMUNICATIONS COMMISSION or FCC

That federal agency as presently constituted by the Communications Act of 1934, as amended, or any successor agency.

FEDERAL DEFINITION CONTROLLING

The definitions contained in this Part 4 rely on those contained in the Communications Act of 1934 (47 U.S.C. § 521 et seq.), as it is from time to time amended and interpreted. Any ambiguity shall be resolved by reference to the federal statutes, regulations and the decisions interpreting the same.

FRANCHISE

The nonexclusive rights, whether an initial authorization or a renewal thereof, to construct and operate a cable system along the public ways in the City or within specified areas in the City. It is not intended to include or supersede or otherwise affect any license or permit required for the privilege of transacting and carrying on a business within the City as may be required by other ordinances and/or laws of the City.

GRANTEE

A natural person, partnership, domestic and/or foreign corporation or entity, association, joint venture or organization of any kind granted a franchise by the City Council under this Part 4 and its lawful successor, transferee or assignee.

GROSS REVENUES

A.

All amounts which are charged and/or received, directly or indirectly, by a grantee from or in connection with the operation of the system, including, without limitation:

(1)

Any revenue received from subscribers, including but not limited to revenue for basic service, tier service, additional outlets, FM service, commercial service, premium service, pay-per-view service and related per-event services, or for the distribution of any service over the system or the provision of any service-related activity in connection with the operation of the system, including cable modem services from the use of the cable distribution system and non-cable communications services;

(2)

Revenue received from subscribers for installation, change in service and reconnection charges and similar fees;

(3)

Revenue received from subscribers for converters, remote controls or other equipment leased or rented to subscribers in connection with the delivery of cable services to such subscribers;

(4)

Revenue received from subscribers for service charges and late fees attributable to delinquent accounts;

(5)

Revenue received from third parties, including advertising revenue, home shopping commissions on the sale of products or services advertised or promoted on the system, guide commissions, leased access payments, and studio and other facilities or equipment rentals;

(6)

Revenue shall include any payment or consideration (including copyright fees, but excluding any franchise fees, utility users tax or new sales tax imposed by the City or the state or federal government) collected for direct payment to a third party. Franchise fees paid to the City are not deemed to be taxes; and

(7)

Gross revenue shall also include the gross revenue of any other person which is derived directly or indirectly from or in connection with the operation of a system to the extent that said revenue is derived through a means which has the effect of avoiding the payment of franchise fees to the City that would otherwise be paid herein.

B.

There shall be deducted from gross revenue:

(1)

Bad debts written off by a grantee in the normal course of its business; provided, however, that bad debt recoveries shall be included in gross revenue.

(2)

Refunds made to subscribers or other third parties, including but not limited to equipment deposits.

C.

In computing gross revenue from sources other than a grantee's subscribers, including without limitation revenue derived from the sale of advertising, home shopping services, guide sales, satellite dishes, the lease of channel capacity over its cable system, or any

other gross revenues attributable or allocated to a grantee in accordance with generally accepted accounting principles but received by another entity affiliated with the grantee, the aggregate revenue received by the grantee from such other sources during the period in question shall be multiplied by a fraction, the numerator of which shall be the number of grantee's subscribers in the City as of the last day of such period and the denominator of which shall be the number of subscribers within all areas served by the grantee as of the last day of such period. If these additional revenue sources can be verified as being totally derived from within the City, the above allocation formula is not to be used.

#### MUNICIPAL OFFICERS

The Mayor and City Councilors of the City of Augusta, Maine.

#### STATE-OF-THE-ART

A cable system with production facilities, technical performance, capacity, equipment, components and service equal to that which has been developed and demonstrated to be more modern than generally accepted and used in the cable television industry for comparable markets.

#### SUBSCRIBER

Any person who contracts to purchase, orally or in writing, the regular subscriber service and/or any one or more other services as may be provided by a grantee's cable system.

#### TOTAL NUMBER OF SUBSCRIBERS

The number of subscribers determined as follows: In the event a single fee is paid for service to a multiple-dwelling unit, the number of equivalent subscribers shall be determined by dividing such fee by the then-prevailing regular subscriber service rate and rounding the resulting quotient to the nearest whole number. To this number shall be added the number of all other subscribers.

### § 190-57. Franchise required; rights and responsibilities; violations and penalties.

#### A.

Franchise required. A nonexclusive franchise to construct, operate and maintain a cable system within all or any portion of the City is required of anyone desiring to provide cable television service in the City. A franchise may be granted by the City Council to any person, firm, corporation, association, joint venture or organization, whether operating under an existing franchise or not, who or which offers to furnish and provide such cable system under and pursuant to the terms and provisions of this Part 4 and a franchise agreement acceptable to the Council. Insofar as it is not inconsistent with or otherwise preempted by federal or state regulations, a franchise shall also grant the right and privilege to the grantee to provide non-cable communications services. The City Council shall retain all authority to regulate non-cable communications services to the extent necessary to protect the public health, safety and welfare and to ensure compliance with all provisions of this Part 4.

#### B.

Rights reserved to City. The City hereby expressly reserves the following rights:

##### (1)

To exercise its governmental powers, now or hereafter, to the full extent that such powers may be vested in or granted to the City.

##### (2)

To adopt and promulgate ordinances as it shall find reasonably necessary in the exercise of its lawful police power. Such power shall include the absolute right of the City to maintain control over its streets and public ways, and to adopt such reasonable regulations relating to streets and public ways as the City and/or its departments shall hereinafter provide.

(3)

The powers of the City may be exercised through amendment of this Part 4 as well as through enactment of separate ordinances and regulations.

C.

Unlawful acts; penalties.

(1)

It shall be unlawful for any person, firm or corporation to establish, operate or carry on the business of distributing to any persons in the City any television signals or radio signals by means of a cable system unless a franchise therefor has first been obtained pursuant to the provisions of this Part 4 and unless such franchise is in full force and effect.

(2)

It shall be unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of a franchised cable system within the City for the purpose of enabling himself/herself or others to receive any television signal, radio signal, picture, program or sound, without payment to the owner of the cable system.

(3)

It shall be unlawful for any person, firm or corporation, without the consent of a grantee, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound.

(4)

Any person, firm or corporation violating any subsection of this section shall be punished by a fine or by imprisonment or by both fine and imprisonment in accordance with federal, state or local law.

(5)

The City shall be entitled to injunctive relief in addition to any other remedies available by law to protect any rights conferred by this Part 4 or state law (30-A M.R.S.A. § 3008, as amended).

D.

Failure of City to enforce compliance. A grantee shall not be excused from complying with any of the terms and conditions of this Part 4 or a franchise by any failure of the City, upon any one or more occasions, to insist upon the grantee's performance or to seek the grantee's compliance with any one or more of such terms or conditions.

**§ 190-58. Franchising requirements.**

[Amended 5-16-1994 by Ord. No. 493; 3-15-1999 by Ord. No. 47]

A.

Application; nonrefundable fee. An application for an initial cable television franchise shall be submitted to the Council, or its designee, on a written application form furnished by the City, and in accordance with the procedures and schedule to be established and published by the Council. The application will request facts and information the Council deems appropriate. Applications shall be accompanied by a nonrefundable application fee of \$1,000 to the order of the "City of

Augusta," which amount shall be used by the City to offset direct expenses incurred in the franchising and evaluation procedures, including, but not limited to, staff time and consulting assistance.

B.

Grantee to pay costs of granting franchise. An applicant to whom the Council grants an initial nonexclusive franchise, in addition to the nonrefundable fee specified herein above, shall pay to the City, within 30 days of receipt of notice of the amount, an amount set by the Council, or its designee, which shall represent the remaining out-of-pocket costs incurred by the City in granting the franchise and not defrayed by fees forthcoming from the provisions of Subsection A of this section.

C.

Initial application requirements. Ten copies of the application shall be filed with the City Clerk and shall contain such information as the City may require, including, but not limited to:

(1)

A general description of the applicant's proposed operation;

(2)

A statement detailing its business or corporate organization; including but not limited to the identification of any person, persons, or entity holding an interest of 10% or greater in the applicant's business and a statement disclosing interests of 10% or greater that the applicant has in any other business, corporation or partnership and a statement describing all intracompany relationships of the applicant, including parent, subsidiary or affiliated companies;

(3)

A written commitment to timely service and restoration of property;

(4)

A schedule of proposed charges;

(5)

A statement setting forth the channels to be allocated for community, municipal, education, and leased access; a description of the production facilities and equipment to be made available by the applicant for access; and a statement establishing any additional revenues to be designated for programming or programming assistance for the access channels;

(6)

If applicant is a corporation, audited financial statements for the five previous fiscal years. If applicant is a partnership, copies of the U.S. Partnership Return of Income (IRS Form 1065) for the five previous fiscal years. If applicant is a sole proprietorship, copies of personal financial statements for the five previous fiscal years;

(7)

An estimated five-year operations pro forma which shall include the initial and continuing plant investment, annual profit and loss statements detailing income and expenses, annual balance sheets, and annual levels of subscriber penetration. The pro forma shall also state the average return on investment anticipated by the applicant for the five-year operations period and shall state the method of computation thereof. Costs anticipated for voluntary services or contributions shall, if presented, be incorporated in the pro forma as required in this Part 4, but shall be separately identified in the pro forma;

(8)

A listing of existing franchises held by the applicant, indicating when the franchises were issued and when the networks were constructed in each respective governmental unit, together with the

name and address and phone number of a responsible governmental official knowledgeable of the applicant;

(9)

A statement detailing the applicant's prior operational experience in cable television systems and/or microwave service, including that of its officers, management and any staff to be associated with the proposed operation;

(10)

A general statement of the applicant's ability and intent to incorporate technological improvements and advancements in the cable television system as such improvements or advancements are generally available in the industry; and

(11)

Any other reasonable and applicable information which the City Council may request.

D.

Request for proposals; public comment periods; evaluating applications; public hearing.

(1)

Upon filing, any initial franchise application and related documents are public records open to inspection by the public during reasonable hours, including specifically the regular business hours of the City Clerk.

(2)

Before issuance of a request for proposals, the City shall maintain the proposed request for proposals on the agenda of at least two City Council meetings for the purpose of determining any special local needs or interest. Any citizen of the City shall have the right to comment in writing, filed in advance, or orally at any meeting at which the proposed request for proposals is to be considered.

(3)

Following reasonable notice to the public, any initial franchise application shall be available for inspection for a period of at least 20 days prior to the municipal officers taking action on the same. Any citizen of the City shall have the right to comment in writing, filed in advance, or orally at any meeting at which the franchise applications are to be considered.

(4)

Before authorizing the issuance of any such initial franchise contract, the municipal officers shall review the applicant's legal, character, financial and technical qualifications and the adequacy and feasibility of the applicant's qualifications to operate a cable television system within the City based upon information provided to the municipal officers by the applicant and by other sources in writing or at any public hearing or meeting of the municipal officers, and shall conduct a public hearing thereon with at least seven days' advertised notice prior to said public hearing.

E.

Awarding an initial franchise.

(1)

After examining all applications submitted pursuant to procedures to be established by the City Council designed to assure the legal, financial, technical and character qualifications of an applicant to provide cable service, the Council is authorized, after a full hearing affording due process, to grant a nonexclusive franchise conveying the right to construct and operate a cable system within the public ways of the City. A franchise may be awarded to the applicant which in the Council's judgment will best serve the public interest and whose construction and financial

plans and arrangements are both feasible and adequate to fulfill the conditions set forth in this Part 4 and incorporated into any franchise granted.

(2)

No provisions in this Part 4 shall be deemed or construed to require the Council to grant a franchise following receipt of any franchise application.

F.

Franchise term. The term of a franchise shall be not more than 15 years from the date the franchise is accepted by the grantee by written agreement with the City, unless terminated earlier in accordance with this Part 4.

G.

State-of-the-art modifications. The Council shall have the authority to order a public hearing on the provision of additional channel capacity by a grantee or on the inclusion in a grantee's cable system of "state-of-the-art" technology or upgraded facilities. Notice of such hearing shall be provided to the grantee and the public not later than 30 days prior to such hearing. If, after such hearing, the Council determines that (1) there exists a reasonable need and demand for additional channel capacity and/or "state-of-the-art" technology or upgraded facilities, and (2) provisions have been made or will be made for adequate rates which will not preclude a grantee from achieving a positive net present value on its investment in the City over the term of the franchise and will allow a grantee a fair rate of return on its total investment (including the investment required to provide the additional channels and/or the "state-of-the-art" technology or upgraded facilities), and (3) the additional channel capacity and/or "state-of-the-art" technology or upgraded facilities will not result in economic waste for the grantee, the Council may order the grantee to provide a specified number of additional channels and/or specified "state-of-the-art" technology or upgraded facilities. In considering the economic feasibility of required cable system improvements, the City may consider whether to extend the term of the franchise to permit the recovery of the costs of the improvements as set forth in (2) above. Any proposed extension of franchise shall be treated procedurally in accordance with the procedure for franchise renewal.

H.

Franchise fees.

(1)

Grantee to pay City 5% of gross revenue as a franchise fee. For the reason that the streets and other public rights-of-way which are used by the grantee in the operation of its cable system within the boundaries of the City are valuable public properties acquired and maintained by the City at great expense to its taxpayers, and that the grant to the grantee to the use of said streets is a valuable property right without which the grantee would be required to invest substantial capital in right-of-way costs and acquisitions, and because the City will incur costs in regulating and administering the franchise, the grantee shall pay to the City an amount equal to 5% of the grantee's gross revenue (as defined in definition § [190-41](#)).

(2)

Franchise fee to be paid annually with statement verifying all collected gross revenues. The franchise fee assessed shall be payable annually to the City. The grantee shall file a complete, accurate, and verified statement of all collected gross revenue within the City during the period for which said annual payment is made, and said payment shall be made to the City Treasurer not later than 60 days after the expiration of the date for which payment is due.

(3)

The City may examine all grantee records to determine accuracy of amounts payable to City. The City shall have right to audit and to recompute any amounts determined to be payable under this Part 4; provided, however, that such audit shall take place within 36 months following the close of each of the grantee's fiscal years. Any additional amount due to the City as a result of the audit shall be paid within 30 days following written notice to the grantee by the City; said notice shall include a copy of the audit report.

(4)

Late payment of franchise fee to be charged interest at prime rate plus 2%. In the event that any franchise payment or recomputed amount is not made on or before the applicable dates heretofore specified, and following notice by the City to a grantee, interest shall be charged daily from such date at the annual rate equivalent to the then-existing prime rate of Augusta banking institutions plus 2%.

**§ 190-59. Grantee bound by cable ordinance and franchise agreement; conflicts.**

A.

Upon award of a franchise pursuant to this Part 4, a grantee shall agree to be bound by all the terms and conditions contained herein. A grantee shall also agree to provide the cable system and all of the cable services specifically set forth in a franchise agreement.

B.

In the event of a conflict between the franchise agreement and the provisions of this Part 4, the provisions of this Part 4 shall prevail. Failure to provide services as promised in the grantee's franchise may be deemed a breach of this Part 4 to which the provisions of §§ 190-69 and 190-70 of this Part 4 shall apply.

**§ 190-60. Transfers and assignments.**

A.

"Transfer of a franchise" means any transaction in which an ownership or other interest in a grantee or its cable system is transferred from one person or group of persons to another person or group of persons so that control of the grantee is transferred, or the rights and/or obligations held by the grantee under a franchise agreement are transferred or assigned to another person or group of persons.

(1)

A rebuttable presumption that transfer of control has occurred shall arise upon the acquisition or accumulation by any person, or group of persons, of 35% of the voting interest of the grantee or of the person exercising management authority over the grantee. Any purchases or acquisitions of the grantee's stock made by a person other than an officer or director of the grantee over a stock exchange or in the over-the-counter market of which the grantee or any affiliate of the grantee has no control, shall not be subject to the requirements of Subsection C below.

(2)

A transfer is pro forma when it involves no substantial change in the ultimate ownership or control of the franchise.

B.

No transfer of a franchise shall occur without prior approval of the City, and such approval shall not be unreasonably withheld. The City Council shall act upon a transfer request no later than

120 days after receiving the information required herein in accordance with the Federal Cable Act of 1992.

C.

Grantee shall promptly notify the City Clerk in writing of a proposed transfer and shall file with the City Clerk an application for transfer of a franchise. The transfer application shall provide complete information on the proposed transaction, including a copy of the bona fide offer, details on the legal, financial, technical and other qualifications of the proposed transferee, and on the potential impact of the transfer on subscriber rates and service.

D.

An application for approval of a pro-forma transfer of a franchise shall be considered granted on the 31st calendar day following the filing of such application with the City Clerk unless, prior to that date, the City notifies the grantee to the contrary. An application for approval of a pro-forma transfer of a franchise shall clearly identify the application as such.

E.

In making a determination on whether to grant an application for transfer of a franchise, the City Council shall consider the legal, financial, technical and other qualifications of the proposed transferee to operate the system; whether the incumbent cable operator is in compliance with its franchise agreement and this Part 4 and, if not, the proposed transferee's commitment and plan to cure such noncompliance; and whether operation by the proposed transferee would adversely affect cable services to subscribers, or otherwise be contrary to the public interest.

F.

No application for a transfer of a franchise shall be granted unless the transferee agrees in writing that it will abide by and accept all terms of this Part 4 and the franchise agreement, and that it will assume the obligations and liabilities of the previous grantee under this Part 4 and the franchise agreement, and with other conditions as may be prescribed by the City Council.

G.

Approval by the City of a transfer of a franchise does not constitute a waiver or release of any of the rights of the City under this Part 4 or the franchise agreement, whether arising before or after the date of the transfer.

H.

In the absence of extraordinary circumstances, the City Council will not approve any transfer or assignment of a franchise within 36 months after initial construction or acquisition of the system.

I.

The City may impose a processing fee to cover its costs of considering and evaluating an application for transfer of a franchise.

**§ 190-61. Liability and indemnification.**

A.

Indemnification of City in franchise operation. It shall be expressly understood and agreed by and between the City and any cable television operator hereafter that the cable television operator shall save the City and its agents and employees harmless from and against all claims, damages, losses, and expenses, including attorney's fees sustained by the City on account of any suit, judgment, execution, claim or demand whatsoever arising out of but not limited to copyright infringements and all other damages arising out of the installation, operation, maintenance, or reconstruction of the cable television system authorized herein.

B.

Reimbursement of costs. The cable television operator shall pay and by its acceptance of any franchise agrees that it will pay all expenses incurred by the City defending itself with regard to all damages and penalties mentioned in Subsection A above.

C.

Public liability insurance. The cable television operator shall maintain and by its acceptance of any franchise agrees that it will maintain throughout the term of the franchise or any renewal or extension thereof a general comprehensive liability insurance policy naming as the additional insured the City, its officers, boards, commissions, agents and employees, in a form satisfactory to the Corporation Counsel, protecting the City and all persons against liability for loss or damage for personal injury, death or property damage occasioned by the operations of the cable television operator under any franchise granted hereinafter, in the amounts of:

(1)

For bodily injury or death to any one person, within the limit, however, of \$1,000,000 for bodily injury or death resulting from any one accident: \$500,000;

(2)

For property damage resulting from any one accident: \$250,000; and

(3)

Workers compensation insurance in compliance with all workers compensation insurance and safety laws of the State of Maine, and amendments thereto.

D.

Notice of cancellation or reduction of coverage. The insurance policies mentioned above shall state that the policies are extended to cover the liability assumed by the cable television operator under the terms of any franchise agreement and shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be cancelled nor the amount of coverage thereof reduced until 30 days after receipt by the City Clerk, by registered mail, of written notice of such intent to cancel or reduce the coverage."

E.

Evidence of insurance filed with the City. All policies of insurance or certified copies thereof and written evidence of payment of required premiums shall be filed and maintained with the City Clerk during the term of this franchise or any renewal thereof.

F.

No waiver of performance bond or letter of credit. Neither the provisions of this Part 4 nor any insurance accepted by the City pursuant hereto, nor any damages recovered by the City thereafter, shall be construed to excuse faithful performance by the cable television operator or limit the liability of the cable television operator under this Part 4 or any franchise granted pursuant hereto, or for damages, either to the full amount of the bond, letter of credit, or otherwise.

G.

Performance bond.

(1)

Grantee may be required to obtain a performance bond in an amount established in the franchise agreement.

(a)

Within 30 days after the award or renewal of a franchise, a grantee may be required to obtain and maintain throughout the period of system construction or reconstruction, at its cost and expense,

and file with the City Clerk, a corporate surety bond in a company authorized to do business in the State of Maine and found acceptable by the Corporation Counsel an amount established in a franchise agreement to guarantee the timely construction and/or reconstruction and full activation of the cable system and the safeguarding of damage to private property and restoration of damages incurred with utilities.

(b)

The bond shall provide, but not be limited to, the following condition: There shall be recoverable by the City, jointly and severally from the principal and surety, any and all damages, loss or costs suffered by the City resulting from the failure of a grantee to satisfactorily complete and fully activate and the cable system throughout the franchise area pursuant to the terms and conditions of this Part 4 and the franchise agreement.

(2)

Extension of construction time limit must receive authorization of City Council. Any extension to the prescribed construction or reconstruction time limit must be authorized by the City Council. Such extension shall be authorized only when the City finds that such extension is necessary and appropriate due to causes beyond the control of a grantee. The performance bond shall be available throughout any such extension period.

(3)

Bond to be terminated only after City Council finds grantee has satisfactorily completed all work. The performance bond shall be terminated only after the City Council finds that a grantee has satisfactorily completed initial construction and activation or reconstruction of the cable system pursuant to the terms and conditions of this Part 4 and the franchise agreement.

(4)

Rights with respect to performance bond in addition to all other rights of City. The rights reserved to the City with respect to the performance bond are in addition to all other rights of the City, whether reserved by this Part 4 or authorized by law, and no action, proceeding or exercise of a right with respect to such performance bond shall affect any other rights the City may have.

(5)

Endorsement required. The performance bond shall contain the following endorsement:

"It is hereby understood and agreed that this bond may not be cancelled by the surety nor the intention not to renew be stated by the surety until 60 days after receipt by the City, by registered mail, of written notice of such intent to cancel or not to renew."

**§ 190-62. System construction.**

A.

Map and detailed plan to be provided. A grantee shall submit a construction or reconstruction plan not less than 90 days prior to the date the grantee intends to commence construction or reconstruction, and that plan shall be incorporated by reference and made a part of a franchise agreement. The plan shall include cable system design details, equipment specifications, and design performance criteria. The plan shall also include a map of the entire franchise area and shall clearly delineate the following:

(1)

Areas within the franchise area where the cable system will be available to subscribers, including a time schedule of construction or reconstruction for each year that construction or reconstruction is proposed; and

(2)

Areas within the franchise area where extension of the cable system cannot reasonably be done due to lack of present or planned development or other similar reasons, with the areas and the reasons for not serving them clearly identified on the map.

B.

Delay in system construction or reconstruction requires consent by City Council. Any delay in the cable system construction or reconstruction beyond the times specified in the plan timetable shall require application to and consent by the City Council. Any delay beyond the terms of the construction timetable, unless approved by the City Council, will be considered a violation of the franchise for which the provisions of §§ [190-61G](#) and [190-70](#) shall apply. However, nothing in this section shall prevent a grantee from constructing or reconstructing the cable system earlier than planned.

C.

Failure to proceed with construction and/or reconstruction expeditiously is grounds for revocation and/or liquidated damages. Construction or reconstruction in accordance with the plan submitted by a grantee shall occur according to the time schedule and shall commence as soon after the effective date of the franchise as is reasonably possible. Failure to proceed expeditiously shall be grounds for liquidated damages and/or revocation of the franchise.

D.

Line extension policy. Extension of a cable system into any area not specifically treated in the plan shall nonetheless be required to be accomplished within 90 days if the terms of any of the following conditions are met and unless circumstances beyond the grantee's control require extension of the City Council of the ninety-day provision:

(1)

Mandatory extension rule. The grantee shall be required to extend energized cable from any existing activated lines of the cable system to any area immediately adjacent thereto within the grantee's service area, including residential, commercial, and industrial property having a density of at least 15 potential subscriber units per mile as measured in linear trench or aerial strand footage from the nearest technically feasible point on the system. The extension shall be paid for by the grantee and not charged to subscribers.

(2)

Early extension. In areas not meeting the requirements for mandatory extension of cable service, a grantee shall provide, upon the request of one or more potential subscribers desiring cable service, an estimate of the costs for time and materials required to extend cable service to said subscribers. A grantee shall then extend cable service upon request of said potential subscribers upon payment of cost for time and materials. A grantee may require advance payment or assurance of payment satisfactory to the grantee. The amount paid by subscribers for early extension shall be nonrefundable, and in the event the area subsequently reaches the density required for mandatory extension, such payment shall be treated as consideration for early extension.

(3)

Nothing in this section shall be construed to prevent a grantee from serving areas not covered under this section upon agreement with developers, property owners or residents.

E.

Service drops.

(1)

Grantee shall make service available to any subscriber within the City upon a request and at the standard connection charge if the connection requires no more than a three-hundred-foot aerial or underground drop measured from the nearest point of a subscriber's home or place of business to the nearest active tap on the cable system, whether or not street cutting or boring is required and shall include one outlet, and standard materials, and shall not involve a wall fish installation.

(2)

If making service available requires more than a standard drop (such as a wall fish installation), a grantee may charge the subscriber:

(a)

The standard connection charge; and

(b)

An amount equal to the reasonable actual labor and material costs incurred by the grantee for the additional facilities and work.

(3)

Absent a showing by the grantee to the City Manager of unusual circumstances (such as but not limited to street crossings), any standard drop shall be accomplished within seven working days of subscriber's request; a nonstandard drop shall be accomplished within 15 working days of a subscriber's request.

F.

Aerial and underground drops in excess of 300 feet are not to exceed actual installation costs.

With respect to requests for connection requiring an aerial or underground drop line in excess of 300 feet, a grantee must extend and make available cable service to such subscribers at a connection fee not to exceed the actual installation costs incurred by the grantee for the distance exceeding 300 feet.

G.

System construction and operation to be consistent with City requirements; City to observe annual proof-of-performance tests; City may conduct independent tests at cost of the grantee. A grantee shall construct, install, operate and maintain its system in a manner such that it operates at all times consistent with all laws, ordinances, and construction standards of the City; NCTA Recommended Practices for Measurements on Cable Television Systems, Second Edition, November 1989, as amended from time to time; the rules and regulations of the Federal Communications Commission; and detailed standards submitted by the grantee as part of its application, which standards shall be incorporated by reference in the franchise agreement. In addition, a grantee shall provide the City, upon request, with the opportunity to observe the conduct of, and receive a written report of the results of, the grantee's annual proof-of-performance tests. The City may at any time conduct independent measurements of the system. A grantee shall pay the costs incurred by the City for any technical assistance deemed reasonably necessary by the City for obtaining independent verification of technical compliance with all standards, when independent test results indicate noncompliance with any technical standards.

H.

Additional specifications for standby power, national, state and local code requirements. A grantee shall construct, install and maintain the cable system in an orderly and professional manner, using due diligence and materials of good and durable quality. All cables and wires shall be installed, where possible, parallel with and in the same manner as electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for

engineering considerations. Underground installations shall be in conformance with all applicable codes.

(1)

A grantee shall maintain equipment capable of providing standby power to be engaged automatically in the event of a power failure for 24 hours at all headend, tower, and HVAC systems and for a minimum of two hours at all trunk and distribution amplifiers, or fiber optic node.

(2)

A grantee shall at all times comply with applicable sections of the following, all as from time to time amended and revised, and all other applicable rules and regulations now in effect or hereinafter adopted by the City:

(a)

National Electrical Safety Code (ANSI), most recently adopted;

(b)

National Electrical Code (National Bureau of Fire Underwriters);

(c)

NCTA Recommended Practices for Measurements on Cable Television Systems, Second Edition, November 1989, as amended; and

(d)

The rules and regulations of the Federal Communications Commission.

(3)

In any event, the grantee shall not endanger or interfere with the safety of persons or property in the franchise area or other areas where a grantee may have equipment located.

I.

Access to grantee's trenches by other utilities. During cable system construction or rebuilding, the grantee shall allow other entities, as determined by the municipal officers, to put other compatible facilities in their trenches while they are open.

J.

If the City determines any part of the facilities are harmful to the health and safety of any person, the grantee shall promptly correct all such conditions. If, at any time, it is determined by the City or any other agency or authority of competent jurisdiction that any part of the system facilities is endangering the public, including without limitation missing vault or pedestal covers, temporary drop cables that cross walkways, driveways or other areas, and low cables, riser problems and other violations of local or state codes and laws that are harmful to the health or safety of any person, then a grantee shall correct all such conditions, at its own costs and expense, immediately within 24 hours of receipt of notice from the City or any other agency or authority of competent jurisdiction. Until such conditions are corrected, the grantee shall post suitable warnings to ensure that the health and safety of persons possibly affected is ensured.

K.

Grantee to maintain system in conformance with FCC radiation rules. A grantee shall construct, operate and maintain the system in conformance with FCC signal leakage requirements, 47 CFR 76, Subpart K, to prevent interference with the transmission or reception of over-the-air broadcast signals by television receivers. A grantee shall not interfere with the ability of any subscriber to utilize his/her television receiver for any lawful purpose. The connection of any cable input selector device or any converter to a subscriber's terminal shall not be considered as interference with the subscriber's ability to utilize his/her television receiver.

L.

Grantee to take all necessary steps to prevent accidents. A grantee shall, at its own cost and expense, take all necessary efforts to prevent accidents at its work sites, including the placing and maintenance of proper guards, fences, barricades, and security personnel and, at night, suitable and sufficient lighting.

M.

Notice of cable construction/repair to subscribers. A grantee shall notify residents on affected streets of pending construction or major repairs, including any which require street or sidewalk trenching, at least 48 hours prior to commencement of such work. Notification shall be by leaving an appropriate notice at the residence (i.e., door hanger notice) and by mail. In the event of a system extension or rebuild, possibly affecting general system reception, a grantee shall notify all of its subscribers by mail, stating the scope and duration of the proposed extension or rebuild and its impacts at least 14 days prior to commencement of such work, with a follow-up door hanger notice also being placed at subscribers' residences no later than 48 hours prior to commencement of the extension or rebuild work.

**§ 190-63. Use of City streets and public rights-of-way.**

A.

All grantee's facilities to be installed only at locations approved by the Director of City Services. Any poles, wires, cable lines, conduits or other properties of a grantee to be constructed or installed in streets shall be so constructed or installed only at such locations and in such manner as shall be approved in writing by the City of Augusta Director of City Services in the exercise of his/her reasonable discretion.

B.

During construction, reconstruction or maintenance of the system, a grantee shall not obstruct public ways without prior consent of authorities. In connection with the construction, reconstruction, operation, maintenance, repair, or removal of the system, a grantee shall give due regard to the aesthetics of the franchise areas and shall not obstruct the public ways, streets, railways, passenger travel, or other traffic to, from or within the City, without prior consent of the appropriate authorities. In addition:

(1)

All transmission and distribution structures, lines, and equipment erected by a grantee within the City shall be so located as to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any streets or public ways.

(2)

In case of any disturbance to any public way, street, easement, paved area or other property, a grantee, at its own cost and expense and in a manner and time period approved by the City, shall replace and restore such public way, street, easement, paved area or other property in as good a condition as before the work involving such disturbance was done.

C.

Permits required to be obtained prior to any physical work being performed in City's streets. A grantee or its authorized contractors must obtain permits from the Director of City Services, or designee, prior to any physical work being performed in the City's streets or on City-owned property. Permits will be issued to a grantee or its contractors only on approved plans by approved contractors, which plans must be submitted on or before the request for the

construction permit. All work will be done in accordance with the City's specifications and must comply with all applicable City construction codes and procedures.

D.

Grantee to prepare detailed maps of entire system prior to issuance of permit for construction or reconstruction; maps to be filed with affected utility companies. A grantee shall cause detailed maps of the entire cable system, showing materials of construction, amplifier, and power supply locations, to be filed in the office of the Director of City Services prior to the issuance of a permit for construction or reconstruction. Prior to requesting the issuance of a permit for the installation of any facility or apparatus in accordance with the provisions of this section, a grantee shall file such maps with all utility companies and public agencies whose facilities are affected by such installation.

E.

Upon undergrounding of utility lines, a grantee shall concurrently place lines underground in conduits at depth approved by Director of City Services. All facilities of a grantee in any public street or in any public or private easement, and cable service lines to subscribers off the main lines, shall be located underground at such depths and locations as shall be approved by the Director of City Services, except, with respect to such cable service lines, where the grantee uses existing poles with permission from their owner, and where and so long as electric and telephone lines to the subscribers are overhead. Upon the undergrounding of the utility lines of the owner using said poles, a grantee shall concurrently (or earlier) place its facilities underground at depths and locations approved by the Director of City Services. A grantee shall comply with City ordinances regarding street openings and shall comply with Underground Protection of Facilities Act (23 M.R.S.A. § 3360-A).

F.

Grantee may be required to move its facilities to accommodate changes in public improvements. A grantee shall from time to time protect, support, temporarily dislocate, or temporarily or permanently, as may be required, remove or relocate, without expense to the City or any other governmental entity, any facilities installed, used, or maintained under a franchise, if and when made necessary by any lawful change of grade, alignment, or width of any public street by the City or any other governmental entity, or made necessary by any other public improvement or alteration in, under, on, upon or about any public street or other public property, whether such public improvement or alteration is at the instance of the City or another governmental entity, and whether such improvement or alteration is for a governmental or proprietary function, or made necessary by traffic conditions, public safety, street vacation or any other public project or purpose of the City or any other governmental entity. The decision of the Director of City Services under this section, absent review by the City Council, shall be final and binding on a grantee.

G.

Grantee shall obtain prior approval before altering any municipal facility; alterations to be at cost of the grantee. In connection with the construction, operation, maintenance, repair, or removal of the system, a grantee shall, at its own cost and expense, protect any and all existing structures belonging to the City. A grantee shall obtain the prior approval of the City, the Augusta Water District and the Augusta Sanitary District before altering any water main, sewage or drainage system, or any other municipal structure in any public way or street, because of the presence of the system in the public ways or streets. Any such alteration shall be made by a grantee, at its sole cost and expense, and in a manner reasonably prescribed by the City, the Augusta Water

District and the Augusta Sanitary District. A grantee shall also be liable, at its own cost and expense, to replace or repair and restore to as close to its prior condition as is reasonably possible and in a manner reasonably specified by the City, any public way, street or any municipal structure involved in the construction of the system that may become disturbed or damaged as a result of any work thereon by or on behalf of the grantee pursuant to a franchise agreement.

H.

Grantee shall temporarily move its wires to permit moving of buildings. A grantee shall, at the request of any person holding a moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid to the grantee by the person requesting the same, and the grantee shall have the authority to require such payment in advance. A grantee shall be given not less than 48 hours' notice to arrange for such temporary wire changes.

I.

Grantee shall repair and restore damage to City facilities and shall maintain restoration. In the event that a grantee, during construction, installation, inspection or repair of its facilities, causes damage to pavement, sidewalks, driveways, landscaping or other property, the grantee or the authorized agent shall, at its own expense and in a manner approved by the City, replace and restore such places to the same condition which existed before said work was commenced. The grantee shall further continue to maintain all such restoration in the condition approved by the City.

J.

Failure by grantee to complete required work in any street can result in City causing work to be done at expense of grantee. Upon failure of the grantee to complete any work required by law, or by the provisions of a franchise, to be done in any street or other public place, within 10 days following due notice and to the satisfaction of the Director of City Services, the City may, at its option, cause such work to be done, and a grantee shall pay to the City the cost thereof in the itemized amounts reported by the Director of City Services to the grantee within 10 days after receipt of such itemized report; or, at the City's option, the City may demand of the grantee the estimated cost of such work as estimated by the Director of City Services, and such shall be paid by the grantee to the City within 10 days of such demand; upon award of any contract or contracts for such work, the grantee shall pay to the City, within 10 days of demand, any additional amount necessary to provide for the cost of such work. Upon completion of such work, the grantee shall pay to the City or the City shall refund to the grantee such sums so that the total received and retained by City shall equal the cost of such work. "Cost," as used herein, shall include 15% of other costs for the City's overhead.

K.

City may remove grantee's facilities as may be required during emergencies. The City reserves the right to remove any portion of a grantee's equipment and facilities as may be required in any emergency as determined by the City without liability for interruption of cable service, and the City shall not be obligated to restore cable service or to pay the costs of expenses of restoring cable service.

L.

Grantee shall remove system from any public street following termination or expiration of franchise. In the event that the use of a part of the cable system is discontinued for any reason for a continuous period of 12 months, or in the event such cable system or property has been installed in any street or public place without complying with the requirements of the franchise,

or the franchise has been terminated, canceled or has expired without renewal, a grantee shall promptly, at its own expense, and upon being given 10 days' notice from the Director of City Services, remove from the streets or public places all such property and poles of such cable system other than any which the Director of City Services may permit to be abandoned in place. In the event of such removal, a grantee shall promptly restore the street or other area from which such property has been removed to a condition satisfactory to the Director of City Services.

M.

Grantee's property may be considered abandoned 30 days after termination or expiration of franchise. Any property of a grantee remaining in place 30 days after the termination or expiration of a franchise shall be, at the option of the City Council, considered permanently abandoned. The Director of City Services may extend such time not to exceed an additional 30 days.

N.

Abandonment in place shall be done at the direction of the Director of City Services; ownership of property shall be transferred to City. Any property of a grantee permitted to be abandoned in place shall be abandoned in such a manner as the Director of City Services shall prescribe. Upon permanent abandonment of the property of a grantee in place, the grantee shall submit to the City an instrument in writing, to be approved by the Corporation Counsel, transferring to the City the ownership of such property. If such an instrument is not received within 30 days of the abandonment, the property shall automatically become that of the City.

**§ 190-64. System operation.**

A.

Type and scope of system. A grantee shall install and maintain the system as proposed and agreed upon in the franchise agreement.

B.

Access channels.

(1)

A grantee shall provide and maintain the number and type of access channels as are set forth in the franchise agreement.

(2)

Formula that triggers additional access channels. If any access channel is being utilized more than 10 hours per day, five days a week, between the hours of 6:00 a.m. and 11:00 p.m. for 12 consecutive weeks, a grantee shall, upon receipt of written notice from City, make an additional new channel available for the same purpose(s) within 120 days; provided, however, that nothing in this subsection shall require a grantee to construct additional channel capacity to the cable system for the sole purpose of providing additional access channel capacity, nor shall the grantee be required to make such new channel available if such utilization of an existing government, education or community channel consists of more than 10% character-generated programming during any such consecutive twelve-week period. Such requirement(s) may be met by making available, on a part-time basis, one or more other underutilized channels, or on a full- or part-time basis one or more other unused access channels until such time as such underutilized or unused access channels are needed for the uses to which they have been dedicated.

(3)

Underutilized access channels to be used by others under rules established by City. Whenever any access channel is utilized fewer than four hours per day for six days per week for a continuous period of not less than 12 consecutive weeks, the City may permit different or additional "interim" uses for said channel. The grantee, among others, may be permitted to utilize unused access channel capacity under rules and procedures established by the City; however, no access capacity shall be utilized by the grantee until all other channel capacity on the cable system has been programmed.

(4)

Restoration of access channels if demand increases. Access channels permitted by the City for "interim" use by a grantee are to be restored to government, education or community use whenever the criteria in Subsection B(2) of this section are exceeded for any one of the existing access channel uses or whenever there is significant, unsatisfied and documented demand for use of access channel capacity.

C.

Supervision and regulation of franchises. The City Manager may do all things necessary and proper to supervise, inspect, and regulate the construction and operation of cable television systems franchised under this Part 4 and implement complaint procedures.

D.

Grantee to maintain an office or service center in City limits. A grantee shall maintain a business office or service center within the City limits, which shall be open during the business hours stated in a franchise agreement, and shall maintain a publicly listed telephone number with a toll-free number and sufficient lines which shall be so operated and staffed to respond to customers in at least the following ways: to accept payments and resolve billing difficulties; to give out and exchange or accept return converters; to schedule and conduct service or technician calls; to answer subscriber inquiries; and to resolve complaints. Subscribers shall be promptly notified of any change of address of such office or of telephone number(s). The grantee shall also prepare a promotional notice to familiarize residents with the location of said office, the services available, and complaint procedures. This notice is to be given to each new subscriber upon installation of service and is to be distributed at least once per year to all subscribers.

E.

Repair and maintenance crew to be maintained that is capable of responding to subscriber complaints. The grantee shall maintain sufficient repair and maintenance crews capable of responding to subscriber complaints or requests for service in accordance with subscriber service standards described in § 190-65.

F.

Outage log to be maintained showing details of service failures.

(1)

A grantee shall maintain an outage log showing the date, approximate time, location, duration, number of subscribers affected, type and probable cause of all headend, trunk, or distribution line service failures due to causes other than routine testing or maintenance at reasonable times. A copy of such log showing the "availability criteria" (below) shall be filed with the City Manager on a quarterly basis and shall be retained by a grantee for a period of three years.

(2)

The grantee will design, procure, install and maintain its equipment with the objective of meeting a monthly system availability criteria of 99.5% measured as follows, excluding outages resulting

from circumstances outside the grantee's control such as severe weather, earthquakes, fires, or downed lines resulting from an accident, etc.:

### **100-0.5 Power On - Outage Time**

100 Power On

#### G.

Planned service interruption. The need for periodic system service interruption by the grantee to perform preventive maintenance, system expansion, and system design upgrading is hereby acknowledged. All such interruptions shall be planned during station break or minimum viewing hours. The grantee shall be sensitive to newsworthy events of general public interest and modify such outage plans to allow maximum customer reception of the news of these events. In the event of lengthy service interruption, the grantee shall provide 10 days' prior notice broadcast over the system and by mail.

#### H.

City can require testing of system and report on system performance. When there have been repeated complaints made or when there exists other evidence which, in the judgment of the City Manager, casts doubt on the reliability or quality of cable service, the City Council shall have the right and authority to compel a grantee to test, analyze, and report on the performance of the cable system. Such report shall be delivered to the City Manager no later than 14 days after the City Manager formally notifies the grantee and shall include the following information:

#### (1)

The nature of the complaints which precipitated the special test(s).

#### (2)

Which cable system component(s) was (were) tested, the equipment used, and procedure(s) employed in said testing.

#### (3)

The results of such test(s); and the method(s) in which said complaints were resolved.

#### I.

Required tests may be done by independent professional engineer at cost of grantee. The City Council may require that tests and analyses shall be supervised by a qualified engineer selected by the City who is not on the permanent staff of a grantee. If the tests indicate nonconformance with any technical standards, said tests shall be paid for by the grantee within 20 days after the City submits the engineer's invoice. The aforesaid engineer shall sign all records of the special tests and forward to the City Manager such records with a report interpreting the results of the tests and recommending actions to be taken by the grantee and the City.

#### J.

Performance evaluation sessions to be held every three years. The City and each grantee shall hold scheduled performance evaluation sessions every three years from the effective date of a franchise and as may be required by federal and state law.

#### K.

Written report required of grantee; details outlined. Ninety days prior to each performance evaluation session, the grantee shall submit to the City Council, or such other entity as may be formed by the City, a written report, in reasonable detail, covering the significant events related to the grantee's performance or nonperformance of the terms and conditions of its franchise agreement during the period from the submission of the last such report. Such reports shall, if applicable, cover significant events, including but not limited to those events related to the following topics:

(1)

Compliance with, and any modification necessary with respect to, the financial commitments required under the franchise agreement;

(2)

Compliance with requirements regarding system characteristics and technical performance and testing requirements;

(3)

Compliance with construction terms, standards, and schedules;

(4)

A description of the changes made or contemplated to the mix, level and quality of programming in the Board categories of video programming or other services on the system; nothing in this subsection, however, shall imply any City regulatory authority or power of censorship over the content of programming on the grantee's channels, the community and educational access channels or the leased channels;

(5)

The status of the state-of-the-art communications facility technology;

(6)

Compliance with and any modification necessary with respect to the grantee's privacy protection policies;

(7)

A summary of all significant service interruptions;

(8)

A summary of all significant and representative subscriber and user complaints and the action taken by the grantee in response thereto;

(9)

A summary of relevant developments in the law and regulatory constraints; and

(10)

Other events which the grantor or grantee may find significant.

L.

City may request additional information and clarification to determine franchise compliance. Within 60 days after receipt of the grantee's report, the City may request additional reasonable and appropriate information on specified topics, which the grantee shall supply within 60 days of such request. The City may review the grantee's performance to determine whether the grantee has complied with the terms and conditions of the franchise agreement and shall, following completion of any such review, keep the grantee's report on file. Nothing in this section shall affect the City's remedies provided elsewhere in this Part 4.

M.

Special evaluation session possible at any time. Special evaluation sessions may be held at any time during the term of a franchise at the request of the City or the grantee for specific issues.

N.

Public notification of sessions. All evaluation sessions shall be open to the public and announced in a newspaper of general circulation in accordance with legal notice at least 10 days preceding each session. A grantee shall notify its subscribers of all evaluation sessions by:

(1)

A mailing directly to all subscriber households and units at least 10 days preceding each session; and

(2)

By announcement on at least two channels (within channels 2 through 12) of its system between the hours of 7:00 p.m. and 9:00 p.m., for five consecutive days preceding each session.

O.

Discussion topics listed. Topics which may be discussed at any scheduled or special evaluation session may include, but not be limited to, service rate structures; franchise fees; liquidated damages; free or discounted services; application of new technologies; system performance; services provided; access; programming offered; subscriber complaints; privacy; judicial and FCC rulings; line extension policies; and grantee or City rules.

P.

City may issue report on adequacy of system performance and require improvements where necessary. Within 60 days after the conclusion of any evaluation session (including the clarification period described), the City may prepare a report with respect to the adequacy of system performance and quality of service. If inadequacies are found which result in a violation of any of the material provisions of this Part 4 or a franchise agreement, the grantee shall have a minimum of 30 days to respond and propose a plan for implementing any improvement or correction.

#### **§ 190-65. Customer service standards.**

Customer service standards shall be detailed in the franchise agreement and shall conform to the standards established by the Federal Communications Commission that resulted from the Cable Television Consumer Protection and Competition Act of 1992 adopted by Congress.

#### **§ 190-66. Reports and records.**

A.

Annual financial reports required.

(1)

At the request of the municipal officers or their designee, the cable television operator shall file annually with the City the following, not later than three months after the end of its fiscal year during which a franchise was accepted and within three months after the end of each subsequent fiscal year; two copies of such reports shall be kept confidential to the extent they contain proprietary information:

(a)

An audited financial statement applicable to the cable system serving the City, including a detailed income and expense statement applicable to its operation during the preceding twelve-month period, a balance sheet and a statement of its properties devoted to the cable system operation, by categories, giving its investment in such properties on the basis of original cost, less applicable depreciation; and

(b)

An operational report including the following information, specific to the City: number of homes passed, number of cable plant miles, number of subscribers for each type of cable service offered, penetration rates, and the gross revenue from each revenue source attributable to the operations of the grantee from within the City.

(2)

These reports shall be certified as being correct by a responsible officer of the company, and there shall be submitted along with them such other reasonable information as the City shall request.

B.

Quarterly reports on system performance required. At the request of the municipal officers or their designee, a grantee shall submit to the City, on a quarterly basis, within 30 days following March 31, June 30, September 30, and December 31 of each year, throughout the term of an agreement, a reasonable, statistical summary of the operations of the system. Such information shall include, but not be limited to: the number of dwelling units passed; the number of basic service subscribers; penetration rates for basic and enhanced service; the number of cable plant miles in construction or completed; a summary of subscriber complaints by type of complaint, showing compliance data, a summary of system outages and "down time," telephone call response time, and delayed and abandoned calls; and a service call summary in compliance with service standards.

C.

Grantee shall annually file, prior to March 31, current maps showing location of equipment installed. The grantee shall file with the Director of City Services, on or before the last day in March of each year, updated as-built current maps or sets of maps drawn to scale, showing all cable system equipment installed and in place in streets, public rights-of-way and other public places of the City.

D.

Reports required of compliance and enforcement of customer service standards. A grantee shall report to the City on a quarterly basis regarding its compliance with customer service standards. A report form shall be developed in consultation between the City Manager and a grantee that will provide the detail necessary to monitor grantee's compliance with these standards. Upon breach of a grantee's service standards and failure of a grantee to remedy such breach upon 10 days' prior written notice from the City, the City may invoke the liquidated damages provision of the franchise agreement without prejudice to any other remedy otherwise available to the City. A grantee shall comply with all procedures established by the City and the grantee regarding the handling of all complaints received directly by the City from City residents regarding cable television services.

E.

Ownership reports required. The cable television operator shall file with the City, not later than three months after the end of each subsequent fiscal year during which a franchise was accepted and within three months after the end of each subsequent fiscal year, two copies of the following supplemental information:

(1)

If a nonprofit corporation, a list of all current directors or trustees of record. If a public corporation, a list of all shareholders who individually or as a concerted group hold 10% or more of the voting stock of the corporation;

(2)

A current list of all the cable television operator's officers and directors, including addresses;

(3)

Copies of all pertinent agreement or contracts, including pole-use agreements, entered into by the cable television operator during the fiscal year in the conduct of its business under a franchise granted;

(4)

The names and both business and residential addresses and phone numbers of the cable television system resident manager and engineer; and

(5)

If the cable television operator is a subsidiary, a copy of the annual report of the parent firm.

F.

Public availability of reports. Such reports as required under this Part 4 must be available to the public in the office of the City Clerk during normal business hours.

G.

Correspondence. The cable television operator shall simultaneously file with the City Clerk a copy of each petition, application, report and communication transmitted by the cable television operator to, or received by the cable television operator from, any federal, state or other regulatory commissions, agencies or courts having competent jurisdiction to regulate and pertaining to the operations of any cable television system authorized hereafter.

H.

City's access to records. The City shall have access during all normal business hours, and upon the giving of reasonable notice, to all records required to be maintained according to the franchise. Records of subscriber lists and statistical data shall be made available to the City, if not prohibited by federal law, but only upon a showing to the cable television operator by the City that such records are material to the City's regulatory program.

#### **§ 190-67. Rate regulations.**

[Amended 5-16-1994 by Ord. No. 493]

A.

City reserves right to regulate rates. To the extent provided by federal, state and court-adopted law, the City reserves the right to regulate and may regulate a grantee's rates for cable service to the fullest extent permitted by law.

B.

Current rate schedule to be filed with City; 30 days' notice required prior to rate change. A grantee, for information purposes, and for the City to ensure nondiscrimination, shall provide the City with a complete schedule of all current basic service and enhanced service rates and charges, including pay TV and pay-per-view rates and charges, and shall give 30 days' prior notice from the date of mailing to the City and to all affected subscribers of any pricing changes or additional charges, excluding temporary marketing and sales discounts or offers. Forty-five days before any price changes or additional charges are to take effect, a grantee shall provide the City with a copy of the proposed notification for subscribers so that the City may review the notice's text for accuracy.

C.

No charges to be made to subscriber for repair of equipment or service disconnection. A grantee shall not, except to the extent expressly permitted by law, impose any fee or charge on any subscriber for:

(1)

Any service call to said subscriber's premises to perform any repair or maintenance work related to grantee-owned equipment necessary to receive service, except any such work which was necessitated by a negligent or wrongful act of said subscriber; or

(2)

The disconnection of any services to a subscriber, provided that a grantee may impose appropriate charges if, at the time of disconnection, some or all of the grantee's equipment is not returned to the grantee or the subscriber has not paid all outstanding fees and charges due to the grantee.

D.

Grantee to furnish service to each person in franchise area making request for service. A grantee shall furnish and maintain services to each person within the franchise area who makes a bona fide request to receive any service that is based upon the requirements of this Part 4. Nothing in a franchise agreement shall limit the right of the grantee to deny service to any household or individual which has a negative credit or service history with the grantee, which may include nonpayment of bills or theft or damage to the grantee's equipment, or who has threatened or assaulted employees of the grantee in the course of their employment. When service is denied, the grantee will give written notice to the subscriber of his/her right to appeal to the City the grantee's decision to deny service, and of the City's right to reverse the grantee's decision in instances where the grantee has acted unreasonably.

E.

Basic service charges must be applied on nondiscriminatory basis. All charges for basic service must be applied on a nondiscriminatory basis. A grantee may, however, conduct promotional campaigns in which rates are discounted or waived, and may offer bulk rate discounts for multiple-unit dwellings, hotels, motels, and similar institutions.

#### **§ 190-68. Franchise renewal process.**

The franchise renewal process of the City of Augusta shall be in accordance with § 626 (47 U.S.C. § 546) of the Communications Act of 1934, as amended, and with all other applicable state and federal laws.

#### **§ 190-69. Letter of credit.**

A.

Grantee required to file an irrevocable letter of credit. Within 30 days after the effective date of a franchise, a grantee shall deposit with the City an irrevocable letter of credit in the amount set forth in the franchise agreement and issued by a local federally insured commercial lending institution that has been approved by the City. The form and substance of said letter of credit shall be subject to the approval of the Corporation Counsel. The letter of credit shall be used to assure: the faithful performance by the grantee of all provisions of the franchise agreement and the cable ordinance; compliance with all orders, permits and directions of any agency, commission, board, department, division or office of the City having jurisdiction over the grantee's acts or defaults under a cable television franchise and the cable ordinance; and the payment by the grantee of any penalties, liquidated damages, claims, liens, franchise fees, taxes or other fees due to the City which arise by reason of the construction, operation or maintenance of the cable system, including cost of removal or abandonment of any property of the grantee.

B.

Letter of credit may be drawn upon by City Manager after following specified procedure that assures due process to grantee. The letter of credit may be drawn upon by the City by

presentation of a draft to the lending institution, accompanied by a written certificate signed by the City Manager certifying that the grantee has failed to comply with the franchise agreement and/or this cable ordinance, stating the nature of the noncompliance, and stating the amount being drawn.

(1)

Examples of the nature of the noncompliance for drawing upon the letter of credit include, but are not limited to, the following:

(a)

Failure of the grantee to pay to the City any franchise fees, taxes, liens or other fees after 10 days' written notice of delinquency.

(b)

Failure of the grantee to pay to the City, after 10 days' written notice, any amounts due and owing the City by reason of the indemnity provisions of § [190-61](#).

(c)

Failure of the grantee to pay to the City any liquidated damages due and owing to the City pursuant to a franchise agreement.

(d)

Failure to make any payment required by an agreement within the time fixed therein.

(e)

Failure to pay to the City, within 10 working days after receipt of written notice from the City, any damages, claims, costs or expenses which the City has been compelled to pay or incur by the reason of any material act or default by the grantee.

(f)

Failure to comply, within 10 working days after receipt of written notice from the City, with any material provisions of an agreement or cable ordinance which the City reasonably determines can be remedied by an expenditure of an amount from the letter or other instrument.

(2)

In the event of such noncompliance, the City may order the withdrawal of the amount thereof from the letter or other instrument for payment to the City, provided that, prior to each such withdrawal:

(a)

The grantee shall be afforded an opportunity to cure any of said failures within 30 days after written notice from the City that the withdrawal is to be made; or

(b)

If such cure cannot be reasonably accomplished within such 30 days, then the grantee shall have a reasonable time to cure, provided that the grantee commences such cure within such 30 days and diligently pursues such cure to completion.

C.

Letter of credit shall be replenished to original amount following any drawdown. A grantee shall structure the letter of credit in such a manner that if the City at any time draws upon the letter of credit, the amount of available credit shall automatically increase to the extent necessary to replenish that portion of the available credit exhausted by the honoring of the City's draft. The intent of this subsection is to make available to the City at all times a letter of credit in the amount specified in the franchise agreement.

D.

City's rights with respect to letter of credit are in addition to other rights. The rights reserved to the City with respect to the letter of credit are in addition to all other rights of the City, whether reserved by a franchise agreement or authorized by law, and no action or proceeding against a letter of credit shall affect any other right the City may have.

#### **§ 190-70. Liquidated damages.**

##### **A.**

Parties shall agree to specific liquidated damages to be paid by grantee for certain delays or nonperformance. Upon preparation and acceptance of a franchise agreement, a grantee shall indicate it understands and agrees with the City that failure to comply with any time and performance requirements as stipulated in the agreement will result in damage to the City, and that it is and will be impracticable to determine the actual amount of such damage in the event of delay or nonperformance; therefore, the parties shall negotiate the type and amount of liquidated damages to be specified in a franchise, but without prejudice to any other remedies available to the parties thereto.

##### **B.**

Procedures established to assure grantee of due process and opportunity to cure problem before damages assessed. If the City Manager, following prior reasonable notice to a grantee to cure any problem that might result in liquidated damages, concludes that a grantee is in fact liable for liquidated damages pursuant to this section, he/she shall issue to the grantee by registered mail a notice of intention to assess liquidated damages. The notice shall set forth the basis of the assessment, and shall inform the grantee that liquidated damages will be assessed from the date of the notice unless the assessment notice is appealed for hearing before the City Council and the City Council rules: (a) that the violation has been corrected, or (b) that an extension of the time or other relief should be granted. If the grantee desires a hearing before the City Council, it shall send a written notice of appeal by certified mail to the City Manager within 10 days of the date on which the City sent the notice of intention to assess liquidated damages. After the hearing, if the City Council sustains in whole or in part the City Manager's assessment of liquidated damages, the City Manager may at any time thereafter draw upon the letter of credit required by § 190-69. Unless the City Council indicates to the contrary, said liquidated damages shall be assessed beginning with the date on which the City sent the notice of intention to assess liquidated damages and continuing thereafter until such time as the violation ceases, as determined by the City Manager.

#### **§ 190-71. Forfeiture and termination of franchise.**

##### **A.**

Franchise may be terminated for material breach of terms and conditions; examples given. In addition to all other rights and powers retained by the City, the City reserves the right to terminate a franchise and all rights and privileges of the grantee in the event of a material breach of its terms and conditions. Material provisions shall include all labeled as such and all others which, under all the facts and circumstances indicated, are a significant provision of the franchise agreement or this cable ordinance. A material breach by a grantee shall include, but shall not be limited to, the following:

##### **(1)**

Violation of any material provision of the cable ordinance or franchise agreement or any material rule, order, regulation or determination of the City made pursuant to a franchise.

(2)

Attempt to evade any material provision of the cable ordinance or a franchise or practice any fraud or deceit upon the City or its subscriber or subscribers.

(3)

Failure to begin or complete cable system construction, reconstruction or cable system extension as provided under a franchise agreement.

(4)

Failure to provide the broad categories of programming and cable services enumerated in the franchise agreement.

(5)

Failure to maintain insurance, bonds and letters of credit required by City.

(6)

Failure to restore cable service after 48 consecutive hours of interrupted cable service, except when there is just cause and when approval of such interruption is obtained from the City.

(7)

Material misrepresentation of any fact in the application for or negotiation of a franchise.

(8)

Substantial failure to provide the financial information required by the cable ordinance and/or agreement.

(9)

Substantial failure to satisfy the requirements regarding system characteristics or repeated failure to meet the technical performance standards specified in an agreement.

(10)

Abandonment of the system, in whole or in material part, without the prior written consent of the City.

(11)

Substantial and repeated failure to comply with the leased access requirements of § 612 (47 U.S.C. § 532), Title VI, of the Communications Act of 1934.

(12)

Substantial failure to supply the access channels and other support and any related services, equipment and facilities as required in an agreement.

(13)

Repeated imposition of any fee, charge, deposit, or associated term or condition for any service which is not consistent with the provisions of an agreement, or of which there has repeatedly and unjustifiably been no notification to the City.

(14)

Substantial and repeated failure to comply with the consumer service standards and requirements set forth in the cable ordinance and agreement.

(15)

The taking of any material action which requires the approval or consent of the City without having first obtained said approval or consent, as provided in the agreement.

(16)

Any material written misrepresentation, intentionally made by or on behalf of a grantee in its proposal to obtain a franchise, or in connection with the negotiation or renegotiation of, or any

amendment or other modification to, a franchise agreement, to the extent that any such misrepresentation was relied upon by the City.

(17)

The grantee's becoming insolvent, unable or unwilling to pay its debts, or upon listing of an order for relief in favor of the grantee in a bankruptcy proceeding.

B.

Violations that occur which are not the fault of grantee shall not constitute a material breach. The foregoing shall not constitute a material breach if the violation occurs but is without fault of a grantee or occurs as result of circumstance beyond its control. A grantee shall not be excused by mere economic hardship nor any misfeasance or malfeasance of its shareholders, partners, directors, officers, or employees.

C.

Procedures outlined leading to possible termination of franchise. The City may make a written demand that a grantee comply with any provision, rule, order or determination under or pursuant to the cable ordinance or a franchise agreement. If the violation, breach, failure, refusal or neglect by a grantee continues for a period of 30 days following such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the City may place the issue of termination of a franchise before the City Council. The City shall cause to be serviced upon the grantee, at least 20 days prior to the day of such City Council meeting, a written notice of intent to request such termination and the time and place of the meeting. Public notice shall be given of the meeting and the issue which the City Council is to consider.

D.

City Council shall hear and consider issues and determine if a violation has occurred. The City Council shall hear and consider the issue and shall hear any person interested therein, and shall determine, at its discretion, whether or not any violation by a grantee has occurred.

E.

City Council may declare franchise terminated if compliance does not occur within specified period. If the City Council shall determine the violation by a grantee was the fault of the grantee and within its control, the City Council may, by resolution, declare that the franchise of the grantee be terminated, unless there is compliance within such period as the City Council may fix.

**§ 190-72. Receivership and foreclosure.**

A.

Any franchise granted shall, at the option of City, cease and terminate 120 days after the appointment of a receiver or receivers or trustee or trustees to take over and conduct the business of the grantee whether in a receivership, reorganization, bankruptcy, or other action or proceeding unless such receivership or trusteeship shall have been vacated prior to the expiration of said 120 days, or unless:

(1)

Such receivers or trustees shall have, within 120 days after their election or appointment, fully complied with all the terms and provisions of this Part 4 and a franchise granted pursuant hereto, and the receivers or trustees, within said 120 days, shall have remedied all defaults under the franchise; and

(2)

Such receivers or trustees shall have, within 120 days, executed an agreement duly approved by the court having jurisdiction on the premises, whereby such receivers or trustees assume and agree to be bound by each and every term, provision, and limitation of the franchise agreement.

B.

In the case of a foreclosure or other involuntary sale of the plant, property, and equipment of a grantee, or any part thereof, the City may serve notice of termination upon the grantee and to the purchaser at such sale, in which event the franchise and rights and privileges of the grantee shall cease and terminate 30 days after service of such notice unless:

(1)

The City has approved the transfer of the franchise, as and in the manner provided in this Part 4; and

(2)

Such successful purchaser shall have covenanted and agreed with the City to assume and be bound by all the terms and conditions of the franchise agreement.

**§ 190-73. Waivers.**

A.

Any provision of this Part 4 may be waived, at the sole discretion of the City, by resolution of the City Council.

B.

A grantee may submit a written request for a waiver to the City Council at any time during the franchise term. Such request for waiver, at the sole discretion of the City Council, may be set for a public hearing, and a decision shall be made within 120 days following the submission.

Procedures for the modification of franchise obligations shall be in compliance with § 625 (47 U.S.C. § 545), Title VI, of the Communication Act of 1934.

C.

The City Council may authorize the economic, technical, or legal evaluation of such waiver request, and the grantee shall be required to reimburse the City for any expenditure incurred by the City in connection with such evaluation.

D.

This section is enacted solely for the convenience and benefit of the grantor and shall not be construed in such a manner as to create any right or entitlement for the grantee.

**§ 190-74. Time of the essence.**

Whenever a franchise or contract shall set forth any time for an act to be performed by or on behalf of the grantee, such time shall be deemed to be of the essence, and any failure of the grantee to perform within the time allotted shall always be sufficient grounds for the City to invoke liquidated damages or initiate procedures leading toward the revocation of a franchise.

**§ 190-75. Additional provisions.**

A.

Every direction, notice or order by the City to be served upon a grantee shall be delivered or sent by registered mail to the office responsible for the local cable system. Every notice served upon the City shall be delivered or sent by registered mail to the City Clerk, City of Augusta, Maine.

B.

All provisions of this Part 4 shall apply to a grantee, its successors, and assignees, as may be approved by City Council in accordance with this Part 4.

C.

The rights granted by this Part 4 are subject to all franchises and permits heretofore or hereafter granted by the Council to use the streets of the City by other public utility or public service corporations. It is not intended by the grant of a franchise to abridge the exercise of the police power heretofore or hereafter granted to the City by the state. The grant of a franchise is subject to all ordinances and resolutions of, or agreements adopted by, the City Council as the same now exist or may be hereafter amended, revised or codified, in the lawful exercise of any other power granted to the City.

D.

Specific mention of the materiality of any of the provisions herein is not intended to be exclusive of any others for the purpose of determining whether any failure of compliance hereunder is material and substantial.

E.

If any particular section of this Part 4, or the particular application thereof, shall be held invalid, the remaining provisions, and their application, shall not be affected thereby.

F.

A grantee, upon its acceptance of a franchise, shall be bound by the provisions of this Part 4, all responses, statements, and all matters agreed upon in a franchise agreement.

G.

A grantee shall assume the cost of any publications required by law and such is payable upon a grantee's filing of acceptance of a franchise.

H.

In the event that any provision of the Cable Act of 1984 or 1992 or other statute, law or regulation, which is relied on herein or in any agreement for any definition or requirement, is repealed, then the language of such provision at the time of such repeal shall nevertheless continue to apply for purposes of this Part 4 or any agreement, regardless of such repeal, except as otherwise provided herein or in any agreement or as prohibited by such subsequent repeal or amendment.

I.

The rights and remedies of the parties pursuant to an agreement are cumulative, except as otherwise provided in an agreement, and shall be in addition to and not in derogation of any other rights or remedies which the parties may have with respect to the subject matter of an agreement. A waiver of any right or remedy by a party at one time shall not affect the exercise of said right or remedy or any other right or other remedy by such party at any other time. The failure of the City to take any action in the event of a material breach by the grantee shall not be construed or otherwise be deemed to constitute a waiver of the right of the City to take such action at any other time in the event that said material breach has not been cured, or with respect to any other material breach by the grantee.

J.

In the event that, after the effective date of any agreement, any court, agency, commission, legislative body, or other authority of competent jurisdiction: (i) declares an agreement invalid, in whole or in part, or (ii) requires the grantee either to: (a) perform any act which is inconsistent with any provision of an agreement or (b) cease performing any act required by any provision of an agreement, the City shall reasonably determine whether said declaration or requirement has a material and adverse effect on the agreement. When the grantee intends to exercise its rights pursuant to such declaration, the grantee shall so notify the City of said declaration or requirement. If the City determines that said declaration or requirement does have a material and adverse effect on an agreement, the grantee shall then enter into good-faith negotiations with the City to amend the agreement to eliminate any inconsistency or conflict between said declaration or requirement and the provisions of the agreement and to meet the original intent of the parties as the circumstances warrant and unless prohibited by law.

K.

The headings contained in this Part 4 and any agreement are to facilitate reference only, do not form a part of this Part 4 or an agreement, and shall not in any way affect the construction or interpretation hereof.

**§ 190-76. When effective.**

This Part 4 shall become effective 30 days from and after its passage (March 7, 1994).

**§ 190-77. Strategic Communications Committee.**

[Added 2-5-1996 by Ord. No. 342; amended 2-20-2007 by Ord. No. 031; 3-19-2007 by Ord. No. 051; 11-15-2012 by Ord. No. 12-172]

A.

Established. There is hereby established a Strategic Communications Committee, which shall be responsible to the Mayor and Council for overseeing the performance of the City's cable television franchise under the franchise currently in effect, and for the establishment and operation of the education and government channels provided for under that franchise. The Committee shall also advise the Mayor and Council with respect to such other telecommunications issues as wireless and broadband internet access, cable, traditional and cellular telephones, satellite communications, and the various social media such as Facebook and Twitter, as requested of it by the City Council.

B.

Number and qualifications. The Committee shall consist of seven members, who shall be appointed by the Mayor with the advice and consent of the Council, and one of whom shall be a member of the Augusta School Board and one a member of the Council. All members of the Committee shall be residents of the City of Augusta. The Director of Community Services, or designee, and the Augusta Public Schools Business Manager, or designee, shall be ex officio members, without vote. All Committee members shall serve without compensation.

C.

Terms. Members shall be appointed for three-year terms, with two members appointed each year; and during one year three members shall be appointed to retain the seven-person Committee. Members may serve multiple terms.

D.

Officers and their terms. The Mayor shall appoint a member to serve as the Committee Chair, with the advice and consent of the Council. The Chair shall preside at all Committee meetings. The term of the Chair shall be coterminous with the term of the Chair as a member. The Chair may resign as Chair without resigning as a member, in which case the Mayor shall promptly nominate another member to serve as Chair. The Committee may establish other offices, prescribe the duties and establish the terms of those offices, and choose from among its members those who shall serve as those other officers. Officers need not be sworn as such. In the absence of any officer, a member may be chosen to serve pro tempore.

E.

Meetings. The Committee shall meet not fewer than four times in any twelve-month period and may at any meeting establish the date of its next meeting. The Chair, at the Chair's discretion, may call a meeting of the Committee, and not less than 1/3 of the members, acting together, may call special meetings; in either case, notice by mail or telephone shall be given to all Committee members. At any meeting, a quorum of the Committee shall consist of a minimum of four members.

F.

Bylaws. The Committee may by majority vote of those present at any meeting adopt and amend bylaws governing the conduct of its meetings and establishing additional offices. The Committee may provide by bylaw for forfeiture of membership and of any office held, for cause defined in those bylaws, and may establish such subcommittees and advisory committees as it may desire.

G.

Policies and procedures. The Committee shall, after notice and public hearing, and after an opportunity for the public to submit written comments, adopt policies and procedures governing the education and government channels authorized under the current cable TV franchise agreement. The policies and procedures shall become effective upon approval by the Council.

H.

Duties and powers. The Committee shall have all powers necessary to the implementation of its duties.

I.

Franchisee's funding of education and government channels. Franchise funds paid to the City of Augusta by its cable television franchisee to further the development and operation of the education and government channels, to the extent appropriated by the City Council, shall be disbursed in accordance with established municipal procedures.

J.

Reports required. The Committee, through its Chair, shall submit to the Mayor and Council, with a copy to the City Manager, a written report of its activity, together with any recommendations it believes appropriate, not less than once in every six months after its establishment. Minority reports may be submitted together with the Committee's reports.

K.

Separate fund established. The Committee shall have the authority to receive monies from the operation of the City's education and government channels and from grants and contributions. The Committee shall determine a schedule for any fees to be charged in the use of these channels. The revenues from all sources of income related to operation of these channels shall be deposited with the City Treasurer in a separate fund, to be designated the "Cable TV Fund."

L.

Budget; expenditures. The Committee shall prepare annually a budget to meet the financial needs for operation of the City's cable TV channels, to be submitted to the Council for approval. Revenues, to include funds from the Cable TV Fund as recommended by the Committee, will be expended for general operation, improvement and maintenance of equipment and facilities, and the development and delivery of cable TV programming on the City's education and government channels. Unexpended funds in the Cable TV Fund shall not lapse at fiscal year end, but shall be carried forward from year to year.

M.

Cooperation. All municipal departments and agencies shall cooperate and assist the Committee, subject to operational and other priorities and the availability of funds, in the performance of its duties. The City Manager or the Manager's designee may coordinate any cooperative overtures or efforts. Specifically, the Director of Community Services, or designee, shall assist the Committee in the preparation of the Committee's budget, the reporting of its financial and other activity to the City Council, the general oversight of the receipt and expenditure of Committee funds, and the discharge of the Committee's responsibilities.

## **Part 5. Alarm Systems**

[Adopted 9-21-1992 by Ord. No. 601 (Ch. 11, Art. V, of the 1990 Code)]

## **Article VII. Prevention of False Alarms**

### **§ 190-78. Purpose.**

It is the purpose of this Part 5 to encourage a reduction in the frequency of false security alarms and to establish a service fee to compensate for the inappropriate use of municipal resources in response to false security alarms.

### **§ 190-79. Definitions.**

As used in this Part 5, the following terms shall have the meanings indicated:

#### **ALARM SYSTEM**

A system including any mechanism, equipment or device designed to automatically transmit a signal, message or warning from private or public premises, including telephone alarm systems designed to operate automatically through the use of public telephone facilities to the Augusta Police Headquarters or monitored by another private or public entity which in turn calls the Augusta Police Department.

#### **FALSE SECURITY ALARM**

An alarm caused by malfunctioning of an alarm system, owner, employee or resident error, inappropriate alarm equipment installation, improperly monitored equipment or inappropriate use of alarm so as to cause an emergency response by the Augusta police when in fact no emergency exists.

### **§ 190-80. False alarm restrictions; violations and penalties.**

A.

Any owner or owners of an alarm system whose system causes the transmittal of a false security alarm more than three times per calendar year shall pay a fee of \$25 to the City of Augusta for each false security alarm in excess of three, such alarms per calendar year. The City shall notify the owner(s) of security alarms of this policy, including the financial penalties, after the first false security alarm. Alarms generated as a result of circumstances beyond the alarm owner's control (e.g., power outage, weather conditions, motor vehicle accidents, telephone transmission problems, etc.) shall not result in a service fee nor shall they be counted in the three responses allowed per calendar year commencing on the effective date of this Part 5.

B.

It shall be the sole responsibility of the alarm owner or owners to ensure that they and/or their employees and/or other occupants operating the alarm have received complete instructions in the correct operation and use of the alarm system.

C.

For the first 30 days following an alarm installation, no charge to the owner or owners will be made for false security alarms nor shall any false security alarm during the first 30 days following an alarm installation be counted toward the three permitted false security alarms allowed during a calendar year.

D.

The responding police unit shall make a determination as to the cause of the alarm and whether it shall be considered a chargeable false security alarm.

E.

In the event an alarm owner or owners do not pay the fee provided for above after receiving a bill for same, the Augusta Police Department may disconnect the subject alarm and notify the alarm owner in writing of such disconnection.

**§ 190-81. Reports.**

The City Manager will report to the City Council six months from the effective date of this Part 5 as to its effectiveness in reducing the frequency of false security alarms.

## **Part 6. Massage Establishments and Massage Therapists**

[Adopted 7-7-1997 by Ord. No. 105 (Ch. 11, Art. VI, of the 1990 Code)]

### **Article VIII. Licensing**

**§ 190-82. Title.**

This Part 6 shall be known as the "City of Augusta Massage Establishment and Massage Therapist Regulatory Ordinance."

**§ 190-83. Purpose.**

The purpose of this Part 6 is to:

A.

Regulate the practice of legitimate massage therapy by trained and experienced therapists as a component of the health care system in the City of Augusta.

B.

Exclude from the practice of massage therapy in the City of Augusta those without legitimate training or experience.

C.

Enforce public health, safety and general welfare concerns and practices regarding massage therapy and establishments.

D.

Prohibit persons from using massage establishments to engage in sexual acts or sexual contact for hire.

### **§ 190-84. Definitions.**

As used in this Part 6, the following terms shall have the meanings indicated:

#### **MESSAGE ESTABLISHMENT or THERAPEUTIC MESSAGE ESTABLISHMENT**

Used interchangeably to mean any business which employs, leases, rents or houses one or more massage therapists and/or engages in the act of massage therapy in the City of Augusta for consideration or with the expectation of receiving consideration of any gratuity, whether or not the business has a fixed place of business within the City limits.

#### **MESSAGE or THERAPEUTIC MESSAGE**

Used interchangeably to mean any method of rubbing, kneading, tapping, vibration, compression, percussion, application of friction or manipulation of the external parts of the human body with the hands or other parts of the body or with the aid of any instrument or device.

#### **MESSAGE THERAPIST**

Any person who performs therapeutic massage for consideration or gratuity or with the expectation of receiving consideration or any gratuity.

### **§ 190-85. Exemptions.**

The following persons shall be exempt from this Part 6 while practicing in accordance with the laws of this state: physicians, physician's assistants, surgeons, osteopaths, nurses, chiropractors, physical therapists, barbers, cosmetologists, beauticians, and those licensed with the State of Maine Department of Professional and Financial Regulation upon presentation of their state license to City of Augusta officials.

### **§ 190-86. Permit required; appeals.**

A.

Therapeutic massage establishment permit. No person shall operate a therapeutic massage establishment without a valid therapeutic massage establishment permit issued by the City. A separate permit shall be required for each such establishment.

B.

Massage therapist permit. No person shall work as a massage therapist without a valid massage therapist permit issued by the City.

C.

The Chief of Police of the City of Augusta shall have the authority to grant therapeutic massage establishment permits and massage therapist permits to persons of good moral character for one year unless sooner revoked for violation of law. Those aggrieved by the decision of the Chief of Police shall have authority to present an appeal to the City Council for approval by majority vote.

**§ 190-87. Application for permit.**

A.

Applications for massage establishment and massage therapist permits shall be available at the office of the City Clerk.

B.

Each applicant for a license shall:

(1)

Complete all information upon and file an application on a form prescribed by the City Clerk, including certifying that he/she is at least 18 years of age.

(2)

Submit the completed application to the City Clerk, together with attested copies of the articles of incorporation and bylaws, and be in good standing with the State of Maine, Secretary of State, if the applicant is a corporation, evidence of partnership if a partnership, or articles of association and bylaws if the applicant is an association, as well as a list of all officers and directors.

(3)

File an affidavit which will identify all owners, officers, managers or partners of the applicant and their places of residence at the time of the application and for the immediately preceding five years.

(4)

For a massage therapist permit, submit two front face photographs of the applicant taken within 30 days of application, of such size as the Clerk may specify.

(5)

File the release authorized by 16 M.R.S.A. § 620(6), of the Criminal History Record Information Act,<sup>[1]</sup> with the application for each applicant seeking a massage therapist permit and for each officer, owner, manager or partner of an applicant seeking a therapeutic massage establishment permit.

[1]

Editor's Note: The Criminal History Record Information Act was repealed by L. 2013, C. 267, § A-1, effective 10-9-2013. See now 16 M.R.S.A. § 701 et seq.

(6)

Authorize the Police Chief or his/her agent to inspect the premises of the massage establishment or location where the massage therapy will take place, prior to and during the application process, and to inspect and investigate the application, including cooperating with a criminal history investigation.

(7)

Authorize the Fire Chief or his/her agent to inspect the location of the premises of the massage establishment or location where the massage therapy will take place, prior to and during the application process, to determine if fire and safety standards are satisfied.

(8)

Authorize the Code Enforcement Officer to inspect the premises of the massage establishment or location where the massage therapy will take place, prior to and during the application process, to determine that the business complies with City ordinances.

(9)

Authorize release of medical information from a recognized medical care provider who has conducted a physical examination of the applicants and conducted a test for tuberculosis.

### **§ 190-88. False applications.**

No person shall make any false, untruthful or fraudulent statement or in any way conceal a material fact on an application, or give or use a fictitious name in order to obtain a permit. Any permit obtained in violation of this section shall be void.

### **§ 190-89. Violations and penalties.**

Any violation of this Part 6 shall result in a fine of \$100, immediate revocation of the person's massage establishment permit, massage therapy permit, and any and all applications for massage therapy and establishment permits. The person in violation shall not apply for a massage therapy permit or massage establishment permit for one year.

## **Part 7. Tattooing**

[Adopted 5-17-1999 by Ord. No. 108 (Ch. 11, Art. VII, of the 1990 Code)]

## **Article IX. General Provisions**

### **§ 190-90. Definitions.**

The following words, terms and phrases, when used in this Part 7, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

#### **OPERATOR**

The individual who performs the art of tattooing on the person of another.

#### **TATTOO**

To insert pigment under the skin of a human being by pricking with a needle or otherwise so as to produce an indelible mark or figure visible through the skin.

### **§ 190-91. Prerequisites to tattooing.**

No tattoo shall be administered except by conforming to all of the following:

A.

Age. No tattoo shall be administered to any person less than 18 years old, as verified by a driver's license, liquor identification card, military identification card or other adequate record.

B.

Notice of permanency. Before administering a tattoo, the patron shall be advised that the tattoo should be considered permanent; that it can be removed only with a surgical procedure; and that any effective removal will leave permanent scarring and disfigurement. The written cautionary notice contained in Subsection C shall be furnished to and signed by the patron.

C.

Skin condition. The skin to be tattooed shall be free from rash, pimples, infection or recent (less than two years) scar tissue. The patron must be in apparent good health, and the skin to be tattooed generally in a healthy condition to all appearances.

D.

Sobriety of patron. Tattoos shall not be administered to any person under the influence of drugs or alcohol, and the operator is charged with the responsibility of making reasonable observation and inquiry to assure himself/herself that the patron is not under the influence of drugs or alcohol.

E.

Food, drink, smoking, and alcoholic beverages prohibited. The consumption of food or drink and smoking is prohibited in the tattooing area. The consumption of alcoholic beverages on the tattooing premises is prohibited.

F.

Prior jaundice or hepatitis. The patron shall be asked, before the operation, whether he has had jaundice or hepatitis. If the answer is in the affirmative, the tattoo operation shall not be performed.

G.

Record; form. The tattoo establishment shall keep a permanent record of all patrons tattooed, stating name, age, address, date of tattoo, operator's name, place where tattooed, and a description of the design of the tattoo. Such records shall be made available to any City official upon request, and shall be in the following form, which shall be signed by the patron and the tattoo operator:

Date

I, the undersigned, realize that a tattoo is permanent; that it can be removed only with a surgical procedure; and that any effective removal will leave permanent scarring and disfigurement.

Name

Address

Date of Birth

Social Security #

Serial number if a member of armed forces

Have you had jaundice or hepatitis within the last two years?      Yes \_\_\_\_\_      No \_\_\_\_\_

Signature of patron

Description of tattoo

Area of body

Signature of operator

**§ 190-92. Tattooing procedure.**

The minimum required procedure for administering a tattoo shall be as follows:

A.

No tattooing shall be done on the head, neck, hands, feet or the genitalia of any person.

B.

The operator shall wash his hands thoroughly with soap and water before starting to tattoo; the hands shall be dried with individual single-use towels.

C.

The operator will use single-service impervious gloves on both hands before beginning and during any procedures associated with tattooing.

D.

No skin area shall be penetrated, abraded or treated with chemicals for the purpose of removing, camouflaging or altering any blemish, birthmark or scar.

E.

A safety razor with a new single-service blade for each patron or a straight-edge razor may be used and shall be thoroughly cleaned and sterilized as required by the state before use on each patron.

F.

The area to be tattooed shall first be thoroughly washed, i.e., for a period of two minutes with warm water to which has been added an antiseptic soap. A sterile single-use sponge shall be used to wash the area. After shaving and before tattooing is begun, a solution of 70% alcohol shall be applied to the area with a single-use sponge used and applied with a sterile instrument.

G.

Only petroleum jelly in collapsible metal or plastic tubes, or its equivalent as approved by the state, shall be used on the area to be tattooed, and it shall be applied with a sterile gauze.

H.

The use of styptic pencils, alum blocks, or other solid or liquid styptics to check the flow of blood is prohibited.

I.

A patch test for sensitivity for each of the dyes used shall be made on the patron before any tattooing design is applied.

J.

Single-service or individual containers of dye or ink shall be used for each patron, and the container therefor shall be discarded immediately after completing work on a patron, and any dye in which the needles were dipped shall not be used on any person.

K.

Excess dye or ink shall be removed from the skin with an individual sterile sponge which shall be used only on one person and then immediately discarded.

L.

After completing work on any person, the tattooed area shall be washed with sterile gauze saturated with an antiseptic soap solution approved by the state, or a 70% alcohol solution. The tattooed area shall be allowed to dry and petroleum jelly from a collapsible or plastic tube shall be applied, using sterile gauze. A sterile gauze dressing shall then be fastened to the tattooed area with adhesive.

### § 190-93. Care of instruments.

A.

Storing of instruments. All clean and ready-to-use needles and instruments shall be kept in a closed glass or metal case or storage cabinet while not in use. Such cabinets shall be maintained in a sanitary manner at all times.

B.

Sterilizing of instruments. A steam sterilizer (autoclave) shall be provided for sterilizing all needles and similar instruments before use on any customer, person or patron. Alternate sterilizing procedures may only be used when specifically approved by the authorized City inspector. Sterilization of equipment will be accomplished by exposure to live steam for at least 30 minutes at a minimum pressure of 15 pounds per square inch, temperature of 240° F. or 116° C.

C.

Use of instruments. The needles and instruments required to be sterilized shall be so used, handled and temporarily placed during tattooing so that they will not be contaminated.

**§ 190-94. Inspection of tattooing establishment.**

City inspectors may conduct periodic inspections of any tattooing establishment for the purpose of determining whether or not such establishment and the persons performing the art of tattooing therein are in compliance with all applicable health provisions contained in this Part 7 and other pertinent ordinances. It shall be unlawful for any person or operator of a tattooing establishment willfully to prevent or restrain the inspection officer from entering any licensed establishment where tattooing is being performed for the purpose of inspecting such premises, after proper identification is presented to the operator.

**§ 190-95. Licensed practitioners.**

The provisions of this Part 7 shall not apply to any establishment under the control or direction of a duly licensed practitioner of the healing arts, nor do they apply to licensed medical hospitals and similarly licensed medical institutions.

**§ 190-96. Violations and penalties.**

In addition to the revocation and suspension of any license, any person violating any provision of this Part 7 shall be subject to the penalty set forth in Chapter 1, Article III, General Penalty, of this Code.

## **Article X. Licensing**

**§ 190-97. License required.**

No individual shall tattoo another or operate or conduct a tattooing establishment of any kind within the City without first obtaining a license therefor in accordance with the provisions of this Part 7 and all regulations enacted pursuant to Title 32, Chapter 63. of the Maine Revised Statutes. The effective date for procurement of said license shall be July 1, 1999. In all appropriate places, the City of Augusta shall be known as the licensing authority.

### **§ 190-98. Application fee; license term.**

An application for a license under this Part 7 shall be accompanied by a fee which shall be set from time to time and a schedule of such fees is on file in the City Clerk's office. Each license shall expire one year from date of issuance.

## **Chapter 198. Mining and Excavations**

[HISTORY: Adopted by the City Council of the City of Augusta as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Blasting — See Ch. [130](#).

Building construction — See Ch. [134](#).

Streets and sidewalks — See Ch. [241](#).

Land use — See Ch. [300](#).

[Attachment 1 - Excavation and Street Opening Policy](#) 

## **Article I. Mineral Extraction**

[Adopted 11-21-2005 by Ord. No. 196; amended in its entirety 7-15-2010 by Ord. No. 106 (Ch. 6, Art. II, Div. 3, of the 1990 Code)]

### **§ 198-1. Title and purpose.**

#### **A.**

Title. This article shall be known and may be cited as the "City of Augusta, Mineral Extraction Ordinance," and will be referred to herein as "this article."

#### **B.**

Purpose. The purpose of this article is to put into law minimum removal and reclamation standards, and municipal procedures intended to regulate the removal, processing and storage of topsoil, loam, rock, flat rock, sand, gravel, or other similar materials and associated uses within the City of Augusta. These standards and procedures are intended to protect the public health, safety, and general welfare, and to minimize the adverse impact of extraction to citizens of the City, abutting property owners, and wildlife and natural resources by, among other things:

#### **(1)**

Preserving and protecting surface water and groundwater quality and quantity for current and future use of the City.

#### **(2)**

Preserving the City's natural resources and property and their future ability to be assets to the City.

#### **(3)**

Controlling the amount of pollution which can be discharged into the City's environment.

### **§ 198-2. Exempt activities.**

[Amended 12-1-2011 by Ord. No. 166]

A.

If an applicant has complied with the notice of intent to apply for license requirements set forth in § [198-5](#), and the application shows active extraction areas exceeding the ten-acre limit referred to herein, a limited exemption is available to the owners of these pits.

(1)

They may submit a written request for an exemption from making reclamation for the acreage that exceeded the ten-acre limit at the time this article went into effect.

(2)

All reclamation requirements, excluding the reclamation plan and performance guarantee referenced in Subsection [A\(3\)](#) below, shall be deferred until the extraction site is deemed complete.

(3)

A reclamation plan and a performance guarantee (as outlined by DEP under State of Maine Performance Standards, Intent to Comply, § 14) shall be submitted to the City of Augusta (see § [198-9](#)).

(4)

Any future expansion of the pit itself or expansion of permitted existing uses would require Planning Board approval and will require reclamation in the existing pit equal in size to the proposed expansion area.

(5)

An applicant may also submit a written request for an exemption from any of the performance standards it is unable to meet without undue financial hardship. These performance standards may include, but are not necessarily limited to: proximity of the active extraction area to a boundary line or to a public right-of-way; pit road location and/or buffer zone requirements of the road.

(6)

An exemption will not be granted from § [198-8B\(4\)](#) Buffers, bufferyards, and setbacks.

(7)

These requests will be reviewed and determined on a case-by-case basis by the Planning Board.

(8)

This exemption shall only apply to applicants that filed a notice of intent to apply for a license by April 30, 2006, as outlined in § [198-5](#).

B.

This article shall not apply to the following: (Note: Mineral extraction activities which are exempt from this article shall still require a conditional use permit under provisions of Chapter [300](#), Land Use, of the City Code, and must comply with other rules and regulations of the City.)

(1)

Mineral extraction activities that are located 300 feet or more from an existing residential property line, but only if the activities affect less than two acres of total active extraction area per parcel;

(2)

Storage or stockpiles of winter abrasives (sand or sand/salt mixes) used for the maintenance of private or public roads and driveways and parking lots. This applies to the stockpile or storage area itself and not to any area;

(3)

Removal or filling of material incidental to construction, alteration or repair of a structure, or in the landscaping incidental thereto;

(4)

Construction of farm and fire ponds and normal agricultural operations;

(5)

Removal of stone or rock walls or foundation walls; and

(6)

Stripping of topsoil (loam) which is not part of a mineral extraction operation to a depth no greater than one foot, provided the area so stripped is reseeded in the same growing season as removal.

### **§ 198-3. Definitions and references.**

[Amended 12-1-2011 by Ord. No. 166]

A.

Relationship to other City ordinances. Where there is a conflict between the language contained in this article and any other City ordinances, the stricter language shall apply for purposes of this article.

B.

References to the City. All references in this article to "City," "the City of Augusta," and to any board, official or officer, unless clearly defined otherwise, shall be construed to be references to the City of Augusta, Maine, an incorporated municipality in the County of Kennebec, State of Maine, and its municipal boards, officials and officers.

C.

References to other documents. All references in this article to any document, chapter, handbook, or other external reference shall be construed to be references to said documents and their successor documents, as they may be amended or replaced from time to time.

D.

Definitions. As used in this article, the following terms shall have the meanings indicated:

#### **ABANDONMENT**

Failure to make application for license renewal within one year of license revocation or expiration.

#### **ACCESSORY USES**

Uses clearly incidental and subordinate to a principal use and located on the same lot as the principal use. Such uses must be clearly spelled out in the application and license. Accessory uses may include but are not limited to snow dumps, screening of materials and crushing of materials.

#### **ACTIVE EXTRACTION AREA**

The pit itself, the actual hole in the ground, including side slopes and adjoining areas with overburden removed, excluding roads, structures, stockpiles, etc., which is being worked to produce minerals and/or that is yet to be reclaimed.

#### **AQUIFER**

An underground bed or stratum of earth, gravel or porous stone that contains water.

#### **AVERAGE DAILY TRAFFIC (ADT)**

The average number of vehicles per day that enter and exit a premises or travel over a specific section of road.

## BLASTING

The use of explosives to break up or otherwise aid in the extraction or removal of rock or other consolidated natural formation.

## BLASTING PLAN

A required written outline of all procedures and policies regarding blasting where such activity is proposed to be used. Performance standards for such plan are set forth in § 198-5B(8) of this article.

## BODY OF WATER

Includes the following:

(1)

### POND or LAKE

Any inland impoundment, natural or man-made, which collects and stores surface water.

(2)

### STREAM or RIVER

A free-flowing drainage outlet, with a defined channel lacking terrestrial vegetation and flowing water for more than three months during the year.

## BORROW PIT

A development undertaken for the primary purpose of excavating sand, gravel or fill. This does not include any excavation for rock or clay.

## BUFFER

A natural, undisturbed area or belt of land that contains vegetation. A buffer area may be larger than specified in this article; includes, but is not limited to, earthen berms planted with vegetation.

## BUFFERYARD

An area that contains a belt of natural vertical vegetation tall enough and thick enough to visually screen the proposed activities from the adjacent area. Required bufferyard planting types and densities are identified in Chapter [300](#), Land Use, § [300-502](#).

## CEO

Code Enforcement Officer.

## COMMON SCHEME OF DEVELOPMENT

The process whereby contiguous parcels with existing or proposed mineral extraction operations where the applicant or property owner has at least a thirty-percent share in ownership or where mineral extraction operations owned by a relative (as defined herein) are reviewed as a single license application.

## COMPLIANCE INSPECTION

An examination by the Code Enforcement Officer done on a recurring basis that shall check for compliance of the operations with the conditions and requirements of the license.

## DEEMED COMPLETE

That the material extracted sufficiently meets the section and plan requirements outlined in the permit or license issued by the Planning Board, or that the use has been abandoned for a period of 24 months or more. For mineral extraction operations with an active extraction area of 10 acres or more, 200 cubic yards of material shall be processed or removed every two years, based on records maintained by the owner of the operation, in order to avoid being considered abandoned. For mineral extraction operations with an active extraction area of less than 10 acres, 100 cubic yards of material shall be processed

or removed every two years, based on records maintained by the owner of the operation, in order to avoid being considered abandoned.

#### DISPOSAL

The placing or storing of materials that are not going to be used in any process or production in conjunction with the extraction activity.

#### EDGE OF FOOTPRINT

The outermost boundary of the footprint of operation as defined herein.

#### ENVIRONMENTALLY SENSITIVE AREAS

Wetlands, swamps, wildlife habitat areas delineated by the Department of Inland Fisheries and Wildlife (IF&W), prime agricultural areas, areas with steep slopes, areas with poorly drained soils, and floodplain areas (subject to a one-hundred-year flood); also includes protected natural resources. Environmentally sensitive areas shall specifically include all areas within the resource protection district, as defined in Chapter [300](#), Land Use.

#### EXPANSION OF OPERATION

Excavation operations that exceed the approved footprint of operation.

#### FLAT ROCK MINING

Extraction with the primary purpose of the removal of solid rock strata using low-velocity blasting or mechanical means.

#### FOOTPRINT OF OPERATION

The uppermost and outermost continuous edge, or rim, or outline (drawn on a plan and physically staked on the ground) around the approved active extraction area(s), unreclaimed area(s) and stockpile(s), and all land upon which stumps, spoil, or other solid waste will be or has been deposited; and any storage area that will be or has been used in connection with the development, except a natural buffer strip. The footprint of operation shall be the footprint so identified on a site plan approved by the Planning Board.

#### GROUNDWATER

The water beneath the surface of the ground, consisting largely of surface water that has seeped down; the source of water in springs and wells.

#### GUARANTEE

An irrevocable letter of credit issued by a financial institution or a performance bond.

#### HANDLING

Any aggregate crushing, washing, screening, mixing or stockpiling of sand, gravel, stone, rock, clay, or topsoil; to include any mining of material.

#### IMMEDIATE FAMILY

The husband, wife or children of a specific individual.

#### INACTIVE

Mineral extraction that has ceased for 12 consecutive months prior to the passage of this article, in any areas where mining extraction activity had previously occurred.

#### MAXIMUM SEASONAL HIGH GROUNDWATER LEVEL

The upper level at which the groundwater table normally is located during the season of the year when such levels are at their highest. In order to determine such level, a test pit reviewed by a soil analyst or groundwater data for a minimum of one year must be gathered and analyzed. Adjustments may be made by the Planning Board for extreme seasonal variations.

#### MEASURABLE BLASTING DUST

Dust from a quarry blast that is capable of being measured, but does not require an actual measurement.

[Added 9-4-2014 by Ord. No. 14-149]

#### MINERAL EXTRACTION ACTIVITY

Any operation where soil, topsoil, loam, sand, gravel, clay, rock, peat, or other mined material is removed from its natural location or where it is handled.

#### MINERAL EXTRACTION OPERATION

The site or parcel of land where a mineral extraction activity is being, or proposed to be, undertaken.

#### MINERAL EXTRACTION SITE OR AREA

All of the land area disturbed or otherwise developed for the extraction, removal, handling, processing, or storage of sand, gravel, clay, minerals, stone, rock, or topsoil; including any access roads and cleared areas adjacent to a pit or excavated area, structures, office building, parking lots and stockpiles.

#### PHASING OF OPERATIONS

A plan of completion of the operations in separate and distinct sequences that have a complete beginning and ending for predetermined areas. In the context of this article, all phases must be structured so that they stand on their own, shall be inspected for completeness at the end of each phase and have reclamation of area completed at the end of each phase.

#### PIT

See "active extraction area."

#### PREBLAST SURVEY

Documentation, prior to the initiation of blasting, of the condition of buildings, structures, wells or other infrastructure and of protected natural resources, historic sites and unusual natural areas.

#### PROCESSING

Any washing, crushing, or similar processing of on-site material that does not inherently change the nature of the product.

#### PRODUCTION BLASTING

A blasting operation carried out on a regular basis for the purpose of production of material.

#### PROJECTIONS OF GROUNDWATER QUALITY

An analysis of the potential changes to existing groundwater quality by examining the processes, chemical by-products and outflow of a proposed operation.

#### PROTECTED NATURAL RESOURCE

Wetlands, significant wildlife habitat, fragile mountain areas, freshwater wetlands, bog, marsh, rivers, streams or brooks, as the terms are defined in applicable City or state law.

#### QUARRY

A place where rock or large stone is excavated and/or extracted.

#### QUARRYING

The excavation and/or extraction of rock or large stone from a quarry.

#### RECLAIMED AREA

Land within the footprint of operation that has already been reclaimed.

#### RECLAMATION

The restoration of the footprint of operation to conditions similar to what existed prior to the operation or that will be compatible with what existed prior to the operation or which is prepared for future development for a use permitted in the zoning district in which it is located on the area of land affected by mineral extraction or mining under a reclamation plan. This may include, but is not limited to, grading and shaping of the land, the planting of forests, the seeding of grasses, legumes, or crops for harvest, or the enhancement of wildlife and aquatic resources.

#### RECLAMATION AREA

Land within the footprint of the mineral extraction area that was previously excavated or mined, and is now being prepared, or available, for reclamation.

#### RECLAMATION PLAN

A plan which depicts how the project area will be reclaimed after excavation is complete. Such a plan shall include final grading and revegetation plans and conceptual redevelopment plans, if any, of any given phase.

#### RELATIVE

A spouse, parent, grandparent, brother, sister, child, aunt, uncle, cousin, domestic cohabitant or grandchild related by blood, marriage or adoption, or other individuals where the intent is to circumvent this article.

#### SETBACK

The horizontal distance, in feet, from a lot line or referred location to the nearest part of a structure or activity.

#### SETBACK FROM WATER

The horizontal distance, in feet, from the normal high water mark to the nearest part of a structure or activity.

#### STOCKPILE(S)

Area(s) where either man-made or natural materials are being piled up temporarily, either undercover or exposed to the elements, for future processing. These piles are only for materials that are necessary for mineral extraction activities and associated uses which have been approved by the Planning Board.

#### STOP-WORK ORDER

An order from the City of Augusta to cease a specified activity.

#### SUBSTANTIAL DEVIATION

Changes made to a specified plan that are materially at variance with the original instructions of operation so as to constitute a different plan for most intents and purposes.

#### TOPSOIL

The top layer of soil that is predominantly fertile and ordinarily moved in tillage or the equivalent of such a layer in uncultivated soils.

#### UNRECLAIMED AREA

Land within the footprint of operations of the gravel pit that has been excavated or mined and has not been reclaimed.

#### WATER TABLE

The upper surface of groundwater or that level below which the soil is seasonally saturated with water.

### § 198-4. Authority, applicability and administration; license required.

A.

Authority. This article is enacted pursuant to the City's home rule powers as provided for in Article VIII-A of the Constitution of the State of Maine<sup>[1]</sup> and under the authority granted to the City of Augusta by the statutes of the State of Maine, 30-A M.R.S.A. § 3001, and pursuant to other applicable laws of the State of Maine.

<sup>[1]</sup>

Editor's Note: So in original; apparently should refer to Article VIII, Part Second, Municipal Home Rule.

B.

Administration. The provisions of this article shall be administered by the City of Augusta Planning Board and enforced by the City of Augusta's Bureau of Code Enforcement.

C.

Effective date. This article became effective on March 5, 2007, after adoption by majority vote of the City Council. Upon adoption, this article, and any amendments thereto, shall supersede and replace, in its entirety, the existing Mineral Extraction Regulations as set forth in former § 5.1.12 of the City of Augusta's Land Use Ordinance.<sup>[2]</sup>

<sup>[2]</sup>

Editor's Note: See Ch. [300](#), Land Use.

D.

Mineral extraction license required. All parties proposing to continue a mineral extraction operation, expand an existing mineral extraction operation or propose the creation of a new mineral extraction operation must receive a mineral extraction license as set forth in §§ [198-5](#), [198-6](#) and [198-11](#) of this article, as applicable. License applications shall be filed under a common scheme of development.

E.

Types of mineral extraction activities prohibited. Any proposed mineral extraction activity not specifically allowed in this article shall be prohibited.

F.

Associated mineral extraction uses require prior approval. It is the intent of this article that a license granted hereunder does not imply permission to undertake any associated mineral extraction uses unless expressly and specifically approved in writing by the Augusta Planning Board. If any such associated mineral extraction uses, that have not been approved by the Planning Board as of June 1, 2010, would otherwise trigger major development review or minor development review as outlined in Chapter [300](#), Land Use, for any reason, including, but not limited to, disturbed area, impervious area, traffic generation, parking generation, or new floor area, the associated mineral extraction use shall be approved as a major or minor development, in addition to all other requirements of this article. Bituminous mix plants and ready-mix concrete plants that are associated uses for licensed mineral extraction sites shall require major development review in all cases. The fees, processes, and standards for major development review or minor development review shall apply. Associated mineral extraction activities consisting of bituminous mix plants and ready-mix concrete plants conceptually approved by the Planning Board per this article, with no specific details about the size, location, or impacts of the associated activity, shall require further, detailed Planning Board review and approval, as outlined above.

G.

Conflicting ordinances or regulations. This article shall not in any way impair or remove the necessity for compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this article imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this article shall control. Where conflicts arise within this article, the stricter provision or requirement shall prevail.

#### **§ 198-5. Licensing of existing mineral extraction operations.**

##### **A.**

Time frame.

##### **(1)**

All existing mineral extraction operations that wish to be licensed must submit a notice of intent to apply for license form to the City of Augusta Bureau of Planning no later than April 30, 2006. Operations with an active mineral extraction area larger than two acres that fail to submit a notice of intent to apply for license form will be deemed to intend not to continue legal operation as a mineral extraction activity in Augusta.

##### **(2)**

Upon failure of an existing mineral extraction operation to apply for and receive an existing mineral extraction license, the operation will no longer be an allowed mineral extraction operation and will be in noncompliance with this article. Such operations will not be allowed to continue to operate until and unless they meet the requirements for a new mineral extraction license.

##### **B.**

Notice submissions requirements. The application required for existing mineral extraction operations in Subsection A above shall consist of at least the following submissions:

##### **(1)**

Name, address, telephone number of the owner and operator or both, if different.

##### **(2)**

A copy of a deed, lease, option or other evidence of title, right or interest to the subject property and the City of Augusta's Tax Map and lot numbers.

##### **(3)**

A copy of all existing City and state permits.

##### **(4)**

A sketch plan of the property boundaries, including all land contiguous to the mineral extraction site owned, leased or controlled by the owner or operator of the operation, the footprint of operations as of the effective date of this article, including the active extraction area, all stockpiles and areas, all handling areas with crushers, screens, washers, all areas with overburden removed, all reclaimed and unreclaimed areas, all structures, all associated activities and all wells, roads, water bodies and wetlands within or abutting said boundaries; all structures, residences, wells and roads and footprint of operations of other mineral extraction activities on the properties abutting the land of the owner operator. This sketch must be to scale and be prepared and certified by a licensed Maine land surveyor and must satisfy at least the standards for a property sketch or Class C survey. It may but is not required to be a standard boundary survey. It shall be to a scale of no less than one inch to 50 feet.

##### **(5)**

Additional documentation that may be submitted includes, but is not limited to, aerial photographs, ground photographs, and volume-of-extraction reports.

(6)

A sketch plan prepared and certified by a licensed Maine land surveyor showing either the reclaimed cross sections or topography of the site upon completion.

C.

Performance standards for existing mineral extraction activities.

[Amended 9-4-2014 by Ord. No. 14-149]

(1)

All existing mineral extraction operations, must comply with all of the requirements of § [198-8](#), Design and performance standards, except:

(a)

Subsection [A](#), General requirements for all operations, Subsection A(4) and (5); and

(b)

Subsection [B\(4\)](#), Buffers, bufferyards, and setbacks, Subsection B(4)(a), (b), (e)[1] and [6]; and

(c)

Subsection [B\(5\)](#), Pit haul road design, circulation and traffic; and

(d)

Subsection [B\(6\)](#), Groundwater impacts, Subsection B(6)(b) and (h)[1]; and

(e)

Subsection B(12), Stockpiles.

(2)

All mineral extraction operations must come into compliance with said standards by September 30, 2014, or said license shall be revoked by the Planning Board, unless for good cause the Planning Board decides that a one-time extension of no more than six months shall be necessary to comply with any performance standards. This compliance deadline does not modify the existing relicensing schedule.

D.

Mineral extraction licenses expiring five years from the date of issuance shall be issued to all existing mineral extraction applicants who fully comply with the notice requirements.

E.

A mineral extraction license issued to an existing mineral extraction operator will include the one-time right to expand the active mineral extraction area by up to three acres. The expansion area must be clearly shown on the application. As a condition to expanding up to three acres, the licensee shall be required to meet all reclamation requirements for a portion of the active extraction area equal in size to the proposed expansion. This expansion area may be done in phases. All reclamation must be completed within one year of beginning each phase of the expansion of the mineral extraction area. This one-time expansion must meet all buffering and setback requirements except for the setback in § [198-8B\(4\)\(b\)](#).

**§ 198-6. Licensing of new or expanding mineral extraction operations.**

The creation of a new mineral extraction activity or expansion of any existing licensed mineral extraction activity within the City of Augusta shall require a new or amended mineral extraction license by the City, as applicable. An applicant shall apply for new or amended mineral extraction license to the City of Augusta Planning Board.

A.

Preapplication meeting. The City of Augusta Planning Bureau shall hold a preapplication meeting with all applicants proposing to expand an existing operation or proposing to create a new operation. At that meeting, the size, scale, nature of the operation, and other administrative details shall be specified.

B.

Application. Prior to the establishment of a new mineral extraction activity or an expansion of an existing mineral extraction activity, an applicant shall apply to the City of Augusta for an approved new or amended mineral extraction license as required in § [198-7](#), General requirements for license applications, determinations, expirations, transfers and appeals, below.

NOTE

Applications that propose to expand an existing mineral extraction footprint, which must be licensed under the requirements of this article, must show the "existing conditions" of all items that are required in § [198-5](#); and identify all "proposed conditions" where applicable on said plan.

**§ 198-7. General requirements for license applications, determinations, expirations, transfers, and appeals.**

[Amended 12-1-2011 by Ord. No. 166]

A.

Application procedure.

(1)

Applications for an existing, amended, renewal, or new mineral extraction license shall be made to the City of Augusta Planning Board and shall include all the information required below, as applicable.

(2)

The application shall be accompanied by a fee of:

(a)

For mineral extraction activity two acres to five acres: \$500; or

(b)

For mineral extraction activity larger than five acres: \$750.

(3)

All checks shall be made payable to the City of Augusta, Maine.

(4)

Additional fees may be required by the City of Augusta Planning Board to cover the cost of hiring technical expertise to review any portion of an applicant's application submittal.

(5)

All applications shall be signed by the person proposing to operate the mineral extraction activity. A signature on an application shall constitute a representation that the contents of an application are true and correct. Any material misrepresentation found to exist in the application shall be grounds for denying the application.

B.

Application requirements. The application requirements for a new or expanded mineral extraction license shall be the same as set forth in § [198-5](#) as it applies to notice of intent to apply

for a license. The Planning Board may require such additional information as it deems necessary to consider the application.

C.

Public hearing. The Planning Board shall hold a public hearing on the application in accordance with Chapter [300](#), Land Use, § [300-603C](#), of the City Code.

D.

Planning Board decision on the mineral extraction license application.

(1)

The criteria for approving a new or expanded mineral extraction license shall include criteria identified in Chapter [300](#), Land Use, § [300-603E](#); meeting or showing that the applicant can meet all the applicable performance standards identified in § [198-8](#) herein; and demonstration of an acceptable compliance inspection done within 60 days of application submission.

(2)

The Planning Board shall, within 30 days of the completion of the public hearing process, or within such other time limit as may be mutually agreed to by said Planning Board and the applicant, issue a decision denying or granting approval of the proposed mineral extraction activity or granting approval on such terms or conditions as it may deem advisable to satisfy the criteria contained in this article. In all instances, the burden of proof shall be upon the applicant. The Planning Board shall make a written finding regarding the applicant's financial and technical ability to satisfy the criteria contained in this article and conditions of any permit.

(3)

Upon approval of the mineral extraction activity, a majority of the Board shall sign all copies of the final site plan. One copy shall be retained by the applicant, one copy shall be retained by the Planning Board, one copy shall be filed with the Tax Assessor, and one copy shall be filed with the Code Enforcement Officer. The Planning Board shall maintain a permanent record of its actions and decisions on the mineral extraction applications.

(4)

Approval by the Planning Board of a mineral extraction activity plan shall not be deemed to constitute or be evidence of any legal acceptance by the City of Augusta, Maine, of any road, easement, or other open space shown on such plan.

E.

Operation conditions and limitations. Before any mineral extraction activity begins, and as a condition of the license, the applicant shall apply for and receive all applicable permits as may be required by City, state or federal regulations, laws or divisions regulating such developments. Any violation of other permits necessary for operation and noted in the permit shall be considered a violation of this article.

F.

Building permit required. All approved mineral extraction operations must receive a building permit from a Code Enforcement Officer prior to commencement of operation, in accordance with Chapter [300](#), Land Use, § [300-601D](#).

G.

Expiration of approval. Mineral extraction licenses shall be null and void two years from the date of issuance unless the applicant has substantially commenced the mineral extraction activity.

H.

Expert witnesses and opinions.

(1)

In the event that the Planning Board requires expert opinions, advice or testimony during the course of reviewing the application, it will use due diligence to obtain and utilize free services from governmental or nonprofit sources. Should the Planning Board be unable to obtain and utilize such services, it shall require the applicant to pay for such services, after giving notice to the applicant of the name of the expert, the area of qualification of the expert, and the purpose for which the expert is required, and the approximate cost of the expert. The applicant shall be provided with an opportunity to meet with the Planning Board to arrange a schedule for payment of the costs.

(2)

The applicant shall have the right to request a public hearing before the Appeals Board to determine if such experts required by the Planning Board are necessary to making a determination of any issue properly before the Planning Board and if the approximate costs of the expert are reasonable. It will be the applicant's burden to prove that the requested expert is unnecessary or that the cost is excessive. The applicant shall request the hearing within 10 days of the meeting, or such time as is agreed to by the Planning Board and the applicant.

I.

Change of mineral extraction operation ownership. Within 30 days of the date of the transfer, by sale or otherwise, of land upon which a mineral extraction operation is situated, the new owner or owners shall file with the City Planner notice of the transfer and a statement of agreement and capacity to comply with the City mineral extraction license. Failure to comply with this requirement shall be a violation of this article and may subject the violator to any penalty, or combination of penalties, that may be imposed under this article, including voiding the license.

J.

Appeals and variances.

(1)

Administrative appeals. See Chapter 300, Land Use, Part 6, of the City Code.

(2)

Variances.

(a)

The Planning Board may grant a variance from any portion of § 198-8, Design and performance standards, except as limited by § 198-2A(6). No variance may be granted without meeting all of the following criteria:

[1]

Written request by the applicant demonstrating that the standard(s) from which a variance is requested would create a financial and/or operational hardship. No variance request for the expansion of the active excavation area size shall be granted unless the applicant demonstrates that reclamation or partial reclamation poses a financial and/or operational hardship.

[a]

A financial hardship is defined as the inability of the property owner to make a reasonable profit or rate of return considering all relevant factors. The applicant will be required to provide financial records supporting the request. The hardship shall not be the result of action taken by the applicant or prior owner.

[b]

An operational hardship is defined as an inability to comply with the standard(s) from which a variance is requested because of specific geographical or geological features of the site,

including the location of different types of materials to be extracted. The hardship shall not be the result of action taken by the applicant or prior owner; and

[\[2\]](#)

Written request by the applicant demonstrating that the requested variance does not unreasonably adversely affect off-site uses. The Planning Board may review any potential adverse impacts on off-site uses, including but not limited to the impact of noise, dust, air and ground vibration, traffic, and hours of operation; and

[\[3\]](#)

Written request by the applicant demonstrating that the requested variance does not unreasonably adversely affect the health, safety, and general welfare of the public and abutting property owners.

[\(b\)](#)

To the extent that the request is for a variance to the size of the active extraction area, the request shall be no larger than is necessary to accommodate the hardship identified in Subsection [J\(2\)\(a\)\[1\]](#). The Planning Board shall have the authority to limit, reduce, or modify the requested variance in order to ensure that the minimum variance necessary is issued to the applicant, if all other criteria in this subsection are met.

[\(3\)](#)

Appeal to Superior Court. See Chapter [300](#), Land Use, Part [6](#), of the City Code.

#### **[§ 198-8. Design and performance standards.](#)**

[Amended 12-1-2011 by Ord. No. 166]

[A.](#)

General requirements for all operations.

[\(1\)](#)

Mineral extraction activities and specifically approved associated mineral extraction uses shall conform to all applicable state laws and local ordinances and regulations. Where the provisions of this section conflict with specific provisions of Chapter [300](#), Land Use, the provisions of these standards shall prevail. It is anticipated that the application will be reviewed concurrently with this article and the requirements of Chapter [300](#), Land Use.

[\(2\)](#)

This section details the specific application requirements for the submissions required in this article.

[\(3\)](#)

The license holder of a mineral extraction activity shall be responsible, both jointly and severally, for ensuring the maintenance of all infrastructure, structures and their sites.

[\(4\)](#)

The Planning Board shall consider the financial capacity, technical ability, and prior performance of the applicant to conduct all proposed and approved activities in accordance with these performance standards.

[\(5\)](#)

The Planning Board may approve the license application only if the applicant or agent is in compliance with all other City of Augusta and State of Maine permits for mineral extraction activity.

[\(6\)](#)

In all cases, the applicant, and the licensee once approved, shall have the burden of proof that all requirements, standards, and conditions of this article and subsequent approval will be or are being met.

[\(7\)](#)

A copy of the license must be displayed on site at all times.

[\(8\)](#)

At no point shall the footprint of the active extraction area exceed 10 acres, and at no point shall the footprint of operation exceed a total of 15 acres.

[\(9\)](#)

Bituminous mix plants, also known as "asphalt plants," shall not be sited within 2,500 feet of an existing residential property. Measurement shall be the shortest distance possible from the plant to the nearest point of the residential property line.

[B.](#)

Performance standards. All of the following standards, unless otherwise stated, pertain to those applicants applying for and receiving a new or amended mineral extraction license.

[\(1\)](#)

Erosion, sedimentation control and stormwater management.

[\(a\)](#)

General.

[\[1\]](#)

Sediment may not leave the parcel or enter a protected natural resource.

[\[2\]](#)

Topsoil stockpile must be stabilized and inspected as specified in Subsection [B\(2\)\(a\)\[1\]](#) below.

[\(b\)](#)

Internally drained projects.

[\[1\]](#)

Land shall be restored and stabilized according to the reclamation plan.

[\[2\]](#)

At all times, the extraction footprint shall be operated in a manner that it will safely hold a volume of precipitation at least equal to that which may be expected in the area from the twenty-five-year, twenty-four-hour storm event for the region based on the U.S.D.A. Natural Resources Conservation Service.

[\(c\)](#)

Externally drained projects.

[\[1\]](#)

If surface water flows out of and away from the proposed site during and after the site is excavated, the following should be provided to assure proper erosion control and prevent siltation of downstream waters. Temporary erosion control measures shall be included in the project design, such as hay bale barriers, silt fencing, and riprap. Plans shall show the location and installation details and include a description of the timing of installation, inspection and maintenance of erosion control measures.

[\[2\]](#)

Plans.

[\[a\]](#)

A plan and narrative detailing specific erosion control measures; and

[\[b\]](#)

A site plan showing the pre-construction and post-construction contours and, if applicable, phased contours. The plan must show on- and off-site watershed boundaries and hydrologic surface water flow lines.

[\[3\]](#)

Sedimentation pond location and design, if any, shall be designed to the twenty-five-year storm event and based on the U.S.D.A. Natural Resources Conservation Service methodology. The location and construction details of the pond shall be shown on the site plans.

[\(2\)](#)

Reclamation and reclamation plan required.

[\(a\)](#)

The affected land must be restored to a physical state that is similar to that which existed prior to any development, or encourages the productive use of the land, including development for uses permitted in the zoning district in which it is located. A reclamation plan is required to be submitted with all license applications discussing and depicting the following:

[\[1\]](#)

Topsoil stockpiling. Topsoil which is stripped or removed must be stockpiled in sufficient quantity for use in reclaiming disturbed land, unless it is demonstrated to the Planning Board that it is not needed for reclamation purposes. Topsoil stockpiles must be seeded, mulched, or otherwise stabilized. At least four inches of topsoil will be used for final cover.

[\[2\]](#)

Regrading. With the exception of where a section of excavated earth has exposed bedrock or ledge, upon completion of the excavation, the side slopes must be regraded to a slope no steeper than 2.5 horizontal to one vertical.

[\[3\]](#)

Vegetative cover. Vegetative cover must be established on all land being reclaimed except for exposed bedrock and/or ledge face. Topsoil must be placed, seeded, and mulched within 30 days of final grading if it is within a current growing season or within 30 days of the start of the next growing season.

[\[a\]](#)

Vegetative material used in reclamation must consist of a mixture of grasses, legumes, herbaceous and woody plants. Plant material must be planted during the first growing season following the reclamation phase. Selection and use of vegetative cover must take into account soil and site characteristics such as drainage, pH, nutrient availability, and climate to ensure permanent growth.

[\[b\]](#)

The vegetative cover is acceptable if, within one growing season of seeding:

[\[i\]](#)

The planting of trees and shrubs results in a permanent stand, or regeneration and succession rate, sufficient to assure a 75% survival rate; and

[\[ii\]](#)

The planting results in 90% ground coverage.

[\[4\]](#)

Structures and roads. All structures and access, haul, or other support roads must be reclaimed once no longer used, unless reserved for future productive use of the land, as described in the reclamation plan.

[\[5\]](#)

Phased reclamation. The site must be reclaimed in phases. For guidance in planning and implementation of reclamation, see the most recent edition of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices (Cumberland Cty. SWCD; 3/1991) for Pit Reclamation.

[\[6\]](#)

Time line.

[\[a\]](#)

A time line for reclamation shall be included with the reclamation plan. As set forth in Subsection [B\(2\)\(a\)\[5\]](#) above, at no time shall the active extraction area exceed 10 acres at one time.

[\[b\]](#)

All reclamation shall begin within six months of completion of phasing, the completion of the project or abandonment. The site shall be inspected when the regrading and planting is completed and again at one year to ensure compliance with the reclamation plan.

[\[c\]](#)

A certification of completion of reclamation shall be issued by the Code Enforcement Officer only after the final inspection is made and is passed as stated immediately above.

[\(b\)](#)

Standard reclamation shall commence in accordance with the time line and phasing approved by the Planning Board. Standard performance guarantee requirements apply.

[\(c\)](#)

Concurrent reclamation is highly encouraged by the Planning Board. Reduced performance guarantee requirements are allowed. For concurrent reclamation, the following standards shall apply:

[\[1\]](#)

The operator shall remove material in layers not exceeding 30 feet in depth, starting from the limit of excavation.

[\[2\]](#)

The slope shall be constructed progressively; maximum open slope shall be 30 feet high by 400 feet in length at limit of each work area. The slope shall be completed in each work area prior to removing additional layers.

[\[3\]](#)

Concurrent reclamation must be approved by the Planning Board in the applicant's reclamation plan.

[\(3\)](#)

Petroleum usage.

[\(a\)](#)

Spill prevention, control, and countermeasures plan shall be required for all projects.

[\(b\)](#)

Petroleum products storage.

[\[1\]](#)

If any petroleum products or other materials with potential to contaminate groundwater are to be stored on the site, a spill prevention control and countermeasures (SPCC) plan shall be submitted. A SPCC plan shall be developed in accordance with DEP regulations, § 5A of Chapter 378, Performance Standards for the Storage of Petroleum Products (CMR 378), and shall be submitted with the application and kept with the permit in the City's records.

[\[2\]](#)

The use of underground tanks is strictly prohibited.

[\[3\]](#)

If on-site refueling is necessary for fixed equipment, such as crushers, concrete batch facilities, and hot mix asphalt facilities, a specific refueling area must be designated and located on impermeable material such as synthetic liners, clay or till.

[\[4\]](#)

All other performance standards of 378 CMR § 5A shall apply.

[\(c\)](#)

Machinery maintenance.

[\[1\]](#)

Crankcase oil, hydraulic fluids, and similar products shall not be changed, stored or disposed of within the excavation area, unless specifically covered in the SPCC plan.

[\[2\]](#)

Routine maintenance operations, such as refueling or oil changes, may be allowed for fixed equipment such as screeners, crushers and wash facilities, if allowed in the district in which the operation will be located, provided that a secondary containment system in accordance with the SPCC plan, adequate to contain 110% of the full contents of said equipment, is installed.

[\[3\]](#)

All other equipment maintenance regulations of 378 CMR § 5E shall apply.

[\(d\)](#)

Any discharge or leak of petroleum product over one gallon shall be immediately reported to the Code Enforcement Officer and a report kept with the permit in the City's records. All discharges or leaks of any size shall be cleaned up promptly according to the spill containment and cleanup provisions of 378 CMR § 5H.

[\(e\)](#)

A copy of the spill prevention control and countermeasures plan shall be kept available on site at all times.

[\(f\)](#)

The applicant shall demonstrate to the Planning Board's satisfaction the applicant's ability to implement the SPCC plan.

[\(4\)](#)

Buffers, bufferyards, and setbacks. Buffers, bufferyards, and setbacks shall be as follows and shown as such on the site plan:

[\(a\)](#)

Property boundaries.

[\[1\]](#)

To minimize impacts to abutting properties, a setback of 100 feet shall be maintained from the edge of the footprint of the pit/active extraction area to all property boundaries. This setback may be reduced to 25 feet with written permission of an abutting landowner, provided that:

[\[a\]](#)

Documentation of written permission or a line agreement between abutting properties is obtained; and

[\[b\]](#)

Erosion and stormwater control standards on both properties are met.

[\[2\]](#)

This setback may be eliminated between abutting properties, provided that:

[\[a\]](#)

The abutting property is also a mineral extraction operation; and

[\[b\]](#)

Documentation of written permission is obtained; and

[\[c\]](#)

Documented proof that erosion and stormwater control standards on both properties are being/will be met is provided.

[\(b\)](#)

Existing structures. A setback of 300 feet from the edge of the footprint of the working pit to the closest edge of a residence existing as of the date of the enactment of this article shall be maintained with all projects. This setback may be reduced with documented proof of written permission of the owner of the structure, but not be less than 150 feet from the property line.

[\(c\)](#)

Protected natural resources. The following shall apply:

[\[1\]](#)

Unless authorized pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C, no part of any extraction operation, including drainage and runoff control features, shall be permitted within 100 feet of the normal high-water line of a great pond classified GPA (as defined) or a river flowing to a great pond classified GPA, and within 75 feet of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland.

[\[2\]](#)

The applicant must provide a sufficient benchmark on the property to indicate this setback.

[\(d\)](#)

Public roads. A setback of 100 feet, with natural vegetative buffer, shall be maintained from the closest edge of the shoulder of a public road to the edge of the footprint of the pit. A fifty-foot-wide undisturbed natural vegetated buffer area, closest to any private road or right-of-way, shall be maintained, except for any access road entrance. Reduction of the fifty-foot buffer from a private road or right-of-way is allowed with proof of written permission of adjacent property owners, and approval by the Planning Board. A mineral extraction licensee granted a license under § [198-5](#), Licensing of existing mineral extraction operation, shall comply with this subsection to the greatest extent possible.

[Amended 9-4-2014 by Ord. No. 14-149]

[\(e\)](#)

Bufferyard requirements.

[\[1\]](#)

All buffers must be preserved in their natural vegetative state as existed six months prior to an application for a new gravel pit, or for an expansion to an existing gravel pit, in the natural vegetative state that existed at time of initial licensing by the City.

[\[2\]](#)

Planted bufferyards are required along the applicant's property lines for residences located within 300 feet of the mineral extraction site if it is a residence existing as of the date of enactment of this article which will conform to Bufferyard Requirement D as set forth in Chapter [300](#), Land Use, § [300-502](#).

[\[3\]](#)

In the event that a buffer in its natural vegetative condition does not conform to the level of vegetative cover required in the bufferyard standards of Chapter [300](#), Land Use, then the Planning Board will cause applicant to conform with said standard.

[\[4\]](#)

The Planning Board may require, as a condition of approval, the applicant to take specific actions to ensure the effectiveness of any buffers or bufferyards required above, including, but not limited to, the planting of trees and/or shrubs, placement of solid fences or creation of berms when the natural existing vegetation does not provide a sufficient visual screen.

[\[5\]](#)

The applicant may elect to increase the width of the natural buffer area in order to achieve an adequate visual screen.

[\[6\]](#)

The visual screening requirement for the buffers is not a complete visual barrier, except for Subsection [B\(4\)\(e\)\[2\]](#) above. To be adequate, the screening must provide a substantial visual barrier so that the active extraction area is not clearly, or unobstructively, visible from an abutting property or public road and by providing a continuous barrier which obstructs the view of the active extraction area by at least 80% from all locations 150 feet from the active extraction area boundary from abutting properties unless the abutting property also is the location of a mineral extraction activity.

[\(5\)](#)

Pit haul road design, circulation and traffic. On-site circulation, parking, and traffic standards shall meet the City of Augusta technical standards. Pit haul roads shall meet the following requirements:

[\(a\)](#)

Shall either be paved or graveled with effective dust control:

[\[1\]](#)

Wherever the road is within 250 feet of an existing residential property line.

[\[2\]](#)

For the first 100 feet of an intersection with a public right-of-way.

[\(b\)](#)

Shall be set back at least 50 feet from any nonresidential property line.

[\(c\)](#)

Shall be buffered with Bufferyard B plantings on the side(s) closest to residential dwellings wherever the road is within 300 feet of an existing residence unless the distance is reduced in writing by the owner of the residence to no less than 100 feet.

[\(d\)](#)

Shall only be permitted to intersect with collector or arterial roads in Augusta. Connection to residential streets shall be prohibited unless a collector road or arterial road is more than 1,000 feet away from the mineral extraction area and/or the owner does not have legal access. If a municipal access road to a municipal mineral extraction area is located within 1,000 feet of the property boundary, it must be used as access rather than a residential street.

[\(e\)](#)

Shall have a maximum grade of 3% for the first 75 feet starting from the collector or arterial road.

[\(f\)](#)

Shall meet sight distance requirements identified in the City of Augusta technical standards.

[\(g\)](#)

Shall be required to have weekly applications of calcium chloride or acceptable equivalent for any unpaved portions if dust levels are determined by the CEO to be a nuisance.

[\(6\)](#)

Groundwater impacts. The following requirements apply:

[\(a\)](#)

Groundwater buffer.

[\[1\]](#)

To provide an adequate buffer for groundwater and allow for filtration of impurities from surface water, extraction shall not be any closer than five feet above the seasonal high water level.

[\[2\]](#)

The applicant shall establish a sufficient benchmark on the property to verify the location of the seasonal high water level.

[\[3\]](#)

At least one test pit or monitoring well must be established on each five acres of unreclaimed land.

[\(b\)](#)

Water supply setback.

[\[1\]](#)

A separation of 200 feet must be maintained between the edge of footprint of operation and any currently in-use preexisting private drinking water supply that is point-driven or is a dug well.

This setback requirement does not apply when the well belongs to the owner of the excavation site.

[\[2\]](#)

A separation of 100 feet must be maintained between any active excavation area and any private drinking water well that is drilled into saturated bedrock prior to the mineral extraction activity.

[\[3\]](#)

A setback of 1,000 feet must be maintained between the edge of the active extraction area and any well or spring which qualifies as a public drinking water supply that was in use prior to the effective date of this article.

[\[4\]](#)

The Planning Board shall require larger buffers from water supplies if it finds that a hazard is shown to exist due to the mineral extraction activity by a hydrogeologic study performed by a licensed hydrogeologist. The hydrogeologic study will be paid for by the licensee if required by the Planning Board.

[\(c\)](#)

Excavation below the seasonal high water table of an area previously designated for potential use as a public drinking water source by a municipality or private water company is prohibited. If the yield of groundwater flow to protected waters or wetlands is not adversely affected, the DEP may grant a variance allowing excavation below the seasonal high water table of a mapped significant sand and gravel aquifer, or primary sand and gravel recharge area, or an unconsolidated deposit in other locations. A copy of the DEP variance approval must be on file with the City prior to the start of this excavation.

[\(d\)](#)

In the event of excavation below the seasonal high water table, the operator of a mining activity that affects a public drinking water source or a private drinking water supply by excavation

activities causing contamination, interruption or diminution must restore or replace the affected water supply with an alternate source of water, adequate in quantity and quality for the purpose served by the supply. This subsection is not intended to replace any independent action that a person whose water supply is affected by a mining activity may have.

[\(e\)](#)

In the event of excavation below the seasonal high water table, a separation of 300 feet must be maintained between the limit of excavation and any pre-development private drinking water supply, and a separation of 1,000 feet must be maintained between the limit of excavation and any public drinking water source or area previously designated for potential use as a public drinking water source by a municipality or private water company. These separation distance requirements do not apply when the private water supply belongs to the owner of the excavation site.

[\(f\)](#)

The DEP may grant a variance allowing excavation between two feet and five feet of the seasonal high water table. A copy of the DEP variance approval must be on file with the City prior to the start of this excavation.

[\(g\)](#)

An active mineral extraction operation existing on the effective date of this article and for which an application to be licensed has been submitted may not further excavate in areas where gravel has been extracted to a level less than five feet above, at or below the seasonal high water table unless a variance has been granted by DEP and a copy of the variance is on file with the City.

[\[1\]](#)

The owner or operator will not be required to elevate the pit floor to five feet or more above the seasonal high water table as a condition of operation.

[\[2\]](#)

The owner or operator may reclaim as a pond that area of the pit on which gravel has been extracted to a level at or below the seasonal high water table.

[\(h\)](#)

Water use.

[\[1\]](#)

A mineral extraction activity must not withdraw more than 15,000 gallons of groundwater per day, unless a hydrogeologic study is submitted by a hydrogeologist that determines this will not represent an environmental hazard or threaten drinking water supplies.

[\[2\]](#)

Any water that is discharged from the site shall be monitored for sediment, pH and other contaminants to ensure the discharge shall not adversely affect surface water quality.

[\[a\]](#)

Standards for acceptable groundwater impacts.

[\[i\]](#)

Projections of groundwater quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

[\[ii\]](#)

No mineral extraction activity shall increase any contaminant concentration in the groundwater to more than the Maine Drinking Water Standards for private groundwater wells.

[\[iii\]](#)

If preexisting groundwater contains contaminants in excess of the primary standards, and the mineral extraction activity is to be served by on-site groundwater supplies, the applicant shall demonstrate how water quality will be improved or treated, if necessary.

(7)

Noise. The requirements of Chapter [300](#), Land Use, § [300-514A](#), shall be applicable.

(8)

Blasting requirements for all. Normal blasting is limited to the hours between 11:00 a.m. and 3:00 p.m. Emergency blasting for misfires shall be allowed after the 3:00 p.m. cutoff time, provided that the City and abutters are notified prior to detonation. For mineral extraction activities, the requirements and standards for blasting shall minimally be the same as those identified in the blasting subsection of 38 M.R.S.A. § 490-Z. All blasting shall also comply with Chapter [130](#), Blasting, of the City Code.

[Amended 9-4-2014 by Ord. No. 14-149]

(9)

Hours and duration of operations.

(a)

With the exception of approved snow dumping operations, no extraction or associated activities shall be allowed on Sundays or the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving and Christmas.

(b)

With the exception of approved snow dumping operations, extraction operations shall only be conducted between the hours of 6:00 a.m. and 8:00 p.m. during Daylight Savings Time, and 6:00 a.m. and 7:00 p.m. during Eastern Standard Time.

[Amended 9-4-2014 by Ord. No. 14-149]

(c)

Emergencies. On occasion there may be need for emergency operations outside the approved hours. Sudden emergencies could be, but are not limited to, public road repairs, sanitary and/or water system repairs, flood repairs, etc. Emergency operations shall be approved by either the Director of Public Works, the City Engineer, or the City Manager.

(10)

Dust.

(a)

Dust generated by mineral extraction activities, including dust associated with traffic to and from a mineral extraction activity, must be controlled by sweeping, paving, watering or other best management practices for control of fugitive emissions. Dust control methods may include calcium chloride as long as the manufacturer's labeling guidelines are followed.

(b)

Blasting dust. Dust generated by blasting shall be controlled on site by using best management practices to control fugitive dust from entering a residential property. Any perceptible and measurable dust deposited off the property where the blast occurs, and onto a residential property, shall be considered a violation.

[Added 9-4-2014 by Ord. No. 14-149]

(11)

Solid waste. Solid waste, including stumps, wood waste and land-clearing debris generated on the affected land, must be disposed of in accordance with applicable local and state laws. Stump grinding for mulch or other use is an acceptable form of disposal.

[Amended 9-4-2014 by Ord. No. 14-149]

(12)

Stockpiles. Stockpiles of materials, as defined, may be no taller than 30 feet above the grade level surrounding the outer edge of the active extraction area and, if located outside of the area of extraction, must be screened from all public ways within 200 feet of the stockpiles and existing residences within 300 feet of the stockpiles.

(13)

Clear cutting. In setback and buffer areas, no natural vegetation, including trees, shall be removed.

(14)

Existing nonconforming buffers and setbacks. The owners and/or operators of an existing mineral extraction operation on the effective date of this article who have filed the notice of intent to apply for license under § 198-2 and receive an existing mineral extraction license under § 198-5 shall not be required to reestablish and recreate buffers, bufferyards, extraction limits and setbacks to meet the requirements of § 198-8B(4) through (6), (12) and (14) in those areas of the site where the footprint of operations documented in the sketch plan shows that the site is not in conformance with the distance and size requirements of § 198-8. The Planning Board shall require buffers in conformance with this article unless the licensee demonstrates that it cannot comply without a substantial hardship to extraction operations, in which case the Planning Board may reduce or eliminate buffer requirements as appropriate on a site-specific basis. The owner and/or operator shall not increase the nonconformity.

### **§ 198-9. Performance guarantees.**

A.

Types of guarantees.

(1)

With submittal of an application for a mineral extraction license where the existing or proposed footprint of operations exceeds 10 acres, the following performance guarantees for an amount adequate to cover the total costs of all required reclamation, taking into account the time-span of the phasing, or reclamation schedule and the inflation rate for costs will be required.

(a)

Either a certified check payable to the City or a savings account or certificate of deposit naming the City as owner, for the establishment of an escrow account; or

(b)

A performance bond payable to the City issued by a surety company approved by the City Manager or his/her designee.

(c)

An irrevocable letter of credit from a financial institution establishing funding for the construction or reclamation of the mineral extraction activity, from which the City may draw if reclamation is inadequate, approved by the City Manager or his/her designee. The conditions and amount of the performance guarantee shall be determined by the Planning Board based on the reclamation likely to be necessary, the reclamation schedule, and reclamation cost estimates, and with the advice of one or more of the following: the City Engineer, a certified civil engineer, and/or the City Attorney, with expenses paid for by the applicant.

(2)

The Planning Board may waive the bond requirement if it determines that adequate security has been provided to the satisfaction of the Maine Department of Environmental Protection.

B.

Contents of guarantee. The performance guarantee shall contain a reclamation schedule, cost estimates for each major phase of reclamation, taking into account inflation, provisions for inspections of each phase of reclamation, provisions for the release of part or all of the performance guarantee to the permit holder, and a date after which the permit holder will be in default and the City shall have access to the funds to finish reclamation.

C.

Escrow account. A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the permit holder, the municipality shall be named as owner or co-owner, and the consent of the City shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the developer unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the developer and the amount withdrawn to complete the required improvements.

D.

Performance bond. A performance bond shall detail the conditions of the bond, the method for release of the entire bond or portions of the bond to the City, and the procedures for collection by the City. The bond documents shall specifically reference the mineral extraction activity for which approval is sought. The City will accept as equivalent a performance bond that is held by the state if it meets the requirements of the City.

E.

Letter of credit. An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the reclamation of the mineral extraction activity and may not be used for any other project or loan.

F.

Phasing of development. The Planning Board may approve phased performance guarantees when a mineral extraction reclamation activity is approved in separate and distinct phases.

G.

Performance guarantee review. Any performance bond or proof of financial capacity shall be reviewed no later than 30 days before the expiration of the guarantee, and adjusted if necessary. The applicant may also request adjustments in the guarantee.

H.

Reduction of performance guarantee with concurrent reclamation. The Planning Board may reduce the amount of the required performance guarantee if the applicant/operator can document for the Board its plans and timeframes to reclaim land as an ongoing part of its operation. Should the applicant fail to abide by such a plan approved by the Board, the Planning Board shall require the CEO to issue a stop-work order to the operator until such time as the operator provides a satisfactory performance guarantee to the Planning Board to cover the full amount of reclamation.

I.

Release of guarantee. Prior to the release of any part of the performance guarantee, the Planning Board shall determine, to its satisfaction, that the reclamation meets or exceeds the design requirements for the portion of the reclamation for which the release is requested. The Planning

Board's determination shall in part be based upon a certification of compliance, provided by the permit holder, issued by a licensed civil engineer and/or adequate assurances that compliance has been achieved from whatever governmental agencies and departments other than the City that may be involved.

J.

Default. If, upon inspection, the CEO or other inspecting official finds that any of the required reclamation has not been performed in accordance with the approved plans and specifications, he shall so report in writing to the Planning Board, the permit holder and guarantor. The permit holder shall have 30 days, unless otherwise specified by the CEO, to remedy any insufficiency noted. Thereafter, the CEO shall take any steps necessary to enforce the guarantee and remedy the insufficiencies.

K.

Improvement guarantees. Performance guarantees may be required for all off-site improvements required by this article, when the Planning Board finds that the scale of the improvements warrants.

**§ 198-10. Inspection, enforcement and license revocation.**

A.

Compliance inspection.

(1)

The compliance inspection fee, payable to the City of Augusta, shall be:

(a)

For mineral extraction activities less than five acres: \$150.

(b)

For mineral extraction activities between five acres and 30 acres: \$200.

(c)

For mineral extraction activities larger than 30 acres: \$350.

(2)

The compliance inspection fee is due no later than the day of the compliance inspection. Failure to pay the fee shall result in an automatic finding of noncompliance.

(3)

The compliance inspection shall be conducted by the CEO at least prior to the second and fourth anniversary dates of the mineral extraction license held by the party, and within 60 days of license renewal.

(a)

The CEO shall issue a letter of compliance, provided he determines that the license holder has not violated the ordinance nor deviated from an approved plan under its mineral extraction license. If the CEO determines that the license holder has violated the ordinance or substantially deviated from the approved site plan under its mineral extraction license, the CEO shall issue a letter of noncompliance. Both the letter of compliance and/or letter of noncompliance will be provided to the Planning Board, the City Planner, and the license holder. The CEO shall, consistent with Subsection F(2) of this section, issue an immediate stop-work order for a specific violation, except for remedial action, until such time as compliance is achieved.

(b)

The CEO shall thereafter reinspect the site to determine if compliance has been achieved. If he determines compliance has been achieved, he shall issue a letter of compliance, as above. If he determines that compliance has not been achieved, he shall issue a second letter of noncompliance. The license holder shall again pay the fees required by this subsection for this second compliance inspection.

B.

Reclamation certification. Upon completion of reclamation or a reclamation phase, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Chair of the Planning Board at the expense of the applicant, certifying that the reclamation is in compliance with the approved plans.

C.

Revocation.

(1)

The Planning Board, after any person has received a second letter of noncompliance or upon issuance of a stop-work order by the CEO, and upon written request made by the license holder or the CEO, shall provide an opportunity for public hearing in accordance with Chapter [300](#), Land Use, § [300-603C](#), within 30 days of receipt of the written request. The public hearing shall be used to determine whether the license holder is in compliance with an extraction license, and if not, the Planning Board shall permanently revoke the license; and therefore may request that the City Attorney take remedial action, as is permitted by City ordinance or state law.

Revocation shall result in the loss of all prior exemptions and variances issued as a part of the licensing process, and any new license for the site shall be applied for as though the site is a new mineral extraction operation.

(2)

The applicant can terminate the process above at any time prior to revocation by demonstrating compliance with his approved license at a subsequent compliance inspection, which he requests, and payment of inspection fees, followed by the issuance of a letter of compliance by the CEO. Mineral extraction may not be resumed until such time as compliance is achieved.

D.

Violations.

(1)

No person, corporation or other legal entity may sell or offer to sell any materials in a mineral extraction activity site unless the site has been approved by the Planning Board.

(2)

The Augusta Planning Board may, after notice and public hearing, withhold approval or revoke any previous approvals given to any applicant, owner or operator who is found in violation of this article.

(3)

Any operation that is in violation of other approvals, including but not limited to MDEP or MDOT licenses or permits covering the same operation, shall be deemed in violation of approvals granted under this article, in that all other approvals are necessary for approvals under this article to be valid.

E.

Mineral extraction plan amendments after approval. No changes, erasures, or modifications shall be made in a final plan after approval has been given by the Planning Board unless the plan is first resubmitted and the Planning Board approves any modifications. The applicant is not

required to go through the complete review process of an amendment to an existing mineral extraction activity unless, in the judgment of the Planning Board, the amendment substantially alters the character of the original mineral extraction activity, or unless the change constitutes a new mineral extraction activity. If an amended final plan is recorded without complying with this requirement, it shall be null and void.

F.

Enforcement.

(1)

The Corporation Counsel shall enforce this article and is authorized to institute legal proceedings to enjoin violations of this article. The Code Enforcement Officer and the City Engineer shall have the right to enter upon the property of any applicant or licensee of a mineral extraction operation or associated use to conduct inspections and reviews of proposed or existing conditions. The CEO shall notify the operator that he is on the premises, and an operator shall make himself available for on-site visits.

(2)

If the Code Enforcement Officer finds violation of any provision of this article or failure to comply with any order, permit, approval, condition or other final decision or action of the Planning Board that constitutes a substantial and immediate danger to the health, safety or welfare of any person(s), or property or environment of the City of Augusta, Maine, the City may issue a stop-work order, a compliance schedule, or may initiate immediate injunction proceedings to abate or correct such violations. Violations are subject to inspection as per this § 198-10.

(a)

A stop-work order shall only be issued for an entire mineral extraction activity when it is the entire operation that creates the alleged violation and threat to the public health and welfare.

(b)

If the alleged violation concerns only one or more activities of the operation and not the entire operation, then the stop-work order issued by the CEO shall be specific to the activity and location of the activity or activities directly related to the alleged violation.

(3)

In any action to enforce any provision of this article where the City of Augusta, Maine prevails, said City shall be awarded reasonable attorney fees, expert witness fees, and costs unless the court finds that special circumstances make the award of these fees and costs unjust.

G.

Penalties. Any person, firm or corporation, being the owner or having control or use of any mineral extraction activity in violation of any of the provisions of this article or terms or conditions of any order, permit or approval or final decision of the Planning Board, shall be subject to a civil penalty as allowed by 30-A M.R.S.A. § 4452.

§ 198-11. License renewal.

[Amended 12-1-2011 by Ord. No. 166]

A.

Term of license. Mineral extraction licenses expire five years after approval by the Planning Board, unless revoked or renewed by the Planning Board. If a renewal application is filed at least

30 days before the required five-year review, extraction activities may continue under the existing license until the Planning Board review has been completed.

B.

Renewal procedure.

(1)

A holder of a valid mineral extraction license shall have its operations inspected by the CEO for compliance within 60 days of submitting an application for license renewal to the Planning Board.

(2)

Upon receiving a letter of compliance from the CEO, the applicant shall submit said letter to the Planning Board and request the issuance of a new license.

(3)

The Planning Board shall schedule a public hearing regarding the license renewal request. The applicant shall provide, at a minimum, certification prepared and stamped by a licensed land surveyor certifying that there has not been an expansion of operation beyond the original footprint of operation since the original approval. Additional data may be requested by the Planning Board as necessary to determine compliance with the standards of this article.

(4)

As a courtesy, the City shall send a notice to a licensee within 120 days of license expiration. It is the responsibility of the licensee to keep track of the time line for licensing inspection and relicensing requirements, and in no case shall the lack of receipt of a courtesy notification nullify or change the time line those requirements.

(5)

The Planning Board may, as a part of the renewal process, impose new conditions on the license or modify the license in any way necessary to assure compliance with the license being reviewed and the division as it is in effect at the time of renewal. If there has been a history of significant noncompliance, the Planning Board may deny the request for a license renewal. A mineral extraction activity cannot be expanded beyond its licensed area as part of the five-year review process. Any expansion not allowed in the initial license must be processed as a separate application under the ordinance in effect at the time of the expansion application.

(6)

Any use, primary, associated, or accessory, that becomes nonconforming as a result of changes to Chapter [300](#), Land Use, or this Mineral Extraction Ordinance shall be sunsetted as part of the license renewal process and shall not be allowed to continue under a renewed license.

(7)

Any use, primary, associated, or accessory, that requires major or minor development review under Chapter [300](#), Land Use, at the time of license renewal, but did not require or obtain such approval at the time of limited establishment, shall receive such review from the Planning Board at the time of license renewal.

## **Article II. Excavations**

[Adopted 8-2-2012 by Ord. No. 12-112 (Ch. 6.2, Art. II, Div. 3, of the 1990 Code)]

### **§ 198-12. Excavation and street opening permit required.**

All excavations within the public rights-of-way shall require an excavation and street opening permit issued by the Department of Public Works prior to performing any work in the public right-of-way. All fees, work and other requirements shall conform to the City of Augusta's Excavation and Street Opening Policy.[\[1\]](#)

[\[1\]](#)

Editor's Note: The Excavation and Street Opening Policy is included as an attachment to this chapter.

### **§ 198-13. Protection.**

When a person is permitted, in accordance with the provisions of this article, to occupy any part of a street for building purposes, such person shall erect and maintain around the part so occupied a sufficient fence or barricade to prevent injury to persons, animals or vehicles passing the premises, and shall keep the same properly lighted at night. Such areas shall be properly posted. Temporary sidewalks shall be provided when requested by the City Engineer.

### **§ 198-14. Violations and penalties.**

Any person responsible for noncompliance with the provisions of this article shall be liable to the City for all fees and expenses of repairs, and in addition shall be subject to the penalty provisions of Chapter [1](#), Article [III](#), General Penalty, of the City Code.

## **Chapter 207. Offenses**

[HISTORY: Adopted by the City Council of the City of Augusta as Ch. 13 of the 1990 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Amusements and public gatherings — See Ch. [115](#).

Fireworks — See Ch. [151](#).

Licensed businesses — See Ch. [190](#).

Parks and recreation areas — See Ch. [215](#).

### **§ 207-1. Curfew.**

[Amended 1-22-1996 by Ord. No. 329]

[A.](#)

Title. This section shall be known and may be cited as the "Curfew Ordinance of the City of Augusta, Maine."

[B.](#)

Definitions. As used in this section, the following terms shall have the meanings indicated:

#### **CURFEW HOURS**

The hours from 11:00 p.m. until 6:00 a.m.

#### **EMERGENCY**

Unforeseen circumstances, or the resulting situation, calling for immediate action. This includes, but is not limited to, fire, natural disaster, or vehicular accident, as well as any situation requiring action to avert serious injury or the loss of life.

## GUARDIAN

A person or a public or private agency who, either pursuant to court order or acceptance of testamentary appointment, is the legal guardian of the minor. This definition also includes a person to whom parental powers have been delegated under 18-A M.R.S.A. § 5-104.

## MINOR

Any person who is 14 years of age or younger.

## PARENT

A person who is the natural parent, adoptive parent, or stepparent of the minor.

## PUBLIC PLACE

A place located in the City to which the public, or a substantial group of the public, has access, including, but not limited to, streets, highways, sidewalks, parking lots, vacant lots, parks, and the common areas in and about apartment buildings, office buildings, hospitals, schools, shops, and places of entertainment such as movie theaters.

## REMAIN

To linger or stay, as well as to refuse to leave when requested to do so by a police officer or the owner or other person in control of a public place. This term also encompasses activities which may be mobile, such as walking, driving, and riding about in a public place.

## C.

Offenses. It shall be unlawful for a minor to remain in a public place during curfew hours.

## D.

Defenses. It is a defense to prosecution under Subsection C of this section that the minor was:

### (1)

Accompanied by the minor's parent or guardian.

### (2)

Involved in an emergency or on an errand necessitated by an emergency.

### (3)

Engaged in an employment activity, or on the way to or from an employment activity, without any detour or stop except as necessary to drop off or pick up a co-employee.

### (4)

In a motor vehicle involved in interstate travel.

### (5)

On an errand directed by a parent or guardian, without any detour or stop.

### (6)

On the sidewalk abutting the minor's home.

### (7)

Attending a school, religious, or governmental activity, which is supervised by adults, or traveling to or from such a school, religious, or governmental activity without detour or stop.

### (8)

Attending a recreational activity sponsored by the City, a civic organization, or a similar entity, which is supervised by adults, or traveling to or from such an activity without detour or stop.

### (9)

Exercising rights protected by the First Amendment of the United States Constitution.

### (10)

Married.

E.

Enforcement.

(1)

Upon receiving a complaint or at the officer's discretion, enforcement of this section may take place. Before taking any action to enforce this section, a police officer shall ask the apparent offender's age. The officer may ask for proof of the apparent offender's age, and shall be justified in taking action to ascertain the apparent offender's age in the absence of identification, such as taking the apparent offender into custody while contacting his or her parent or guardian, or accompanying the apparent offender to his or her residence for the purpose of obtaining identification.

(2)

If the apparent offender is a minor, or cannot produce identification proving otherwise immediately, the officer shall ask the reason for the apparent offender's being in a public place. The officer shall not take any action to enforce this section unless the officer reasonably believes that an offense has occurred and, based on any response as well as other circumstances, no defense provided in Subsection D is applicable. If the officer does have such a reasonable belief, the officer may take the minor into custody for the purposes of contacting the minor's parent or guardian to come to take control of the minor. The police officer shall summons the minor to the District Court for violation of this section. During this period, the officer may require the minor to remain in the officer's presence for a period of up to two hours, so long as the officer complies with all requirements of law, including, without limitation, 17-A M.R.S.A. § 17.

F.

Penalties. The penalty for a minor who violates this section shall be: \$25 for the first offense; \$50 for the second or subsequent offense; or other penalties provided by the court.

G.

One-year review. The City Council shall review with the assistance of the Police Department, within one year after inception of this section, the effects and results of the section described herein and may take appropriate actions at such time.<sup>[1]</sup>

[1]

Editor's Note: Original § 13-2 of the 1990 Code, regarding curfew, which immediately followed this section, was repealed 1-22-1996 by Ord. No. 329.

**§ 207-2. Advertisements political signs and other written material.**

A.

No person shall place bills or other advertising matter on any post, pole or tree within any street in the City.

B.

No person shall place political signs or political advertising matter on or over any park, school lot, traffic circle or other public property within the compact or built-up section of the City.

C.

No person shall place, deposit or throw any advertisement, handbill or other written material upon any unoccupied motor vehicle in any parking area used in connection with the Augusta Civic Center and owned or leased by the City, or upon the grounds within such parking area, or within any public way within the City.

D.

Violation hereof shall constitute a misdemeanor, and any person found guilty thereof shall be subject to a fine in accordance with Chapter 1, Article III, General Penalty, of the City Code.

**§ 207-3. Noise.**

No person shall, in any street, sidewalk or public place, wilfully or mischievously make any loud or unusual noise, either by the voice, the discharge of firecrackers, pistols, guns or other firearms, or by the beating of drums, sounding of trumpets or other means, or sing loud, improper or boisterous songs, or in any manner conduct noisily so as to disturb the quiet and good order of the City.

**§ 207-4. Parade permits.**

[Amended 1-6-1992 by Ord. No. 244; 9-8-2003 by Ord. No. 106; 4-5-2004 by Ord. No. 54; 4-15-2010 by Ord. No. 053]

**A.**

Prior to an intended parade, march or other use of public ways within the City, a permit must be applied therefor to the City Police Chief or his designee.

**B.**

The application shall set forth the name, address and phone number of the person seeking the permit, the date and time for which sought and the intended route.

**C.**

As a precondition to issuance of a permit, the applicant must meet with or provide information by any other means to the Police Chief or his designee, so that the applicant and the City may attempt to agree on the details of the route and other logistics.

**D.**

The Police Department may deny the permit or alter the route for traffic or safety reasons and impose reasonable conditions, including, but not limited to, time limits, requirement to keep moving and on route, no amplification or sound truck, no explosives, fireworks or other artificial noise.

**E.**

The cost of the permit shall be \$100, plus the costs of traffic control per City collective bargaining agreement and clean-up costs, as estimated by the Police Department. The permit fee will not include the cost of police protection for public safety. The fee of \$100 is payable at the time the application is submitted and the balance at the time of its issuance. The City Council may modify this fee from time to time by order.

**F.**

If the permit is denied or modified, the applicant may appeal in writing within five days to the City Clerk's office for determination by the City Council.

**§ 207-5. Sound truck permits.**

It shall be unlawful to operate a sound truck in the City limits without first obtaining a permit. Such permit shall be issued by the City Councilmembers.

**§ 207-6. Tag days.**

[Amended 1-6-1992 by Ord. No. 244]

A.

All tag days shall be approved by the Police Chief for a specific period, with only one group holding a tag day during any period.

B.

All solicitors shall give out a tag indicating the charity for which the tag day is being held.

**§ 207-7. Open wells, cellars and other openings.**

[Amended 1-6-1992 by Ord. No. 244]

The existence on any lot or parcel of land within the City of any open or uncovered well, cistern, cellar, quarry, dangerous hole or excavation injurious or prejudicial to the public safety, comfort, health and welfare shall be unlawful. Any person owning or having possession, charge or control of such lot or parcel of land shall abate such condition within 10 days after having been given written notice to do so by the Police Chief. Each day that such condition remains after the expiration of the notice shall be a separate offense.

**§ 207-8. Transportation of fowl.**

No person shall transport by motor vehicle upon any public way, road or street in the City any crates containing fowl, hens, chickens or crates which have been previously used for such purposes, without covering the vehicle or crates with netting, wire or other materials in such a manner that feathers shall not be dislodged, blown or fall into the public way, road or street. Any person violating this section shall, upon conviction, be punished in accordance with Chapter 1, Article III, General Penalty, of the City Code.

**§ 207-9. Depositing matter in streets, sidewalks and public places.**

No person shall sweep, place or deposit any dirt, soot, ashes, shavings, paper, hair, manure or any vegetable or animal substance, or any rubbish, offal or filth of any kind on or upon any street, sidewalk or public place in this City.

**§ 207-10. Sledding on streets and sidewalks.**

No person shall slide down any street or sidewalk within the City upon any sled, sleigh or other such device, except on such streets where sliding has been authorized by the Council under 23 M.R.S.A. § 2851.

**§ 207-11. Skateboarding.**

[Amended 1-6-1992 by Ord. No. 244]

No person shall course, slide down, across, in and along any street or sidewalk or public parking lot of the City upon any board jumper, skateboard or otherwise unless such street, way or parking lot has been designated for such purposes by the Police Chief.

**§ 207-12. Obstructions.**

No person shall leave or place any article in any street or sidewalk so as to impede travel thereon.

**§ 207-13. Fencing of swimming pools.**

Any person owning or being in the possession of an outdoor swimming pool in the City shall keep the same adequately fenced or adequately covered at all times by the owner, tenant or lessee while not in use. Such fence shall be at least five feet high.

**§ 207-14. Discharge and carrying of firearms.**

[Amended 1-6-1992 by Ord. No. 244]

**A.**

No person shall discharge any firearm within the compact section of the City, as defined by the Maine Department of Transportation, without permission from the Police Chief, except in self-defense, in execution of the laws or for the destruction of some dangerous animal.

**B.**

It shall be unlawful for any person other than a police officer or a person acting in self-defense or in compliance with § [207-15](#) to carry any loaded firearm within 150 yards of any residence or any commercial building within the compact section of the City.

**§ 207-15. Shooting bows and arrows and other projectiles.**

[Amended 1-6-1992 by Ord. No. 244]

No person shall shoot a bow and arrow or any other projectile instrument within the compact section of the City, as such is defined by the Maine Department of Transportation, without first acquiring permission to do so from the Police Chief.

**§ 207-16. Slingshots.**

[Amended 1-6-1992 by Ord. No. 244]

**A.**

No person shall have in his possession, except in his domicile, or offer for sale or sell any mechanism, device, toy or weapon designed to propel a projectile with the use of a sling, commonly known as a "slingshot," which incorporates within the structure of the mechanism, device, toy or weapon a wrist or arm brace or other structural component designed to brace the mechanism, device, toy or weapon when in use in order to increase the potency and accuracy thereof, beyond that which is achievable through the use of a handle designed to be gripped with the hand alone.

**B.**

A person may only transport any such mechanism, device, toy or weapon between his domicile and the City limits with prior oral or written notification to the Police Chief.

**C.**

Any person violating this section shall be subject to a penalty in accordance with Chapter [1](#), Article [III](#), General Penalty, of the City Code.

**§ 207-17. Playing ball in streets and public enclosures.**

[Amended 1-6-1992 by Ord. No. 244]

No person shall play at the game of ball or throw any missiles in any public street or enclosure of any public building without first acquiring permission to do so from the Police Chief.

**§ 207-18. Throwing substances at dwellings.**

No person shall throw any dirt, stones, bricks, snowballs or any other substance against any dwelling house or other private or public building, with intention to injure the same, or to disturb the inmates thereof, nor shall any person be present, aiding and abetting the same.

**§ 207-19. Loitering.**

Two or more persons shall not gather in a group or near each other on any public way or other public property in such a manner as to obstruct free passage.

**§ 207-20. Obstructing vehicular traffic.**

A person shall not obstruct or attempt to obstruct the free flow of vehicular traffic by thrusting himself, another person or an object into a public way.

**§ 207-21. Littering.**

[Amended 6-21-2012 by Ord. No. 12-088]

A person shall not place or cause to be placed in any public way, public park, public parking lot or other public property any refuse of any kind, including, but not limited to, tobacco products, glass, metal, wood or paper products, and garbage, except in proper containers placed there for the collection of garbage or rubbish, or except at a municipal landfill.

**§ 207-22. Indecent exposure.**

**A.**

The purpose of this section is to regulate nudity as a form of commercial exploitation and to regulate dress as a form of conduct and not to impede the free exchange and expression of ideas. The conduct regulated is that which the City Council has clearly found to be offensive to the general welfare, public safety, order and morals of the City and its citizens.

**B.**

For the purposes of this section, the following definitions shall apply:

**EXPOSE or EXPOSED**

Unclothed or uncostumed or not covered by a fully opaque material.

**SALESPERSON, WAITER, WAITRESS or ENTERTAINER**

A person shall be deemed to be a "salesperson," "waiter," "waitress" or "entertainer" if such person acts in that capacity without regard to whether or not such person is paid any compensation by the management of the establishment in which the activity is performed.

**SPECIFIED ANATOMICAL AREAS**

(1)

Less than completely and opaquely covered:

(a)

Human genitals, pubic region.

(b)

Buttocks.

(c)

Female breast below a point immediately above the top of the areola; and

(2)

Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

### SPECIFIED SEXUAL ACTIVITIES

(1)

Human genitals in a state of sexual stimulation or arousal.

(2)

Acts of human masturbation, sexual intercourse, or sodomy.

(3)

Fondling of human genitals, pubic region, buttocks or female breast.

### C.

It shall be unlawful for a person who, while acting as a salesperson, waiter, waitress, entertainer or in any other capacity as an owner, manager or employee in a business subject to license in the City, and including any restaurant, hotel, motel, club and place selling spirituous and vinous liquor or malt liquor to be consumed on the premises, to:

(1)

Expose his or her genitals, pubic hair, buttocks, perineum or anus; or

(2)

Expose any portion of the female breasts at or below the areola thereof.

It shall be unlawful for a person to cause, permit, procure, counsel or assist any person to expose himself or herself as prohibited by this subsection.

### D.

It shall be unlawful for a person or business corporation acting as an owner, manager or employee in a business subject to license in the City, and including any restaurant, hotel, motel, bottle club, club, place selling spirituous and vinous liquor or malt liquor, place selling food and place where coin-operated amusement devices are located, to operate or allow to be operated on the premises any machine, projector or any video device which depicts, displays or projects, directly or indirectly, pictures, photographs or other visual images of specified anatomical areas or specified sexual activities.

### E.

Any act made unlawful by this section and any violation of this section shall be punishable by a fine of not more than \$500 for each offense. Each day that such unlawful act or violation continues shall be considered a separate offense.

### F.

In addition to any other penalty provided by the law, the commission of acts prohibited by this section shall constitute a nuisance and may be abated by the City seeking an injunction to prohibit further and continued violation thereof.

**§ 207-23. Securing entrances to open pits.**

[Amended 11-19-1984 by Ord. No. 603]

Anyone owning, leasing or operating a gravel pit, sand pit or other open pit operation within the corporate limits of the City shall be responsible for the public health and safety by securing all entrances with appropriate locking gates to prevent public access. The gates shall be locked from 9:00 p.m. to 5:00 a.m.

**§ 207-24. Unregistered motor vehicles.**

[Amended 10-16-1995 by Ord. No. 255; 11-19-2009 by Ord. No. 09-152]

**A.**

Motor vehicles that have not been registered and inspected for two consecutive years may not be stored within 150 feet of a public right-of-way unless the vehicle or vehicles are garaged or buffered from public view by plantings or fences.

**B.**

Exceptions to this section are antique autos pursuant to Title 29-A of the Maine Revised Statutes, vehicle dealers licensed pursuant to Title 29-A of the Maine Revised Statutes, documented illness or a documented absence from the City for at least one year by the owner or owners of the property on which the vehicle or vehicles are located.

**C.**

No court action to enforce the provisions of this section may be taken by the City until and unless the owner or owners of the property on which the vehicle or vehicles are located have received a thirty-day notice in writing from the City advising said owner or owners of a violation of this section.

**§ 207-25. Indecent acts and conduct.**

[Amended 8-4-1997 by Ord. No. 238]

**A.**

Purpose. The purpose of this section is to regulate and prohibit certain sexual acts, sexual conduct and/or sexual contact in the City of Augusta. The acts and activities regulated and prohibited by this section are those which the City Council finds to be offensive to the general welfare, public safety, order and morals of the City and its citizens.

**B.**

Definitions. As used in this section, the following terms shall have the meanings indicated:

**BUSINESS ESTABLISHMENT**

Any business, including but not limited to a sole proprietorship, operating for consideration or for any gratuity or with the expectation of receiving consideration or any gratuity, whether or not the business has a fixed place of business within the City limits of Augusta.

**CONSIDERATION or GRATUITY**

Any direct or indirect payment of money or any other object of value.

**RUBDOWN or MASSAGE**

Used interchangeably to mean any method of rubbing, kneading, tapping, vibration, compression, percussion, application of friction or manipulation of the external parts of

the human body with the hands or other parts of the body or with the aid of any instrument or device. Excluded from this definition are therapeutic massages performed by massage therapists or massage practitioners, physicians, chiropractors, physical therapists, cosmetologists, barbers, registered nurses, or other health care providers, all of whom must be licensed, certified or registered with the State of Maine and acting in accordance with the laws of the State of Maine and the ordinances of the City of Augusta.

#### SEXUAL ACT OR ACTS

An act or acts, actions or activity in which a person or persons exposes to another person or persons his or her genitals, pubic hair, buttocks, perineum or anus or any portion of the female breast at or below the areola thereof. "Sexual act or acts" also means any act of sexual gratification between two persons involving direct physical contact between the sex organs of one and the mouth or anus of the other or direct physical contact between the sex organs of one and the sex organs of the other, or direct physical contact between the sex organs of one and an instrument or device manipulated by the other. A sexual act may be proved without allegation or proof of penetration.

#### SEXUAL CONTACT

Any touching of the genitals, directly or through clothing, other than as would constitute a sexual act, for the purpose of arousing or gratifying sexual desire.

#### SEXUAL CONDUCT

Conduct by a person or persons to another person or persons which consists of human masturbation, sexual intercourse, sodomy and fondling of human genitals, pubic region, buttocks or female breasts.

#### C.

Prohibition. It shall be unlawful for any person or business establishment to operate or allow to be operated any business or activity in which the operations consist totally or in part of providing, making available or allowing sexual conduct, sexual contact, sexual acts, rubdowns or massages for consideration or with the expectation of receiving consideration or any gratuity, whether or not the person or business has a fixed place of business within the City limits of Augusta. It shall also be a violation of this section for a person or business establishment to cause, permit, procure, counsel or assist any person to expose himself or herself or to commit acts prohibited by this section.

#### D.

Penalty.

#### (1)

Any act or activity made unlawful by this section and any violation of this section shall be punishable by a fine of not more than \$500 for each offense. Each day that such unlawful act or violation continues shall be considered a separate offense.

#### (2)

The provisions of this section are in addition to the provisions contained in § [207-22](#), Indecent exposure, as amended, and in no way replaces or amends § [207-22](#), as amended.

#### (3)

In addition to any other penalty provided by the law, the commission of acts prohibited by this section shall constitute a nuisance and may be abated by the City seeking an injunction or restraining order to prohibit further and continued violation thereof.

#### (4)

Violation of this section by a party, parties or business establishment which hold any City license could result in the revocation of said license following a license revocation hearing before the Augusta City Council.

**§ 207-26. Disorderly houses.**

[Amended 5-19-2003 by Ord. No. 51]

**A.**

Definitions. "Disorderly house" shall mean any dwelling to which the police have responded eight or more times in any thirty-day period, involving the conduct of the owner, tenant(s), or tenants' co-habitees, guest or invitees, which would unreasonably disturb the community, the neighborhood or an individual, including, but not limited to: loud music; boisterous parties; sounds emanating from within the structure which are audible outside the dwelling; loud noise or fights involving tenants of the dwelling or their invitees; tenants or invitees of tenants being under the influence of drugs or intoxicating liquor; the arrest and conviction of tenants or their invitees for activities which constitute either a crime or civil infraction under either state or local law; and other similar activities. "Dwelling" is defined as any single- or multifamily residence or part thereof, including garages, outbuildings, exterior grounds and separate apartments. This section applies to all such conduct occurring at or within 300 feet of the dwelling.

**B.**

Notice of disorderly house.

**(1)**

Whenever a dwelling has been visited by the police four times, but fewer than eight times, in any thirty-day period, in relation to incidents which meet the above definition, the Police Department, or any other agent designated by the City Manager, may notify the owner of the circumstances involving the police responses.

**(2)**

Whenever a dwelling has been identified as a disorderly house by the City, the City shall provide written notification of the events which form the basis for the designation to the owner.

**(3)**

The notice shall require the owner or the owner's designated agent to meet with representatives of the City within five business days, or such time as is agreed upon by both parties. The intent of such meeting is to discuss the issues surrounding the circumstances involving the police responses to the disorderly house. At the meeting, the parties shall make a good-faith effort to reach a written agreement which will require the owner to make reasonable efforts to resolve the problems which have required police intervention.

**C.**

Violations.

**(1)**

The following shall be considered violations of this section:

**(a)**

Failure to attend the meeting with the City.

**(b)**

Failure to make a good-faith effort to reach an agreement.

**(c)**

Failure to comply with the agreement.

(2)

The first violation of this section will result in a fine of \$100 being imposed against the owner. The second and all subsequent violations will result in a maximum fine of \$500. If the City is required to bring an action in court to enforce this section, it may seek injunctive relief and will be entitled to its reasonable attorney's fees.

**§ 207-27. Residency restrictions for sex offenders.**

[Added 1-17-2013 by Ord. No. 13-010]

A.

This section is enacted pursuant to 30-A M.R.S.A. § 3014. This section is intended to be coextensive with the maximum residency restrictions permitted by 30-A M.R.S.A. § 3014.

B.

The Planning Bureau, with the assistance of the Police Department, shall prepare, maintain and file with the City Clerk an official map showing prohibited locations as defined by this section. The Planning Bureau will update the map at least annually to reflect any changes in the locations of any restricted property and setbacks and file the updated map with the City Clerk.

C.

Definitions. As used in this section, the following terms shall have the meanings indicated:

**DESIGNATED SEX OFFENDER(S)**

A person(s) convicted of Class A, B or C sex offenses committed against persons who had not attained 14 years of age at the time of the offense.

**PROPERTY OWNER**

The person owning real estate affected by this section as shown by the current tax maps on file in the office of the City Assessor or the records at the Kennebec County Registry of Deeds.

**RESIDENCE**

The temporary or permanent occupation or use of a place, including but not limited to a domicile, for the purpose of living, residing or dwelling.

**RESTRICTED PROPERTY**

The real property comprising a public or private elementary, middle or secondary school; the real property comprising a municipally owned property or state-owned property that is leased to a nonprofit organization for purposes of a park, athletic field or recreation facility that is open to the public where children are the primary users. See Subsection G, Restricted property.

[Amended 9-5-2013 by Ord. No. 13-152]

**SETBACK**

A radius of 750 feet surrounding the restricted property.

D.

Restrictions.

(1)

No designated sex offender shall reside within a setback of 750 feet of any restricted property.

(2)

No property owner may lease, rent or allow residential use of real property by a designated sex offender within the setback of 750 feet from any restricted property.

E.

Exceptions.

(1)

A designated sex offender maintaining a residence within the setback from restricted property is not in violation if the residence was established and consistently maintained as a residence prior to the date of passage of this section. A designated sex offender is not in violation of this section if the restricted property is created, moved or enlarged which results in a designated sex offender residing in a setback, as long as the residence was in place and consistently maintained prior thereto.

(2)

A property owner leasing or renting a residence for use by a designated sex offender within the setback of a restricted property is not in violation if the residence was established and consistently maintained as a residence prior to the date of passage of this section. A property owner is not in violation of this section if the restricted property is created, moved or enlarged which results in a designated sex offender residing in the setback, as long as the residency was in place prior to the creation, movement or enlargement and the residency has been consistently maintained.

F.

Violation; injunctive relief and penalties.

(1)

A designated sex offender who, 30 days after written notice from the City of Augusta, is in violation of Subsection D(1) of this section shall be subject to an action brought by the City of Augusta to enforce the requirements of this section. The City of Augusta may seek injunctive relief to require compliance with the provisions of this section. The City of Augusta may also seek a penalty in the minimum amount of \$500 per day, for each day of violation of Subsection D of this section after 30 days. In the event the City of Augusta is the prevailing party in any action under this section, it shall be entitled to an award of its reasonable attorney's fees, court costs and the costs of any expert witness fees incurred by the City of Augusta.

(2)

Property owners who, 30 days after written notice from the City of Augusta, lease or rent any residence to a designated sex offender within the setback from a restricted property shall be subject to an action brought by the City of Augusta to enforce the requirements of this section. The City of Augusta may seek injunctive relief to require compliance with the provisions of this section.

(3)

The City of Augusta may also seek a penalty in the minimum amount of \$500 per day, for each day of violation of Subsection D(2) of this section after 30 days. In the event the City of Augusta is the prevailing party in any action under this section, it shall be entitled to an award of its reasonable attorney's fees, court costs and the costs of any expert witness fees incurred by the City of Augusta.

G.

Restricted property. The following properties are designated as restricted properties because children are the primary users:

(1)

Schools:

(a)

Capital Area Technical Center.

[\(b\)](#)

Cony High School.

[\(c\)](#)

Farrington School.

[\(d\)](#)

Gilbert School.

[\(e\)](#)

Hussey School.

[\(f\)](#)

Lincoln School.

[\(g\)](#)

St. Michael's School.

[\(h\)](#)

Webster School.

[\(2\)](#)

Municipally owned property:

[\(a\)](#)

Buker Center.

[\(b\)](#)

Bicentennial Park.

[\(c\)](#)

Calumet Park.

[\(d\)](#)

Capitol Park.

[\(e\)](#)

Cunningham Park.

[\(f\)](#)

East Side Boat Landing.

[\(g\)](#)

Gage Street Park.

[\(h\)](#)

Hodgkins Athletic Fields.

[\(i\)](#)

Frederick L. Savage Park.

[\(j\)](#)

McCalls's Park.

[\(k\)](#)

Mill Park.

[\(l\)](#)

Mt. Vernon Avenue Park.

[\(m\)](#)

North Water Street Park.

[\(n\)](#)

Williams Park.

[\(o\)](#)

Youth Memorial Park.

[\(3\)](#)

State-owned property:

[Added 9-5-2013 by Ord. No. 13-152]

[\(a\)](#)

CARA (Capitol Area Recreation Association) Complex.

## **Chapter 215. Parks and Recreation Areas**

[HISTORY: Adopted by the City Council of the City of Augusta as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Museums — See Ch. [64](#).

### **Article I. Civic Center**

[Adopted as Ch. 6.5, Art. I, § 6.5-3, of the 1990 Code; amended in its entirety 1-6-1992 by Ord. No. 244]

#### **§ 215-1. Reserved seats.**

At any performance or event held at the Augusta Civic Center, where seats are sold on a reserved-seat basis, any person occupying a reserved seat who does not possess a reserved seat ticket for the seat and does not display the ticket forthwith on request, or who refuses to vacate the seat forthwith upon notice to do so from the Director of the Civic Center, one of his employees, or a member of the Police Department, shall be guilty of a misdemeanor and subject to a fine in accordance with Chapter [1](#), Article [III](#), General Penalty, of the City Code.

### **Article II. Park Rules and Regulations**

[Adopted as Ch. 6.5, Art. VII, Div. 1, of the 1990 Code]

#### **§ 215-2. State recreation statute adopted.**

The City adopts the provisions of state law with reference to the conducting of a municipal recreation program.

#### **§ 215-3. Director of Parks and Recreation.**

[Amended 4-1-1996 by Ord. No. 391]

All municipal parks and playgrounds shall be under the management and control of the Director of Parks and Recreation. Other duties of the Director of Parks and Recreation shall be assigned by the City Manager or Council as they may deem necessary.

#### **§ 215-4. Superintendent of Recreation.**

[Amended 4-1-1996 by Ord. No. 391]

A.

The Superintendent of Recreation shall be appointed by the Director of Parks and Recreation with the advice and consent of the City Manager.

B.

The Superintendent of Recreation shall administer the recreational program and have charge of such other personnel as the budget provisions permit.

#### **§ 215-5. Appropriations.**

[Amended 4-1-1996 by Ord. No. 391]

The Director of Parks and Recreation shall direct the expenditures of all monies appropriated for the improvements of the parks and grounds regulated by the provisions of this article.

#### **§ 215-6. Capital Park.**

[Amended 4-1-1996 by Ord. No. 391]

The Director of Parks and Recreation shall regulate Capital Park, subject, however, to the prior rights of the Board of Education.

#### **§ 215-7. Operation of vehicles restricted.**

[Amended 7-15-1985 by Ord. No. 136; 6-18-2001 by Ord. No. 85]

No person shall operate any motorized vehicle, including, without intending to be all-inclusive, cars, motorcycles, motor scooters and snowmobiles, on any municipally owned property, including, but not limited to, schools, parks and playgrounds, except in such areas as are specifically posted therefor and subject to posted limitations. This section is not intended to prohibit the use of duly licensed and registered vehicles on municipally owned streets and in municipally owned parking areas. Vehicles of all descriptions may be used by fire, law enforcement and City maintenance personnel in providing fire and police protection as well as property maintenance as required.

#### **§ 215-8. Capital Area Recreation Association athletic fields.**

[Amended 6-18-2001 by Ord. No. 85]

A.

The Director of Community Services shall interact with the Board of Directors of the Capital Area Recreation Association in the utilization of the athletic fields located on Piggery Road.

B.

General rules and regulations pertaining to all public parks will be enforced as well as specific rules and regulations pertaining to these athletic fields that are set by the Capital Area Recreation Association and approved.

### **Article III. Conduct in Public Parks**

[Adopted as Ch. 6.5, Art. VII, Div. 2, of the 1990 Code]

**§ 215-9. Title.**

This article shall be known and may be cited as the "City Ordinance Regulating Conduct in Public Parks."

**§ 215-10. Definitions.**

[Amended 4-1-1996 by Ord. No. 391; 6-18-2001 by Ord. No. 85; 12-16-2010 by Ord. No. 183]

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**DIRECTOR**

The Director of Parks and Cemeteries or Director of Recreation appointed pursuant to the Charter.

**PARK**

The areas within the boundaries, as described in the records of the City Assessors, of the following City-owned and -utilized recreational properties and facilities:

Name	Assessor's Map and Lot Numbers	
Augusta Nature Center	45	12
	46	3
	46	3C
	46	46
	46	44A
Bond Brook Recreation Area Park	9	64 — 65
	10	6 — 7
Civic Center Park — Augusta Garden Club Park	5A	8
Cony High School and Capital Area Technical Center Grounds and Athletic Fields	10	18A
	10	20
	10	21
	10	22
	10	22 A, B, C
	10	24
	10	25
	10	30
	30	38
	29	52
Mount Vernon Park	29	1
	21	1
Buker Community Center and Athletic Fields, Melendy Tennis Courts	21	6A
Youth Memorial Park	27	268
Lincoln School Playground	28	19
Cunningham Park	32	59
Capitol Park		

Name	Assessor's Map and Lot Numbers	
Edwards Mill Site Park, aka "Mill Park"	35	55
Williams Park	39	75
	43	193
Hussey School Playground	43	147
Hodgkins School Athletic Fields	46	8
	46	10
McCall's Park	41	169
Waterfront Park	33	278
	34	47
Haymarket Square	33	216
Frederick L. Savage Park	48	3B
Eastside Boat Landing Park	38	188
	38	188A — B
Alumni Field Athletic Complex	10	17, 20, 21
City Center	38	178
Gage Street Park	33	38, 51, 52, 79
Mill Street Park	35	193, 198, 200 — 203
Mount Vernon Avenue Park	34	323 — 325
Farrington School Playground	59	12
Bicentennial Nature Park	4	167
Capital Area Recreation Association Athletic Fields	10	32

#### VEHICLE

Any wheeled conveyance, whether powered by motor, animal-drawn or self-propelled. The term shall include, but not be limited to, any trailer in tow, automobile, truck, wagon, snowmobile, motorbike, motorcycle, trail bike of any size, kind or description. Exception is made for baby carriages, bicycles and vehicles used in the maintenance and operation of City parks.

#### § 215-11. Rules and regulations; enforcement.

[Amended 4-1-1996 by Ord. No. 391; 6-18-2001 by Ord. No. 85]

##### A.

Specific rules and regulations regulating conduct in parks, playgrounds, athletic fields, and cemeteries of the City shall be promulgated by the Director of Parks and Cemeteries as well as Recreation, subject to approval by the City Council, and copies of such rules and regulations shall be on file in the City Clerk's office.

##### B.

The Police Department shall enforce all federal and state laws as well as City ordinances at all City parks, athletic fields, playgrounds and cemeteries, regardless of their operating hours.

## Article IV. Harbor Rules and Regulations

[Adopted as Ch. 6.5, Art. VII, Div. 3, of the 1990 Code]

**§ 215-12. Purpose; authority; establishment of boundaries and areas.**

**A.**

The purpose of this article is to establish and maintain order for the arrangement and utilization of the mooring area, the public landing, the boat ramp, and other related properties in the City harbor area herein described, in a manner that will best serve the interests of the residents of the City and the boating public.

**B.**

The rules and regulations established by the City Council in this article are enacted pursuant to 38 M.R.S.A. §§ 1 and 2.

**C.**

Pursuant to the authority granted by 38 M.R.S.A. § 2, the City Council hereby establishes the following boundary lines of convenient channels for the passage of vessels in the harbor of the City and hereby further assigns the following suitable portion or portions of the harbor for anchorage: The harbor limits shall include the waters of the Kennebec River, bounded by the dam at Edwards Manufacturing Plant on the north, and the Hallowell Town Line on the south.

**§ 215-13. Harbor Master.**

[Amended 9-16-1991 by Ord. No. 215]

**A.**

The Harbor Master shall be appointed by the City Manager, with the advice and consent of the City Council. The Harbor Master may also appoint a deputy, with the approval of the City Manager, to serve in the absence or disability of the Harbor Master.

**B.**

It shall be the duty of the Harbor Master to:

**(1)**

Enforce the provisions of all rules, regulations, ordinances and other laws, which are lawfully promulgated and which are within his jurisdiction pursuant to law.

**(2)**

Provide copies of all rules, regulations, ordinances and other laws which pertain to the harbor, waterfront and watercraft within the City and to make copies available to those persons using the harbor, waterfront and watercraft and to the public generally.

**(3)**

Promote order in the harbor and ensure safety and use of the harbor for the general public.

**(4)**

Monitor the fish population and migration of the several species up to the Augusta Dam and report yearly to the City Council his findings and recommendations of the economic feasibility of commercial fishery development, as well as increasing the recreational potential of the Kennebec River.

**(5)**

Monitor all activities and cause to be kept, as detailed as possible, an accurate account of statistical records pertaining to, but not limited to, Edwards Dam hydropower, Kennebec River watercraft and fish species.

C.

The Harbor Master shall have the authority and power to enforce the provisions of this article and all other laws and ordinances which are applicable to the harbor, waterfront and watercraft; and to establish and post the speed limits of all watercraft within the confines or any portion of the harbor.

**§ 215-14. Condition and use of facilities.**

A.

Condition of docks, piers, wharfs. Any dock, pier, wharf or other such structure which is within the harbor of the City and which has fallen into a state of disrepair or which remains in a dangerous condition so as to interfere with the keeping open of convenient channels for the passage of vessels in the harbor and/or suitable portions of the harbor for anchorage shall be deemed a nuisance. The Harbor Master shall give the owner of the dock, pier, wharf or other structure written notice of the condition; the notice shall also order the owner to abate the nuisance within a reasonable period of time, which shall also be specified in the notice. If the owner or occupant refuses to comply with the terms of the order, he shall be deemed guilty of a misdemeanor.

B.

Watercraft residences. No person shall moor or permit to be moored any watercraft owned or occupied by him which is being used primarily for residence purposes, within the harbor channels, without the permission of the Harbor Master.

C.

Channel markers. No person shall moor any watercraft to any buoy, beacon or other marker placed by the City and the state to define the harbor channels, or in any manner make the watercraft fast thereto, or willfully destroy or injure any such beacon, buoy or other marker.

D.

Moorings.

(1)

No person shall place, anchor or moor any watercraft within the harbor channels or within any part of the harbor without the permission of the Harbor Master.

(2)

No person shall moor or permit to be moored any watercraft to any mooring placed within the harbor by the City without the permission of the Harbor Master, who shall designate which mooring is to be used and the conditions of such use; and no person having permission of the Harbor Master shall use the moorings in any manner which is inconsistent with the conditions prescribed by the Harbor Master.

E.

Municipal wharf.

(1)

Tie-up time limit. No person shall tie up or permit to be tied up to the municipal wharf any watercraft for a period longer than two hours without the permission of the Harbor Master. No person shall tie up or permit to be tied up to the municipal wharf any watercraft for any commercial purpose except with the permission of the City Council and the Harbor Master.

(2)

Solicitation. No person shall use or permit to be used in any manner the municipal wharf or boat landing area, or any part thereof, or any float attached or adjacent thereto or any part thereof for the purpose of soliciting business or potential customers; nor shall any person use or permit to be used any watercraft moored to the wharf or floats for the purpose of displaying any signs which solicit business or potential customers. The term "watercraft," as used in this subsection, means any type of vessel, boat or craft used or capable of being used as a means of transportation on water.

F.

Interference with passage. No person shall use any watercraft or any other device or structure within the harbor of the City so as to interfere with or impede in any manner the keeping open of convenient channels for the passage of vessels in the harbor.

G.

Compliance with orders. No person shall refuse to obey any lawful order of the Harbor Master with reference to the operation, navigation or disposal of any watercraft owned or occupied by the person within the harbor channels.

**§ 215-15. Boat launching facility; ramp and floats.**

A.

Launching ramp.

(1)

The Harbor Master shall designate with suitable signs or markers which area is to be used for the launching of watercraft and which is to be designated as the launching ramp.

(2)

No person shall use the launching ramp for a period of time in excess of 30 minutes without the permission of the Harbor Master.

(3)

No person shall ground out, tie up, moor or permit to be ground out, tied up or moored any watercraft on the launching ramp.

B.

Launching ramp floats.

(1)

No person shall tie up or permit to be tied up to the floats any watercraft for a period longer than 30 minutes without the permission of the Harbor Master.

(2)

No person shall leave any property on this float for any period of time except during the actual period of loading or unloading passenger supplies or during the period of other related activities.

(3)

No person shall keep, clean or dispose of in any manner, or permit to be kept, cleaned or disposed of in any manner, any fish or other marine life on this float.

(4)

No person shall engage in swimming from this float or from any watercraft moored in any manner to this float.

(5)

No person shall use or permit this float to be used for any other purpose or activity other than that which is permitted by this subsection.

**§ 215-16. Swimming prohibited.**

[Amended 7-21-1986 by Ord. No. 444]

No person shall engage in swimming in the Kennebec River along or adjacent to the shore or property owned by the City, the Augusta Parking District or any other subdivision of the City.

**Chapter 229. Sanitation**

[HISTORY: Adopted by the City Council of the City of Augusta 12-2-2010 by Ord. No. 175 (Ch. 6, Art. IV, Div. 4, of the 1990 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Environmental and energy conservation — See Ch. [142](#).

Housing Code — See Ch. [173](#).

Solid waste — See Ch. [237](#).

**§ 229-1. Sanitation Officer duties.**

The Sanitation Officer shall do the following:

**A.**

Receive and examine into the nature of complaints and make inspections of nuisances dangerous to life and health, and order the suppression of the same. Among such conditions, but without being limited to such, he shall suppress dangerous health conditions arising out of sewers and drains, including private sewerage systems, plumbing and toilet facilities, dumps, the containing and disposal of garbage, refuse and rubbish, and presence of rodents.

**B.**

Act on complaints and make inspections for health and sanitation conditions in eating establishments and places of public gathering, such inspection to be at least three times a year.

**C.**

Cooperate with the state department in the inspection of milk under the state statutes.

**D.**

Inspect promptly all premises for which a victualer's license is applied for and certify to the City Clerk that state and City health laws are complied with or promptly advise the City Clerk of his refusal to so certify.

**E.**

Make and keep a record of all inspections and proceedings of his office and make a report thereof to the Health Officer.

**§ 229-2. Cleaning of private premises.**

When any source of filth or other cause of sickness is found on private property, in accordance with the state statutes, the owner or occupant thereof shall, within 24 hours after notice from the Sanitation Officer, at his own expense, remove or discontinue it; and if he neglects or unreasonably delays to do so, he forfeits an amount in accordance with Chapter [1](#), Article [III](#), General Penalty, of the City Code, and the Sanitation Officer shall cause the nuisance to be removed or discontinued; and all expenses thereof shall be repaid to the City by such occupant or owner, or by the person who caused or permitted it.

### **§ 229-3. Cleaning of privies.**

#### **A.**

Whenever, in the opinion of the Sanitation Officer, any privy, vault, cesspool or septic tank shall become offensive to the safety, health, comfort or convenience of the public, he shall give notice requiring the owner or occupant of the premises to clean, remove or alter the same in a manner satisfactory to the officer within 10 days from the day of the notice.

#### **B.**

Should the owner or occupant of premises fail to clean, remove or alter the privy, vault, cesspool or septic tank within the time specified, the Sanitation Officer shall cause the work to be done; and all expense thereof shall be repaid to the City by such owner or occupant.

### **§ 229-4. Accumulation and disposal of offensive refuse.**

The collection of refuse matter in or around the immediate vicinity of any dwelling house or place of business, such as swill, waste of meat, fish or shells, bones, decaying vegetables, dead carcasses, excrement or any kind of offal that may decompose and generate bacteria or unhealthy gases shall be considered a nuisance and shall be disposed of in such a manner as not to be offensive.

## **Chapter 233. Smoking**

[HISTORY: Adopted by the City Council of the City of Augusta 1-5-2012 by Ord. No. 11-190 (Ch. 6.5, Art. III, Div. 3, of the 1990 Code). Amendments noted where applicable.]

### GENERAL REFERENCES

Parks and recreation areas — See Ch. [215](#).

### **§ 233-1. Prohibited conduct.**

Smoking and all other tobacco use is prohibited at:

#### **A.**

All City of Augusta owned parks and playgrounds.

#### **B.**

City of Augusta owned athletic facilities. "Athletic facilities" means all ball fields, courts and their spectator area(s), including bleachers.

#### **C.**

Except in specifically designated areas, provided a suitable location can be identified, at City of Augusta owned facilities to include: Augusta Civic Center, Buker Community Center, City Center, John Charest Public Works Compound, Lithgow Public Library, Naval Reserve — Police Department and Old Fort Western.

### **§ 233-2. Exemption.**

Sidewalks adjacent to parks, athletic facilities and grounds and which run parallel to City streets or state highways shall be exempt from this chapter.

### **§ 233-3. Smoking areas.**

The City's Facilities Manager, in consultation with the responsible staff person for each facility where the grounds are located, will determine and designate a location for a smoking area for both the public and City personnel.

### **§ 233-4. Violations and penalties.**

Violators shall first be warned orally by the Police Department. Subsequent violations are subject to a minimum fine of \$50 per occurrence.

### **§ 233-5. State law prohibitions.**

#### **A.**

Tobacco use on all school grounds is prohibited by state law at all times.

#### **B.**

Tobacco use at City indoor facilities and outside exteriors within 20 feet from entryways, windows, vents and doorways, and in any location that allows smoke to circulate back into the building, is prohibited by state law at all times.

### **§ 233-6. School bus stops.**

[Added 12-6-2012 by Ord. No. 12-181]

Tobacco use within 20 feet from any child at designated school bus stops within the City limits is prohibited.

#### **A.**

The designated school bus stops are posted annually on the City of Augusta, Maine School Department website.

#### **B.**

Excluded: designated bus stops where the only children present come from the same family unit (i.e., rural areas where children are picked up at the end of their driveway).

## **Chapter 237. Solid Waste**

[HISTORY: Adopted by the City Council of the City of Augusta 12-16-1996 by Ord. No. 660; amended 12-2-2010 by Ord. No. 175 (Ch. 6.2, Art. III, of the 1990 Code). Subsequent amendments noted where applicable.]

### GENERAL REFERENCES

Building construction — See Ch. [134](#).

Housing Code — See Ch. [173](#).

Sanitation — See Ch. [229](#).

Land use — See Ch. [300](#).

## **Article I. General Provisions**

### § 237-1. Purpose.

The purpose of this chapter is to promote the public health, safety and general welfare of residents and businesses in the City.

### § 237-2. Authority.

This chapter has been prepared in accordance with Title 1, Title 30-A and Title 38 of the Maine Revised Statutes Annotated.

### § 237-3. Applicability; disposal facility; special wastes; composting permitted.

#### A.

This chapter applies to all properties in Augusta; sets standards for storage, collection and disposal of solid waste and rubbish/recyclables generated in the City; and outlines operating standards for public (municipal) and private collection and disposal operations.

#### B.

In accordance with the provisions of 38 M.R.S.A. § 1304-B, the City hereby designates the Hatch Hill Solid Waste Facility as its waste facility as defined in 38 M.R.S.A. § 1303-C(40) for the disposal of solid waste as defined in 38 M.R.S.A. § 1303-C(29). The disposal of any solid waste generated within the City by any person, corporation or other legal entity at any place other than at this designated waste facility is prohibited. However, the owner of any lot, or any other person with the permission of the lot owner, may dispose of or dump inert substances such as earth, rocks, concrete, or similar material for fill purposes only, subject to state and local land use regulations. Materials from buildings which are being taken down, constructed or renovated shall be disposed of in accordance with the provisions of Article V of this chapter.

#### C.

Rules and regulations for the safe and efficient operation of the Hatch Hill Solid Waste Facility are outlined in Article IV of this chapter.

#### D.

Rules regarding commercial solid waste and/or septage waste facilities are found in Chapter 190, Part 3, of the City Code of Ordinances, as amended.

#### E.

Special wastes, as defined in Chapter 400 of the Department of Environmental Protection, Bureau of Solid Waste Management, Solid Waste Management Rules, shall be stored, handled, managed and disposed of in accordance with said rules.

#### F.

This chapter is not intended to prohibit residential composting on privately owned property so long as the compost is handled in accordance with the composting specification sheet available through the Public Works Department, does not create a nuisance, and does not pose a health threat.

### § 237-4. Other regulations.

This chapter shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, article, bylaw, permit, or provision of law. Where conflicts arise within this chapter, the stricter provision or requirement shall prevail.

#### § 237-5. Definitions.

In the interpretation and enforcement of this chapter, all words shall carry their customary dictionary meanings. Unless otherwise stated, for purposes of this chapter, certain words and terms used herein are defined in Chapter [300](#), Land Use, of the City Code and/or as follows:

##### ASH, DOMESTIC

The residue generated after the combustion of a material such as coal, wood, coke or any residue of combustion from residential use.

##### COLLECTION

Pick-up of solid waste by the Public Works Department or by private waste haulers.

##### COMPOST

The biological decomposition and stabilization of organic matter from residential properties, under controlled aerobic conditions of high temperature.

##### CURBSIDE

The area between private property and the travelled way of a public street. In portions of the City where there are no curbs, "curbside" shall mean the shoulder of the road.

##### DEPOSIT OR ACCUMULATION

Either word, or both used in a phrase, includes, but is not limited to, a mattress, a white good, bags of rubbish not stored in a plastic or metal container when outside (except as allowed by this chapter on pickup days), or any volume of unrelated material displayed in a disorderly manner on a property for more than a week, even if the items change over the course of a week.

##### GARBAGE

See "rubbish."

##### HAZARDOUS WASTE

As defined in 38 M.R.S.A. § 1303,[\[1\]](#) a waste substance or material, in any physical state, designated as hazardous by the Board of Environmental Protection under 38 M.R.S.A. § 1303-A.[\[2\]](#) It does not include waste resulting from normal household or agricultural activities. The fact that hazardous waste or a part or a constituent may have value or other use or may be sold or exchanged does not exclude it from this definition.

##### MUNICIPAL CURBSIDE COLLECTION

Collection of residential rubbish and recycling at the curb using a program managed and paid for by the City of Augusta.

##### NONRESIDENTIAL

Activities involving agriculture, forestry, fishing, finance, insurance, real estate, including, but not limited to, multifamily dwellings with five or more units, service, wholesale/retail trade and manufacturing activities as characterized in the Standard Industrial Classification Manual published by the Executive Office of the President, Office of Management and Budget, and on file in the Public Works Department, and any and all other commercial enterprises and businesses. Waste generated from construction sites of all types shall be considered nonresidential waste.

##### PERMIT

A valid, permanently attached Hatch Hill sticker or valid City residential three-trip pass.

### RECYCLABLES

Those items collected by the City as outlined in § [237-8F](#).

### RESIDENTIAL

Single- and multifamily dwellings (up to four units), including home occupations operating in accordance with Chapter [300](#), Land Use, of the City Code, boarding homes, land-leased communities and group homes. For purposes of this chapter, "residential" does not include nursing homes or rooming houses of more than three rooms which are considered nonresidential under the category of "services."

### RUBBISH

Residential and nonresidential solid waste. Rubbish does not include wood waste, scrap metal, white goods, tires, special wastes, domestic ash and processing waste.

### SOLID WASTE

As defined in 38 M.R.S.A. § 1303-C(29), useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing, including, by way of example and not by limitation, rubbish, garbage, refuse-derived fuel, scrap materials, junk, refuse, inert fill material, and landscape refuse, but shall not include septic tank sludge or agricultural wastes. The fact that a solid waste, or a part or constituent of the waste, may have value or other use or may be sold or exchanged does not exclude it from the definition of "solid waste." The term includes any residue or material which exists in excess to the owner at the time of such discard or rejection. Material located on a property in an unkempt or disorderly fashion shall be prima facie evidence that it is solid waste that is useless, unwanted, or discarded.

### SPECIAL COLLECTIONS

Includes domestic ash collection, clean-up weeks, and others that may be scheduled by the City Manager in accordance with § [237-8B](#) and [F](#).

### SPECIAL DROP-OFFS

Include, but are not limited to, household hazardous waste, Christmas trees and leaf drop-offs.

### SPECIAL WASTE

As defined in 38 M.R.S.A. § 1303-C(34), any nonhazardous waste generated by sources other than domestic and typical commercial establishments that exists in such an unusual quantity or in such a chemical or physical state, or any combination thereof, which may disrupt or impair effective waste management or threaten the public health, human safety or the environment and requires special handling, transportation and disposal procedures.

### STORAGE

The temporary placement of solid waste, rubbish or recyclables.

#### [\[1\]](#)

Editor's Note: 38 M.R.S.A. § 1303 was repealed by L. 1989, C. 585, Pt. E, § 3. See now 38 M.R.S.A. § 1303-C, Subsection (15).

#### [\[2\]](#)

Editor's Note: 38 M.R.S.A. § 1303-A was repealed by L. 1987, c. 517, § 7, effective 6-29-1987. See now 38 M.R.S.A. § 1319-O.

## Article II. Storage

#### **§ 237-6. Storage at nonresidential properties.**

Any person owning, operating or supervising any nonresidential activity where waste matter or other rubbish accumulates shall not permit the deposit or accumulation of such waste matter or other rubbish in or upon the building or premises controlled by him or her, except in suitable watertight, covered containers, including dumpsters.

#### **§ 237-7. Storage at residential properties.**

##### **A.**

It shall be the duty of the owner of every residential building to provide suitable and sufficient watertight, covered containers, including dumpsters, to receive the accumulation of solid waste and rubbish/recyclables on the premises during the interval between collections.

##### **B.**

The occupants of all residential buildings shall place or cause to be placed all rubbish/recyclables and solid waste in the watertight containers, including dumpsters, and shall not permit any accumulation or deposit of such substances in or about the premises except in such containers.

##### **C.**

Recyclables shall be stored in a manner that maintains their integrity as a recyclable material (i.e., newspapers must be kept dry).

### **Article III. Collection**

#### **§ 237-8. Municipal curbside collection.**

##### **A.**

Scope of service.

##### **(1)**

Effective October 1, 2009, municipal curbside collection shall be provided to all residential properties and small businesses currently receiving service. Effective October 1, 2009, municipal curbside collection for nonresidential properties shall not be provided.

##### **(2)**

Residential properties on private ways without a public easement shall bring their rubbish and recyclables to the nearest public way on their scheduled collection day.

##### **B.**

Scheduling of collections. The scheduling of rubbish/recyclable collection or special collections shall be established by the City Manager. The City Manager shall also, from time to time, schedule special drop-offs.

##### **C.**

Supervision of collections. The Director of Public Works shall be responsible for the municipal collection of rubbish/recyclables and other solid waste within the City.

##### **D.**

Preparation for collection.

##### **(1)**

General.

##### **(a)**

Only rubbish and recyclables which are generated in Augusta and from the property that is receiving municipal collection services shall be placed curbside for pick-up.

(b)

Municipal employees are hereby prohibited from entering upon private property for the purpose of municipal collection services.

(2)

Container specifications.

(a)

Rubbish shall be placed in solid, whole plastic bags of adequate strength that are tied or sealed securely with a minimum of four cubic feet capacity. Plastic bags stored outside a structure prior to 6:00 a.m. on the day of collection shall be placed in metal cans or rigid plastic containers with covers, with a minimum height of 20 inches and a maximum height of 30 inches and a maximum of 20 inches in diameter.

(b)

Bags or containers shall not exceed a gross weight of 100 pounds.

(c)

The City shall not be responsible for the loss of or damage to metal or plastic containers.

E.

Location of containers; time for setting out; responsibility for clean-up.

(1)

Rubbish/Recyclable containers and solid waste for special collections shall be placed next to the curb on City property immediately adjacent to the property owned, rented or leased by the person or persons placing the containers. It shall be unlawful to place containers of rubbish/recyclables and solid waste on property of another without the consent of the property owner or on City property other than as provided for in this subsection. During the winter months, containers will be placed as near to driveways or walkway openings as possible.

(2)

Rubbish/Recyclable containers and solid waste for special collections shall not be set out for collection prior to 4:00 p.m. the day before the scheduled pick-up. Containers must be at the curb prior to 7:00 a.m. on the scheduled pick-up day and shall be removed from the curbside no later than 9:00 p.m. following collection.

(3)

Clean-up of rubbish/recyclables which are not contained at time of pick-up shall be the responsibility of the property owner or tenant.

F.

Special collections/drop-offs.

(1)

Cardboard boxes broken down and securely tied in bundles not exceeding 15 cartons or weight in excess of 100 pounds will be accepted for rubbish pick-up.

(2)

The City offers a voluntary recycling program. Augusta residents who wish to participate in the voluntary program shall separate and prepare recyclables in accordance with the "materials preparation" specification sheet adopted by the City Council and made available through the Public Works Bureau. The materials preparation specification sheet shall be revised as necessary.

(3)

Cold domestic ash pick-up will be made in accordance with a schedule set by the City Manager. Ashes must be placed at the curb or roadside in plastic or metal containers not larger than 22 gallons in size. The total weight of the container, including contents, must not exceed 100 pounds.

(4)

In the spring of each year, the City Manager may designate special clean-up weeks for accumulations of household, property debris, and other debris as specified in the "clean-up" specification sheet at City Center and the Public Works Bureau. Such collection shall provide for pick-up of items not acceptable for regular weekly collections. Each clean-up week shall be on a fee system established annually by the City Manager.

(5)

The City may offer special drop-off programs, including, but not limited to, leaves, Christmas trees and curbside recyclables. Drop-off points and times shall be designated in accordance with Subsection B.

**§ 237-9. Private (nonmunicipal) collection.**

A.

Occupants to cover containers set out for collection. The occupants of every property not receiving municipal collection services shall place the containers required by § 237-7 in a place convenient for removal of the contents by private waste haulers to collect the same and shall keep such containers covered.

B.

Private waste haulers shall comply. Private waste haulers shall conduct their operations in a safe, sanitary and healthful manner without obstructing public access. Private waste haulers shall comply with the applicable state solid waste management rules/regulations.

C.

Transportation of rubbish/recyclables and solid waste.

(1)

Cover required for vehicles transporting rubbish/recyclables and solid waste. No person shall transport by open vehicle for a distance of more than 500 feet, without collection stops, rubbish/recyclables or solid waste by way of any street without covering such vehicle body with tarpaulin, metal, wood, wire or other material, so that the contents of such vehicle cannot be dislodged onto public or private property. (This provision also applies to § 237-8, municipal curbside collection.)

(2)

This section shall not be applicable to vehicles carrying rubbish/recyclables and solid waste containers that are secured in such vehicle.

**Article IV. Disposal Area**

**§ 237-10. Use of Hatch Hill Facility.**

A.

The Hatch Hill Solid Waste Disposal Facility, hereafter referred to as the "Hatch Hill Facility," is a regional disposal facility which provides services to Augusta and contracting communities, as well as state, federal, and county agencies.

B.

It shall be unlawful to use the Hatch Hill Facility without a lawful permit issued by the City. This permit will be issued as provided in a contractual agreement between the contracting municipality and the City or as provided in the arrangement between the City and state, county, or federal government within the service area.

C.

The general rules for use of the Hatch Hill Facility, hereafter referred to as the "general rules," will be posted at the scale house and may be periodically changed as conditions warrant such change.

D.

All solid waste shall be placed at the Hatch Hill Facility as directed by the Bureau of Solid Waste and the general rules.

**§ 237-11. Location; hours of operation.**

The Hatch Hill Facility, located on Hatch Hill Road, shall be open from 8:00 a.m. to 4:00 p.m. daily, Tuesday through Saturday, inclusive. The Hatch Hill Facility will be closed on all legal holidays as determined by the holidays taken by the Bureau of Solid Waste. Special hours may be set with prior approval by the Bureau of Solid Waste.

**§ 237-12. Material collected outside City limits.**

Solid waste collected outside of Augusta or the service area of the contracting community shall not be deposited at the Hatch Hill Facility.

**§ 237-13. Unauthorized removal of materials.**

It shall be unlawful to remove any contents (dump picking) of the Hatch Hill Facility without prior permission of the Bureau of Solid Waste.

**§ 237-14. Burning solid waste prohibited.**

No person shall set fire to any solid waste at the Hatch Hill Facility.

**§ 237-15. Bulky waste disposal.**

White goods, scrap wood, tires, and other bulky objects may be disposed of at the Hatch Hill Facility in a special section maintained for this purpose as per the general rules.

**§ 237-16. Permit to use Hatch Hill Facility.**

A.

Entry into the Hatch Hill Facility is restricted to vehicles or operators of vehicles that display a legal permit. Permits will be issued to taxpayers, residents, temporary residents, private haulers with preapproved collection routes, and any contracting community or agency. Permits issued during the first eight months of the calendar year will expire on December 31 of the following year. Permits issued during the last four months of the calendar year will expire on December 31 of the second following year. Permits shall be issued by the City Treasurer's office or at the Hatch Hill scale house. Temporary permits may be issued to individuals engaged in short-term projects within the City or contracting communities as approved by the Director of Solid Waste for a period of one day to 30 days, for the current fee.

B.

Private haulers whose place of business is outside of the service area and who are working within the service area shall provide an established collection route prior to being issued a permit.

C.

Permit fees shall be set from time to time and a schedule of such fees is on file in the City Clerk's office.

**§ 237-17. Disposal fees.**

A.

No vehicle shall enter the Hatch Hill Facility without first displaying a valid, permanently attached permit to the gate attendant. Fees will be collected at the scale house and a proper receipt will be issued.

B.

Disposal fees shall be set from time to time and a schedule of such fees is on file in the City Clerk's office.

**§ 237-18. Review of costs, fees and operating procedures.**

The City Manager will periodically submit the Hatch Hill Facility operating procedures and fees to the City Council. Operating procedures and fees will be changed by the City Manager as necessary for the complete and proper operation of the facility.

**§ 237-19. Contracts for use by other municipalities or agencies.**

The City Council may enter into contracts with other municipalities or agencies for the use of the Hatch Hill Facility under such terms and conditions as the City Council may deem appropriate.

**Article V. Demolition Debris and Radioactive Materials**

**§ 237-20. Disposal of demolition debris.**

A.

Material from buildings which are being taken down, constructed or renovated shall be disposed of at the City's solid waste disposal facility except as provided in this section. Prior to delivery to the facility, materials shall be separated so that wood materials and metal materials are not mixed in with other debris such as roofing, insulation, plaster, sheetrock, plastics, concrete, mortar,

cured concrete, bricks and other items. Materials shall be disposed of at the City's solid waste facility in accordance with the Hatch Hill Facility General Rules for the Disposal of Solid Waste unless the owner or the agent of the owner has received written approval from the Department of Public Works to dispose of the material in another location. Such approval must state the exact location and how the material will be disposed of. All work shall be in conformance with Department of Public Works administrative rules and performance standards. The purpose of these rules and standards shall be to protect abutting property, the environment, and to control dust, noise and nuisances associated with the handling of all demolition debris. These shall be available at the Office of the Director of Public Works.

B.

Upon written approval of the Department of Public Works, material that can be classified as inert fill, which is defined as clean soil material, rocks, bricks and cured concrete, that is not mixed with other solid or liquid waste and that is not derived from an ore mining activity may be disposed of at a fill site. The area where the material is to be disposed of must be an approved fill site and shall comply with all applicable state and local rules and regulations and any special conditions which may be established for that site.

**§ 237-21. Storage or disposal of radioactive waste prohibited.**

The permanent storage or disposal of either or both high-level and low-level radioactive waste, as defined in 38 M.R.S.A. § 1451, within the boundaries of the City is prohibited.

## **Article VI. Violations and Enforcement**

**§ 237-22. Deposits or accumulations in violation.**

Deposits or accumulations of rubbish/recyclables and solid waste shall not be permitted anywhere in the City except as provided in this chapter. Any such deposit or accumulation made or permitted contrary to this chapter is hereby declared to be illegal and shall be punishable in accordance with Chapter 1, Article III, General Penalty, of the City Code of Ordinances.

**§ 237-23. Abatement and removal of unlawful deposits or accumulations.**

A.

It shall be the duty of the Police Chief to cause the abatement and/or removal of every fill, deposit or accumulation of substances upon private premises which is in violation of the provisions of this chapter and to prosecute all violators.

B.

Except as provided for in § 237-3F, any person upon whose premises there is found any unsanitary or unsafe accumulation of solid wastes shall, within 24 hours after written notification by a Code Enforcement Officer, cause the same to be removed to the Hatch Hill Solid Waste Facility. In the case where the property is occupied by one or more tenants, the property owner and all tenants shall receive the same written notifications requiring cleanup.

**§ 237-24. Waste burning.**

No person shall set fire to any solid waste. Burning of clean wood waste or the burning of condemned or abandoned buildings (for purposes of fire training) may be allowed, with permission of the Fire Department.

**§ 237-25. Removal, destruction or misuse of recycling containers.**

No person shall willfully remove, destroy, mutilate or use for another purpose other than the holding of recyclables the containers which have been provided in accordance with this chapter.

**§ 237-26. Scavenging prohibited.**

The contents of any and all containers or special items placed at curbside for collection and disposal by the City shall become the exclusive property of the City at the time the container is placed at the curbside for collection. The removal of any such container or any of the contents thereof by any individual other than the owner of the container or contents shall constitute a misdemeanor punishable by a fine in accordance with Chapter 1, Article III, General Penalty, of the City Code.

**§ 237-27. Noncomplying containers.**

Any person placing for collection any solid waste or rubbish/recyclables in containers not in compliance with the provisions of this chapter shall receive a written notice of warning from the Public Works Bureau or the Police Department. Further violation after such written warning shall be punishable in accordance with Chapter 1, Article III, General Penalty, of the City Code of Ordinances.

**§ 237-28. Violations and penalties.**

Noncompliance with any provision of this chapter by any individual or business corporation shall be punishable by a fine in accordance with Chapter 1, Article III, General Penalty.

**§ 237-29. Trespassing during closed hours; posting of signs.**

**A.**

The presence of any individual beyond the entrance gate of the Hatch Hill Facility at any time other than during the hours that the area is posted as being open or during the hours set by prior special arrangement shall constitute criminal trespass, and any individual found guilty of that offense shall be subject to a fine in accordance with Chapter 1, Article III, General Penalty. The Director of Solid Waste is hereby authorized and directed to maintain a sign of suitable size at the entrance gate to the facility bearing the words "No Trespassing" and bearing thereunder the substance of the first sentence of this subsection.

**B.**

The entire Hatch Hill Facility boundaries shall be posted "No Hunting, No Fishing, No Trespassing."

**§ 237-30. Illegal use or display of permit.**

A.

A permit will be issued in the form of a sticker and is to be used only with the vehicle to which it is permitted. A copy of the permit application form shall act as the permit for temporary permit holders. The transfer of a permit to an unauthorized vehicle or allowing the use of a permit by an unauthorized vehicle shall result in the immediate revocation of the permit and shall constitute a misdemeanor chargeable against the person making the transfer or allowing the unauthorized use. Such misdemeanor shall be punishable by a fine in accordance with Chapter [1](#), Article [III](#), General Penalty.

B.

The unauthorized use or display of a permit also shall constitute a misdemeanor chargeable against the person displaying or attempting to use the permit and shall be punishable by a fine in accordance with Chapter [1](#), Article [III](#), General Penalty.

**§ 237-31. Improper entry to disposal facility and failure to pay fee.**

A.

Entering or attempting to enter the Hatch Hill Facility without displaying a valid permit to the attendant on duty, or dumping or attempting to dump refuse of any kind at the facility without displaying a valid permit to the attendant on duty and paying the required fee, or dumping refuse in an area not designated for that refuse shall be a misdemeanor and shall be punishable by a fine in accordance with Chapter [1](#), Article [III](#), General Penalty.

B.

Whenever any individual fails to display a permit or pay the required fee as required by Subsection [A](#) of this section, the registration of a vehicle in the name of an individual or business corporation shall be prima facie evidence that the individual or business corporation to whom the vehicle is registered has entered the disposal facility and has disposed of refuse in violation of Subsection [A](#) of this section.

## **Chapter 241. Streets and Sidewalks**

[HISTORY: Adopted by the City Council of the City of Augusta as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Bicycles — See Ch. [126](#).

Mining and excavations — See Ch. [198](#).

Solid waste — See Ch. [237](#).

Subdivision design standards — See Ch. [245](#).

Land use — See Ch. [300](#).

## **Article I. General Requirements**

[Adopted as Ch. 6, Art. IV, Div. 1, of the 1990 Code; amended 12-2-2010 by Ord. No. 175]

### **§ 241-1. Recordkeeping; duties of City Engineer.**

A.

All records of all work done for the City and the originals and tracings of all maps, plans and profiles and the original field notes shall be the property of the City and shall be filed in the office of the Engineering Bureau.

B.

It shall be the duty of the City Engineer to render professional aid when required by the City Manager or Council, for the purpose of laying out streets or ascertaining if any encroachments are made thereon, marking lines and angles of streets.

C.

The City Engineer shall keep a record of his surveys, and also perform all other professional acts, services or other duties required of him by the City Manager or Council.

**§ 241-2. Collection and maintenance of street records.**

The City Engineer shall collect all plans, estimates, field notes, profiles, records of street bounds and all other information which can practically be obtained relating to City streets. The City Engineer shall maintain records of such information, which shall be made readily accessible to all citizens.

**§ 241-3. Record of surveys.**

The City Engineer shall keep a record of his surveys.

**§ 241-4. Disturbance of monuments or markers.**

Whenever the City, in the course of its work, disturbs a permanent monument or surveyor's marker, the City shall, within one month, unless the season prohibits it (in which case it shall be done within no more than six months, if not possible), record on the City Engineer's records the former location with proper tie-ins.

**§ 241-5. Building and street numbering.**

A.

Subject to the exceptions in this section, the buildings and lots on all streets that may be hereafter laid out and those already laid out but not numbered shall be numbered as follows at the time that such streets are accepted by the City, and for any street already laid out, 2/3 of the landowners thereon petitioning thereafter shall be required before such streets are numbered in the same manner: On the streets that run lengthwise of the City territory, beginning at the northerly termination, with numbers 1 and 2, and progressing southerly, with the odd numbers on the easterly side of the street and the even numbers on the opposite side; and on the transverse streets, beginning at the end nearer the river with numbers 1 and 2, and progressing in a direction away from the river, with the odd numbers on the northerly side of the street and even numbers on the opposite side.

B.

Any street that terminates at a dead end, or begins within the City and continues beyond the City limits before termination, or which has the potential for future additions, shall have its inception

of numbering at the street from which it radiates rather than by the general system set forth in Subsection [A](#), except that the part thereof which prescribes the position of the odd and even numbers shall also be applicable hereunder.

[C.](#)

There shall be a number allotted for every lot of land fronting on a street for each 50 feet as measured along the center line of the street. Any main entrance of a building falling between two lines at right angles to the center line at the fifty-foot points shall be allotted at the number designated between the two right-angle lines, except that on streets that are compactly built up, a number shall be assigned for each 10 feet of frontage, and to adjoining vacant lots proportionally, and corner lots shall be numbered on both streets. It shall be the duty of all building and residence owners to see that proper street numbers shall be placed on the front part of each building where such number can be readily seen from the street.

[D.](#)

The City Engineer shall denote house numbers, as assigned, on copies of the City Tax Maps, which shall be kept on file in the City Engineer's office.

[E.](#)

Water Street and Cony Street from the Kennebec Bridge to the intersection of Bangor Street are specifically excepted from this section, with their present numbering system being retained.

[F.](#)

The members of the Police Department shall make an inspection of the streets from time to time, and shall call the attention of any owner to the absence on his building or residence of the street number required by this section. Within 30 days after the warning, if the number has not been placed upon the building or residence, the owner shall be subject to the provisions of Chapter [1](#), Article [III](#), General Penalty, of the City Code. In case there is any question as to the proper number to be used on the properties, inquiries should be made of the City Engineer for the proper number.

[G.](#)

The west side rotary known as "Memorial Circle" shall be numbered beginning at the point where Memorial Drive begins (running easterly from P.C. Station 90+47.04 as shown on a map of State Highway Q dated March 1948 and revised May 1949, Sheet 1 of 5, S.H.C. File No. 6-43, recorded in the Kennebec County Registry of Deeds, Plan Book 17, pp. 58-59), with Number 1 Memorial Circle being allotted to the first property located north of Memorial Drive and abutting the most northeast segment of the rotary right-of-way, which property is presently owned by Walgreen's, with the numbers increasing in a counter-clockwise direction around such rotary. There shall be a number allotted for every lot of land fronting on the rotary (as defined by its extreme right-of-way limits and lack of a street address) for each 50 feet of frontage on same. The provisions of Subsection [F](#) of this section shall apply to Memorial Circle.

#### **[§ 241-6. Oversize vehicles and equipment.](#)**

[A.](#)

No vehicle shall move objects having a length or width or height or weight greater than specified in 29 M.R.S.A. [\[1\]](#) over any way or bridge maintained by the City without applying in writing on a form furnished by the City Clerk. A bond or cash deposit sufficient to indemnify the City for all damages it may suffer may be required by the City Engineer and shall be approved by the City Manager. Each application shall be approved by the City Engineer and the Police

Department. The fee for the permit shall be set from time to time by the Council. A schedule of the fees is on file in the City Clerk's office.

[\[1\]](#)

Editor's Note: Title 29 of the Maine Revised Statutes was repealed by L. 1993, C. 683, § a-1, effective 1-1-1995. See now Title 29-A, Motor Vehicles.

[B.](#)

No vehicle shall be moved having a length, width, height or weight greater than specified in 29 M.R.S.A. [\[2\]](#) over any way or bridge maintained by the City between the hours of 7:30 a.m. and 8:30 a.m., 11:30 a.m. and 1:30 p.m. and 4:30 p.m. and 5:30 p.m. daily; except on Sundays and legal holidays. A permit may be approved by the Police Department and the City Engineer or his designee to move vehicles of greater specifications during the above times under conditions set forth by the Police Department and the City Engineer or their designees, if it can be shown that an emergency or public convenience and necessity require the same.

[\[2\]](#)

Editor's Note: See now M.R.S.A. Title 29-A, Motor Vehicles.

[C.](#)

Long-term moving permits not to exceed one year may be issued to local firms or activities which frequently move large equipment. The fee for the permit shall be set from time to time by the Council and a schedule of such fees is on file in the City Clerk's office. The permit holder shall notify the Police Bureau each time a move is to be made. A bond shall be required in an amount to be determined by the City Engineer and approved by the City Manager. The maximum allowable dimensions for a yearly permit shall be 14 feet wide, 14 feet high, and 85 feet long.

#### **§ 241-7. Construction area permit required; scope; bond.**

A permit must be procured in the manner set out in § [241-6](#) in cases where construction areas encompass the City. Such permit shall provide the contractor with the responsibility for damage to any street used in the area and shall require the contractor to furnish a bond to guarantee suitable repair or payment of damages; the suitability of such repairs or amount of damage shall be determined by the Council. The construction area permit shall carry no fee, but shall be approved by the Director of Public Works and the Police Department. No cleated vehicle shall be allowed on any paved street.

#### **§ 241-8. Deposit to cover police services for construction areas.**

Prior to the issuance of a permit required by § [241-7](#), the applicant shall deposit with the City Treasurer an amount of money to be established by the Police Department for the payment of police services. Upon completion of the work, the person making such deposit shall be credited and if the actual cost exceeds the deposit, such person shall be billed in that amount.

#### **§ 241-9. Fee schedule for police escorts.**

The fee for police escorts within the City may be reviewed and adjusted annually by the City Council according to the current union contract.

#### **§ 241-10. Moving buildings across City streets.**

##### **A.**

The Director of Public Works, upon petition as set forth in Subsection **B.**, shall have the power to license any person to move a house, store or other building through any of the streets of the City under proper restrictions, upon the receipt of a good and sufficient bond or cash deposit in lieu of bond to indemnify the City for all damages which it may suffer. The bond amount shall be determined by the Director of Public Works and shall be approved by the City Manager. The City reserves the right to remove a building stopped in transit in excess of eight hours.

##### **B.**

Petition to move. No license to move any house, store or other building shall be granted except upon petition directed to the Director of Public Works and filed with the City Clerk, setting forth the location of the building to be moved and the lot to which it is proposed to move it.

##### **C.**

Violations and penalties. Any person who is concerned in moving any house, store or other building through any street without first obtaining a license and giving bond, as required by Subsection **A.**, shall be subject to the provisions of Chapter **1**, Article **III**, General Penalty, of the City Code.

#### **§ 241-11. Cutting or trimming trees.**

No person except the City Engineer or Tree Warden shall cut or trim trees or parts thereof that are located within or extend over any street or sidewalk without first obtaining a written permit from the Engineer or Tree Warden and posting satisfactory evidence of financial responsibility to meet any claim for personal injury or property damage which might arise from the cutting or trimming.

#### **§ 241-12. Use of area beside streets.**

##### **A.**

No person shall use the land area between the outside of the City travel way (wrought way) for vehicles and the legal limits of the public right-of-way on Winthrop Street between the east side of Pleasant Street extended southerly to cross Winthrop Street and Blaine Avenue except for the present City sidewalks, pedestrian walkways to land of adjacent abutters, right-angle driveways to land of adjacent abutters connecting with a private driveway on the abutter's property, except for the following, which shall be considered grandfathered situations:

##### **(1)**

Crescent driveways installed prior to the enactment of the current ordinance (1990).

##### **(2)**

Crescent driveways installed after the enactment of the current ordinance (1990) which do not exceed 50% of the land area between the legal right-of-way line and the City travel way (wrought way).

##### **B.**

Except for existing right-angle driveways and those crescent driveways grandfathered per Subsection **A.** above, driveways for use by an abutter or its tenants shall not exceed 12 feet in

width on the land areas between the legal right-of-way line and the City travel way (wrought way) for vehicles.

C.

Any crescent driveway shall be blacktopped by the abutting property owner, and all such driveways and walkways shall be approved as to design and construction by the City Engineer and constructed at the cost of the abutting property owner.

D.

The crescent driveways on Winthrop Street shall be considered driveways.

## **Article II. Development of New Streets**

[Adopted as Ch. 6, Art. IV, Div. 2, of the 1990 Code; amended 12-2-2010 by Ord. No. 175]

### **§ 241-13. Compliance required prior to approval.**

No streets in a new development shall be approved by the Council as a public way unless the provisions of this Code relating to streets have been complied with and the street is in conformance with a subdivision plan approved by the Planning Board.

### **§ 241-14. Locations and development plan required.**

Applicants for the acceptance of new streets shall have their engineer locate the exact corners, angles and curves of such street on the ground and on a development plan provided for in this article. Grade and location stakes shall be left undisturbed during construction.

### **§ 241-15. Extent of construction.**

All streets shall be built to the furthest property line of abutting lots, or to the farthest point of a turnaround, or at least 100 feet along the frontage of abutting lots if such lots exceed 100 feet in width.

### **§ 241-16. Approval of development plan.**

The development plan required by this article shall be furnished to the City Engineer for his approval before it is recorded and in adequate time for him to check the plan and the locations on the ground.

### **§ 241-17. Grading specifications.**

A.

No street shall be approved until it has been graded by the developer to its full width and length for which acceptance is requested in conformance with the Subdivision Ordinance.

B.

The entire area of every such street shall be cleaned of all stumps, roots, bushes, perishable materials and all trees not intended for preservation. All loam and loamy material and clay shall

be removed from the limits of the street, inclusive of the sidewalks, to such depth as may be approved by the City Engineer.

C.

The entire area of the street shall be subgraded by the developer to a subgrade as determined by the City Engineer. The plan and profile will show finish grade. Gravel-base thickness will be determined by the City Engineer, dependent upon ground and soil limitations. In no case will base gravel be less than 24 inches. The developer is to perform the rough grading to within one inch of subgrade. The developer shall also provide land, if necessary, for cut or fill slopes beyond the limits of the street right-of-way, and such cut and fill shall be rough graded by the developer before lay-out work by the City begins.

D.

Any underground installation, including any sewer, drain or water line on such street, shall be constructed before any base gravel or pavement material is placed thereon. The developer shall make adequate provision for the disposal of surface water in the form of culverts, ditches and catch basins in any places where the grading of the street to subgrade may obstruct the natural drainage of the area. If unusual groundwater conditions or a high water table exists, underdrains may be required. Underdrains in a development, if deemed necessary by the City Engineer, will be installed by the developer to meet the specifications of the City Engineer. The Guideline of Good Practice for Utility Locations in Urban Public Ways, as revised, should be followed wherever feasible.

E.

After the sewerage system has been installed by the Sanitary District and the water mains installed by the Water District, the roadway shall be fine graded by the developer to the grade shown on the plan. The roadway shall be graded with a gravel base of at least 21 inches and a surface cover of at least three inches of good binding gravel or crushed stone, exclusive of any gravel deposited by the developer for temporary use during construction in the development.

F.

The sidewalks shall be graded with 24 inches of good binding gravel.

G.

The developer shall be responsible for the entire cost of constructing and finishing the street. All construction shall be in accordance with specifications contained in this article, including the following:

(1)

The developer shall submit to the City Engineer's office all grades for approval.

(2)

The developer shall be responsible for establishing stakeout and grading control.

(3)

The developer shall subgrade the proposed street to two feet below finish grade. If a groundwater problem is encountered, the City Engineer retains the right to require underdrain.

(4)

The gravel shall be in accordance with the latest State Department of Transportation specifications for aggregate base and subbase.

(5)

Gravel shall be placed by one of the following methods:

(a)

Upon approval of subgrade, place 16 inches of six-inch minus gravel, and wait until the next construction season for natural compaction. Maintenance during this time, as required for traffic and erosion protection, shall be the developer's responsibility. Complete roadways, with adequate mechanical compaction of each lift.

(b)

Upon approval of subgrade, place 16 inches of six-inch minus gravel and immediately compact with an adequate vibratory machine and complete roadway as in Subsection G(5)(a).

(6)

The paving shall consist of an approved bituminous plant mix in two layers. The total thickness shall be three inches. The base course shall be two inches and the finish course shall be one inch. No paving will be permitted upon frozen surfaces or at temperatures less than 40° F.

(7)

Curbing shall be a seven-inch bituminous curbing placed prior to the finish paving.

(8)

Sidewalks, where required, shall be 2 1/2 inches thick, consisting of a two-inch base and one-half-inch wearing surface.

(9)

The City Engineer shall be responsible for the inspection of all work.

H.

All new City streets will be of bituminous concrete surface with a two-inch base course, a one-inch finish course, six-inch hot top asbestos asphalt concrete curbs, and a one- to one-and-one-half-inch sidewalk surface. The one-inch finish course will be placed at such time as mutually agreed by the developer and City Engineer dependent upon development construction and base condition. Liability for repairs to sidewalk or finished street damaged during construction shall be borne by the holder of the building permit.

I.

All utility poles shall be located on the private property side of the sidewalk, and in the utility easement wherever one is available. Whenever feasible, utilities shall be placed underground.

#### **§ 241-18. Filing of plan and profile; written agreement of property owners to pay for cost of street.**

A.

Applicants for the acceptance of new streets must file a plan and profile of such street, showing the street lines and elevations of all existing buildings, the lots as laid out on the street, together with the names of all owners of abutting property. Such plan shall be filed with the City Engineer, who will set or approve the grade and designate or approve the design of such street. Copies of the plans shall be furnished to all utilities.

B.

The application shall include an agreement in writing by the petitioners, who must include the owners of at least 2/3 of the frontage on both sides of the portion of the street sought to be accepted, to pay their proportional share of the cost of the street, in accordance with City ordinances.

#### **§ 241-19. Procedure for acceptance.**

Upon the receipt of plans for the development of new streets, together with a petition for their approval, accompanied by a satisfactory agreement executed by the petitioners to protect the City from all damages, including the cost of litigation which may be caused by changes in line or grade, the ordinary procedure for the acceptance of new streets as provided in this article will apply.

**§ 241-20. Required frontage and depth of lots.**

Generally, development plans of new streets will not be approved if the lots have a frontage of less than:

**A.**

where there is public water and sewer: 100 feet and a depth of less than 100 feet.

**B.**

where there is only public water or sewer: less than 100 feet of frontage and a depth of 200 feet.

**C.**

where there is no public water or sewer: 125 feet of frontage and 240 feet of depth .

**§ 241-21. Approval of right-of-way and filing of deed prior to acceptance.**

Prior to the acceptance of a new street, the right-of-way shall be approved by the City and a deed to the land shall be filed with the City Engineer. The requirements of the Subdivision Ordinance shall be followed. Presenting of and recording of a deed shall not constitute acceptance of a street or acceptance of dedication of a street.

**§ 241-22. Builder's duty to obtain line and grade prior to construction.**

**A.**

After a street has been accepted by the City in accordance with the provisions of this article, anyone proposing to build on such street shall obtain the street line and grade from the City Engineer before starting construction; and if not built to conform with the grade of such street, he must sign a release relieving the City from all damages due to nonconformance. The building permit shall carry the grade of the house and the grade of the street.

**B.**

On unaccepted streets, street line and proposed grades may be obtained from the City Engineer. Anyone failing to do so and who builds in such a way as will not conform with the approved line and grade of such street when accepted by the City will be unable to collect any damages from the City due to change of grade at time of acceptance or any time thereafter.

**C.**

When a street is reconstructed, there shall be no City work grading onto private property, unless agreement is reached with the property owners.

**§ 241-23. Installation of steel rods; survey for locating monuments.**

In applying for the acceptance of a new street, the applicants shall agree in writing to furnish the City with solid, nondeformed steel rods of sufficient height and a diameter of five-eighths inch. The applicant shall, within 30 days after the street is finished, install the steel rods at all points of

curvature and tangency, angle points and street intersections. The applicant shall also furnish the survey for locating the right-of-way monuments.

**§ 241-24. Approval and recording of plot or subdivision plan prior to street construction.**

No person shall transfer, sell, agree to sell or negotiate for the sale of any land by reference to or exhibition of or by other use of a plot or subdivision of land into three or more lots until such plan has been approved by the Planning Board and recorded in the Kennebec Registry of Deeds, and no application of a developer for street, sidewalk or sewer construction shall be entertained until such approval and recording has been completed.

**§ 241-25. Underground utilities areas; installation of streetlight poles.**

In a subdivision in which underground utilities are to be provided by the developer, prior to the acceptance of the street it will be necessary that easements with a right-of-way width to be determined by the City Engineer shall be provided, but in no case be more than 10 feet as required by the Subdivision Ordinance. It shall be the responsibility of the developer to provide and install poles for streetlights at each intersection and at intervals of not less than 300 feet; the type of pole shall be approved by the City Engineer. The poles shall become the property of the Central Maine Power Company.

**§ 241-26. Public notice required for street acceptance.**

A public notice shall be published in the Kennebec Journal for three days no more than seven days prior to the first reading of acceptance of a street. Cost of the notice shall be paid in advance by the developer.

**§ 241-27. Moratorium on City participation in new street development.**

**A.**

From and after the effective date of the ordinance from which this section derives, the City Council shall no longer accept petitions for new streets except as set out in Subsection **B** of this section, and the obligations of the City with respect to economic participation in the development of new streets, as determined by this article, shall be suspended, with the same effect as if this article were repealed.

**B.**

Developers of new streets may petition for new street construction during the effective period of this section; provided, however, that the developers' share of the cost of finishing the street as referred to in § **241-17G** shall be determined by the City Council at the time of submission of the petition, and shall be equivalent to the City's actual total cost of finishing the street.

**C.**

The rates shown on Diagram 1, Typical Street Cross Sections, Augusta, Maine, are specifically suspended during the effective period of this section.

**D.**

This section shall not take effect as to any streets which are the subject of accepted street petitions, except that in those cases where payment of 1/2 of the developers' share has been

deferred under § [241-17G](#), payment of the deferred portion must be made within one year of the date of payment of the first installment, and demand for such payment within such time period is hereby made in compliance with § [241-17G](#).

[E.](#)

After the lapse of the one-year period referred to in Subsection [D](#) of this section, the rates shown in Diagram 1, Typical Street Cross Sections, Augusta, Maine, shall no longer apply to said streets and it shall thereafter be mandatory for the developer to pay for the full cost of completing the street surfacing at the actual cost as determined by the City Council.

[F.](#)

This section is specifically intended to take precedence over any and all provisions of the Code of Ordinances that are inconsistent herewith and adopted prior hereto. All other provisions of the Code regarding procedures and requirements for laying out and developing streets in the City shall be unaffected hereby.

[G.](#)

This section shall become null and void at such time as the petition drive, currently being undertaken pursuant to state law for the purpose of requiring a referendum to establish a mandatory limit on taxes and expenditures, fails to achieve the required signatures, or at such time as a referendum held pursuant to the petition drive results in a defeat of the amendment proposed pursuant to the referendum. At such time as this section becomes null and void, all of the provisions of the Code of Ordinances inconsistent herewith shall be reinstated with full force and effect.

## **Article III. Supervision of Public Ways and Property**

[Adopted as Ch. 6.2, Art. II, Div. 1, of the 1990 Code; amended 4-1-2010 by Ord. No. 046; 12-2-2010 by Ord. No. 175]

### **§ 241-28. Duty of Director of Public Works.**

It shall be the duty of the Director of Public Works, with the assistance of the Deputy Director of Public Works, to superintend the general state of the streets, sidewalks, public landing places, municipally controlled parking areas and public ways, and attend to the repairs, maintenance and care of same.

### **§ 241-29. Care of City vehicles and equipment.**

The Director of Public Works shall take the general care of all highway vehicles and equipment owned by the City.

### **§ 241-30. Report of nuisances and obstructions.**

The Director of Public Works shall give notice to the City Manager or Director of Public Safety of any nuisance, obstruction or encroachment upon the streets, sidewalks and public landing places.

### **§ 241-31. Encroachments; abatement.**

The Director of Public Works or the Director of Code Enforcement shall see that no encroachment is made upon any street, public landing place, square or property of the City by fences, buildings or otherwise. Whenever any encroachment is made thereon, and the party making the same neglects or refuses to remove it, the Director of Public Works shall, with the aid of the Corporation Counsel, cause the person offending to be prosecuted, and the nuisance abated.

#### **§ 241-32. Closing for repair or reconstruction.**

The City Manager or the Director of Public Works may at any time close a street to the passage of motor vehicles to repair or reconstruct the street or utilities under it or in the right-of-way due to any emergency or damage. If the Director of Public Works exercises such authority, he shall notify both the City Manager and Police Chief and Fire Chief of such action. Long-term closing for major reconstruction shall require a vote of the City Council.

#### **§ 241-33. Compliance with state law.**

The laying out, establishing, altering, discontinuing, vacating and widening of streets shall be in accordance with 23 M.R.S.A. § 1 et seq.

#### **§ 241-34. Records of laying out or altering streets.**

A complete record of the proceedings of the Council in laying out or altering any street, including the petition therefor and notice and return thereon, shall be maintained by the City Clerk.

#### **§ 241-35. Driveways.**

##### **A.**

The City Engineer is authorized and directed to determine all driveway locations and widths in the City to and including 35 feet in the clear. Requests for driveway entrances in excess of a width of 35 feet in the clear per owner shall be referred to the Council and shall be granted when approved in writing by the Council. At least a six-foot island shall be maintained between driveway entrances on an owner's land whenever practical.

##### **B.**

A request for a curb cut for a driveway must be approved by the City Engineer. The work will be performed by the Bureau of Public Works or a contractor authorized by the Public Works Director. All new surfaces will be bituminous hot top, and such work will extend only to the rear of the sidewalk line. All costs for such cuts shall be borne by the property owner and, if the City does the work, will be paid in advance as set from time to time by the Council. A schedule of the rates is on file in the office of the City Clerk.

##### **C.**

A request for a curb closure for an existing curb opening must be approved by the City Engineer. The work will be performed by the Bureau of Public Works or a contractor authorized by the Public Works Director. All new surfaces will be bituminous hot top, and such work will extend only to the rear sidewalk line. All costs for such curb closures shall be borne by the property

owner and will be paid in advance according to the schedule of rates on file in the office of the City Clerk.

D.

The City Council may adjust rates annually by the first of May by order. Such rates will apply until further adjusted.

**§ 241-36. Control of material deposited on streets.**

Any person engaged in the excavating of in excess of five cubic yards of clay, topsoil, borrow or other earth material and using dual-wheel trucks to transport such material over the City streets shall remove any of such material deposited by or fallen from the vehicles onto any street within 24 hours after written notice from the Director of Public Works or the Police Department and shall be liable for failure to do so by a penalty in accordance with Chapter 1, Article III, General Penalty, of the City Code.

**§ 241-37. Maintenance of private ways by City.**

A.

The City shall provide plowing and sanding for all private roads which meet the following conditions:

(1)

A public easement to the City is signed by all property owners that own any fee interest on that road;

(2)

The road has at least three year-round residences located on at least three separate parcels or is a paved roadway located in an approved residential subdivision with at least three separate parcels;

(3)

A road association is formed for each road; and

(4)

The road meets minimum standards established by the City Council.

B.

Furthermore, the road association shall provide a contact person to the City.

C.

The City reserves the right to establish a per-mile cost for plowing and sanding and reimburse that amount to the road association in lieu of providing services directly.

**Article IV. Sewers, Drains and Drainage**

[Adopted as Ch. 6.2, Art. II, Div. 4, of the 1990 Code; amended 12-2-2010 by Ord. No. 175]

**§ 241-38. Responsibility for control of surface water; retention structures.**

A.

Surface water shall be the responsibility of the Public Works Director until it enters a catch basin or other portion of the drainage system under the responsibility of the Greater Augusta Utility

District, at which point it becomes the responsibility of the district, or until it enters a stream or river under state or federal jurisdiction.

B.

All culverts, ditches, sluiceways, other structures or natural drainage surface or groundwater in/or crossing public rights-of-way shall be the responsibility of the Public Works Director, except those catch basins or pipes which are connected to the storm sewer or combined sewer systems or have been accepted by the Greater Augusta Utility District, which shall be the responsibility of the Greater Augusta Utility District.

C.

Retention structures may be built for or by the City of Greater Augusta Utility District and shall be the responsibility of the Public Works Director if located on City rights-of-way, land or easements and not connected to the storm or combined sewer systems or accepted by the Greater Augusta Utility District. If connected to the latter, they shall be the responsibility of the Greater Augusta Utility District. Natural drainage easements may be acquired by the City and shall be the responsibility of the Public Works Director. Easements exceeding 400 feet in length shall be approved by the Planning Board before acquisition and shall be in accord with any Greenway-Natural Drainage Protection Plan adopted by the Planning Board and with the Shoreland Protection Ordinance. If downstream reworking or rebuilding is necessitated by a new street or development, the developer of the land shall participate in such cost at a rate to be determined by the City Engineer and General Manager of the Greater Augusta Utility District.

**§ 241-39. Specifications for structures installed outside Utility District.**

All storm sewers, drains and drainage installed in the City outside of the Greater Augusta Utility District jurisdiction shall be built in accordance with the specifications of the City Engineer and they shall be the responsibility of the Public Works Director.

**§ 241-40. Culverts.**

No person shall place any obstruction in any ditch or watercourse by the side of any street of the City without providing a sufficient culvert for the passage of water. The culvert size and the installation of such culvert shall be approved by the City Engineer, and the cost of same shall be borne by the owner.

**§ 241-41. Drainage onto streets and sidewalks prohibited; record of dormant house services.**

A.

No person shall let out or empty upon the surface of any street or sidewalk any cellar, sink or other drains, nor shall any person allow seepage upon any such street or sidewalk from septic tank filter beds or cesspools.

B.

It shall be the responsibility of the various utilities to maintain location records of dormant house services. The City shall notify utilities prior to issuing demolition permits.

**§ 241-42. Roof and pavement drainage.**

A.

For residential properties not exceeding four dwelling units, roof and pavement drainage may enter natural drainage, man-made drainage or stormwater systems. Natural drainage systems shall be used whenever possible.

B.

Stormwater run-off from multifamily, commercial, governmental, institutional and industrial property shall be piped into the stormwater system where available and as approved by the City Engineer. In areas beyond the current limits of the storm drainage system, the developer shall provide adequate drainage to the nearest natural watercourse, subject to the approval of the City Engineer.

C.

In areas where there is no storm drain system or natural watercourse, persons converting existing residential buildings to commercial or office use shall be permitted to develop parking lots up to 3,600 square feet in size or for up to 12 spaces, whichever is less. The runoff from such lots shall be controlled. The following conditions shall be applicable:

(1)

Parking lots shall not be paved until such time as a storm drain system is available.

(2)

Runoff shall be directed to a landscaped buffer strip to attenuate drainage impact.

(3)

All parking lots constructed under this Subsection C and after July 17, 1989, shall be required to collect storm drainage on-site and pipe it to a storm drain system when it becomes available.

## **Article V. Snow Removal**

[Adopted as Ch. 6.2, Art. II, Div. 5, of the 1990 Code; amended 12-2-2010 by Ord. No. 175]

### **§ 241-43. Authority to close streets.**

The City Manager or the Director of Public Works may at any time close a street to the passage of motor vehicles for the purpose of snow removal.

### **§ 241-44. Duty to clear sidewalks.**

Owners and occupants of property abutting on the following streets or portions thereof shall keep clear of ice and snow the abutting public sidewalks:

<b>Name of Street</b>	<b>Location</b>
Bridge Street	From the Kennebec Bridge to Commercial Street
Commercial Street	East side, entire length
Oak Street	From Water Street to Commercial Street
Water Street	Both sides, entire length
Winthrop Street	From Water Street to Commercial Street

### **§ 241-45. Snow fenders required.**

The owners of all buildings upon Water Street, Commercial Street and Market Square are hereby required to place snow fenders upon the roofs thereof next to the street, in such manner as shall effectually protect persons and property from injury from snow and ice sliding from such roofs.

#### **§ 241-46. Depositing snow or ice on streets or sidewalks prohibited.**

##### **A.**

No person shall shovel, place or deposit snow or ice on or upon any street in the City except those listed in § [241-44](#). Any person who deposits or employs or contracts with another to deposit snow or ice in violation of this section shall be subject to the penalty provisions of Chapter [1](#), Article [III](#), General Penalty, of the City Code.

##### **B.**

No person shall shovel, place or deposit snow or ice on or upon any sidewalk or portion thereof, including any entrance thereto, either before or after the sidewalk or portion has been cleared of snow during routine snow removal operations conducted by the Department of Public Works. The owners of property abutting any such sidewalk shall remove or cause to be removed within 24 hours any snow or ice that is placed on a sidewalk entrance as a result of the plowing or shoveling of any driveway.

##### **C.**

Any person who deposits or employs or contracts with another to deposit snow or ice in violation of this section or who fails to remove snow or ice as required by this section shall be subject to the penalty provisions of Chapter [1](#), Article [III](#), General Penalty.

#### **§ 241-47. Deposits near fire alarm boxes or hydrants prohibited.**

No person shall place or deposit any snow, ice or other obstruction within six feet of any fire alarm box or hydrant.

## **Chapter 245. Subdivision of Land**

[HISTORY: Adopted by the City Council of the City of Augusta as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Streets and sidewalks — See Ch. [241](#).

Land use — See Ch. [300](#).

## **Article I. Design Standards**

[Adopted as Ch. 6, Art. III, Div. 7, of the 1990 Code]

### **§ 245-1. General standards.**

#### **A.**

Street improvements standards for specified types of developments in the City are based upon the following:

(1)

Minimum requirements for streets contained in Chapter 8 of the Phase II Planning Study, Comprehensive Plan.

(2)

The requirements of the City Street Ordinance.[1]

[1]

Editor's Note: See Ch. 241, Streets and Sidewalks.

(3)

The City street design cross-sections, which are available in the office of the City Engineer.

B.

The design of streets shall provide for proper continuation of streets from adjacent subdivision and built-up areas and proper projection of streets into adjacent unsubdivided and open land. Generally, a right-of-way on each side shall be provided at least every 1,000 feet.

**§ 245-2. Street specifications.**

A.

Major or collector streets shall be 60 feet wide; most streets shall be 50 feet wide. Continuations of existing forty-foot streets which, if continued at 40 feet, will be satisfactory in the view of the Board, or streets where traffic will be local only, may be 40 feet wide. Residential lanes serving only dwelling units may be less than 50 feet wide. A ten-foot utility easement is required on each side, and off-street parking for at least three vehicles per dwelling is required.

**Street Width Table**

<b>Type of Street</b>	<b>Uses</b>	<b>Required Right-of-Way (feet)</b>	<b>Pavement on Traveled Way (feet)</b>	<b>Additional Utility and Snow Easement (feet)</b>
Residential dead-end or local street	1 to 20 dwellings	40	24	10
	21 to 50 dwellings	50	30	5
Residential collector	51 to 200 dwellings	60	36	5
Neighborhood collector	Over 200 dwellings or any commercial, governmental or industrial use	60	40	5
Major artery or access	Connecting heavy traffic, highways or generation points	100	60	0

(1)

A five-foot snow storage and utility easement shall be provided on each side of the street. A ten-foot easement shall be designated for a forty-foot right-of-way.

B.

Streets shall intersect at right angles where possible but under no circumstances at an angle of less than 60°.

C.

T intersections formed on opposite sides of the same collector street shall not be closer than 200 feet center line to center line.

D.

Street lines at intersections shall be cut back to provide the curb radii of not less than 20 feet.

E.

Street intersections and curves shall be so designated as to permit adequate visibility for both pedestrian and vehicular traffic. Curves in general shall have a minimum center-line radius of 100 feet. All streets shall be designed on the plans and built following curves rather than angle points.

F.

A dead-end street or cul-de-sac shall be provided with a suitable turnaround at the closed end, having a minimum outside curb radius of 50 feet (40 feet may be used in cases of hardship due to available land or topography).

G.

A block shall be generally not less than 600 feet nor more than 1,200 feet in length.

H.

Grades of all streets shall be a reasonable minimum but shall be not less than 7 1/2% nor more than 8% unless a variance is recommended by the Board and the City Engineer and approved by the City Council.

I.

All streets in general shall be provided with at least one sidewalk having a minimum width of five feet. Roads or lanes with housing density of less than one dwelling unit each 300 feet shall not require sidewalks. Rear lot line rights-of-way may be provided for utilities or public purposes. Such rights-of-way shall be owned and maintained by the developer or landowners abutting.

J.

It shall be the responsibility of the developer to protect control points or property corners set by his surveyor and all stakes set by the City in connection with the work. All City restake work in excess of 10% of the stakes shall be paid for by the developer at a rate to be determined by the City Engineer.

**§ 245-3. Utilities.**

A.

Utility poles shall be installed on the edge of the street right-of-way on the lot side of proposed sidewalks where feasible.

B.

The location of all utilities shall be in accordance with Maine Public Utility Commission General Order 15, dated February 20, 1963, where feasible.

**Chapter 250. Taxicabs**

[HISTORY: Adopted by the City Council of the City of Augusta as Ch. 19 of the 1990 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. [241](#).

Vehicles and traffic — See Ch. [270](#).

### **§ 250-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

#### **CERTIFICATE**

A certificate issued by the Council authorizing a person to operate a taxicab business in the City.

#### **DRIVER'S LICENSE**

The permission granted by the Council to drive a taxicab upon the streets of the City.

#### **RATE CARD**

A card issued by the City Clerk for display in each taxicab which boldly shows the rates then in force.

#### **TAXICAB**

A motor vehicle regularly engaged in the business of carrying passengers for hire having a seating capacity of not less than four persons and not operated on a fixed route.

#### **TAXICAB OPERATOR**

A person engaged in the business of employing drivers and taxicabs for transporting passengers for hire.

#### **WAITING TIME**

The time when a taxicab is not in motion from the time of acceptance of a passenger to the time of discharge, but does not include any time that the taxicab is not in motion if due to any cause other than the request, act or fault of a passenger.

### **§ 250-2. Duties of Police Department.**

[Amended 1-6-1992 by Ord. No. 244]

#### **A.**

The Police Department is hereby given the authority and is instructed to watch and observe the conduct of operators and drivers operating under this chapter.

#### **B.**

Upon discovering a violation of the provisions of this chapter, the Police Department shall report the same to the Council, which will order or take appropriate action.

### **§ 250-3. Operator's certificate required.**

No person shall operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire upon the streets of the City without having first obtained a certificate from the Council.

### **§ 250-4. Application for operator's certificate.**

An application for a taxicab certificate required by § [250-3](#) shall be filed with the City Clerk upon forms provided by the City. Such application shall be verified under oath and shall furnish the following information:

#### **A.**

The name and address of the applicant.

B.

Evidence of ability to secure bond or insurance.

C.

The experience of the applicant in the transportation of passengers.

D.

The number of vehicles to be operated or controlled by the applicant.

E.

Such further information as the Council may require.

**§ 250-5. Issuance of operator's certificate.**

If the Council finds that an applicant for a taxicab certificate is fit, willing and able to perform such public transportation, and to conform to the provisions of this chapter and the rules promulgated by the Council, then the City Clerk shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under the certificate and the date of issuance; otherwise, the application shall be denied.

**§ 250-6. Indemnity bond.**

A.

No certificate required by § [250-3](#) shall be issued or continued in operation unless there is in full force and effect an indemnity bond for each vehicle authorized in the amount of \$20,000 for bodily injury to any one person; in the amount of \$40,000 for injuries to more than one person which are sustained in the same accident and \$10,000 for property damage resulting from any one accident.

B.

The bond shall inure to the benefit of any person who is injured or who sustains damage to property, proximately caused by the negligence of a taxi operator.

C.

The bond or bonds shall be filed in the office of the City Clerk and shall have as surety thereon a surety company authorized to do business in the state.

**§ 250-7. Liability insurance in lieu of bond.**

The Council may, in its discretion, allow a taxi operator to file, in lieu of bonds required in § [250-6](#), a liability insurance policy issued by an insurance company authorized to do business in the state. Such policy shall conform to the provisions of § [250-6](#) relating to bonds.

**§ 250-8. Fees.**

A.

No certificate required by this chapter shall be issued or continued in operation unless the holder thereof has paid the annual license fee required for the right to engage in the taxicab business and the required fee for each vehicle operated under a certificate.

B.

The license fees shall be for the calendar year and shall be in addition to any other license fees or charges established by proper authority and applicable to the taxicab operator or the vehicle or vehicles under his operation and control, and a schedule of such fees is on file in the City Clerk's office.

**§ 250-9. Transfer of certificate.**

No taxicab operator's certificate may be sold, assigned, mortgaged or otherwise transferred without the consent of the Council.

**§ 250-10. Suspension or revocation of certificate.**

**A.**

A certificate issued under the provisions of this chapter may be revoked or suspended by the Council if the holder thereof has:

**(1)**

Violated any of the provisions of this chapter.

**(2)**

Discontinued operations for more than 60 days without due cause.

**(3)**

Violated any ordinance of the City or the laws of the United States or of the state, the violation of which reflects unfavorably on the fitness of the holder to offer public transportation.

**B.**

Prior to suspension or revocation, the holder shall be given 10 days' notice of the proposed action to be taken and shall have an opportunity to be heard.

**§ 250-11. Place of business; provision of service.**

**A.**

Holders of certificates issued in accordance with this chapter shall maintain a central place of business for the purpose of receiving calls and dispatching cabs.

**B.**

Holders of certificates shall answer all calls received by them for services inside the corporate limits of the City as soon as they can do so; and if services cannot be rendered within a reasonable time, they shall then notify the prospective passengers how long it will be before the call can be answered and give the reason therefor.

**C.**

Any holder who refuses to accept a call during business hours anywhere in the corporate limits of the City at any time when such holder has available taxicabs, or who fails or refuses to give service during business hours, shall be deemed a violator of this chapter and the certificate granted to such holder shall be revoked at the discretion of the Council.

**§ 250-12. Marking of taxicabs.**

**A.**

Taxicabs will be clearly marked as such. Taxicab operators may employ a specific color scheme, identifying design, monogram or insignia.

B.

Each licensed taxicab shall have on the top and/or each side in letters readable from a distance of 20 feet the name of the licensee or the dispatch controller for the purpose of receiving calls, as well as a designated number assigned by the City Clerk to be no smaller than three inches to be placed on each side of each licensed vehicle.

**§ 250-13. Rates.**

[Amended 8-17-1987 by Ord. No. 173; 10-20-2008 by Ord. No. 176A]

No taxicab operator or taxicab driver shall charge a sum for the use of a taxicab higher than that in accordance with the following rates:

A.

A total of \$3.50 for one and \$1 for each additional person 10 years of age and over, and \$0.50 for each child under 10 years of age, from the same point of hire to the same destination. An additional \$0.50 shall be added to all fares on Sundays, holidays, and between 12:00 midnight and 6:00 a.m. daily.

(1)

Starting points.

(a)

Water Street and Bridge Street lights.

(2)

Maximum distance of travel for minimum fare.

(a)

Bangor Street light.

(b)

South Belfast Avenue to Quimby Street.

(c)

Stone Street to Eastern Avenue lights, including Crooker Street and Davenport Street as far as Mitchell Street.

(d)

Arsenal Street to State Hospital gate.

(e)

Cony Street to Malta Street.

(f)

Mt. Vernon Avenue to Mt. Vernon Avenue Playground.

(g)

Northern Avenue to Monroe Street.

(h)

Washington Street to Monroe Street.

(i)

State Street to Union Street.

(j)

Sewall Street to Capitol Street light.

(k)

Winthrop Street to Granite Street.

(l)

Green Street to Cushman Street.

(m)

Western Avenue to Cushman Street.

(3)

Rates of travel shall be \$3.50 for the first one mile or portion thereof, and \$1 for each 1/2 mile or portion thereof thereafter.

B.

Use of vehicle trunks/luggage areas may be charged for at the rate of \$1.50.

C.

Charges for waiting time shall be \$15 per hour.

D.

The minimum charge for errands shall be \$2 over the cost of the fare.

E.

An additional fee of \$1 shall be charged for aiding with groceries, parcels, etc.

F.

A rate card shall be displayed at all times in each taxicab.

#### **§ 250-14. Refusal to pay fare.**

It shall be unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in this chapter after having hired the same, and it shall be unlawful for any person to hire any vehicle with intent to defraud the person from whom it is hired of the value of such service.

#### **§ 250-15. Receipts.**

Upon demand by the passenger, the driver of any taxicab shall render to such passenger a receipt for the amount charged, either by a mechanically printed receipt or by a specifically prepared receipt on which shall be the name of the owner, charges and date of transaction.

#### **§ 250-16. Solicitation of passengers.**

No driver of a taxicab shall solicit patronage in a loud or annoying tone of voice or in any manner annoying to any person, or obstruct the movement of any person, or follow any person for the purpose of soliciting patronage.

#### **§ 250-17. Receiving and discharging passengers.**

Drivers of taxicabs shall not receive or discharge passengers in the roadway but shall pull up to the right-hand sidewalk or, in the absence of a sidewalk, to the extreme right-hand side of the road and there receive or discharge passengers; except upon one-way streets, where passengers may be discharged at either the right- or left-hand sidewalk or side of the roadway in the absence of a sidewalk.

### **§ 250-18. Accepting additional passengers.**

No driver shall permit any other person to occupy or ride in his taxicab unless the person first employing the taxicab consents to the acceptance of additional passengers.

### **§ 250-19. Number of passengers.**

No driver shall permit more persons to be carried in a taxicab as passengers than the rated seating capacity of his taxicab as stated in the registration issued by the state for such vehicle. A child in arms shall not be counted as a passenger.

### **§ 250-20. Refusal to transport passengers.**

No driver of a taxicab shall refuse or neglect to convey any orderly person, upon request, unless previously engaged or unable or forbidden by the provisions of this chapter to do so.

### **§ 250-21. Display and issuance of identification number.**

It shall be unlawful for any person to drive a taxi within the City without displaying an identification number. The number shall be issued by the City Clerk. The cost of the identification number shall be borne by the driver.

## **Chapter 254. Trees**

[HISTORY: Adopted by the City Council of the City of Augusta 10-20-1986 by Ord. No. 446 (Ch. 6.5, Art. VIII, of the 1990 Code). Amendments noted where applicable.]

### **GENERAL REFERENCES**

Building construction — See Ch. [134](#).

Environmental and energy conservation — See Ch. [142](#).

Mining and excavations — See Ch. [198](#).

Land use — See Ch. [300](#).

### **§ 254-1. Definitions.**

[Amended 4-1-1996 by Ord. No. 391]

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

#### **PROPERTY OWNER**

The person owning real estate in question as shown by the current Tax Maps on file in the office of the City Assessor or the records at the Kennebec County Registry of Deeds.

#### **PUBLIC AREAS**

All streets, tree lawns and grounds owned or controlled by the City.

#### **PUBLIC TREES**

All trees growing or partially growing in any public area.

#### **STREET**

The entire width of every public way and every right-of-way in which the general public has a right of use.

TREE

Any woody plant having one or more erect stems, including shrubs and woody vines, of any size if planted or set out under the authority of this chapter, but otherwise only those trees which exceed eight feet in height.

TREE LAWN

That part of any street lying between the line of abutting private property and that portion of the street improved for the use of vehicular traffic, except that area which may be covered by a sidewalk or other paving.

TREE WARDEN

The Director of Parks and Recreation or his/her designee. The Tree Warden need not be a resident of the City, but shall have training or demonstrated experience in the arts and sciences of municipal arboriculture, ornamental or landscape horticulture, urban forestry or other closely related fields. In the absence of the Tree Warden, or during any vacancy in the position, his/her functions shall be carried out by a qualified party appointed by the Manager.

§ 254-2. Applicability.

The provisions of this chapter shall not apply to any governmental subdivision or any public utility, their agents, subcontractors and employees while acting on their behalf, including but not limited to the Augusta Sanitary District, Augusta Water District, Central Maine Power Company, New England Telephone Company and State Cable TV, their successors and assigns.

§ 254-3. Tree Warden duties.

The Tree Warden shall administer this chapter and in doing so shall:

A.

Regulate the planting, maintenance and removal of public trees in order to ensure the safety of the public and preserve the aesthetics of public areas.

B.

Have the authority, subject to approval by the City Council, to promulgate the rules and regulations of the International Arborist Society's Arboricultural Specifications and Standards of Practice governing the planting, maintenance, fertilization, pruning, bracing and removal of trees in public areas, with such variations and revisions as he deems advisable from time to time.

C.

Have the authority to develop, formulate, and revise a master tree plan, subject to the approval of the City Council. The master tree plan shall specify the species of trees to be planted on such public areas within the City as the Tree Warden deems advisable; and after the effective date of any portion of the master tree plan, all plantings by the City or other persons within the public areas covered by the plan shall conform thereto. The Tree Warden shall consider all existing and future utility and environmental factors when designating specific species for public areas within the plan.

D.

Undertake such planting, maintenance and removal programs for public trees as he deems appropriate, consistent with any funding available to him and with the master tree plan where effective.

E.

Have the authority to grant permits for the planting, maintenance or removal of trees within the public areas of the City, to impose reasonable conditions upon the work to be performed under any such permit consistent with the intent of this chapter, and to supervise and inspect work permitted and halt any work performed without a permit where a permit is required or performed in violation of the terms of a permit.

F.

Have the authority to have pruned or removed any trees or parts on private property which endanger the public safety, but only after notice to the property owner and satisfaction of the following requirements: The Tree Warden shall attempt to obtain agreement by the property owner to the procedures which the Tree Warden recommends, and in the absence of such agreement the Tree Warden shall undertake such work only upon the affirmative vote of the City Council following opportunity for the Tree Warden and property owner to be heard before the City Council. The cost of pruning or removal under this subsection shall be paid or reimbursed by the property owner unless otherwise agreed.

G.

Have the authority, upon being licensed with the state, to spray for insect (pest) control, disease control and control of poison ivy, poison oak, etc.

H.

Coordinate any planting, maintenance or removal of trees to be done by any departments or employees of the City.

**§ 254-4. Interference with Tree Warden.**

No person shall hinder, prevent, delay, or interfere with the Tree Warden or any of his assistants while engaged in carrying out the execution or enforcement of this chapter; provided, however, that nothing in this section shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the City.

**§ 254-5. Gifts and donations.**

The Tree Warden shall have the final say concerning the acceptance of all trees to be placed in public areas.

**§ 254-6. Permit required to plant or disturb, construct or excavate near public trees.**

No person shall plant, spray, fertilize, prune, remove or otherwise disturb any public tree, and no person shall excavate, ditch, tunnel, trench, lay any pavement or construct any building or structure within a distance of 10 feet from a public tree, or within the drip line of a public tree, whichever distance is greater, without first filing an application and obtaining a permit from the Tree Warden for such work; except that in emergency situations requiring immediate pruning or removal, the work may be done so long as the Tree Warden is informed thereof within two days.

Any public tree planted without such permit shall be in violation of this chapter and must be removed, and the cost of such removal shall be paid or reimbursed by the person responsible for such planting. Any permit for the removal of a public tree shall require as a condition thereof that such tree be replaced, where possible and appropriate, in the same general location or on abutting private property, with a tree deemed comparable or appropriate by the Tree Warden. Any person requesting removal will be responsible for all expenses incurred.

#### **§ 254-7. Application for permit.**

Application for tree permits shall be made at the City Center, directed to the Tree Warden, not less than 48 hours prior to the time of the work proposed. The application shall be accompanied by such fee as the City Council may establish from time to time. The application shall be in such form and call for such information as the Tree Warden may require in order to determine compliance with this chapter and any regulations adopted pursuant to this chapter, including the following:

##### **A.**

Applications for planting trees on public property shall describe the location proposed, the method of planting, and the number, size, grade, species and variety of such trees.

##### **B.**

Applications for tree maintenance work on public property shall state the number, kinds and size of the trees to be treated, the kind of treatment proposed and the composition of any fertilizer or spray material to be applied.

##### **C.**

Applications for the removal of any public tree shall set forth the reason for the proposed removal and the procedures to be used, and shall set forth the information required under Subsection **A** of this section with respect to replacement trees to be planted or the reasons why such replacement is not deemed possible or appropriate.

##### **D.**

Applications for any excavation or construction work adjacent to a public tree shall describe the location of the public trees involved, the nature of the work proposed, and the structures, barriers and procedures to be used to protect such public trees during the course of such work.

#### **§ 254-8. Issuance of permit; conduct of permitted activity.**

##### **A.**

The Tree Warden shall issue the permit required by this chapter upon a finding that the activity proposed will not endanger the public safety and is not inconsistent with an effective master tree plan, and that any new trees to be planted are appropriate for the climate and soil condition of the location proposed, that any such spray material or fertilizers proposed are lawful and appropriate, that the proposed procedures and workmanship are adequate, and the activity proposed is consistent with any regulations adopted pursuant to this chapter.

##### **B.**

The activity proposed shall be carried out in compliance with any regulations adopted in accordance with tree permit requirements, and in compliance with any reasonable conditions imposed by the Tree Warden in order to ensure compliance with this chapter. Any permit granted shall contain a definite expiration date by which the proposed activity shall be completed,

provided that the Tree Warden may extend the expiration date for good cause. Notice of completion shall be given to the Tree Warden for his inspection of the work within five days following completion.

#### **§ 254-9. Abuse or mutilation of public trees.**

Unless specifically authorized by the Tree Warden, no person shall intentionally damage, cut, carve, transplant or remove any public tree; attach any rope, wire, nails, advertising posters, or other contrivance to any public tree; allow any gaseous liquid or solid substance which is harmful to any public tree to come in contact with it; set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any public tree; or deposit, place, store or maintain upon the ground any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air, and fertilizer to the roots of any public tree. Any person who shall violate any provision of this section shall be liable, in addition to any applicable penalty under this chapter, to pay to the City or reimburse the City for any expense incurred in repairing any damage caused to a public tree or the cost of replacing such damaged public tree if such damage cannot be repaired.

#### **§ 254-10. Violations and penalties.**

The violation of any provision of this chapter shall, in addition to any civil penalties available to the City therefor, be punished as provided in Chapter 1, Article III, General Penalty, of the City Code. Each day that any violation of this chapter continues following notification thereof by the Tree Warden shall constitute a separate offense.

#### **§ 254-11. Tree Board.**

[Amended 5-3-1993 by Ord. No. 75]

There is hereby created a Tree Board consisting of nine public members who must be residents of the City of Augusta. The Tree Warden and a member of the Conservation Commission appointed by the Conservation Commission shall serve as ex officio nonvoting members of the Tree Board.

##### **A.**

Membership, terms and appointments.

##### **(1)**

A member of the Tree Board, other than the ex officio members, shall serve a term of three years, except as provided in this subsection. Appointments shall be made by the Mayor, with the consent of the City Council. The nine voting members of the Tree Board shall appoint from their membership a Chairperson to serve for a one-year term. In the case of a vacancy, the Mayor, with the consent of the Council, shall fill said vacancy for the remaining term of the member who created the vacancy. All voting members of the Tree Board shall serve until their successors are duly appointed and qualified.

##### **(2)**

The Mayor, with the consent of the Council, shall appoint the first nine voting members appointed after the effective date of this section to one-, two- or three-year terms so that, upon

the completion of those initial nine appointments, 1/3 of the terms of the members expire each year.

B.

Duties. The Tree Board shall advise the Tree Warden and City Council on matters relating to public trees and shrubs located within the City of Augusta and assist and advise in the development of an urban tree policy for the City. The Tree Board shall also have the authority, subject to City Council approval, to accept grants relating to trees and shrubs and to sell trees and shrubs to the public.

C.

Authority to establish rules and regulations. The Tree Board may establish rules and regulations regarding public trees and shrubs located in the City of Augusta and regarding its operation as a functioning board, which rules and regulations must be approved by the City Council.

**§ 254-12. Authority to place trees and landscape materials in specific areas.**

[Amended 9-12-1994 by Ord. No. 586]

The City of Augusta, the Augusta Tree Board, and other subdivisions of the City may place trees, landscape materials and containers containing same on or in the median strip located on Western Avenue, on Cony Circle, or Memorial Circle, subject to the approval of the Tree Warden and City Engineer or their designees.

**§ 254-13. Planting trees on privately owned property.**

[Added 1-22-2008 by Ord. No. 008]

A.

The City's Arborist may recommend a planting on private property with the written approval of the property owner which serves the greater good of the City's tree planting program.

Additionally, a property owner may request a tree planting on his or her property. However, the City's Arborist must evaluate the appropriateness of that request.

B.

Trees planted on private property will be canopy trees. Canopy trees are defined as a species of tree which normally reaches a height of 30 feet or more and achieves a crown spread of 20 feet or more at maturity.

(1)

There may be mitigating circumstances such as power lines and too-narrow rights-of-way that preclude a canopy tree from being planted.

(2)

In light of such a special situation, the Director of Parks, Cemeteries, and Trees, in consultation with the City's Arborist, authorization for a species that is not a canopy tree but yet serves the greater good of the neighborhood and overall community may be given.

(3)

Canopy trees will be planted where there are no appropriate or suitable public areas in which to accomplish the goal of "canopy protection" as determined by the City's Arborist.

C.

All deciduous trees to be planted will have minimum caliper size of 2.5 inches to three inches. Evergreens will have a minimum height of five feet to six feet.

D.

The term "private property owner" is defined as private individuals or business concerns who or which own the property either as a private individual or a place of business.

E.

Tree quantity limitations state that no single private property will have more than two trees planted per this specific program. However, should the City Arborist determine that an exception is in the best interest of the neighborhood, additional appropriate plantings may be authorized.

(1)

The Director of Parks, Cemeteries, and Trees, in consultation with the City Arborist, will make the final determination in regards to appropriateness.

(2)

The Director of Parks, Cemeteries, and Trees, in consultation with the City Arborist, will also determine whether or not this type of request actually helps ensure the neighborhood's tree canopy vitality.

(3)

The request may be denied if it is determined that there is more than adequate canopy protection in the immediate area.

F.

All trees planted on private property will be placed in a location visible from the street and mutually agreed upon by the City Arborist and the property owner.

G.

The property owner will sign a contract for the tree planting.

(1)

By signing the contract, the owner assumes legal and liability responsibilities for ownership of the tree.

(2)

By signing the contract, the owner accepts responsibility for the tree's maintenance and upkeep. A fact sheet providing information on proper tree maintenance will be given to the property owner by the City Arborist.

(3)

If the owner notice any problems with the tree within the first two years, the owner is to contact the City's arborist for the purpose of evaluating the tree to determine if there is a problem.

(4)

Failure of the owner to properly take care of and maintain the tree may result in the City being reimbursed for all costs associated with the tree planting.

H.

The City will plant the tree for the property owner at a time that meets the requirement of the tree's species and the City Arborist's schedule.

I.

The State of Maine offers a Tree Steward Training Program. All applicants for trees are urged strongly to enroll in the program, thereby helping to ensure the survival of their tree.

(1)

The Director of Parks, Cemeteries, and Trees, in consultation with the City Arborist, will periodically evaluate the tree to ascertain its proper maintenance. Should the tree fail to meet the standards of proper maintenance, the Director of Parks, Cemeteries, and Trees, in consultation with the City Arborist, will point out deficiencies to the owner.

(2)

Should the tree fail within the first two growing seasons, and the City Arborist determines the owner not to be at fault, the City will replace the tree at no cost to the owner. Replanting will follow the same criteria as for the original tree.

(3)

After this warranty period of two growing seasons, any issues with the tree become the sole responsibility of the property owner.

## **Chapter 270. Vehicles and Traffic**

[HISTORY: Adopted by the City Council of the City of Augusta as Ch. 18 of the 1990 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Bicycles — See Ch. 126.

Parks and recreation areas — See Ch. 215.

Taxicabs — See Ch. 250.

## **ARTICLE I. General Provisions**

### **§ 270-1. Unnecessary noise prohibited.**

A.

Within the City limits, no bell, horn or other device for signalling shall be sounded so as to make unreasonable noise.

B.

No operator of a motor vehicle on any public street within the City limits shall make any unnecessary noise by cutting out the muffler or spinning the wheels.

### **§ 270-2. Promulgation of regulations for enforcement of chapter.**

[Amended 1-6-1992 by Ord. No. 244]

The Police Chief, or his designee, in conjunction with the City Engineer, is hereby empowered to make regulations necessary to make effective the provisions of this chapter and to make and enforce temporary regulations to cover emergencies or special conditions. No such temporary regulation shall remain in effect for more than 90 days unless approved by the City Council. Any such temporary regulations shall be filed with the City Clerk prior to being placed in effect. The City Clerk shall notify the City Council of all filed regulations.

## **ARTICLE II. Operation**

### **§ 270-3. Required action on approach of emergency vehicles.**

Police, fire, traffic emergency repair vehicles and ambulances, when operated in response to calls, shall have the right-of-way. On the approach of any such vehicle from any direction, and when such vehicle is sounding a siren and emitting a flashing light, the driver of every other

vehicle shall immediately draw his vehicle as near as practicable to the right-hand curb and parallel thereto, clear of any intersection, and bring it to a standstill until such public service vehicles have passed.

**§ 270-4. Failure to obtain proper winter equipment.**

Between November 15 and March 15 annually, it shall be unlawful and a violation of the provisions of this section for any person to cause an obstruction to traffic by reason of inability to move a vehicle being operated by him because of snow or ice accumulation in a street when such vehicle has not been equipped with either snow tread tires, all-season radials or tire chains.

**§ 270-5. Passing vehicle stopped at crosswalk.**

**A.**

Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

**B.**

A marked crosswalk is a crosswalk in the road from curb to curb marked with painted lines.

**§ 270-6. Following fire apparatus.**

The driver of any motor vehicle shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet.

**§ 270-7. Crossing fire hose.**

[Amended 1-6-1992 by Ord. No. 244]

No person shall drive a vehicle over or upon any fire hose or equipment used by the Fire Department without the consent of the police or fire officer in command.

**§ 270-8. Backing to curb.**

No vehicle shall remain backed up to a curb except when actually loading or unloading and then only for a reasonable time.

**§ 270-9. Traffic-control signal legend.**

Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend. Such lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

**A.**

Green indication.

**(1)**

Vehicular traffic facing a circular signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn; but vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(2)

Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(3)

Unless otherwise directed by a pedestrian-control signal, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

B.

Steady yellow indication.

(1)

Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

(2)

Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian-control signal, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

C.

Steady red indication.

(1)

Vehicular traffic facing a steady red signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown.

(2)

Unless otherwise directed by a pedestrian-control signal, pedestrians facing a steady red signal alone shall not enter the roadway.

(3)

All vehicular traffic facing a steady circular red signal at an intersection may cautiously enter the intersection to make a right turn after stopping as required by Subsection C(1) of this section, unless such a turn is prohibited by an appropriate sign such as "No Right Turn on Red."

D.

Official traffic-control signal. If an official traffic-control signal is erected and maintained at a place other than an intersection, this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking, the stop shall be made at the signal.

**§ 270-10. Stop required at stop sign or red light.**

Except when directed to proceed by a police officer or traffic-control signal, every driver of a motor vehicle approaching a stop intersection indicated by a stop sign or flashing red light shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

**§ 270-11. Schedule of stop signs and flashing red lights.**

[Amended 3-19-1984 by Ord. No. 384; 7-16-1984 by Ord. No. 496; 12-17-1984 by Ord. No. 654; 11-17-1986 by Ord. No. 574(1); 11-17-1986 by Ord. No. 576; 3-14-1988 by Ord. No. 323; 6-20-1988 by Ord. No. 400; 3-20-1989 by Ord. No. 27; 6-19-1989 by Ord. No. 111; 2-20-1990 by Ord. No. 328; 5-7-1990 by Ord. No. 398; 1-6-1992 by Ord. No. 335; 12-7-1992 by Ord. No. 680; 12-7-1992 by Ord. No. 681; 12-21-1992 by Ord. No. 687; 5-3-1993 by Ord. No. 95; 5-17-1993 by Ord. No. 107; 3-1-1999 by Ord. No. 23; 1-10-2000 by Ord. No. 275; 9-4-2001 by Ord. No. 116; 5-20-2002 by Ord. No. 218; 1-3-2005 by Ord. No. 197; 6-20-2005 by Ord. No. 095; 6-19-2006 by Ord. No. 102; 11-8-2007 by Ord. No. 206; 11-8-2007 by Ord. No. 210A; 11-8-2007 by Ord. No. 211; 7-7-2008 by Ord. No. 104; 5-21-2009 by Ord. No. 061; 2-16-2012 by Ord. No. 12-020; 8-2-2012 by Ord. No. 12-108; 8-2-2012 by Ord. No. 12-109; 6-5-2014 by Ord. No. 14-092; 12-18-2014 by Ord. No. 14-192; 5-7-2015 by Ord. No. 15-069]

**A.**

Stop signs or flashing red lights shall be erected and maintained in accordance with the following schedule:

<b>Throughway</b>	<b>Entering Street</b>
Alden Avenue	Worcester Street (northbound)
Anthony Avenue	Darin Drive (east end)
Armory Street	Capitol Street Extension
Arsenal Street	Brook Street
Arsenal Street	Cedar Street
Arsenal Street	East Chestnut Street
Arsenal Street	Eastern Avenue
Arsenal Street	Spruce Street
Arsenal Street	Williams Street
Bangor Street	Bangor Street Place
Blaine Avenue	Clark Street
Blaine Avenue	Elm Avenue
Blaine Avenue	Fowler Street
Blaine Avenue	Highland Avenue
Blaine Avenue	Linden Street
Blaine Avenue	Locke Street
Blaine Avenue	Longwood Avenue
Blaine Avenue	Mulliken Court
Blaine Avenue	Murray Street
Blaine Avenue	Myrtle Street



**Throughway**

Congress Street  
Congress Street  
Congress Street  
Congress Street  
Congress Street  
Cony Road  
Cony Road  
Cony Road  
Cony Street  
Cony Street  
Cony Street  
Cony Street Extension  
Cony Street Extension  
Cony Street Extension  
Cummings Avenue  
Davenport Street  
East Chestnut Street  
Eastern Avenue  
Edison Drive  
Elm Avenue  
Fairview Avenue  
Fowler Street  
Franklin Street  
Gage Street  
Gage Street  
Ganneston Drive  
Glenwood Street  
Grand Street  
Green Street

**Entering Street**

Fifth Avenue  
First Avenue  
Fourth Avenue  
Second Avenue  
Third Avenue  
Cony Street Extension  
New England Road  
Piggery Road  
Morse Street  
Pearl Street  
Willow Street  
Haskell Street  
Malta Street  
Vo/Tech Center Driveway  
Dean Court  
Ballard Street (4-way)  
Middle Street  
Ballard Street  
Cony Road  
Cushing Street  
Kennison Street  
Lambard Road  
Leavitt Road  
Lynn Road  
Mayfair Street  
Penley Street  
Pleasant Hill Road  
Porter Street  
Spring Road  
Togus Gate  
Balsam Drive  
White Street  
Penley Street  
North Pearl Street  
Oxford Street  
Capitol Street  
Child Street  
Deer Run  
Glenwood Avenue  
Columbia Street  
Blaine Avenue (3-way)



**Throughway**

Middle Street  
Middle Street  
Monroe Street  
Monroe Street  
Monroe Street  
Mount Vernon Avenue  
Murray Street  
New England Road  
Newland Avenue  
North Belfast Avenue  
North Pearl Street  
North Street  
Northern Avenue  
Northern Avenue  
Northern Avenue  
Northern Avenue  
Northern Avenue  
Old Belgrade Road  
Old Belgrade Road  
Old Belgrade Road  
Old Oakland Road  
Old Oakland Road  
Old Oakland Road  
Old Winthrop Road  
Parkview Terrace  
Parkwood Drive

**Entering Street**

East Chestnut Street  
Spruce Street  
Oxford Street  
Oxford Street Extension  
Washington Street  
Mill Street  
Pearl Street  
Greentree Apartments  
White Street  
Bolton Hill Road  
Boucher Avenue  
Caswell Street  
Church Hill Road  
Cross Hill Road  
Hedgenettle Road  
Hicks Road  
Lamson Road  
North Pearl Street  
Pinehurst Street  
Purinton Avenue  
Weeks Mills Road  
Purinton Avenue  
Bridge Street (Eastbound)  
Forest Avenue  
Franklin Street  
Kendall Street  
Monroe Street  
Oxford Street  
Ballard Road  
Eight Rod Road  
Middle Road  
Industrial Drive  
Leighton Road  
Townsend Road  
Brentwood Road  
Macomber Avenue  
Nazarene Drive  
Westwood Road  
Wildwood Road  
Easy Street  
Deer Run

**Throughway**

Patterson Street  
Patterson Street  
Pearl Street  
Pearl Street  
Pike Street  
Purinton Avenue  
Quimby Street  
Quimby Street  
Riverside Drive  
Sanford Road  
Savoie Street  
School Street  
School Street  
Second Avenue  
Second Avenue  
Sewall Street  
Sewall Street

**Entering Street**

Gannett Street  
Pearl Street  
Gedney Street  
Greenlief Street  
Lincoln Street  
Greenwood Street  
Pearl Street  
Trask Avenue  
Blair Road  
Brookside Avenue  
Drum Barker Road  
Linwood Avenue  
Stevens Road  
Sunrise Circle  
Tracy Street  
Two Mile Brook Road  
Parkview Terrace  
Orchard Street (northbound)  
Gannett Street  
Pearl Street  
Sherbrook Street  
Sherbrook Street (4-way)  
Baldwin Street  
Blaisdell Street  
Brooklawn Avenue  
Charles Street  
Court Street  
Fairbanks Street  
Glenwood Street  
Green Street (4-way)  
Hancock Street  
Hayden Court  
Kennedy Street  
King Street  
Lincoln Street  
Littlefield Street  
Maine Street  
Murdock Street  
Southern Avenue  
South Street  
Taylor Street



**Throughway**

State Street  
Stevens Road  
Stone Street  
Stone Street  
Stone Street  
Stone Street  
Stone Street  
Stone Street  
Summer Haven Road  
Summer Haven Road  
Summer Haven Road  
Taylor Street  
Townsend Road  
Townsend Road  
Townsend Road  
Townsend Road  
Water Street  
Water Street  
Water Street  
Weeks Mills Road  
Western Avenue  
Western Avenue

**Entering Street**

Gray Street  
Hemple Street  
Hichborn Street  
King Street  
Laurel Street  
Manley Street  
Oak Street  
Riverton Street  
Scott Street  
South Street  
Taylor Street  
Wabon Street  
Weston Street  
Church Hill Road  
Cedar Street  
Crooker Street  
Cross Street  
Davenport Street  
East Chestnut Street  
Middle Street  
Easy Street  
Parkview Terrace  
Sanford Road  
South Grove Street (4-way)  
Albert Avenue  
Glen Street  
High Ridge Drive  
Windy Street  
Bond Street  
Green Street  
Laurel Street  
Ward Road  
Airport Road and Leighton Road  
Amherst Street  
Armory Street  
Blaine Avenue  
Brann Avenue  
Chapel Street (northbound and southbound)  
Cushman Street  
Drew Street  
Edison Drive

<b>Throughway</b>	<b>Entering Street</b>
Western Avenue	Florence Street
Western Avenue	Hillcrest Street
Western Avenue	Macomber Avenue
Western Avenue	Meadow Road
Western Avenue	Melville Street (northbound and southbound)
Western Avenue	Orchard Street
Western Avenue	Pike Street
Western Avenue	Prescott Road
Western Avenue	South Chestnut Street
Western Avenue	Storey Street
Western Avenue	Tibbetts Street
Western Avenue	Western Avenue Place
Western Avenue	Whitten Road
Western Avenue	Woodside Road
Western Avenue	Worcester Street
West Side Rotary	Water Street
Willow Street	Maple Street
Willow Street	Myrtle Street
Windsor Avenue	Cushnoc Drive
Windsor Avenue	Duncan Road
Winthrop Street	Blaine Avenue
Winthrop Street	Chapel Street
Winthrop Street	Commercial Street
Winthrop Street	Elm Street
Winthrop Street	Granite Street
Winthrop Street	High Street
Winthrop Street	North Chestnut Street
Winthrop Street	Pleasant Street
Winthrop Street	Prospect Street
Winthrop Street	Sewall Street
Winthrop Street	South Chestnut Street
Winthrop Street	Spring Street
Winthrop Street	Summer Street
Winthrop Street	Winter Street
Winthrop Street	Wyman Street
Worcester Street	Savoie Street
Worcester Street (southbound)	Alden Avenue

**B.**

The following intersections have flashing red lights with stop signs:

<b>Throughway</b>	<b>Entering Street</b>
Bridge Street	State Street (3-way)

**Throughway                      Entering Street**

Memorial Drive Gage Street  
Memorial Drive Swan Street  
State Street      Boothby Street (3-way yellow)  
State Street      Winthrop Street

**§ 270-12. Duty at yield sign.**

The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for existing conditions, or shall stop if necessary and shall yield the right-of-way to any pedestrian legally crossing the roadway on which he is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. Such driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection shall yield to the vehicle so proceeding; provided, however, that if such driver is involved in a collision with a pedestrian in a crosswalk or a vehicle in the intersection after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield the right-of-way.

**§ 270-13. Schedule of yield signs.**

[Amended 11-16-1987 by Ord. No. 232; 6-19-1989 by Ord. No. 111; 7-17-1989 by Ord. No. 136; 5-17-1993 by Ord. No. 107; 8-5-1996 by Ord. No. 525; 1-3-2005 by Ord. No. 198; 11-8-2007 by Ord. No. 206; 11-8-2007 by Ord. No. 207; 11-8-2007 by Ord. No. 208; 11-8-2007 by Ord. No. 209; 7-21-2011 by Ord. No. 11-93; 8-2-2012 by Ord. No. 12-108; 6-5-2014 by Ord. No. 14-092]

Yield right-of-way signs shall be erected in accordance with the following schedule:

<b>Throughway</b>	<b>Entering Street</b>
Anthony Avenue	Darin Drive (west end)
Armory Street	Capitol Street
Capitol Street Extension	Alden Avenue
Commercial Street	Bridge Street (eastbound)
Community Drive (north intersection)	University Drive
Cony Street	Arsenal Street
Dalton Road	Lipman Road
Edison Drive	Alderwood Road
Front Street (right-of-way)	Front Street (right-of-way northbound)
Meadow Road	Fuller Road
Mount Vernon Road	Townsend Road
Mount Vernon Road	Wade Road
Northern Avenue	Jefferson Street
Old Oakland Road	Mount Vernon Road
South Belfast Avenue	Hatch Hill Road
State Street/Mount Vernon Avenue	Bond Street
Water Street	Front Street Ramp

<b>Throughway</b>	<b>Entering Street</b>
Water Street	Gage Street
Union	Winthrop Street
<b>East Side</b>	
East Circle	Bangor Street
East Circle	Cony Street
East Circle	Memorial Bridge
East Circle	Stone Street
Mayfair Street	Mayflower Road
<b>West Side</b>	
Chandler Street	Water Street
Northern Avenue	Fuller Street
Northern Avenue	Old Belgrade Road
Northern Avenue	Townsend Road
Northern Avenue	Washington Street
Old Winthrop Road	Leighton Road
Old Winthrop Road	Meadow Road
State Street	Chandler Street
State Street	Memorial Drive
West Side Circle	State Street
West Side Circle	State Street
West Side Circle	Western Avenue
Western Avenue	Interstate #95 (2 signs)
Whitten Road	Alderwood Drive

**§ 270-14. Driving on one-way streets.**

Upon a street designated and signposted for one-way traffic, a vehicle shall be driven only in the direction designated.

**§ 270-15. Schedule of one-way streets.**

[Amended 12-7-1992 by Ord. No. 687; 10-3-2005 by Ord. No. 040; 10-3-2005 by Ord. No. 143; 11-17-2008 by Ord. No. 192; 12-18-2014 by Ord. No. 14-192]

The streets designated and signposted for one-way traffic are as follows:

<b>Name of Street</b>	<b>Location</b>	<b>Direction of Travel</b>
Bennett Street	Between Granite Street and High Street	East only
Chamberlain Street	From Chapel Street to Westside Circle	Northeast only
Chandler Street		West only
Commercial Street	Entire length	South only
Front Street	From Bridge Street to parking lot	South only
Gage Street	From Memorial Drive to Water Street	North only
Glendon Street	Between State Street and Valley Street	East only

<b>Name of Street</b>	<b>Location</b>	<b>Direction of Travel</b>
Hichborn Street		West only
Higgins Street		South and west only
Lafayette Street	Between Townsend Road and Trueworthy Avenue	North only
Middle Street	Between Stone Street and Spruce Street	South only
Mill Street		North only
Oak Street	Between Water Street and Commercial Street	West only
State Street	From Chandler Street to Memorial Circle	South only
Swan Street	From Water Street to Memorial Drive	South only
Water Street	From Winthrop Street to Bridge Street	North only

**§ 270-16. Specific turns required at certain streets.**

[Amended 12-7-1992 by Ord. No. 687]

Vehicles shall be turned in the following situations only as indicated below:

<b>Name of Street</b>	<b>Location</b>	<b>Restriction</b>
Bangor Street	Entering from Noyes Place	Right turn only
Bangor Street	Southbound, at the east side traffic circle	Right turn only from the right-hand lane
Bridge Street		No left turn; westbound traffic to turn onto Front Street
Calumet Bridge at Old Fort Western	Westbound	Right turn only from the right-hand lane
[Amended 7-21-2008 by Res. No. 125]		
Commercial Street	Entering from Oak Street	Left turn only
Haymarket Square Island	North side	Straight to Front Street or left turn only
Haymarket Square Island	South side	Right turn only
Northern Avenue		No right turn from southbound traffic onto Mills Street
State Street	Entering from Child Street	Right turn only
Water Street	Entering from Front Street	Right turn only
Western Avenue	Entering from Chapel Street, northerly	Right turn only, between 6:00 a.m. and 6:00 p.m.

**§ 270-17. Schedule of prohibited left turns and U-turns.**

**A.**

Left turns off the following streets shall be prohibited:

<b>Name of Street</b>	<b>Location</b>
Commercial Street	Entire length

**B.**

There shall be no U-turns on the following streets:

<b>Name of Street</b>	<b>Location</b>
<b>Water Street</b>	<b>Between Laurel and Court Streets</b>
Western Avenue	Entire length

**§ 270-18. Heavy trucks prohibited on certain streets; exceptions.**

[Amended 5-20-1985 by Ord. No. 87; 9-21-1987 by Ord. No. 193(1); 12-21-1987 by Ord. No. 254; 8-15-1988 by Ord. No. 468; 6-4-1990 by Ord. No. 377; 9-22-1997 by Ord. No. 306; 3-19-2001 by Ord. No. 35; 1-18-2005 by Ord. No. 182; 5-7-2007 by Ord. No. 078; 7-18-2013 by Ord. No. 13-113]

**A.**

No person shall operate any truck in excess of the registered weight of 15,000 pounds gross vehicle weight capacity on any of the following streets between 9:00 p.m. and 6:00 a.m., except for City-owned fire trucks and public works vehicles, public utility vehicles and emergency vehicles.

<b>Name of Street</b>	<b>Location</b>
Armory Street	Entire length
Capitol Street	Between State Street and Armory Street
Sanford Road	Entire length
Sewall Street	Between Capital Street and South Street

**B.**

No person shall operate any truck in excess of the registered weight of 15,000 pounds gross vehicle weight capacity on any of the following streets, except for deliveries on such streets. Exceptions are City-owned fire trucks and public works vehicles, public utility vehicles and emergency vehicles.

<b>Name of Street</b>	<b>Location</b>
Airport Road	Between Western Avenue and the Augusta Airport
Edward Street	Entire length
Green Street	Between Sewall Street and Blaine Avenue
Howe Street	
Kenneth Street	Entire length
Macomber Avenue	Entire length
Morse Street	From Cony Street to Greenlief Street
Murray Street	
North Pearl Street	From Fowler Street to North Belfast Avenue
Parkview Terrace	Entire length
Patrick Street	Entire length
Patterson Street	From Bangor Street to South Belfast Avenue
Pearl Street	From Cony Street to Fowler Street
Purinton Avenue	From North Belfast Avenue to South Belfast Avenue
Quimby Street	From Bangor Street to South Belfast Avenue
School Street	From Bangor Street to South Belfast Avenue
Winthrop Street	Between State Street and the Augusta Airport

**§ 270-19. Closing roads to travel of certain trucks.**

[Amended 3-16-1987 by Ord. No. 73]

**A.**

No vehicles registered for a gross weight in excess of 23,000 pounds, except exempt vehicles as provided for below, shall be operated on the roads and streets of the City after a road or street has been closed to heavy vehicles during any period of time from November 15 to June 1. The Director of Public Works has the authority to determine which roads and streets shall be closed to heavy vehicles and when such closure shall be in effect.

**B.**

Notice of closing of a road or street to heavy vehicles shall be given by erecting at each end of the closed road or street a poster indicating the following:

**(1)**

The date of the posting;

**(2)**

A description of the street or road closed;

**(3)**

A summary of the vehicles exempt from the closing; and

**(4)**

The name, business address and telephone number of the Director of Public Works for the City.

**C.**

The following vehicles are exempt from this section:

**(1)**

Any vehicle or combination of vehicles registered for a gross weight of 23,000 pounds or less.

**(2)**

Any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and traveling without a load other than tools or equipment necessary for the proper operation of the vehicle. It shall be a defense to an alleged violation of this subsection if the combined actual weights of any vehicle or combination of vehicles is registered for a gross weight in excess of 23,000 pounds and its load is in fact less than 23,000 pounds.

**(3)**

Any vehicle of the Augusta Water District or Augusta Sanitary District while engaged in emergency maintenance.

**(4)**

City of Augusta vehicles.

**(5)**

Vehicles operating under an exemption certificate issued by the Director of Public Works.

**(a)**

The allowable axle weights shall be shown on the exemption certificate and will be calculated based upon the following schedule of reduced loads per inch of tire width and manufacturer's rating:

**[1]**

Two-axle truck: 420 pounds per inch.

**[2]**

Three-axle truck: 420 pounds per inch.

**[3]**

Four-axle truck: 385 pounds per inch.

[\[4\]](#)

Five-axle truck: 350 pounds per inch.

[\(b\)](#)

The gross weight for any vehicle operating under an exemption certificate shall not exceed 60,000 pounds.

[D.](#)

When operating a vehicle under an exemption certificate carrying a partial load with a weight equal to or less than that indicated on the exemption certificate, the vehicle operator shall have in the vehicle delivery slips or bills of lading documenting the entire amount or weight of the commodities being transported. The vehicle operator shall present the delivery slips, bills of lading and exemption certificate to any law enforcement officer upon request.

[E.](#)

Any vehicle operating under an exemption certificate shall proceed to the nearest operating public scale when directed by a law enforcement officer for weighing. Failure to proceed as directed shall be a violation of 29 M.R.S.A. § 1805[\[1\]](#) and this section.

[\[1\]](#)

Editor's Note: Title 29 of the Maine Revised Statutes was repealed by L. 1993, C. 683, § a-1, effective 1-1-1995. See now 29-A M.R.S.A. § 2388.

[F.](#)

The Director of Public Works may revoke the exemption certificate for any vehicle found to be operating with axle or gross weights in excess of those shown on the exemption certificate.

[G.](#)

The Director of Public Works shall not issue exemption certificates to haul forest products such as, but not limited to, bark, bolts, logs, pulpwood, sawdust, and wood chips, and soils such as, but not limited to, sand, gravel, stone and loam.

#### [§ 270-20. Through traffic prohibited on certain streets.](#)

[Amended 12-17-1984 by Ord. No. 621]

Through traffic shall be prohibited on the following streets:

<b>Name of Street</b>	<b>Direction of Travel</b>	<b>Location</b>
Hemple Street, so-called Southern Avenue		
Prince Street	West	From Bangor Street to Allen Street

#### [§ 270-21. Traffic movement designated.](#)

Traffic movement is designated on the following streets as set out below:

##### **Dickman Street**

Northbound traffic will use the east side of the street in a northerly direction only.

Southbound traffic will use the west side of the street in a southerly direction only.

#### [§ 270-22. Memorial Bridge restrictions.](#)

The south sidewalk on Memorial Bridge shall be restricted to bikes and prohibited to pedestrians.

**§ 270-23. Dead-end streets.**

[Added 10-3-2005 by Ord. No. 040]

Melville Street at the southern end (near Western Avenue) and an aesthetically landscaped island, which shall obstruct through traffic, shall be constructed in accordance with the Council-approved design as submitted by the City Engineer.

**ARTICLE III. Stopping, Standing and Parking**

**Part 1. General Provisions**

**§ 270-24. Stopping not to obstruct street or crossing; obedience to police officer.**

[Amended 6-17-1991 by Ord. No. 130]

**A.**

No vehicle shall stop in such a way as to obstruct any street or crossing except for the purpose of taking on or letting off a passenger, or for loading or unloading freight, for a period of up to one minute, or except in case of accident, or when directed to do so by a police officer.

**B.**

No person shall fail to stop or place his vehicle as directed by a police officer on duty.

**C.**

No vehicle, except for an emergency vehicle on an emergency call, or any authorized construction vehicle involved in actual construction, repair or repaving, shall stop, stand or park in such a way as to obstruct any arterial street or way. For the purpose of this subsection, the following streets shall be considered to be arterial streets or ways:

<b>Name of Street</b>	<b>Location</b>
State Street	From the Rotary to the Hallowell line
Stone Street and Bangor Street	From the Rotary to North Belfast Avenue
Western Avenue	From the Rotary to Brann Avenue

**§ 270-25. Stopping at intersections or hydrants.**

No vehicle shall stop or stand within the intersection of any streets or within 10 feet of a street corner, and 30 feet in the case of side streets leading off of Winthrop Street west of State Street, nor within seven feet of any hydrant wherever located; provided, however, that the foregoing provisions of this section shall not apply to the United States mail, emergency and public utility vehicles.

**§ 270-26. Parking to obstruct traffic or block driveway or sidewalk.**

The parking of a motor vehicle in such a manner as to obstruct traffic or block a driveway or sidewalk is prohibited. Such cars may be removed in accordance with the provisions of this article.

**§ 270-27. Stopping close to curb required.**

Unless in accordance with City regulations, or in an emergency, or to allow another vehicle or pedestrian to cross its way, no vehicle shall stop in any public street except close to the curb; provided, however, that this section shall not apply to United States mail, emergency or public utility vehicles.

**§ 270-28. Stopping abreast of another vehicle.**

A person having charge of a vehicle shall not stop the same abreast of another vehicle lengthwise of a street in any public street, except in case of accident or emergency; provided, however, that this section shall not apply to emergency or public utility vehicles.

**§ 270-29. Parking in excess of 24 hours; notice to move; removal by City.**

[Amended 3-5-2015 by Ord. No. 15-036]

It shall be unlawful to leave a motor vehicle parked on a public way or in a municipal parking lot for a period in excess of 24 hours unless such vehicle possesses a valid residential parking permit issued by the Augusta Parking District, is in a space designated by the Augusta Parking District for resident parking, and meets the standards of M.R.S.A. Title 29-A. If a vehicle is parked in violation of this section, a notice shall be placed on the windshield of such vehicle ordering its removal within 24 hours. If after the expiration of such notice the vehicle is still in violation of this section, such vehicle may be removed in accordance with the provisions of this article.

Where this section conflicts with § [270-30A](#) regarding winter parking on streets, § [270-30](#) shall apply.<sup>[1]</sup>

[\[1\]](#)

Editor's Note: Original § 18-67 of the 1990 Code, Nighttime parking; permit required, exceptions, which immediately followed this section, as amended 1-6-1992 by Ord. No. 244, and 12-4-2014 by Ord. No. 14-201, was repealed 3-5-2015 by Ord. No. 15-036.

**§ 270-30. Nighttime parking.**

[Amended 10-17-1994 by Ord. No. 649; 12-4-2014 by Ord. No. 14-201; 3-5-2015 by Ord. No. 15-036]

A.

Unless a permit has been issued by the Police Department for overnight parking, no person shall park or permit a vehicle to remain parked in any street of the City, with the exception of the east side of Commercial Street between Oak Street and Water Street, between 10:00 p.m. and 7:00 a.m. from November 15 to April 15, since such parking or remaining parked may interfere with snowplowing or the loading or removal of snow from such street.

B.

No vehicle with a gross vehicle weight in excess of 15,000 pounds shall be parked, excluding the Augusta Business Park, for a longer period than one hour in any street between the hours of 8:00 p.m. and 8:00 a.m., except on permit granted by the Police Department.

**§ 270-31. Parking close to fires.**

A.

No person shall park a vehicle, with or without occupants, other than a fire or police vehicle or an ambulance, on a public highway within 100 yards of a fire in which fire personnel are engaged.

B.

If a vehicle parks more than 100 yards from the fire and within 1/4 mile thereof, it shall park on the right-hand side of the highway and parallel to and within two feet of the curb or edge of the highway.

**§ 270-32. Parking at entrance of hotel or theater.**

No vehicle shall be parked in front of entrances to theaters and hotels.

**§ 270-33. Parking commercial vehicle with motor running.**

[Amended 1-6-1992 by Ord. No. 244]

No commercial vehicle which is registered to carry a load in excess of one ton shall be parked or left standing unattended on any public street or way within the City, unless approved by the Police Department, between the hours of 9:00 p.m. and 6:00 a.m. for a period of more than 15 minutes, unless the motor of such vehicle and any motor or motors attached to or contained in such vehicle are stopped.

**§ 270-34. Parking facing flow of traffic prohibited on certain streets.**

Motor vehicles shall be prohibited from parking facing the flow of traffic on the wrong side of the public way, from the business district of the City to and including the rural area to the next town line, on the following streets as herein set forth:

<b>Name of Street</b>	<b>Location</b>
Hospital Street	From Stone Street intersection to the Chelsea Line
Mount Vernon Avenue	From Bond Street to and including the Belgrade Road to the Sidney Line
North Belfast Avenue	From Pettingill's Corner (Rt. 202) to the East Vassalboro Line
Northern Avenue	From Water Street to and including West River Road (Rt. 104) to the Sidney Line
Riverside Drive	From the East Side Rotary (Bangor Street) to the Vassalboro Line
Sewall Street	From Western Avenue to the Hallowell Line
South Belfast Avenue (Rt. 105)	From Cony Street to the Togus Pond Windsor Line
State Street	From the Hallowell Line to the West Side Rotary, and from the Rotary north to Bond Street
Togus Road	From the Stone Street intersection to the Windsor Line
Western Avenue	From the West Side Rotary to the Manchester Line

**§ 270-35. Schedule of no-parking or restricted parking areas.**

[Amended 3-19-1984 by Ord. No. 383; 6-18-1984 by Ord. No. 460; 6-18-1984 by Ord. No. 461; 6-18-1984 by Ord. No. 462; 6-18-1984 by Ord. No. 463; 10-15-1984 by Ord. No. 538; 11-19-1984 by Ord. No. 604; 7-15-1985 by Ord. No. 139(1); 8-19-1985 by Ord. No. 168; 10-21-1985 by Ord. No. 228; 10-21-1985 by Ord. No. 229; 12-16-1985 by Ord. No. 252; 5-19-1986 by Ord. No. 391; 9-15-1986 by Ord. No. 508; 9-15-1986 by Ord. No. 509; 10-20-1986 by Ord. No. 535; 11-17-1986 by Ord. No. 573; 11-17-1986 by Ord. No. 575; 8-17-1987 by Ord. No. 177; 11-16-1987 by Ord. No. 242; 6-20-1988 by Ord. No. 394; 7-18-1988 by Ord. No. 423; 8-15-1988 by Ord. No. 467; 11-21-1988 by Ord. No. 501; 12-19-1988 by Ord. No. 534; 12-19-1988 by Ord. No. 564; 1-12-1989 by Ord. No. 574(2); 3-20-1989 by Ord. No. 31; 3-20-1989 by Ord. No. 32; 4-10-1989 by Ord. No. 54; 5-15-1989 by Ord. No. 109; 9-18-1989 by Ord. No. 192; 11-6-1989 by Ord. No. 247; 1-8-1990 by Ord. No. 300; 1-5-1990 by Ord. No. 326(2); 5-7-1990 by Ord. No. 396; 5-7-1990 by Ord. No. 397; 7-16-1990 by Ord. No. 471; 12-17-1990 by Ord. No. 580; 2-6-1991 by Ord. No. 18; 3-4-1991 by Ord. No. 54; 4-1-1991 by Ord. No. 55; 7-1-1991 by Ord. No. 190; 7-15-1991 by Ord. No. 191; 10-21-1991 by Ord. No. 262; 10-21-1991 by Ord. No. 263; 1-6-1992 by Ord. No. 334; 12-7-1992 by Ord. No. 679; 2-3-1993 by Ord. No. 11; 2-3-1993 by Ord. No. 31; 4-5-1993 by Ord. No. 63; 7-19-1993 by Ord. No. 185; 9-7-1993 by Ord. No. 214; 12-6-1993 by Ord. No. 320; 3-7-1994 by Ord. No. 381; 8-15-1994 by Ord. No. 588; 11-9-1994 by Ord. No. 666; 12-19-1994 by Ord. No. 708; 8-7-1995 by Ord. No. 182; 4-1-1996 by Ord. No. 417; 9-23-1996 by Ord. No. 565; 9-23-1996 by Ord. No. 566; 10-21-1996 by Ord. No. 621; 11-6-1996 by Ord. No. 622; 5-5-1997 by Ord. No. 104; 10-6-1997 by Ord. No. 320; 12-15-1997 by Ord. No. 398; 3-16-1998 by Ord. No. 474; 3-16-1998 by Ord. No. 476; 12-21-1998 by Ord. No. 732; 5-17-1999 by Ord. No. 107; 8-23-1999 by Ord. No. 207; 8-30-1999 by Ord. No. 688; 7-17-2000 by Ord. No. 394; 10-16-2000 by Ord. No. 453; 12-14-2000 by Ord. No. 495; 9-4-2001 by Ord. No. 116; 12-16-2002 by Ord. No. 317; 7-7-2003 by Ord. No. 88; 9-8-2003 by Ord. No. 107; 4-20-2004 by Ord. No. 56; 11-3-2004 by Ord. No. 161; 11-20-2006 by Ord. No. 183; 11-20-2006 by Ord. No. 184; 3-19-2007 by Ord. No. 050; 5-21-2007 by Ord. No. 090; 5-21-2007 by Ord. No. 091; 6-4-2007 by Ord. No. 106; 6-4-2007 by Ord. No. 107; 2-7-2008 by Ord. No. 222; 2-18-2010 by Ord. No. 018; 7-21-2011 by Ord. No. 11-93; 12-15-2011 by Ord. No. 11-182; 8-2-2012 by Ord. No. 12-110; 8-2-2012 by Ord. No. 12-118; 11-21-2013 by Ord. No. 13-187]

The no-parking and restricted parking areas in the City are as follows:

**Alden Avenue**

No parking on either side.

**Amherst Street**

No parking on the west side beginning at the intersection of Western Avenue southerly for a distance of 160 feet.

Parking on the west side starting at a point 160 feet southerly of Western Avenue be restricted to no parking between the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, except for holidays.

No parking on the east side beginning at the intersection of Western Avenue southerly for a distance of 353 feet.

Parking on the east side starting at a point 353 feet southerly of Western Avenue for a distance of 84 feet.

Parking on the east side starting at a point 437 feet southerly of Western Avenue southerly for a distance of 22 feet restricted to handicapped parking only.

No parking on the east side starting at a point 459 feet southerly of Western Avenue southerly

for a distance of 100 feet, to be designated a loading zone.

**Anthony Avenue**

No parking on the west side the entire length.

No parking on the east side from Drain Drive southerly for a distance of 603 feet.

Parking on the east side starting at a point 603 feet southerly for a distance of 66 feet restricted to driver's license testing only.

No parking on the east side starting at a point 669 feet southerly to Leighton Road.

**Arsenal Street**

No parking on the west side the entire length.

No parking on the east side from Cony Street to Spruce Street.

No parking on the east side from the intersection of East Chestnut Street southerly for 60 feet.

Parking on the east side starting at a point 60 feet southerly of East Chestnut Street for a distance of 152 feet restricted to handicapped parking only.

Parking on the east side starting at a point 212 feet southerly of East Chestnut Street southerly for a distance of 140 feet designated 2-hour patient pickup and discharge only.

No parking on the east side starting at a point 536 feet southerly of East Chestnut Street southerly for the remaining distance.

Parking shall be restricted to 2 hours on the east side beginning at a point 452 feet southerly of East Chestnut Street southerly for a distance of 84 feet.

**Bangor Street**

No parking on either side for the entire length.

**Bennett Street**

No parking on the south side, entire length.

**Bond Street**

Parking shall be restricted to 15 minutes on the north side from Water Street westerly for 75 feet.

No parking on the south side from Water Street westerly for 72 feet.

**Boothby Street**

No parking on the east side.

No parking on the north side from State Street westerly to a point 526 feet west of State Street.

No parking on the south side from State Street westerly to a point 546 feet west of State Street.

**Boothby Street (Seasonal)**

No parking on the south side from a point 546 feet west of its intersection with State Street westerly to the end of Boothby Street between October 15 and April 15 annually.

**Bridge Street**

No parking on the north side from the intersection of North Street for a distance of 148 feet easterly.

No parking on the south side of the street.

No parking on the north side from the westerly side of Crosby Street running westerly to 60 feet westerly of the west side of State Street.

**Brooklawn Avenue**

No parking on either side for a distance of 78 feet from the easterly side of Sewall Street at Brooklawn Avenue.

**Brooks Street**

No parking on the north side starting at the easterly point of the rear delivery entrance to KVMC and continuing easterly for a distance of 100 feet.

No parking on the south side for the entire length of the street.

#### **Caldwell Road**

No parking on the south side.

#### **Canal Street**

No parking on the north side.

No parking from the southwest corner of the Bates Manufacturing Building to the junction of Northern Avenue, a distance of 16 feet, and from the junction of Canal Street along the wall on Northern Avenue for a distance of 41 feet.

#### **Capitol Street**

No parking on the north side between Sewall Street and Florence Street.

No parking on the north side from State Street easterly for 210 feet.

No parking on the south side between Sewall Street and Federal Street.

No parking on the south side between State Street and Gage Street.

Parking shall be limited to 15 minutes between the hours of 8:00 a.m. and 12:00 noon daily on the north side of the legal frontage of 25 Capitol Street, a distance of 60 feet.

No parking from the corner of Gage Street easterly for a distance of 150 feet on both the north and south sides of the street.

#### **Cedar Court**

No parking either side.

#### **Cedar Street**

No parking on the north side.

No parking on the south side from Stone Street for a distance of 200 feet westerly.

#### **Center Street**

No parking on the west side starting at a point 80 feet northerly of the intersection of Child Street and continuing northerly for the length of the street.

No parking on the east side from the intersection of Child Street northerly for 80 feet.

#### **Chamberlain Street**

[Added 7-16-2015 by Ord. No. 15-109]

No parking on the west side from Capitol Street to Chapel Street.

#### **Chamberlain Street (Seasonal)**

[Added 7-16-2015 by Ord. No. 15-109]

No parking on the east side from a point 173 feet north of Capitol Street northerly to the intersection of Higgins Street from October 15 to April 15.

#### **Chapel Street**

Parking on the east side restricted to 15 minutes, starting at the north side of Court Street northerly for 55 feet.

No parking on the west side between Weston Street and Court Street.

#### **Chapel Street (Seasonal)**

No parking on the west side from Winthrop Street to Green Street from November 1 to April 1.

#### **Child Street**

No parking on either side for the entire length.

### **Civic Center parking**

Community Drive, University Drive and the parking areas owned or leased by the City, which are bounded on the east by University Drive, on the west by Route 95, on the north by a line 500 feet north of the north wall of the Civic Center building, and on the south by a line 500 feet south of the south wall of the building, shall be subject to the following parking restrictions:

- (1) No person shall park or permit a vehicle to remain parked for more than 12 hours at any one time within such streets or parking areas.
- (2) No person shall park or permit a vehicle to remain parked within such streets or parking areas except within the lines painted to designate parking spaces.  
No person shall park or permit a vehicle to remain parked between 12:01 a.m. and 7:00 a.m.
- (3) in any Civic Center parking lot without permission of the Civic Center Director or his designee.
- (4) Any vehicle found in violation of Subsection (1), (2) or (3) hereof may be removed and impounded pursuant to the provisions of Article [III](#), Part 2, § [270-40](#) et seq.

### **Civic Center Drive**

No parking on both sides of Civic Center Drive on the east side beginning at a point 110 feet southerly of CMP Pole No. 592/116 and extending northerly 275 feet to a point 30 feet northerly of CMP Pole No. 593/117; and on the west side beginning at a point 10 feet southerly of CMP Pole No. 592/116 and extending northerly 50 feet.

### **Clark Street**

No parking on the north side from Bangor Street for a distance of 100 feet westerly.

### **Columbia Street**

Parking on the east and west sides restricted to no parking the entire length between the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, except for holidays.

### **Community Drive**

No parking on the northerly side of Community Drive for a distance of 20 feet easterly and westerly of the exit to the upper parking lot of the Maine School Management Association.

### **Cony Street**

No parking on the south side from the Kennebec River to Cony Circle.

No parking on the north side from Cony Circle to Pearl Street between the hours of 10:00 p.m. and 6:00 a.m.

No parking from the east side of Morse Street for a distance of 30 feet.

No parking on the south side of the legal frontage, main entrance of 104 Cony Street, Cony High School, which shall be designated a bus handicap loading zone. This area shall be restricted for the use of buses picking up and discharging wheelchair-bound students.

No parking on the north side beginning at the intersection of Noyes Street in a westerly direction for a distance of 20 feet to the area of a loading zone that begins at 20 feet and continues westerly for a distance of 50 feet and continuing no parking from the loading zone westerly for an additional 42 feet.

No parking on the north side starting at a point 252 feet westerly of the intersection of Noyes Street to the northwest corner of the intersection of Cony Street and Willow Street.

### **Coughlin Street**

No parking on the south side for the full length of the street.

### **Court Street**

No parking on the south side between Chapel Street and Sewall Street.

No parking on the south side between Chapel Street and State Street.

Parking shall be limited to 2 hours on the north side of the legal frontage of 43 1/2 Court Street, a distance of 36 feet.

No parking on the south side of Court Street from Perham Street easterly to the end of Court Street.

No parking on the north side of Court Street within 20 feet from either side of the driveway of the Augusta Elks Lodge.

No parking on the south side between Perham Street and State Street.

### **Crosby Lane**

No parking on either side for the entire length.

### **Crosby Street**

No parking on the west side for a distance of 200 feet northerly from the intersection of Bridge Street and Crosby Street.

### **Crosby Street (Seasonal)**

No parking on the west side from a point 200 feet north of the Bridge Street intersection for the entire length from October 15 to April 15.

### **Cross Street**

No parking either side for the entire length.

### **Darin Drive**

No parking on the south side between New Belgrade Road and Darin Drive Circle.

No parking on the north side between New Belgrade Road and a point perpendicular to the west side of Anthony Avenue.

### **Dayton Street**

No parking on the east side north from Lincoln Street for a distance of 185 feet.

### **Drew Street**

No parking on the east side from Western Avenue to Lincoln Street.

No parking on the east side from Lincoln Street to Green Street from November 15 to April 1.

Two-hour parking on the west side of Drew Street from Western Avenue to Lincoln Street between the hours of 8:00 a.m. and 6:00 p.m.

### **East Chestnut Street**

No parking either side for the entire length.

### **East Crescent Street**

No parking on the south side.

### **Eastern Avenue**

No parking on the south side from a point 58 feet easterly of CMP Pole No. 8 easterly to the driveway on the east side of the Eastern Avenue Apartments, a distance of 55 feet.

No parking on the south side for a distance of 195 feet east of Hospital Street.

No parking on the southerly side from a point 455 feet easterly of the intersection of Hospital Street for a distance of 177 feet easterly.

No parking on the north side of Eastern Avenue from a point 50 feet west of the westernmost driveway of the Prince of Peace Lutheran Church, located at 213 Eastern Avenue, extending easterly to a point 50 feet east of the easternmost driveway of the church for a total linear

distance of 245 feet.

**Edison Drive**

No parking on the west side of Edison Drive from a point at the southern end of the legal frontage of No. 84 Edison Drive extending northerly for a distance of 900 feet, between the hours of 6:00 a.m. and 6:00 p.m.

**Elm Street**

No parking on the east side for the entire length.

**Federal Street**

No parking on the east side from Capitol Street south for 100 feet.

No parking on the west side for the entire length.

**First Avenue (Seasonal)**

No parking on the south side of First Avenue starting at a point 215 feet from the intersection of First Avenue and Hospital Street easterly to the intersection of First Avenue and Congress Street from May 15 to September 15.

**Flagg Street**

No parking on the east side.

**Florence Street**

No parking on the west side.

**Forest Avenue**

No parking on the southern side from Northern Avenue to Davis Street.

**Fowler Street**

No parking on the north side from Bangor Street to Howe Street.

**Franklin Street**

No parking on the south side within 20 feet east and 20 feet west from the center of the gate in front of Webster School.

**Franklin Street (Seasonal)**

No parking on the north side from Oxford Street to Northern Avenue between November 15 and April 1.

**Gage Street**

No parking on the east side, entire length.

No parking on the west side from Memorial Drive southerly to Capitol Street.

**Gannett Street**

No parking on the west side from Cony Street to Patterson Street.

No parking on the east side between Cony Street and Patterson Street from 7:00 a.m. to 2:00 p.m. on school days.

**Gannett Street (Seasonal)**

No parking on the east side from Cony Street to Patterson Street from October 15 through April 15.

**Gedney Street**

No parking on the north side of Gedney Street starting at the northeastern point of the Hussey School fence west for a total distance of 100 feet between the hours of 8:00 a.m. and 3:00 p.m., school season only.

**Glendon Street**

No parking on the north side.

**Glenridge Drive**

No parking on the northwesterly side for the entire length.

**Glenwood Street**

No parking on the north side from Glenwood Avenue easterly for a distance of 150 feet.

**Green Street**

No parking on the south side from Water Street to State Street.

No parking on the south side from State Street for 300 feet westerly.

Parking on the north side of Green Street in front of 39 Green Street at the office location of Pine Tree Legal Assistance, Inc., shall include one space specifically reserved for handicapped persons as defined in 29 M.R.S.A. § 252.[\[1\]](#)

**Greenlief Street**

No parking on the south side.

No parking on the north side.

A single two-hour parking space shall be created at the legal frontage of 20 Greenlief Street.

**Grove Street**

[Repealed 7-16-2015 by Ord. No. 15-109]

**Haskell Street**

No parking on the westerly side from a point 325 feet northerly of its intersection with Cony Street Extension to a point 360 feet northerly of the intersection of Cony Street Extension.

**Hichborn Street**

No parking on the north side.

**Higgins Street**

No parking on the west and north sides.

**Highland Avenue**

No parking on either side, beginning at Bangor Street easterly for 100 feet.

**Hillcrest Street**

No parking on the east side from Western Avenue to Hillcrest Court.

No parking on the west side from Western Avenue to Victory Street.

**Hospital Street**

No parking on the east side from a point 100 feet north of the northernmost entrance to the Augusta Mental Health Institute southerly to the southernmost entrance to the Augusta Mental Health Institute.

No parking on the west side from a point 1,600 feet south of the intersection of Eastern Avenue and Stone Street southerly to the Augusta-Chelsea line.

No parking on the east side from the intersection of Eastern Avenue and Hospital Street southerly for a distance of 200 feet.

No parking on the west side from the intersection of Eastern Avenue and Hospital Street southerly for a distance of 200 feet.

**Howard Street**

No parking on the west side between Cony Street and Williams Street.

**Jefferson Street**

No parking on the south side from Oxford Street to Washington Street.

No parking on the southerly side between Oxford Street and Northern Avenue between November 1 and April 1.

Parking shall be restricted to 15 minutes on the west side for the legal property boundary of the property located at 133 Northern Avenue as it borders on Jefferson Street (Dube's Market), a distance of 66 feet.

#### **Johnson Street**

No parking on the east side.

No parking on the east side within 20 feet north or south of the Lincoln School Driveway.

#### **Kendall Street**

No parking on Sunday on the east side of Kendall Street between the corner of Northern Avenue to the northwest corner of St. Augustine's School Playground.

#### **Kling Street**

No parking on the east side, entire length.

#### **Lafayette Street**

No parking on either side from the southerly side of the intersection of Fuller Street southerly to the southern terminus.

#### **Laurel Street**

Loading zone on the north side from State Street easterly for 36 feet.

No parking on the south side of Laurel Street for the entire length.

#### **Laurel Street (Seasonal)**

No parking on the north side of Laurel Street from a point 36 feet east of the intersection of State Street easterly to Water Street between October 15 and April 15 annually.

#### **Lincoln Street**

No parking on the north side between Johnson Street and Cushman Street.

No parking on the south side from Pike Street to Drew Street.

#### **Linden Street**

No parking on the north side for its entire length.

No parking on the south side for a distance of 25 feet westerly from the intersection of Linden Street with Bangor Street.

#### **Lithgow Library Area Parking**

The parking areas owned and maintained by the City which are bounded on the north by City-owned property, on the east by State Street, on the south by Lithgow Library and on the west by Pleasant Street shall be subject to the following restrictions:

(1) Five spaces shall be designated as reserved spaces for employees of Lithgow Library.

No person except employees of Lithgow Library parked in such designated spaces shall park

(2) or permit a vehicle to remain parked for more than 1 hour at any one time within the parking area.

No person shall park or permit a vehicle to remain parked between 10:00 p.m. and 8:00 a.m.

(3) if such parking or remaining parked interferes with snowplowing or the loading and removal of snow from the parking area.

(4) Any vehicle found in violation of Subsection (1), (2) or (3) hereof may be removed and impounded pursuant to the provisions of Article [III](#), Part 2, § [270-40](#) et seq.

#### **Locke Street**

No parking on either side for the entire length.

Parking shall be limited to 2 hours on the north side from Pike Street to Drew Street.

**Lombard Court**

No parking on either side from Chapel Street 113 feet westerly.

**Malta Lane**

No parking on either side for the entire length.

**Maple Street**

No parking on either side from the railroad crossing for a distance of 200 feet north.

**Melville Street**

No parking on the west side of Melville Street from Western Avenue northerly to Green Street.

**Middle Street**

No parking between the hours of 7:00 a.m. and 4:00 p.m. on the westerly side beginning at the intersection of Spruce Street southerly for a distance of 184 feet.

No parking on either side from Stone Street to Spruce Street; and no parking on the easterly side from Spruce Street to Chestnut Street.

Restricted handicap parking from a point beginning 30 feet from the intersection of Middle Street and East Chestnut Street northerly on the west side of Middle Street for 20 feet.

No parking on the east or west side from the intersection of Caldwell Road southerly for a distance of 428 feet.

**Mill Street**

No parking on the north side, entire length.

**Morse Street**

No parking on either side.

**Morton Place**

No parking on either side, entire length.

**Mt. Vernon Avenue**

No parking on the easterly side for the entire length.

No parking on the westerly side for the entire length.

**Mt. Vernon Place**

No parking on the south side for the entire length.

**North Belfast Avenue**

No parking on the south side for a distance of 300 feet west of the intersection of North Belfast Avenue and Church Hill Road.

**North Chestnut Street**

No parking on the east side of North Chestnut Street from the intersection of Winthrop Street to the intersection of Tobey Street.

**Northern Avenue**

Parking shall be restricted to 15 minutes on the west side of Northern Avenue from a point 110 feet south of the south side of Ryan Court southerly for a distance of 146 feet.

No parking on the east side from Forest Avenue southerly for 134 feet.

No parking on the east side from Jefferson Street to Monroe Street.

No parking on the south side from Fontaine Street easterly for 400 feet.

No parking on the east side from a point 486 feet southerly of the south side of Quirion Street

Place southerly for 500 feet.

No parking from 6:00 p.m. to 6:00 a.m. on the east side from Monroe Street, north, a distance of 326 feet.

No parking from 6:00 p.m. to 6:00 a.m. on the east side, north of the 30-minute parking sign in front of 185 Northern Avenue, a distance of 270 feet.

No parking on the west side of Northern Avenue from a point 199 feet northerly of the southeast corner of the North End Playground for a distance of 100 feet and for 236 feet northerly from the northeast corner of the North End Playground.

No parking on the west side of Northern Avenue between 6:00 p.m. and 6:00 a.m. for a distance of 199 feet northerly from the southeast corner of the North End Playground and from a point 299 feet northerly from the southeast corner of the North End Playground for a distance of 121 feet northerly.

Parking shall be restricted to 30 minutes on the east side for the legal frontage of 185 Northern Avenue, a distance of 26 feet.

No parking on the easterly side from Washington Street northerly for 46 feet.

Parking shall be restricted to 15 minutes on the west side for the legal frontage of 56 Northern Avenue (Patenaude's Superette), a distance of 42 feet.

Parking shall be restricted to 15 minutes on the east side for the legal frontage of 133 Northern Avenue (Dube's Market), a distance of 56 feet.

No parking on the west side from a point at the northern boundary of the intersection with the Old Belgrade Road and extending northerly for a distance of 300 feet.

#### **Northern Avenue (Seasonal)**

No parking on the east side from Water Street to Canal Street between November 15 and April 1.

No parking on the east side from Canal Street southerly for 60 feet between April 1 and November 15.

No parking on the west side from the beginning of Northern Avenue to Mill Street between November 15 and April 1.

#### **North Pearl Street**

No parking on the east side of North Pearl Street between Albee Street and North Belfast Avenue.

#### **North Street**

No parking on the westerly side for the entire length.

No parking on the easterly side between North Street Place and the Public Works Garage driveway.

No parking on the east side from the corner of Bridge Street for a distance of 106 feet northerly.

Parking shall be restricted to 15 minutes on the east side for the legal frontage of 13 North Street, a distance of 25 feet.

Parking shall be restricted to 15 minutes on the east side for the legal frontage of 31 North Street, a distance of 64 feet.

#### **North Street Place**

No parking on the northerly side for the entire length.

No parking on the southerly side for a distance of 160 feet beginning at the corner of North Street and continuing easterly for 160 feet.

**Noyes Place**

No parking on the east and south sides of Noyes Place for the entire length.

No parking on the north side of Noyes Place for the entire length.

No parking on the west side of Noyes Place for a distance 30 feet northerly from the intersection of Cony Street.

No parking on the west side of Noyes Place for a distance of 30 feet southerly from the northernmost end of Noyes Place.

**Oxford Street (Seasonal)**

No parking on the east side from Franklin Street to Monroe Street between November 15 and April 1.

**Page Street**

No parking on the east side for the entire length.

**Pearl Street**

No parking on the east side between Cony Street and Patterson Street.

No parking on the west side between Cony Street and Greenlief Street.

**Perham Street**

No parking on the east side between Winthrop Street and Court Street.

No parking on the east and west side, southerly from the intersection of Court Street, between the hours of 6:00 a.m. and 6:00 p.m.

**Pet Haven Lane**

No parking on the west side, starting from Western Avenue southerly for a distance of 147 feet.

Parking on the east side restricted to 15 minutes starting at CMP Pole No. 44 and continuing northerly for a distance of 112 feet.

**Pike Street**

No parking on the east side from Western Avenue to a point 121 feet north of Lincoln Street.

Parking of vehicles shall be limited to 2 hours on the west side from Western Avenue to a point 136 feet north of Lincoln Street.

Parking shall be limited to 2 hours on the east side from a point 121 feet north of Lincoln Street to Green Street.

**Pleasant Street**

A portion on the east side of Pleasant Street shall be designated a loading zone at a point beginning 108 feet south of the southeast corner of Bridge Street and Pleasant Street for a distance of 50 feet southerly.

No parking on the east side from a point 108 feet southerly of Bridge Street; no parking on the west side from a point 93 feet southerly of Bridge Street.

No parking on the east side from Winthrop Street to Oak Street between the hours of 6:00 a.m. and 6:00 p.m. Parking shall be restricted to 2 hours on the east side from Oak Street northerly to a point 158 feet south of Bridge Street except for an area beginning at a point 108 feet south of Bridge Street southerly for 50 feet, which shall be designated a loading zone.

Parking shall be restricted to 10 minutes only on the west side beginning at a point 86 feet north of the north side of the paved portion of Winthrop Street northerly for 30 feet.

Restricted to handicap parking from a point beginning 20 feet south of CMP Pole No. S3 on the west side of Pleasant Street and continuing south for 40 feet.

**Powhatten Street**

No parking on either side.

**Prince Street**

No parking on either side for the entire length.

**Prospect Street**

No parking on the east side for the entire length.

**Quimby Street**

No parking on the south side of Quimby Street between CMP Pole Nos. 9 and 10 for a total distance of 100 feet between the hours of 8:00 a.m. and 3:00 p.m., school season only.

**Riverside Drive**

Parking on the east side of Riverside Drive adjacent to the Kirschner Property from the northwest corner of Kirschner's driveway north to the northwest corner of the property shall be prohibited, a distance of 344 feet.

Parking shall be restricted on the east side at a point 780 feet northerly of Lajoie Street northerly for a distance of 105 feet.

No parking on the west side for the legal frontage of 184 Riverside Drive, a distance of roughly 525 feet.

No parking on the west side, beginning on the north side of Drum Barker Road northerly for 200 feet.

**Riverton Street**

No parking on the north side for the entire length.

No parking on the south side for a distance of 25 feet easterly from the intersection of Riverton Street with State Street.

**Ryan Court**

No parking on either side for the entire length.

**St. Catherine Street**

No parking on the west side.

No parking on the east side for a distance of 200 feet south of East Chestnut Street.

Parking in front of #3 St. Catherine Street restricted to 15-minute parking for a distance of 36 feet; parking in front of #5 St. Catherine Street restricted to 1-hour parking for a distance of 40 feet on the east side of the street.

**Savoie Street**

No parking on either side for the entire length.

**School Street**

No parking on either side from Bangor Street for a distance of 165 feet or on either side starting at the intersection of South Belfast Avenue for a distance of 100 feet westerly.

**Sewall Street**

No parking on the east side from Capitol Street northerly to the intersection of Western Avenue.

No parking on the west side from a point 200 feet southerly of Capitol Street to a point perpendicular to the intersection of Southern Avenue between the hours of 6:00 a.m. and 6:00 p.m., with the exception of a distance of 50 feet from a point 30 feet south of New England Tel and Tel Pole No. 30/30S.

No parking at any time on the west side between Capitol Street and a point 200 feet southerly.

No parking on the east side from Capitol Street southerly to the intersection of Brooklawn Avenue.

No parking on the west side for a distance of 77 feet northerly from the intersection of Sewall Street and Western Avenue.

No parking on the west side from Western Avenue south to a point 310 feet south of Western Avenue.

No parking on the west side from Capitol Street northerly for 400 feet.

Parking shall be limited to 2 hours on the west side from a point 310 feet south of Western Avenue to a point 400 feet north of Capitol Street.

No parking on either side for a distance of 126 feet northerly from the intersection of Sewall Street and Western Avenue.

### **South Belfast Avenue**

No parking on the north side along the entire length of road frontage of Worromontogus Lake, a.k.a. Togus Pond, from the intersection of Tasker Road easterly for a distance of 1/2 mile.

### **South Chestnut Street**

No parking between signs placed in front of premises at 26 South Chestnut Street between 6:00 a.m. and 8:00 a.m. and between 2:00 p.m. and 4:00 p.m. from Monday through and including Friday.

### **South Street**

No parking on the north side of South Street between State Street and South Grove Street.

### **Spruce Street**

No parking on the north side.

Parking shall be limited to 1 hour on the south side from a point 164 feet west of Middle Street westerly for 77 feet.

No parking on the south side from the intersection of Arsenal Street easterly for a distance of 388 feet.

### **Spruce Street (Seasonal)**

No parking on the south side from Arsenal Street easterly for 245 feet between November 15 and April 1.

### **State Street**

No parking on the east side from Chandler Street to a point 59 feet north of the north side of Bridge Street.

No parking on the east side from Crosby Lane to Bond Street.

No parking on the west side between Boothby Street and Bridge Street.

No parking on either side from Chandler Street south to Memorial Circle.

No parking on either side from Capitol Street to the Hallowell Line.

No parking on the west side from Bridge Street south for a distance of 154 feet.

Parking of vehicles shall be restricted between October 15 and April 1 of each season at the following locations:

(1) East side of State Street from Bridge Street northerly for 59 feet.

(2) East side of State Street from Green Street to Bridge Street.

No parking on the east side starting at a point 59 feet north of Bridge Street, northerly to Laurel Street.

**State Street (Seasonal)**

No parking on the east side from Winthrop Street to Oak Street between April 1 and October 15.

**Stewart Lane**

No parking on either side for the entire length.

**Stone Street**

No parking on either side.

**Storey Street**

No parking on the east side from Western Avenue for 486 feet south.

No parking on the east side from the intersection of Western Avenue for a distance of 336 feet.

No parking on the west side from a point 375 feet south of the intersection with Western Avenue and continuing southerly for a distance of 345 feet.

**Sturgis Lane**

No parking either side.

**Summer Street**

Restricted to handicap parking from a point beginning 73 feet from the intersection of Summer Street and Winthrop Street northerly on the west side of Summer Street for 20 feet.

No parking on the east side from a point 275 feet north of Winthrop Street and extending northerly for a distance of 53 feet, which shall be designated a loading zone. This area shall be restricted for the use of vehicles loading and unloading for the St. Mark's Church clothing and food banks.

No parking on the east side with the exception of the designated loading zone for the St. Mark's clothing and food banks as described in this section.

**Swan Street**

No parking on the north side.

**Taylor Street**

No parking on the north side from the intersection of State Street westerly for a distance of 40 feet.

**Union Street**

No parking on the south side, entire length.

No parking on the north side from State Street to a point approximately 200 feet easterly along the northerly line of Union Street.

No parking easterly of the Capitol Park track access road.

**Valley Street**

No parking on the east side for the entire length between the hours of 7:00 a.m. and 5:00 p.m. Monday through Friday.

**Vickery Street**

No parking on the north side from Hillcrest Street to Western Avenue Place.

No parking on the south side from Hillcrest Street to a point 120 feet westerly.

**Viles Street**

No parking on the east side for the entire length.

Parking on the west side shall be limited to 10 designated compact vehicle spaces within the posted parking area.

**Wade Street**

No parking on the north side of Wade Street between Sewall Street and Chamberlain Street.

**Waldo Street**

No parking on the south side.

**Washington Street**

Parking of vehicles shall be restricted to 10 minutes on the east side of Washington Street from the north side of York Street northerly for a distance of 35 feet.

No parking on the westerly side from Northern Avenue easterly for 49 feet.

**Water Street**

No parking on the west side of Water Street beginning at the intersection of Bridge Street and Water Street northerly for a distance of 630 feet.

No parking on the west side of Water Street from a point 140 feet north of the intersection of Laurel Street northerly to the beginning of Northern Avenue.

Parking shall be limited to 1 hour on the east side of Water Street beginning at the intersection of Bridge Street northerly for a distance of 202 feet.

No parking on the east side of Water Street from a point 202 feet north of the Bridge Street intersection northerly for a distance of 44 feet, which shall be designated a loading zone. This loading zone shall be restricted for use of vehicles loading and unloading freight or merchandise only.

Parking shall be limited to 1 hour on the east side of Water Street from a point 246 feet north of the Bridge Street intersection northerly for a distance of 294 feet.

No parking on the east side of Water Street from a point of 540 feet north of the Bridge Street intersection northerly to the beginning of Northern Avenue.

No parking on the east side beginning at a point 31 feet south of the Edwards Manufacturing Company main gate southerly for a distance of 124 feet.

No parking on the westerly side beginning at Green Street southerly for a distance of 140 feet.

[Added 7-16-2015 by Ord. No. 15-109]

No parking on the east side from West Side Circle to Gage Street.

[Added 7-16-2015 by Ord. No. 15-109]

**West Crescent Street**

No parking on the north side.

No parking on the south side beginning at a point 70 feet west of the Memorial Drive intersection to the Memorial Drive intersection.

Parking shall be restricted to 2 hours on the south side beginning at a point 70 feet west of the intersection of Memorial Drive westerly for a distance of 139 feet.

**Western Avenue**

No parking at any place, entire length.

**Western Avenue Place**

No parking on either side from Western Avenue to Vickery Street.

No parking on the east side from Vickery Street to Walker Street.

**Weston Street**

No parking on the south side between State Street and Sewall Street.

Parking shall be restricted on the north side from Chapel Street westerly for 30 feet, and from Sewall Street easterly for 30 feet.

**Weston Street (Seasonal)**

No parking on the north side from State Street to Sewall Street from December 1 to March 31.

No parking on the south side from a point 70 feet east of the east side of Chapel Street easterly to State Street. Parking shall be restricted to 1-hour parking on the south side from Chapel Street easterly for 70 feet, except from March 31 to December 1. There shall be no parking on the north side of Weston Street between Chapel Street and State Street.

It is the intent of this subsection to allow parking for 70 feet on the south side during winter months.

**Whitten Road**

No parking on either side from the intersection of Alderwood Road southerly for a distance of 1,850 feet or the point where the boundary line of the City of Hallowell first intersects Whitten Road.

**Willow Street**

No parking on the south side from Bangor Street westerly for 50 feet.

**Wilson Street**

No parking on Wilson Street on the north side for the entire length of the street.

**Winter Street**

No parking on the east side between Winthrop Street and Bridge Street.

**Winthrop Court**

Parking shall be restricted to 1/2 hour on the west side for the entire length.

No parking on the east side.

Two parking stalls reserved exclusively for the use of physically handicapped persons as defined in 29 M.R.S.A. § 252[2] shall be established.

- (1) The first stall shall be located on the west side of Winthrop Court beginning 40 feet from the corner of Winthrop Street and Winthrop Court, northerly for a distance of 22 feet.
- (2) The second stall shall be located on the west side of Winthrop Court beginning 72 feet from the corner of Winthrop Street and Winthrop Court, northerly for a distance of 22 feet.

No parking on the north or south side for the entire length.

**Winthrop Street**

No parking on the south side from the east side of South Chestnut Street to a point 100 feet east of the easterly side of Sewall Street.

No parking on the south side of Winthrop Street along the frontage of 56 Winthrop Street, a distance of 119 feet.

No parking within 2 feet from either side of the main entrance of the YMCA.

Parking shall be limited to 30 minutes on the north side between State Street and Pleasant Street and restricted to patrons of Lithgow Library only.

No parking on the north side of Winthrop Street from a point 54 feet west of Pleasant Street for a distance of 100 feet westerly.

**York Street**

No parking on the south side.

[1]

Editor's Note: Title 29 of the Maine Revised Statutes was repealed by L. 1983, C. 683, § a-1, effective 1-1-1995. See now 29-A M.R.S.A. § 521.

[2]

Editor's Note: Title 29 of the Maine Revised Statutes was repealed by L. 1983, C. 683, § a-1, effective 1-1-1995. See now 29-A M.R.S.A. § 521.

### **§ 270-35.1. Exceptions to parking regulations for regular worship services.**

[Amended 2-3-1992 by Ord. No. 359]

Notwithstanding any other provisions of the Code of Ordinances regarding parking bans, parking shall be allowed in the immediate area of places of worship 1/2 hour before services until 1/2 hour after services on Saturday or Sunday on all City streets except for state-numbered routes where parking is prohibited, on crosswalks, in the immediate area of fire hydrants, and on streets where parking is prohibited because the width of the street will not allow fire-fighting equipment to travel over the street if vehicles were parked on same. "No parking" signs in the areas affected by this section shall be changed to reflect the above section.

### **§ 270-35.2. Handicapped parking.**

[Amended 2-17-1993 by Ord. No. 27]

It shall be unlawful to park a motor vehicle or motorcycle without a special handicapped registration plate or placard in the following listed locations, which are designated as parking areas for handicapped persons. These locations shall be identified by a sign posted adjacent to and visible from each handicapped parking space identified and listed below. Said sign shall display the international symbol for accessibility. Any vehicle or motorcycle parking in a parking space clearly marked as a handicapped parking space and which does not bear a special handicapped registration plate or placard issued under 29 M.R.S.A. §§ 252, 252-A or 252-C, as amended,<sup>[1]</sup> or a similar plate issued by another state, shall be cited for a forfeiture of not less than \$50. "Clearly marked" includes painted signs on pavement and vertical standing signs which are visible in existing weather conditions.

<sup>[1]</sup>

Editor's Note: Title 29 of the Maine Revised Statutes was repealed by L. 1983, C. 683, § a-1, effective 1-1-1995. See now 29-A M.R.S.A. §§ 521 and 523.

### **§ 270-36. Stopping on East or West Side Circle.**

[Amended 1-6-1992 by Ord. No. 244]

A.

It shall be unlawful to allow any vehicle to stop or remain parked at any time upon the East Side Circle or West Side Circle or within 100 feet from the outside curb on any exit from or any entrance to the circle for the purpose of taking on or letting off passengers or any other reason unless such stopping or parking is done in an area so designated by the placement of signs by the Police Department for such purpose.

B.

Subsection A above shall exclude any police vehicle, fire vehicle, ambulance, United States mail vehicles, public utility vehicles, or public works or emergency vehicle.

### **§ 270-37. Augusta Parking District authorized to regulate certain streets.**

The Augusta Parking District shall have the authority to regulate parking on the following streets:

A.

On-street parking.

<b>Name of Street</b>	<b>Location</b>
Bangor Street	From Cony Street to Patterson Street
Bridge Street	From Water Street to State Street
Capitol Street	From Gage Street to Florence Street
Chamberlain Street	From Western Avenue to Capitol Street
Chapel Street	From Green Street to Western Avenue
Chapel Street	From Western Avenue to Chamberlain Street
Church Street	From State Street to Flagg Street
Commercial Street	From Haymarket Square to Bridge Street
Dickman Street	
Flagg Street	From Oak Street to Church Street
Front Street Bridge	To Winthrop Street and its extension southerly
Green Street	From Hartford Fire Station to State Street
Grove Street	Same as South Grove Street
Extension	
Haymarket Square	
Melville Street	From Green Street to its termination on the south side of Western Avenue
Oak Street	From Dickman Street to State Street
Sewall Street	From Green Street to Western Avenue
State Street	From Bridge Street to Western Avenue
State Street	From Western Avenue to Glenwood Street
Water Street	From Hartford Fire Station to Bond Brook
Water Street	From Hartford Fire Station to Chandler Street to State Street
Willow Street	From Cony Street to Myrtle Street
Winthrop Street	From Front Street to State Street
Winthrop Street	South side, for a distance of 180 feet from the southeast corner of State Street and Winthrop Street westerly

B.

Off-street parking.

Parking area, Commercial Street Extension 11 Bridge Street to 128 Water Street

Parking lot at 11 Bridge Street

Parking lot at 12-16 Dickman Street

Parking lot at 348 Water Street

Parking lot at south side of Hotel Arnold 73 to 137 Water Street

Parking lot between Front Street and its southerly extension and the Kennebec River

Parking lots leased from Maine Central R.R.

**§ 270-38. Purpose in granting District authority over certain streets; meter location; maintenance responsibilities.**

A.

The franchise, right, power and easement in the areas and streets enumerated in § [270-37](#) shall be for the following purposes: to install, operate and maintain parking meters; to collect the revenue therefrom; to issue parking revenue bonds payable solely from parking fees to pay the cost of construction, installation, operation and maintenance of the parking meters and off-the-street parking lots to be used in furtherance and in connection therewith; to designate space for the parking of vehicles by lines painted or otherwise durably marked on the curb or on the surface of the street adjacent to or adjoining the parking meters; to adopt from time to time and amend rules and regulations governing the use of parking in such areas and streets, including but not limited to rules and regulations governing the use and nonuse of such areas and streets, for parking by commercial and noncommercial vehicles, buses, taxis, vehicles of doctors, and others, and the setting of fees therefor; and to do all other lawful things necessary, convenient or incidental to the foregoing rights and powers.

B.

Meters shall be placed not more than two feet from the curb nor more than five feet from the front line or side line of the adjacent parking space.

C.

It is the intention hereof that the City shall continue to be responsible for and to keep in a state of repair the streets and sidewalks along such streets, and the District shall repair and maintain the meters and their foundations and paint or mark the designated areas on the surface of such roadways and sidewalks.

**§ 270-39. School fire lanes.**

[Amended 2-20-1990 by Ord. No. 327; 1-6-1992 by Ord. No. 244]

A.

In the interest of providing proper safety services to school buildings within the City, the Fire Chief or designee, in conjunction with the Superintendent of Schools or designee, is hereby authorized to establish fire lanes at and around school buildings within the City; such fire lanes shall be clearly marked with signs indicating the existence of the fire lane and the prohibition against parking in same.

B.

Any vehicle found to be parked, standing or in any other way blocking any designated fire lane shall be in violation of this article and as such shall be subject to a fine of \$15 for each offense and, in addition, any vehicle in violation may be removed and impounded as provided for in Part 2 of this article.

**Part 2. Towing; Violations and Impoundment**

[Amended 4-14-1986 by Ord. No. 360; 11-20-1989 by Ord. No. 246; 1-6-1992 by Ord. No. 244; 8-2-1999 by Ord. No. 169]

**§ 270-40. Towing policy.**

It shall be the policy of the City of Augusta to ensure that at any time the Augusta Police Department is required to contract directly for vehicle towing services, or refer a needy citizen to

such towing services, the Police Department shall do so in an economical and equitable manner. Though sensitive to the business concerns of area towing enterprises, the City policy regarding this matter shall be influenced primarily by the need to promote public safety through a quick and efficient removal of obstructions to the public way and by a vigilant effort to prevent the general public from being victimized by unfair business practices, particularly where the City is involved as a referral agent for private tow operators. This order shall pertain to public ways, City property and property owned or authorized for policing by the Augusta Parking District and shall not be utilized for the removal of vehicles from private property of individuals.

**§ 270-41. Towing rotation.**

**A.**

The Police Department shall establish a rotation order by which tow operators will be contacted whenever a vehicle must be removed from a public way, City property, or private property as a result of a motor vehicle accident or other police action. The Police Department shall maintain a log in the communication center and upon request for a tow service, record the name of the tow operator, whether the request for tow was in rotation, vehicle owner's request, or City bid, and also record the unavailability or refusal of a tow operator to respond. The Police Department shall maintain a list of qualified tow operators, and this list shall not exceed 10 operators so that no undue administrative burden shall be placed upon the Police Department. This list shall be reviewed in January of each year to enable the Police Department to add or remove tow operators. In the event that more than 10 qualified operators apply for inclusion on the towing list, the Chief of Police shall determine, by lot, which companies shall be included for the year. Should a vehicle operator request a tow operator that is not on the police tow list, the police officer on scene will determine whether the request will be honored, taking into account the time it will take for the requested tow operator to arrive and remove the vehicle. In all circumstances, the removal of a vehicle from traffic by the quickest and most efficient means is essential.

**B.**

The Police Department shall in times of extreme emergency or disaster deviate from this towing policy rotation order when it is in the best interest of public safety to do so.

**§ 270-42. Schedule of towing, storage and publication fees.**

[Amended 10-17-2005 by Ord. No. 165]

**A.**

The schedule of charges for service calls, towing or removing vehicles and notices of such action as required by this Part 2 shall not exceed the schedule of charges which shall be set from time to time and a schedule of such charges shall include service calls day or night, tow fee day or night, motor vehicle accident tow day or night, use of which and mileage from accident scene to vehicle destination.

**B.**

Tow operators accepting City referrals under this Part 2 shall agree to charge reasonable fees that will not exceed the following per vehicle:

**(1)**

Service calls: described as providing gas, jump start, vehicle lockout, etc.

**(a)**

8:00 a.m. to 8:00 p.m.: \$50.

(b)

8:00 p.m. to 8:00 a.m.: \$60.

(2)

Tow: described as any time a vehicle needs to be towed which has become disabled, parked in violation of City ordinance or a police action has required the vehicle to be towed:

(a)

8:00 a.m. to 8:00 p.m.: \$65.

(b)

8:00 p.m. to 8:00 a.m.: \$75.

(3)

Motor vehicle accidents: described as any time a vehicle is towed from the scene of an accident involving a vehicle; tow service required to move all debris and fluids within reason.

(a)

8:00 a.m. to 8:00 p.m.: \$90.

(b)

8:00 p.m. to 8:00 a.m.: \$100.

(4)

Use of winch: described as having to winch a vehicle out of a ditch and back onto the roadway or other location, or turning over an overturned vehicle. Use of winch is not to be charged when a vehicle is winched onto a flatbed of a tow truck: \$75 per hour, to be computed in half-hour increments beyond the first hour, with the full first-hour charge due for any portion thereof.

(5)

Mileage from accident scene: described as traveling the distance from the scene of an accident to the location where the vehicle will be off-loaded from the tow truck:

(a)

From the accident scene to the offload destination: minimum charge of \$3 per mile.

(b)

If less than a mile: \$3.

(6)

Storage: location of where towed vehicle was brought awaiting retrieval by owner or other responsible party: \$25 per day, or any portion thereof, after the first 24 hours of vehicle being towed to storage lot.

### **§ 270-43. Annual bids for towing and storage charges.**

A.

The City Manager shall annually request sealed bids for towing and storage charges. Such bids shall be for the towing of municipal vehicles, vehicles in violation of snow removal operations, and any other vehicle so ordered by the Police Department caused by a police action, vehicles removed from City property or the property of the Augusta Parking District.

B.

The tow company that is awarded the annual towing bid shall establish a storage facility within the confines of the City of Augusta that will enable owners of vehicles towed to retrieve their motor vehicles during regular business hours. The storage facility location shall be recorded on

the City bid form indicating that the tow company is in compliance prior to any award of bid by the City.

C.

In the event that the tow company that has been awarded the annual towing bid is removed from the Police Department towing list for violating Article III, Part 2, Towing, Violations and Impoundment, of the Revised Code of Ordinances, the City shall award the remainder of the municipal bid time period to the tow company having submitted a reasonable bid at the time of the last bid opening.

**§ 270-44. Responsibility of party towing and storing vehicles.**

[Amended 10-17-2005 by Ord. No. 166]

A.

Parties towing vehicles and storing same in accordance with the provisions of this Part 2 shall assume full responsibility for damages to vehicles while in transit or storage. Tow operators accepting City referrals shall remove vehicle debris and fluids within reason from the public way or in any other place at traffic accident scenes as part of the removal process of the vehicle being towed. Tow operators requesting to be included on the Police Department towing rotation order shall obtain all required insurance and show proof of same on demand of the Chief of Police. Such insurance shall include but not be limited to vehicle, liability, and property insurance.

B.

Tow operators shall conduct themselves in a professional manner when engaged in contact with the public at accident scenes and other places after having been requested by the Police Department to provide a service to the public.

C.

Tow operators shall conduct themselves in such a manner as to respect all other tow operators and the right of their competitors to do business. "Jumping the call" of a competing tow operator shall be grounds for immediate removal from the towing list of the Police Department.

D.

Tow operators shall provide towing/wrecker service commercial liability insurance covering the operation of the business, equipment or other vehicles for any bodily injury or property damage. This policy shall be in the minimum amount of \$300,000 combined single limit for personal injury and property damage, or such amount as may be required by the State of Maine from time to time, whichever amount shall be greater.

E.

Road service liability coverage for the lifting, hoisting and towing of vehicles must be included in the tow operator's legal liability policy.

F.

The lapsing or cancellation of any insurance policy as required herein above shall result in immediate removal from the towing list of the Police Department.

**§ 270-45. Presumptive evidence of unlawful parking.**

Whenever in the City ordinances it is provided that it shall be unlawful for a person to park a vehicle, the fact that a vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered.

**§ 270-46. Waiver of court action; fee schedule.**

**A.**

Any person charged with a violation of any parking ordinance may waive all court action by payment of the appropriate current fine for the particular parking violations to the Police Department within five days of the offense.

**B.**

The schedule of fines for parking violations shall be set from time to time and a copy of such schedule is on file in the City Clerk's office.

**§ 270-47. Removal of vehicles in violation.**

**A.**

Any vehicle of any kind or description parked upon a public street of the City at a place, in a manner, or for a length of time prohibited by an ordinance of the City, or so as to impede the City's snow removal operations or traffic in the public street, is hereby declared to be an obstruction in such street and a menace to the safe and proper operation of traffic.

**B.**

Any vehicle parked in such a manner as described in this section may be removed by and under the direction of or at the request of the Police Department, the police supervisor in charge of any shift, the Director of Public Works or the on-duty foreman to a garage or storage place within the limits of the City and impounded therein.

**C.**

Any person named in Subsection **B** may use force as may be necessary to enter such vehicle and cause the same to be placed in a condition to be moved and shall employ the City bid tow operator or a tow operator from the police towing rotation list, whichever circumstance may be deemed appropriate for towing and storing vehicles.

**D.**

Notwithstanding any language contained herein, the removal and storage of a vehicle pursuant to this section, and the payment of the charges specified in this Part 2, shall in no way relieve or prevent prosecution for the violation of any provisions of the ordinances of the City.

**E.**

Any person named in Subsection **B** hereof is hereby authorized to perform the same duties and functions with respect to any land owned or authorized for policing by the Augusta Parking District as specified in Section 17 of the rules and regulations of the Augusta Parking District. In the event of any removal under this section or under Section 17 of the Augusta Parking District rules and regulations, the Police Department shall be immediately notified in order that the duties outlined in § [270-48](#) may be carried out.

**§ 270-48. Notification of impoundment; recovery procedure.**

**A.**

The Police Department shall make every effort to notify as promptly as possible the owner of any vehicle of its removal from the streets of the City, and as soon as possible a written notice that such vehicle has been impounded shall be sent to the owner at his/her last known address as shown by the records of the Secretary of State. If the owner is unknown, the Police Chief shall

cause to be published in the local newspaper printed in the City notice of such impoundment, giving the registration number, the vehicle identification number, the name, type, and year of such vehicle. The requirements and duties outlined in this section shall apply equally to vehicles removed from land owned or authorized for policing by the Augusta Parking District, pursuant to Section 17 of the rules and regulations of the Augusta Parking District.

**B.**

Before the owner of an impounded vehicle may remove it from the possession of the person towing or storing it, the owner shall:

**(1)**

Furnish satisfactory evidence of his/her identity and of his/her ownership of such vehicle to an employee at the Police Department and pay the established charges to the Police Department for advertising, towing, storage and the fine.

**(2)**

Be furnished a two-part receipt upon payment of such charges, part one a receipt for such payment and part two a release to be presented to the person having towed and stored the vehicle. The owner shall sign part two upon receipt of the vehicle.

**§ 270-49. Procedure for reclaiming or removing impounded vehicle must be followed.**

It shall be unlawful for a person to reclaim or remove an impounded vehicle unless the procedure established in § [270-48](#) has been followed.

**§ 270-50. Immobilization.**

Any vehicle which has accumulated four or more notices of violation of any parking regulation or regulations issued, for which there has been neither payment of waiver fees nor issuance of court process, and which is then parked in violation of any such provision may, at the option of any officer authorized to enforce the parking regulations of the City, be immobilized in place until all waiver fees established for all such outstanding notices of violation have been paid or until the requirements of § [270-51B](#) or [C](#) have been met.

**§ 270-51. Release of vehicle.**

Any person having the means to release such immobilized vehicle shall not release it until the individual requesting its release presents satisfactory evidence of his/her right to possession and signs a receipt therefor, and:

**A.**

The Police Chief or his duly authorized representative certifies that all waiver fees have been paid; or

**B.**

The Police Chief or his duly authorized representative shall certify the posting of a bond to the total of all previously accumulated waiver fees which should have been remitted for said overdue notices of violation; or

**C.**

Upon certification of the Police Chief or duly authorized representative that such person has both:

(1)

Demonstrated that he/she is unable to pay the accumulated waiver fees by reason of poverty, having provided satisfactory proof of such status; and

(2)

Accepted service of process initiating a court proceeding to determine his/her liability for the prescribed penalty for such alleged violations.

### **§ 270-52. Bond.**

Whenever any person requests the right to post bond pursuant to § 270-51, such bond shall be given in cash and a receipt given therefor. Such bond money shall be refunded in the amount of the waiver fee for each alleged violation upon acceptance by such person of service of process initiating a court proceeding to determine his/her liability for the prescribed penalty for such violation. Any bond shall be forfeited unless the person posting it requests and accepts service for such process from the Chief of Police or his designated representative within 30 days of posting unless prevented from doing so by the action or inaction of the City.

### **§ 270-53. Tampering with immobilizing device prohibited.**

It shall be unlawful for any person to tamper with or attempt to remove any immobilizing device attached to a vehicle, notwithstanding other penalty provisions contained in this Part 2. The penalty for any such violation shall be in accordance with Chapter 1, Article III, General Penalty, of the City Code.

## **ARTICLE IV. Pedestrians**

### **§ 270-54. Use of sidewalks required.**

Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

### **§ 270-55. Manner of walking along highway.**

Where sidewalks are not provided, any pedestrian walking along and upon the highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

### **§ 270-56. Right-of-way at crosswalks; sudden movement into street prohibited.**

When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

### **§ 270-57. Crossing roadway at other than crosswalks.**

Every pedestrian crossing a roadway at any point other than within a marked crosswalk shall yield the right-of-way to all vehicles upon the roadway, subject to traffic-control lights at an intersection so controlled.

### **§ 270-58. Manner of crossing roadway.**

No pedestrian shall cross a roadway by any other route than at right angles to the curb or by the shortest route to the opposite curb.

### **§ 270-59. Use of crosswalks required.**

No pedestrian shall cross the following streets other than in a marked crosswalk:

A.

Water Street.

B.

Cony Street from Kennebec River to Stone Street.

C.

Bangor Street from Cony Street to North Belfast Avenue.

### **§ 270-60. Soliciting rides at night.**

No person shall stand in a roadway during the nighttime for the purpose of soliciting a ride from the occupant of any vehicle.

## **PART IV: LAND USE**

### **Chapter 300. Land Use**

[HISTORY: Adopted by the City Council of the City of Augusta 6-3-1991 by Ord. No. 53. Amendments noted where applicable.]

#### **GENERAL REFERENCES**

Building construction — See Ch. [134](#).

Historic preservation — See Ch. [169](#).

Mining and excavations — See Ch. [198](#).

Streets and sidewalks — See Ch. [241](#).

Subdivision of Land — See Ch. [245](#).

[Attachment 1 - Appendix A, Phosphorous Allocation and Soils](#)  [Attachment 2 - Appendix B, Noise and Airport Noise Contours](#)  [Attachment 3 - Appendix C, Freshwater Wetlands Maps and Wetland Ratings](#)  [Attachment 4 - Table of Land Uses in the Base Zoning Districts](#) 

## **Part 1. GENERAL PROVISIONS**

### **§ 300-101. Introduction.**

A.

This chapter involves the consolidation of the General and Shoreland Zoning Ordinance, the Subdivision Ordinance, the Mobile Home Park Ordinance and the Flood Damage Prevention Ordinance, as well as new land use regulations that reflect the policies of the 1988 Growth Management Plan. The provisions and requirements listed in this document reflect input from the City Council, Planning Board, City staff, residents, business persons and a group of citizens who reacted to several versions of the draft prior to sending it along to the Planning Board and City Council.

B.

This chapter has attempted in several areas to give rationale to the requirements in the form of a commentary. All commentary sections are written in *ITALICS* and are not considered regulatory. However, if a question of interpretation arises, the commentary shall provide the background for the regulation.

**§ 300-102. Title.**

This chapter and the accompanying Official Zoning Map shall be known and may be cited as the "Land Use Ordinance, City of Augusta."

**§ 300-103. Purpose.**

[Amended 4-23-2001 by Ord. No. 37]

A.

The purpose of this chapter is to promote the health, safety and general welfare of the residents of the City; to encourage the most appropriate use and prevent the overcrowding of all land; to lessen danger from congestion, fire, and other elements; to provide adequate light and air; to promote good civic design and arrangement; to promote good site planning and design; to avoid undue concentration of population and to promote wholesome home environments; to improve and beautify the City; to maintain and preserve property values; to provide harmonious arrangement of residential, commercial, and industrial areas; to conserve natural resources and amenities; to provide an adequate street system; to promote the coordinated development of unbuilt areas; to encourage the formation of neighborhoods; and to provide for land areas in new developments sufficient for all the requirements of community life; and, in shoreland areas, to prevent and control water pollution; protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

B.

The purposes of this chapter are broadened to include the policies of the 1988 Growth Management Plan adopted in December of 1988. The policies promote the preservation and enhancement of districts, sites and landmarks within the City which possess particular historic or architectural significance and represent the essential characteristics of their neighborhoods and the unique legacy that defines this community; promote the educational, cultural and economic

welfare of the citizens of the City; promote commercial and industrial developments that are concentrated and discourage sprawl; promote development which minimizes energy consumption and public service costs; encourage the use of solar energy; promote the retention of critical functions and interrelationships of ecological systems; control development on slopes greater than 15%; avoid earth slumping on slopes with marine clay; minimize earthmoving and destabilization activities on soils with high erodibility; conserve prime agricultural soils and promote cluster developments; conserve sand and gravel deposits suitable for mining; seek to interconnect critical habitat; require buffers along wetlands, deer yards and streams in rural areas; control siltation; minimize air pollution; retain and/or slow down stormwater runoff on site; prevent additional phosphorous loading in ponds; control building and reconstruction in floodplains; maintain groundwater supplies; protect water quality; protect the Bond Brook aquifer; promote efficient and safe movement of vehicles to and from interchanges; discourage heavy commodities trucking through the urban compact area and residential neighborhoods; minimize environmental degradation; conserve and recycle solid waste; protect and enhance visual quality and special character; protect special views; maintain a high degree of naturalism in the landscape; unify, improve and maintain the visual integrity of the Capital District, downtown, rotaries, gateways, and approaches to the City; control building heights; maintain and improve the visual integrity of neighborhoods; maintain and enhance the physical, visual and social integrity of residential areas; create, maintain and improve pedestrianways; retain and/or develop buffers of woodland vegetation and/or berms to mitigate impacts between commercial and residential developments; create and/or maintain open space; maintain a greenbelt separating urban and rural areas; prevent light trespass.

C.

The Comprehensive Plan and this chapter shall be reviewed every five years by the Planning Board. If appropriate, revisions shall be recommended to the City Council.

**§ 300-104. Statutory authority.**

This chapter has been prepared in accordance with the provisions of Title 1, Title 12, Title 30-A and Title 38 of the Maine Revised Statutes Annotated (M.R.S.A.).

**§ 300-105. Applicability.**

This chapter applies to all uses of land and structures in the City of Augusta.

**§ 300-106. Amendments to chapter and Official Zoning Map.**

[Amended 1-21-1992 by Ord. No. 303; 12-6-1993 by Ord. No. 311; 11-5-1997 by Ord. No. 258; 3-7-2002 by Ord. No. 184]

A.

Generally. On petition, or on recommendation by the Planning Board, or on their own initiation, the City Council may amend, supplement, or repeal the regulations and provisions of this chapter and amend the boundaries of the zoning districts delineated on the Official Zoning Map.

(1)

The Department of Environmental Protection shall be notified by the City Clerk of amendments to this chapter affecting shoreland areas at least 30 days after a City Council decision. No

amendments to this chapter affecting shoreland areas shall be effective until approved by the Board of Environmental Protection (BEP). If the Board of Environmental Protection fails to act on any such amendment within 45 days of the Board's (BEP) receipt of the amendment, the amendment is automatically approved. Any application for a permit affected by shoreland regulations submitted to the City of Augusta within the forty-five-day period shall be governed by the terms of the amendment, if such amendment is approved by the Board (BEP).

(2)

Planning Board shall hold public hearing on amendments. Every proposed amendment or change, however initiated, shall be reviewed by the Planning Board for recommendation to City Council. Before making its report to the City Council on any proposed amendment to this chapter, including request for parcel reclassification, the Planning Board shall hold at least one public hearing on the proposed amendment, public notice of which shall be accomplished as outlined in Subsection B(1) of this section.

B.

Types of actions.

(1)

Parcel reclassification (rezoning). Except for rezonings initiated by the City Council or Planning Board, no application for rezoning shall be processed without the applicant first showing evidence of standing as defined in § 300-601D(3)(e), Right, title or interest. For any parcel reclassification, or text amendment, the City, at the owner's expense, shall give notice of a public hearing on the application, in the form and manner and to the persons herein specified.

(a)

The notice shall include the time and place of such hearing, the nature of the matter to be heard, and in the case of parcel reclassification, the address or location of the property involved.

(b)

Notices shall be given to each of the following:

[1]

To the applicant, City Council, Planning Board and Board of Zoning Appeals.

[2]

To all residents of the City, by publication in the Kennebec Journal twice, the first publication to be at least 14 days before the hearing and the second to be not less than three days before the hearing.

[3]

To the owners of the properties within 500 feet of the parcel or area involved if the parcel or area is located in the Urban Growth Area Districts (as outlined in § 300-314) or within 1,000 feet of the parcel or area involved if the parcel or area is located in the Planned Development and/or Rural Districts by regular United States mail. For an area rezoning, notice shall also be sent to all landowners located inside the area proposed for change. Where notice by mail is required, it shall be mailed at least 14 days and no more than 30 days in advance of the hearing date, by regular United States mail.

[4]

In addition, for a parcel reclassification, a sign provided by the City shall be placed by the applicant on the portion of the property involved that is nearest a public road. In the case of an area rezoning, up to four signs shall be placed at the boundary of the proposed zoning district change.

(c)

For the purpose of this section, the owners of property shall be considered to be the parties listed by the Assessor's Office of the City of Augusta as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the Planning Board.

(d)

Parcel reclassification may be requested by any one of the following methods:

[1]

General zoning: request to reclassify a parcel from one zoning district classification to another; no specific use is being proposed. All uses listed in the requested zoning district would be allowed upon Board recommendation and City Council approval.

[2]

Contract rezoning: requests to reclassify a parcel from one zoning district classification to another; the requested zone would be modified, upon Board recommendation and approval by the Council, to limit the use of the property to a select few of the listed uses.

[3]

Conditional rezoning: requests to reclassify a parcel from one zoning district classification to another; a specific land use is proposed. The requested zone would be modified, upon Board recommendation and Council approval, to limit the use of the property to the use requested. Note: If approved by the City Council and upon application for a building or land use permit, all reclassified parcels shall be reviewed in accordance with the process outlined within the approved zoning district.

(e)

Requests for contract or conditional rezoning shall be accompanied by a conceptual development plan for the site. Conditional use criteria shall apply.

(f)

Any parcel reclassification shall meet the following criteria:

[1]

The rezoning shall be consistent with the 1988 Growth Management Plan, any plans or policies subsequently adopted by the City;

[2]

The rezoning shall be consistent with established land use patterns;

[3]

The rezoning will not create an isolated district unrelated to adjacent districts;

[4]

Adequate utilities, roads and services must exist or must be provided;

[5]

The rezoning is justified by a changed or changing condition(s).

(g)

Approval of conditional or contract rezoning may include conditions and restrictions; such conditions and restrictions shall relate only to the physical development or operation of the property and may include deed restrictions.

(2)

Text amendments. Text amendments shall be consistent with the 1988 Growth Management Plan and any plans or policies subsequently adopted by the City. The applicable notification requests of Subsection B(1)(a) and (b) of this section shall be followed.

(3)

Area rezoning. Based upon significant public purpose, the rezoning process for an area within Augusta may be initiated by the City Council or Planning Board. The Planning Board shall conduct a zoning study on the matter and prepare recommendations on its findings in accordance with applicable parts of Subsection [B\(1\)](#) of this section.

[C.](#)

Report of Planning Board. The Planning Board shall make a report in writing to the City Council within 30 days of its public hearing, recommending approval, approval with modification or disapproval of the proposed amendment or parcel reclassification and its reasons therefor. If the Board report is not complete within 30 days, a status report shall be provided to the City Council.

[D.](#)

Vote of City Council required to amend or change ordinance.

[\(1\)](#)

No amendment to this chapter or any change in any of its provisions shall be adopted except by a majority vote of all the members of the City Council.

[\(2\)](#)

The City Council may adopt, reject or modify the recommendation of the Board. However, when a rejection or modification of the Board's recommendation is to be based on substantive or substantial new information not previously present to the Board, the City Council shall table and remand the matter to the Board for further consideration and recommendation. In making such remand, the Council may attach such recommendations, instructions or directions as it deems appropriate for the Board's consideration.

**[§ 300-107. Conflicting provisions.](#)**

This chapter shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this chapter imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this chapter shall control. Where conflicts arise within this chapter, the stricter provision or requirement shall prevail.

**[Part 2. DEFINITIONS](#)**

**[§ 300-201. General definitions.](#)**

[Amended by Ord. No. 176-07]

[A.](#)

In the interpretation and enforcement of this chapter, all words shall carry their customary dictionary meanings. For the purpose of this chapter, certain words and terms used herein are defined as follows. Words used in the present tense include the future tense; words used in the singular include the plural; and words used in the plural include the singular.

**[BUILDING](#)**

Includes the word "structure."

**[CITY](#)**

The City of Augusta.

**[LOT](#)**

Includes the words "plot" and "parcel."

## MUNICIPAL OFFICERS

The City Council.

## PERSON

Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

## SHALL

Is always mandatory; the word "may" is permissive.

## USED or OCCUPIED

As applied to any land or building, shall be construed to mean, also, "intended, arranged, or designed to be used or occupied."

## B.

The symbol "" shall be construed to mean "linear feet."

## **§ 300-202. Additional definitions.**

[Amended 1-21-1992 by Ord. No. 303; 2-17-1993 by Ord. No. 26; 6-20-1994 by Ord. No. 546; 4-23-2001 by Ord. No. 37; 5-6-2002 by Ord. No. 210; 10-7-2002 by Ord. No. 281; 8-25-2003 by Ord. No. 100; 10-16-2006 by Ord. No. 170; 2-20-2007 by Ord. No. 027; 2-20-2007 by Ord. No. 028; 6-4-2007 by Ord. No. 109; 2-5-2009 by Ord. No. 016; 6-3-2010 by Ord. No. 084A; 2-3-1011 by Ord. No. 11-019; 6-16-2011 by Ord. No. 11-71; 12-1-2011 by Ord. No. 166]

As used in this chapter, the following terms shall have the meanings indicated:

### ACCESSORY STRUCTURE OR USE

A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. Accessory uses and structures must comply with all conditions and standards for the location or use and which have been permitted by the Planning Board for the location or use. A deck or similar extension of the principal structure, or a garage attached to the principal structure by a roof or a common wall, is considered part of the principal structure. Accessory residential structures and uses include, but are not limited to, private garages with less than four vehicles; swimming pools; greenhouses operated by and for use by the family living in the residence; and satellite dishes. Accessory structures or uses also include amateur radio and citizen band radio towers exceeding 35 feet (excluding antennas) in height above the ground. Such towers less than 35 feet in height above the ground are permitted by right (no permit required).

### ADJACENT GRADE

The natural elevation of the ground surface before construction next to the proposed walls of the structure.

### ADULT BUSINESS ESTABLISHMENT

Any business otherwise permitted as a retail business or service establishment, including but not limited to any bookstore, newsstand, novelty store, nightclub, bar, cabaret, amusement arcade, or theater, of which a substantial or significant portion consists of selling, renting, leasing, exhibiting, displaying, or otherwise dealing in materials, devices, or activities of any kind which appeal to prurient interests and which depict or describe specified sexual activities, or videotapes rated X, NC-17, or classified as suitable for adults or persons 18 years of age or older, or are displayed in a portion of a facility open only to persons older than 18 years of age.

### AGGRIEVED PARTY

A person whose land or property is directly or indirectly affected by the granting or denial of a permit or variance under this chapter; or a person whose land or property abuts land or property for which a permit or variance has been granted. For the purposes of a Planning Board decision, an aggrieved party must have also participated in person, through an authorized representative, or in writing at a public hearing related to the decision being appealed.

[Amended 6-4-2007 by Ord. No. 109]

### AGRICULTURE

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; fruits and vegetables; and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.

### AQUACULTURE

The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

### AREA OF LAND IN NONCONFORMING USE

Includes building footprint, accessory structures, storage and parking areas and all areas on the property associated with the operation of the nonconforming use. "Area in nonconforming use" also includes all land area within the outer limits of the above-noted structures, storage and parking areas, including yards and setback areas. Undisturbed or natural areas on the same lot as the nonconforming use and outside the area described above shall not be used in calculating the area in nonconforming use.

### AREA OF SHALLOW FLOODING

The designated AO and AH Zone on the City's Flood Insurance Rate Map (FIRM) with a one-percent or greater annual chance of flooding to an average depth of one feet to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

### 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 Part 5, Performance Standards, of this chapter.

### AUTOMOBILE BUSINESS

Establishments primarily engaged in the sales, repair, and/or service of automobiles, mobile homes, farm machinery, motorcycles, ATVs, and similar activities, including but not limited to auto repair garages, filling stations, car washes, machinery repair, auto sales, farm machinery sales and services, house trailer sales, manufactured housing and similar activities. Retail automobile parts and supplies are not considered automobile businesses. Where specifically listed, auto sales may include auto repair; auto repair shall not include auto sales.

### AUTO REPAIR/SERVICE

Establishments primarily engaged in providing repair and replacement services for automotive vehicles, such as passenger cars, trucks, and vans, and all trailers, including the sale, installation, and servicing of equipment and parts. Establishments in this

industry group employ mechanics with specialized technical skills to diagnose and repair the mechanical and electrical systems for automotive vehicles, repair automotive interiors, and paint or repair automotive exteriors.

#### BARBER/BEAUTY SHOP

Establishments primarily engaged in one or more of the following:

##### A.

Cutting, trimming, shampooing, weaving, coloring, waving or styling hair;

##### B.

Providing facials and/or manicures/pedicures; and

##### C.

Applying makeup.

#### BASE FLOOD

The flood having a one-percent chance of being equaled or exceeded in any given year, commonly called the "one-hundred-year flood."

#### BASEMENT

Any area of a building having its floor subgrade (below ground level) on all sides.

#### BASE SITE AREA

That portion of a parcel as calculated pursuant to Part [3](#), Article [IV](#), Site Capacity Analysis, of this chapter; the extent to which a site is developable.

#### BED-AND-BREAKFAST/TOURIST HOME

A place that advertises itself as a bed-and-breakfast where the public for a fee may obtain overnight accommodations that include a sleeping room or rooms and at least one meal per day.

#### BUFFER YARD

A unit of land, together with a specified type and amount of planting thereon, and any structures such as but not limited to fences, retaining walls and berms, which may be required between land uses to eliminate or minimize conflicts.

#### BUILDING

See "structure."

#### BUILDING HEIGHT (MAXIMUM)

The vertical height from the sidewalk or finished grade at the center of the front of a building to the highest point of the roof surface, if a flat roof; to the deckline for mansard roofs; and to the mean height between eaves and ridges for gable, hip, and gambrel roofs. For purposes of applying regulations in shoreland areas, the height of a structure shall be the vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

#### BUSINESS PARK

A planned development designed and arranged for business and professional uses, uses that are accessory or that provide services to business and professional uses.

#### BUSINESS/PROFESSIONAL ASSOCIATIONS

Establishments primarily engaged in promoting the business and/or professional interests of their members and the profession as a whole. These establishments may conduct research; develop statistics; sponsor quality and certification standards; lobby public officials; or publish newsletters, books, or periodicals for distribution to their members.

#### BUSINESS/PROFESSIONAL SERVICES/OFFICES

A room or group of rooms used for conducting the affairs of a business or professional entity, not entailing the sale of goods except that which is clearly incidental. Examples of business/professional offices and services include but are not limited to doctors; dentists; consultants; engineers; realtors; insurance agents; and lawyers' offices; artist's studio.

#### CALIPER

A measurement of the size of a tree equal to the diameter of its trunk, measured six inches above natural grade for trees having calipers less than or equal to four inches diameter, and measured 12 inches above grade for tree calipers greater than four inches diameter.

#### CAMPGROUND

Any area or tract of land accommodating for a fee two or more parties in temporary living quarters, including but not limited to tents, recreational vehicles or other shelters. Considered a recreational use of land for purposes of this chapter.

#### CEMETERIES

Land used or dedicated to the burial of the dead, including crematoriums, mausoleums, necessary sales, and maintenance facilities. Mortuaries and funeral establishments shall be included when operated within the boundary of such cemetery.

#### CEO

See "Code Enforcement Officer."

#### CERTIFICATE OF OCCUPANCY AND COMPLIANCE

A document signed by the Code Enforcement Officer stating that a structure or development is in compliance with all applicable provisions of this chapter.

#### CHANNEL

See "watercourse."

#### CHILD-CARE FACILITY

See "day-care center."

#### CHURCH

A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

#### CITY ENGINEER

The City Engineer may be a regular employee of the City or a consultant to the City. The individual designated as City Engineer shall be a registered professional engineer, licensed by the State of Maine.

#### CIVIC, SOCIAL, AND FRATERNAL ORGANIZATIONS

Establishments primarily engaged in promoting the civic and social interests of their members.

#### CLUSTERED (OR PLANNED UNIT) RESIDENTIAL DEVELOPMENT

Land under unified management, planned and developed as a whole according to comprehensive and detailed plans, including streets, lots or building sites, site plans and design principles for all buildings intended to be located, constructed, used and related to each other, and for other uses and improvements on the land. Development may be a single operation or a programmed series of operations, including all lands and buildings, with provision for operation and maintenance of such areas, facilities and improvements necessary for common use by occupants of the development.

### COASTAL WETLAND

All tidal and subtidal lands; all lands below any identifiable debris line left by tidal action; all lands with vegetation present that is tolerant of saltwater and occurs primarily in a saltwater or estuarine habitat; and any swamp, marsh bog, beach, flat or other contiguous low land which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

### CODE ENFORCEMENT OFFICER (CEO)

Any person responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

### COMMERCIAL USE

The use of lands, buildings, or structures, other than a home occupation, defined herein, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units. Uses considered commercial by this chapter are found in the Standard Industrial Classification Manual under the following category headings: Retail Trade; Finance, Insurance and Real Estate Services; Wholesale Trade. All uses listed in the Table of Land Uses in the Base Zoning Districts,[\[1\]](#) except those listed under the "Residential" subsection, shall be considered commercial uses by this chapter.

### COMMUNICATIONS FACILITY

See "utility."

### COMPACT AREA

For purposes of this chapter, the "compact area" of the City of Augusta shall mean that area contained within the "Revised Urban Boundaries" shown on "Map of Compact Area, Augusta, Kennebec County, Maine," prepared by the State of Maine Department of Transportation, Bureau of Planning, in cooperation with the United States Department of Transportation, Federal Highway Commission (1975). Said map is hereby incorporated into this chapter and shall be maintained on file with the Official Zoning Map. For purposes of this chapter, except with respect to the provisions of OBDS, the compact area of the City of Augusta shall also include the Urban Growth Area designated in the 1988 Growth Management Plan.

### CONDITIONAL USE

A permitted use which may not be appropriate without restriction in a particular district, but which, in the opinion of the Planning Board, if controlled as to number, location, relation to the neighborhood, site design, operational aspects, traffic generation, impact on public facilities and implementation of performance standards, would promote the public safety, health, convenience or welfare. A conditional use shall be allowed in a district only if the regulations for that district specifically permit it, subject to the approval of the Planning Board, and only when the Board finds that such use meets all of the requirements applicable to it as specified in this chapter.

### CONFERENCE CENTER

A facility used for conferences and seminars, with accommodations for food preparation and eating, entertainment, resource facilities, and meeting rooms. The total floor area of a conference center shall not exceed 20,000 square feet.

[Added 11-20-2014 by Ord. No. 14-191]

### CONSTRUCTION SERVICES

Any of the activities commonly referred to as "construction" and shall include but not be limited to plumbing, heating, electrical, roofing, carpentry, interior remodeling, and equipment rental.

#### CONVENTION FACILITY

A building, or portion thereof, designed to accommodate 300 or more people in assembly.

[Added 11-20-2014 by Ord. No. 14-191]

#### CORRECTIONAL INSTITUTION

A publicly or privately operated facility generally designed for the confinement, correction, and rehabilitation of adult and/or juvenile offenders sentenced by a court.

#### COURT

A publicly operated facility used for the purposes of trying and sentencing individuals suspected or guilty of committing a criminal offense or for hearing and deciding on civil disputes.

#### CUSTOMARILY

More often than an average of one calendar week during any calendar month of operation.

#### DAY-CARE CENTER

A facility licensed by the state primarily engaged in providing nonresidential social assistance, including care, supervision, and protection, during daytime hours to more than 12 children or adults who are not all related to each other by blood or marriage and who are not legal wards or foster children of the care providers, and which is not being used as a residence by the care providers. Services may include child day care, nonmedical home care or homemaker services, social activities, group support, and companionship.

#### DAY-CARE HOME

A residence in which care is given during daytime hours to no more than 12 persons of various ages and which may or may not be licensed according to the state's criteria. This use differs from a day-care center in that it is conducted by persons who are living in the home at which the day care is being provided. Day-care homes must also meet the standards for home occupations.

#### DBH/DIAMETER AT BREAST HEIGHT

A measurement of the size of a tree equal to the diameter of its trunk measured 4.5 feet above natural grade.

#### DENSELY DEVELOPED AREA

Any commercial, industrial or compact residential area of 10 or more acres with an existing density of at least one principal structure per two acres.

#### DEVELOPMENT

Any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

#### A.

#### MAJOR DEVELOPMENT

Any multifamily or nonresidential development project that:

[\(1\)](#)

Creates more than 25,000 square feet of new floor space in the CD or IA Zones; or

[\(2\)](#)

Creates more than 10,000 square feet of new floor area in zones not listed in Subsection [A\(1\)](#) above; or

[\(3\)](#)

Disturbs more than 43,560 square feet of land; or

[\(4\)](#)

Creates more than 43,560 square feet of new impervious surface; or

[\(5\)](#)

New construction that generates more than 100 trips in the peak hour for the proposed use; or

[\(6\)](#)

Proposes a new wireless communications facility that will require construction of a new tower; or

[\(7\)](#)

Proposes the construction, erection, or placement of a fixed, portable or temporary bituminous mix plant or ready mix concrete plant.

[B.](#)

#### MINOR DEVELOPMENT

Any multifamily or nonresidential development project that:

[\(1\)](#)

Creates between 5,000 and 25,000 square feet of new floor area in the CD and IA Zones; or

or

[\(2\)](#)

Creates between 1,000 and 10,000 square feet of new floor area in zones not listed in Subsection [B\(1\)](#) above; or

[\(3\)](#)

That disturbs between 10,000 and 43,560 square feet of land; or

[\(4\)](#)

Creates between 10,000 and 43,560 square feet of new impervious surface; or

[\(5\)](#)

Creates four or more residential units in a preexisting single-family, duplex or multifamily structure; or

[\(6\)](#)

New construction that generates between 35 and 99 trips in all zoning districts, except CD and IA, in the peak hour for the proposed use; or

[\(7\)](#)

Any change of use where the proposed use requires 25% more on-site parking, as calculated using the parking requirements in this chapter, than the applicant proposes to make available on site; or

[\(8\)](#)

Proposes co-location of a wireless communications facility on an existing tower that will require construction of a new equipment shed; or

[\(9\)](#)

All uses proposing to construct a drive-through service or vehicle refueling pumps that do not otherwise qualify for major or minor development review.

C.

OTHER DEVELOPMENT

Requiring a permit from the CEO if listed as a permitted use or requiring a permit from the Planning Board if listed as a conditional use.

DIMENSIONAL REQUIREMENTS

Numerical standards relating to spatial relationships, including but not limited to setback, lot area, frontage, height, floor area and impervious surface factors and ratios and open space ratios.

DIRECT LIGHT

Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens of a luminaire.

DISCHARGE

The outflow of water, silt or other mobile substances passing along a conduit, watercourse, or a channel or released from detention storage.

DISCONTINUANCE OF NONCONFORMING USE

Complete cessation or abandonment of a use evidenced by removal of all advertising signs, or removal of all contents of the structure necessary to conduct the business, or allowing the building to become dilapidated or by changing to a conforming use.

DRAINAGE

The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during or after development and includes the means necessary for water supply preservation or for prevention or alleviation of flooding.

DRAINAGEWAY

See "watercourse."

DRIVEWAY

A paved or unpaved area used for ingress and egress of vehicles from a street or road right-of-way to buildings or other structures or facilities on a lot. When said distance of driveway between the street right-of-way and structures/facilities is longer than 100 feet in length, it shall meet the minimum requirements identified in the Augusta Technical Standards Handbook for an emergency access lane. A shared driveway for up to two adjacent lots shall be allowed if there is a recorded driveway easement that runs with the land and if each lot has the minimum required lot frontage on a street/road right-of-way. The easement must describe the maintenance and repair responsibilities of each party. A shared driveway shall meet the minimum requirements of § 5.4 of Augusta's Technical Standards Handbook.

DWELLING, MULTIFAMILY

A residential structure containing three or more dwelling units.

DWELLING, ONE-FAMILY

A residential structure containing one dwelling unit.

DWELLING, TWO-FAMILY

A residential structure containing two dwelling units.

DWELLING UNIT

A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family.

#### EARTH, EARTH REMOVAL

Includes topsoil (loam), sand, gravel, and clay taken from the land. "Earth removal" shall mean the extraction of topsoil, sand, gravel, and clay from the earth. See "development," "earth filling" and "mineral extraction."

#### EDUCATIONAL SERVICES

Use of land or a building or buildings for the establishment and maintenance of a public or private college, secondary or elementary school or other educational institution that is designed, constructed, or used for education or instruction of persons in any branch of knowledge.

#### ELEVATED BUILDING

A nonbasement building or structure:

##### A.

Built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, posts, piers, or stilts; and

##### B.

Adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls less than three feet in height with openings sufficient to facilitate the unimpeded movement of floodwaters.

#### ELEVATION CERTIFICATE

An official form (FEMA Form 81-31, 05/90, as amended) that is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program and is required as a condition for purchasing flood insurance.

#### EMERGENCY OPERATIONS

Emergency operations shall include operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

#### EROSION

The detachment and movement of soil, organic matter or rock fragments by water, wind, ice or gravity.

#### ESSENTIAL SERVICES

The construction, alteration or maintenance of gas, electrical or communications facilities; steam, fuel, telephone, electric power or water transmission or distribution lines, towers and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. For the purposes of this chapter, such systems do not include poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, nor do such systems include service drops or buildings which are necessary for the furnishing of such services.

#### 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, patios, porches and greenhouses. Expansion of a structure shall not include construction of stairways, fire escapes or other changes as mandated by federal, state or local building or safety codes.

#### EXPANSION OF USE

The addition of weeks or months to a use's operating season; additional hours of operation; or the use or addition of more floor area or ground area devoted to a particular use. See § [300-309](#) providing for modifications to nonconforming uses.

#### FAMILY

One or more persons occupying a premises and living as a single housekeeping unit.

#### FARM STAND

A structure for the display and sale of farm products primarily grown on the property upon which the stand is located; may also involve the accessory sales of other unprocessed foodstuffs, home-processed food products, and homemade handicrafts.

#### FILLING STATION

Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels, and including as an accessory use the retail sale and installation of lubricants, tires, batteries, and similar vehicle accessories. A filling station is not a repair garage or a body shop. See "automobile business."

#### FINANCE, INSURANCE, AND REAL ESTATE SERVICES

Establishments such as banks and financial institutions, credit agencies, investment companies, brokers of and dealers in securities and commodities, security and commodity exchanges, insurance agents, lessors, lessees, buyers, sellers, agents, and developers of real estate.

#### FIXTURE

The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

#### FLAG LOT

See "lot, flag."

#### FLOOD ELEVATION STUDY

An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

#### FLOOD INSURANCE RATE MAP (FIRM)

An official map of a community, on which the Administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.

#### FLOOD or FLOODING

##### A.

A general and temporary condition of partial or complete inundation of normally dry land areas from:

##### (1)

The overflow of inland or tidal waters.

##### (2)

The unusual and rapid accumulation or runoff of surface waters from any source.

##### B.

The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection [A\(1\)](#) of this definition.

#### [FLOODPLAIN MANAGEMENT](#)

The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood-control works, and floodplain management regulations.

#### [FLOODPLAIN OR FLOOD-PRONE AREA](#)

Any land area susceptible to being inundated by water from any source. (See definition of "flood or flooding.")

#### [FLOODPROOFING](#)

Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

#### [FLOODWAY](#)

See "regulatory floodway."

#### [FLOOR AREA](#)

The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

#### [FLOOR AREA FACTOR](#)

A ratio derived by dividing the total floor area by the net buildable site area.

#### [FLOORING SHOWROOM](#)

A retail business establishment where flooring materials are exhibited for sale or where samples are displayed.

#### [FOREST MANAGEMENT ACTIVITIES](#)

Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

#### [FOUNDATION](#)

The supporting substructure of a building or other structure, including but not limited to basements, slabs, sills, posts or frost walls.

#### [FREEBOARD](#)

A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect or urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

#### [FREQUENTLY FLOODED](#)

See "hydric soils." Flooding likely to occur often under usual weather conditions; more than a fifty-percent chance of flooding in any year or more than 50 times in 100 years.

#### [FUEL WOOD PRODUCTION](#)

The mechanized processing of wood into any length less than tree length, not accessory to a timber harvest, when not burned or consumed on site.

[Added 1-17-2013 by Ord. No. 13-008]

#### FUNCTIONALLY/WATER-DEPENDENT USES

With respect to § [300-508](#), Flood damage prevention standards, "functionally dependent use" means a principal use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. With respect to shoreland zoning regulations, § [300-316.1](#), "functionally water-dependent uses" are those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include but are not limited to commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, industrial uses dependent upon waterborne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal waters.

#### FUNERAL HOME

A building used for the preparation of the deceased for burial and display and rituals connected therewith before burial or cremation. A funeral home, as defined for purposes of this chapter, includes a funeral chapel.

#### GARAGE, PRIVATE

An accessory residential building, or part of a principal residential building, including a carport, used primarily for the storage of motor vehicles.

#### GARDEN CENTER

An enterprise where plants either imported or grown on the site are sold, at retail and wholesale, as well as accessory items directly related to the planting, harvesting, maintenance and care of plant life, including plants, shrubs, trees, packaged fertilizers, soils, chemicals, garden tools, gifts, and other nursery goods and similar accessory and ancillary products in small quantities. This activity includes greenhouses. This activity does not include the sale, either retail or wholesale, of power equipment, such as gas or electric lawnmowers and farm implements, or of gravel.

#### GENERAL SURFACE WATER RESOURCE AREAS

Areas along all brooks, streams, wetlands and natural drainageways not protected by M.R.S.A. Title 38 but considered to have value in their natural state for the maintenance of biotic systems and in their capacity to carry stormwater.

#### GFA

See "gross floor area."

#### GLARE

Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

#### GOVERNMENT OFFICES

A room or group of rooms used for conducting the affairs of a government entity, not entailing the sale of goods except that which is clearly incidental.

#### GOVERNMENT SERVICES

For the purposes of this chapter, "government services" shall include the functions performed by the various government agencies in the City. Government services shall include but not be limited to the following: capitol, administration, courts, jails, public safety (police, fire and emergency/rescue), public schools, postal services, public works and municipal utilities.

#### GOVERNMENT USES

Any building, site, or use owned, operated, or facilitated by any governmental entity or agency.

#### GREAT POND

Any inland body of water which in a natural state has a surface area in excess of 10 acres, and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres, except, for the purposes of this chapter, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

#### GREAT POND CLASSIFIED GPA

Any great pond classified GPA, pursuant to 38 M.R.S.A. § 465-A. This classification includes some, but not all, impoundments of rivers that are defined as "great ponds."

#### GREENHOUSE

A building used for the cultivation of plants whose roof and sides are made largely of glass or other transparent or translucent material.

#### GROSS FLOOR AREA

The sum of the gross area of the several floors of a building or buildings measured from the exterior faces of exterior walls or from the center lines of walls separating two buildings.

##### A.

In particular, floor area generally includes:

##### (1)

Basement space, except as specifically excluded.

##### (2)

Elevator shafts or stairwells at each floor.

##### (3)

Floor spaces in penthouses.

##### (4)

Attic space (whether or not a floor has been laid) providing structural headroom of seven feet, six inches, or more.

##### (5)

Floor space in interior balconies or mezzanines.

##### (6)

Any other floor space used for dwelling purposes, no matter where located within a building.

##### (7)

Floor space in accessory buildings, except for floor space used for accessory off-street parking.

(8)

Any other floor space not specifically excluded.

B.

However, the gross floor area of a building shall not include:

(1)

Cellar space, except that cellar space used for retailing shall be included for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.

(2)

Elevator or stair bulkheads, accessory water tanks, or cooling towers.

(3)

Uncovered steps.

(4)

Attic space (whether or not a floor actually has been laid) providing structural headroom of seven feet, six inches.

(5)

Floor space used for mechanical equipment.

#### GROUP HOMES

A residential care facility licensed by the State of Maine, wherein persons not legally related to the operator are provided personal care, supervision and social or rehabilitative services. The facility serves as a substitute for the residents' own homes, furnishing facilities and comforts normally found in a home but providing, in addition, such service, equipment, and safety features as are required for safe and adequate care of the residents. "Group home" includes community living uses, as defined in 30 M.R.S.A. § 4962-A,[2] but does not include foster family homes or nursing homes.

#### HABITAT, SIGNIFICANT WILDLIFE

Areas designated by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. §§ 480-A through 480-S, and described in § 300-316.1C(1) of this chapter.

#### HEAVY EQUIPMENT REPAIR

Establishments primarily engaged in the repair and maintenance of commercial and industrial machinery and equipment. May include the rental, but not sales, of heavy equipment.

#### HEIGHT OF A STRUCTURE

See "building height (maximum)."

#### HISTORICAL SOCIETY

A nonprofit membership organization dedicated to the preservation of historical documents, materials, and artifacts and promoting an increased awareness of these items. Such organizations often make historical documents, materials, and artifacts available to the wider public by providing research opportunities, museums and display areas, interpretive programs, lecture series at their site, and other accessory uses, sometimes for a fee.

#### HISTORIC STRUCTURE

Any structure that is:

A.

Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

B.

Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

C.

Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

D.

Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1)

By an approved state program as determined by the Secretary of the Interior; or

(2)

Directly by the Secretary of the Interior in states without approved programs.

#### HOME OCCUPATION

An occupation or profession which is carried on in a residential dwelling unit or structure accessory to the dwelling unit which:

A.

Is clearly incidental to and compatible with the use of the dwelling for residential purposes;

B.

Occupies no more than 30% of the floor area of all structures on the property;

C.

Does not change the outside appearance of the residential dwelling unit or premises;

D.

Is conducted entirely within the dwelling unit or accessory structure; and

E.

Employs no more than two persons other than family members residing in the home.

#### HOSPITALS

Institutions, licensed by the State Department of Health, providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including as an integral part of the institution related facilities such as laboratories, outpatient facilities, or training facilities.

#### HOTEL (MOTEL, MOTOR LODGE, TOURIST COURT)

A building or group of buildings in which more than 16 rooms are used to offer transient lodging accommodations to the general public and which may include additional facilities and services, such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities.

#### HYDRIC SOIL CRITERION

A.

All histosols except folists; or

B.

Soils in aquic suborders, aquic subgroups, albolls suborder, salorthids great group, or pell great groups of vertisols that are:

(1)

Somewhat poorly drained and have water table less than 0.5 foot from the surface for a significant period (usually a week or more) during the growing season; or

(2)

Poorly drained or very poorly drained and have either:

(a)

Water table at less than one foot from the surface for a significant period (usually a week or more) during the growing season if permeability is equal to or greater than six inches/hour in all layers within 20 inches; or

(b)

Water table at less than 1.5 feet from the surface for significant period (usually a week or more) during the growing season if permeability is less than six inches/hour in any layer within 20 inches; or

C.

Soils that are ponded for long duration or very long duration during the growing season; or

D.

Soils that are frequently flooded for long duration or very long duration during the growing season.

Source: The National Technical Committee for Hydric Soils (USDA Soil Conservation Service, [3] 1987).

### HYDRIC SOILS

Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part (USDA Soil Conservation Service, 1987). In general, hydric soils are flooded, ponded, or saturated for usually one week or more during the period when soil temperatures are above biologic zero 41° F., as defined by "Soil Taxonomy" (U.S.D.A. Soil Survey Staff, 1975). These soils usually support hydrophytic vegetation.

### IESNA

Illuminating Engineering Society of North America, an internationally recognized authority on lighting design. Publishers of RP-33-99.

### IMPERVIOUS SURFACE

Any hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to building roofs, paved or graveled parking and driveway areas, sidewalks and paved recreational facilities.

### IMPERVIOUS SURFACE RATIO

A measure of the intensity of land use which is determined by dividing the total area of all impervious surfaces on a site by lot area.

### IMPROVEMENT TO A STRUCTURE

Internal modification, including alterations and renovations, and window replacement, as well as minor exterior modifications necessary for health and safety such as but not limited to fire escapes and means of egress. Reroofing and placement of siding is not considered improvement to a structure.

### INDIVIDUAL PRIVATE CAMPSITE

An area of land which is not associated with a commercial campground, but which is used for repeated camping by only one group not to exceed 10 individuals and which involves site improvements which may include but not be limited to gravel pads, parking areas, fire places, or tent platforms.

#### INDUSTRIAL USES

Those establishments which create new (or altered) products from raw materials or other product through various processes for ultimate distribution and sale. The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals. See "manufacturing (heavy)" and "manufacturing (light)."

#### INSTITUTIONAL USES

For the purposes of this chapter, or unless otherwise specified, institutional uses include public and private schools, nursing homes, religious activities and associated uses and funeral homes.

#### INTERMITTENT STREAM

See "stream."

#### JUNKYARD

See "waste facility, Class 2." A junkyard shall be considered and reviewed as a Class II waste facility and shall include the following:

##### A.

#### AUTOMOBILE OR MOTOR VEHICLE WRECKING YARD, JUNKYARD OR GRAVEYARD

An open outside area occupied by three or more unregistered, unserviceable, discarded or junked automotive vehicles or bodies, engines or their parts, sufficient in bulk to equal three vehicles, and including the commercial salvaging of any other goods, articles or merchandise. "Junkyard" does not include tire storage or operations associated with tire storage such as shredding and processing. (See "waste facility.")

##### B.

#### JUNKYARD OR AUTOMOBILE GRAVEYARD

An open outside area used for the storage, keeping, sorting, processing, baling or abandonment of junk, including but not limited to scrap metals or other materials such as paper, rags, bottles, machinery or parts thereof. "Junkyard" differs from "recycling center" in that recycling operations are wholly contained indoors.

#### LAND LEASE COMMUNITY

See "manufactured housing park."

#### LAUNDRY SERVICES

Establishments primarily engaged in one or more of the following:

##### A.

Providing dry-cleaning services;

##### B.

Providing laundering services, including self-service coin-operated machines for use on the premises;

##### C.

Providing dropoff and pickup sites for laundries and/or dry cleaners; and

##### D.

Providing specialty cleaning services for specific types of garments and other textile items (except carpets and upholstery), such as fur, leather, or suede garments; wedding gowns; hats; draperies; and pillows.

#### LICENSED PLUMBING INSPECTOR (LPI)

An individual licensed by the State of Maine Department of Human Services to review and inspect requests for internal and external plumbing permits.

#### LIGHT MANUFACTURING

See "manufacturing (light)."

#### LIGHT TRESPASS

The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

#### LOADING SPACE, OFF-STREET

Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included in off-street parking space in the computation of required off-street parking space.

#### LOCALLY ESTABLISHED DATUM

For purposes of this chapter, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where mean sea level data is too far from a specific site to be practically used.

#### LOT

For purposes of this chapter, a lot is a registered or recorded parcel of land of at least sufficient size to meet minimum zoning requirements for use and dimensions and to provide such yards and other open spaces as are herein required. For the purposes of this chapter, an easement shall not be considered a lot.

#### LOT AREA

The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

#### LOT, FLAG

A back lot or parcel which meets special area requirements of the zone in which it exists, has no less than 40 feet of frontage on a public road which provides access designed in accordance with § [300-505](#), Driveway and access standards. See § [300-507](#), Flag lot standards.

#### LOT LINES

##### A.

##### FRONT

The line separating any lot from a street or streets.

##### B.

##### REAR

A lot line which is opposite and most distant from the front lot line; in the case of a triangular or irregular lot, a line 10 feet long within the lot, parallel to and farthest from the front lot line.

##### C.

##### SIDE

Any lot line not a front or rear lot line.

## LOT MEASUREMENTS

A.

### LOT FRONTAGE

The fee simple or leasehold boundary line of a lot which extends along a recorded or recordable street/road right-of-way which meets the minimum width requirements for the intended use on said lot. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "yards" in this section. Double frontage lots may consider all front footage in determining minimum frontage requirements.

B.

### LOT, DOUBLE FRONTAGE

A lot abutting two parallel streets, or abutting two intersecting streets at points removed from their juncture.

C.

### LOT DEPTH

The distance between the midpoint of straight lines connecting the foremost points of the side lot line in front and the rearmost points of the side lot lines in the rear.

D.

### LOT WIDTH

The distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard. For purposes of applying shoreland regulations, minimum lot width shall be considered to be the closest distance between the side lot lines of a lot.

## LOT OF RECORD

Land designated as a separate and distinct parcel in a legally recorded deed and plan filed in the Kennebec County Registry of Deeds.

## LOWEST FLOOR

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements found in Part 5, Performance Standards, of this chapter.

## LPI

Licensed plumbing inspector.

## LUMEN

A unit of luminous flux. One footcandle is one lumen per square foot. For the purposes of this chapter, the lumen output values shall be the initial lumen output ratings of a lamp.

## LUMINAIRE

This is a complete lighting system, and includes a lamp or lamps and a fixture.

## MAINE EROSION AND SEDIMENTATION CONTROL HANDBOOK FOR CONSTRUCTION

The handbook developed and published by the Department of Environmental Protection, first draft dated April 15, 1990, and titled "Urban BMPs." The handbook is intended to

replace the Environmental Quality Handbook prepared by the Maine Soil and Water Conservation Commission.

#### MANUFACTURED HOME

See "manufactured housing."

#### MANUFACTURED HOUSING

A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported by the use of its own chassis or an independent chassis to a building site. The term includes any type of building which is constructed at a manufacturing facility and then transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this chapter, two types of manufactured housing are included. Those two types are:

##### A.

Those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which, in the traveling mode, are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air-conditioning and electrical systems contained in the unit;

##### (1)

This term also includes any structure which meets all the requirements of this paragraph, except the size requirements, and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standard established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, § 5401 et seq.; and

##### B.

Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with Title 10, Chapter 951, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.

##### C.

For purposes of flood damage prevention standards, the term "manufactured housing" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

#### MANUFACTURED HOUSING PARK/LAND LEASE COMMUNITY

For purposes of flood damage prevention rules and regulations, a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

#### MANUFACTURING (HEAVY)

Heavy manufacturing shall include industrial uses, including assembly, fabrication, processing, packaging, storage, distribution, or other industrial processing of products, in which manufacturing processes are conducted indoors or out of doors and in which external evidence of the manufacturing process is detectable out of doors, and shall

include any establishment or facility using large unscreened outdoor structures that cannot be integrated into the building design, or engaging in large-scale outdoor storage. Heavy manufacturing, for the purposes of this chapter, includes but is not limited to wood fiber products manufacturing; chemical manufacturing; textile mills; steel fabrication; manufactured housing manufacturing; roof truss manufacturing; sawmills, turneries and fuel wood production; dairies; grain mills; seafood products production; and beverage manufacturing.

#### MANUFACTURING (LIGHT)

Light manufacturing shall include industrial uses, including manufacturing, assembly, fabrication, processing, packaging, storage, distribution, or other processing of products, in which manufacturing processes are wholly contained within a building and which exhibit no external evidence of a manufacturing process such as but not limited to noise, odor, vibration, dust, smoke, cinders, or fumes.

#### MARINA

A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service facilities.

#### MARKET VALUE

The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

#### MEAN SEA LEVEL

For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on Augusta's Flood Insurance Rate Map are referenced.

#### MEDICAL CLINIC

A facility operated by two or more licensed practitioners of the healing arts providing medical, psychiatric, or surgical service for sick or injured persons or for the examination, diagnosis, health maintenance, and treatment of persons solely on an outpatient basis.

#### MEDICAL GUESTHOUSE

A facility exclusively used by patients and their families visiting Augusta to access services at the Alford Center for Health and the Alford Center for Cancer Care.

[Added 2-6-2014 by Ord. No. 14-017]

#### MEDICAL MARIJUANA GROW-ONLY FACILITY

A facility that engages only in the growing and processing of medical marijuana in accordance with state law, but does not dispense marijuana. Processing of medical marijuana may include, but is not limited to, the preparation of tinctures, ointments, and food products containing medical marijuana.

#### MH and MHP

As used in this chapter, "MH" is equivalent to "mobile home" or "manufactured housing"; "MHP" is equivalent to "mobile home park" and "manufactured housing park."

#### MINERAL EXPLORATION

Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

#### MINERAL EXTRACTION ACTIVITY

Any operation where soil, topsoil, loam, sand, gravel, clay, rock, peat, or other mined material is removed from its natural location or where it is handled. All of the land area disturbed or otherwise developed for the extraction, removal, handling, processing, or storage of sand, gravel, clay, minerals, stone, rock, or topsoil, including any access roads and cleared areas adjacent to a pit or excavated area, structures, office building, parking lots and stockpiles, is considered to be a part of the mineral extraction site or area.

Accessory uses may be conducted at a mineral extraction activity site.

#### MINIMUM LOT WIDTH

See "lot measurements": "lot width."

#### MINOR FLOODPLAIN DEVELOPMENT

All development that is not new floodplain construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes but is not limited to accessory structures as provided for in this chapter, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures, and nonstructural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

#### MOBILE HOME

See "manufactured housing."

#### MOBILE HOME PARK

A parcel of land under unified ownership approved by the municipality for the placement of three or more units of manufactured housing.

#### MODULAR HOME

See "manufactured housing."

#### MULTIPLE-FAMILY DWELLING

A residential structure containing three or more residential dwelling units.

#### MUNICIPAL OR PUBLIC UTILITIES AND COMMUNICATIONS FACILITIES

The use of land for public utility purposes by an entity providing pipeline, gas, electrical, telephone, telegraph, water, or sewage service. "Public utility" also includes the use of land for utility purposes, whether or not owned, controlled, or operated by a public entity, whose services are performed for or commodities delivered to the public or any portion thereof. Facilities that provide for the transmission, transfer, and distribution of telephone service and related activities that are not a minor or major utility facility. For the purposes of this chapter, a municipal or public utility or communications facility includes, but is not limited to, the following: a private telephone company or paging service, any utility regulated by the Maine Public Utilities Commission, and any other commercial communications tower.

#### A.

#### MAJOR MUNICIPAL OR PUBLIC UTILITIES/COMMUNICATIONS FACILITIES

Any public service improvement or structure developed by or for a public agency that is not defined as a "minor public facility," including but not limited to water, sanitary treatment plants, electric transmission lines and electric generation plants.

B.

MINOR MUNICIPAL OR PUBLIC UTILITIES/COMMUNICATIONS FACILITIES

Any public service improvement or structure developed by or for a public agency that is not defined as a "major public utility or communications facility," including but not limited to pumping and pressure control stations, standpipes, reservoirs, wells and other water storage structures, telephone equipment huts (over 200 square feet) and electricity regulating substations.

C.

WIRELESS MUNICIPAL OR PUBLIC UTILITIES/COMMUNICATIONS FACILITIES

Any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phones services, specialized mobile radio communications (SMR), common-carrier wireless exchange phone services, and personal communications services (PCS) or pager services.

MUSEUM

A nonprofit, permanent institution in the service of society and its development, open to the public, which acquires, conserves, researches, communicates and exhibits the tangible and intangible heritage of humanity and its environment for the purposes of education, study and enjoyment.

[Added 5-7-2015 by Ord. No. 15-070]

NEIGHBORHOOD GROCERY/VARIETY STORE

A small convenience retail establishment which does not include gasoline refueling facilities. See "convenience retail."

NET BUILDABLE SITE AREA

The calculated area of the buildable portion of a lot after deducting minimum required open space for residential projects, or required floor area factor for nonresidential projects, from the base site area.

NEW CONSTRUCTION

Structures for which the start of construction commenced on or after the effective date of the floodplain management regulations adopted by the City of Augusta in July of 1987.

NEW FLOODPLAIN CONSTRUCTION

Structures for which the start of floodplain construction commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

NEW STRUCTURE OR STRUCTURES

Any structure for which construction begins on or after September 23, 1988, and including any subsequent improvements to such structures. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of applying subdivision regulations. See "subdivision."

NGVD

The National Geodetic Vertical Datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). See "mean sea level."

### NONCONFORMING BUILDING OR STRUCTURE

A structure which does not meet any one or more of the following dimensional requirements: setback, floor area ratio, height, or lot coverage, but which is allowed to remain solely because it was in lawful existence at the time this chapter or subsequent amendments took effect.

### NONCONFORMING LOT

A single lot of record which, at the effective date of adoption or amendment of this chapter, does not meet the area, frontage, width, depth, or impervious surface requirements of the district in which it is located.

### NONCONFORMING USE

Use of buildings, structures, premises, land or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this chapter or subsequent amendments took effect.

### NORMAL HIGH-WATER MARK (LINE)

That line which is apparent from visible markings or changes in the character of soils due to prolonged action of the water or changes in vegetation and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water.

### NORTH AMERICAN VERTICAL DATUM (NAVD)

The national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

### NURSERY SCHOOL/PRESCHOOL

A school for children who are ineligible to attend kindergarten classes as offered by either the public or private school systems in the City. For the purposes of this chapter, a nursery school shall be viewed as a day-care center.

### NURSING HOME (CONVALESCENT HOME, REST HOME)

A facility which is operated in connection with a hospital, or in which nursing care and medical services are prescribed by or performed under the general direction of persons licensed to practice medicine or surgery in the state, for the accommodation of convalescent or other persons who are not acutely ill and not in need of hospital care, but who do require skilled nursing care and related medical services. The term "nursing home" or "nursing facility" is restricted to those facilities, the purpose of which is to provide skilled nursing care and related medical services for a period of not less than 24 hours per day to individuals admitted because of illness, disease or physical or mental infirmity and which provides a community service.

### ONE-HUNDRED-YEAR FLOOD

See "base flood."

### OPEN SPACE

Land used for recreation, resource protection, amenity and/or buffers. In no event shall any area of a lot constituting the minimum lot area of said lot nor any part of any existing or future road or right-of-way be counted as constituting open space.

### OPEN SPACE RATIO

A ratio derived by dividing open space by the base site area.

### OUTDOOR LIGHTING

The nighttime illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

### PARK

A natural or landscaped area, buildings, or structures provided to meet the active or passive recreational needs of people and for the preservation and exhibition of natural areas or settings. Examples include but are not limited to wildlife sanctuaries, conservation areas, nature centers or preserves.

#### A.

#### PUBLIC

A park provided by a unit of government.

#### B.

#### PRIVATE

A park provided by a private entity.

### PARKING LOT

A parcel or area of land designed for the parking of motor vehicles.

### PARKING SPACE, OFF-STREET

A space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.

### PERMANENT FOUNDATION

Any of the following:

#### A.

A full, poured concrete or masonry foundation;

#### B.

A poured concrete frost wall or a mortared masonry frost wall, with or without a concrete floor;

#### C.

A reinforced, floating concrete pad for which the City of Augusta may require an engineer's certification if it is to be placed on soil with high frost susceptibility; or

#### D.

Any foundation which, pursuant to the Building Code for the City of Augusta, is permitted for other types of single-family dwellings.

### PERMITTEE

Any person, firm, or corporation receiving a permit from the City of Augusta.

### PERSON

An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

### PERSONAL SERVICES

Establishments primarily engaged in providing individual services but not goods involving the care of a person or his or her personal goods and apparel. Examples include but are not limited to salons/spas, massage facilities, tailor shops and clothing rental services, and other services, unless the use is defined elsewhere in this chapter.

### PHARMACY

A place where drugs and medicines are prepared and dispensed. Nonprescription medicines, personal care items, cosmetics, food supplements, medical care devices, and nonmedical supplies may also be sold. A pharmacy may include the sale of convenience retail items, not including gasoline.

PIERS, DOCKS, WHARFS, BRIDGES AND OTHER STRUCTURES AND USES  
EXTENDING OVER OR BEYOND THE NORMAL HIGH-WATER LINE WITHIN A  
WETLAND

A.  
TEMPORARY

Structures which remain in the water for less than seven months in any period of 12 consecutive months.

B.  
PERMANENT

Structures which remain in the water for seven months or more in any period of 12 consecutive months.

PLANNED UNIT DEVELOPMENT

A development in which clustering of units or uses permits better land use practices to be employed. See "clustered residential development."

PREMISES

Land with or without the buildings and structures thereon.

PRINCIPAL BUILDING/STRUCTURE

The building or structure occupied by the chief or principal use on the premises.

PRINCIPAL USE

The primary use to which the premises are devoted and the main purpose for which the premises exist.

PUBLIC FACILITY

Any facility, including but not limited to buildings, property, recreation areas, and roads, which is owned, leased or otherwise operated or funded by a governmental body or public nonprofit entity.

PUBLIC SAFETY SERVICES

Facilities operated by public agencies to provide services relating to the general health, safety, and welfare of the population, including but not limited to fire stations and other fire prevention and firefighting facilities; police and sheriff substations and headquarters, including interim incarceration facilities; and emergency response services.

PUBLIC UTILITY

See "municipal or public utilities and communications facilities."

REAL ESTATE OFFICES

Establishments primarily engaged in acting as agents and/or brokers in one or more of the following: selling real estate for others; buying real estate for others; and renting real estate for others.

RECENT FLOODPLAIN SOILS

The following soil series as described and identified by the National Cooperative Soil Survey: Alluvial, Cornish, Charles, Fryeburg, Hadley, Limerick, Lovewell, Medomak, Ondawa, Podunk, Rumney, Saco, Suncook, Sunday, Winooski.

RECREATIONAL AREA/FACILITY

A place designed and equipped for the conduct of indoor and/or outdoor sports, leisure-time activities, and other customary and usual recreational activities, excluding boat launching facilities.

A.

PRIVATE

A recreation facility operated by a private organization and open only to members and guests.

B.

PUBLIC

A recreation facility operated by a public organization and open to the general public.

RECREATIONAL VEHICLE

A vehicle or an attachment to a vehicle built on a single chassis; 400 square feet or less when measured at the largest horizontal projection, not including slideouts; designed to be self-propelled or towed by a motor vehicle; and designed primarily for temporary sleeping or living quarters for recreational, camping, travel, or seasonal use. In order to be considered as a vehicle and not as a structure, the unit must remain on its tires with its tires on the ground and must be road worthy (i.e., possess a current registration sticker from any State Division of Motor Vehicles).

RECYCLING CENTER

A personal service use located and operated primarily for the convenience of residents of a community or region and devoted to the collection (or redemption) and separation of household nonorganic waste products for eventual reprocessing and recycling (off site) into new products for sale to the general public. Recycling centers which handle waste from business, commerce and industry are considered waste facilities. "Recycling center" does not include septage processing or composting facilities.

REGULATORY FLOODWAY

A.

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 water surface elevation more than one foot; and

B.

In Zone A, the channel of a river or other watercourse and the adjacent land areas to a distance of 1/2 the width of the floodplain as measured from the normal high-water mark to the upland limit of the floodplain.

RELIGIOUS ACTIVITIES AND ASSOCIATED USES

A structure or place where persons regularly assemble for worship, ceremonies, rituals, education, and related social events pertaining to a particular system of beliefs, and which structure or place, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes. "Religious activities and associated uses" includes but is not limited to churches, religious temples, convents, monasteries, parsonages, rectories, religious camps and retreat sites.

RESEARCH, EXPERIMENTAL, AND TESTING LABORATORIES

A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

## RESIDENTIAL DWELLING UNIT

See "dwelling unit."

## RESTAURANT

An establishment where food and/or beverages are prepared, served, and consumed.

### A.

#### FAST-FOOD RESTAURANT

Restaurants where most customers order and are served their food at a counter or in a motor vehicle in packages prepared to leave the premises or able to be taken to a table or counter to be consumed.

### B.

#### STANDARD RESTAURANT

Restaurants where food and beverages are prepared, served, and consumed primarily within the principal building, and where table service rather than counter service is provided for ordering and serving the food. Standard restaurants also include cafeteria or buffet-style dining.

## RESUBDIVISION

The further division of an existing parcel within an approved subdivision or any change to the location of the lot lines therein, or the relocation of any street or lot line in a subdivision.

## RETAIL

Establishments engaged in the selling of goods or merchandise directly to the consumer and not for resale and in rendering services incidental to the sale of such goods.

## RETAIL, CONVENIENCE

An establishment primarily engaged in selling food products, household items, newspapers and magazines, candy and beverages, and a limited amount of freshly prepared foods directly to the consumer for off-premises consumption. Convenience stores may provide for gasoline refueling facilities.

## RETAIL, MEDICAL SALES

A retail establishment specializing in the sale of medical supplies, including prescription and nonprescription drugs. Examples include but are not limited to convalescent supply stores, food supplement stores, hearing aid stores, prosthetic stores, home health care supply stores, and sick room supply stores.

## RETAIL, SPECIALTY

Retail operations that specialize in one type or line of merchandise. Specialty retail does not include auto sales.

## RIGHT-OF-WAY

A public or private strip of land of a specified width, owned in fee or controlled by easement, which confers legally granted rights of passage and is occupied or intended to be occupied by a street, crosswalk, railroad, road, utility, or other special use. A right-of-way which is controlled by easement shall be recorded in the Kennebec County Registry of Deeds. Said easement on a private right-of-way shall be required to permanently run with the land.

## RIVER

A free-flowing body of water, including its associated floodplain wetlands from that point at which it provides drainage for a watershed of 25 square miles to its mouth.

## RIVERINE

Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

#### ROAD

A public or private right-of-way, usually of a rural design, consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

#### ROOMING HOUSE

A building in which three or more rooms are kept, used, maintained, advertised or held out to the public to be a place where living quarters are supplied for pay to transient or permanent guests or tenants for weekly or longer periods, with or without board, for compensation (as distinguished from hotels, motels and tourist homes in which rentals are generally on an overnight basis for transients).

#### SEASONAL

A use of land or structures designed and arranged to be used for less than 10 months in the year.

#### SEDIMENTATION

The deposition of soil particles that have been transported from their site of origin by water, ice, wind, gravity, or other natural means.

#### SELF-SERVICE LAUNDROMATS

Establishments primarily engaged in operating facilities with coin-operated or similar self-service laundry equipment for customer use on the premises.

#### SELF-SERVICE STORAGE UNITS

A building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time where clients retain a key and can independently store and retrieve their goods.

#### SERVICES

Establishments primarily engaged in providing assistance, as opposed to products, to individuals, business, industry, government, and other enterprises. The sale of goods is permitted only when incidental to the providing of services. Examples of services include but are not limited to miscellaneous repair services (excluding automotive repair/services); parking services; rental services; animal boarding/riding services; motion-picture services; amusement and recreation services such as bowling centers, miniature golf courses, pool rooms, and campgrounds; cultural services such as art galleries and botanical and zoological gardens; and other service uses not specifically classified in the Table of Land Uses in the Base Zoning Districts.[\[4\]](#)

[Amended 5-7-2015 by Ord. No. 15-070]

#### SERVICE STATION

See "automobile business."

#### SETBACK

The nearest horizontal distance from a lot line or normal high-water line to the nearest part of a structure, road, parking space or other regulated object or area.

#### SHOE REPAIR SHOPS

Establishments primarily engaged in repairing footwear without retailing new footwear.

#### SHOPPING CENTER

A group of commercial establishments planned, developed, and managed as a unit.

#### SHORE FRONTAGE

The length of a lot bordering on a water body or a wetland measured in a straight line between the intersections of the side lot lines with the shoreline at normal high-water elevation.

#### SHORELAND ZONE

The land located within 250 feet, horizontal distance, of the normal high-water line of any great pond, river, or saltwater body; within 250 feet of the upland edge of a coastal or freshwater wetland; or within 75 feet of the normal high-water line of a stream.

#### SIGN, ATTACHED SIGNS

Any structure, device, letter, banner, symbol or other representation which is used or is in the nature of an advertisement, announcement or direction. "Sign" includes permanent, portable, temporary or mobile (including vehicular signs) signs. "Attached signs" includes those that are permanently attached to a building and supported entirely from it, including those which are mounted flat against a wall and those that are constructed without attachment to a building and are freestanding. "Sign" includes the full sign assembly, including base, poles and other mounting hardware, and message board. Murals painted for the purposes of art or architectural enhancement and containing no advertisement, announcement, or direction shall be excluded from regulation.

#### SIGNIFICANT RIVER SEGMENTS

See 38 M.R.S.A. § 437.

#### SINGLE-ROOM-OCCUPANCY (SRO) DWELLING UNIT

A self-contained dwelling unit that provides ambulatory independent living for one resident per unit. Each SRO unit shall be a minimum of 150 square feet in size and a maximum of 375 square feet for non-handicapped-accessible units (or 425 square feet for handicapped-accessible units). Each unit may provide kitchenettes and private bathroom facilities in each unit and/or shared common bathrooms and kitchens. Multiple-family dwellings that incorporate multiple SRO dwelling units may include, but are not required to include, common gathering spaces for residents, program spaces, office space, and common laundry facilities.

#### SMALL DISTILLERIES, BREWERIES AND BAKERIES

Any distillery, brewery or bakery, with or without an associated restaurant or retail component, that occupies less than 5,000 square feet of floor space. Any retail element must be primarily for the sale of the product being produced on site.

[Added 10-16-2014 by Ord. No. 14-178]

#### SOCIAL SERVICES

Establishments primarily engaged in providing nonresidential individual and family social assistance services to advance the welfare of citizens in need. A social service may include the following accessory uses: office, medical office, or clinic uses; vocational or trade training; supporting personal services; or a food and goods distribution facility.

#### SPECIAL EXCEPTION

A use which would not generally be appropriate in a particular zoning district, but which, as determined by a two-thirds majority of the Planning Board, if specifically designed to be compatible with both the adjacent physical neighborhood and is designed to advance the purposes of the particular zoning district being contemplated, would support the public safety, health, convenience, and welfare of that district. A special exception for a particular use shall be allowed in a district only if the regulations for that district

specifically allow that use and only when the Planning Board finds that such use meets all of the requirements applicable to it as specified in this chapter.

#### SPECIAL FLOOD HAZARD AREA

See "area of special flood hazard."

#### SPECIALIZED MEDICAL CLINIC

A facility that dispenses methadone or medical marijuana to patients. A medical marijuana dispensary may also grow and process the product at the same facility. Typical accessory uses for a medical marijuana dispensary or grow facility may include, but are not limited to, counseling services associated with the medical conditions being treated with medical marijuana, processing and cooking facilities for preparing the marijuana, other treatments for the medical condition being treated with marijuana. In all cases, accessory uses must remain secondary, individually and in aggregate, to the primary use.

#### SPECIALTY FOOD MARKET

A retail operation specializing in a specific type or class of foods, such as an appetizer store; bakery; butcher; delicatessen; fish shop; gourmet shop; or foods associated with a particular nationality, religious observance, dietary practices, or cuisine.

#### SPECIALTY PRINT SHOP

A facility for the custom reproduction of written or graphic materials on a custom order basis for individuals or businesses. Typical processes include, but are not limited to, photocopying, blueprint, and facsimile sending and receiving, and including offset printing.

#### START OF FLOODPLAIN CONSTRUCTION

The date the building permit was issued, provided the actual start of floodplain construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of floodplain construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

#### STEEP SLOPE

Land area where the inclination of the land's surface from the horizontal is 15% or greater. See "sustained slope."

#### STORMWATER RUNOFF

The waters derived from rains falling within a tributary drainage basin, flowing over the surface of the ground or collected in channels, watercourses or conduits.

#### STREAM

A free-flowing body of water from the outlet of a great pond or the point of confluence of two perennial streams as depicted on the most recent edition of a United States

Geological Survey 7.5-minute series topographic map, or, if not available, a fifteen-minute series topographic map, to the point where the body of water becomes a river. Intermittent streams run six months or less during any twelve-month period. See "tributary stream."

### STREET

For the purposes of this chapter and for determining minimum road frontage requirements, a street is considered to be any public or private right-of-way of a specified width, or a right-of-way shown on a recordable subdivision plan approved by the Planning Board. Approval of a private right-of-way meeting minimum road frontage requirements shall in no way be construed to imply acceptance by the City of Augusta for purposes of maintenance, improvements or other City services.

### STREET LINE

The right-of-way line of a street.

### STRUCTURE

Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, utility poles and associated appurtenances, sidewalks and handicap ramps. The term includes structures permanently or temporarily located, such as decks, signs, gas or liquid storage tanks that are principally stored above ground and satellite dishes. Any structure having a roof supported by columns or walls. Buildings separated only by party walls or abutting walls without openings shall be deemed to be separate buildings. For floodplain purposes, "structure" means a walled and roofed building and includes a gas or liquid storage tank that is principally above ground.

### SUBDIVISION

The division of a tract or parcel of land into three or more lots within any five-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into three or more dwelling units within a five-year period, the construction or placement of three or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into three or more dwelling units within a five-year period.

#### A.

In determining whether a tract or parcel of land is divided into three or more lots, the first dividing of the tract or parcel is considered to create the first two lots and the next dividing of either of these first two lots, by whomever accomplished, is considered to create a third lot, unless both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least five years immediately preceding the second division; or the division of the tract or parcel is otherwise exempt under this subchapter.<sup>[5]</sup>

#### B.

The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel.

The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

C.

A lot of 40 or more acres must be counted as a lot, except when a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in 38 M.R.S.A. § 435 or a municipality's shoreland zoning ordinance.

D.

A division accomplished by devise, condemnation, order of court, gift to a person related to the donor of an interest in property held by the donor for a continuous period of five years prior to the division by gift, or gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this subsection is transferred within five years to another person not related to the donor of the exempt real estate as provided in this subsection, then the previously exempt division creates a lot or lots for the purposes of this definition. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this subsection cannot be given for consideration that is more than 1/2 the assessed value of the real estate.

E.

A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this subsection is transferred within five years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this definition.

F.

A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this subsection is transferred within five years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this definition.

G.

In determining the number of dwelling units in a structure, the provisions of this definition regarding the determination of the number of lots apply, including exemptions from the definition of a "subdivision of land."

H.

Notwithstanding the provisions of this definition, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.

I.

This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that expands the definition of "subdivision" to

include the division of a structure for commercial or industrial use; or otherwise regulates land use activities. A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this subsection takes effect shall comply with this subsection no later than January 1, 2006. Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2003, for the definition to remain valid for the grace period ending January 1, 2006. A filing required under this subsection must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located.

J.

The grant of a bona fide security interest in an entire lot that has been exempted from the definition of "subdivision" under Subsections D and E, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

SUBDIVISION, MAJOR

Any subdivision involving the development of a street. A major subdivision shall also include those developments which create six or more lots or units, whether on an existing street or on or within a proposed street or street system.

SUBDIVISION, MINOR

Any subdivision not involving the development of a street and involving the creation of fewer than six lots or units.

SUBSTANTIAL FLOODPLAIN DAMAGE

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

A.

Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

B.

Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

SUBSURFACE WASTEWATER DISPOSAL SYSTEM

A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), private individual surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The

term shall not include any wastewater discharge system licensed under 38 M.R.S.A. § 414, any surface wastewater disposal system licensed under 38 M.R.S.A. § 413, Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 M.R.S.A. Chapter 13, Subchapter 1.

#### TAXI AND LOCAL/COMMUTER BUS LINE SERVICE

Establishments primarily engaged in providing local and suburban passenger transportation. Taxi services utilize cars, trucks, or vans and are generally not operated over regular routes and on regular schedules; establishments of taxicab owner/operators, taxicab fleet operators, or taxicab organizations are included in this industry. Buses are generally operated over regular routes and on regular schedules within a metropolitan area and adjacent nonurban areas.

#### TECHNICAL STANDARDS HANDBOOK

City of Augusta Technical Standards Handbook maintained by the City of Augusta City Services Department.

#### TEMPORARY, HABITABLE TRAILERS BUILT ON A PERMANENT CHASSIS TO BE USED AS PORTABLE CLASSROOMS AND/OR OFFICES AND/OR MEDICAL DIAGNOSTIC UNITS FOR A SPECIFIED (LIMITED) TIME AND AS A PUBLIC FACILITY ONLY

A mobile home, travel trailer, truck trailer, or other structure used as temporary offices to meet a short-term need.

#### TEMPORARY OUTDOOR LIGHTING

The specific illumination of an outside area or object by any man-made device located outdoors that produces light by any means for a period of less than seven days, with at least 180 days passing before being used again.

#### TIMBER HARVESTING

The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery, but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

#### TOURIST HOME

A building or group of attached or detached buildings containing in combination three to 16 lodging and/or dwelling units for occupancy for daily or weekly periods, with or without board, and primarily for occupancy by transients, as distinguished from multiple dwellings and rooming houses in which the occupancy is primarily by residents rather than transients. A tourist home is not owner-occupied. See "bed-and-breakfast"; see "hotel."

#### TRACT OR PARCEL OF LAND

All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road.

#### TRIBUTARY STREAM

A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the term "stream," as

defined elsewhere in this chapter, and only applies to that portion of the tributary stream located within the Shoreland Zone of the receiving water body or wetland.

#### TRUCK TERMINAL

A structure or land primarily used for the temporary storage and maintenance of motor transport carriers. Truck terminals may also be used for the temporary storage of goods awaiting transfer or wholesale distribution by means of motor carrier transportation.

#### UPLAND EDGE

The boundary between upland and wetland.

#### USE

The purpose for which land or a building or structure or a part thereof is arranged, designed, intended or occupied.

#### VARIANCE

For the purposes of this chapter, means a grant of relief by the Board of Zoning Appeals:

##### A.

From the terms of a floodplain management regulation; or

##### B.

From any dimensional requirement of this chapter, in accordance with 30-A M.R.S.A. § 4353, Subsection 4.

#### VEGETATION

All live trees, shrubs, ground cover, and other plants, including, without limitation, trees both over and under four inches in diameter measured at 4.5 feet above ground level.

#### VETERINARY

Any building or portion of a building designed or used for the care, observation, or treatment of animals. Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases. A veterinary facility is not a boarding facility.

#### VIOLATION

The failure of a structure, use or other development to fully comply with the regulations found in this chapter.

#### WAREHOUSING

Establishments primarily engaged in operating long-term merchandise and goods storage facilities wherein those goods and merchandise will primarily be used off site. These establishments generally handle goods in containers, such as boxes, barrels, and/or drums, using equipment, such as forklifts, pallets, and racks. They are not specialized in handling bulk products of any particular type, size, or quantity of goods or products.

#### WASTE FACILITY

Any land area, structure, location, equipment, or combination of them, including dumps and landfills, used for handling hazardous or solid waste, sludge, or septage; composting facilities; recycling centers for waste from business, commercial and industrial uses. Tire processing uses and junkyards are also considered waste facilities. A land area shall not become a waste facility solely because it is used by its owner for disposing of septage from the owner's residence. See § [300-526](#).

##### A.

#### CLASS 1

Includes recycling centers (as defined); and paper, cardboard, glass, and metals recycling for business, commerce, and industry.

B.  
CLASS 2

Includes composting facilities; junkyards; landfills; waste to energy plants; septage handling facilities; tire processing and storage facilities; and hazardous waste handling facilities.

WATER BODY

Any great pond, river, stream or tidal area.

WATERCOURSE

A channel, drainageway, stream, brook. Any defined area of land conveying surface water or runoff. A watercourse may be intermittent or perennial (perennial = greater than six months in any twelve-month period).

WETLAND ASSOCIATED WITH GREAT PONDS AND RIVERS

Wetlands contiguous with or adjacent to a great pond or river and which, during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high-water line of the great pond or river. Wetlands associated with a great pond or river are considered to be part of that great pond or river.

WETLAND (FRESHWATER)

Freshwater swamps, marshes, bogs and similar areas which are:

A.

Ten or more contiguous acres; or

B.

Less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that, in a natural state, the combined surface area is in excess of 10 acres; and

C.

Inundated or saturated by surface water or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances does support, a prevalence of wetland vegetation typically adapted for life in saturated soils. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria or to the definition of "stream."

WHOLESALE

Establishments primarily engaged in selling and/or distributing merchandise to retailers; industrial, commercial, institutional, or professional business users; or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

YARD, FRONT

A yard adjoining the front lot line, extending between the principal structure and the street.

YARD, REAR

A yard adjoining the rear lot line and extending between the rear lot line and the principal structure.

YARD, SIDE

A yard adjoining a side lot line extending from the front lot line to the rear lot line as required by district regulations.

[\[1\]](#)

Editor's Note: The Table of Land Uses is included as an attachment to this chapter.

[\[2\]](#)

Editor's Note: Former 30 M.R.S.A. § 4962-A was repealed by Chapter 737 of the Laws of 1987.

[\[3\]](#)

Editor's Note: Now known as the "Natural Resources Conservation Service" or "NRCS."

[\[4\]](#)

Editor's Note: The Table of Land Uses is included as an attachment to this chapter.

[\[5\]](#)

Editor's Note: In this definition, "this subchapter" is referring to 30-A M.R.S.A. §§ 4401 to 4408.

## **Part 3. ZONING**

### **Article I. Establishment of Districts; Basic Requirements**

#### **§ 300-301. Establishment of districts; Zoning Map.**

The City is hereby divided into zones or districts as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter. The Official Zoning Map shall be certified by the attested signature of the City Clerk and shall be filed with the City Services Department.

#### **§ 300-302. Zoning districts.**

For the purposes of this chapter, the City of Augusta is divided into urban, rural and overlay areas which are further divided into the following classes of use districts, or zones, as shown on the Official Zoning Map:

[A.](#)

Urban Growth Area:

[\(1\)](#)

Residential Districts:

[\(a\)](#)

Low Density Residential District (RA).

[\(b\)](#)

Medium Density Residential Districts (RB1 and RB2).

[\(c\)](#)

High Density Residential District (RC).

[\(d\)](#)

Resource Development (RD).

[\(2\)](#)

Capital-Commerce Districts:

[\(a\)](#)

Institute/Business/Professional District (BP).

[\(b\)](#)

Commercial Districts:

[\[1\]](#)

Kennebec Business District 1 (KBD1).

[\[2\]](#)

Kennebec Business District 2 (KBD2).

[\[3\]](#)

Local Business District (CB).

[\[4\]](#)

Regional Business District (CC).

[\(3\)](#)

Civic Center District (CD).

[\(4\)](#)

Industrial District (IA).

[\(5\)](#)

Planned Development District (PD).

[\(6\)](#)

Government Services District (GS).

[\(7\)](#)

Riggs Brook Village District (RBV).

[\(8\)](#)

Medical/Hospital District (MED).

[\(9\)](#)

Planned Development 2 (PD2).

[\(10\)](#)

Kennebec Locks District (KL).

[B.](#)

Rural Districts:

[\(1\)](#)

Rural River District (RR).

[\(2\)](#)

Rural Residential District (RRES).

[\(3\)](#)

Rural Ponds District (RPDS).

[\(4\)](#)

Rural Village District (RV).

[\(5\)](#)

Rural River 2 District (RR2).

[C.](#)

Overlay districts:

[Amended 5-17-2004 by Ord. No. 72; 4-19-2005 by Ord. No. 061]

[\(1\)](#)

Shoreland Districts:

[\(a\)](#)

Limited Residential District (LR).

[\(b\)](#)

Resource Protection District (RP).

[\(c\)](#)

General Development District (GD).

[\(d\)](#)

Limited Commercial District (LC).

[\(e\)](#)

Stream Protection District (SP).

[\(f\)](#)

Historic Waterfront Districts (HWD):

[\[1\]](#)

Old Fort Western Historic Waterfront District.

[\[2\]](#)

Kennebec Arsenal Historic Waterfront District.

[\(2\)](#)

Bridge/Highway Corridor Districts.

[\(3\)](#)

Highway Overlay Districts: (Reserved).

[\(a\)](#)

Urban Highway Overlay. (Reserved).

[\(b\)](#)

Rural Highway Overlay. (Reserved).

[\(4\)](#)

Capitol View District. (Reserved).

[\(5\)](#)

Historic District. (Reserved).

[\(6\)](#)

Resource Conservation and Use District. (Reserved).

### **§ 300-303. Interpretation of district boundaries.**

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Official Zoning Map, the following rules shall apply:

[A.](#)

Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;

[B.](#)

Boundaries indicated as approximately following well-established lot lines shall be construed as following such lot lines;

[C.](#)

Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits;

[D.](#)

Boundaries indicated as following railroad lines shall be construed to follow such lines;

[E.](#)

Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of natural change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of water bodies shall be construed to follow such center lines;

F.

Boundaries indicated as being parallel to or extensions of features indicated in Subsections A through E above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map; and

G.

Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections A through F above, the Board of Appeals shall interpret the district boundaries.

**§ 300-304. Conformity required; division of lots by zoning; aviatational clearances.**

A.

Conformity to requirements of this chapter.

[Amended 4-23-2001 by Ord. No. 37; 12-3-2001 by Ord. No. 141-A; 12-3-2001 by Ord. No. 141-B; 12-3-2001 by Ord. No. 141-C; 2-6-2006 by Ord. No. 029]

(1)

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building, structure, luminaire, fixture, or part thereof shall hereafter be erected, constructed, expanded, moved or altered, and no new lot shall be created, except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted. Any use not specifically listed or otherwise permitted in a district shall be deemed prohibited.

(2)

The provisions of this chapter shall apply equally to all uses of land and to all buildings and structures.

(3)

A limited exemption to Subsection A(1) above shall be granted to any landowner who was engaged in a legally permitted business land use that was subject to a taking by the State of Maine in conjunction with the construction of the so-called "Third Bridge." Such exemption shall allow said owners to apply for Planning Board approval to replicate, but not expand, said business upon any parcel of land that said owners may currently own, either wholly or in part, and which is contiguous to the property so taken by the state.

(a)

In order for said landowner to request said exemption, a statutory notice of taking from the Maine Department of Transportation shall be required. Upon presentation of said notice and a complete application for the business use to be replicated on the contiguous property, the Planning Board will review said application, granting the necessary approval if all requirements, other than the intended land use, meet the provisions of this chapter in effect at the time of the application.

(b)

This exemption shall expire 18 months from the date of the statutory notice of taking from the Maine Department of Transportation or date of passage by the City Council, whichever comes later. Upon expiration, this paragraph shall automatically be removed from this chapter.

(4)

A limited exemption to Subsection A(1) above shall be granted to any landowner who is engaged in a legally permitted business land use with lot frontage on Route 104 (West River Road),

whose land is located northerly of the proposed intersection of the new "Third Bridge" connector road and Rt. 104 (West River Road). Such exemption shall allow said landowners to apply for Planning Board approval to expand their existing business upon any parcel of land that said owners may currently own, either wholly or in part, if said parcel is either adjacent to or contiguous to their existing property.

(a)

Upon presentation of a complete application for the expansion, the Planning Board will review said application, granting the necessary approval if all requirements, other than the intended land use, meet the provisions of this chapter in effect at the time of the application.

(b)

This exemption shall expire eight months from date of passage by the City Council, and this paragraph shall automatically be removed from this chapter.

(5)

The existence of a public easement over a private road to the City of Augusta shall not be considered when determining setbacks, lot size, or whether a lot or use is legally nonconforming under this chapter.

B.

Division of lots by zoning. Except for lots or parcels located on the Leighton Road, the Cony Road and on parcels with projects for which an application has been deemed complete by applicable City offices as of the date of the adoption of this revised chapter, in all zoning districts, where a zoning district boundary line divides a lot or parcel of record at the time such line is adopted, the land use and dimensional requirements for each separately zoned portion of that lot shall be as allowed by the applicable zoning district requirements for that portion of that lot; within the lots or parcels subject to exception, the requirements applicable to the less restrictive portion of such lots or parcel may apply to the other portion of the lot as provided in §§ [300-309](#) and [300-603](#).

[Amended 8-1-2005 by Ord. No. 101]

C.

Aviation clearances.

(1)

No part of any new structure, planting, etc., shall be allowed to protrude into the air sufficiently to interfere with aviation requirements of the Augusta State Airport as determined by the FAA criteria applicable to the current airport development plans as submitted and approved by the FAA.

(2)

In addition, all properties within 500 feet of any portion of the airport runway must submit a copy of an "intent to build" notice submitted to the Augusta State Airport with any application for a permit.

(3)

See § [300-514A\(1\)](#), Noise standards.

## **Article II. Nonconformance**

### **§ 300-305. Purpose.**

It is the intent of this article to promote land use conformities, except that nonconforming conditions that existed before the effective date of this chapter shall be allowed to continue, subject to the requirements set forth in this article.

### **§ 300-306. Burden of proof.**

#### **A.**

In any proceeding before the Code Enforcement Officer/Planning Board, the burden of proof shall be on the applicant/proponent to establish that the application/use is in compliance with the requirements of this chapter.

#### **B.**

In the case of disagreement between the City Assessor's records and a property owner's statement that a nonconforming use of a property existed prior to the effective date of this chapter, the Code Enforcement Officer may require the applicant to submit evidence that the activity was ongoing. Acceptable forms of such evidence are copies of billings, invoices, IRS statements, state licenses and tax number certificates. The address of the property must appear on the evidence submitted.

### **§ 300-307. Effective date of approval.**

All projects approved by the Planning Board in accordance with this article shall be commenced within two years of the date of the Planning Board decision and shall be substantially completed within five years of the date of the Planning Board decision, unless a permit extension has been granted by the Board. A permit extension must be requested before expiration of the original approval.

### **§ 300-308. General regulations.**

#### **A.**

The use of land, buildings or structures, lawful at the time of the effective date of this chapter, may be continued although such use does not conform with the provisions of this chapter.

#### **B.**

To avoid undue difficulty, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building for which a building permit was legally issued prior to the effective date of this chapter, or any amendment thereto, unless an amendment expressly provides otherwise.

#### **C.**

Transfer of ownership. Ownership of land and structures which remain lawful but become nonconforming by the passage of this chapter may be transferred, and the new owner may perpetuate the nonconformity subject to the regulations herein.

#### **D.**

Repair and maintenance. This chapter allows the normal upkeep and maintenance of nonconforming uses and structures, including repairs or renovations which do not involve expansion of the nonconforming use or structure, and such other changes in a nonconforming use or structure as federal, state, or local building and safety codes may require.

**§ 300-309. Nonconforming uses.**

[Amended 12-6-1993 by Ord. No. 311]

**A.**

Modifications to nonconforming uses. The following modifications to existing, lawful, nonconforming uses of land and structures require approval by the Planning Board in accordance with the conditional use process and criteria outlined in § [300-603](#):

**(1)**

Expansion of a building in nonconforming use. Except in shoreland areas, expansions of buildings in nonconforming use are allowed upon approval by the Planning Board through the conditional use process. In shoreland areas, expansions of buildings in nonconforming use are prohibited, except that nonconforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures.

**(2)**

Increase in the area of land in nonconforming use. See definition of "area of land in nonconforming use."

**(3)**

Change to another nonconforming use. A nonconforming use shall not be changed to another nonconforming use unless the Planning Board, utilizing the criteria applicable to conditional uses in § [300-603E](#), finds that the proposed use is equally or more appropriate to the district than the existing nonconforming use, and provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water-dependent uses as provided for in the appropriate district, than the former use.

**(4)**

Expansion of a conforming use into a district where it would be nonconforming. Except in the Resource Protection Shoreland Overlay District, a conforming use existing at the effective date of this chapter or established after the effective date of this chapter may be allowed to expand into a district where it would be nonconforming only if it is on land which is contiguous with and of the same ownership of record as the conforming use at the time of adoption of this chapter.

**B.**

Discontinuance of nonconforming use (see definition).

**(1)**

A nonconforming use which is discontinued for a period of one year or more may not be resumed as nonconforming. The uses of the land or structures shall thereafter conform to the requirements for the district.

**(2)**

This provision shall not apply to the resumption of a use of a residential structure, provided that the structure has been used or maintained for residential purposes during the preceding five-year period.

**C.**

Rule of precedence.

**(1)**

Whenever a use of land or a structure, whether conforming or nonconforming, is converted to a new conforming use, such land or structure shall thereafter conform to the requirements of the

district in which it is located, except when existing yards, setbacks and other dimensional requirements are nonconforming.

(2)

Whenever a nonconforming use of land, a building or structure is permitted pursuant to § 300-308 and such use is changed to any other nonconforming use, the new nonconforming use must comply with all yard and setback requirements, unless a variance is obtained pursuant to the provisions of this chapter.

**§ 300-310. Nonconforming structures.**

A.

Replacement of nonconforming structures.

(1)

Except in shoreland areas, any nonconforming structure which is damaged or destroyed by fire or any cause other than the willful act of the owner or his agent may be restored or reconstructed within one year of the date of said damage or destruction, provided that such replacement or reconstruction shall not enlarge the lesser of the gross floor area or volume or change the location or use (except to more conforming) of the prior nonconforming structure. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.

(2)

Except in shoreland areas, any nonconforming structure for which the appropriate maintenance remedy, as determined by the Code Enforcement Officer, is replacement may be replaced, provided that such replacement shall not enlarge the size or change the location or use (except to more conforming) of the prior nonconforming structure.

(3)

In shoreland areas, the following shall apply:

(a)

Any nonconforming structure which is located less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland and which is removed or damaged or destroyed by more than 50% of the market value of the structure before such damage, destruction or removal may be reconstructed or replaced, provided that a permit is obtained within one year of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this chapter and the criteria applicable to conditional uses.

(b)

Any nonconforming structure which is damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit from the Code Enforcement Officer.

(c)

In determining whether the building reconstruction replacement meets the water setback to the greatest practical extent, the Planning Board shall consider, in addition, the criteria relative to relocations (Subsection E of this section) and the physical condition and type of foundation present, if any.

B.

Expansion of structures with nonconforming setback.

(1)

Except in shoreland areas, a structure which does not meet the yard or setback requirements specified herein may be expanded, provided that the portion of the structure which does not meet the required setbacks is not expanded in floor area or volume by 30% or more during the lifetime of the structure without Planning Board approval in accordance with the criteria applicable to conditional uses. The portion of the nonconforming structure which meets the required setbacks may be expanded without limitation, provided that all other applicable standards are met. In no case shall the existing nonconforming setbacks be further reduced.

(2)

In shoreland areas, a nonconforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the nonconformity of the structure. Further limitations:

(a)

After January 1, 1989, if any portion of a structure is less than the required setback from the normal high-water line of a water body or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume by 30% or more during the lifetime of the structure.

(b)

Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure, provided that the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in the section on relocation (Subsection E of this section); that the completed foundation does not extend beyond the exterior dimensions of the structure; and that the foundation does not cause the structure to be elevated by more than three additional feet.

(c)

No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.

C.

Expansion of structures with nonconforming floor areas. Structures existing on the effective date of adoption or amendment of this chapter which exceed the maximum floor area ratios may be permitted to increase the nonconforming ratios by obtaining a variance from the Board of Zoning Appeals.

D.

Change of use of a nonconforming structure. In shoreland areas:

(1)

The use (whether a permitted use, conditional use or a nonconforming use) of a nonconforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body or wetland or on the subject or adjacent properties and resources than the existing use.

(2)

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management,

archeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

E.

Relocation. In all general zoning districts, a nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest extent possible as determined by the Code Enforcement Officer. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming. In determining whether the building relocation meets the setback to the greatest practical extent, the Code Enforcement Officer shall consider the size of the lot, the effect on other applicable performance standards, the location of other structures on the property and on adjacent properties, the location of utilities on or serving the site.

(1)

In shoreland overlay districts, a nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law and the State of Maine Subsurface Wastewater Disposal Rules (rules) or that a new system can be installed in compliance with the law and said rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

(2)

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or Code Enforcement Officer shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

**§ 300-311. Nonconformance due to lack of required off-street parking or loading space.**

A.

Except in the KBD1, a structure or use of structure which is nonconforming as to the requirements for off-street parking space and/or off-street loading space shall not be enlarged or altered to create additional parking needs unless required off-street parking and/or off-street loading space sufficient to satisfy the requirements of this chapter for the addition or enlargement is provided on site for such addition or enlargements.

B.

Off-lot parking may be authorized by the Planning Board in accordance with §§ [300-603E](#) and [300-513B\(1\)\(c\)](#).

**§ 300-312. Nonconforming lots of record.**

*Commentary: Nonconforming lots of record are created by requiring lots to meet minimum dimensional standards, as in conventional zoning. Nonconforming lots are not created under performance zoning (impervious surface ratios, floor area factors, open space ratios) since all lots are developable to the extent that the ratios permit. The following section applies to the*

*conventional zones, Shoreland Zones and to those parcels regulated by the State of Maine Subsurface Wastewater Disposal Rules.*

A.

Where minimum dimensional requirements are listed, an unimproved single lot of record which, at the effective date of adoption of this chapter, does not meet the area and/or frontage and/or depth requirements of the district in which it is located may be built upon without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership and that all provisions of this chapter, except lot size, frontage and depth, can be met. Variances relating to setback or other requirements not involving lot size, frontage, or depth shall be obtained only by action of the Board of Zoning Appeals.

B.

Contiguous lots, vacant or partially built. If two or more contiguous lots are in single or joint ownership of record at the time of or since adoption or amendment of this chapter, and if any of these lots do not individually meet the dimensional requirements of this chapter or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the minimum dimensional requirements. The lands involved shall be considered to be a single parcel, and no portion of said parcel shall be built upon or sold which does not meet the minimum dimensional requirements of this chapter, nor shall any division of the parcel be made which creates any dimension or area below these minimum dimensional requirements. See Subsection D of this section.

C.

Contiguous built lots.

(1)

If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this chapter, and if all or part of the lots do not meet the dimensional requirements of this chapter, and if a principal use or structure exists on each lot, the nonconforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with.

(2)

If two or more principal uses or structures existed on a single lot of record on the effective date of this chapter, each may be sold as separate lots, provided that the above-referenced law and rules are complied with. When such lots are divided, each lot thus created must be as conforming as possible to the dimensional requirements of this chapter.

D.

Previously approved/recorded/existing subdivisions.

(1)

Notwithstanding other provisions of this chapter, lots in a lawfully recorded subdivision approved, existing or recorded prior to September 23, 1971, shall conform with Subsections B and C, or if located in the RPDS District shall be combined so as to meet a minimum lot area of two acres. Such lots in the RPDS District shall not clear in excess of 25% of the total volume of trees four inches or more in diameter, measured at 4 1/2 feet above the ground, and the total area of all structures, parking lots and other nonvegetated surfaces shall not exceed 7,500 square feet. All other dimensional requirements shall be met.

(2)

Notwithstanding other provisions of this chapter, lots in a lawfully recorded subdivision approved by the Planning Board between September 23, 1971, and November 9, 1983, which do

not meet the lot frontage requirements may be treated as separate lots, provided that the recorded road frontage is at least 75 feet and that all other dimensional requirements applicable under the November 9, 1983, ordinance are met.

(3)

Notwithstanding other provisions of this chapter, lots in a lawfully recorded subdivision approved by the Planning Board between November 9, 1983, and the effective date of this chapter which do not meet the minimum lot area, frontage and depth requirements effective under this chapter may be treated as separate lots, provided that all other dimensional requirements (impervious surface limits, buffer widths, density, setback, etc.) are met.

**§ 300-313. Nonconforming signs.**

See Part 5, Performance Standards, § 300-516, Street graphics; signs.

**Article III. Zoning District Requirements**

See the Table of Land Uses in the Base Zoning Districts, included as an attachment to this chapter.

**§ 300-314. Urban Growth Area.**

A.

The Urban Growth Area, as defined on the land use map of the 1988 Growth Management Plan, includes the City's built-up portions. Building trends in this area indicate that it is primarily infilled and that redevelopment is beginning to occur. The Urban Growth Area is the area of the City where Augusta wishes to contain higher density and compact development. Water, sewer and storm drainage utilities are generally available or are planned to serve this area. Special attention is given to the area to protect residential areas from adverse impacts that may result from other land use activities, to retain its visual gateways into the City, to unify the capital complexes on both sides of the river with the downtown and Western Avenue, and to improve the City's image.

B.

Major developments, as defined, shall be required to comply with the site plan review process outlined in Part 4.

**§ 300-314.1. Residential Districts.**

[Amended 12-6-1993 by Ord. No. 311; 12-18-1995 by Ord. No. 302; 6-3-1996 by Ord. No. 463; 8-19-1996 by Ord. No. 542; 10-21-1996 by Ord. No. 606; 7-17-2000 by Ord. No. 412; 2-12-2001 by Ord. No. 21; 4-2-2001 by Ord. No. 50; 10-25-2004 by Ord. No. 152; 2-20-2007 by Ord. No. 028]

The Residential District regulations are based on conventional zoning standards, listing permitted and conditional uses as well as minimum dimensional requirements.

A.

Low Density Residential District (RA).

(1)

Purpose. The RA District is established as a zoning district in which the principal use of land is for low-density residences which will encourage the development of attractive neighborhood living.

(2)

Dimensional requirements. The following shall be considered minimums; where the minimum lot size law, special shoreland standards, or State of Maine Wastewater Disposal Rules impose greater requirements, those additional requirements shall be met:

(a)

Lot area: 10,000 square feet (public sewer); 20,000 square feet (private sewer).

(b)

Lot area per dwelling unit: 5,000 square feet.

(c)

Lot frontage: 100 feet.

(d)

Lot depth: 100 feet.

(e)

Front setback: See § [300-515](#).

(f)

Side and rear setback:

[1]

Principal structures: 10 feet.

[2]

Accessory structures: five feet.

(g)

Minimum frontage for conversion to two or more dwelling units: 50 feet.

B.

Medium Density Residential Districts (RB1 and RB2).

(1)

Purpose. The RB1 and RB2 Districts are zones in which the principal use of land is for medium-density residences. Both are characterized by a mix of single-family and multifamily homes.

(2)

Dimensional requirements. The following shall be considered minimums; where the minimum lot size law, special shoreland standards, or State of Maine Wastewater Disposal Rules impose greater requirements, those additional requirements shall be met:

(a)

Lot area: 7,500 square feet (public sewer); 20,000 square feet (private sewer).

(b)

Lot area per dwelling unit: 2,500 square feet.

(c)

Lot frontage: 75 feet.

(d)

Lot depth: 100 feet.

(e)

Front setback: See § [300-515](#).

(f)

Side and rear setback:

[\[1\]](#)

Principal structure: 10 feet.

[\[2\]](#)

Accessory structures: five feet.

[\(g\)](#)

Minimum frontage for conversion to two or more dwelling units: 50 feet.

[C.](#)

High Density Residential District (RC).

[\(1\)](#)

Purposes. The RC District is a zone in which the principal use of land is for high-density residences. It contains large structures, many of which were designed for or have been converted to multifamily dwellings. In addition, this district is somewhat removed from major or local shopping areas and offers neighborhood services within the district.

[\(2\)](#)

Dimensional requirements. The following shall be considered minimums; where the minimum lot size law, special shoreland standards, or State of Maine Wastewater Disposal Rules impose greater requirements, those additional requirements shall be met:

[\(a\)](#)

Lot area: 7,500 square feet (public sewer); 20,000 square feet (private sewer).

[\(b\)](#)

Lot area per dwelling unit: 1,650 square feet.

[\(c\)](#)

Lot frontage: 75 feet.

[\(d\)](#)

Lot depth: 100 feet.

[\(e\)](#)

Front setback: See § [300-515](#).

[\(f\)](#)

Side and rear setbacks: five feet (all structures).

[\(g\)](#)

Minimum frontage for conversion to two or more dwelling units: 50 feet.

[D.](#)

Resource Development District (RD).

[\(1\)](#)

Purpose. The RD District encompasses the area on both sides of Mount Vernon Avenue. The area's highly congested mixed-use building pattern, its floodplain and steep slopes, its recreational opportunities and its function as a major gateway make this corridor as environmentally sensitive as it is economically attractive. It connects the Heart of Augusta with the City's growth area. The infrastructure capacity is strained. In recognition of these factors, and based on the policies outlined in the 1988 Growth Management Plan, the RD District encourages low-intensity mixed-use development supporting residential/recreational activities and the commuting public.

[\(2\)](#)

Dimensional requirements and performance standards.

[\(a\)](#)

Dimensional requirements. Unless otherwise stated, the following shall be considered minimums. Where minimum lot size law, general or specific standards, or Maine Wastewater Disposal Rules impose greater requirements, those additional requirements shall be met. Notwithstanding § [300-309C](#), the minimum frontage requirements in the RD Zone shall be met.

[\[1\]](#)

Minimum lot frontage: 100 feet.

[\[a\]](#)

Maximum impervious area: 25%.

[\[b\]](#)

Maximum building height: 35 feet.

[\[c\]](#)

Minimum front yard setback/buffer (all structures): 20 feet.

[\[d\]](#)

Maximum front yard setback/buffer (principal structures): 25 feet.

[\[e\]](#)

Minimum side and rear setbacks (all structures): 10 feet.

[\[f\]](#)

Minimum buffer adjacent to Bond Brook: greater of 25 feet or width of floodway.

[\[2\]](#)

Minimum lot frontage: 125 feet.

[\[a\]](#)

Maximum impervious area: 30%.

[\[b\]](#)

Maximum building height: 35 feet.

[\[c\]](#)

Minimum front yard setback/buffer (all structures): Buffer A applicable.

[\[d\]](#)

Maximum front yard setback/buffer (principal structures): Buffer A applicable.

[\[e\]](#)

Minimum side and rear setbacks (all structures): 10 feet.

[\[f\]](#)

Minimum buffer adjacent to Bond Brook: greater of 25 feet or width of floodway.

[\[3\]](#)

Minimum lot frontage: 150 feet.

[\[a\]](#)

Maximum impervious area: 35%.

[\[b\]](#)

Maximum building height: 35 feet.

[\[c\]](#)

Minimum front yard setback/buffer (all structures): Buffer A applicable.

[\[d\]](#)

Maximum front yard setback/buffer (principal structures): Buffer A applicable.

[\[e\]](#)

Minimum side and rear setbacks (all structures): 10 feet.

[\[f\]](#)

Minimum buffer adjacent to Bond Brook: greater of 25 feet or width of floodway.

[\[4\]](#)

Notes:

[\[a\]](#)

The intent of the maximum front setback is to minimize structural intrusion into the floodplain; to encourage parking at the rear or to the sides of buildings; and to provide for green space between the road right-of-way and structures.

[\[b\]](#)

Ord. No. 14-038, adopted 3-6-2014, eliminated the maximum setback of 25 feet from the north side of Mount Vernon Avenue.

[\(b\)](#)

Performance standards.

[\[1\]](#)

Buffers; parking lot perimeter; waiver provision. Perimeter parking lot buffers may be eliminated when common (shared) driveways/circulation patterns are provided between two separate lots.

[\[2\]](#)

Signage:

[\[a\]](#)

Maximum height: 15 feet above grade.

[\[b\]](#)

Minimum setback: no setback except as needed to assure safe sight distance.

[\[c\]](#)

Maximum size:

[\[i\]](#)

Freestanding: 50 square feet.

[\[ii\]](#)

Sandwich board: See § [300-516D\(2\)](#) for sandwich board standards.

[\[iii\]](#)

Wall: 10% of the wall area, not to exceed 50 square feet.

[\[d\]](#)

Maximum number:

[\[i\]](#)

Freestanding: one; and

[\[ii\]](#)

Sandwich board: one; and

[\[iii\]](#)

Wall: one per wall facing street or parking lot.

[\[3\]](#)

Access management (existing standard): one driveway per development per street frontage.

[\[4\]](#)

Minimum separation between two-way driveways serving two separate uses: 100 feet (based on 25 mph).

[\[5\]](#)

Minimum separation between one-way driveways on one lot or serving two separate uses: 50 feet.

[\[6\]](#)

When two adjacent lots are combined for reuse or redevelopment resulting in the elimination of at least one driveway, the minimum separation between two separately owned/operated two-way driveways may be reduced to 50 feet.

### § 300-314.2. Capital-Commerce Districts.

[Amended 1-21-1992 by Ord. No. 303; 12-6-1993 by Ord. No. 311; 5-20-1996 by Ord. No. 438; 4-7-1997 by Ord. No. 79; 2-12-2001 by Ord. No. 21; 10-16-2006 by Ord. No. 170; 2-20-2007 by Ord. No. 028]

#### A.

General regulations applicable to all Capital-Commerce Zoning Districts:

##### (1)

The Institute/Business/Professional, Kennebec Business Districts 1 and 2, Local Business, and Regional Business Zoning Districts fall within the Capital-Commerce District.

##### (2)

Any single-family or multifamily subdivision shall be reviewed according to the applicable subdivision process outlined in Part 4 of this chapter.

##### (3)

Except in the KBD1, minimum side and rear setbacks in all Capital-Commerce Zoning Districts are 10 feet. No setbacks are required in the KBD1.

##### (4)

Front setbacks are listed in § 300-515. Sign setbacks and sign landscaping requirements are outlined in § 300-516.

##### (5)

Any proposed construction exceeding the maximum height shall be reviewed by the Planning Board utilizing the criteria applicable to conditional uses outlined in § 300-603E.

##### (6)

The Capital-Commerce Districts and the Civic Center District impose maximum building heights. The limitation is a growth management technique and an attempt to maintain the image and character of Augusta as viewed from its neighborhoods, travelways and public spaces.

##### (7)

A site capacity analysis is not required for properties within the Capital-Commerce Districts.

#### B.

Institutional/Business/Professional Subdistrict (BP).

##### (1)

Purpose. The BP District is an area for major health and government institutions and related business and professional offices with locations suitable for the growth of each. The following regulations shall also apply to the BP Zone located generally between 200 and 250 Eastern Avenue.

##### (2)

Dimensional requirements for all uses.

##### (a)

Impervious surface ratio: 0.95.

##### (b)

Floor area ratio: 0.74.

##### (c)

Maximum height: 42 feet.

(d)

Density: 2,500 square feet of land area per dwelling unit.

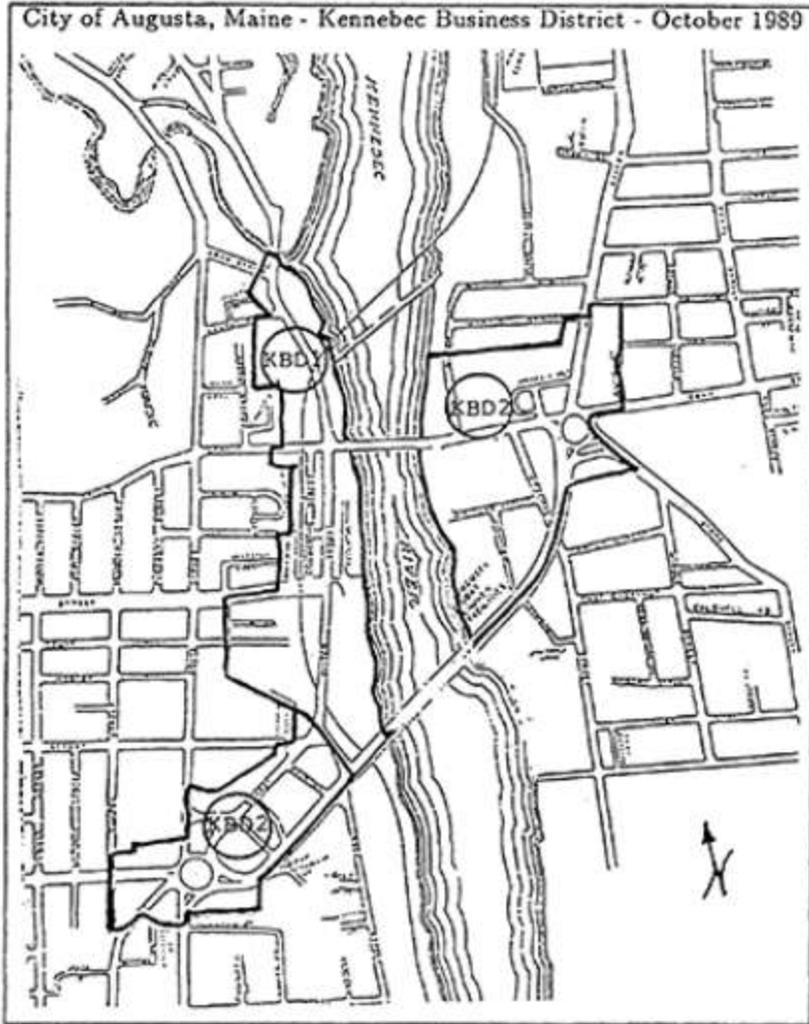
C.

Commercial Subdistricts.

*Commentary: The Commercial Subdistricts of the Capital-Commerce Planning District are divided into four zoning classifications: KBD1, KBD2, CB and CC.*

*A major planning component of the Capital-Commerce Planning District is the City's Central Business District. Designated the "Kennebec Business District (KBD)," it encompasses both sides of the river, including Memorial and Cony Circles. Shown in the following illustration, it includes the older commercial section, the two bridges, City Center, the two rotaries and portions of busy entrance corridors. This Kennebec Business District incorporates two zoning classifications, Kennebec Business Districts 1 and 2.*

*It is important to note that traffic congestion in the Capital-Commerce Planning District, particularly the Kennebec Business District, is predominant during certain periods, especially commuter drive times. Levels E and F traffic flow are not uncommon. Nature of geography, street patterns and extensive build-out make it difficult, if not impossible, to provide traffic improvements (physical) without substantial funding, total disruption of neighborhood character, and destruction of historic sites. This holds true in the areas of the two circles and the older commercial area of Commercial and Water Streets.*



[\(1\)](#)  
Kennebec Business District 1 (KBD1).

[\(a\)](#)  
Purpose. The KBD1 District is devoted primarily to general merchandise sales, business and professional offices and restaurants. It is the old commercial center of the City with development constraints imposed by steep grades, river floodplain, congested traffic and intensive building patterns.

[\(b\)](#)  
Dimensional requirements for all uses.

[\[1\]](#)  
Impervious surface ratio: 1.0.

[\[2\]](#)  
Floor area ratio: 5.0.\*

[\[3\]](#)  
Maximum height:

[\[a\]](#)  
East: 80 feet.

[\[b\]](#)

West: 100 feet.\*\*

[\[4\]](#)

Notes:

[\[a\]](#)

\*A significant portion of the area on the east side of Water Street is subject to frequent flooding. Because of this, flood damage prevention and shoreland regulations restrict development. To compensate, floor area as determined by formula may be totally constructed beginning at the Water Street elevation upwards so long as maximum height is not exceeded.

[\[b\]](#)

\*\*The maximum height of a structure shall be calculated from the ground elevation of 37 feet. In the above chart, "East" refers to properties on the east side of Water Street, and "West" refers to properties on the west side of Water Street.

[\(2\)](#)

Kennebec Business District 2 (KBD2).

[\(a\)](#)

Purpose. The KBD2 District provides limited trade and service opportunities in areas where major business expansion would be inappropriate because of traffic constraints and proximity to surrounding residential neighborhoods.

[\(b\)](#)

Dimensional requirements for all uses.

[\[1\]](#)

Impervious surface ratio: 0.95.

[\[2\]](#)

Floor area ratio: 0.74.

[\[3\]](#)

Maximum height: 56 feet.

[\(3\)](#)

Local Business District (CB).

[\(a\)](#)

Purpose. The CB District provides limited trade and service opportunities in areas where major business expansion would be inappropriate because of traffic constraints and proximity to surrounding residential neighborhoods. These regulations shall also apply to the CB District designated at the intersection of Eastern Avenue and Cony Road, the CB District designated at the intersection of North Belfast Avenue and Church Hill Road, as well as the CB District designated at the Eastern Avenue and Stone Street intersection.

[\(b\)](#)

Dimensional requirements for all uses.

[\[1\]](#)

Impervious surface ratio: 0.85.

[\[2\]](#)

Floor area ratio: 0.40.

[\[3\]](#)

Maximum height: 42 feet.

[\(4\)](#)

Regional Business District (CC).

[\(a\)](#)

Purpose. The CC District provides trade and service opportunities to the larger region and is highway-oriented. These districts are appropriate locations for businesses which would not be compatible with the congested building and traffic patterns of the Kennebec Business District.

(b)

Dimensional requirements for all uses.

[1]

Impervious surface ratio: 0.80.

[2]

Floor area ratio: 0.40.

[3]

Maximum height: 42 feet.

### **§ 300-314.3. Civic Center District (CD).**

[Amended 12-6-1993 by Ord. No. 311; 2-12-2001 by Ord. No. 21; 2-20-2007 by Ord. No. 028]

A.

Purpose. The CD District is established to provide trade and service opportunities complimentary to the established cultural/educational and business/professional uses nearby.

B.

Dimensional requirements for all uses.

(1)

Impervious surface ratio: 0.80.

(2)

Floor area ratio: 0.45.

(3)

Maximum height: 56 feet.

C.

Site capacity analysis is not required.

### **§ 300-314.4. Industrial District (IA).**

[Amended 1-21-1992 by Ord. No. 303; 4-5-1993 by Ord. No. 62; 12-6-1993 by Ord. No. 311; 5-20-1996 by Ord. No. 438; 2-6-2006 by Ord. No. 030; 2-20-2007 by Ord. No. 028]

A.

Purpose. The IA District is established as an area in which commercial and industrial uses are mixed but where the principal use is the manufacture, processing, packaging, storage and distribution of products. Reasonable access to highway or rail facilities is important.

B.

Dimensional requirements. The following shall be considered minimums; where the minimum lot size law, special shoreland standards, or Maine State Subsurface Wastewater Disposal Rules impose greater requirements, those additional requirements shall be met:

(1)

Lot area: 60,000 square feet.

(2)

Lot frontage: 150 feet.

(3)

Lot depth: 200 feet.

[\(4\)](#)

Side yard: 25 feet.\*

[\(5\)](#)

Rear yard: 25 feet.\*

**NOTES:**

\* Setback of all structures from a residential district boundary or residential property boundary shall be at least 75 feet; where buffer yard requirements impose greater requirements, the stricter requirements shall apply. See § [300-502C\(4\)](#).

[C.](#)

Site capacity analysis is not required.

**[§ 300-314.5. Planned Development District \(PD\).](#)**

[Amended 3-3-1997 by Ord. No. 35; 2-12-2001 by Ord. No. 21; 6-19-2006 by Ord. No. 103; 2-20-2007 by Ord. No. 028]

[A.](#)

Purpose. The PD District is the City's growth area. Increased development pressure is occurring and is expected to persist. It is the area with the greatest potential for a third bridge location. Except as allowed within the requirements of the Conventional Zoning Process Table, clustered development is required whenever land is subdivided or intensely developed in this area. Subdividers must submit master plans for the layout and use of entire land holdings when filing an application. Commercial and industrial uses are intended to be concentrated in single- or mixed-use centers or parks to ensure the most efficient provision of services and minimize impacts on residential and environmentally sensitive areas and on the City's and state's roadway systems. Site capacity analysis applies. See Part [3](#), Article [IV](#), Site Capacity Analysis, of this chapter. (See § [300-315](#), Rural Districts, Introduction and commentary.)

[B.](#)

Dimensional requirements.

[\(1\)](#)

Conventional zoning.

[\(a\)](#)

Minimum lot size: 20,000 square feet.

[\(b\)](#)

Minimum frontage: 150 feet.

[\(c\)](#)

Minimum depth: 100 feet.

[\(d\)](#)

Area per dwelling unit; 20,000 square feet.\*\*

[\(e\)](#)

Minimum front setback: 20 feet/35 feet.\*

[\(f\)](#)

Notes:

[\[1\]](#)

Minimum side/rear setbacks are flexible; see §§ [300-502](#) and [300-515](#).

[\[2\]](#)

\*Minimum front setback: 35 feet from street line of arterial and collector streets; 20 feet from the street line of all other streets.

[\[3\]](#)

\*\*May be reduced to 10,000 square feet per dwelling unit if served by public water and sewer.

[\[4\]](#)

See the arterial/collector street list in § [300-515C](#).

[\(2\)](#)

Performance zoning.

[\(a\)](#)

Requiring:

[\[1\]](#)

Site capacity analysis (Article [IV](#)), all uses.

[\[2\]](#)

Planning Board review (public hearing where indicated) and including master plans for layout and use of entire land holdings.

[\[3\]](#)

Permit issued by CEO.

[\(b\)](#)

Minimum front setback for all uses: 20 feet/35 feet.\*

[\(c\)](#)

Residential development:

[\[1\]](#)

Maximum density (for net buildable land): 4.4 dwelling units/acre.

[\[2\]](#)

Minimum open space ratio: 0.30.

[\[3\]](#)

Minimum lot area (per housing unit type): See § [300-524B](#).

[\(d\)](#)

Nonresidential development:

[\[1\]](#)

Floor area factor (FAF): 0.63.

[\[2\]](#)

Impervious surface ratio: 0.80.

[\(e\)](#)

Notes:

[\[1\]](#)

\*Minimum front setback: 35 feet from the street line of arterial and collector streets; 20 feet from the street line of all other streets. Side/Rear setbacks are flexible; see § [300-502](#), Buffer yards.

[\[2\]](#)

See the arterial/collector street list in § [300-515C](#).

### **§ 300-314.6. Government Services District (GS).**

A.

Purpose. The GS District includes property owned and used primarily by federal, state, county, municipal and quasi-municipal governments and public utilities to provide transportation, military, utility and public works services.

B.

Dimensional requirements. The following dimensional requirements shall be considered minimums; where the minimum lot size law, special shoreland standards or the Maine State Plumbing Code impose greater requirements, those additional requirements shall be met:

(1)

Setback of principal and accessory uses (including parking lots) from a residential district or property boundary: 25 feet.

(2)

See § [300-502](#), Buffer yards, for additional requirements.

**§ 300-314.7. Riggs Brook Village District (RBV).**

[Amended 12-3-2001 by Ord. No. 141-C; 11-20-2014 by Ord. No. 14-202]

A.

Purpose.

(1)

The Riggs Brook Village District (RBV), establishes commercial and residential land uses, land development requirements, infrastructure requirements, development design standards and open space amenities appropriate to fostering development of a new economic sector in Augusta. Riggs Brook Village will be a geographically and visually unique area wherein people can live, work, shop, converse, and recreate within walking, bicycling and quick commuting distance of one other. Attracting development of a new economic sector is critical to the improvement of the general welfare of current and future residents and businesses of Augusta, and the incorporation of higher design standards and amenities in the RBV District will be required to make Augusta competitive with other Maine cities as a location for knowledge-based businesses, workers and residents.

(2)

It has been proven that allowance of a linear pattern of land use development results in a very inefficient use of land, resulting in vacant backlands, excessive infrastructure costs, and added commuting costs, known collectively as "development sprawl." The prevention of development sprawl is identified as the first of 10 goals of the Maine Growth Management Program (see 30-A M.R.S.A. § 4312, Subsection 3). The pattern of land development that will be strongly encouraged in Riggs Brook Village (the Village) in support of this goal shall be that of development parks that will create multiple lots or land uses out of a larger tract/parcel of land.

(3)

Internal streets, stormwater, sewer, and water infrastructure will be required to achieve an appropriate density of Village development. The creation of independent, small lots in a linear fashion along Route 3 and Church Hill Road shall be strongly discouraged, and the creation of development parks that efficiently utilize backlands will be strongly encouraged so that the Village can economically support sewer, water and road infrastructure without subsidization from the remainder of the community.

(4)

The design and scale of development projects in Riggs Brook Village shall be that of small and medium-sized structures that, along with defined setbacks, buffering, landscaping and sidewalks, encourage pedestrian and bicycle travel and human interaction. Residential land uses are encouraged throughout the Village in several configurations: townhouse/row house; two-family; and single-family. The identification of the Village as a unique and unified area shall be encouraged via the use of signage, lighting, and other streetscape improvements. Village greens should be created along Church Hill Road to provide a common Village focal point for each side of Route 3.

B.

Dimensional requirements.

(1)

Minimum lot size: 20,000 square feet.

(2)

Minimum frontage on new internal roads: 100 feet.

(3)

Minimum frontage on Rt. 3, Church Hill Road and South Belfast Avenue: 300 feet.

(4)

Minimum depth: 200 feet.

(5)

Area per dwelling unit: 20,000 square feet.\*\*\*

(6)

Minimum front setback: 10 feet/80 feet.\*\*

(7)

Maximum height: 60 feet.

(8)

Notes:

(a)

Minimum side/rear setbacks are flexible; see §§ [300-502](#) and [300-515](#).

(b)

\*\*Minimum front setback: 80 feet from street ROW line of arterial and collector streets; 10 feet from the street ROW line of all other streets.

(c)

\*\*\*May be reduced to 2,500 square feet per dwelling unit if served by public sewer.

(d)

See the arterial/collector street list in § [300-515C](#).

C.

Design criteria. The following minimum design criteria shall be met within the Riggs Brook Village (RBV) District:

(1)

Utilities. All utility services for new building/structure construction shall be placed underground.

(2)

Outdoor lighting standards. The purpose of this subsection is to provide outdoor lighting standards to help ensure compatibility with neighboring uses, preserve our dark skies, and provide a more pleasant and comfortable nighttime environment while preserving the ability to install effective security lighting.

(a)

Use of motion-sensing devices is encouraged; and

(b)

Lighting shall not blink, flash or be of unusually high intensity or brightness; and

(c)

All lighting fixtures shall be appropriate in scale, intensity and height to the use they are serving; and

(d)

Lighting shall also conform to § [300-511A](#), [C](#), [D](#), [E](#) and [F](#) of this chapter.

(3)

Location of parking, servicing, and loading areas for nonresidential uses. All off-street parking lots/areas/stalls, vehicle servicing areas (including gasoline/diesel pumps), and delivery and garage bay doors shall be located at the side or rear of buildings, the only exception being for handicapped parking spaces, which may be located at the front of the building. Buffer yard standards for Urban, Industrial, and Planned Development Districts identified in § [300-502](#) of this chapter are applicable to all parking lots with six or more spaces.

(4)

Screening of machinery, equipment, storage areas, and other appurtenances for nonresidential uses. Open storage areas; exposed machinery, electrical/electronic equipment, heating and/or air-conditioning equipment, fuel tanks, etc. (whether located above the ground on structures or on the ground); areas used for storage and collection of rubbish; and areas determined to be similar to those listed must be visually screened from roads and surrounding land uses. Suitable types of screening for aboveground equipment, storage areas and appurtenances include landscaping (e.g., shrubs, plants, trees, fencing) and/or architectural elements (e.g., false walls, false roofing, masonry, blocks, etc.). Suitable types of screening on the ground include opaque wood fences and dense evergreen hedges of five feet or more in height. Where evergreen hedges are proposed, a temporary fence shall be built to provide screening until the evergreens are of sufficient height to hide the unit(s) being screened.

(5)

Building design standards for new structures.

(a)

Exterior building design. Buildings with exterior walls greater than 50 feet in horizontal length shall be constructed using a combination of architectural features and a variety of building materials and landscaping near the walls. Walls which can be viewed from public streets shall be designed using architectural features and landscaping (abutting the building) for at least 50% of the wall length. Other walls shall incorporate architectural features and landscaping for at least 30% of the wall length.

[1]

Architectural features include but are not limited to the following: recesses, projections, wall insets, arcades, window display areas, awnings, balconies, window projections, landscape structures or other features that complement the design intent of the structure and are acceptable to the review authority. A portion of the on-site landscaping shall abut the walls so that the vegetation combined with the architectural features significantly reduce the visual impact of the building mass as viewed from the street.

(b)

Building materials. The predominant building materials shall be materials that are characteristic of Central Maine such as brick, wood, native stone and tinted/textured concrete masonry units

and/or glass products. Other materials such as smooth-faced concrete block, undecorated tilt-up concrete panels, or prefabricated steel panels should only be used as accents and not dominate the building exterior of the structure. Metal roofs may be allowed if compatible with the overall architectural design of the building. Materials shall be of low reflectance, subtle, neutral or earth-tone colors. The use of high-intensity colors such as neon, metallic or florescent colors for the facade and/or roof of the building are prohibited except as approved for building trim. The use of trademark colors will require approval by the Planning Board.

(c)

Roof design. Roofs shall be designed to reduce the apparent exterior mass of a building, add visual interest and be appropriate to the architectural style of the building. Variations within one architectural style are highly encouraged. Visible rooflines and roofs that project over the exterior wall or a building enough to cast a shadow on the ground are highly encouraged. Architectural methods shall be used to conceal flat roof tops. Overhanging eaves, sloped roofs and multiple roof elements are highly encouraged. Mansard style roofs are discouraged.

(d)

Customer entrance(s). Each building shall have at least one clearly defined, highly visible customer entrance using a combination of the following architectural features: canopies, porticos, arcades, arches, wing walls, and permanent above-grade integral planters.

(6)

Additions to existing structures. The Planning Board may waive any of the design criteria outlined in this subsection via a conditional use permit process.

**§ 300-314.8. Medical/Hospital District (MED).**

[Amended 2-20-2007 by Ord. No. 030]

A.

Purpose. The City recognizes that the construction of a major medical facility on Old Belgrade Road in 2006 resulted in an interest from other medical services providers to locate near the new facility. The purpose of this district is to allow certain additional uses within the geography with specific design criteria.

B.

Dimensional requirements for all uses.

(1)

Minimum lot size: 20,000 square feet.

(2)

Minimum frontage: 150 feet.

(3)

Minimum depth: 100 feet.

(4)

Area per dwelling unit: 20,000 square feet.\*\*\*

(5)

Minimum front setback: 20 feet/35 feet.\*\*

(6)

Notes:

(a)

Minimum side/rear setbacks are flexible; see §§ [300-502](#) and [300-515](#).

(b)

\*\*Minimum front setback: 35 feet from street line of arterial and collector streets; 20 feet from the street line of all other streets.

(c)

\*\*\*May be reduced to 10,000 square feet per dwelling unit if served by public water and sewer.

(d)

See the arterial/collector street list in § [300-515C](#).

C.

Design criteria. The following minimum design criteria shall be met within the Medical/Hospital District:

(1)

Outdoor lighting standards. The purpose of this subsection is to provide outdoor lighting standards to help ensure compatibility with neighboring uses, preserve our dark skies, and provide a more pleasant and comfortable nighttime environment while preserving the ability to install effective security lighting.

(a)

Lighting fixtures shall be a full cutoff design that is shielded, hooded and oriented towards the ground so that direct rays of lighting source(s) are not visible past the property boundaries and do not shine into the night sky; and

(b)

Use of motion-sensing devices is encouraged; and

(c)

Lighting shall not blink, flash or be of unusually high intensity or brightness; and

(d)

All lighting fixtures shall be appropriate in scale, intensity and height to the use they are serving; and

(e)

New or replacement lighting of streets/roads within the district shall be shielded, downward pointing.

(f)

Exemptions:

[1]

Lighting fixtures installed on residential structures with incandescent lamps, or equivalent. This exemption does not apply to fixtures that light parking areas, driveways, sports areas or outbuildings;

[2]

Seasonal decorative lighting fixtures;

[3]

Lighting fixtures used temporarily for emergency purposes;

[4]

Public athletic fields, fairgrounds and approved temporary special events lighting;

[5]

Lighting fixtures of 60 watts or less.

(2)

Location of parking, servicing, and loading areas. All off-street parking lots/areas/stalls, vehicle servicing areas (including gasoline/diesel pumps), and delivery and garage bay doors shall be

located at the side or rear of buildings, the only exception being for handicapped parking spaces, which may be located at the front of the building. Buffer yard standards for Urban, Industrial, and Planned Development Districts identified in § [300-502](#) of this chapter are applicable to all parking lots with six or more spaces.

[\(3\)](#)

Screening of machinery, equipment, storage areas, and other appurtenances. Open storage areas; exposed machinery, electrical/electronic equipment, heating and/or air-conditioning equipment, fuel tanks, etc. (whether located above the ground on structures or on the ground); areas used for storage and collection of rubbish; and areas determined to be similar to those listed must be visually screened from roads and surrounding land uses. Suitable types of screening for aboveground equipment, storage areas and appurtenances include landscaping (e.g., shrubs, plants, trees, fencing) and/or architectural elements (e.g., false walls, false roofing, masonry, blocks, etc.). Suitable types of screening on the ground include opaque wood fences and dense evergreen hedges of five feet or more in height. Where evergreen hedges are proposed, a temporary fence shall be built to provide screening until the evergreens are of sufficient height to hide the unit(s) being screened.

[\(4\)](#)

Utilities. All utility services for new building/structure construction shall be placed underground; and as may be allowed by law, each lot or parcel of land located within the district will be required either to connect to water and sewer infrastructure as it is made available or to pay a proportionate fee in lieu thereof.

[\(5\)](#)

Building design standards. (Reserved)

**§ 300-314.9. Planned Development 2 District (PD2).**

[Added 9-3-2009 by Ord. No. 107]

The Planned Development 2 District shall be a Capital-Commerce District.

[A.](#)

Permitted uses. See the Table of Land Uses in the Base Zoning Districts. [\[1\]](#)

[\[1\]](#)

Editor's Note: The Table of Land Uses is included as an attachment to this chapter.

[B.](#)

Performance zoning shall be allowed.

[C.](#)

Dimensional standards for traditional zoning:

[\(1\)](#)

Minimum lot size: 10,000 square feet with public water and sewer; 20,000 square feet without public water and sewer.

[\(2\)](#)

Minimum lot frontage: 100 feet.

[\(3\)](#)

Minimum lot depth: 100 feet.

[\(4\)](#)

Minimum area per dwelling unit: 10,000 square feet without public water and sewer.

[\(5\)](#)

Minimum area per dwelling unit: 5,000 square feet with public water and sewer.

(6)

Minimum front setback: See § [300-515](#).

(7)

Maximum floor area: 15,000 square feet per structure.

(8)

Maximum building height: 45 feet.

D.

General provisions.

(1)

Drive-throughs. No drive-through services are allowed.

(2)

Parking. For structures within 150 feet of Riverside Drive, there shall be no more than one row of parking in front of a structure.

(3)

Setback. New nonresidential uses shall be set back from the front property line at least 75 feet. Residential structures not meeting the seventy-five-foot setback may be converted to nonresidential uses, provided all other criteria are met.

(4)

Signs. No electronic changeable copy or neon signs are allowed.

(5)

Social services uses in the PD2 District must be of a size and scale that is appropriate to and sensitive to their immediate neighbors.

[Added 8-20-2015 by Ord. No. 15-133]

### **§ 300-314.10. Kennebec Locks District (KL).**

[Added 5-1-2014 by Ord. No. 14-077]

A.

Purpose. The Kennebec Locks District is part of the City's growth area and is adjacent to the urban core. It is an urban, high-density zoning district. It is intended to be a mixed-use district with carefully crafted development standards to ensure the area becomes an attractive, walkable, viable commercial and residential area in a desirable part of the City. Public access to the shoreline of the Kennebec River is very important.

B.

Dimensional requirements for all uses.

(1)

Minimum lot size: 10,000 square feet.

(2)

Minimum frontage: 75 feet.

(3)

Minimum depth: 75 feet.

(4)

Area per dwelling unit: 20,000 square feet.\*\*\*

(5)

Minimum front setback: 15 feet/35 feet.\*\*

[\(6\)](#)

Notes:

[\(a\)](#)

Minimum side/rear setbacks are flexible; see §§ [300-502](#) and [300-515](#).

[\(b\)](#)

\*\*Minimum front setback: 35 feet from street ROW line of arterial and collector streets; 15 feet from the street ROW line of all other streets.

[\(c\)](#)

\*\*\*May be reduced to 2,500 square feet per dwelling unit if served by public sewer.

[\(d\)](#)

See the arterial/collector street list in § [300-515C](#).

[C.](#)

Design criteria. The following minimum design criteria shall be met within the Kennebec Locks (KL) District:

[\(1\)](#)

Outdoor lighting standards. The purpose of this subsection is to provide outdoor lighting standards to help ensure compatibility with neighboring uses, preserve our dark skies, and provide a more pleasant and comfortable nighttime environment while preserving the ability to install effective security lighting.

[\(a\)](#)

Lighting fixtures shall be a full cutoff design that is shielded, hooded and oriented towards the ground so that direct rays of lighting source(s) are not visible past the property boundaries and do not shine into the night sky; and

[\(b\)](#)

Use of motion-sensing devices is encouraged; and

[\(c\)](#)

Lighting shall not blink, flash or be of unusually high intensity or brightness; and

[\(d\)](#)

All lighting fixtures shall be appropriate in scale, intensity and height to the use they are serving; and

[\(e\)](#)

New or replacement lighting of streets/roads within the district shall be shielded, downward pointing.

[\(f\)](#)

Exemptions:

[\[1\]](#)

Lighting fixtures installed on residential structures with incandescent lamps, or equivalent. This exemption does not apply to fixtures that light parking areas, driveways, sports areas or outbuildings;

[\[2\]](#)

Seasonal decorative lighting fixtures;

[\[3\]](#)

Lighting fixtures used temporarily for emergency purposes;

[\[4\]](#)

Public athletic fields, fairgrounds and approved temporary special events lighting;

[\[5\]](#)

Lighting fixtures of equivalent to 60 watts or less of incandescent bulbs.

(2)

Location of parking, servicing, and loading areas for nonresidential uses. All off-street parking lots/areas/stalls, vehicle servicing areas (including gasoline/diesel pumps), and delivery and garage bay doors shall be located at the side or rear of buildings, the only exception being for handicapped parking spaces, which may be located at the front of the building. Buffer yard standards for Urban, Industrial, and Planned Development Districts identified in § 300-502 of this chapter are applicable to all parking lots with six or more spaces.

D.

Screening of machinery, equipment, storage areas, and other appurtenances for nonresidential uses. Open storage areas; exposed machinery, electrical/electronic equipment, heating and/or air-conditioning equipment, fuel tanks, etc. (whether located above the ground on structures or on the ground); areas used for storage and collection of rubbish; and areas determined to be similar to those listed must be visually screened from roads and surrounding land uses. Suitable types of screening for aboveground equipment, storage areas and appurtenances include landscaping (e.g., shrubs, plants, trees, fencing) and/or architectural elements (e.g., false walls, false roofing, masonry, blocks, etc.). Suitable types of screening on the ground include opaque wood fences and dense evergreen hedges of five feet or more in height. Where evergreen hedges are proposed, a temporary fence shall be built to provide screening until the evergreens are of sufficient height to hide the unit(s) being screened.

**§ 300-315. Rural Districts.**

[Amended 11-18-1991 by Ord. No. 303A; 9-21-1992 by Ord. No. 629; 12-6-1993 by Ord. No. 311; 5-18-1998 by Ord. No. 535; 10-5-1998 by Ord. No. 662; 10-2-2000 by Ord. No. 452; 12-3-2001 by Ord. No. 141-A; 12-3-2001 by Ord. No. 141-C; 8-19-2002 by Ord. No. 257; 8-19-2002 by Ord. No. 266; 11-18-2002 by Ord. No. 306; 11-5-2003 by Ord. No. 133; 2-21-2006 by Ord. No. 031; 6-19-2006 by Ord. No. 103; 2-20-2007 by Ord. No. 028]

*Introduction and commentary:*

A.

*This chapter completely reworks the geographic area of the City commonly referred to as "rural." Ordinances developed and adopted from November 1983 to the present classified this area as the "Rural District." This was a conventional zoning district outlining permitted uses, conditional uses and dimensional requirements.*

B.

*The adopted 1988 Growth Management Plan totally redefines the rural area. Based on numerous factors, including topography, sensitive areas and availability of infrastructure, five new planning districts are established. Of the five, the Rural Planned Development District was merged with the Urban Planned Development District and is outlined earlier under the heading of "Planned Development District." The remaining four Rural Districts are:*

(1)

*Rural Ponds District.*

(2)

*Rural Residential District.*

(3)

*Rural River District.*

(4)

*Rural Village District.*

C.

*The four planning districts are each divided into two components: permitted uses and performance zoning uses. The development requirements of the permitted use section reflect conventional zoning terminology, namely minimum lot sizes, frontage, depth, and area per family. Traditional setback requirements are also indicated. The performance zoning criteria are new. The criteria include factors such as allowable dwelling units, open space ratio and impervious surface ratio. Utilization of these factors allows two things to happen: preservation of sensitive resources and development flexibility. Minimum lot sizes are flexible and based on ratios, performance standards and the State of Maine Subsurface Wastewater Disposal Rules. A variety of housing types are permitted as outlined in § [300-320](#).*

D.

*Conventional zoning process permitted uses. Except for conventional residential subdivisions which require a Planning Board review in accordance with Part [4](#) of this chapter, applications for permitted uses are handled at the staff level. Applicant applies for a building permit, zoning review is accomplished, building codes are reviewed, and permit is issued when all applicable codes are met. As used in this chapter, "conventional residential subdivisions" are those residential subdivisions designed in accordance with the conventional zoning process dimensional requirements, such as minimum lot size, minimum road frontage, minimum lot depth.*

E.

*Performance zoning process. A three-part process: (1) site capacity analysis to determine dwelling units allowed for residential purposes, or to determine square footage allowed for commercial development; (2) Planning Board review and approval (in some cases, a public hearing is required), including Board review of master plans for the layout and use of entire land holdings; and (3) building permit application review for compliance with building, land use and other applicable codes. As used in this chapter, "performance subdivisions" are those subdivisions designed in accordance with the performance zoning process dimensional limits, such as dwelling units per acre or floor area factor, open space ratio and impervious surface ratio.*

F.

*All uses listed in the Performance Zoning Table, whether requiring a public hearing or not, are required to conform to the performance zoning standards. All uses listed in the Conventional Zoning Table may utilize the performance zoning standards.*

(1)

*Site capacity analysis. A process designed to determine the net buildable land. This assures resource protection and in turn provides the developer flexibility in design, with respect to dimensional requirements such as minimum frontage, minimum lot area and minimum setbacks. Analysis would be accomplished by the developer and staff using the format outlined in Table 300-319-A and Table 300-319-B. Buffer yards and other development standards are then applied as outlined in Part 5.*

(2)

*Planning Board review required. Unless otherwise stated, all uses provided for through the performance zoning process require Planning Board review and approval. The table provides*

for uses requiring a public hearing and uses where public hearing is not mandatory. In the case of the latter, the Board may choose to hold a public hearing in accordance with § [300-403F](#).

[\(a\)](#)

All applications before the Planning Board following the provisions of the performance zoning process are required to provide a conceptual plan for the layout and use of the entire land holdings. The sketch may be drawn on the City of Augusta topographic base maps, if available, or a suitable alternative. The concept sketch shall include the preapplication requirements outlined for subdivisions in § [300-404](#) of this chapter.

[\(b\)](#)

Master plans required. All proposals processed in accordance with the performance zoning standards are required to consider the use of the entire land holdings. An inventory of all natural resources is documented on the sketch plan. Consideration shall be given to developable portions that are not presented for development at the time of the application for purposes of minimizing impact to resources, protecting viable accessways and the like.

[\(3\)](#)

Building permit application. All uses that are not permitted by right must apply for a building permit through the Code Enforcement Office to determine whether the proposal is in compliance with all applicable City codes.

[G.](#)

The following ordinance components outline in detail the legal requirements associated with accomplishing the above. Standards and guidelines for designating and utilizing open space are outlined in Part [5](#), Performance Standards, § [300-512](#).

### **[§ 300-315.1. Rural River District \(RR\).](#)**

[A.](#)

Purpose. The RR District is intended to retain the water quality, wildlife habitat, scenic and forest values encompassing the district. The district contains the most sensitive portions of the Bond Brook watershed, including the City's wells. Residential and recreational uses will be permitted. Clustering and the retention of open space will be encouraged. Maximum permitted densities will be in keeping with natural resource values.

[B.](#)

Dimensional requirements.

[\(1\)](#)

Conventional zoning.

[\(a\)](#)

Minimum lot size: one acre.

[\(b\)](#)

Minimum road frontage: 150 feet.

[\(c\)](#)

Minimum depth: 135 feet.

[\(d\)](#)

Area per dwelling unit: one acre.

[\(e\)](#)

Minimum front setback: 20 feet/35 feet.\*

[\(f\)](#)

Notes:

[\[1\]](#)

Side/Rear setbacks are flexible; see § [300-502](#), Buffer yards.

[\[2\]](#)

\*Front setback: 35 feet from the street line of arterial and collector streets; 20 feet from the street line of all other streets.

[\[3\]](#)

See the arterial/collector street list in § [300-515C](#).

[\(2\)](#)

Performance zoning.

[\(a\)](#)

Administration.

[\[1\]](#)

Requiring:

[\[a\]](#)

Site capacity analysis (see Article [IV](#)).

[\[b\]](#)

Planning Board review (public hearing where indicated), including master plans for layout and use of entire land holdings.

[\[c\]](#)

Permit issued by CEO.

[\[2\]](#)

City staff review. Conventional zoning permitted uses, excluding conventional residential subdivisions, may opt to utilize these standards and shall be reviewed and approved by City staff.

[\(b\)](#)

Minimum front setback for all uses: 20 feet/35 feet.\*

[\(c\)](#)

Residential development:

[\[1\]](#)

Maximum density (for net buildable land): 4.1 dwelling units/acre.

[\[2\]](#)

Minimum open space ratio: 0.40.

[\[3\]](#)

Minimum lot area (per housing unit type): See § [300-524B](#).

[\(d\)](#)

Nonresidential development:

[\[1\]](#)

Floor area factor (FAF): 0.35.

[\[2\]](#)

Impervious surface ratio: 0.50.

[\(e\)](#)

Notes:

[\[1\]](#)

\*Minimum front setback: 35 feet from street line of arterial and collector streets; 20 feet from the street line of all other streets.

[\[2\]](#)

Side and rear setbacks are flexible; see § [300-502](#), Buffer yards.

[\[3\]](#)

See the arterial/collector street list in § [300-515C](#).

### **§ 300-315.2. Rural Residential District (RRES).**

[Amended 9-17-2007 by Ord. No. 176]

[A.](#)

Purpose. The district contains sensitive natural resources and residential neighborhoods and, for the most part, is not geographically well suited for extension of water and sewer. It is the district's intent to conserve the rural character of the City. Residential development and its support services (such as small-scale shops, convenience retail, laundry, and other satellite services) will be permitted. Clustered developments are encouraged to conserve open space and natural values and minimize the cost of services. Maximum permitted densities will be in keeping with natural resource values and groundwater protection considerations.

[B.](#)

Requirements for location of parking, servicing, and loading areas. With the exception of all the allowable permitted uses, all off-street parking lots/areas/stalls, vehicle servicing areas and delivery and garage bay doors shall be located (to the greatest extent practicable) to the side or rear of buildings and away from the road frontage of the property. Buffer yard standards for Urban, Industrial, and Planned Development Districts identified in § [300-502](#) of this chapter are applicable to all parking lots with six or more spaces.

[C.](#)

Dimensional requirements.

[\(1\)](#)

Single developments and minor subdivisions.

[\(a\)](#)

Minimum lot size: 60,000 square feet.

[\(b\)](#)

Minimum road frontage: 200 feet.

[\(c\)](#)

Minimum lot depth: 135 feet.

[\(d\)](#)

Minimum land area required per dwelling unit: 30,000 square feet.

[\(e\)](#)

Minimum building setbacks:

[\[1\]](#)

Front: 20 feet/35 feet.\*

[\[2\]](#)

Side/Rear.\*\*

[\(f\)](#)

Maximum building height: 30 feet.

[\(g\)](#)

Notes:

[\[1\]](#)

\*Front setback: 35 feet from the street line of arterial and collector streets; 20 feet from the street line of all other streets.

[\[2\]](#)

\*\*Side/rear setbacks are flexible; see § [300-502](#), Buffer yards.

[\[3\]](#)

See the arterial/collector street list in § [300-515C](#).

[\(2\)](#)

Major subdivisions.

[\(a\)](#)

Minimum lot size: 60,000 square feet.

[\(b\)](#)

Minimum lot size per dwelling unit: 30,000 square feet.

[\(c\)](#)

Minimum open space per dwelling unit: 12,000 square feet.\*

[\(d\)](#)

Minimum lot size for nonresidential uses: 60,000 square feet.

[\(e\)](#)

Minimum lot frontage:

[\[1\]](#)

Residential: 150 feet.

[\[2\]](#)

Nonresidential: 200 feet.

[\(f\)](#)

Minimum lot depth:

[\[1\]](#)

Residential: 135 feet.

[\[2\]](#)

Nonresidential: 150 feet.

[\(g\)](#)

Minimum building setbacks:

[\[1\]](#)

Front: 20 feet/35 feet.\*\*

[\[2\]](#)

Side/Rear.\*\*\*

[\(h\)](#)

Maximum building height: 30 feet.

[\(i\)](#)

Notes:

[\[1\]](#)

\*All open space shall be made contiguous along an outside boundary (or boundaries) of the subdivision to the greatest practicable extent and shall be dedicated to an association of parcel owners initially created by the developer and which at a specified time period revert to said parcel owners. This open space shall include land appropriate to passive and active recreational uses, but may include nonbuildable land such as wetlands and steep slopes.

[\[2\]](#)

\*\*Front setback: 35 feet from the street line of arterial and collector streets; 20 feet from the street line of all other streets.

[3]

\*\*\*Side/Rear setbacks are flexible; see § [300-502](#), Buffer yards.

[4]

See the arterial/collector street list in § [300-515C](#).

### **§ 300-315.3. Rural Ponds District (RPDS).**

*The RPDS District is patterned after the "Agricultural District" described in Part Two—Model Ordinance from author and land use planner Lane Kendig's book entitled "Performance Zoning," Copyright 1980, American Planning Association.*

A.

Purpose. The RPDS District is an area where highly erodible, shallow soils, steep slopes, wetlands, deer yards, shoreland areas and State of Maine wildlife management areas shall be protected. All new development and conversions shall be designed and located, and all land use activities shall be conducted in a manner that prevents additional phosphorous loading to Togus and Three Cornered Ponds especially and stringently protects the water quality of all other ponds. The vulnerability of the ponds to water quality degradation is taken into account. The protection of wildlife, fisheries, scenic, and forest values are given high priority. Residential and recreational uses are encouraged, and maximum densities shall be in keeping with the capacity of the ponds and groundwater supplies to accommodate new development without water quality degradation. Clustering and retention of open space will be favored over conventional development patterns.

B.

New single lots or subdivisions involving four or fewer lots.

(1)

In general.

(a)

The conventional zoning process in Subsection C designates minimum lot sizes and buffer widths for single lots created after the effective date of this ordinance.

(b)

Although all subdivisions are encouraged to utilize the performance zoning dimensional requirements listed in Subsection D, conventional residential subdivisions, involving the creation of four or fewer lots of construction of four or fewer units, may also utilize Subsection C to determine minimum lot sizes, if such developments do not exceed the following:

[1]

Maximum length of new or upgraded road is 200 feet with cumulative driveway length not to exceed 450 feet for three lots or 600 feet for four lots; or

[2]

If no new or upgraded road is proposed, the cumulative driveway length shall not exceed 950 feet for three lots or 1,100 feet for four lots; or

[3]

Single-family or duplex residential development of one or two lots or two lots with less than 200 feet of new or upgraded road with cumulative driveway length not to exceed 150 feet for one lot or 300 feet for two lots; or

[\[4\]](#)

Single-family or duplex residential development of one or two lots with no new or upgraded road with cumulative driveway length not to exceed 450 feet for one lot or 600 feet for two lots.

[\(2\)](#)

Exceptions.

[\(a\)](#)

Existing lots of record within Shoreland Districts. Single lots of record existing prior to the effective date of this ordinance and located in the Shoreland Zoning Overlay Districts shall comply with no lesser requirement than the minimum dimensional and performance standards outlined in the applicable shoreland district and § [300-528](#).

[\(b\)](#)

Existing lots of record outside Shoreland Districts. Except as provided by § [300-312D](#), single lots of record existing prior to the effective date of this ordinance that are located in areas of the RPDS District not covered by the Shoreland Zoning Overlay Districts shall comply with no less than the minimum dimensional requirements, as outlined in the applicable Tables 315.3-A and 315.3-B in Subsection [C\(2\)](#), that most nearly conform to the existing lot size and soil conditions. No building permit shall be denied for an existing lot which is not able to meet the minimum buffer widths as established. If necessary, due to site conditions and lot configuration, the minimum buffer width may be reduced to 20 feet without obtaining a variance from the Board of Zoning Appeals.

[\(3\)](#)

To determine minimum lot size:

[\(a\)](#)

In creating a new lot or a subdivision of four or fewer lots/units as outlined above, the lot owner or applicant shall consult with City staff to determine in which watershed the property is located.

[\(b\)](#)

Upon such determination, and upon obtaining a soils test for on-site waste disposal suitability, Subsection [C\(1\)](#) shall be consulted and the applicant or lot owner shall be directed to utilize either Table 315.3-A or 315.3-B in Subsection [C\(2\)](#) to determine the minimum lot size required in order to control phosphorous loading into the affected pond.

[\(c\)](#)

The soils test shall be performed by a professional engineer or soil scientist registered or licensed in the State of Maine with the authority to conduct such a test. The soils test shall indicate what hydrologic soils group (see definitions) exists on the site in the area where placement of the septic system and structures is to occur, and shall be matched with the appropriate lot size noted in Table 315.3-A or 315.3-B in Subsection [C\(2\)](#).

[\(d\)](#)

Lots occurring in more than one watershed shall comply with the regulations of the district (RPDS/RRES or RPDS/RR) or subwatershed (e.g., Lower Togus/Wellman Ponds) in which 51% or more of the lot area exists.

*Tables 315.3-A and 315.3-B in Subsection [C\(2\)](#) were derived from the chart included in Appendix B of this ordinance. The chart was created by the DEP Water Quality Division and includes: pond or lake name; its water quality category; the direct drainage area in acres; the level of protection desired by the City of Augusta; a measure of additional phosphorous that, exported from the watershed to the lake, would produce a one-part-per-billion increase in the lake's phosphorous concentration; and the "P" value, the maximum acceptable increase in the*

amount of phosphorous exported per acre of watershed on a yearly basis. The full description of the process for determining the "P" factor can be found in "Phosphorous Control in Lake Watersheds, A Technical Guide to Evaluating New Development" (Guide), Maine Department of Environmental Protection, September 1989.

Table 315.3-A was created by grouping all ponds with a "P" value greater than 0.07 and reflects a variation of the Guide's Table 4-1 on page 26; Table 315.3-B was created by grouping all ponds with a "P" value below 0.07 and also reflect a variation in the Guide's Table 4-1. Even though the chart in Appendix B lists "P" values for each pond, the intent of these regulations is to simplify the application of the regulations while providing a determined amount of phosphorous loading protection for each pond based on the DEP's work.

As water quality monitoring work by the DEP and others proceeds, Tables 315.3-A and 315.3-B will be reevaluated and adjustments made where necessary.

C.

Conventional zoning process.

(1)

Dimensional requirements. [See also Subsection C(2) below.]

(a)

Minimum lot size for all uses.

<b>Watershed</b>	<b>For Minimum Lot Size, Refer to</b>
Anderson Pond	Table 315.3-A
Dam Pond	Table 315.3-A
Little Togus Pond	Table 315.3-A
Lower Togus Pond	Table 315.3-A
Spectacle Pond	Table 315.3-A
Togus Pond	Table 315.3-A
Tolman Pond	Table 315.3-A
Unnamed Pond	Table 315.3-A
Greeley Pond	Table 315.3-B
Mud Pond	Table 315.3-B
Three Cornered Pond	Table 315.3-B
Wellman Pond	Table 315.3-B

(b)

Minimum area per living unit shall be no less than the minimum lot size.

(c)

Minimum road frontage: 150 feet; minimum depth: 100 feet.

(d)

Side/Rear setbacks are flexible; see minimum buffer widths.

(e)

Front setback: 35 feet from the street line of arterial and collector streets; 20 feet from the street line of all other streets.

(f)

The total area of all structures, parking lots and other nonvegetated surfaces shall not exceed 20% of the total lot area.

(g)

Additional water quality measures may be required in accordance with section

(2)

Lot size based on hydrologic soil group.

(a)

Use of Tables 315.3-A and 315.3-B requires determination of hydrologic soil group before determining the minimum lot size. Once the hydrologic soil group has been identified through a subsurface wastewater disposal soil test, a lot owner must agree to maintain the required buffer width at all perimeter property lines. No more than 20% of the parcel may be covered with structures, parking areas and other nonvegetated surfaces. Driveways shall be included in the calculation of total impervious surface; however, total square footage of gravel driveways may be discounted by 50%. *A gravel driveway 15 feet wide and 100 feet long equals 1,500 square feet; however, only 750 square feet is required to be used in the calculation of total area covered by structures, parking areas and other nonvegetated surfaces. Paved driveways shall be calculated at 100% of their area.*

(b)

*With respect to Tables 315.3-A and 315.3-B, subsurface wastewater disposal soil tests indicating soil profile and condition are translated into hydrologic soil groups through the use of Appendix B.2 found at the back of this ordinance. As an example, profile and condition 6B translates in a hydrologic soil group of "A." For a parcel in the Togus Pond watershed, Table 315.3-A specifies that soils have a hydrologic soil group A require a one-acre minimum lot size and a twenty-foot perimeter buffer.*

**Table 315.3-A**

<b>If Hydrologic Soil Group Is</b>	<b>Minimum Lot Size (acres)</b>	<b>Minimum Buffer Width Required Along Perimeter Property Line (feet)</b>
A	1.0	20
B	2.0	30
C	3.0	40
D	4.0	50

**Table 315.3-B**

<b>If Hydrologic Soil Group Is</b>	<b>Minimum Lot Size (acres)</b>	<b>Minimum Buffer Width Required Along Perimeter Property Line (feet)</b>
A	1.5	40
B	2.5	50
C	4.0	60
D	5.0	70

D.

Performance zoning process. Projects utilizing the performance zoning process outlined below shall perform a site capacity analysis (Article [IV](#)) to determine the dwelling units per acre or FAF, as applicable. Once this determination has been made, the applicant shall comply with all applicable performance standards outlined in Part [5](#) of this chapter and shall pay particular attention to [§ 300-514B\(3\)](#), Phosphorus control standards, and Part Two of the Guide noted.

(1)

Requiring:

(a)

Site capacity analysis (Article [IV](#)): all uses.

[\(b\)](#)

Planning Board review (public hearing where indicated), including master plans for layout and use of entire land holdings.

[\(c\)](#)

DEP standard review method.

[\(d\)](#)

Permit issued by CEO.

[\(2\)](#)

Dimensional requirements.

[\(a\)](#)

Minimum front setback for all uses: 20 feet/35 feet.\*

[\(b\)](#)

Residential development:

[\[1\]](#)

Maximum density (for net buildable land): 0.96 dwelling unit/acre.

[\[2\]](#)

Minimum open space ratio: 0.60.

[\[3\]](#)

Minimum lot area (per housing unit type): See § [300-524B](#).

[\(c\)](#)

Nonresidential development:

[\[1\]](#)

Floor area factor (FAF): 0.635.

[\[2\]](#)

Impervious surface ratio: 0.50.

[\(d\)](#)

Notes:

[\[1\]](#)

\*Minimum front setbacks: 35 feet from street line of arterial and collector streets; 20 feet from the street line of all other streets.

[\[2\]](#)

Side and rear setbacks are flexible; see § [300-502](#), Buffer yards.

[\[3\]](#)

See the arterial/collector street list in § [300-515C](#).

[\(3\)](#)

Upon completion of the site capacity analysis, the applicant shall design the project to comply with the provisions of the standard review method outlined in the Phosphorous Control in Lake Watersheds Guide [see § 300-514(3)]. Based on design details and specifics of the site, density in dwelling units per acre or floor area factor may require reduction in accordance with the Guide.

#### **[§ 300-315.4. Rural Village District \(RV\).](#)**

[A.](#)

Purpose. The RV District is intended to foster commercial and service-oriented uses designed to support the surrounding rural population and to foster positive community identity in the rural parts of the City.

B.

Notwithstanding § [300-304B](#) of this chapter, for the Rural Village District area along Civic Center Drive, the zoning boundary line which is 500 feet back from Civic Center Drive shall be the physical limit for where a land use allowed in the Rural Village District on a lot in question can extend, unless that land use is also allowed in the adjacent zoning district of that same lot.

C.

Dimensional requirements.

(1)

Conventional zoning.

(a)

Single, group care and two-family uses.

[1]

Minimum lot size: 20,000 square feet.

[2]

Minimum road frontage: 150 feet (all other streets)/400 feet (arterial and collector streets).

[3]

Minimum lot depth: 135 feet.

[4]

Minimum front setback: 20 feet/35 feet.\*

(b)

Retail and personal services.

[1]

Minimum lot size: one acre.

[2]

Minimum road frontage: 200 feet (all other streets)/400 feet (arterial and collector streets).

[3]

Minimum lot depth: 150 feet.

[4]

Minimum front setback: 50 feet.

(c)

Professional use.

[1]

Minimum lot size: 20,000 square feet.

[2]

Minimum road frontage: 150 feet (all other streets)/400 feet (arterial and collector streets).

[3]

Minimum lot depth: 100 feet.

[4]

Minimum front setback: 20 feet/35 feet.\*

(d)

Notes:

[1]

Side and rear setbacks are flexible; see § [300-502](#), Buffer yards.

[\[2\]](#)

\*Minimum front setback: 35 feet from street line of arterial and collector streets; 20 feet from the street line of all other streets.

[\[3\]](#)

Minimum land area per living unit is 5,000 square feet after the first (i.e., two units require 25,000 square feet; three units require 30,000 square feet).

[\[4\]](#)

The minimum frontage requirements for any new lot created within the Rural Village District located along Civic Center Drive shall be 400 feet.

[\[5\]](#)

See the arterial/collector street list in § [300-515C](#).

[\(2\)](#)

Performance zoning.

[\(a\)](#)

Minimum front setback for all uses: 20 feet/35 feet.\*

[\(b\)](#)

Residential development:

[\[1\]](#)

Maximum density (for net buildable land): 3.5 dwelling units/acre.

[\[2\]](#)

Minimum open space ratio: 0.50.

[\[3\]](#)

Minimum lot area (per housing unit type): See § [300-524B](#).

[\(c\)](#)

Nonresidential development:

[\[1\]](#)

Floor area factor (FAF): 0.63.

[\[2\]](#)

Impervious surface ratio: 0.60.

[\(d\)](#)

Notes:

[\[1\]](#)

\*Minimum front setback: 35 feet from street line of arterial and collector streets; 20 feet from the street line of all other streets.

[\[2\]](#)

Side and rear setbacks are flexible; see § [300-502](#), Buffer yards.

[\[3\]](#)

See the arterial/collector street list in § [300-515C](#).

### **§ 300-315.5. Rural River 2 District (RR2).**

[Amended 9-17-2007 by Ord. No. 176]

[A.](#)

Purpose. The RR2 District is intended to retain the water quality, wildlife habitat, and scenic resource values of the West River Road corridor adjacent to the Kennebec River. Residential uses, recreational, agricultural, and commercial uses appropriate to a scenic, country residential

corridor are allowed, subject to conditional use or special exception review, as identified below. Commercial developments shall meet architectural design standards and support or enhance the purposes of the district. Clustering of residential developments and the retention of open space will be strongly encouraged. Maximum permitted development densities will be in keeping with natural resource values and capabilities of private septic and water systems.

B.

Dimensional requirements.

(1)

Single developments and minor subdivisions.

(a)

Minimum lot size: 60,000 square feet.

(b)

Minimum lot frontage: 200 feet.

(c)

Minimum lot depth: 200 feet.

(d)

Minimum land area required per dwelling unit: 30,000 square feet.

(e)

Minimum building setbacks:

[1]

Front: 20 feet/35 feet.\*

[2]

Side/Rear.\*\*

(f)

Notes:

[1]

\*Front setback: 35 feet from the street line of arterial and collector streets; 20 feet from the street line of all other streets.

[2]

\*\*Side/Rear setbacks are flexible; see § [300-502](#), Buffer yards.

[3]

See the arterial/collector street list in § [300-515C](#).

(2)

Major subdivisions.

(a)

Minimum subdivision land area required per dwelling unit: 60,000 square feet.

(b)

Minimum lot size per dwelling unit: 30,000 square feet.

(c)

Minimum open space per dwelling unit: 45,000 square feet.\*

(d)

Minimum lot size for nonresidential uses: 60,000 square feet.

(e)

Minimum lot frontage:

[1]

Residential: 100 feet.

[\[2\]](#)

Nonresidential: 200 feet.

[\(f\)](#)

Minimum lot depth:

[\[1\]](#)

Residential: 200 feet.

[\[2\]](#)

Nonresidential: 200 feet.

[\(g\)](#)

Minimum building setbacks:

[\[1\]](#)

Front: 20 feet/35 feet.\*\*

[\[2\]](#)

Side/Rear.\*\*\*

[\(h\)](#)

Notes:

[\[1\]](#)

All open space shall be made contiguous along an outside boundary (or boundaries) of the subdivision to the greatest practicable extent and shall be dedicated to an association of parcel owners initially created by the developer and which at a specified time period revert to said parcel owners. This open space shall include land appropriate to passive and active recreational uses, but may include nonbuildable land such as wetlands and steep slopes.

[\[2\]](#)

\*\*Front setback: 35 feet from the street line of arterial and collector streets; 20 feet from the street line of all other streets.

[\[3\]](#)

\*\*\*Side/Rear setbacks are flexible; see § [300-502](#), Buffer yards.

[\[4\]](#)

See the arterial/collector street list in § [300-515C](#).

[C.](#)

Requirements for location of parking, servicing, and loading areas. With the exception of all the allowable permitted uses, all off-street parking lots/areas/stalls, vehicle servicing areas and delivery and garage bay doors shall be located (to the greatest extent practicable) to the side or rear of buildings and away from the road frontage of the property. Buffer yard standards for Urban, Industrial, and Planned Development Districts identified in § [300-502](#) of this chapter are applicable to all parking lots with six or more spaces.

## **§ 300-316. Overlay Districts.**

### **§ 300-316.1. Shoreland Districts.**

[Amended 6-20-1994 by Ord. No. 546; 5-17-2004 by Ord. No. 72]

[A.](#)

General provisions.

[\(1\)](#)

All land use activities, as indicated in the tables that follow, shall conform with all applicable land use standards outlined in Part 5. The district designation for a particular site shall be determined from the Official Zoning Map.

(2)

Dimensional requirements.

(a)

Minimum dimensional requirements as listed in § [300-528](#) may be superseded by stronger standards based on the specifics of the site and with respect to slope and soil conditions in accordance with § [300-506D](#).

(b)

In no case shall lots created in a subdivision in the Shoreland District, after July 14, 1990, have a lot depth to shore frontage ratio of greater than five to one, pursuant to 30-A M.R.S.A. § 4404, Subsection 17.

(3)

A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. § 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them: [The DEP has determined that "adjacent," as used in Subsection [A\(3\)](#), means within 75 feet.]

(a)

Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;

(b)

Draining or otherwise dewatering;

(c)

Filling, including adding sand or other material to a sand dune; or

(d)

Any construction or alteration of any permanent structure.

B.

Limited Residential District (LR).

(1)

Purpose. The LR District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and it includes areas which are used less intensively than those in the Limited Commercial District, or the General Development District.

(2)

Uses.

(a)

Uses by right; no permit needed; all applicable land use standards must be met:

[1]

Nonintensive recreational uses not requiring structures, such as hunting, fishing and hiking.

[2]

Motorized vehicular traffic on existing roads and trails.

[3]

Forest management activities, including timber harvesting.

[4]

Clearing of vegetation for approved construction and other permitted uses.

[\[5\]](#)

Fire-prevention activities.

[\[6\]](#)

Wildlife management practices.

[\[7\]](#)

Soil and water conservation practices.

[\[8\]](#)

Surveying and resource analysis.

[\[9\]](#)

Agriculture.

[\[10\]](#)

Emergency operations.

[\[11\]](#)

Mineral exploration less than 100 square feet total disturbed surface area.

[\[12\]](#)

Service drops, as defined, to permitted uses.

[\[13\]](#)

Utilities and communications facilities as outlined in § [300-525A](#).

[\[14\]](#)

Filling and earthmoving of less than 10 cubic yards.

[\(b\)](#)

Permitted uses requiring permit by CEO:

[\[1\]](#)

One- and two-family dwellings.

[\[2\]](#)

Structures accessory to permitted uses.

[\[3\]](#)

Small nonresidential facilities for educational, scientific, or nature interpretation purposes.

[\[4\]](#)

Signs.

[\[5\]](#)

Temporary piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland.

[\[6\]](#)

Individual, private campsite.

[\[7\]](#)

Filling and earthmoving of more than 10 cubic yards.

[\[8\]](#)

Uses similar to uses by right and uses requiring a CEO permit.

[\[9\]](#)

Home occupations.

[\[10\]](#)

Mineral exploration when more than 100 square feet total surface area disturbed.

[\(c\)](#)

Permitted uses requiring permit by LPI:

[\[1\]](#)

Seasonal residence conversions to year-round residences.

[\[2\]](#)

Private sewage disposal systems for permitted uses.

[\(d\)](#)

Conditional uses requiring Planning Board review; mandatory public hearing:

[\[1\]](#)

Aquaculture.

[\[2\]](#)

Campgrounds.

[\[3\]](#)

Parking facilities.

[\[4\]](#)

Marinas.

[\[5\]](#)

Mineral extraction, including sand and gravel extraction.

[\[6\]](#)

Permanent piers, docks, wharfs, bridges and other uses and structures extending over or below the normal high-water line or within a wetland.

[\[7\]](#)

Public and private recreational areas with minimal structural development.

[\(e\)](#)

Uses requiring Planning Board approval; use criteria in § [300-603E\(5\)\(e\)\[1\]](#) through [\[8\]](#); public hearing not mandatory:

[\[1\]](#)

Multiunit residential.

[\[2\]](#)

New essential services.

[\[3\]](#)

New road construction.

[\[4\]](#)

Uses similar to uses requiring Planning Board approval.

[C.](#)

Resource Protection District (RP).

[\(1\)](#)

Purpose. The RP District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or areas with scenic and natural values. This district shall include the following areas when they occur within the limits of the Shoreland Zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial or General Development Districts need not be included within the Resource Protection District:

[\(a\)](#)

Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) as of and since January 1, 1973.

[\[1\]](#)

**NOTE:** The Natural Resources Protection Act, 38 M.R.S.A. §§ 480-A through 480-S, requires the Department of Environmental Protection to designate areas of significant wildlife habitat. Significant wildlife habitat includes:

[\[a\]](#)

Habitat for species appearing on the official state or federal lists of endangered or threatened species;

[\[b\]](#)

High- and moderate-value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife;

[\[c\]](#)

High- and moderate-value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife;

[\[d\]](#)

Critical spawning and nursery areas for Atlantic Sea Run Salmon as defined by the Atlantic Sea Run Salmon Commission; and

[\[e\]](#)

Shorebird nesting, feeding and staging areas and seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife.

[\[2\]](#)

As these areas are mapped and development standards are established, the City of Augusta shall incorporate such areas and standards into this chapter.

[\(b\)](#)

Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the one-hundred-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as "recent floodplain soils" (defined). This district shall also include one-hundred-year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

[\(c\)](#)

Areas of two or more contiguous acres with sustained slopes of 20% or greater.

[\(d\)](#)

Areas of two or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during normal spring high water.

[\(e\)](#)

Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

[\(f\)](#)

The following other areas which have been recommended for protection in the 1988 Growth Management Plan:

[\[1\]](#)

Important wildlife habitat;

[\[2\]](#)

Natural sites of significant scenic or aesthetic value;

[\[3\]](#)

Areas designated by federal, state or municipal governments as natural areas of significance to be protected from development; and

[\[4\]](#)

Other significant areas which should be included in this district to fulfill the purposes of this chapter, such as but not limited to existing public access areas and certain significant archeological and historic sites deserving of long-term protection as determined by the City of Augusta, after consultation with the Maine Historic Preservation Commission.

**NOTE:** As these areas are mapped and development standards are established, the City of Augusta shall incorporate such areas and standards into this chapter.

[\(2\)](#)

Uses. Unless specifically enumerated, principal structures, including residential dwelling units, commercial, industrial and institutional structures are prohibited in the RP District. Therefore, there are no dimensional requirements for new structures and uses within the district.

Dimensional requirements for legally existing nonconforming uses and structures are listed in § [300-528](#).

[\(a\)](#)

Uses by right; no permit needed; all applicable land use standards must be met:

[\[1\]](#)

Nonintensive recreational uses not requiring structures, such as hunting, fishing and hiking.

[\[2\]](#)

Motorized vehicular traffic on existing roads and trails.

[\[3\]](#)

Forest management activities.

[\[4\]](#)

Fire-prevention activities.

[\[5\]](#)

Wildlife management practices.

[\[6\]](#)

Soil and water conservation practices.

[\[7\]](#)

Surveying and resource analysis.

[\[8\]](#)

Mineral exploration less than 100 square feet total surface area disturbed.

[\[9\]](#)

Emergency operations.

[\[10\]](#)

Service drops, as defined, to permitted uses.

[\(b\)](#)

Permitted uses requiring permit by CEO:

[\[1\]](#)

Timber harvesting if more than 75 feet back from the normal high-water line of great ponds.

[\[2\]](#)

Signs.

[\[3\]](#)

Filling and earthmoving of less than 10 cubic yards.

[\[4\]](#)

Clearing of vegetation for approved construction and other allowed uses.

[\[5\]](#)

Temporary piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland.

[\[6\]](#)

Individual, private campsites.

[\[7\]](#)

Uses similar to uses by right and uses requiring a CEO permit.

[\(c\)](#)

Conditional uses requiring Planning Board review; use criteria in § [300-603E\(5\)\(e\)](#):

[\[1\]](#)

Agriculture.

[\[2\]](#)

Aquaculture.

[\[3\]](#)

Structures accessory to permitted uses.

[\[4\]](#)

Uses similar to uses requiring a Planning Board permit.

[\[5\]](#)

Small nonresidential facilities for educational, scientific or nature interpretation purposes.

[\[6\]](#)

New essential services, unless restricted by performance standards.

[\[7\]](#)

Public/private recreational areas involving minimal structural development.

[\[8\]](#)

Permanent piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland.

[\[9\]](#)

Filling and earthmoving activity of more than 10 cubic yards.

[\[10\]](#)

Mineral extraction, including sand and gravel extraction, unless area is designated RP due to its wildlife values.

[\[11\]](#)

Campgrounds and parking facilities, only if area is zoned RP due to floodplain criteria.

[\[12\]](#)

New road and driveway construction, only where no reasonable alternative route or location is available outside the RP area.

[D.](#)

General Development District (GD).

[\(1\)](#)

Purpose. The General Development District includes the following types of areas:

[\(a\)](#)

Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:

[\[1\]](#)

Areas devoted to manufacturing, fabricating or other industrial activities;

[\[2\]](#)

Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and

[\[3\]](#)

Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, racetracks and fairgrounds.

[\(b\)](#)

Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

[\(c\)](#)

Portions of the General Development District may also include residential development. However, no area shall be designated as General Development District based solely on residential use.

[\(d\)](#)

In areas adjacent to great ponds classified GPA (as defined) and adjacent to rivers and perennial streams flowing to great ponds classified GPA, the designation of an area as a General Development District shall be based upon uses existing at the time of adoption of this chapter. There shall be no newly established General Development Districts or expansions in area of existing General Development Districts adjacent to rivers and perennial streams which flow to great ponds classified GPA.

[\(2\)](#)

Uses.

[\(a\)](#)

Uses by right; no permit needed; all applicable land use standards must be met:

[\[1\]](#)

Nonintensive recreational uses not requiring structures, such as hunting, fishing and hiking.

[\[2\]](#)

Forest management activities; timber harvesting.

[\[3\]](#)

Motorized vehicular traffic on existing roads and trails.

[\[4\]](#)

Home occupations.

[\[5\]](#)

Clearing of vegetation for approved construction and other permitted uses.

[\[6\]](#)

Fire-prevention activities.

[\[7\]](#)

Wildlife management practices.

[\[8\]](#)

Soil and water conservation practices.

[\[9\]](#)

Surveying and resource analysis.

[\[10\]](#)

Mineral exploration if less than 100 square feet surface area in total is disturbed.

[\[11\]](#)

Emergency operations.

[\[12\]](#)

Agriculture.

[\[13\]](#)

Aquaculture.

[\[14\]](#)

Service drops, as defined, to permitted uses.

[\[15\]](#)

Filling and earthmoving of less than 10 cubic yards.

[\[16\]](#)

Utilities and communications facilities as described in § [300-525A](#).

[\(b\)](#)

Permitted uses requiring permit by CEO:

[\[1\]](#)

One- and two-family structures.

[\[2\]](#)

Individual, private campsites.

[\[3\]](#)

Signs.

[\[4\]](#)

Small nonresidential facilities for educational, scientific, or nature interpretation purposes.

[\[5\]](#)

Filling and earthmoving of more than 10 cubic yards.

[\[6\]](#)

Structures accessory to permitted uses.

[\[7\]](#)

Temporary piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland.

[\[8\]](#)

Public and private recreational areas involving minimal structural development.

[\[9\]](#)

Uses similar to uses by right and uses requiring a CEO permit.

[\[10\]](#)

Commercial, industrial, government and institutional uses.

[\(c\)](#)

Permitted uses requiring permit by LPI:

[\[1\]](#)

Conversions of seasonal residences to year-round residences.

[\[2\]](#)

Private sewage disposal systems for allowed uses.

[\(d\)](#)

Conditional uses requiring Planning Board review; public hearing required unless otherwise specified:

[\[1\]](#)

Multiunit residential: review as subdivision; public hearing not mandatory.

[\[2\]](#)

Permanent piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland.

[\[3\]](#)

New essential services.

[\[4\]](#)

New road construction.

[\[5\]](#)

Parking facilities.

[\[6\]](#)

Marinas.

[\[7\]](#)

Campgrounds.

[\[8\]](#)

Uses similar to uses requiring a Planning Board permit.

[E.](#)

Limited Commercial District (LC).

[\(1\)](#)

Purpose. The Limited Commercial District includes areas of mixed, light commercial and residential uses which should not be developed as intensively as the General Development District. The district includes areas of two or more contiguous acres in size devoted to a mix of residential and low-intensity business and commercial areas. Industrial uses are prohibited.

[\(2\)](#)

Uses.

[\(a\)](#)

Uses by right; no permit needed; all applicable land use standards must be met:

[\[1\]](#)

Nonintensive recreational uses not requiring structures, such as hunting, fishing and hiking.

[\[2\]](#)

Forest management activities and timber harvesting.

[\[3\]](#)

Motorized vehicular traffic on existing roads and trails.

[\[4\]](#)

Clearing of vegetation for approved construction and other permitted uses.

[\[5\]](#)

Fire-prevention activities.

[\[6\]](#)

Wildlife management practices.

[\[7\]](#)

Soil and water conservation practices.

[\[8\]](#)

Surveying and resource analysis.

[\[9\]](#)

Mineral exploration if less than 100 square feet surface area in total is disturbed.

[\[10\]](#)

Emergency operations.

[\[11\]](#)

Agriculture.

[\[12\]](#)

Aquaculture.

[\[13\]](#)

Service drops, as defined, to allowed uses.

[\[14\]](#)

Filling and earthmoving of less than 10 cubic yards.

[\[15\]](#)

Utilities and communications facilities as described in § [300-525A](#).

[\(b\)](#)

Permitted uses requiring permit by CEO:

[\[1\]](#)

One- and two-family residential.

[\[2\]](#)

Structures accessory to permitted uses.

[\[3\]](#)

Small nonresidential facilities for educational, scientific, or nature interpretation purposes.

[\[4\]](#)

Home occupations.

[\[5\]](#)

Signs.

[\[6\]](#)

Temporary piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland.

[\[7\]](#)

Public and private recreational areas involving minimal structural development.

[\[8\]](#)

Individual, private campsites.

[\[9\]](#)

Filling and earthmoving of more than 10 cubic yards.

[\[10\]](#)

Uses similar to uses by right and to uses requiring a CEO permit.

[\[11\]](#)

Mineral exploration when more than 100 square feet total surface area disturbed.

[\(c\)](#)

Permitted uses requiring permit by LPI:

[\[1\]](#)

Private sewage disposal systems for allowed uses.

[\[2\]](#)

Conversions of seasonal residences to year-round residences.

[\(d\)](#)

Conditional uses requiring Planning Board review; public hearing required unless otherwise specified:

[\[1\]](#)

Mineral extraction, including sand and gravel extraction.

[\[2\]](#)

Marinas.

[\[3\]](#)

Commercial uses.

[\[4\]](#)

Governmental and institutional uses.

[\[5\]](#)

Campgrounds.

[\[6\]](#)

Permanent piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland.

[\[7\]](#)

Parking facilities.

[\[8\]](#)

Uses similar to uses requiring a Planning Board permit.

[\(e\)](#)

Public hearing not mandatory for the following uses; use criteria in § [300-603E\(5\)\(e\)\[1\]](#) through [\[8\]](#):

[\[1\]](#)

New essential services.

[\[2\]](#)

Multiunit residential.

[\[3\]](#)

New road construction.

[F.](#)

Stream Protection District (SP).

[\(1\)](#)

Purpose.

[\(a\)](#)

The Stream Protection District includes all land areas within 100 feet (SP 100) horizontal distance of the normal high-water line of a stream (as defined), exclusive of those areas within 250 feet, horizontal distance, of the normal high-water line of a great pond, river or saltwater body or within 250 feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area is located within 250 feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the Shoreland District associated with that body of water or wetland.

[\(b\)](#)

The Stream Protection District also includes major and minor tributaries of streams (as defined) as well as drainageways depicted on the City's 200 scale topographic maps and/or the USGS Topographic Quadrangle maps. In the case of these tributaries and drainageways, the SP District has been reduced to land areas within 25 feet horizontal distance of the normal high-water line of the tributary and shall be considered the SP 50 District. In the SP 50 District, no less than a twenty-five-foot buffer shall be maintained adjacent to the tributary or drainageway. Such buffer shall not be disturbed except to remove safety hazards. If such a tributary or drainageway is determined, upon field investigation by the CEO, to be an intermittent stream, the required buffer may be reduced to 15 feet.

[\(2\)](#)

Uses.

[\(a\)](#)

Uses by right; no permit needed; all applicable shoreland standards must be met:

[\[1\]](#)

Nonintensive recreational uses not requiring structures, such as hunting, fishing and hiking.

[\[2\]](#)

Timber harvesting.

[\[3\]](#)

Motorized vehicular traffic on existing roads and trails.

[\[4\]](#)

Forest management activities.

[\[5\]](#)

Surveying and resource analysis.

[\[6\]](#)

Fire-prevention activities.

[\[7\]](#)

Emergency operations.

[\[8\]](#)

Agriculture.

[\[9\]](#)

Service drops to permitted uses.

[\[10\]](#)

Wildlife management practices.

[\[11\]](#)

Soil and water conservation practices.

[\(b\)](#)

Permitted uses requiring permit by CEO:

[\[1\]](#)

Clearing of vegetation for approved construction and other allowed uses.

[\[2\]](#)

Temporary piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland.

[\[3\]](#)

Signs.

[\[4\]](#)

Individual, private campsites.

[\[5\]](#)

Filling and earthmoving of less than 10 cubic yards.

[\[6\]](#)

Uses similar to allowed uses.

[\[7\]](#)

Uses similar to uses requiring CEO permit.

[\[8\]](#)

One- and two-family dwellings; must obtain a variance if within 75 feet.

[\(c\)](#)

Permitted uses requiring permit by LPI:

[\[1\]](#)

Conversions of seasonal residences to year-round residences.

[\[2\]](#)

Private sewage disposal systems for allowed uses.

[\(d\)](#)

Conditional uses requiring Planning Board review:

[\[1\]](#)

Small nonresidential facilities for educational, scientific, or nature interpretation purposes; must obtain a variance if within 75 feet.

[\[2\]](#)

Permanent piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland.

[\[3\]](#)

Home occupations.

[\[4\]](#)

New essential services (with special restrictions, § [300-528](#)).

[\[5\]](#)

Public and private recreational areas involving minimal structural development.

[\[6\]](#)

Aquaculture.

[\[7\]](#)

Marinas.

[\[8\]](#)

New road construction.

[\[9\]](#)

Filling and earthmoving of more than 10 cubic yards.

[\[10\]](#)

Uses similar to uses requiring Planning Board permit.

[G.](#)

Historic Waterfront Districts.

[\(1\)](#)

Old Fort Western Historic Waterfront District.

[\(a\)](#)

Purpose. For a specified area in front of Old Fort Western, a zone denoted as the "Old Fort Western Historic Waterfront District" shall be adhered to. This zone encompasses a distance of 350 feet measured south from Calumet Bridge at Old Fort Western<sup>[1]</sup> and a depth of 250 feet measured east from the high-water mark in the Kennebec River to Old Fort Western. Shoreland zoning standards in this area will be in accordance with § [300-528C\(3\)](#). The purpose of this district is to protect bank stabilization and maintain key gateway views.

[\[1\]](#)

Editor's Note: Res. No. 125, adopted 7-21-2008, changed the name of this bridge from "Father John Curran Bridge" to "Calumet Bridge at Old Fort Western."

[\(b\)](#)

Uses.

[\[1\]](#)

Uses by right; no permit needed; all applicable shoreland standards must be met:

[\[a\]](#)

Nonintensive recreational uses not requiring structures such as fishing and hiking.

[\[b\]](#)

Forest management activities.

[\[c\]](#)

Surveying and resource analysis.

[\[d\]](#)

Fire-prevention activities.

[\[e\]](#)

Emergency operations.

[\[f\]](#)

Agriculture.

[\[g\]](#)

Wildlife management practices.

[\[h\]](#)

Soil and water conservation practices.

[\[2\]](#)

Permitted uses/activities requiring permit by CEO and prior approval by Tree Warden:

[\[a\]](#)

Cultural/historic buildings and structures (and their associated activities).

[\[b\]](#)

Clearing of vegetation for approved construction, including lighting and other allowed uses.

[\[c\]](#)

Temporary piers, docks, wharfs, bridges, and other structures and uses extending over or below the normal high-water line or within a wetland.

[\[d\]](#)

Filling and earthmoving of less than 10 cubic yards.

[\[e\]](#)

Uses similar to allowed uses.

[\[f\]](#)

Uses similar to uses requiring CEO permit and prior approval by Tree Warden.

[\[3\]](#)

Permitted uses requiring permit by LPI: none.

[\[4\]](#)

Conditional uses requiring Planning Board review: none.

[\(2\)](#)

Kennebec Arsenal Historic Waterfront District.

[\(a\)](#)

Purpose. For a specified area in front of the Kennebec Arsenal, a zone denoted as "Kennebec Arsenal Historic Waterfront District" shall be adhered to. This zone encompasses a distance along the Kennebec River of +/- measured 20 feet north of the arsenal's northern property line to 20 feet south of the arsenal's southern property line for a depth of 250 feet from the high-water mark in the Kennebec River. Shoreland zoning standards in this area will be in accordance with § [300-528C\(3\)](#). The purpose of this district is to restore the Kennebec Arsenal retaining wall to the original grassy slopes.

[\(b\)](#)

Uses.

[\[1\]](#)

Uses by right; no permit needed; all applicable shoreland standards must be met:

[\[a\]](#)

Nonintensive recreational uses not requiring structures such as fishing and hiking.

[\[b\]](#)

Forest management activities.

[\[c\]](#)

Surveying and resource analysis.

[\[d\]](#)

Fire-prevention activities.

[\[e\]](#)

Emergency operations.

[\[f\]](#)

Agriculture.

[\[g\]](#)

Wildlife management practices.

[\[h\]](#)

Soil and water conservation practices.

[\[2\]](#)

Permitted uses/activities requiring permit by CEO:

[\[a\]](#)

Cultural/historical buildings and structures (and their associated activities).

[\[b\]](#)

Clearing of vegetation for approved construction, including lighting, and other allowed uses.

[\[c\]](#)

Temporary piers, docks, wharfs, bridges, and other structures and uses extending over or below the normal high-water line or within a wetland.

[\[d\]](#)

Filling and earthmoving of less than 10 cubic yards.

[\[e\]](#)

Uses similar to allowed uses.

[\[f\]](#)

Uses similar to uses requiring CEO permit.

[\[3\]](#)

Permitted uses requiring permit by LPI: none.

[\[4\]](#)

Conditional uses requiring Planning Board review: none.

### **[§ 300-316.2. Bridge/Highway Corridor Districts.](#)**

(Reserved)

### **[§ 300-316.3. Highway Overlay Districts.](#)**

[A.](#)

Urban Highway — Reserve ending over or below the normal high-water line or within a wetland.

(1)

Parking facilities. Uses similar to uses requiring a Planning Board permit.

(2)

Public hearing not mandatory for the following uses; use criteria in § [300-603E\(5\)\(e\)\[1\]](#) through [\[7\]](#):

(a)

New essential services.

(b)

Multiunit residential.

(c)

New road construction.

B.

Rural Highway. (Reserved)

#### **§ 300-316.4. Capitol View District.**

(Reserved)

#### **§ 300-316.5. Historic District.**

(Reserved)

#### **§ 300-316.6. Resource Conservation and Use District.**

(Reserved)

### **Article IV. Site Capacity Analysis**

#### **§ 300-317. Site capacity analysis required.**

The site capacity analysis is required in the Planned Development and Rural Districts when utilizing the performance zoning process.

*Commentary: This article, applicable to the Planned Development and four Rural Districts, makes clear that the area of a parcel which is suitable for development is not the same as the gross area of that parcel. The site capacity calculation determines the extent to which a site is developable by "subtracting" land which does not qualify for development for any of a variety of reasons. In the event that a site has no valuable natural resource features, the site capacity or area factor and/or impervious surface factor.*

*Access easements and rights-of-way must be subtracted from gross site area because the land involved is unavailable for development.*

*Noncontiguous land consists of areas which are effectively isolated and therefore unavailable for the purpose related to the proposed use. For example, if a portion of the parcel is effectively inaccessible from the remainder of the parcel and therefore not buildable, it should be subtracted from gross site area. If it is large enough to support development independent of the*

*other portion and/or has access to a road, its base site (buildable) area could be calculated separately or could be included in a single, combined calculation.*

**§ 300-318. Base site area calculations (all land uses).**

[Amended 6-19-2006 by Ord. No. 103]

**Table 300-318-A**

Gross site area as determined by actual on-site survey within last 5 years	_____
	acres
Subtract land constituting land within rights-of-ways of existing roads and/or access easements	_____
	acres
Subtract land which is not contiguous (1 and 2):	
(1) A separate parcel which does not abut, adjoin, or share common boundaries with the rest of the development	_____
	acres
(2) Land which is cut off from the main parcel by a road, railroad, existing land uses, or major stream, such that common use is hindered or that the land is unavailable for building purposes	_____
	acres
Whenever both nonresidential and residential uses are proposed:	
Subtract land used or proposed for residential uses OR subtract land proposed for nonresidential use	_____
	acres
(Base site area must be calculated for both uses individually)	
Subtract any land that consists of floodplain, wetland, lake or pond; associated lands zoned Resource Protection	_____
	acres
Equals base site area	_____
	acres

**§ 300-319. Determining site capacity.**

[Amended 6-19-2006 by Ord. No. 103]

A.

Residential. The individual site capacity is determined by calculating the net buildable site area. For single-family, single-family cluster, or performance subdivisions, the number of dwelling units permitted is determined by multiplying the density factor with the net buildable site area. Calculations are as follows:

**Table 300-319-A**

1.	Take base site area	_____
		acres
2.	Multiply by district open space ratio	x _____
		acres
3.	Equals open space — calculation 1	= _____
		acres
4.	Note area of lands consisting of floodplain, wetland, lake or pond; associated lands zoned for Resource Protection	_____
		acres
5.	Is the amount of land in floodplain, wetland, lake or pond, or associated lands zoned for Resource Protection (line 4) equal	

**Table 300-319-A**

to or exceed the amount of open space — calculation 1 (line 3), Yes or No?

6.	Open space adjustment factor: If the answer to Line 5 is Yes, then the adjustment factor is 0.50 (50%) If the answer to Line 5 is No, then the adjustment factor is 1.00 What is the open space adjustment factor?	_____ (either 0.5 or 1.0)
7.	Take open space — calculation 1 from line 3	_____ acres
8.	Multiply by open space adjustment factor from line 6	x _____
9.	Equals required minimum open space	= _____ acres
10.	Take base site area	_____ acres
11.	Subtract minimum required open space	_____ acres
12.	Equals net buildable area	= _____ acres
13.	Take net buildable area	_____ acres
14.	Multiply by district maximum density factor	x _____
15.	Equals number of dwelling units (round down only)	= _____ units

**Table 300-319-B**

Base site area		_____ acres
equals net buildable site area	=	
Take net buildable site area		_____ acres
Multiply by floor area factor	x	_____
Equals maximum floor area	=	_____ acres
Take net buildable site area		_____ acres
Multiply by impervious surface ratio	x	_____
Equals maximum impervious surface	=	_____ acres

B.

Nonresidential. Maximum floor area is determined by calculating the net buildable site area. Developable floor area (square feet) is determined by multiplying the floor area factor with the net buildable site area. The maximum impervious surface allowed is determined by multiplying the impervious surface ratio with the net buildable site area.

**Table 300-319-C**

Base site area equals net buildable site area =	_____	acres
Take net buildable site area	_____	acres
Multiply by floor area factor	x _____	
Equals maximum floor area	= _____	acres
Take net buildable site area	_____	acres
Multiply by impervious surface ratio	x _____	
Equals maximum impervious surface	= _____	acres

**§ 300-320. Housing types allowed in performance subdivisions.**

Performance subdivisions may contain one or more housing types; for example, single-family house, lot-line house, duplex, townhouse, multiplex and multifamily buildings. Such subdivisions shall contain the minimum amount of open space required by the performance standards. Examples of housing types are outlined in the following commentary:

A.

*Single-family house. This dwelling type consists of a single-family residence, including manufactured housing located on a privately owned lot which has private yards on all sides of the house in accordance with the buffer yard table in § [300-502](#).*

B.

*Lot-line house. This dwelling type consists of a single-family, fully detached residence located on an individual lot which is set on, or within five feet of, the side lot line. Windows are prohibited on that wall of the house nearest to the side lot line. Either a five-foot maintenance easement shall be provided on the neighboring property, or the lot-line house may be set back five feet from the line and a recreation, planting, and use easement may be granted to the adjacent lot owner.*

*Commentary: Placing a house against one of the side lot lines makes the remaining side yard more usable and requires less total land than when the house is centered on the lot. Privacy to adjacent units is insured by the prohibition of windows on the wall of the unit closest to the lot line.*

C.

*Duplex. This dwelling type consists of two units attached side-to-side to one another with each unit having a completely separate entrance.*

D.

*Townhouse. This dwelling type consists of a single-family attached unit, with a single unit going from ground to roof, and with individual outside access. Rows of attached townhouses shall average no more than 10 dwelling units.*

E.

*Multiplex. This dwelling type may be either an attached dwelling, a stacked dwelling or a multiple-family dwelling. Each unit may take direct access to a private yard or access point, or units may share yards and access. The units may be arranged in a variety of configurations,*

*including back to back, side to side, or vertically; however, there shall be no more than eight units in any single building.*

**F.**

*Multifamily buildings. A multifamily building is a building containing individual dwelling units which share common access and yards. A yard shall be required around each building and shall be equal to 1/2 the height of the building or 20 feet, whichever is greater. Multifamily buildings may contain more than eight units in a single structure.*

**§ 300-321. Requirements for residential performance subdivisions.**

[Amended 6-19-2006 by Ord. No. 103]

For residential performance subdivisions, the requirements of § [300-524B](#), Clustered residential development and performance subdivisions, shall apply.

## **Part 4. SUBDIVISION AND SITE PLAN REVIEW**

**§ 300-401. Intent and purpose.**

**A.**

Subdivisions are defined in Part [2](#) of this chapter. This Part [4](#) outlines approval procedures by the Planning Board before a subdivision may be developed, or lots in it sold or offered for sale; states the site plan requirements for preliminary and final subdivision approval and for approval of a major development; and allows for the promulgation of minimum standards for subdivision design and construction in the City of Augusta, Maine, in conformance with Titles 30-A and 12, M.R.S.A.

**B.**

This Part [4](#) is concerned with the design and standards for subdivisions and major developments. The matters contained herein are not concerned with construction of structures, which is covered by the Building Code, nor are specific health, safety, and sanitation requirements for building included here. These matters are found in the Sanitation, Fire Prevention, Building, Housing and Plumbing Codes. Minimum dimensional standards, development standards and permit application requirements for construction of structures are found in Part [3](#), Zoning, Part [5](#), Performance Standards, and Part [6](#), Administration, of this chapter.

**§ 300-402. Administration.**

The Planning Board of the City of Augusta, hereinafter called the "Board," shall administer this Part [4](#). The City Planner shall provide administrative support to the Board. The Director of Code Enforcement, or his designee, shall be the enforcing officer. The City Engineer, or his designee, shall make a written report to the Board with respect to the proposed grades, drainage, profiles, cross sections, relationship of abutting land and road, parking or other impervious surfacing of a proposed subdivision or major development, before the final plan may be approved. The Board shall also obtain reports from the engineers of utility companies and districts (water, sanitary, electric, telephone, cable television) and such others, including fire and police bureaus, as it deems advisable. Such reports shall be in writing. A permanent record of all meetings, proceedings and correspondence shall be maintained.

**§ 300-403. General requirements.**

**A.**

Application required.

[Amended 7-7-2011 by Ord. No. 11-81]

**(1)**

Whenever any subdivision is proposed, or before any contract for the sale of or offer to sell such subdivision or any part thereof shall have been negotiated, or before any permit for the erection of a structure shall be granted or before any utility installation, ditching, grading, construction of roads, parking lots or other areas, grading of land or lots shall be done on any part of the subdivision, the subdivider or his authorized agent shall apply formally to the Board for approval of a final plan of such subdivision or portion thereof, which approval, if granted, is to be recorded as provided in this Part 4.

**(2)**

As to any intended subdivision of land or as to any intended major or minor development, the subdivider or developer shall prepare and formally submit:

**(a)**

To the staff: a preapplication for study, and modification where required;

**(b)**

To the Board: a preliminary plan for study, and modification where required, and a final plan for review, and modification where required, approval, approval with conditions, or disapproval.

**B.**

Recording of plan and state approvals. No plans of a subdivision of land within the municipal boundaries of the City of Augusta shall be hereafter filed or recorded in the Kennebec County Registry of Deeds until a final approval thereof shall have been entered on such final plan by a legal majority of the Board. When the State Department of Environmental Protection approval is required, that shall be obtained by the subdivider prior to filing or recording in the registry; see [§ 300-406B\(9\)](#).

**C.**

Permanent marker required. No person may sell or convey any land in an approved subdivision unless permanent markers are first set at all lot corners of the lot sold or conveyed. The term "permanent marker" includes, but is not limited to, the following:

**(1)**

A granite monument;

**(2)**

A concrete monument;

**(3)**

An iron pin; or

**(4)**

A drill hole in ledge.

**D.**

Joint municipal review. If any portion of a subdivision or major development crosses municipal boundaries, the Planning Board and the municipal reviewing authority from the affected municipality shall meet jointly to discuss the application.

**E.**

Notification of abutting property owners. When an application is received, the City shall give a dated receipt to the applicant and shall notify by mail all abutting property owners of the proposed subdivision and the Clerk and the reviewing authority of the municipalities that abut or include any portion of the subdivision, specifying the location of the proposed subdivision and including a general description of the project.

F.

Decision to hold public hearing. If the Planning Board decides to hold a public hearing on an application for subdivision approval, it shall hold the hearing within 30 days after determining it has received a complete preliminary or final application. The City Planning Bureau shall have notice of the date, time and place of the hearing:

(1)

Given to the applicant; and

(2)

Published, at least two times, in a newspaper having general circulation in the City. The date of the first publication must be at least seven days before the hearing.

**§ 300-404. Preapplication (all subdivisions, major developments and minor developments).**

[Amended 7-7-2011 by Ord. No. 11-81]

A.

Before submission of a formal preliminary plan, a preapplication for a subdivision or major/minor development shall be made to the City Planner and shall include six copies of a sketch plan. The intent of the preapplication phase is to provide an opportunity for the developer to meet with the staff and other reviewing agencies to informally review the proposal.

(1)

The preapplication shall include the following information:

(a)

Fifty-foot by one-hundred-foot scale (200 feet if clarity maintained);

(b)

North arrow (including date and declination if magnetic);

(c)

Abutters;

(d)

Five-foot contours;

(e)

Available utilities;

(f)

Road frontage (include existing street names);

(g)

Location plan;

(h)

Name of owner.

(2)

The submittal or review of the preapplication sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of 1 M.R.S.A.

§ 302.

B.

Criteria for reviewing the preapplication. When reviewing the preapplication, the staff and the prospective subdivider or developer shall consider the following criteria, as well as the site plan review criteria applicable to conditional uses in § [300-603](#):

[Amended 4-23-2001 by Ord. No. 37]

(1)

Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, consideration shall be given to:

(a)

The elevation of the land above sea level and its relation to the floodplains;

(b)

The nature of soils and subsoils and their ability to adequately support waste disposal;

(c)

The slope of the land and its effect on effluents;

(d)

The availability of streams for disposal of effluents; and

(e)

The applicable state and local health and water resource rules and regulations.

(2)

Sufficient water. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision.

(3)

Municipal water supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used.

(4)

Soil erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.

(5)

Highway or public road congestion. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.

(6)

For major developments, the developer has made adequate provision for traffic movement of all types into, out of or within the development area. The Board shall consider traffic movement both on site and off site. Before issuing a permit, the Board shall find that any traffic increase attributable to the proposed development will not result in unreasonable congestion or unsafe conditions on a road in the vicinity of the proposed development.

(7)

Sewage waste disposal. The proposed subdivision will provide adequate sewage waste disposal.

(8)

Municipal solid waste and sewage waste disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste and sewage, if municipal services are to be utilized.

(9)

Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife

habitat identified by the Maine Department of Inland Fisheries and Wildlife or the City of Augusta, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

(10)

Conformity with City ordinances and plans. The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, Comprehensive Plan, development, plan or land use plan.

(11)

Financial and technical capacity. The subdivider has adequate financial and technical ability to develop the project in a manner consistent with state and local performance, environmental and technical standards.

(12)

Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, Subchapter 1, Article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

(a)

When lots in a subdivision have frontage on an outstanding river segment (Edward's Dam north to town line), the proposed subdivision plan must require each lot's principal structure to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.

[1]

To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.

[2]

The frontage and setback provisions of this subsection do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, M.R.S.A., Chapter 3, Subchapter 1, Article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of 30-A M.R.S.A. § 4401, Subsection 1, on September 23, 1983. (The section referenced includes the definition of "densely developed area" which is also included in this chapter.)

(13)

Groundwater. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.

(14)

Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant, whether the subdivision, or any part of it, is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the one-hundred-year-flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plat approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the one-hundred-year-flood elevation.

(15)

Freshwater wetlands. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the Kennebec County Soil and Water Conservation District.

(16)

River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in 38 M.R.S.A. § 480-B, Subsection 9 (also defined in this chapter).

(17)

Stormwater. The proposed subdivision will provide for adequate stormwater management.

(18)

Access to direct sunlight. The Planning Board may, to protect and ensure access to direct sunlight for solar energy systems, prohibit, restrict or control development. The subdivider shall, on request of the Planning Board or staff, submit development plans which include either one or a combination of the following:

(a)

Restrictive covenants.

(b)

Height restrictions.

(c)

Increased setback requirements.

(19)

Title 38 M.R.S.A., as amended, § 484, Standards for development; Chapter 371, Definition of Terms used in the Site Location of Development Law and Regulations; Chapter 373, Financial Capacity Standard; Chapter 374, Traffic Movement Standard; Chapter 375, No Adverse Environmental Effect Standard; Chapter 376, Soil Types Standard; and Chapter 377, Review of Roads, shall apply to review of major developments.

(20)

Spaghetti lots prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in 38 M.R.S.A. § 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than five to one.

(21)

All outdoor lighting shall be of a design and construction that prevents light trespass beyond the boundaries of the property on which it is located.

**§ 300-405. Preliminary plan (all subdivisions and developments).**

A.

General.

[Amended 7-7-2011 by Ord. No. 11-81]

(1)

Preliminary and final plan approvals shall occur at the same meeting, effectively combining the process such that any development could be approved in a single Planning Board meeting, provided all information required by the ordinance and the Planning Board is present for the

public and Planning Board to review. If the Planning Board finds at the first public hearing that additional information is necessary to make its decision, the Board may table the item, after discussion, to a later date when the requested material is available. All subdivisions and developments are required to submit the information required for preliminary approval and final approval. Where there are overlaps, the information does not have to be provided twice.

(2)

A request for approval of a subdivision shall be made to the Board in writing and shall be accompanied by six copies of a preliminary plan and required data. The preliminary plan shall be accompanied by one copy of the location map showing the relationship of the proposed subdivision to adjacent properties and public access.

(3)

The City Planner upon receiving the application shall issue the applicant a dated receipt.

(4)

The City shall also notify all abutting property owners of the proposed subdivision and the Clerk and the reviewing authority of municipalities that abut or include any portion of the subdivision, specifying the location of the proposed subdivision and including a general description of the project.

(5)

If any portion of a subdivision crosses municipal boundaries, the Planning Board and the municipal reviewing authority from the affected municipality shall meet jointly to discuss the application.

(6)

If any portion of a subdivision abuts another municipality, the abutting municipality shall be notified and given an opportunity to have input into the subdivision application.

(7)

To be on the Board's agenda, a complete application for preliminary approval shall be submitted at least 30 calendar days prior to a regular meeting of the Board. Within seven working days of receiving the preliminary plan application, the City Planner shall notify the applicant in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the staff has determined that a complete application has been filed, it shall notify the applicant and begin a full evaluation of the preliminary plan of the proposed subdivision.

(8)

A completed application for preliminary approval shall be reviewed by the Board within 30 days of the City Planner's notification of a completed application.

B.

Preliminary plan requirements.

[Amended 4-23-2001 by Ord. No. 37]

(1)

The preliminary plan shall contain the following minimum information as well the applicable site plan information required for buildings outlined in § [300-601D\(3\)\(a\)](#). Each sheet of the preliminary plan shall be 24 inches by 36 inches. If more than one sheet is required, match lines will be on each. Scale shall be one inch equals 100 feet or as determined by the City Engineer.

(a)

Proposed name of subdivision.

(b)

Owner(s) name and address.

[\(c\)](#)

Deed reference to land being subdivided and identity of current immediate abutters.

[\(d\)](#)

Engineer(s), registered in the State of Maine (must include name, address, signature and seal).

[\(e\)](#)

Surveyor(s), registered in the State of Maine (must include name, address, signature and seal).

[\(f\)](#)

Scale, both graphic and written.

[\(g\)](#)

Date and revision box.

[\(h\)](#)

Zoning designation.

[\(i\)](#)

North arrow (true, magnetic, dated or grid).

[\(j\)](#)

Preliminary site plan.

[\(k\)](#)

Ownership, location and present or proposed use of abutting properties.

[\(l\)](#)

Location map showing where the proposed development is situated in relation to existing streets and landmarks. This shall show subdivision outline only. Upon final plan approval, the location map shall be updated, showing streets and lot lines accurately, at the scale of applicable Tax Map (or City map as designated by the City Engineer). A broken line indication and distance to the nearest intersection or major topographic feature may be used.

[\(m\)](#)

Streets. Street plans and profiles shall be at a scale of one inch equals 20 feet horizontal and one inch equals four feet vertical unless a different scale is approved by the City Engineer.

[\[1\]](#)

Name, location, and width of all streets from which the development arises.

[\[2\]](#)

Name, location, and width of all streets proposed.

[\[3\]](#)

All street names shown for proposed streets located in a subdivision shall be checked against local records to assure that none are duplicates of existing street names or so similar as to cause confusion.

[\[4\]](#)

Preliminary plan of plan and profile of streets to be designed by a registered professional engineer and designed in accordance with the technical standards in § [300-411](#).

[\(n\)](#)

Drainage/erosion. Type, location, profile of all existing surface water drainage, and subsurface drainage as it relates to the affected watershed(s), both on and off the site. A written plan describing the existing and proposed drainage with calculations shall be submitted. Permanent and temporary erosion control plans in accordance with specifications outlined in technical standards. (See § [300-411](#), Technical standards.)

[\(o\)](#)

Utilities.

[\[1\]](#)

Preliminary location, profile, contours, and typical cross sections on all proposed utilities, drainage and streets designed in accordance with technical standards outlined herein (§ [300-411](#)).

[\[2\]](#)

Location of existing utilities, including water, gas, electricity, telephone, hydrants, or other.

[\[3\]](#)

Location of all existing sanitary and storm sewers showing size, profile or description, plan, location of other means of sewage disposal with evidence of successful soil tests. In areas outside of those presently sewered where disposal is proposed on site, the Board will require a written statement from a licensed Maine soil evaluator or engineer, as applicable, that the land is considered suitable for subsurface disposal systems using tanks or other approved methods according to State of Maine Subsurface Wastewater Disposal Rules.

[\(p\)](#)

Topography. Two-foot contour intervals, unless otherwise prescribed by the City Engineer. In addition, the location of existing natural or man-made features influencing the layout of the proposed subdivision shall be shown.

[\(q\)](#)

Lot lines and approximate dimensions.

[\(r\)](#)

Proposed uses of property.

[\(s\)](#)

Proposed public or common area, if any. [See § [300-512](#), Open (green) space.]

[\(t\)](#)

Boundary survey and description provided by a registered land surveyor of entire contiguous holdings (such survey shall have been within past five years). The surveyor shall provide at least two reference points to the Maine Coordinate System in accordance with technical standards, street design standards, survey control.

[\(u\)](#)

Traffic estimates and controls and off-street parking needs and facilities. A traffic study may be required by the City Engineer.

[\(v\)](#)

Fire-protection needs and plans.

[\(w\)](#)

Landscaping and buffer plans.

[\(x\)](#)

Outdoor lighting plans.

[\(2\)](#)

In addition to the preliminary plan, the Board may require the subdivider or others to undertake studies where deemed necessary or desirable to protect the public convenience, safety, health and welfare in accordance with the guidelines stated in this chapter.

[C.](#)

(Reserved)

[Amended 7-7-2011 by Ord. No. 11-81]

**[§ 300-406. Final plan \(all subdivisions and developments\).](#)**

A.

General.

[Amended 2-5-2009 by Ord. No. 016]

(1)

A request for final approval of a subdivision or major development shall be made to the Board in writing at least 30 days before a regular meeting of the Planning Board and shall be accompanied by final plans and supporting data of the subdivision or major/minor development, legibly drawn in black ink on drafting film, together with six dark line copies and two reproducible copies on drafting film. The plan shall be drawn at the same scale as the preliminary plan. Plans for a major/minor development need include only one reproducible copy.

(2)

Within seven working days of receiving the final plan application, the City Planner shall notify the applicant in writing either that the application is a complete application, or if the application is incomplete, the specific additional material needed to make a complete application. After the staff has determined that a complete application has been filed, it shall notify the applicant and begin a full evaluation of the final plan of the proposed subdivision.

B.

Final plan requirements. The plan may be presented on one or more sheets, and each sheet shall be numbered 1 of 3, 2 of 3, etc., and each sheet shall contain the following information when applicable:

(1)

All the information required for the preliminary plan in final form.

(2)

Existing and proposed final lines of streets, ways, lots, easements for utilities and/or drainage and public areas within the subdivision. Easements shall be conveyed prior to filing the plat at the Registry of Deeds.

(3)

Sufficient data such as NGVD (as defined) or local datum.

(4)

Profiles and cross sections every 50 feet or break in grade, slopes and grades from proposed streets to side lots; plan scale one inch equals 20 feet; vertical scale one inch equals four feet or as approved by the City Engineer.

(5)

All curve data.

(6)

Separate intersection plans shall be provided, showing geometry for right-of-way and curblines, curve data, drainage flow, drainage structures and finish grades on 8 1/2 inches by 11 inches or larger sheet at a scale of one inch equals 10 feet.

(7)

Tangent and curve data showing stationing of all existing and/or proposed streets, or public ways, rights-of-way, building lines and easements in the subdivision, to determine the exact location, direction and length of every street line, easement, lot line and boundary line sufficient to reproduce these lines upon the ground.

(8)

Center-line stationing and station equations at intersecting streets shall be shown.

(9)

If subject to site location or development approval by the Maine DEP, evidence of such approval will be provided with final plan; if lacking state approval, Planning Board approval shall be conditional pending site location of development approval. If not subject to site location of development approval, the final plan shall state this fact.

(10)

Location of all permanent monuments existing and proposed wherever, in the opinion of the City Engineer, such monuments are necessary to properly determine the location on the ground. All monuments and control points shall be protected and not covered. (See technical standards.)

(11)

Lot numbers and/or letters in accordance with the prevailing policy in the area. Tax Map numbers may be added in consultation with the City Assessor.

(12)

Designation of the location, size, type of planting and landscaping of such parks, esplanades or other open spaces as may be proposed or prescribed. (See § [300-411](#) and Part [5](#), Article [VI](#), General Zoning Standards.)

(13)

The signed seal of a State of Maine registered professional engineer and signed seal of a State of Maine registered land surveyor attesting that such final plan is correct. Water, sewerage and drainage must be designed, signed and sealed by a licensed engineer.

C.

Certification required. The final plan for a subdivision or major/minor development shall be accompanied by written certification from authorized local public officials and/or agencies that the design of sewer and drainage facilities, streets and utilities, traffic and safety features in the proposed subdivision conform to the requirements of all pertinent local codes and ordinances. The cost of certification and/or inspection conducted by the City or the districts shall be borne by the subdivider.

[Amended 2-19-2009 by Ord. No. 016]

D.

Consideration of final plan.

[Amended 2-19-2009 by Ord. No. 016]

(1)

The Board shall consider a final plan for a subdivision or major/minor development at a regular meeting within 30 days of submission of such final plan.

(2)

The Board shall, after consideration, issue a written statement informing the subdivider, developer or his authorized agent of approval, disapproval or conditional approval. The written decision shall be issued to the applicant within 14 workdays of the decision of the Board. If conditional approval is granted, the Board and applicant may mutually agree to a time extension not to exceed four months for residential or six months for commercial and industrial subdivisions.

**§ 300-407. Burden of proof; findings of fact.**

[Amended 2-19-2009 by Ord. No. 016]

In all instances the burden of proof is upon the person proposing the subdivision or major/minor development. In issuing its decision, the Planning Board shall make findings of fact establishing

that the proposed subdivision or major/minor development does or does not meet the standards and criteria required.

**§ 300-408. Dedication of public lands.**

The approval of a final plan by the Board shall not be deemed an acceptance by the City of the dedication of any street or other public way or grounds.

**§ 300-409. Approval to be attested.**

[Amended 2-19-2009 by Ord. No. 016]

The approval of a final subdivision plan shall be attested on the original drafting film (Mylar) by the signatures of the legal majority of the members of the Planning Board. A reproducible copy (drafting film) shall be filed with the City Services Department, Engineering Bureau. Approval of a final plan for a major/minor development need not be attested on the plan.

**§ 300-410. Effective date of approval.**

The original tracing of a final plan as approved by the Planning Board and the Maine Department of Environmental Protection, if needed, shall be filed in the Registry of Deeds before a subdivision may be developed, or lots in it sold or offered for sale.

**§ 300-411. Technical standards.**

The City of Augusta Technical Standards Handbook shall apply to all developments subject to review under the regulations of this chapter. See § [300-602](#).

**§ 300-412. Sureties.**

**A.**

Performance guarantee. As a condition of final approval for a subdivision or major/minor development, a performance guarantee shall be filed with the City by the applicant in accordance with the conditions of the final approval.

[Amended 2-19-2009 by Ord. No. 016]

**B.**

Certified check or performance bond. Upon approval of the final subdivision or major/minor development plan, the applicant shall deliver either a certified check payable to the City or a performance bond running to the City, in an amount and form acceptable to the Director of Finance, with the advice and consent of the City Engineer and the Corporation Counsel. The check or bond must equal at least the total cost of furnishing, installing, connecting and completing all construction items as agreed upon by the Planning Board within two years of its date. The surety shall not expire without the written approval of the Director of Finance.

**§ 300-413. Violation and enforcement.**

See § [300-601A\(7\)](#).

#### **§ 300-414. Variances and waivers.**

##### **A.**

A variation in the strict application of the subdivision regulations may be permitted when, in the opinion of the Planning Board and City Engineer, topography, soil conditions, and/or special project design features warrant such variation, provided that public convenience, safety, health and welfare will not be affected adversely and the general intent of this Part 4 is not violated.

##### **B.**

In addition, whenever the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance from any of the applicable subdivision approval standards, that fact shall be expressly noted on the face of the subdivision plan to be recorded in the local Registry of Deeds.

##### **C.**

The variance is not valid until recorded as provided in this section. Recording must occur within 90 days of the final subdivision approval or the variance is void.

#### **§ 300-415. Appeals.**

See Part 6, Administration, of this chapter.

#### **§ 300-416. Revisions to existing plat or plan.**

[Amended 6-20-1994 by Ord. No. 546]

##### **A.**

Revisions to existing plat or plan. Any application for subdivision approval which constitutes a revision of a subdivision plan which has been previously approved shall indicate that fact on the application and shall identify the original subdivision plan being revised or amended. In reviewing such an application, the Planning Board shall make findings of fact establishing that the proposed revisions do or do not meet the criteria of § 300-404B.

##### **B.**

In the case of an amendment, if no amended plan is to be recorded, a certificate shall be prepared in recordable form and recorded in the Registry of Deeds. This certificate shall:

##### **(1)**

Indicate the name of the current property owner;

##### **(2)**

Identify the property by reference to the last recorded deed in its chain of title;

##### **(3)**

Indicate the fact that a variance, including any conditions on the variance, has been granted and the date of the granting.

#### **§ 300-417. Recording of plan revisions.**

If a subdivision plat or plan is presented for recording to a Register of Deeds and that plat or plan is a revision or amendment to an existing plat or plan, the plat or plan shall:

##### **A.**

Indicate on the plat or plan that the original plat or plan has been superseded by another plat or plan;

B.

Reference on the new or revised plat or plan the book and page or cabinet and sheet on which the original plat or plan is recorded.

### § 300-418. Fees.

See Part 6, Administration, of this chapter.

## Part 5. PERFORMANCE STANDARDS

### Article V. General Provisions

#### § 300-501. General requirements; construal of provisions.

*Commentary: This Part 5 is written in two parts: general zoning standards, or standards applicable to all uses; and special use standards, or standards applicable to specific uses. The performance standards outlined in this Part 5 are applicable to all uses of land and structures in the City of Augusta, whether affected by conventional zoning processes or by performance zoning processes.*

*General requirement — existing uses.*

*Consistent with the purpose of this chapter, the 1988 Growth Management Plan, as amended, and the provisions regarding nonconforming uses and structures, any use legally existing as of the effective date of this chapter which does not meet one or more of the following performance standards shall, upon application for expansion, change of use or other modification, excluding minor modifications, be required to bring into compliance existing nonconforming aspects of the property under the following conditions:*

- a. The modification is something other than a minor modification (as defined below); and*
- b. The projected cost of the site modification equals or exceeds \$20,000.*
- c. All performance standards applicable to the expanding portion of a preexisting use or structure shall be met.*

*An applicant shall be required to apply 4% of the projected cost of modification to the property to eliminate nonconformities. If less than 4% of the projected cost is needed to eliminate nonconformities, only that amount needed shall be required. No more than 4% of the projected cost shall be required to be applied with any one application. As to the following standards, where maximizing compliance with one may preclude or limit the extent of compliance with another, maximization of compliance shall be prioritized in the following descending order:*

- 1. Parking requirements.*
- 2. Driveway and access requirements.*
- 3. Buffer requirements.*
- 4. Other.*

*This section shall be construed to require, as applicable, the development of additional parking facilities, reconfiguration of driveway or access facilities, the relocation of parking facilities to*

*meet setback and/or buffering requirements, and the conversion of parking or other areas to buffer area. It shall be the applicant's burden to demonstrate that based upon lot size or configuration, the location, size, orientation or nature of existing buildings or development, topography or other features of the site, full compliance with the performance standards is precluded. This section shall not be construed to require the relocation of legally existing principal or accessory buildings.*

*For purposes of this section, minor modifications include:*

- 1. Expansions of legally existing principal or accessory buildings by not more than 20% of the floor area of each such building; or*
- 2. New accessory buildings where the floor area of such new buildings do not exceed 20% of the floor area of the existing principal building; or*
- 3. Other site modifications, excluding buildings which in the aggregate increase the impervious area by 5,000 square feet or less over the life of the development;*
- 4. Internal renovations of existing buildings; and*
- 5. Normal maintenance and repair;*
- 6. Improvements required to meet ADA requirements.*

*Cumulative expansion or construction as outlined in Items 1 and 2 shall be included in the calculation when determining whether thresholds are met.*

*Nothing in this section shall supplant any requirements applicable to Shoreland Zones.*

## **Article VI. General Zoning Standards**

### **§ 300-502. Buffer yards.**

[Amended 5-6-1996 by Ord. No. 283; 8-4-2003 by Ord. No. 86; 9-3-2009 by Ord. No. 107]

#### **A.**

Purpose. Buffers are plantings, berms, and/or walls, fences or natural features that are used to separate conflicting land uses, districts, or activities from one another. They should be used to:

#### **(1)**

Create attractive visual settings designed to break up or interrupt building lines, accent buildings and scale down larger architectural elements; surround and frame signs; and substantially obscure headlights and other glare caused by vehicles, windows, outdoor lighting, or other modifications of the landscape.

#### **(2)**

Reduce the impact of noise and mask its source.

#### **(3)**

Reduce air pollution, wind, dust, dirt, and litter and contribute to healthy air and water quality.

#### **(4)**

Help prevent undesirable access to dangerous areas.

#### **(5)**

Direct the eye to more attractive views in keeping with the planned character of the City.

#### **B.**

General standards.

#### **(1)**

Unless otherwise stated, the buffer yard requirements shall apply:

[\(a\)](#)

At perimeter property lines of subdivisions, business and industrial parks and planned developments in PD, PD2, IA and specified rural zones.

[\(b\)](#)

At or beyond the perimeter of developed areas associated with single developments where such single developments are not associated with a subdivision, business or industrial park or planned development in PD, PD2, IA and specified rural zones. Where no land use exists within 200 feet of rear of the developed area, no buffer is required along the rear perimeter of the developed area, and the sideline buffers need not extend beyond the limits of the developed area.

[\(c\)](#)

Along arterial and collector roadways in the Rural, Industrial and Planned Development Districts.

[\(d\)](#)

At the perimeter of parking lots serving more than six vehicles, in all Urban Area Districts.

[\(e\)](#)

In the Urban Growth Area, at the boundaries of new nonresidential developments proposed adjacent to Residential District boundary lines.

[\(f\)](#)

In the Urban Growth Area, encompassing all nonresidential outside storage areas, loading docks, garbage collection areas, on-ground electrical transformer stations, service areas and similar facilities.

[\(2\)](#)

Natural features shall be maintained wherever possible to meet buffer requirements. When natural features such as topography, gullies, stands of trees, shrubbery or rock outcrops do not exist or are insufficient to provide an effective buffer, landscaped buffers shall be created. Indigenous plantings shall be used whenever possible; landscape plans shall strive for a "natural" look.

[\(3\)](#)

Although this chapter does not prohibit landscaping within a road or street right-of-way, no part of the right-of-way shall be used to satisfy the buffer yard requirement.

[\(4\)](#)

Buffer yard plant materials, fencing and maintenance.

[\(a\)](#)

Purpose. The purpose of the following standards is to protect the public welfare by assuring that:

[\[1\]](#)

Plant materials are appropriate to Maine climatic conditions and the functions of the areas in which they are used;

[\[2\]](#)

Plant materials are of a size and condition that will allow them to establish themselves, mature, and survive in a healthy and attractive manner;

[\[3\]](#)

Landscaping elements and the areas in which they are established are maintained in a clean, healthy, and attractive condition; and

[\[4\]](#)

Landscaping is not placed in a such a way as to pose a safety hazard.

*Commentary: Landscaping elements include natural features, plant materials, berms, walls,*

fences, furniture, waste receptacles and other features planned in buffer and open space areas. The following are guidelines for use in planning the kinds of plant material that will be used in landscaping\*: (\*Guidelines adapted from the South Portland Zoning Ordinances, Waterfront District Landscape Standards, prepared by Mitchell-Dewan and Associates.)

*Canopy trees.* Canopy trees are 35 feet and taller at maturity and have the greatest overall impact on a site because of their role in shaping the physical and psychological character of the environment. Research on urban/suburban areas in New England has shown that people find such environments more visually attractive when there is tree cover which softens the form of buildings and blends or hides them within the landscape [Palmer, James (1984).

*Neighborhoods as stands in the urban forest.* Urban Ecology 8:223-236]. Canopy trees are most effective in creating the identity and character of an area, especially when used in masses. They define large spaces and create an overhead plane which provides shade in the hotter months of the year. They can also direct wind currents and allow sun to penetrate in the winter.

*Evergreen trees.* Evergreen trees are 35 feet and taller at maturity. They can provide year-round interest to the landscape with their dominant forms and color. They are often used to create a backdrop for flowering trees and shrubs, screen or direct views, act as windbreaks, and define major spatial elements. Where evergreen trees are installed in buffers, the installed heights should vary at a minimum from four to 12 feet to add greater variety and landscape interest.

*Understory trees.* Understory trees are 10 to 35 feet at maturity and provide an eye-level feature that helps to scale down larger architectural and landscape elements. They can define and emphasize minor spaces, provide a variety of form, color, and scent to enrich the landscape, and act as accents, major focuses or specimen plantings.

*Shrub plantings.* Shrub plantings are described in three categories. Evergreen shrubs, low shrubs with a mature height of two to five feet and intermediate shrubs with a mature height of three to 10 feet. Shrub plantings play a variety of roles with their lower scale and breadth on the ground level. They are often used to form an effective physical barrier and enclose space when allowed to grow above chest height. Shrubs help give a sense of direction when waist high and act as psychological barriers when they are ankle and knee high. One of their key functions when used as foundation plantings is to give a building a sense of scale and tie it to the ground plane. When used in masses or drifts they can become a unifying element for the diverse features that occur at the ground level and establish a sense of balance. Used with care and forethought, they can add a great deal of seasonal interest and color to the landscape.

*Miscellaneous plantings.* Include ground covers, vines, perennials, annuals, bulbs, and other herbaceous material. Many large-scale developments concentrate on plant material in the first four categories. However, the plants in this category can be used effectively to add seasonal color, soften hard edges, and form patterns on the ground plane. While they are often a high-maintenance item, a judicious application of this type of plant material can greatly add to the humanizing of a site.

[\(b\)](#)

Standards.

[\[1\]](#)

Unless specifically indicated by the Planning Board or City staff, all plant material required by this chapter shall meet the following minimum size standards at time of installation. The sizes shall be measured at dbh (diameter at breast height).

[\[a\]](#)

Ground covers: two-year-old plants.

[\[b\]](#)

Evergreen shrubs: eighteen-inch height or spread.

[\[c\]](#)

Low shrub: 18 inches.

[\[d\]](#)

Intermediate shrubs: 24 inches.

[\[e\]](#)

Understory trees: one-and-three-fourths- to two-inch caliper.

[\[f\]](#)

Canopy trees: two- to two-and-one-half-inch caliper.

[\[g\]](#)

Evergreen trees: four- to five-and-one-half-foot height.

[\[2\]](#)

Plant materials shall be selected for appearance, durability, and tolerance to salt and air pollution; native trees and shrubs shall be planted whenever possible. All plantings required under this section shall be of a type and species appropriate for the soil types and climatic conditions in Augusta.

[\[3\]](#)

Pools, sculptures, benches, and walkways may be used to complement plant materials. In cases where an existing traditional stone wall exists, it should be conserved or rebuilt in another location.

[\[4\]](#)

Where buffers are not required, all disturbed areas not to be used as parking or building footprint shall be planted to lawn as a minimum requirement.

[\[5\]](#)

A maximum maintainable slope of 3:1 shall be established for both the front and back of berms. Where room permits, a flattop area, four feet in width, should be provided.

[\[6\]](#)

Fencing. Fencing materials should complement the architectural style of the buildings of the lot upon which they are erected. Fences should not be used in locations which will obscure views of the water from public roads.

[\[7\]](#)

All plantings and buffer yards shall be maintained in a good and healthy condition. The Maine Erosion and Sedimentation Control Handbook for Construction Vegetative Measures developed by the Maine DEP shall be used as a guide. A copy of the above-named chapter is available in the City of Augusta Department of City Services. Fencing and berms shall be durable and properly maintained at all times by the owner. All landscaping elements shall be so located in respect to property boundaries to allow access for maintenance on both sides without intruding upon abutting properties.

[\[8\]](#)

Implementation of buffer planting/construction shall be as follows: On a buffer area basis, 50% of the buffers shall be implemented within six months of occupancy/use of the approved development. The remaining 50% of the required buffer shall be implemented within 18 months from the date of occupancy unless an extension is granted by the Board or Code Officer. One six-month extension may be granted for good cause.

C.

Buffers between different uses.

(1)

Table 300-502-A shall be used in determining which buffer yard requirement is applicable.

**Table 300-502-A: Minimum Buffer Yard Requirements**

[Amended 5-1-2014 by Ord. No. 14-077; 12-4-2014 by Ord. No. 14-202]

(a)

Buffer yard requirements outside the urban area.

**Abutting Land Use in RRES/RPDS/RR/RV/PD/PD2/IA Zones**

<b>Proposed Land Use in RRES, RPDS, RR, RV, PD, IA Zones</b>	<b>Residential</b>	<b>Business Professional, Commercial (Trade), Service and Institutional, Light and Heavy Industry</b>
Residential	Not required	
Business professional	B	
Commercial (trade), service and institutional	C	A
Light and heavy industry	D	
All nonresidential uses	Where no structural land use exists within 200 feet of the property line of the project, no buffer yard shall be required	

(b)

Buffer yard requirements in the urban area (RA, RBI, RB2, BP, KBD1, KL, RBV, CB, CC, CD Zones). All nonresidential uses permitted in the Urban Area zoning districts and proposed to abut a Residential Zoning District line shall use Buffer Yard A along the boundary abutting the Residential Zoning District line.

(2)

Table 300-502-B shall be used in determining the specific buffer yard width and landscaping requirements along perimeter property lines of business or industrial parks or along perimeter property lines for single developments not associated with a subdivision, park or planned development.

(a)

General. Plantings within each one-hundred-foot section shall be distributed throughout the section and shall be arranged to create an attractive site that effectively buffers the proposed structure or use from adjacent land uses.

(b)

Flexibility in buffering requirements. To accommodate circumstances where the required buffering may not fit site conditions, an applicant may submit an alternative plan for buffer areas, provided that, to the maximum extent possible, an equal or greater amount of buffer area is provided than would otherwise be required. Alternative buffer plans shall be approved, provided the applicant demonstrates that site conditions, including special project design features, topographic features, physical constraints imposed by existing or adjacent development, and/or existing natural or vegetative features, prevent the placement of buffers as otherwise required by these regulations, and provided that the alternative buffer plan conforms to the maximum extent possible to the buffer requirements of these regulations.

(c)

The following are guidelines applicable to making decisions about buffers:

[1]

High-intensity uses of any type. In general, projects having high-intensity characteristics should provide a wider and thicker buffer where they abut residences or residential district lines. Fencing or berms may also be necessary for sites where vegetation will take longer to establish an effective screen, topographic conditions dictate, or the applicant wishes to maintain or establish less vegetative cover.

[2]

Industrial uses abutting commercial, residential, business and professional or institutional uses. A buffer along perimeter property lines between an industrial project and a residential property should use predominantly evergreen plantings with some deciduous material to provide a high degree of opacity in screening the potential visual impacts. The buffer should break up a substantial amount of the industrial form, texture and building mass or activity. Where industrial uses abut other nonresidential uses, the buffer should provide a transition space between activities and may be used to provide open space amenities for employees and visitors.

[3]

Commercial uses abutting residential, business and professional, and institutional uses. In rural, industrial and planned development zones, the intent is to fully screen commercial uses from view of abutting residential uses, so predominantly evergreen plantings may be necessary if natural vegetation is not available. Where commercial uses abut business, professional and institutional uses in rural, industrial and planned development zones, buffers should provide transition spaces between and may be used to provide open space amenities for employees and visitors.

**Table 300-502-B: Buffer Yard Tables A through E**  
**Minimum Number of Plant Types per 100 feet**

<b>Buffer Yard</b>	<b>Width</b>	<b>Canopy and Evergreen Trees</b>	<b>Understory Trees</b>	<b>Deciduous Shrubs</b>	<b>Evergreen Shrubs</b>
A	15	2	4	6	0
B	20	3	6	9	0
C	25	5	4	15	6
D	45	6	9	36	18
E	25	5	7	30	15

**NOTES:**

**Allowed reduction in buffer width. Fences, rock walls, or berms used along the length of the required buffer area shall be considered equivalent to five feet in buffer width.**

For every five feet increase in buffer width, the minimum number of plant types per 100 feet may be reduced by 10%. (Fractions shall be rounded to the nearest whole number.)

(3)

Buffers along arterial and collector roads in rural, industrial and planned development zones.

(a)

All areas located within the required minimum setback from the public rights-of-way of collector and arterial roads in the Rural Zones shall be used as buffer areas.

(b)

Within these buffer areas, the planting multipliers listed for Buffer Yard E shall be required for commercial, industrial, institutional uses and residential subdivisions.

(c)

All areas located within the required minimum setback from the public rights-of-way of collector and arterial roads in the Industrial and Planned Development Zones shall be used as buffer areas. Within these buffer areas, the planting multipliers listed in Buffer Yard C shall be required for commercial, industrial, institutional uses and residential subdivisions. The landscaped buffer yard shall create an attractive setting drawing attention to the landscaped area while minimizing the visual impact created by rooflines, parking lots or other aspects of the use as viewed from the collector and arterial roads.

(d)

The minimum road setbacks are outlined in § [300-515](#).

(4)

Buffers separating nonresidential structures or uses and residential district lines. In the PD, PD2, IA and Rural Districts, no nonresidential structure shall be erected or permitted abutting a residential or rural district line unless a setback of at least 75 feet is provided and maintained. This standard shall also apply where a nonarterial or noncollector road exists as the boundary between a proposed nonresidential use and a residential or rural district boundary; Buffer Yard D shall be used.

(5)

In Urban Area Districts, nonresidential accessory uses and minor municipal or public utilities and communications facilities. All outside storage areas, loading docks, garbage collection areas, on-ground electrical transformer stations, service areas, and similar facilities shall be substantially obscured from public view. Walls, fencing, densely planted vegetation or a combination of material can be used to achieve this intent.

(6)

Watershed protection buffers. [See § [300-315.3](#), Rural Ponds District (RPDS), and § [300-514B\(3\)](#), Phosphorous control standards.]

(7)

Buffering of parking lots serving six or more vehicles. Parking lots serving six or more vehicles shall be buffered according to the following provisions. Buffering shall be designed to accommodate attractive and safe pedestrian circulation patterns and allow required site distances at driveway intersections and good visibility of oncoming pedestrians and vehicles throughout the parking area.

(a)

Perimeter buffering. Parking lots shall be buffered adjacent to other uses and rights-of-way with trees, shrubs, fencing and earth berming to avoid the impact of glare, headlights, parking lot lights, noise and dust and protect and enhance visual character as follows:

[1]

Urban Districts, Industrial, Planned Development and Planned Development 2 Districts: use Buffer Yard A.

[2]

Rural Districts: use Buffer Yard D.

*Commentary: In urban areas, the intent is to create attractive settings for parking lots, where the landscaped area rather than parked vehicles draws the viewer's attention. This will enhance quality of life in Augusta and help people feel good about living and working in the urban*

*portion of the City, thereby maintaining or improving the viability and economic diversity of residential and commercial areas. Similar to the urban areas, the intent in the Industrial, Planned Development and Planned Development 2 areas is to create attractive settings for parking lots that draw attention to the landscaped areas or structures rather than the parked vehicles and to provide a transition between the urban and rural areas. The intent of the Rural District is to fully screen parking areas from view, especially along arterial and collector roadways, so as to maintain the character of the area as rural and sparsely developed. "Fully" means within a reasonable time for landscaping materials to reach maturity, depending upon the species that exist or are proposed. Structures, berms, hedges, walls or fences may sometimes be required to accomplish this.*

[\(b\)](#)

Buffering within large parking areas serving more than 70 vehicles. Buffering shall be provided within parking areas serving more than 70 vehicles to provide visual and climatic relief from broad expanses of pavement and to channelize and separate areas for pedestrian and vehicular circulation.

[\[1\]](#)

Large parking areas shall be subdivided into smaller parking cells of up to 70 vehicles contained within a planting buffer. No aisle within a planting cell may be longer than 300 feet.

*Commentary: The Institute of Traffic Engineers recommends that aisle lengths be limited to 300 to 350 feet to aid motorists in finding a space when the lot approaches capacity and help eliminate high speeds in the aisles. Based upon a nine-foot stall width, this means that between 33 and 38 cars could be accommodated on each side of an island. This estimate was used to calculate the seventy-car limitation on the number of vehicles in any given section. The Advisory Committee compared this requirement with two lots in Augusta considered to be well designed, those at CMP and City Center. The average size of a section for the two facilities is about 66 cars, with a range from 23 to 176 cars, excluding the smaller lots adjacent to the CMP building. If the lot designed for 176 cars is excluded, the average section size is about 42 cars.*

[\[2\]](#)

Planting strips between parking cells of up to 70 vehicles shall be located so as to demarcate the ends of parking rows, avoiding long rows of parked cars, and to channel pedestrian circulation. Planting strips should be a minimum of 10 feet in width to accommodate canopy and/or understory trees. Planting strips should be edged with a six-inch continuous vertical curb or wheel stop to prevent vehicles from overhanging into the planting area, and designed to allow efficient snow removal. Where feasible, planting strips shall be oriented at right angles to the main entrance of the principal building or use in order to maximize pedestrian safety and convenience.

[\[3\]](#)

Buffer Yard A shall be planted in buffered areas. The location of plantings shall be designed to accommodate snowplowing and storage without damage to plant materials.

[\(8\)](#)

Buffering of parking garages. At a minimum, Buffer Yard A shall be planted to its full width along 50% of the primary public street frontage of the garage (minus any reductions allowed in Table 300-502-B). And where physically practical for the final garage design, Buffer Yard A plantings shall be planted along the remaining garage perimeter as determined by the Planning Board, in consultation with the City Forester/Arborist.

**§ 300-503. Corner clearances.**

**A.**

Except as provided in 35-A M.R.S.A. § 2503, and except within the area bounded by Commercial Street on the west, Winthrop Street on the south, Water Street on the east and Bridge Street on the north, no obstruction to visibility shall be placed, erected or planted within 20 feet of the corner of a lot at the intersection of two streets. Section 2503, Title 35-A, provides for the placement of utilities in the right-of-way.

**B.**

Vegetation may be planted and/or maintained in this area so long as it is maintained at three feet or less.

**§ 300-504. Disposal of material; demolition standards.**

See City of Augusta Solid Waste Disposal Rules.

**§ 300-505. Driveway and access standards.**

See City of Augusta Technical Standards Handbook.

**§ 300-506. Environmental resources.**

*The following policies, written in italics, are from the 1988 Growth Management Plan and are included in this section to guide the Planning Board when reviewing projects. Specific performance standards, when included, are written in the standard typeset.*

**A.**

*General.*

**(1)**

*New development shall be sited and designed in a manner that will retain the critical functions and interrelationships of ecological systems, including air, water, land, plant and animal resources.*

**(2)**

*Property owners are encouraged to place conservation easements on lands containing natural resources.*

**B.**

*Plant and animal habitat.*

**(1)**

*Buffers of natural vegetation shall be provided adjacent to all wetlands, deer winter ranges, streams, brooks, and rivers in rural areas identified as critical habitat by the Maine Department of Fisheries and Wildlife. See criteria for designating Resource Protection Districts in § [300-316.1C](#). (Applicant shall consult with the MDF&W in determining the buffer width.)*

**(2)**

*The impacts on wildlife of siting new roads, subdivisions, and intensive development shall be given scrutiny in rural areas and such uses discouraged in areas important to wildlife.*

**(3)**

*A woodland buffer shall be maintained and enhanced adjacent to all major arterials in rural areas to minimize air pollution, except in areas where other public objectives conflict. The planting of air-pollution-resistant trees and the retention of pockets of forestland shall be encouraged in urbanized parts of the City. (See Highway Overlay Standards — Reserved.)*

C.

*Soils.*

(1)

*See special standards applicable to shoreland areas.*

(2)

*On sites with marine clay or presumpscot soil formations, developments shall be designed and located to avoid earth slumping.*

(3)

*On soils with high erodibility, areas of site disturbance shall be minimized and earthmoving and destabilization shall be conducted using best management practices. See air and water quality standards.*

(4)

*Prime agricultural soil areas of greater than 10 acres shall be conserved, and the removal of topsoil from them is prohibited. Clustered developments shall be required for subdivisions in these areas so that the prime agricultural soils are retained as open space and conserved through conservation easements. If the site contains entirely prime agricultural soils, actual developable area shall be limited.*

(5)

*Areas with sand and gravel deposits suitable for mining shall be conserved. Clustered development shall be required for subdivisions in these areas so that the sand and gravel deposits are retained as open space. If the site is entirely sand and gravel deposit, actual developable area shall be limited. See mineral exploration — mineral extraction activities standards.*

D.

*Steep slopes.*

(1)

*Commentary: The 1988 Growth Management Plan outlines the following policy: "Development, other than passive recreation, on slopes steeper than 15% is discouraged. Such development shall require Planning Board review." The plan also includes suggested buffer widths for protecting streams from construction and developmental activities (Table 9). The following discussion is from Preliminary Land Use Constraints Analysis by Southern Kennebec Valley Regional Planning Commission, June 1976:*

(a)

*Slopes are commonly placed into categories indicating potential limitations to land use:*

*0% to 8% flat to gently sloping land, well suited to most kinds of development.*

*8% to 15% gentle to moderate slopes; usually well drained and suited to residential development.*

*15% to 25% moderate to steeply sloping land, presenting limitations to development and susceptibility to erosion.*

*25% and over very steep slopes, causing difficult construction; erosion problems.*

(b)

*Stable hillsides represent an equilibrium of the geology, slope, soils, vegetation and precipitation in a particular area. When the balance among these factors is disturbed, the result can be increased erosion through loss of slope and soil stability, greater runoff due to alteration of the natural drainage patterns and degradation of an aesthetic resource because of erosion, removal of vegetation and other factors.*

(c)

*Erosion depends to a large extent upon the degree of slope, soil type and condition, and vegetative cover. The greater degree of slope, the more susceptible the hillside is to erosion. The length of slope also affects the rate of erosion although to less an extent than the degree of slope.*

(d)

*Generally, soils with low permeability or with little capability for absorbing or retaining water are more susceptible to erosion. This condition can be exacerbated by loss of vegetative cover. Vegetation aids slope stability through the binding action of root systems as well as by the consumption of water. Disruption and removal of vegetative cover can cause stepped up erosion through the loss of root systems and the saturation of soils by excess water. The increase in water content in the soils, in addition to exaggerating erosion, may contribute to slides or slumps in areas of steep slopes.*

(e)

*The stability of hillsides depends in part upon a stable drainage system. A mature, vegetated hillside has a relatively stable drainage pattern which changes slowly as gradual erosion alters the slope. This is in contrast to disturbed slopes where loss of vegetation and exposed soils results in runoff seeking new channels of flow.*

(f)

*The approach to regulation of steep slopes aims at avoiding the hazards described above by maintaining to the extent possible the equilibrium established on hillsides. Three regulatory methods are possible. The first involves slope density provisions. This method defines what degree of developmental density may occur in areas of various slopes. Generally, the greater the slope, the less the area may be developed. The rationale is that, other factors being equal, as slope increases so does potential degradation of the environment through increased probability of runoff, erosion, sedimentation and slope failure. The effect is to encourage development in areas of gentle slopes through restricting development from areas of steep slopes.*

(g)

*A second regulatory method utilizes performance standards in hillside development.*

(2)

In areas of steep slopes (as defined), the following standards shall apply:

(a)

Any application to construct a principal structure on slopes greater than 15% shall be accompanied by an engineered site plan, building plan and a landscape plan developed by a qualified licensed professional, such as, but not limited to, an engineer, architect, or landscape architect. Along with requirements for a site plan outlined in Part [6](#) of this chapter, the application shall include information on soil type and existing vegetative cover. Such building permit shall not be issued without Planning Board approval.

(b)

All development on slopes covered by these standards shall comply with the applicable standards outlined in § [300-514B](#), Water quality.

(c)

See the overlay standards in § [300-529](#), Capitol View District.

[\(d\)](#)

See the special shoreland standards outlined in § [300-528J\(3\)](#) and [O\(2\)\(f\)](#) for additional requirements applicable in shoreland overlay districts.

[\(e\)](#)

Guiding principles (*modified from the Lake County, Illinois ordinance*):

[\[1\]](#)

*Fifteen to less than 20% slope. At least 60% of such areas shall remain as open space. No more than 40% of such areas shall be developed and/or regraded or stripped of vegetation.*

[\[2\]](#)

*Twenty to 30% slope. At least 70% of such areas shall remain as permanent open space. No more than 30% of such areas shall be developed and/or regraded or stripped of vegetation.*

[\[3\]](#)

*More than 30% slope. At least 85% of such areas shall remain as permanent open space. No more than 15% of such areas shall be developed and/or regraded or stripped of vegetation.*

[E.](#)

Water resources. See § [300-514](#), Air and water quality standards.

### **§ 300-507. Flag lot standards.**

Except in the Shoreland Districts (see § [300-528](#)), individual lots may be created which have less than the minimum required street frontage in accordance with the following standards:

[A.](#)

Any such lot which is included within a subdivision plan may be allowed by the Planning Board, provided the lot meets all of the requirements of Subsections [C](#) through [G](#) below.

[B.](#)

Any such lot which is not part of an approved subdivision plan may be allowed by the Code Enforcement Officer, provided that the lot meets all of the requirements of Subsections [C](#) through [G](#) below.

[C.](#)

The area of each flag lot, exclusive of the access strip, shall be no less than the minimum lot area normally required for that district.

[D.](#)

Each lot shall have an access strip with a minimum street frontage of 40 feet and a minimum width of 40 feet at all points between the street and the principal building.

[E.](#)

The width of the lot where the principal building is to be constructed shall equal or exceed the distance normally required for lot frontage in that district.

[F.](#)

There shall be no more than two flag lot access strips adjacent to each other at the street line. In all instances where two flag lots, created from a single parcel, have their strips adjacent to each other at the street line, access to the lots shall be provided only by a single common driveway, with a minimum travel width of 16 feet.

[G.](#)

There shall be no more than two flag lots created from any land identified, according to the records of the Assessor's office, as a single parcel of land as of the effective date of this section, unless such flag lots are proposed and approved as part of a subdivision plan.

**§ 300-508. Flood damage prevention standards.**

[Amended 6-20-1994 by Ord. No. 546; 6-16-2011 by Ord. No. 11-71]

**A.**

Purpose and establishment.

**(1)**

Certain areas of the City of Augusta, Maine, are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the City of Augusta, Maine, has chosen to become a participating community in the National Flood Insurance Program and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended), as delineated in this section. It is the intent of the City of Augusta, Maine, to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

**(2)**

The City of Augusta has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to 30-A M.R.S.A. §§ 3001 to 3007, 4352 and 4401 to 4407 and 38 M.R.S.A. § 440. The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the City of Augusta having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This chapter establishes a flood hazard development permit system and review procedure for development activities in the designated flood hazard areas of the City of Augusta, Maine.

**(3)**

The areas of special flood hazard, Zones A and AE for the City of Augusta, Kennebec County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Kennebec County," dated June 16, 2011, with accompanying "Flood Insurance Rate Map," dated June 16, 2011, with panels 339, 343, 344, 365, 502, 504, 506, 507, 508, 509, 512, 516, 517, 526, 527, 528, 529, 531, 532, 533, 534, 536, 537, 539, 541, 542, 543, 544, derived from the county-wide Digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Kennebec County," are hereby adopted by reference and declared to be a part of this chapter, with an effective date of June 16, 2011.

**B.**

Permit required. Before any construction or other development (as defined), including the placement of manufactured homes, begins within any areas of special flood hazard established in Subsection **A** of this section, a flood hazard development permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the City of Augusta, Maine.

**C.**

Application for permit. The application for a flood hazard development permit shall be submitted to the Code Enforcement Officer and shall include:

**(1)**

The name, address and phone number of the applicant, owner, and contractor;

[\(2\)](#)

An address and a map indicating the location of the construction site;

[\(3\)](#)

A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;

[\(4\)](#)

A statement of the intended use of the structure and/or development;

[\(5\)](#)

A statement of the cost of the development, including all materials and labor;

[\(6\)](#)

A statement as to the type of sewage system proposed;

[\(7\)](#)

Specification of dimensions of the proposed structure and/or development;

**NOTE:** Subsections [C\(8\)](#) to [\(11\)\(b\)](#) apply only to new floodplain construction and substantial improvements.

[\(8\)](#)

The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or to a locally established datum in Zone A only, of the:

[\(a\)](#)

Base flood at the proposed site of all new or substantially improved structures, which is determined:

[\[1\]](#)

In Zones AE, from data contained in the "Flood Insurance Study-Kennebec County," as described in Subsection [A](#) of this section; or

[\[2\]](#)

In Zone A:

[\[a\]](#)

From any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Subsections [E\(11\)](#) and [G\(4\)](#);

[\[b\]](#)

From the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a professional land surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s) or in the absence of all other data;

[\[c\]](#)

To be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building;

[\(b\)](#)

Highest and lowest grades at the site adjacent to the walls of the proposed building;

[\(c\)](#)

Lowest floor, including basement, and whether or not such structures contain a basement; and

[\(d\)](#)

Level, in the case of nonresidential structures only, to which the structure will be floodproofed;  
[\(9\)](#)

A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Subsection [E](#) of this section;

[\(10\)](#)

A written certification by a professional land surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;

[\(11\)](#)

The following certifications as required in Subsection [E](#) of this section by a registered professional engineer or architect:

[\(a\)](#)

A floodproofing certificate (FEMA Form 81-65, 03/09, as amended), to verify that the floodproofing methods for any nonresidential structures will meet the floodproofing criteria of Subsections [C\(8\)\(d\)](#), [E\(7\)](#) and other applicable standards in Subsection [E](#) of this section;

[\(b\)](#)

A hydraulic openings certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Subsection [E\(12\)\(b\)\[1\]](#) of this section;

[\(c\)](#)

A certified statement that bridges will meet the standards of Subsection [E\(13\)](#) of this section;

[\(d\)](#)

A certified statement that containment walls will meet the standards of Subsection [E\(14\)](#) of this section;

[\(12\)](#)

A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development; and

[\(13\)](#)

A statement of construction plans describing in detail how each applicable development standard in Subsection [E](#) of this section will be met.

[D.](#)

Review standards for flood hazard development permit applications. The Code Enforcement Officer shall:

[\(1\)](#)

Review all applications for the flood hazard development permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Subsection [E](#), Development standards, of this section have been or will be met.

[\(2\)](#)

Utilize, in the review of all flood hazard development permit applications:

[\(a\)](#)

The base flood and floodway data contained in the "Flood Insurance Study - Kennebec County, Maine," as described in Subsection [A](#) of this section;

[\(b\)](#)

In special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained

pursuant to Subsections [C\(8\)\(a\)\[2\]](#), [E\(11\)](#) and [G\(4\)](#) of this section, in order to administer Subsection [E](#) of this section; and

[\(c\)](#)

When the community establishes a base flood elevation in a Zone A by methods outlined in Subsection [C\(8\)\(a\)\[2\]](#) of this section, the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.

[\(3\)](#)

Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Subsection [A](#) of this section.

[\(4\)](#)

In the review of flood hazard development permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1344.

[\(5\)](#)

Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a watercourse and submit copies of such notifications to the Federal Emergency Management Agency.

[\(6\)](#)

If the application satisfies the requirements of this chapter, approve the issuance of one of the following flood hazard development permits based on the type of development:

[\(a\)](#)

A two-part flood hazard development permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time, the applicant shall provide the Code Enforcement Officer with an elevation certificate completed by a professional land surveyor, registered professional engineer or architect based on the Part I permit construction, as built, for verifying compliance with the elevation requirements of Subsection [E\(6\)](#), [\(7\)](#) or [\(8\)](#) of this section. Following review of the elevation certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the flood hazard development permit. Part II shall authorize the applicant to complete the construction project; or

[\(b\)](#)

A flood hazard development permit for floodproofing of nonresidential structures that are new floodplain construction or substantially improved nonresidential structures that are not being elevated but that meet the floodproofing standards of Subsection [E\(7\)\(a\)\[1\]](#), [\[2\]](#) and [\[3\]](#) of this section. The application for this permit shall include a floodproofing certificate signed by a registered professional engineer or architect; or

[\(c\)](#)

A flood hazard development permit for minor floodplain development for all development that is not new floodplain construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor floodplain development also includes but is not limited to accessory structures as provided for in Subsection [E\(10\)](#) of this section, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials,

public or private sewage disposal systems or water supply facilities that do not involve structures and nonstructural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

(7)

Maintain, as a permanent record, copies of all flood hazard development permit applications, corresponding permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of § 300-606C of this chapter, and copies of elevation certificates, floodproofing certificates, certificates of compliance and certifications of design standards required under the provisions of Subsections C, E and F of this section.

E.

Development standards. All developments in areas of special flood hazard shall meet the following applicable standards:

(1)

All development. All development shall:

(a)

Be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(b)

Use construction materials that are resistant to flood damage;

(c)

Use construction methods and practices that will minimize flood damage; and

(d)

Use electrical, heating, ventilation, plumbing, and air-conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

(2)

Water supply. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.

(3)

Sanitary sewage systems. All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of floodwaters into the system and discharges from the system into floodwaters.

(4)

On-site waste disposal systems. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

(5)

Watercourse carrying capacity. All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood-carrying capacity of the watercourse.

(6)

Residential. New floodplain construction or substantial improvement of any residential structure located within:

(a)

Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.

(b)

Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Subsection [C\(8\)\(a\)\[2\]](#), [D\(2\)](#) or [G\(4\)](#) of this section.

[\(7\)](#)

Nonresidential. New floodplain construction or substantial improvement of any nonresidential structure located within:

[\(a\)](#)

Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

[\[1\]](#)

Be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;

[\[2\]](#)

Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

[\[3\]](#)

Be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by Subsection [C\(11\)](#) of this section, and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

[\(b\)](#)

Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Subsection [C\(8\)\(a\)\[2\]](#), [D\(2\)](#) or [G\(4\)](#) of this section, or, together with attendant utility and sanitary facilities, meet the floodproofing standards of Subsection [E\(7\)\(a\)](#) of this section.

[\(8\)](#)

Manufactured homes. New or substantially improved manufactured homes located within:

[\(a\)](#)

Zones AE shall:

[\[1\]](#)

Be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;

[\[2\]](#)

Be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and

[\[3\]](#)

Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:

[\[a\]](#)

Over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by

[\[b\]](#)

Frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

[\[c\]](#)

All components of the anchoring system described in Subsection E(8)(a)[3][a] and [b] of this section shall be capable of carrying a force of 4,800 pounds.

[\(b\)](#)

Zone A shall:

[\[1\]](#)

Be elevated on a permanent foundation, as described in Subsection [E\(8\)\(a\)\[2\]](#) of this section, such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Subsection [C\(8\)\(a\)\[2\]](#), [D\(2\)](#) or [G\(4\)](#) of this section; and

[\[2\]](#)

Meet the anchoring requirements of Subsection [E\(8\)\(a\)\[3\]](#) of this section.

[\(9\)](#)

Recreational vehicles. Recreational vehicles located within:

[\(a\)](#)

Zones A and AE shall either:

[\[1\]](#)

Be on the site for fewer than 180 consecutive days;

[\[2\]](#)

Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices, and has no permanently attached additions; or

[\[3\]](#)

Be permitted in accordance with the elevation and anchoring requirements for manufactured homes in Subsection [E\(8\)\(a\)](#) of this section.

[\(10\)](#)

Accessory structures. Accessory structures, as defined in § [300-202](#), located within Zones AE and A, shall be exempt from the elevation criteria required in Subsection [E\(6\)](#) and [\(7\)](#) above, if all other requirements of Subsection [E](#) and all the following requirements are met. Accessory structures shall:

[\(a\)](#)

Be 500 square feet or less and have a value less than \$3,000;

[\(b\)](#)

Have unfinished interiors and not be used for human habitation;

[\(c\)](#)

Have hydraulic openings, as specified in Subsection [E\(12\)\(b\)](#) of this section, in at least two different walls of the accessory structure;

[\(d\)](#)

Be located outside the floodway;

[\(e\)](#)

When possible, be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and

[\(f\)](#)

Have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the special flood hazard area.

(11)

Floodways.

(a)

In Zones AE riverine areas, encroachments, including fill, new floodplain construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Digital Flood Insurance Rate Map, Kennebec County, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(b)

In Zones AE and A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new floodplain construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Subsection E(11)(c) of this section, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

[1]

Will not increase the water surface elevation of the base flood more than one foot at any point within the community; and

[2]

Is consistent with the technical criteria contained in Chapter 5, entitled "Hydraulic Analyses," Flood Insurance Study - Guidelines and Specifications for Study Contractors (FEMA 37/January 1995, as amended).

(c)

In Zones AE and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other watercourse and the adjacent land areas to a distance of 1/2 the width of the floodplain as measured from the normal high-water mark to the upland limit of the floodplain.

(12)

Enclosed areas below the lowest floor. New floodplain construction or substantial improvement of any structure in Zones AE and A that meets the development standards of Subsection E of this section, including the elevation requirements of Subsection E(6), (7) or (8), and is elevated on posts, columns, piers, piles, stilts, or crawl spaces may be enclosed below the base flood elevation requirements, provided all the following criteria are met or exceeded:

(a)

Enclosed areas are not basements, as defined in § 300-202;

(b)

Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either:

[1]

Be engineered and certified by a registered professional engineer or architect; or

[2]

Meet or exceed the following minimum criteria:

[\[a\]](#)

A minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

[\[b\]](#)

The bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and

[\[c\]](#)

Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the entry and exit of floodwaters automatically without any external influence or control such as human intervention, including the use of electrical and other nonautomatic mechanical means;

[\(c\)](#)

The enclosed area shall not be used for human habitation; and

[\(d\)](#)

The enclosed areas are usable solely for building access, parking of vehicles, or storage.

[\(13\)](#)

Bridges. New floodplain construction or substantial improvement of any bridge in Zones AE and A shall be designed such that:

[\(a\)](#)

When possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and

[\(b\)](#)

A registered professional engineer shall certify that:

[\[1\]](#)

The structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Subsection [E\(11\)](#) of this section; and

[\[2\]](#)

The foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

[\(14\)](#)

Containment walls. New floodplain construction or substantial improvement of any containment wall located within:

[\(a\)](#)

Zones AE and A shall:

[\[1\]](#)

Have the containment wall elevated to at least one foot above the base flood elevation;

[\[2\]](#)

Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

[\[3\]](#)

Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by Subsection [C\(11\)](#) of this section.

[\(15\)](#)

Wharves, piers and docks. New floodplain construction or substantial improvement of wharves, piers, and docks are permitted in Zones AE and A, in and over water and seaward of the mean high tide if the following requirements are met:

(a)

Wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and

(b)

For commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

F.

Certificate of compliance. No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a certificate of compliance is issued by the Code Enforcement Officer, subject to the following provisions:

(1)

For new floodplain construction or substantial improvement of any elevated structure, the applicant shall submit to the Code Enforcement Officer an elevation certificate completed by a professional land surveyor, registered professional engineer, or architect, for compliance with Subsection E(6), (7) or (8) of this section.

(2)

The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this chapter.

(3)

Within 10 working days, the Code Enforcement Officer shall:

(a)

Review the elevation certificate and the applicant's written notification; and

(b)

Upon determination that the development conforms with the provisions of this chapter, shall issue a certificate of compliance.

G.

Review of subdivision and development proposals. The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on five or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

(1)

All such proposals are consistent with the need to minimize flood damage.

(2)

All public utilities and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damages.

(3)

Adequate drainage is provided so as to reduce exposure to flood hazards.

(4)

All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

(5)

Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a special flood hazard area are to be constructed in accordance with Subsection [E](#) of this section. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement, and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

### **[§ 300-509. Height regulation.](#)**

Building heights shall be limited by the type of construction as outlined in the BOCA Code, limits of usefulness of the City's firefighting equipment or as specified in §§ [300-314.2](#) and [300-314.3](#). When issuing a permit, the issuing officer shall give serious consideration to the recommendation of the Director of the Fire Bureau.

### **[§ 300-510. Home occupations.](#)**

[Amended 10-6-1997 by Ord. No. 322]

*Commentary:*

*Traditionally, in zoning, certain occupational uses termed "home occupations" have been allowed in dwelling units. Such uses have been allowed largely on the basis that such uses are incidental to the use of the premises as a residence, that the nature of home occupational uses is such that they are compatible with or even "belong" in the home, or that home occupational uses are of a highly professional nature involving the use of mental rather than physical capabilities and are therefore compatible with residential uses.*

*Based on the previous paragraph, it is difficult to discern exactly which home-based businesses are to be permitted in residential districts. It is recognized, in Augusta, that certain limited home occupational uses can be useful to both the general community as well as the resident-proprietor. Also recognized is the difficulty of writing an ordinance dealing with home occupations in a "middle-of-the-road" fashion, which is neither discriminatory or arbitrary. It is hoped that both the citizens and the courts will recognize these difficulties; that the former will not abuse the privileges granted within the following text and that the latter will aid in the enforcement of the sometimes seemingly arbitrary restrictions necessary to preserve residential character in an expedient manner.*

*With the above in mind, it is the intent and purpose of this section to provide for home occupations in residential districts subject to the following restrictions. (The preceding discussion was modified from Rockford, Illinois, Home Occupation Ordinance.)*

[A.](#)

The conduct of home occupations in residential units may be permitted under the following provisions:

[\(1\)](#)

See definition of "home occupation."

[\(2\)](#)

Home occupations shall be carried on wholly within the principal building or within a building or other structure accessory to it.

(3)

The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants; no more than 30% of the total existing floor area or volume, whichever is greater, shall be used for operating the home occupation.

(4)

There shall be no visible evidence of the operation of such home occupation other than one sign, unless such sign is otherwise prohibited by this chapter.

(5)

A home occupation shall in no extent be carried on in a manner that alters the residential character of the structure, lot or neighborhood. There shall be no outside storage or display of materials or products or equipment or vehicles, nor any window display of any of the same.

(6)

The sign for a home occupation shall be limited to a property owner "name" sign with the street number and name clearly denoted. The "name" sign may include the type of occupation. The sign shall be nonilluminated and no larger than two square feet. See § [300-516](#) for additional standards.

(7)

No traffic shall be generated by such home occupation in greater volumes than would ordinarily be expected in the neighborhood, and any need for parking generated by the operation of the home occupation shall be met off the street in other than what is the required front yard; the burden of proof shall be on the applicant.

(8)

No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot if the home occupation is conducted in a detached one-family home dwelling, or outside the dwelling unit if conducted in any other form of dwelling. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receiver off the premises or causes fluctuations in line voltage off the premises.

(9)

The sale of products shall be limited to those which are crafted, assembled, or substantially altered on the premises; to catalog items ordered off the premises by customers; and to items which are accessory and incidental to a service which is provided on the premises.

(10)

A home occupation shall be carried on by permanent residents of the dwelling unit, with not more than two employees who are not residents of the dwelling unit.

(11)

Planning Board review, as a conditional use, shall be required for any applicant wishing to exceed the above-stated limitations.

(12)

All auto service/repair home businesses proposed in the RA, RB1, RB2, and RC Zones shall be reviewed as a conditional use.[\[1\]](#)

[\[1\]](#)

Editor's Note: Original § 5.1.10 of the 1990 Code, pertaining to landscaping, as derived from Ord. No. 53, adopted 6-3-1991, which immediately followed this section, was repealed 5-6-1996 by Ord. No. 283.

### § 300-511. Lighting.

[Amended 4-23-2001 by Ord. No. 37; 7-19-2004 by Ord. No. 102; 7-6-2007 by Ord. No. 108]

*Commentary:*

*Excessive and misdirected outdoor lighting is a consequence of using outdoor lighting where and when it is not needed, and not using the types of outdoor lighting that are most efficient and cost effective for the task intended. While the lighting of streets, businesses and residences may be desirable and necessary for safety and security, it is not desirable or necessary to have light shining uselessly and wastefully into the sky and off into space.*

*Light from improperly shielded fixtures is a serious safety hazard to motorists and others.*

*The unchecked growth of ineffective and inefficient outdoor lighting fixtures in modern times has unnecessarily deprived most residents of the comfort and beauty of the natural night sky while also potentially having serious ill effects by interfering with the natural human physiological day/night cycle.*

*Controlling outdoor lighting will result in significant cost savings due to the decrease in energy requirements.*

#### A.

Outside lighting used for business and professional offices, commercial, and industrial activities, including lighted signs, shall not be permitted to trespass beyond the boundaries of the property on which it is located above the following levels of light: not more than 0.3 footcandle for an abutting residential property or use; and not more than 0.8 footcandle for an abutting commercial property or use. Any luminaire, other than those used at a single-family or duplex property, shall be full cutoff design, unless otherwise required by state or federal law, or allowed by the Planning Board.

#### B.

For all other uses, any luminaire with a lamp or lamps rated at a total of 1,800 lumens or less, and all flood or spot luminaires with a lamp or lamps rated at 900 lumens or less, may be used without restriction to light distribution or mounting height, except that if any spot of flood luminaire rated 900 lumens or less is aimed, directed, or focused such as to cause direct light from the luminaire to be directed toward residential buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be redirected or its light output controlled as necessary to eliminate such conditions.

#### C.

All temporary emergency lighting needed by the Police or Fire Departments or other emergency services, as well as all vehicular luminaires, shall be exempt from the requirements of this section.

#### D.

Any temporary outdoor lighting that conforms to the requirements of this chapter shall be allowed.

#### E.

Nonconforming temporary outdoor lighting may be permitted by the Planning Board after considering the public and/or private benefits that will result from the temporary lighting; any

annoyance or safety problems that may result from the use of the temporary lighting; and the duration of the temporary nonconforming lighting. The applicant shall submit a detailed description of the proposed temporary nonconforming lighting to the Planning Board, who shall consider the request at a duly called meeting of the Planning Board.

F.

Exceptions:

(1)

Athletic fields, fairgrounds, and approved temporary special lighting that meets current Illuminating Engineering Society of North America (IESNA) recommended practice standards for sports and recreational area lighting and is approved by the Planning Board after holding a public hearing on the matter. For such projects reviewed by the Planning Board, conditions of approval may be applied to ensure that the proposed project is compatible with an adjacent neighboring land use.

(2)

Any proposed expansion or construction of a professional office, commercial, or industrial land use project that meets the IESNA lighting standard(s) for that land use, as designed and shown on a plan done by a professional lighting engineer and approved by the Planning Board after holding a public hearing on the matter. For such projects reviewed by the Planning Board, conditions of approval may be applied to ensure that the proposed project is compatible with an adjacent neighboring land use.[\[1\]](#)

[1]

Editor's Note: Original § 5.1.12 of the 1990 Code, regarding mineral exploration and mineral extraction activities, which immediately followed this section, was repealed 11-21-2005 by Ord. No. 196. See now Ch. [198](#), Art. [I](#), Mineral Extraction.

**§ 300-512. Open (green) space.**

A.

Purposes. One purpose of this open space requirement is protection of the land's resources; an additional purpose with residential uses is to provide usable public or common open space as near to each dwelling unit as possible.

B.

Guidelines. When designating land for open space, land containing one or more of the following characteristics shall be considered a priority for protection:

(1)

Prime agricultural soils over 10 acres.

(2)

Sand and gravel deposits over 10 acres.

(3)

Areas with slopes exceeding 15%.

(4)

Known deer winter ranges or those identified by the Maine Department of Inland Fisheries and Wildlife (MDIF&W).

(5)

Maine DEP and MDIF&W wetlands (as outlined on the Resource Protection Map, 1988 Growth Management Plan); wetlands over two acres in size as shown on the City of Augusta 200 scale topographic maps.

(6)

Areas affected by the one-hundred-year flood.

(7)

Areas zoned Resource Protection in accordance with § 300-316.1C, Resource Protection District (RP); land areas within 75 feet of a stream as defined; areas within 25 feet of major and minor tributaries of streams and drainageways that run year round; areas within 15 feet of intermittent streams or drainageways; see § 300-514B(2)(c).

(8)

Aquifers and aquifer recharge areas.

C.

Uses of open space. The following language was modified from Performance Zoning by Lane Kendig, copyright 1980, by American Planning Association:

(1)

Land which is required by this chapter to remain as open space may be used for recreation, agriculture, resource protection, amenity and other purposes specified in this section. Open space land shall be freely accessible to all residents of a development with the exception that agricultural land uses shall be permitted to restrict access to that land to those solely engaged in agricultural pursuits. Open space land shall not be occupied by nonrecreational buildings, roads, or road rights-of-way, nor shall it include the yards or lots of single- or multifamily dwelling units required to meet the minimum standards or parking areas.

(2)

All developments required by this chapter to provide open space shall meet the following requirements:

(a)

Land designated as open space shall be maintained as open space and may not be separately sold, subdivided, or developed except as provided below.

(b)

An open space plan shall be submitted as part of the application for a permit. This plan shall designate and indicate the boundaries of all open space areas required by this chapter. The plan shall:

[1]

Designate areas to be reserved as open space. The specific design of open space areas shall be sensitive to the physical characteristics and proposed design of the site.

[2]

Designate the type of open space which will be provided.

[3]

Specify the manner in which the open space shall be perpetuated, maintained and administered.

(c)

The types of open space which may be provided to satisfy the requirements of this chapter, together with the maintenance required for each type, are as follows:

[1]

Natural areas of undisturbed vegetation or areas replanted with vegetation after construction. Woodlands, woodland swamps (hydric soils), and wetlands are specific types of natural areas.

Maintenance is limited to removal of litter, dead tree and plant materials and brush. Natural watercourses are maintained as free-flowing and devoid of debris. Stream channels are maintained so as not to alter floodplain levels.

[\[2\]](#)

Agricultural uses.

[\[3\]](#)

Garden plots are the division of open space into plots for cultivation as gardens by residents.

[\[4\]](#)

Recreational areas are areas designed for specific, active recreational uses such as tot lots, tennis courts, swimming pools, ball fields, and similar uses. Recreational areas shall be accessible to all residents of the development. Maintenance is limited to ensuring that there exist no hazards, nuisances, or unhealthy conditions.

[\[5\]](#)

Greenways are linear green belts linking residential areas with other open space areas. These greenways may contain bicycle paths, footpaths, and bridle paths. Connecting greenways between residences and recreational areas are encouraged. Maintenance is limited to a minimum removal and avoidance of hazards, nuisances, or unhealthy conditions.

[\[6\]](#)

Lawns consist of grass with or without trees. Maintenance is limited to mowing to ensure neatness.

[\(d\)](#)

All designated open space shall be large enough to be usable open space. The minimum dimensions for usable open space shall be 10 feet by 10 feet.

[\(3\)](#)

Preservation of open space.

[\(a\)](#)

Open space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed. Open space areas may be owned, preserved, and maintained as required by this section by any of the following mechanisms or combinations thereof:

[\[1\]](#)

Dedication of open space to the City or an appropriate public agency, if there is a public agency willing to accept the dedication.

[\[2\]](#)

Common ownership of the open space by a homeowners' association which assumes full responsibility for its maintenance.

[\[3\]](#)

Dedication of development rights of open space may be made to any appropriate public agency with ownership remaining with the developer or homeowners' association. Maintenance responsibility shall remain with the property owner.

[\[4\]](#)

Deed-restricted private ownership which shall prevent development and/or subsequent division of the open space land and provide the maintenance responsibility.

[\(b\)](#)

In the event that any private owner of open space fails to maintain the open space according to the standards of this chapter, the City may, in accordance with an open space plan and following reasonable notice and demand that deficiency of maintenance be corrected, enter the open space

to maintain same. The cost of such maintenance shall be charged to those persons having the primary responsibility for maintenance of the open space.

**§ 300-513. Parking requirements.**

**A.**

Purpose. The purpose of the following standards is to protect the public health, safety and welfare by assuring that:

**(1)**

Peak parking demands are accommodated on site so that streets, nearby properties, and neighborhoods are kept free from congestion and inappropriate traffic;

**(2)**

Parking facilities are designed to enhance the dignity, pride, and visual quality of Augusta as befits a state capital and complement the visual appearance of and maintain the aesthetic appeal of views from neighboring properties, streets and highways, the Kennebec River, and other places where people congregate;

**(3)**

Parking facilities are safe, healthy, attractive, and easily entered and traveled for both motor vehicles and pedestrians; and

**(4)**

The economic stability of residential, business, commercial, institutional, and industrial areas, the value of land and buildings on surrounding properties and neighborhoods, and the accessibility and economic utility of land are maintained and enhanced.

*Commentary: The appearance and awkwardness of parking facilities in Augusta has negatively influenced perceptions of the City. Through thoughtful attention to the design of parking areas for new uses and the redevelopment of old ones as uses expand, however, the City's image, reputation, and economic potential can be greatly enhanced. Also, by using creativity in planning for transportation and parking needs, the amount of land devoted to parking can be minimized, resulting in many advantages.*

**B.**

Off-street parking. No use of premises shall be changed or expanded and no structures shall be constructed or enlarged unless there is provided adequate off-street parking space. See § [300-311](#). The following minimum standards shall apply:

[Amended 11-21-2005 by Ord. No. 195; 1-16-2007 by Ord. No. 210; 4-20-2007 by Ord. No. 067; 5-5-2008 by Ord. No. 073]

**(1)**

Space and location.

**(a)**

Parking stalls. The minimum dimensions for parking stalls shall be:

<b>Parking</b>	<b>Application</b>	<b>Stall Width*</b> <b>(feet)</b>	<b>Stall Depth*</b> <b>(feet)</b>	<b>Aisle Width*</b> <b>(feet)</b>
90°	Standard	9	18	26
60° one-way	Standard	9	15.6	23
45°	Standard	9	12.7	24

**NOTES:**

<b>Parking</b>	<b>Application</b>	<b>Stall Width* (feet)</b>	<b>Stall Depth* (feet)</b>	<b>Aisle Width* (feet)</b>
*	<p>Alternatives to these dimensions are permitted, provided that the applicant demonstrates that the proposal complies with the standards outlined in Transportation and Land Development by Vergil G. Stover and Frank J. Koepke and the Institute of Transportation Engineers, 1988, and as defined and modified by standards provided in the Technical Standards Handbook for the City of Augusta. Parking lots requiring handicap-accessible parking spaces shall comply with the American With Disabilities Act.</p>			

(b)

Schedule of required off-street parking. A minimum number of off-street parking spaces shall be required of the uses specified in Table 300-513-A. Unless otherwise specified, the total number of parking spaces required shall be the sum total of all spaces required for each principal and accessory use located on the parcel; any fraction shall be rounded up to the nearest whole number. Parking spaces designated for physically handicapped people shall be as close to the main entrance or an accessible entrance of a building as possible. At least one handicap space shall be designated with signage in parking lots with less than 25 spaces, and 4% of spaces shall be so reserved in lots with 25 or more cars. **NOTE:** All references to "GFA" in Table 300-513-A shall mean for every 1,000 square feet of GFA, that is, the parking requirement for business services is three parking spaces per 1,000 square feet GFA. All other abbreviations are spelled out in Column 2, Unit of Measure.

**Table 300-513-A: Schedule of Required Off-Street Parking**

<b>Land Use</b>	<b>Unit of Measure</b>	<b>Standard — Number of Spaces</b>
<b>Residential:</b>		
Single-family, efficiency, and multifamily	du (dwelling unit)	2.0/du
Elderly	du (dwelling unit)	1.0/du
Rooming house and group home and other residential	room (rm)	1.0/rm
Home occupation	GFA (1,000 s.f.) + dwelling unit	3.0/GFA and 2.0/du
Single-room-occupancy (SRO) dwelling unit		1 space for every 2 SRO units (with a minimum of 2 spaces per building)
<b>Business services:</b>		
Advertising/ duplicating, consumer/collection, employment/other	GFA (1,000 s.f.)	3.0/GFA
Warehousing, storage services	Employee	1.0/employee
<b>Contract construction services:</b>		
General contract; special construction trade services	Employee and vehicular equipment normally on site	1.0/employee, plus 1.0/vehicle
<b>Educational services:</b>		

**Table 300-513-A: Schedule of Required Off-Street Parking**

<b>Land Use</b>	<b>Unit of Measure</b>	<b>Standard — Number of Spaces</b>
Elementary and junior high	Teachers and employees	1.0/teacher-employee
Senior high	Teachers and employees and students	1.0/teacher-employee + 0.2/student
Child care	Teachers/employees and students	1.0/teacher-employee + 1.0/6 students
Commercial/trade college/university	Instructors/employees and capacity largest class (lc)	1.0/instructor-employee + 2.0/student lc
<b>Government services:</b>		
Administration	GFA	3.0/GFA
Judicial/court legislative/executive	GFA and design capacity (dc)	3.0/GFA and 1.0/3 seats dc
Public safety	GFA, employees largest shift (ls)	3.0/GFA and 1.0/employee ls
Postal	GFA	3.0/GFA
Correctional	Number beds and employees/largest shift	1.0/4 beds and 1.0/employee ls
Public works	GFA and vehicles and equipment normally on site	3.0/GFA and 1.0/vehicle
<b>Industrial uses:</b>		
Truck terminal	Employee	1.0/employee
Other industrial	Employee largest shift	1.0/employee ls
<b>Medical and institution:</b>		
Hospital	Beds and employees	1.0/bed and 1.0/employee
Nursing home	Beds/employees and staff doctor	1.0/4 beds and 2.0/3 employees and 1.0/staff doctor
<b>Personal services:</b>		
Mortuaries and funeral parlors	The greater of parlor or patrons design capacity	25.0/parlor or 1.0/4 patron dc
Laundering, dry cleaning	GFA (1,000 s.f.) and employees	3.0/GFA and 1.0/employee
Laundromat	GFA (1,000 s.f.)	4.0/GFA
Beauty/barber shop	Operator chair	3.0/operator chair
Apparel repair and alteration; shoe repair	GFA (1,000 s.f.)	3.0/GFA
<b>Professional services:</b>		
Medical clinic and health center	Staff doctor and employees	4.0/staff doctor + 2.0/3 employees
Medical/dental,	GFA	3.0/GFA

**Table 300-513-A: Schedule of Required Off-Street Parking**

<b>Land Use</b>	<b>Unit of Measure</b>	<b>Standard — Number of Spaces</b>
veterinarian and animal hospital		
Legal and other professional services	GFA	3.0/GFA
Finance, insurance and real estate	GFA and queuing lane (ql)	3.0/GFA and 5.0/ql
Recreational:		
Library	Seats design capacity (dc)	1.0/4 seats dc
Museum	Employees largest shift	1.0/employee
Nature exhibit, all other	Patrons design capacity and employees largest shift	1.0/3 patrons dc and 1.0/employee
Retail, food lodging services:		
Convenience store and other retail uses	GFA	5.0/GFA
Furniture stores	GFA (1,000 sq. ft.) retail space	1.5 space per GFA
Warehouse employee		1.0 space per warehouse employee
Grocery supermarket	GFA	4.0/GFA
Hotels, motels	Room, employees largest shift (ls); design capacity and accessory uses	1.0/room + 1.0/3 employees ls + 1.0/3 patrons dc for each mtg/banquet rm. + 0.5 spaces required for accessory uses
Restaurant, fast-food	GFA (1,000 square feet) and queuing lane (ql)	14/GFA and 5.0/ql
Restaurant, limited-service drive-through*	GFA	14/GFA and 14.0/ql
Restaurant, standard	GFA	12/GFA
Shopping center	GFA	5.0/GFA
Taverns, dance halls, night clubs, lounges	GFA	14/GFA
Vehicle sales	GFA bldg.; outside display area	4.0/GFA, plus 0.5/vehicle displayed
All other	GFA	4.0/GFA
Vehicle maintenance, other repair:		
Vehicle repair, maintenance	GFA	3.0/GFA
Vehicle wash	GFA and queuing lane (ql)	3.0/GFA and 5.0/ql
Other repair		3.0/GFA

**Table 300-513-A: Schedule of Required Off-Street Parking**

<b>Land Use</b>	<b>Unit of Measure</b>	<b>Standard — Number of Spaces</b>
Miscellaneous services:		
Religious	Seats	1.0/3 seats
Business association; civic/social; fraternal; professional; labor unions	GFA patrons design capacity (dc)	3.0/GFA and 1.0/3 patrons dc
Welfare and charitable services	GFA	3.0 GFA

**NOTES:**

\* This class of fast-food restaurant (limited-service) offers nonalcoholic beverages (i.e., coffee) and snack foods (i.e., doughnuts) primarily for off-site consumption using drive-throughs. As such, these limited-service restaurants create an extreme high traffic count per hour often adjacent to traditional arterial routes that are further congested with waiting patrons unable to access these smaller establishments with inadequate on-site capacity to accommodate patrons.

[\(c\)](#)

Off-street loading. See Technical Standards Handbook.

[\(d\)](#)

Exceptions to on-site parking. All off-street parking shall be located on the same lot as the principal structure or use to be served except:

[\[1\]](#)

As permitted by the Planning Board;

[\[2\]](#)

Uses located in the Kennebec District 1 Zone in existence prior to the effective date of this chapter;

Requests for off-site parking in Subsection [B\(1\)\(d\)\[1\]](#) and [\[2\]](#) above must meet the following requirement: If not owned in fee by the applicant, the use of the land shall be legally bound to serve as a parking lot for the life of the building or use that is being permitted to serve.

[\[3\]](#)

As permitted by the Planning Board, places of worship located in the BP and RC District, provided that the minimum number of spaces required for a development proposal by said places of worship shall be available on a public street within 1,000 feet of the place of worship.

[\(e\)](#)

Shared parking and reduction in the number of off-street parking spaces. In order to prevent the establishment of a greater number of parking spaces than is actually needed to meet the particular needs of uses:

[\[1\]](#)

A maximum of up to 50% reduction in the number of required off-street parking spaces may be permitted by the Planning Board. Any reduction shall be made based on a parking demand study submitted by the applicant's certified professional engineer indicating that the proposed reduction will adequately meet the applicant's needs.

[\[2\]](#)

The joint use of a parking lot by two or more uses may be approved where demand studies are provided that clearly demonstrate that there will be no conflict with times of occupancy and there is ample space to meet the needs of all uses.

[\[3\]](#)

The developer enters into written agreement with the City that additional parking spaces up to the total spaces required shall be provided at the owner's expense should the Code Enforcement Officer determine that more spaces are needed to satisfy the needs of the particular use pursuant to the schedule imposed by this chapter.

*Commentary: Certain uses, such as regional shopping centers, may need fewer parking spaces than are required by this chapter since their trip generation per 1,000 square feet of gross floor area is typically less than smaller uses.*

[\(f\)](#)

Off-street loading requirements. All off-street loading facilities shall be designed in accordance with the off-street loading requirements outlined in the City of Augusta Technical Standards Handbook.

[\(2\)](#)

Lighting. Where artificial lighting is provided, it shall be shaded or screened so that no light source or unreasonable glare shall be directly visible from outside the area and its access driveways.

[\(3\)](#)

Circulation.

[\(a\)](#)

Vehicular entrance and exit. Entrances and exits shall be clearly identified by the use of signs, curb cuts, and landscaping. Entrance and exit design shall be in conformance with the requirements of "Driveway and Access Standards," § 5.3, Technical Standards Handbook.

[\(b\)](#)

Interior vehicular/pedestrian circulation.

[\[1\]](#)

Interior travel lanes shall be provided between parking cells to allow continuous and uninterrupted traffic movement. Parking spaces shall not be located along interior travel lanes.

[\[2\]](#)

Entrances and exits shall be designed to allow adequate stacking of vehicles without blocking interior vehicle circulation lanes.

[\[3\]](#)

Walkways shall be designed to connect parking areas with residential areas, commercial establishments, and other points of interest as appropriate.

[\[4\]](#)

In paved parking areas, painted stripes shall be used to delineate parking stalls. In aisles utilizing diagonal parking, arrows shall be painted on the pavement to indicate traffic flow.

[\[5\]](#)

A six-inch vertical curb and/or wheel stops shall be provided where necessary to restrict vehicles within the confines of the designated parking area. Use of continuous curb stops is preferred.

[\[6\]](#)

Parking areas shall be designed to allow efficient snow removal and/or storage.

[\(4\)](#)

Parking areas in Shoreland Districts.

(a)

Parking areas shall meet the shoreline setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities, in districts other than the General Development District, may be reduced to no less than 50 feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.

(b)

Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, and where feasible, to retain all runoff on-site. See Technical Standards Handbook.

C.

Parking requirements in the KBD1 District. Recognizing that providing on-site parking for employees, customers, clients, visitors, and residents in Augusta's densely built downtown is more problematic than in the less densely developed areas of the City, the following parking requirements shall apply in the KBD1 district and on Cony Street, west of Cony Circle: [Amended 1-21-1992 by Ord. No. 303; 1-19-1993 by Ord. No. 707; 5-6-1996 by Ord. No. 283; 12-20-1999 by Ord. No. 260; 10-15-2001 by Ord. No. 135; 8-25-2003 by Ord. No. 100; 12-3-2003 by Ord. No. 149; 3-15-2004 by Ord. No. 38; 11-21-2005 by Ord. No. 194]

(1)

In Shoreland Zones, Subsection B(4) of this section shall apply.

(2)

The number of required parking spaces for a development proposal shall be determined by using Table 300-513-B below:

**Table 300-513-B: Schedule of Parking Requirements in the KBD1 District**

<b>Proposed Change</b>	<b>Use Proposed</b>	<b>Parking Requirement for Proposed Change (minimum)</b>	<b>Distance Requirement per Parking Space (maximum)</b>
1. Create new building	Residential	1 space per dwelling unit	Located within 500 feet of building (see Note 1)
	Retail	2 spaces per 1,000 square feet of gross floor area (GFA) (see Note 3)	Located within 1,000 feet of building entrance (see Note 2)
	Office and all other commercial/allowable uses	3 spaces per GFA (see Note 3)	Located within 1,000 feet of building entrance (see Note 2)
2. Change existing use	Residential	None	None
	Retail	None	None
	Office and all other commercial/allowable uses	None	None
3. Expand existing building or expand existing use	Residential	None	None

**Table 300-513-B: Schedule of Parking Requirements in the KBD1 District**

<b>Proposed Change</b>	<b>Use Proposed</b>	<b>Parking Requirement for Proposed Change (minimum)</b>	<b>Distance Requirement per Parking Space (maximum)</b>
	Retail	None	None
	Office and all other commercial/allowable uses	None	None

**NOTES:**

1. Off-site parking spaces may be provided in either on-street or off-street permitted residential parking areas as allowed by the Augusta Parking District.
2. Parking spaces having a time limit of two hours or less shall not count towards meeting distance requirements.
3. If applicant can show through parking demand studies that a lower requirement exists for their proposed use (based on the amount of employees and/or customers), the required number of spaces may be reduced by the Planning Board.

(3)

An applicant for a development proposal shall meet the parking requirements identified in Table 300-513-B, Schedule of Parking Requirements in the KBD1 District, and adhere to the following standards:

(a)

Off-street parking spaces shall be provided by the applicant on the development site to meet the parking requirements identified in Table 300-513-B, to the greatest practicable extent as approved by the Planning Board.

(b)

Use of long-term (over two hours) off-street residential parking spaces controlled by the Augusta Parking District shall be as allowed by the Parking District. Such spaces that are duly leased from the parking district shall be counted towards meeting the parking requirements of Table 300-513-B.

(c)

Use of reasonably available on-street, short-term parking spaces (time limit of two hours or less) for proposed residential uses shall be allowed as approved by the Augusta Planning Board, after a recommendation is made on the proposed project by the Augusta Parking District that the applicant will be able to meet their requirements in Parking District spaces. The Parking District shall recommend the number of parking spaces it can accommodate for the proposal.

(d)

Use of reasonably available long-term parking spaces (time limit of greater than two hours) for proposed nonresidential uses shall be allowed as approved by the Augusta Planning Board, after a recommendation is made on the proposed project by the Augusta Parking District that the applicant will be able to meet their requirements in Parking District spaces. The Parking District shall recommend the number of parking spaces it can accommodate for the proposal.

(e)

After all practicable on-site parking space has been proposed by an applicant, and after all reasonably available short- and/or long-term parking spaces have been approved for use by the Planning Board, an applicant for a development proposal shall be required to pay, for each parking space that it still lacks, a fee to the Augusta Parking District in lieu of providing on-site

parking for the proposed development project. The in-lieu-of parking fee shall be equal to the average cost of providing a surface parking space in a private parking lot, multiplied by the number of spaces a development proposal is deficient in providing. The average per-space cost of creating a private surface lot parking space shall be the average cost in Augusta of a surface parking space (including in that average the cost of land acquisition, site grading, stormwater handling, paving of aisles and spaces, landscaping, and professional engineering design).

### **§ 300-514. Air and water quality standards.**

#### A.

Air quality.

[Amended 12-1-2011 by Ord. No. 116]

#### (1)

Noise standards.

[Amended 2-2-2012 by Ord. No. 11-149]

#### (a)

Applicability.

#### [1]

Not applicable. This subsection shall not apply to the following:

#### [a]

Outdoor entertainment/music. Events authorized via any municipal permit/license shall be exempt for normal operation hours of 7:00 a.m. to 10:00 p.m. Regular operations beyond 10:00 p.m. shall require authorization through a Planning Board conditional use permit.

#### [b]

Recreational activities. Events otherwise allowed by law, for which any necessary permit has been granted by the City, including but not limited to sporting events, parades, and fireworks displays, shall be exempt.

#### [c]

Power equipment and maintenance equipment. Such equipment when operated during between 7:00 a.m. to 10:00 p.m. shall be exempt. Such equipment includes but is not limited to power mowers, chainsaws, power tools, leaf blowers, and hedge trimmers. Snowblowers shall be exempt at all times of the day.

#### [d]

Generators. Generator noise when operated during any time of the day during a power outage shall be exempt. Generators operated between 7:00 a.m. and 10:00 p.m. when there is no power outage shall be exempt. Medical facility generators shall be exempt at all time of the day, regardless of power outage conditions.

#### [e]

Safety signals, warning devices, emergency pressure relief valve. Noise from such devices shall be exempt.

#### [f]

Motor vehicle refueling station speakers. Noise for speakers required by local, state, or federal law at refueling pumps shall be exempt, provided they are used only to allow employees to communicate directly with customers at refueling pumps in accordance with state or federal laws, or for other purposes mandated by law.

#### [g]

Emergency vehicles. Any siren, whistle, horn, or bell lawfully used by emergency vehicles or emergency personnel shall be exempt.

[\[h\]](#)

Maintenance vehicles. Noise generated by municipal and private maintenance vehicles during the removal of snow, debris, or refuse shall be exempt.

[\[i\]](#)

School or church chimes and bells. Any bell or chime from any school or church shall be exempt.

[\[j\]](#)

Construction, development, and maintenance. Sounds emanating from construction, development and maintenance activities conducted between 7:00 a.m. and 10:00 p.m. and conducted in compliance with all other sections of this chapter and all other applicable ordinances shall be exempt.

[\[k\]](#)

Agriculture. Noise generated by an agricultural use shall be exempt between the hours of 4:00 a.m. and 11:00 p.m.

[\[l\]](#)

Forestry and other natural resources uses. Noise generated by forestry or other natural resources uses shall be exempt between the hours of 6:00 a.m. and 10:00 p.m., except that mineral extraction shall comply with Chapter [198](#), Article [I](#), Mineral Extraction, or their individual license, whichever is more restrictive, regarding hours of operation. If logging equipment is within 100 yards of a residence, the noise shall be exempt between 7:00 a.m. and 7:00 p.m.

[\[m\]](#)

Blasting. Blasting conducted in accordance with City of Augusta ordinance or State of Maine law, whichever is more restrictive, shall be exempt.

[\[n\]](#)

Temporary activities. Nonconforming temporary noise may be permitted by the Planning Board via the conditional use criteria and process after considering the public and/or private benefits that will result from the temporary noise; any annoyance or safety problems that may result from the use of the temporary noise; and the duration of the temporary nonconforming noise. The applicant shall submit a conditional use permit application containing a detailed description of the proposed temporary nonconforming noise to the Planning Board. The Board shall consider the request at a duly called meeting of the Planning Board.

[\[o\]](#)

Road and public utility construction and maintenance. Upon approval by the City Council at a public meeting of the City Council, road and public utility work may occur at times and in a manner approved by the City Council. In particular, road and utility work in public roads is often best done during night hours to avoid disrupting busy traffic corridors during the daytime. This subsection is intended to allow the City Council to approve such work.

[\[p\]](#)

Residential uses. Subsection [A](#) of this section shall not apply to noise generated by residents at their home. Typical residential noises shall be regulated by state law related to disturbing the peace and shall be enforced by the Augusta Police Department.

[\[2\]](#)

Applicable. This subsection shall apply to all nonresidential uses in the City of Augusta, except as exempted in Subsection [A](#) of this section.

[\[3\]](#)

Preexisting, nonconforming uses and properties. All preexisting, nonconforming uses and properties shall fully comply with Subsection [A](#) of this section within one year of the effective date of this subsection. All preexisting, nonconforming uses with outdoor speakers shall turn the volume of the speakers down to levels found in Subsection [A\(1\)\(e\)](#) below as of the effective date of this subsection.

[\(b\)](#)

Performance standards.

[\[1\]](#)

General. Noise levels shall be controlled to the extent that they do not adversely affect nearby residences, institutions, and businesses due to intermittence, beat frequency, shrillness, or volume, and to the extent that they do not interfere with the normal enjoyment of nearby properties. Excessive noise at unreasonable hours shall be prohibited. Excessive noise is noise exceeding the maximum decibel level in Subsection [A\(1\)\(e\)](#) below for a period of more than 10 minutes, or for shorter periods at least four times over the course of an hour.

[\[2\]](#)

Speakers. Speakers mounted outside a nonresidential or mixed-use building, or placed such that they project sound outside any nonresidential or mixed-use building, shall be prohibited, except as follows:

[\[a\]](#)

Drive-through. Speakers used only to enable employees to directly communicate with customers at a drive-through are permitted, provided the sound from the speaker is not audible at the property line of the business using the speaker. Speaker volume should be set at the lowest volume necessary to communicate with customers having normal hearing.

[\[b\]](#)

Restaurant. In the Kennebec Business District 1 (KBD1) Zone, speakers used only to provide background ambiance music for outdoor seating are permitted, provided the sound is not audible at distances greater than 100 feet from the exterior wall of the business.

[\[c\]](#)

In all other zoning districts, speakers used to provide background ambiance music, either live or recorded, for outdoor seating are permitted, provided the sound from the speaker is 60 dB at the property line of the business using the speaker.

[\[d\]](#)

When outdoor seating is not in use, speakers intended to project sound outside the restaurant shall be turned off.

[\[e\]](#)

Other. Speakers that do not create a violation of the standard in Subsection [A\(1\)\(e\)](#) of this section. Outdoor speakers shall be used only to project sound to customers or employees reasonably expected to be outside. Internal building announcements to employees or departments inside the building shall not be announced through outdoor speakers.

[\[3\]](#)

Attention shall be given during site planning to deal with audible quality and volume. The site planner shall consider and where appropriate shall implement the following measures to mitigate the impact of noise (in order of preference):

[\[a\]](#)

Suppression of noise source to create lowest noise generation possible for proposed use.

[\[b\]](#)

Putting distance between the noise source and its receiving uses.

[\[c\]](#)

Use of buildings, walls, or berms as partial barriers and arrangement of openings away from conflicting uses.

[\[d\]](#)

Deliberate introduction of background noise in order to mask the noise level, pitch or information content (background noise should be of a type to mask offensive noise rather than contribute to it).

[\[e\]](#)

Where possible, completely sealing the building and operating entirely indoors.

[\[4\]](#)

One or more of the following noise muffling mechanisms may be required by the Planning Board or Code Enforcement Officer. Orientation of structure, including placement of windows and major entryways, shall be such that noise impact is directed away from neighboring uses.

[\[a\]](#)

Operation of equipment/processes which generate noise shall be required to take place indoors.

[\[b\]](#)

The use of block heaters shall be preferred over idling vehicles.

[\[c\]](#)

If the original noise is not too powerful, masking mechanisms which add desirable random noises between conflicting land uses may be used. An example of such a masking mechanism is the play of water.

[\[d\]](#)

Surfaces with absorption capacity shall be placed between conflicting land uses.

[\[e\]](#)

Air turbulence to disperse sound may be used.

[\[f\]](#)

Barriers between noise generator and receiver such as berms, walls, buildings, etc., may be used.

[\[5\]](#)

These noise regulations are enforceable by law enforcement officers or by the Code Enforcement Officer.

[\(c\)](#)

Noise impact study.

[\[1\]](#)

The Planning Board or Code Enforcement Officer may require that a noise impact study be conducted. Pre- and post-development noise levels may be required as part of the study. The noise impact study may be either one or more of the following:

[\[a\]](#)

Noise shall be measured with a sound-level meter meeting the standards of the American National Standards Institute [ANSI S1.43-1997 (R2007)].

[\[b\]](#)

If the use proposed is nonresidential, the noise impact study, if required, may utilize data from one or more existing sources which roughly correspond (density, existing traffic volume, location of neighborhood, type of equipment used, and other similar noise generators) with the proposed use.

[\[c\]](#)

If no meters are at hand, a rough survey can be conducted without special equipment by two people of normal hearing and average voice. It is based on the fact that the point at which conversation just becomes impossible to understand is rather sharply defined. One person stands and reads something unfamiliar to both parties in a normal voice. The other gradually backs away and notes the distance at which he/she just no longer understands the gist of what is being read to him/her, that is, when he/she catches a scattered word or two in a ten-second period.

[\[i\]](#)

The trial is repeated rotating reader and listener, and the distances averaged.

[\[ii\]](#)

If the distance is over 20 m (65 feet), the noise level is less than 45 dBA and the site is good for housing and outdoor use.

[\[iii\]](#)

If it lies between eight and 20 m (25 and 65 feet), the noise lies between 45 and 60 dBA, and so the location is acceptable for housing.

[\[iv\]](#)

Distances between two and eight m (seven and 25 feet) indicate levels of 60 to 75 dBA, and the site can only be used for housing if the latter will have special insulation.

[\[v\]](#)

Distances under two m (seven feet) means levels over 75 dBA, and the location is simply unusable for residence.

[\(d\)](#)

Waiver from sound-level limits.

[\[1\]](#)

The City recognizes that there are certain developments or activities associated with development for which noise control measures are not reasonably available. Therefore, the Planning Board, as part of the public hearing via the conditional use application as outlined in this section and process or as part of any project that is before the Board for approval, may grant a waiver from any of the sound-level limits, or other limitation or prohibition, contained in this regulation to some other limit upon:

[\[a\]](#)

A showing by the applicant that a comprehensive assessment has been made of the available technologies for the development, expansion or modification and that the sound-level limits cannot practicably be met with any of these available technologies; and

[\[b\]](#)

A showing by the applicant that noise easements for the affected premises are either not practical or not available; and

[\[c\]](#)

A finding by the Planning Board that the proposed development will be not excessively incompatible with the surrounding neighborhood, will not unduly interfere with the normal enjoyment of abutting property, and will not create excessive noise at unreasonable hours.

[\[2\]](#)

In addition, a waiver may be granted by the Planning Board if:

[\[a\]](#)

A development is deemed necessary in the interest of public safety and the applicant has shown that the sound level cannot practicably be reduced or mitigated without unduly limiting the development's intended function; and

[\[b\]](#)

A finding by the Planning Board that the proposed development will not be incompatible with the surrounding neighborhood, will not unduly interfere with the normal enjoyment of abutting property, and will not create excessive noise at unreasonable hours.

[\[3\]](#)

The Planning Board shall consider the request for a waiver after the review of a completed development application by the Planning Board. In granting a waiver, the Planning Board may, as a condition of approval, impose terms and conditions to ensure that no unreasonable sound impacts will occur.

[\(e\)](#)

Maximum noise levels (7:00 a.m. to 10:00 p.m./10:00 p.m. to 7:00 a.m.).

[\[1\]](#)

Noise levels will not be specifically measured unless a request for a noise impact study is made by the Planning Board in the application phase, or unless a complaint is registered against a use. Measurements shall be made at the property line of the use generating the noise.

[\[a\]](#)

Rural Districts: 60/60.

[\[b\]](#)

Residential and Capitol-Commerce Districts: 60/60.

[\[c\]](#)

Planned Development, Civic Center, Medical, and Government Services Districts: 60/60.

[\[d\]](#)

Business and Industrial District: 60/60.

[\[2\]](#)

Where the emitting and receiving premises are in different zones, the limits governing the stricter zone shall apply to any regulated noise entering that zone. Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness or volume.

[\(2\)](#)

Smoke, odors, dust, fumes:

[\(a\)](#)

Emission of dust, dirt, fly ash, fumes, vapors or gasses which could be injurious to human health, animals, or vegetation, detrimental to the enjoyment of adjoining or nearby properties, or which could soil or stain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission, shall be prohibited. In addition, no land use or establishment shall be permitted to produce harmful, offensive, or bothersome odors, scents, or aromas (such as, but not limited to, those produced by manufacturing processes, food preparation, food processing, fish sales, rendering, fermentation processes, decaying organic matter, and incinerators) perceptible beyond their lot lines, either at ground or habitable elevation. The location and vertical height of all exhaust fans, vents, chimneys, or any other sources discharging or emitting smoke, fumes, gasses, vapors, odors, scents or aromas shall be shown on the plan, with a description of the source materials. The Planning Board or Code

Enforcement Officer may require a developer to submit detailed plans showing how this standard will be met.

(b)

Bituminous mix plants, also known as asphalt plants, shall not be sited within 2,500 feet of an existing residential property. Measurement shall be the shortest distance possible from the plant to the nearest point of the residential property line.

B.

Water quality.

(1)

General drainage and erosion control standards.

(a)

Intent/applicability.

[1]

All development in the City is required to control runoff and prevent erosion and sedimentation. An adequate drainage and erosion control system shall be provided, including temporary and/or permanent appurtenances as necessary, such as swales, ditches, mulch, hay bales, erosion control mesh, sedimentation basins, detention/retention basins, culvert/underdrain/stormwater conveyance pipes, catch basins, and manholes, to assure that stormwater and other surface flows are effectively conveyed from the development and that groundwater is intercepted and conveyed from the development and that groundwater is intercepted and conveyed away from the street aggregate base/subbase in compliance with the guidelines contained herein and all other requirements of these standards.

[2]

All development will require consultation between the Stormwater Management Board and developers. The Stormwater Management Board is comprised of representatives from the City Engineering, Public Works and Planning Bureaus as well as the Augusta Sanitary District. Consultation is strongly recommended after the conceptual design of the project is completed. Analyses will be based on applicant's data and data available from the district and the City with regard to soils, land use, and existing stormwater flows. Analysis will be conducted on a watershed and subwatershed basis determined by the district and the City.

[3]

No newly created stormwater may be discharged onto private property without the property owner's permission (easement required) or in a City street.

[4]

Any project that utilizes an existing developed site will be required to assess the stormwater needs of that site regardless of the existing conditions of the site or the presence of stormwater utilities. Any site that does not have district facilities within a reasonable distance will require a plan that addresses the lack of these utilities via runoff controls.

[5]

In addition to the studies established by the Stormwater Management Board, the project proponent must also satisfy the needs and criteria of other agencies which have permit power over the proposed project. These include federal (Corps of Engineers, etc.) and state (Stream Alteration, Wetlands, Site Review, etc.). The City and the district shall be provided with a copy of all data submitted to other permitting agencies.

(b)

Classifications. See Technical Standards Handbook.

(c)

Erosion and sediment control and stormwater management plans.

[1]

The erosion and sediment control plan shall be designed in accordance with the Maine Erosion and Sediment Control Handbook for Construction, current revision, prepared by the Maine Department of Environmental Protection and with the requirements of the standards found in the Technical Standards Handbook.

[2]

Applications submitted pursuant to Part 4, Subdivision and Site Plan Review, and Part 3, Zoning, for projects which will expose more than 60,000 square feet of soil at one time or which will produce more than 10,000 square feet of additional impervious surface must submit a stormwater management plan to the Stormwater Management Board.

[3]

Performance standard. See Technical Standards Handbook (§ [300-602](#)).

(2)

Stormwater runoff standards.

(a)

All development applications shall contain a drainage system plan to include profiles, typical cross sections, and typical detail drawings of drainage structures, and be designed by a State of Maine registered professional engineer. The plan shall show underdrain, storm drain pipes, catch basins, manholes, ditches, culverts, easements, and other proposed drainage system improvements with a statement in writing attached to the drainage system plan indicating that the proposed development will not create erosion, drainage, or runoff problems either in the development or adjacent properties. All hard-piped drainage systems shall be designed and constructed to the Augusta Sanitary District Specifications.

(b)

See Subsection [B\(1\)\(c\)\[2\]](#) of this section.

(c)

See Technical Standards Handbook for additional standards.

(d)

Buffer requirements.

*Commentary:*

*The 1988 Growth Management Plan outlines the following policy regarding the control of stormwater in the City: All new development and conversions, including state facilities, shall be designed to slow down and retain stormwater runoff on site through infiltration and retention. The rate of runoff from any specific site or development shall not be greater than would be the case under normal conditions. The filling of wetlands shall be prohibited except for water-dependent uses which must first obtain a permit. A natural buffer shall be retained around all wetlands and ponds, and on either side of streams as shown on the United States Geological Survey (USGS) Topographic Quadrangle Maps and any watercourse in the Togus Pond and Three Cornered Pond Watersheds. A natural buffer shall be retained on either side of any other stream not shown on the USGS Maps. All natural drainage swales shall be retained in a natural condition. Wider buffers shall be required in areas with special needs, including but not limited to steep slopes, highly erodible soils, exposed soils, pond watersheds, floodways, and areas designated critical for wildlife.*

*Buffers are required under several sections of this chapter. For example, buffer yards are required between conflicting land use in § [300-502](#) of this chapter and buffers are required for single lots in the Ponds Districts based on soil type and percent clearing.*

*Shoreland zoning requires a minimum seventy-five-foot setback along streams (as defined).*

*Buffers adjacent to wetlands and deer wintering ranges are covered by Resource Protection District criteria described in § [300-316.1C](#).*

*Development on steep slopes and erodible shallow soils are covered in an earlier section of this chapter under § [300-506](#), Environmental resources.*

*The only areas of the City included in the above-stated policy not clearly covered by the referenced standards are brooks, streams and natural drainage courses not shown on the USGS Maps. For the purposes of this chapter, such areas shall be called "general surface water resource areas," as defined.*

[\[1\]](#)

The following items outline buffer requirements along general surface water resource areas and outline specific standards for stormwater runoff in shoreland areas:

[\[a\]](#)

No less than a fifty-foot buffer shall be maintained adjacent to wetlands, brooks and streams not covered by other regulations in this chapter.

[\[b\]](#)

Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

[\(e\)](#)

In shoreland areas:

[\[1\]](#)

All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.

[\[2\]](#)

See parking lot standards for shoreland areas, § [300-513B\(4\)](#).

[\(3\)](#)

Phosphorous control standards.

*Commentary: The 1988 Growth Management Plan includes the following policy upon which the following standards are based: "In the watersheds of the ponds, all new development and conversions shall be designed and located and all land use activities shall be conducted in a manner that prevents additional phosphorous loading (beyond acceptable limits) to Togus Pond and Three Cornered Pond and stringently protects the water quality of all other ponds.*

*Maximum permitted densities shall be in keeping with their capacity to accommodate new development without degradation. Clustered development shall be encouraged." Further, the plan states that the City shall cooperate with the Maine Department of Environmental Protection and organize, support and encourage landowner efforts to control existing sources of excess phosphorous entering Togus Pond. The following proposed standards are intended to guide the implementation of this policy. It is recommended that a study of the Togus Pond watershed be conducted with specific implementation activities outlined on a property-by-property basis.*

[\(a\)](#)

All uses outlined in the Table of Dimensional Limits (Performance Zoning) in the Ponds District (§ [300-315.3](#)) shall design their sites to reduce phosphorous export into the lakes. In addition to the maximum density and development ratios outlined in that table, one or more phosphorous export reduction mechanisms shall be utilized. The following are approved methods for controlling phosphorous export in the City of Augusta (in order of preference):

[\[1\]](#)

Reduce or minimize road and/or driveway length.

[\[2\]](#)

Reduce number of lots; increase lot size.

[\[3\]](#)

Limit clearing of vegetation.

[\[4\]](#)

Leave or implement buffer strips around cleared areas and along water bodies.

[\[5\]](#)

Construct infiltration systems to treat stormwater from individual lots, soils permitting.

[\[6\]](#)

Construct wet ponds to treat runoff from large drainage areas.

[\(b\)](#)

The maximum permitted phosphorous export (phosphorous allocation) by subwatershed is outlined in Appendix A. [\[1\]](#)

[\[1\]](#)

Editor's Note: Appendix A is included as an attachment to this chapter.

[\(c\)](#)

All projects in the ponds watershed, except residential developments of four lots/units or less and having road and driveway lengths within the limitations outlined in § [300-315.3B](#), shall be designed in accordance with Phosphorous Control in Lake Watersheds: A Technical Guide to Evaluating New Development, Maine DEP, September 1989, as amended.

[\(4\)](#)

Groundwater protection standards.

*Commentary: The City has a set of Sensitive Areas Maps which includes a Water Related Resources Map drawn on a 100 scale topographic base map. A study accompanies the map and describes what is known about groundwater resources in Augusta. A report was written by the Maine Bureau of Geology — Reconnaissance of Ground Water Resources and Surficial Geology of the Southern Kennebec Region. This report, based on records from well-drilling firms and geological field investigations, identifies the major groundwater resources that appear to be available in Augusta. Identified are aquifers with expected yields of 10 gallons or more per minute located in sand or gravel or in bedrock, and aquifer recharge zones, or areas of permeable material (usually sand or gravel) which permit rapid percolation of quantities of water necessary to recharge the supply. The 1988 Growth Management Plan identifies a Resource Conservation and Use Overlay Zone over aquifer areas. Standards for development will be listed in Part [5](#), Article [VIII](#), Overlay Zoning Standards, of this chapter.*

[\(a\)](#)

For major developments and major subdivisions, the Planning Board may apply the groundwater standards applicable to mobile home/manufactured housing parks as outlined in § [300-524D\(16\)](#).

**[§ 300-515. Setbacks; general requirements.](#)**

[Amended 1-21-1992 by Ord. No. 303; 8-3-1992 by Ord. No. 571; 5-6-2002 by Ord. No. 211; 8-4-2003 by Ord. No. 86]

A.

Landscape elements, such as but not limited to retaining walls, fences, light poles and other ornamental structures used to signify entrance to a property, will be allowed to be installed adjacent to a property line, right-of-way line or utility easement, where one exists, without setback. Naming or identification signs (as opposed to advertising or promotional signs) may be placed on such entrance structures and need not meet the setback requirements for signs as listed in § [300-516D\(2\)](#) so long as the sign does not protrude into any part of the right-of-way.

(1)

When such structures are to be placed adjacent to the street right-of-way, approval shall be obtained from the Director of City Services. The property owner or any subsequent property owner of the land on which the street-fronting wall (or other above-noted structure) is located must agree to indemnify and save harmless the City against loss, cost, damage or expense occurring by reason of the erection or maintenance of such wall or structure.

(2)

Where such structures are to be placed adjacent to private (abutting) property lines, the applicant shall obtain a construction, maintenance and repair easement from the affected abutting property owner(s) which shall be filed at the Registry of Deeds.

B.

Signs shall be governed by the setback requirements of § [300-516](#), Street graphics; signs.

C.

Except where setbacks are specified in the dimensional requirements of a zoning district; or except where other provisions of this chapter impose stricter setback or yard or buffer yard requirements, or except for required egress structures, or except for structures within the KBD1 District (for which there shall be no setback requirements for any structure, including, but not limited to, any setback requirements for public pedestrian walkways and their structural elements proposed to be built over, adjacent to, or within a public right-of-way), no structure shall be located within the following limits:

(1)

Within 10 feet of the right-of-way line or utility easement where one exists on any street within the City except as specified below or in zoning district regulations or by deed restrictions.

(2)

Within 10 feet of any new right-of-way line made necessary by construction or reconstruction of any street or right-of-way or utility easement where one exists within the City.

(3)

In the Capitol Planning Area, except in the Capitol-Commerce Districts [see § [300-314.2A\(3\)](#)], within 10 feet of the side and rear property lines in the Residential Zone; within 15 feet of the rear property lines and 20 feet of the side property lines in the Statehouse Zone.

(4)

Outside the Capitol Planning Area, within five feet of the lot line on the sides not abutting the streets; provided, however, that where commercial uses are located on adjacent lots, such setback may be reduced to zero feet, provided that the owners of such adjacent lots enter into a construction, maintenance and repair easement or agreement, binding on each such owners, recorded at the Kennebec County Registry of Deeds, and providing that such agreement may not be amended or modified without the agreement of both such owners and the City Engineer.

Where residential accessory structures, such as sheds, pools, landscape retaining walls and garages, cannot meet the required side and/or rear setbacks due to lot size, topographic constraints, etc., the accessory structure may be built within the minimum yard area, provided that the property owner obtain a construction, maintenance and repair easement from the affected abutting property owners.

(5)

Within 20 feet of the right-of-way line of University and Community Drives; and within 10 feet of the side and rear lot lines of properties on University and Community Drives.

(6)

Within 15 feet of the right-of-way of the following streets in the Capitol Planning Area:

**Streets in Capitol Planning District**

Birchwood Road

Burleigh Street

Center Street

Child Street

Columbia Street

Federal Street

Gage Street

Glendon Street

Glenwood Street<sup>1</sup>

Grand Street

Hichborn Street

Higgin Street

Jackson Street<sup>2</sup>

Manley Street<sup>3</sup>

Page Street

Powhattan Street

South Grove Street<sup>4</sup>

Valley Street

Wade Street

**NOTES:**

1 Northerly side — 3 lots deep.

2 Northerly side.

3 One lot deep from State Street.

4 South of Wade Street.

(7)

Within 25 feet of the right-of-way of a collector street, namely:

**Collector Streets**

Airport Road

Bond Brook Road

Church Hill Road

Cony Road

Cony Street Extension<sup>2</sup>

### Collector Streets

Cony Street<sup>1</sup>  
Hicks Road  
Hospital Street  
Leighton Road  
Northern Avenue  
Old Belgrade Road  
Old Oakland Road  
Old Winthrop Road  
Route 105  
Sewall Street  
South Belfast Avenue  
Stevens Road  
Townsend Street<sup>3</sup>  
West River Road  
Whitten Road  
Winthrop Street  
Worcester Street

#### NOTES:

- 1 Circle to South Belfast Avenue.
- 2 South Belfast Avenue to Cony Road.
- 3 Northern Avenue to Civic Center Drive.

(8)

Within 35 feet of the right-of-way of an arterial street, namely:

#### **Major and Minor Arterials**

Armory Street  
Bangor Street  
Bond Street  
Capitol Street  
Civic Center Drive  
Cony Street — River to Circle  
Eastern Avenue  
I-95  
Memorial Bridge  
Mount Vernon Avenue  
New Belgrade Road  
North Belfast Avenue  
Riverside Drive  
State Street  
Stone Street  
Union  
Western Avenue

## § 300-516. Street graphics; signs.

[Amended 1-21-1992 by Ord. No. 303; 7-20-1992 by Ord. No. 550; 12-6-1993 by Ord. No. 311; 3-21-1994 by Ord. No. 412; 5-16-1994 by Ord. No. 471; 7-18-1994 by Ord. No. 545; 6-20-1994 by Ord. No. 546; 3-6-1995 by Ord. No. 23; 9-18-1995 by Ord. No. 214; 9-9-1996 by Ord. No. 555; 8-4-2003 by Ord. No. 87; 11-20-2006 by Ord. No. 185; 9-2-2008 by Ord. No. 141; 11-17-2011 by Ord. No. 11-150; 8-2-2012 by Ord. No. 12-120; 2-7-2013 by Ord. No. 13-009]

### A.

Statement of purpose. The purpose of this section is to create the legal framework for a comprehensive and balanced system of street graphics that will preserve the right of free speech and expression, provide an easy and pleasant communication between people and their environment, and avoid the visual clutter that is potentially harmful to traffic and pedestrian safety, property values, business opportunities, and community appearance. With these purposes in mind, it is the intent of this chapter to authorize the use of street graphics that are:

#### (1)

Appropriate to the activity that displays them;

#### (2)

Expressive of the identity of individual activities and the community as a whole;

#### (3)

Promote the free flow of traffic and protect pedestrians and motorists from injury and property damage caused by, or which may be fully or partially attributable to, cluttered, distracting, or illegible signage;

#### (4)

Promote the use of signs which are aesthetically pleasing, of appropriate scale, and integrated with surrounding buildings and landscape, in order to meet the community's expressed desire for quality development; and

#### (5)

Legible in the circumstances in which they are seen.

### B.

Noncommercial signs and messages. Any street graphic that can be displayed under the provisions of this chapter may contain a noncommercial message.

### C.

Definitions. As used in this section, the following terms shall have the meanings indicated:

#### ABOVE-ROOF GRAPHIC

A street graphic displayed above the peak or parapet of a building.

#### ACTIVITY

An economic unit designated in the classification system given in the North American Industrial Classification System (NAICS) Manual published by the U.S. Department of Commerce.

#### ANIMATION or ANIMATED

(See also "changeable copy" and "movement.") The movement or the optical illusion of movement of any part of the street graphic structure, design, or pictorial segment, including the movement of any illumination or the flashing or varying of light intensity.

#### ARCHITECTURAL DETAIL

(See also "signable area," "wall graphics" and "roof graphics.") Any projection, relief, cornice, column, change of building material, window, or door opening on any building.

### ARCHITECTURAL, HISTORIC OR SCENIC AREA

An area that contains unique architectural, historic, or scenic characteristics that require special regulations to ensure that street graphics displayed within the area enhance its visual character and are compatible with it.

### AWNING

A cloth, plastic, or other nonstructural covering that either is permanently attached to a building or can be raised or retracted to a position against the building when not in use.

### BANNER

A street graphic composed of a logo or design on a lightweight material enclosed in a rigid frame and secured or mounted to not allow motion caused by the atmosphere.

### BARE-BULB ILLUMINATION

A light source that consists of light bulbs with a twenty-watt maximum wattage for each bulb.

### BUILDING

A structure having a roof supported by columns or walls.

### CAMPUS

A single business, nonprofit, or other entity located on a single lot or controlling the development of lots (as in a retail power center) spread across a large area with on-site roads connecting separate buildings or uses.

### CANOPY

(See "awning.")

### CHANGEABLE COPY

Copy that changes at regular or irregular intervals, either manually or digitally.

### DIRECTIONAL GRAPHIC

A street graphic at the exit or entrance of a premises that has two or more driveways, or along the internal transportation network of a campus or shopping center style development.

### EXTERNAL ILLUMINATION

Illumination of a sign that is affected by an artificial source of light not contained within the sign itself.

### FACADE

(See also "signable area.") The side of a building below the eaves.

### FACADE, BLANK

The side of a building below the eaves that is blank and does not have windows or architectural detail.

### FLASHING ILLUMINATION

Illumination in which the artificial source of light is not maintained stationary or constant in intensity and color at all times when a street graphic is illuminated, including illuminated lighting.

### GRAND OPENING GRAPHIC

A banner displayed on a premises on which a grand opening is in progress.

### GRAPHIC

A street graphic or special street graphic, as defined by this chapter.

### GROUND GRAPHIC

A street graphic supported by one or more uprights, posts, or bases placed upon or affixed in the ground and not attached to any part of a building. It includes a pole graphic and a monument graphic.

#### HEIGHT

The vertical distance measured from grade at the edge of the adjacent right-of-way to the highest point of the street graphic.

#### ILLUMINATION or ILLUMINATED

A source of any artificial or reflected light, either directly from a source of light incorporated in or indirectly from an artificial source, so shielded that no direct illumination from it is visible elsewhere than on and in the immediate vicinity of the street graphic.

#### INDIRECT ILLUMINATION

A source of external illumination, located away from the sign, that lights the sign, but which is itself not visible to persons viewing the sign from any street, sidewalk or adjacent property.

#### INTERNAL ILLUMINATION

A light source that is concealed or contained within the street graphic and becomes visible in darkness through a translucent surface.

#### ITEM OF INFORMATION

A word, an initial, logo, abbreviation, number, symbol, or geometric shape.

#### MARQUEE

A permanent structure, other than a roof, attached to, supported by, and projecting from a building and providing protection from the elements.

#### MONUMENT GRAPHIC

A ground graphic permanently affixed to the ground at its base, supported entirely by a base structure, and not mounted on a pole or poles.

#### MOVEMENT

(See also "animation.") Physical movement or revolution up or down, around, or sideways that completes a cycle of change.

#### MULTI-USE BUILDING

A building consisting of more than one nonresidential use.

#### NEON TUBE ILLUMINATION

A source of light for externally lit street graphics supplied by a neon tube that is bent to form letters, symbols, or other shapes.

#### NONCONFORMING STREET GRAPHIC

A street graphic that was lawfully constructed or installed prior to the adoption or amendment of this chapter and was in compliance with all of the provisions of this chapter then in effect, but which does not presently comply with this chapter. A street graphic is nonconforming only if its size, height, or setback exceeds the size, height, and setback regulations in this chapter by more than 10%. If a premises has more street graphics than this chapter allows, any street graphic in excess of that number is nonconforming. The owner of the premises shall register with the Department of Development Services the street graphics it designates as nonconforming.

#### OCCUPANT

A use located in a multi-use building or shopping center.

#### PEAK

The highest point on a roof or the highest point on another architectural element that blocks the rear view of a street graphic.

#### POLE GRAPHIC

A freestanding street graphic that is permanently supported in a fixed location by a structure of poles, uprights, or braces from the ground and not supported by a building or a base structure.

#### PORTABLE GRAPHIC

A street graphic not permanently attached to the ground or a building or designed to be permanently attached to the ground or a building.

#### PREMISES

The lot or lots, plots, portions, or parcels of land considered as a unit for a single use or development, whether owned or leased, and not located in a shopping center or multi-use building.

#### PROJECTING GRAPHIC

A street graphic attached to and projecting from the wall of a building and not in the same plane as the wall.

#### ROOF GRAPHIC

(See also "above-roof graphic.") A street graphic that is displayed above the eaves and under the peak of a building.

#### SHOPPING CENTER

A nonresidential development under unified control consisting of three or more separate nonresidential establishments sharing a common building, or which are in separate buildings that share a common entranceway or parking area.

#### SIGNABLE AREA FOR PROJECTING GRAPHICS AND AWNINGS

One area enclosed by a box or outline; or within a single continuous perimeter composed of a single rectangle, circle, triangle, or parallelogram enclosing the extreme limits of characters, lettering, illustrations, ornamentations, or other figures.

#### SIGNABLE AREA FOR ROOF AND WALL GRAPHICS

One area free of architectural details on the facade of a building or part of a building, which shall include the entire area enclosed by a box; or within a single continuous perimeter composed of a single rectangle, circle, triangle, or parallelogram enclosing the extreme limits of characters, lettering, illustrations, ornamentations, or other figures. A "facade" is the side of a building below the eaves.

#### SIZE

The total area of the face used to display a street graphic, not including its supporting poles or structures. If a graphic has two faces that are parallel, not more than two feet apart, and supported by the same poles or structures, the size of the graphic is 1/2 the area of the two faces.

#### SPECIAL EVENT GRAPHICS/SPECIAL STREET GRAPHIC

A street graphic, other than a ground, roof, or wall graphic, regulated by Subsection H of this section.

#### STREET GRAPHIC

A lettered, numbered, symbolic, pictorial, or illuminated visual display, not located inside a structure, designed to identify, announce, direct, or inform that is visible from a public or private right-of-way, including internal circulation roads for mall or campus-style

settings. At least one item of information must be present in order for the display to be defined as a "street graphic."

TEMPORARY WINDOW GRAPHIC

A window graphic displayed for a limited period of time.

TOWN CENTER

The central business district designated by Part 3, Zoning, of this chapter.

WALL GRAPHIC

A street graphic attached directly to an exterior wall of a building or dependent upon a building for support, with the exposed face of the graphic located in a place substantially parallel to the exterior building wall to which the graphic is attached or which supports the graphic.

WINDOW GRAPHIC

A street graphic applied, painted or affixed to or in the window of a building. A window graphic may be temporary or permanent.

D.

Ground graphics.

(1)

Where permitted and limitation on number. A premises may display ground graphics for on-premises activities in the following zoning districts and with the following restrictions on number of ground graphics:

(a)

In the CB, CC, CD, GS, IA, KBD2, MED, and PD, one on each street or highway on which the premises has frontage.

(b)

Only one ground graphic in the BP, RBV, RC, RD, and RV on one street or highway on which the premises has frontage.

(c)

Only one ground graphic in the PD2, RA, RB1, RB2, RPDS, RR, RR2, RRES, and only when no other street graphics are erected, constructed, or placed on the premises.

(d)

All shoreland overlay zoning districts shall have the same limitations on the number of ground graphics as the underlying base district.

(2)

Size, setback, and height regulations. Ground graphics must comply with the following size, setback, and height regulations. Size shall be reduced by 10% for every 10 feet, or portion thereof, that a sign does not meet the proper distance between ground graphics in Subsection

D(4).

[Amended 5-1-2014 by Ord. No. 14-077]

<b>District</b>	<b>Size (square feet)</b>	<b>Setback (side and rear only) (feet)</b>	<b>Height (feet)</b>
CD, PD, IA	200	10	25
CB, CC, KBD2, MED, PD2, RBV	120	10	25
GS, KBD1, KL, RD, RV	50	10	15
BP, RA, RB1, RB2, RC, RPDS, RR, RR2, RRES	15	10	15

<b>District</b>	<b>Size (square feet)</b>	<b>Setback (side and rear only) (feet)</b>	<b>Height (feet)</b>
All shoreland zoning districts, except GD	12	10	15
GD Shoreland Zoning District	Regulations shall be identical to the underlying base zoning district		

(3)

A premises that displays a monument graphic as its only ground graphic may increase its size by up to 10%.

(4)

Distance between ground graphics. A ground graphic shall be at least 75 feet from any other ground graphic where the speed limit on the adjacent road is 35 mph or less. A ground graphic shall be at least 150 feet from any other ground graphic where the speed limit on the adjacent road is 36 mph to 45 mph. A ground graphic shall be at least 300 feet from any other ground graphic where the speed limit on the adjacent road is more than 45 mph. These distances may be reduced, provided there is a corresponding reduction in the size of the sign, as outlined in Subsection D(2) of this section.

(5)

Shopping centers or campus style development. A shopping center or campus style development may display one ground graphic at each exit and entrance. A ground graphic displayed by a shopping center may exceed the area limitations for ground graphics by 25% if there are two businesses, 50% if there are three businesses, or 75% if there are more than three businesses. In no case shall any ground graphic for a single business be larger than the size allowed for a single business in the table in Subsection D(2) of this section. In no case shall the total size of the ground graphic be greater than 275 square feet. Occupants that do not have shared parking within a shopping center may display one ground graphic along the private road frontage near the entrance to their designated parking area in accordance with all provisions of this chapter.

(6)

Multi-use buildings. A multi-use building may have one ground graphic facing each street or highway on which the building has frontage, if no individual ground graphics are displayed by the occupants of the multi-use building. The maximum size restriction for such ground graphic may be increased by 25% if there are two businesses, 50% if there are three businesses, or 75% if there are more than three businesses. In no case shall any ground graphic for a single business be larger than the size allowed for a single business in the table in Subsection D(2) of this section. In no case shall the total size of the ground graphic be greater than 275 square feet.

(7)

Auto dealers. Auto dealers may install one ground graphic per franchise dealership they hold plus one additional ground graphic beyond the number of franchises they hold. No single ground graphic may be larger than the size allowed by Subsection D(2) of this section.

(8)

Landscaping. A landscaped area located around the base of the ground graphic equal to 2.5 square feet for each square foot of ground graphic area is required for all ground graphics. The landscaped area shall contain living landscape material consisting of shrubs, perennial ground cover plants, or a combination of both, placed throughout the required landscape area having a spacing of not greater than three feet on center. Where appropriate, the planting of required

deciduous or evergreen trees, installed in a manner that frames or accents the ground graphics structure, is encouraged.

E.

Wall and roof graphics.

(1)

Where permitted. In the following zoning districts, a premises and each occupant of a shopping center or multi-use building may display wall or roof graphics, or a combination of both, on walls or roofs adjacent to each street, patron parking area consisting of more than 15 parking spaces, or highway on which it has frontage: all base zoning districts.

(2)

Signable area designation. The person displaying the street graphic shall select one signable area on each facade of the building that faces a property line that has frontage on a street or highway. As used in this subsection, a "signable area" is an area within a single continuous perimeter composed of a single rectangle, circle, triangle, or parallelogram enclosing the extreme limits of characters, lettering, illustrations, ornamentations, or other figures. The signable area is used to determine the size of the permitted street graphic, but not necessarily the location of the street graphic.

(a)

If the signable area exceeds 50% of the total area of the facade, the signable area that may be used shall be reduced to 30% of the calculated signable area. In no case shall the signable area be greater than 500 square feet.

(b)

In all shoreland overlay districts, except the GD District, the signable area shall not exceed 12 square feet. In the GD Shoreland Overlay District, the signable area shall be identical to that of the underlying base zoning district.

(3)

Sign structure or graphic display area allowed. The aggregate area of the wall and roof graphics a premises displays shall not exceed the following percentages of the signable area:

(a)

In the KBD1 district, 40% of the signable area. In all other districts, 60% of the signable area.

(4)

How displayed. The sign structure or graphic display area may be displayed as one or divided among two or more wall or roof graphics. If more than one wall or roof graphic is displayed, the total number of items of information displayed when aggregated shall not exceed the standard in Subsection J of this section.

(5)

Additional limitations. The following additional limitations apply to projecting graphics:

(a)

Wall graphics may be painted on or attached to or pinned away from the wall, but must not project from the wall by more than 12 inches and must not interrupt architectural details.

(b)

Roof graphics must not be more than 35 feet above grade.

(c)

Wall and roof graphics may not include electronic or digital changeable copy.

F.

Projecting graphics.

(1)

Where permitted. A premises, and each occupant of a shopping center or multi-use building, that does not display a ground graphic may display one projecting graphic on each street or highway frontage in the following zoning districts: all zoning districts.

(2)

Size of projecting graphics. Projecting graphics must comply with the following size regulations:

(a)

In all base districts, projecting signs shall be no larger than 50 square feet.

(b)

Projecting graphics shall not project above the roofline or 18 feet above grade, whichever is lower.

(3)

Signable area. Any signable area selected for display as a projecting graphic shall not exceed and shall be subtracted from the signable area allocated to wall and roof graphics permitted for each premises and each occupancy under Subsection E of this section.

(4)

Additional limitations. The following additional limitations apply to projecting graphics:

(a)

Projecting graphics must clear sidewalks by at least nine feet and may project no more than six feet from a building or the width of the sidewalk, whichever is less.

(b)

Projecting graphics must be pinned away from the wall at least six inches and must project from the wall at an angle of 90°.

(c)

Projecting graphics may not extend vertically above the windowsill of a third story.

G.

Awnings and marquees.

(1)

Where permitted. A premises, and each occupant of a shopping center or multi-use building, may display an awning on each street or highway frontage in the following zoning districts: all base zoning districts.

(2)

Signable area. A street graphic may be displayed on one signable area selected for display on an awning. It shall not exceed 40% of the area of the principal face of the awning and shall not exceed and shall be subtracted from the signable area selected for wall and roof graphics permitted for each premises and each occupancy under Subsection E of this section.

(3)

Height and width. Awnings must clear sidewalks by at least eight feet and may extend to within one foot of the vertical plane formed by the curb or the right-of-way line.

H.

Special street graphics.

(1)

Special event graphics. A premises, or an occupant of a shopping center or multi-use building, may display one or more special event graphics, with no size or height limitations, for no more than 14 days during any ninety-day period.

(2)

Window graphics. (Reserved)

(3)

Directional graphics. A premises, or an occupant of a multi-use building, may display one directional graphic at each entrance or exit not more than two square feet on two-lane streets or highways and on any highway with a posted travel speed less than 35 miles per hour, and not more than four square feet on multilane roads and on any highway with a posted travel speed greater than 35 miles per hour. Within a shopping center or campus style development, additional directional signage may be placed on site, which may be up to 45 square feet, but may not include items of information larger than six inches in height, must have all text in the same font, font size, and color for the entire street graphic with bold and italics in the same font allowed, may not be within 100 feet of a public road or street, and may not include an electronic message center or changeable copy.

(4)

Sandwich board graphics. A premises, or an occupant of a multi-use building, may display one sandwich board graphic if located in the KBD1, KBD2, and RD Districts. The following shall apply to all sandwich board signs:

(a)

The sandwich board shall measure no more than 24 inches wide and be between 30 and 40 inches tall; and

(b)

May not be more than 20 feet from the public entrance to the premises or occupant of a multi-use building with which it is associated; and

(c)

Shall not reduce the usable width of a public sidewalk to less than 4 1/2 feet; and

(d)

Shall not be placed within 20 feet of another sandwich board graphic; and

(e)

Shall be placed at the edge of the curb; and

(f)

Shall not obstruct or obscure vehicular stops, benches, fire hydrants, planters, or other street furniture and amenities requiring access; and

(g)

Shall be secured to prevent tipping; and

(h)

Shall not be electrified or have any moving parts; and

(i)

Shall be constructed of durable, weather-resistant material, finished and maintained in a clean and original appearance.

(5)

Manual changeable copy street graphics. Manual changeable copy street graphics shall meet the following standards:

(a)

Shall be permitted only in the following base zoning districts: BP, CB, CC, CD, KBD2, IA, PD, PD2, RC, RD, and RV.

(b)

Shall not comprise more than 50% of the total area of a ground graphic, except for movie theaters, where they may comprise 80% of the total area of a ground graphic.

(c)

Shall be exempt from the items of information allowance in Subsection J of this section.

(d)

Shall be permanently affixed to the ground or structure.

(6)

Electronic message center. Electronic message center (EMC) shall meet the following standards:

(a)

Shall be permitted only in the following base zoning districts: CB, CC, CD, KBD2, IA, PD, RD, and RV.

(b)

Shall not comprise more than 50% of the total area of a ground graphic.

(c)

Shall be exempt from the items of information allowance in Subsection J of this section.

(d)

Shall be permanently affixed to the ground or structure.

(e)

Shall not have a message that changes more often than once every four seconds.

(f)

Shall have automatic dimming capability that adjusts to the brightness of ambient light at all times of the day and night.

(7)

Temporary street graphics. Temporary street graphics shall be allowed in the following manner:  
[Amended 3-6-2014 by Ord. No. 14-037]

(a)

Contractor. One sign placed at a property where a contractor(s) is performing work may be installed without a permit as follows:

[1]

Sign shall not be larger than 24 inches by 18 inches, unless multiple contractors are working on the job and will create a common sign for all contractors. A project with multiple contractors displayed on a single sign shall not be larger than 48 inches by 96 inches.

[2]

Signs shall not be placed more than seven calendar days prior to the start of a contractor's job and shall be removed within seven calendar days of the completion of the job. Signs for jobs that require a building permit are considered to start on the date the building permit is issued and end on the date a certificate of occupancy is issued. Signs for jobs that do not require a building permit shall not be placed for more than 30 calendar days during any one calendar year.

(8)

Banner and light pole street graphics. On private property or along private roads, owners may attach banners or other street graphics to up to 50% of the light poles in a parking field or along a private road. The banners or other street graphics may change up to four times a year without getting a new permit beyond the initial permit required. Each banner or other street graphic may be up to 15 square feet in area, and no pole may have more than two banners or one other street graphic attached. Banners and other street graphics attached to light poles may not have points of attachment to more than one light pole.

(9)

Service organization signs. The City shall allow official signs within the public right-of-way for international service organizations that have chapters and organized meetings within the City, but don't own or rent permanent space, as follows:

[Added 3-6-2014 by Ord. No. 14-037]

(a)

Sign dimensions shall meet Maine DOT Official Business Directory sign dimensions and specifications; or

(b)

Round signs shall not exceed 18 inches in diameter.

(c)

All signs shall be installed in locations and a manner approved by the City Public Works Director, who may require that signs be installed only by the Public Works Department.

I.

Illumination and movement.

(1)

Movement prohibited. A street graphic may not be animated or give the illusion of animation and may not have exposed bare-bulb or flashing illumination.

(2)

Illumination permitted. A street graphic may be illuminated in the following zoning districts:

[Amended 5-1-2014 by Ord. No. 14-077]

<b>RA, RB1, RB2, All Shoreland Zones (except GD Zone)</b>	<b>KBD1, KBD2, RBV, Shoreland GD, Business Professional</b>	<b>CB, CC, CD, MED, PD, PD2, KL, IA, RD, RC, RR, RRES, RPDS, RV, RR2</b>
External illumination only	Internal and external illumination	Internal and external illumination

(3)

Illumination requirements. A permanent street graphic may be nonilluminated, illuminated by internal, internal indirect or external indirect illumination. Street graphics that are externally lit shall be illuminated only with steady, stationary, down-directed, and shielded light sources directed solely onto the sign.

(4)

Glare. Any lighting fixture on a street graphic that is located within 10 feet of the line of a residential zoning district or an existing residential use, or within 10 feet of a public right-of-way, shall be aimed away from the property line, residential use or zoning district or public right-of-way; classified as an IESNA Type III or Type IV lighting fixture; and shielded on the side closest to the property line, residential use, zoning district, or public right-of-way.

(5)

Special district standards.

[Amended 5-1-2014 by Ord. No. 14-077]

(a)

Internal illumination color requirements. In the Medical (MED), Kennebec Locks (KL) and Riggs Brook Village District (RBV), all internally illuminated signs must use a dark-colored background with a light-colored copy.

J.

Items of information allowance.

(1)

Items of information allowed. Each street graphic displayed on a premises or by an occupant of shopping center or multi-use building may contain up to 15 items of information.

(2)

Exclusions. The following do not count as items of information:

(a)

Any item two inches or less in height that would otherwise qualify as an item of information.

(b)

Letters carved into or securely attached in such a way that they are:

[1]

Not illuminated apart from the building, are not made of a reflecting material, and do not contrast sharply in color with the building; and

[2]

Do not exceed two inches in thickness.

(c)

Changeable copy.

K.

Street graphics prohibited. The following street graphics are prohibited:

(1)

Graphics which, by color, location, or design, resemble or conflict with traffic control signs or signals.

(2)

Above-roof graphics.

(3)

Any other street graphic not permitted by this chapter.

L.

Street graphics exempt. The following street graphics are exempt from the regulations contained in this chapter:

(1)

Street graphics required by law, including E911 assigned addresses with numbers and letters 12 inches in height or less; and

(2)

Public notices or other street graphic required by a governmental entity; and

(3)

Any street graphic integrated into or on a coin-operated machine, vending machine, gasoline pump, parking lot cart corral, or telephone booth; and

(4)

A street graphic that cannot be viewed and read by a person with 20/20 vision from a public or private right-of-way or access road; and

(5)

A street graphic no larger than four square feet placed at the entrance and/or exit of a property to a public or private right-of-way that conveys directional information; and

(6)

A single street graphic offering for sale the real estate on which it is displayed, with the following size limitations:

**All Residential Zones and  
Shoreland Zones (other than GD  
Zone)  
(square feet)**

6

**KBD1, KBD2 and  
Business Professional  
(square feet)**

20

**CB, CC, CD, MED, PD, PD2,  
IA, RR, RRES, RPDS, RV,  
RR2  
(square feet)**

32

(7)

A street graphic less than two square feet in size posting a property for no trespassing, no hunting, no fishing, or other similar restrictions of public use on private property; and

(8)

A ground graphic posted in the public right-of-way of a street and categorized as an official business direction sign (OBDS) as per 23 M.R.S.A. § 1906 shall be permitted under the following conditions:

(a)

Shall adhere to all Maine Department of Transportation rules;

(b)

Shall not exceed one foot by four feet;

(c)

Owners of property within 200 feet of the prospective OBDS in the following districts shall be notified and afforded 14 calendar days for comment: RA, RBI, RB2, RBV, RC, RD, RR, RR2, RRES, RPDS.

(d)

Evidence shall be provided by the applicant or the State of Maine that the proposed OBDS is within a public right-of-way.

(e)

Inside the urban compact, OBDS shall be allowed in the following locations:

<b>Name of Street</b>	<b>Location</b>
Western Avenue	From Whitten Road west to the City limits
Riverside Drive	
Eastern Avenue	From a point 1,500 feet west of Cony Road to the compact area limits
Northern Avenue	From a point 1,500 feet south of Townsend Road to its terminus at West River Road
West River Road	
Mount Vernon Avenue	From Bond Street to a point 1,500 feet south of its intersection with Bond Brook Road
Civic Center Drive	From Bond Brook Road to the compact area limits
Prescott Road	
Leighton Road	
Townsend Road	
Whitten Road	
Old Belgrade Road	
Hospital Street	
Old Winthrop Road	West of the I-95 overpass
Route 3	From a point 1,500 feet east of West River Road to a point 1,500 feet west of Riverside Drive.
[Added 4-2-2015 by Ord.	

**Name of Street**

**Location**

No. 15-057]

(9)

A street graphic carried by a person; and

(10)

A street graphic where the items of information measure two inches in height or less on any door used to access a business.

M.

Nonconforming street graphics.

(1)

Street graphics that are nonconforming due to their size, height, location on a building, lighting, or exceed the number of signs allowed on a site shall be brought into conformance by the owner within 10 years of the effective date of this chapter. Any street graphic that received a variance from a previous ordinance shall not be considered nonconforming.

(2)

Nonconforming signs may be removed for repair, but shall not have a change in copy or location without coming into full conformance with this chapter.

(3)

When the owner(s) of a sign close their doors to the public for more than 60 calendar days, or otherwise cease operations, they shall:

(a)

Remove all nonconforming signage and sign-supporting structures within 180 days from the day of closure; and

(b)

Remove all conforming signage and sign supporting structures within 365 days from the date of closure.

N.

Installation, maintenance and removal.

(1)

All street graphics shall be erected, constructed, applied, fastened, supported, and maintained so they shall in no way endanger, obstruct, or inconvenience pedestrian or vehicular traffic; be a hazard to people or property; or present a derelict appearance.

(2)

Signage which fails to meet the requirements of this chapter and/or threatens the safety of the public shall be made safe, upgraded, or removed upon written notice of the Code Enforcement Officer. Corrective action shall be taken by the sign owner/lessee.

(3)

Derelict street graphic structures. Remove all conforming or nonconforming street graphic structures that are not in use by the present owner of the property for the purpose of displaying a street graphic. For such structures in existence at the time of passage of this chapter, removal shall occur within 365 days of the effective date of this chapter. For such structures that come into existence after the effective date of this chapter, removal shall occur within 180 days of the removal of a street graphic from the structure.

O.

Permits.

(1)

Permit required. No person shall erect or display a street graphic unless the Code Enforcement Officer has issued a permit for the street graphic or this section exempts the street graphic from the permit requirement.

(2)

Application. A person proposing to erect or display a street graphic shall file an application for a permit with the Code Enforcement Officer. The Code Enforcement Officer shall have the authority to create an application form that requires the information necessary to establish compliance with this chapter, including but not limited to sketch drawings of the proposed street graphic that include all dimensions of the proposed graphic.

**§ 300-517. Traffic impact analysis standards.**

A.

Intent. A traffic impact analysis shall be provided to include a determination of the travel demand generated by the development, the identification of deficiencies in the existing and proposed transportation systems, and the identification of the improvements necessary to maintain acceptable levels of service, in order to help prevent deterioration in the quality of service of the City's existing transportation system and to ensure sufficient access to the development. The traffic impact analysis shall be prepared under the supervision of a State of Maine registered professional engineer with specific training in traffic and transportation engineering, and with experience related to preparing traffic studies for existing or proposed developments.

B.

Standard. The City Engineer may request the developer to submit a prepared traffic and/or parking impact report for any proposed development where the proposed development is calculated to generate an increase of more than 35 new vehicle trips during the peak hour (times when the highest traffic volumes are recorded, generally 7:00 to 9:00 a.m. and 3:00 p.m. to 6:00 p.m.). Additional traffic impact analysis standards are outlined in the City of Augusta Technical Standards Handbook, Chapter 5.

**Article VII. Special Use Standards**

**§ 300-518. Sexually oriented businesses.**

[Added 1-21-1992 by Ord. No. 303; amended 3-20-2000 by Ord. No. 310]

This section shall be known and cited as the "City of Augusta Sexually Oriented Business Ordinance" and will be referred to herein as "this section." This section limits sexually oriented businesses to the zoning district(s) specified under this chapter; prescribes definitions of sexually oriented businesses; provides for permitting and regulation of sexually oriented businesses; and provides for additional miscellaneous standards for sexually oriented businesses.

A.

Authority and applicability.

(1)

This section is adopted pursuant to the enabling provisions of Article VIII, Part 2, § 1, of the Maine Constitution; the provisions of the Municipal Home Rule Authority, 30-A M.R.S.A.

§ 3001 et seq.; and the provisions of the Planning and Land Use Regulation Act, 30-A M.R.S.A. § 4312 et seq.

(2)

Persons or entities wishing to establish a sexually oriented business within the City of Augusta shall first obtain a permit from the City and shall be subject to the provisions of this section.

B.

Purpose. It is the purpose of this section to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the City. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.

C.

Definitions. As used in this section, unless the context otherwise indicates, the following items have the following meanings:

ADULT ARCADE

Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion-picture machines, projectors, video or laser disc players or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE

A commercial establishment where greater than 50% of its floor area or stock-in-trade is the offering for sale or rental for any form of consideration any one or more of the following:

(1)

Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or

(2)

Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexually activities or specified anatomical areas and still be categorized as an adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store, or adult video store so long as greater than 50% of its floor area or stock-in-trade is the offering for sale or rental for

consideration the specified materials which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

#### ADULT CABARET

A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

(1)

Persons who appear in a state of nudity or seminude; or

(2)

Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

(3)

Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

#### ADULT MOTEL

A hotel, motel or similar commercial establishment which:

(1)

Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

(2)

Offers a sleeping room for rent for a period of time that is less than four hours; or

(3)

Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than four hours.

#### ADULT MOTION-PICTURE THEATER

A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities.

#### ADULT THEATER

A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or seminude, or live performances which are characterized by the exposure of specified sexual activities.

#### ESTABLISHMENT

Includes any of the following:

(1)

The opening or commencement of any sexually oriented business as a new business;

(2)

The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(3)

The additions of any sexually oriented business to any other existing sexually oriented business; or

(4)

The relocation of any sexually oriented business.

PERMITTEE

A person in whose name a permit to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit.

PERSON

An individual, proprietorship, partnership, corporation, association, or other legal entity.

REGULARLY

A recurring and/or substantial course of conduct.

SEXUALLY ORIENTED BUSINESS

An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion-picture theater, adult theater.

SPECIFIED CRIMINAL ACTIVITY

Any of the following offenses:

(1)

Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of the State of Maine, other states or countries, for which:

(a)

Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(b)

Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

(c)

Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four-month period.

(2)

The fact a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

SPECIFIED SEXUAL ACTIVITIES

Any of the following:

(1)

The erotic touching or display of human genitals, pubic region, buttocks, anus, or female breasts;

(2)

Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or

(3)

Excretory functions as part of or in connection with any of the activities set forth in Subsections (1) and (2) above.

#### SUBSTANTIAL ENLARGEMENT OF A SEXUALLY ORIENTED BUSINESS

The increase in floor areas occupied by the business by more than 25%, as the floor areas exist on the date this section takes effect.

#### TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS

Includes any of the following:

(1)

The sale, lease, or sublease of the business;

(2)

The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(3)

The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business.

D.

Classification. Sexually oriented businesses are classified as follows:

(1)

Adult arcades;

(2)

Adult bookstores, adult novelty stores, or adult video stores;

(3)

Adult cabarets;

(4)

Adult motels;

(5)

Adult motion-picture theaters;

(6)

Adult theaters.

E.

Permit required. No person may establish, expand, operate or maintain a sexually oriented business without first obtaining a nontransferable, conditional use permit from the Augusta Planning Board, and a sexually oriented business permit following a public hearing from the City Licensing Board. A sexually oriented business permit shall be required to be renewed thereafter on an annual basis by the City Licensing Board.

F.

It is a violation of this section for any person to operate a sexually oriented business without a valid conditional use permit and a sexually oriented business permit issued by the City pursuant to this section.

G.

Application procedure.

(1)

The initial conditional use permit application, with all required materials, shall be made to the Augusta Planning Board in accordance with § 300-603 of this chapter and shall include a

completed permit application to operate a sexually oriented business. Application materials are available at the City Planning Office.

[\(2\)](#)

Initial and annual renewal applications for a sexually oriented business permit shall be filed with the Augusta City Clerk's office. This application form is available at the City Clerk's office.

[\(3\)](#)

All applicants must be qualified according to the provisions of this section. The application may request and the applicant shall provide such information as to enable the City to determine whether the applicant meets the qualifications established in this section.

[\(4\)](#)

Application to operate a sexually oriented business. The following information shall be provided by the applicant for either a conditional use or a sexually oriented business permit application. Application forms are available at the City Planning Office and at the office of the City Clerk.

[\(a\)](#)

If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20% or greater interest in the business must sign the application for a permit as applicant. Each applicant must be qualified under the following section, and each applicant shall be considered a permittee if a permit is granted.

[\(b\)](#)

The completed application for a sexually oriented business permit shall contain the following information and shall be accompanied by the following documents:

[\[1\]](#)

If the applicant is:

[\[a\]](#)

An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is 18 years of age;

[\[b\]](#)

A partnership, the partnership shall state its complete name and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

[\[c\]](#)

A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

[\[2\]](#)

If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, he or she must state:

[\[a\]](#)

The sexually oriented business' fictitious name; and

[\[b\]](#)

Submit the required registration documents.

[\[3\]](#)

Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this section, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.

[\[4\]](#)

Whether the applicant, or a person residing with the applicant, has had a previous permit under this section or other similar sexually oriented business ordinances from another town, City or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is permitted under this section whose permit has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

[\[5\]](#)

Whether the applicant or a person residing with the applicant holds any other permits under this section or other similar sexually oriented business ordinance from another town, City or county and, if so, the names and locations of such other permitted businesses.

[\[6\]](#)

The single classification of permit for which the applicant is filing.

[\[7\]](#)

The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.

[\[8\]](#)

The applicant's mailing address and residential address.

[\[9\]](#)

The applicant's driver's license number, social security number, and/or his/her state or federally issued tax identification number.

[\[10\]](#)

A sketch or diagram showing the interior configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

[\[11\]](#)

If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than 150 square feet of floor space, films, video cassettes, specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in this section.

[H.](#)

Standards for obtaining initial conditional use permit. An application for a conditional use permit shall be acted upon by the Planning Board in accordance with § [300-603](#) of this chapter and shall meet the criteria identified in § [300-603E](#) of this chapter and shall meet the sexually oriented business performance standards identified in Subsection [J](#) of this section.

[I.](#)

Standards for obtaining a sexually oriented business permit.

[\(1\)](#)

Within 30 days after receipt of a completed sexually oriented business application, the City Licensing Board shall approve or deny after a public hearing the issuance of a permit to an applicant. The City shall approve the issuance of a permit to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(a)

An application for a sexually oriented business permit fails to meet all of the performance standards identified in Subsection J below.

(b)

An applicant is under 18 years of age.

(c)

An applicant or a person with whom applicant is residing is overdue in payment to the City of taxes, fees, or penalties assessed against or imposed upon him/her in relation to any business.

(d)

An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form.

(e)

An applicant or a person with whom the applicant is residing has been denied a permit by the City to operate a sexually oriented business within the preceding 12 months or whose permit to operate a sexually oriented business has been revoked within the preceding 12 months.

(f)

An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity.

(g)

The permit fee required by this section has not been paid.

(h)

An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this section.

(2)

The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the permit is issued. All permits shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

J.

Sexually oriented businesses performance standards.

(1)

General zoning standards.

(a)

Sexually oriented businesses may be operated only in the Industrial Zone (IA) as described in this chapter.

(b)

Sexually oriented businesses may not be operated within 500 feet of any protected use as set forth below:

[1]

A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

[2]

A public or private education or other similar facility serving anyone under 18 years of age, including but not limited to child day-care facilities, teen centers, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; "school" includes the school grounds;

[\[3\]](#)

Any business oriented to serving anyone under 18 years of age, including instruction in sports such as gymnastics or dance;

[\[4\]](#)

A public park or recreational area, including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the City.

[\(c\)](#)

Sexually oriented businesses may not be operated within 250 feet of a boundary of a Residential District as defined in this chapter.

[\(d\)](#)

For the purpose of Subsection [J\(1\)\(b\)](#) of this section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in Subsection [J\(1\)\(b\)](#). Structures include outdoor uses, such as a drive-in movie theater, but do not include parking facilities.

[\(e\)](#)

Any sexually oriented business lawfully operating on the effective date of this section that is in violation of Subsection [J\(1\)](#) of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use.

[\(f\)](#)

No protected use as described in Subsection [J\(1\)\(b\)](#) of this section may be located within 500 feet of an existing or permitted sexually oriented business.

[\(2\)](#)

Standards pertaining to exhibition of sexually explicit films, videos, or live entertainment in viewing rooms. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises, in a viewing room of less than 150 square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities shall comply with the following requirements:

[\(a\)](#)

Upon application for a sexually oriented permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an

engineer's or architect's blueprint shall not be required; however, each diagram shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The City waives the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b)

The application shall be sworn to be true and correct by the applicant.

(c)

No alteration in the configuration or location of a manager's station may be made without the prior approval of the City.

(d)

It is the duty of the permittee of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(e)

The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(f)

It shall be the duty of the permittee to ensure that the view area specified in Subsection [J\(2\)\(e\)](#) remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection [J\(2\)\(a\)](#) of this section.

(g)

No viewing room may be occupied by more than one person at any time.

(h)

The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five footcandles as measured at the floor level.

(i)

It shall be the duty of the permittee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(j)

No permittee shall allow openings of any kind to exist between viewing booths or rooms.

(k)

No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

(l)

The permittee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

(m)

The permittee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(n)

The permittee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within 48 inches of the floor.

(3)

Prohibition against children in a sexually oriented business. A person commits a violation if the person knowingly allows a person under the age of 18 years on the premises of a sexually oriented business.

(4)

Hours of operation. No sexually oriented business may remain open at any time between the hours of 1:00 a.m. and 8:00 a.m. on weekdays and Saturdays, and 1:00 a.m. and 12:00 noon on Sundays.

K.

Fees.

(1)

Every application for a sexually oriented business permit (whether for a new permit or for renewal of an existing permit) shall be accompanied by a nonrefundable application and investigation fee, as established by the Augusta City Council.

(2)

In addition to the application and investigation fee required above, every sexually oriented business that is granted a permit (new or renewal) shall pay the City an annual nonrefundable permit fee prior to issuance or renewal as established by the Augusta City Council.

(3)

All permit/license applications and fees shall be submitted to the City.

L.

Inspection.

(1)

An applicant or permittee shall allow representatives of the Police Department, Health Department, Fire Department, Code Enforcement, or other town or state departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

(2)

A person who operates a sexually oriented business or his agent or employee commits a violation if he refuses to allow such lawful inspection of the premises at any time it is open for business.

M.

Expiration of permit.

(1)

Each permit shall expire one year from the date of issuance and may be renewed only by making application as provided in this section. Application for renewal shall be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the permit will not be affected.

(2)

When the City Licensing Board denies renewal of a permit, the applicant shall not be issued a permit for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal permit has been corrected or abated, the applicant may be granted a permit.

N.

Suspension. The City Licensing Board shall suspend a permit for a period not to exceed 30 days if it determines that a permittee has:

(1)

Violated or is not in compliance with any subsection of this section;

(2)

Refused to allow an inspection of the sexually oriented business premises as authorized by this Part 5. There shall be immediate cessation of business activities upon suspension of permit until the issues are appropriately adjudicated.

O.

Revocation.

(1)

The City Council, upon recommendation from the Licensing Board, may revoke a permit if a cause of suspension occurs and the license has been suspended within the preceding 12 months. There shall be immediate cessation of business activities upon revocation of permit until the issues are appropriately adjudicated.

(2)

The City Council shall revoke a permit if it determines that:

(a)

A permittee gave false or misleading information in the material submitted during the application process;

(b)

A permittee has knowingly allowed possession, use, or sale of controlled substances on the premises;

(c)

A permittee has knowingly allowed prostitution on the premises;

(d)

A permittee knowingly operated the sexually oriented business during a period of time when the permittee's license was suspended;

(e)

Except in the case of an adult motel, a permittee has knowingly allowed any sex act to occur in or on the permitted premises.

(3)

When the City Council revokes a permit, the revocation shall continue for one year, and the permittee shall not be issued a sexually oriented business permit for one year from the date the revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license.

(4)

After denial of an application, or denial of a renewal of an application, or suspension or revocation of any permit, the applicant or permittee may file an appeal.

P.

Transfer of license. A permittee shall not transfer his/her permit to another, nor shall a permittee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

Q.

Violation.

(1)

Enforcement. The City or its designees shall enforce this section.

(2)

Penalties. A person who operates or causes to be operated a sexually oriented business without a valid permit or is in violation of this section is subject to penalty under 30-A M.R.S.A. § 4452.

R.

Appeals. Administrative appeals and variance applications submitted under this section shall be subject to the standards and procedures established by the Board of Appeals.

**§ 300-519. Automobile businesses.**

[Added 5-20-1996 by Ord. No. 438]

A.

Required application information. In addition to site plan requirements outlined in § 300-601D, application for a permit shall contain the following information:

(1)

The manner in which car wash, waste, drainage and stormwater, as well as petroleum products, are to be disposed of.

(2)

The precise location of all (above and below ground) tanks, pumps, lifts, and other fixed equipment and appurtenances.

B.

Regulations. Except where so indicated, every automobile sales and service business, car wash, convenience store with gas pumps, filling station and motor vehicle service station shall be subject to and comply with the following restrictions and regulations:

(1)

All new or expanding automobile sales businesses licensed pursuant to M.R.S.A. Title 29-A as a new or used motor vehicle dealer shall provide for buffering along roadways and abutting residential boundary lines in accordance with buffer yard requirements, except that, notwithstanding any other provisions of this chapter, buffer yards along roadways may be a minimum of five feet wide, provided that the minimum number of plants per 100 feet of buffer length shall be as specified for Buffer Yard A under Table 300-502-B, and that the required numbers of types of trees and shrubs shall be spaced, in the discretion of the applicant, in a manner that will permit their healthy growth. All areas within a buffer yard not covered by trees and shrubs shall be planted with grass, flowers, or other suitable ground cover. (See § 300-502.)

(2)

Auto service/repair/filling station/convenience store with gas pumps/car wash. On any premises upon which there is located a car wash or motor vehicle service station, all services or repairs to or for motor vehicles shall be conducted within the confines of a building. There is excepted from this provision the sale and supply of oil and gasoline, the inspection and filling of tires and

batteries, and other services customarily incidental to the sale of gasoline, oil and automobile supplies and accessories, which do not include major repairs, installations and replacements.

(a)

Illumination and lighting situated or directed upon car washes or motor vehicle service stations shall be by floodlights only which are adjusted so that the light therefrom does not shine on any street or residential property. Such floodlights shall be extinguished during closed business operations on said lot; safety or protection lights may be used after closing time, providing the illumination therefrom does not extend beyond the premises for which such safety or protection light is provided.

(b)

All vehicle service bays shall be located on the sides of buildings away from residential properties to the extent possible.

(c)

Every gasoline or oil tank, pump or filling appliance which is situated or erected out of doors shall meet the front yard requirements of § [300-515](#) and be at least 10 feet from the side and rear line of the premises whereon the same is situated. These setbacks shall apply unless greater setbacks are required by applicable state or federal law.

(d)

All gas pump island canopies shall meet the setback requirements for principal structures on highways having three lanes or less. On four-lane highways/roads, the canopy setback may be reduced to 15 feet.

(e)

All filling stations and/or convenience stores having gasoline refueling facilities shall provide public restrooms.

(f)

Car washes shall be designed so that maximum queuing can occur on site before entering wash bays and shall intercept maximum water dripping from vehicles as they exit the bays so that it does not create ice problems in the street.

(3)

Auto sales business (may include service/wash facilities).

(a)

All automobile sales businesses shall designate parking for outdoor vehicle display areas in addition to required customer and employee parking.

(b)

All automobile sales businesses shall design for the loading and unloading of vehicles from vehicle carriers on site.

(c)

Manufactured home and/or motor home sales and service shall design their accessways to accommodate large turning radii so that when entering and exiting the site transporters do not encroach on oncoming travel lanes.

### **§ 300-520. Campgrounds and campsites.**

A.

Campgrounds. Campgrounds shall conform to the minimum requirements imposed under state licensing procedures and the following:

(1)

Campgrounds shall contain a minimum of 5,000 square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body, shall not be included in calculating land area per site.

(2)

The areas intended for placement of a recreational vehicle, tent or shelter, and utility service buildings shall be set back a minimum of 100 feet from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and 75 feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

(3)

No recreational vehicle or tent shall be used for temporary dwelling except in an approved campground.

(4)

In the Rural Ponds District, campgrounds shall be required to comply with Chapter 3 of the Phosphorous Control in Lake Watersheds Manual prepared by the Maine Department of Environmental Protection, September 1989, as amended.

(5)

In any other district in which campgrounds are permitted, the following minimum standards shall apply:

(a)

Campgrounds shall provide water and sewerage systems, sanitary stations, and convenience facilities, in accordance with the regulations set forth by the Maine Department of Human Services.

(b)

No single site shall be less than 50 feet in width.

(c)

All campgrounds shall be completely screened with vegetation from adjacent land areas and from public roads, except that safe visual clearances shall be provided at each vehicular entrance to and exit from the campground.

(d)

A minimum of 155 square feet off-street parking space plus adequate maneuvering space shall be provided for each site.

B.

Individual private campsites.

*Commentary: The following standards apply to temporary housing in Shoreland Districts while in the process of constructing a permanent residence.*

(1)

Individual, private campsites not associated with campgrounds are permitted, provided the following conditions are met:

(a)

One campsite per lot existing on the effective date of this chapter, or 30,000 square feet of lot area within a Shoreland Zone, whichever is less, may be permitted.

(b)

Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back 100 feet from the normal high-water line of a great pond classified

GPA or river flowing to a great pond classified GPA, and 75 feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

(c)

Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structures except canopies shall be attached to the recreational vehicle.

(d)

The clearing of vegetation for siting of the recreational vehicle, tent or similar in a Resource Protection District shall be limited to 1,000 square feet.

(e)

A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off site, written authorization from the receiving facility or landowner is required.

(f)

When a recreational vehicle, tent or similar shelter is placed on site for more than 120 days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules, unless served by public sewage facilities.

**§ 300-521. Day-care homes and centers.**

Day-care uses shall conform to the minimum requirements imposed under state licensing procedures.

**§ 300-522. Government service uses.**

(Reserved)

**§ 300-523. Junkyards.**

A.

General location. No junkyard shall be located on a lot or parcel which does not provide for a completely sight impervious screen from surrounding properties within a one-mile radius, including properties at higher elevations. Such screen shall be maintained throughout the life of the junkyard.

B.

Dimensional requirements. Junkyards shall meet all of the dimensional requirements for industrial uses in the Rural District.

C.

Effective date of permit. A municipal permit for a junkyard shall not become effective until all required permits have been obtained.

D.

Site considerations.

(1)

No motor vehicles or material shall be located upon or over a sand and gravel aquifer, or upon or over an aquifer recharge area, as mapped by the Maine Geological Survey, or a licensed geologist.

(2)

No motor vehicles or material shall be located within the one-hundred-year floodplain, as mapped by the Federal Insurance Administration, the Army Corps of Engineers, or the U.S. Department of Agriculture.

(3)

No motor vehicles or material shall be stored within 500 feet of any dwelling or school.

(4)

No motor vehicles or material shall be stored within 300 feet of any body of water.

E.

Operational considerations. Upon receiving a motor vehicle, the battery shall be removed, and the engine lubricant, transmission fluid, brake fluid, and engine coolant shall be drained into watertight, covered containers. No discharge of any fluids from any motor vehicle shall be permitted into or onto the ground.

### **§ 300-524. Residential development.**

[Amended 6-20-1994 by Ord. No. 546]

A.

Affordable housing. (Reserved)

*The 1988 Growth Management Plan contains a policy that new residential subdivisions offering affordable housing to low- or moderate-income homeowners or renters, in areas where public water and sewer are available or planned, shall be eligible for density bonuses and relaxed frontage and setback requirements, providing they are clustered so as to retain open space and that there are no adverse impacts on traffic, visual character, the environment and adjacent property.*

B.

Clustered residential development and performance subdivisions. Notwithstanding other provisions of this chapter, except those governing shoreland areas, the Planning Board may modify district dimensional requirements to permit innovative approaches to residential land development in accordance with the following:

[Amended 6-19-2006 by Ord. No. 103]

(1)

Dimensional requirements and site design standards for residential performance subdivisions shall be in accordance with the City of Augusta Clustered Residential Development Design Manual which is incorporated herein by reference. For other types of clustered residential development, all other requirements of this section shall be met.

(2)

Gross residential densities for the district in which the development is located shall be met, with the exception that gross residential densities for residential performance subdivisions shall be in accordance with Part 3, Article IV, Site Capacity Analysis, of this chapter.

(3)

The development shall be reviewed as a subdivision and shall meet all requirements of Part 4, Subdivision and Site Plan Review, of this chapter.

[\(4\)](#)

All dimensional requirements in shoreland areas shall be met.

[C.](#)

Condominiums.

[\(1\)](#)

Proposals for condominium development shall be reviewed as subdivisions.

[\(2\)](#)

Conversions of rental units to condominiums shall be permitted only if the complex meets all City standards for new residential development, such as but not limited to dimensional requirements, density, and on-site parking.

[D.](#)

Mobile home/manufactured housing parks.

[\(1\)](#)

Compliance with laws and ordinances. Except as stipulated below, mobile home/manufactured housing parks shall comply with all state laws and municipal ordinances and shall meet the requirements of Part 4, Subdivision and Site Plan Review, of this chapter. As used in this chapter, the abbreviation of "MHP" shall apply equally to mobile home parks and manufactured housing parks.

[\(2\)](#)

MHPs proposed for the RPDS District shall comply with the requirements of Chapter 3, Phosphorous Control in Lake Watersheds, prepared by the Department of Environmental Protection, September 1989, as amended.

[\(3\)](#)

Lot size, width and density.

[\(a\)](#)

Lots in MHPs shall meet the following lot size, width and density requirements:

[\[1\]](#)

Lots served by public sewer shall be at least 6,500 square feet and shall be at least 50 feet in width.

[\[2\]](#)

Lots served by individual subsurface sewage disposal systems shall be at least 20,000 square feet and shall be at least 100 feet in width.

[\[3\]](#)

Lots served by a central on-site subsurface wastewater disposal system approved by the Department of Human Services shall be a minimum of 12,000 square feet with a minimum lot width of 75 feet.

[\[4\]](#)

The overall density of the MHP served by a central subsurface sewage disposal system shall be no greater than one unit per 20,000 square feet of total park area.

[\[5\]](#)

Where lots front on a curved right-of-way or are served by a driveway, the frontage requirement shall be measured in a straight line perpendicular to the setback line.

[\[6\]](#)

Lots within a shoreland zoning district shall meet the lot area, lot width, setback and shore frontage requirements for that district.

[\[7\]](#)

The total park area of the MHP shall be the combined area of its MH lots, plus:

[\[a\]](#)

The area required for road rights-of-way;

[\[b\]](#)

The area required for buffer strips, if any;

[\[c\]](#)

For areas served by public sewer, an open space area for storage and recreation equal to 10% of the combined area of the individual lots; and

[\[d\]](#)

The area within any designated shoreland area.

[\(4\)](#)

Lot setbacks.

[\(a\)](#)

The following lot setbacks shall apply to all homes and accessory buildings:

[\[1\]](#)

Front setback: 20 feet.

[\[2\]](#)

Side setback: 20 feet.

[\[3\]](#)

Rear setback: 10 feet.

[\[4\]](#)

If these requirements conflict with the requirements of the Shoreland Zone, the stricter standards shall apply. If a lot is on a public road, the setback shall conform with the residential setback requirements applicable to residential dwelling units.

[\(b\)](#)

To avoid monotony and sameness, the Planning Board may allow the front setback on a private road within MHPs to be varied, provided that no home may be closer than 10 feet from the right-of-way and the average distance is at least 20 feet for all units.

[\(c\)](#)

Carports of noncombustible materials are not subject to side setback requirements.

[\(d\)](#)

The Planning Board may allow lot side yard setbacks to be reduced to five feet, provided a distance of 20 feet is maintained between units for the purpose of providing more usable yard space on one side of the home.

[\(e\)](#)

Distance between homes. A minimum twenty-foot separation shall be maintained between all manufactured homes in all directions.

[\(5\)](#)

Lot coverage. All buildings on the lot, including accessory buildings and structures, but excluding open decks and parking spaces, shall not cover more than 50% of the lot area.

[\(6\)](#)

Ownership. Where a developer elects to create MHPs where all land is under one ownership, the park plan shall show lots and the developer shall demonstrate that the development standards described herein are met.

[\(7\)](#)

Road standards.

[\(a\)](#)

Roads within MHPs which are to be offered for acceptance to the City shall meet the minimum road standards found in the Technical Standards Handbook.

[\(b\)](#)

Privately owned roads within MHPs shall be designed by a State of Maine registered professional engineer and shall be built according to accepted engineering standards. Roads shall have a minimum right-of-way of 23 feet, of which 20 feet shall be paved.

[\(c\)](#)

One-way streets shall have a minimum right-of-way of 18 feet and a minimum paved surface of 14 feet.

[\(d\)](#)

Parking lanes shall be a minimum of eight feet in width, if provided.

[\(e\)](#)

Cul-de-sac turnarounds shall have minimum radii of 50 feet at the outer edge of the pavement, exclusive of any parking areas.

[\(f\)](#)

MHP roads which intersect with public roads shall meet the following standards:

[\[1\]](#)

Angle of intersection. The desired angle of intersection shall be 90°. The minimum angle of intersection shall be 75°.

[\[2\]](#)

Grade. The maximum permissible grade within 75 feet of the intersection shall be 3%.

[\[3\]](#)

Minimum sight distance. The minimum sight distance shall be 10 times the posted speed limit on the existing road. Sight distances shall be measured from the driver's seat of a vehicle that is 10 feet behind the curb or edge of shoulder line with the height of the eye 3.5 feet above the pavement and the height of object 4.5 feet. Where necessary, the parkland bordering the intersection shall be cleared of all growth and sight obstructions to achieve the required visibility.

[\[4\]](#)

Distance from other intersections. The center line of any street within a park intersecting an existing public street shall be at least 125 feet from the center line of any other street intersecting that public street.

[\(8\)](#)

Access and circulation.

[\(a\)](#)

The layout and general development plan for major and minor access streets and driveways within the MHP, together with the location and dimensions of access junctions with existing public streets and rights-of-way, shall be approved by the Planning Board.

[\(b\)](#)

A traffic impact analysis shall be required if the park will generate more than 500 trips/day.

[\(c\)](#)

For MHPs expected to generate 200 trips per day or more, there shall be at least two entrances from public streets or roads.

[\(d\)](#)

On-street parking shall be prohibited unless an eight-foot parking lane is provided, in which case on-street parking may be permitted on the side of the road where the parking lane is located.

[\(e\)](#)

Curvilinear streets shall be utilized wherever possible. No street within the park shall be more than 200 feet without a curve or bend.

[\(f\)](#)

No MH lot may have vehicular access directly onto a state highway.

[\(9\)](#)

Parking requirements.

[\(a\)](#)

For each MH lot, there shall be provided and maintained at least two off-street parking spaces. Each parking space shall contain a minimum area of 162 square feet with minimum dimensions of nine feet by 18 feet. This requirement may be waived if an equivalent number of spaces is provided by a parking lane.

[\(b\)](#)

In addition to occupant parking, off-street guest and service parking shall be provided within the boundaries of the park at a ratio of one space for each four MH lots. Such parking shall be graveled or paved, and the spaces shall be reserved for that sole use. This requirement shall be waived if a parking lane provides an equivalent number of spaces.

[\(10\)](#)

Utility requirements. All MHPs shall provide permanent electrical, water and sewage disposal connections to each MH in accordance with applicable state and local rules and regulations.

[\(11\)](#)

Sidewalks/walkways. All MHPs shall contain pedestrian walkways that link all units and all service and recreational facilities. Such walkways shall be adequately surfaced. A portion of the road surface may be reserved for walkways, provided the roadway width is increased accordingly. Walkways shall be a minimum width of four feet.

[\(12\)](#)

Lighting. Outdoor lighting shall be provided to adequately illuminate internal streets and pedestrian walkways. Lights shall be sized and directed to avoid adverse impact on adjacent properties.

[\(13\)](#)

Signs. Signs and advertising devices shall be prohibited in MHPs, except:

[\(a\)](#)

One identifying sign at each entrance of the MHP no larger than 24 square feet which may be indirectly lit, but not flashing.

[\(b\)](#)

Directional and informational signs for the convenience of tenants and the public relative to parking, office, traffic movement, etc.

[\(c\)](#)

MH "for sale" signs, provided that such signs that face a public road shall be no more than 10 square feet and shall be limited to two signs per MHP.

[\(d\)](#)

MH address signs. The styles and location of the identifying sign shall not interfere with vehicle sight distance and shall be constructed in accordance with the local sign regulations.

[\(14\)](#)

Storage. At least 300 cubic feet of enclosed tenant storage facilities shall be conveniently provided on or near each MH lot for the storage of materials and equipment.

[\(15\)](#)

Storm drainage. A storm drainage plan shall be prepared by a State of Maine registered professional engineer in accordance with Chapter [6](#) of the Technical Standards Handbook.

[\(16\)](#)

Groundwater.

[\(a\)](#)

Application. For MHPs not served by a public sewer, an assessment of the impacts of park development on groundwater quality shall be submitted prior to final approval of the park. The assessment shall be prepared by a State of Maine certified geologist or registered professional engineer and shall include the following:

[\[1\]](#)

A map showing the basic soil types.

[\[2\]](#)

The depth to the water table at representative points throughout the MHP.

[\[3\]](#)

Drainage conditions throughout the MHP.

[\[4\]](#)

Data on the existing groundwater quality, either from test wells in the MHP or from existing wells on neighboring properties.

[\[5\]](#)

An analysis and evaluation of the effect of the MHP on groundwater resources. The evaluation shall, at a minimum, include a projection of post-development nitrate-nitrogen concentrations at any wells within the MHP, measured at the MHP boundaries or measured at a distance of 1,000 feet from potential contamination sources, whichever is a shorter distance. For MHPs within the watershed of a lake, projections of the development's impact on groundwater phosphate concentrations shall also be provided.

[\[6\]](#)

A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the MHP and within 200 feet of the MHP boundaries.

[\(b\)](#)

Standards.

[\[1\]](#)

Projections of groundwater quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

[\[2\]](#)

No MHP shall increase any contaminant concentration in the groundwater to more than 1/2 of the Primary Drinking Water Standards. No MHP shall increase any contaminant concentrations in the groundwater to more than the Secondary Drinking Water Standards. The Primary Drinking Water Standards, adopted by the Maine Department of Human Services, are health-related standards which include nitrate concentrations. The Secondary Drinking Water Standards relate to aesthetics and include iron and manganese concentrations.

[\[3\]](#)

If groundwater contains contaminants in excess of the primary standards, and the MHP is to be served by on-site groundwater supplies, the applicant shall demonstrate how water quality will be improved or treated.

[\[4\]](#)

If groundwater contains contaminants in excess of the secondary standards, the MHP shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

[\(c\)](#)

Development. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the plan.

[\(17\)](#)

Park administration. The owner or operator of a MHP shall be responsible for ensuring the maintenance of all park-owned structures and their sites. Park management shall conform to state laws. Compliance with this chapter shall not exempt the park owner, developer, or manager from complying with other applicable local, state, and federal codes and regulations.

[\(18\)](#)

Open space.

[\(a\)](#)

For MHPs served by a public sewer, an area amounting to no less than 10% of the total area devoted to individual lots shall be set aside for open space and/or recreation. Such space shall be accessible and usable by all residents of the park. Parking space, driveways and streets and buffer areas are not considered usable space, but community recreation buildings, pools and courts are considered as open space.

[\(b\)](#)

Open space suitability. At least 50% of the required open space shall consist of land that is suitable for active recreation or storage.

[\(c\)](#)

Developed open space. All developed open space shall be designed and landscaped for the use and enjoyment of the park residents and shall be maintained for their long-term use. Plans for these areas shall be submitted by the developer.

[\(d\)](#)

Undeveloped open space. To the maximum extent possible, undeveloped open space shall be left in its natural state. Improvements to make trails for walking and jogging or to make picnic areas are permitted.

[\(e\)](#)

Open space ownership. The developer shall submit, as part of his/her application, a copy of that portion of the proposed park rules and a plan which specify how the open space is to be used and maintained and what conditions are to apply to its use. The plan shall specify the areas to be dedicated to open space, recreation and storage.

[\(f\)](#)

Open space shall be maintained and used for its stated purpose.

[\(19\)](#)

Buffer strips.

[\(a\)](#)

A fifty-foot-wide buffer strip shall be provided along all property boundaries that abut residential land which has a gross density of less than 1/2 of that proposed in the park; or abut residential land that is zoned at a density of less than 1/2 of that proposed in the park. Further, no structures, streets or utilities may be placed in the buffer strip, except that they may cross a buffer strip to provide services to the park.

(b)

Within 25 feet of any property line and within the buffer strip, visual screening and/or landscaping shall be provided. The visual screening may consist of fences, berms, landscaping (such as shrubs and trees) and/or natural existing vegetation. This screening shall effectively screen at least 80% of the homes from view from all adjacent property and shall be maintained throughout the life of the project.

(20)

Conversion of park. No lot in MHPs may be sold or conveyed without prior approval by the Planning Board. Any such lot sold or conveyed shall meet the lot size requirement of the district in which it is located.

**§ 300-525. Municipal and public utilities and communications facilities.**

[Amended 1-21-1992 by Ord. No. 303; 2-17-1993 by Ord. No. 26]

A.

Utilities and communications facilities permitted by right.

(1)

Most utilities or communications facilities may be classified by their function either as distribution or transmission lines. Most distribution facilities, i.e., those serving area uses, best serve their function in proximity to rights-of-way, property lines and adjoining properties. In general, such facilities, by nature, have little or no impact on their service area physically, aesthetically or environmentally once in place. Therefore, except as regulated in the Shoreland Overlay Districts where the minimum setback from the normal high-water mark applies, all sanitary and water main extensions, pumping and pressure control stations and all television, telephone and power line extensions, including poles, cross-connects, subscriber loop carriers, network interface equipment, distribution area interfaces, service drops and similar structures and appurtenances on existing streets and roads, or as approved by the Planning Board and Code Enforcement Officer through the subdivision and building permit plan review processes, are permitted by right. No building permits are needed; however, where pavement cuts in the City right-of-way are needed, a permit shall be obtained.

(2)

Such facilities shall be located in the right-of-way where necessary (as provided for in 35-A M.R.S.A. § 2503) or may be located on private property. Whether owned in fee by the service provider or whether an easement has been acquired from the property owner, or by other method, the land area upon which such facilities are placed need not comply with the minimum dimensional standards for lot size, frontage and setbacks outlined in the districts in which they are located or proposed.

B.

Major municipal or public utilities and communications facilities. See "public utility" and "municipal or public utilities and communications facilities" in § 300-202, Additional definitions.

(1)

Except for transmission lines and commercial towers, all such facilities shall comply with the dimensional requirements outlined in the district in which they are located or proposed.

(a)

Transmission lines need not meet the minimum dimensional requirements, however, shall meet as great a setback from adjacent property lines and water bodies as can be achieved given such constraints as topography or limitations on height.

(b)

Commercial towers shall meet a minimum lot area of 10,000 square feet and a minimum forty-five-foot setback from property lines as measured from the outer base of the tower. A minimum twenty-five-foot perimeter buffer in accordance with the density outlined in Buffer Yard C (Table 300-502-B) (five canopy trees, four understory trees, six evergreens, and 15 shrubs per 100 feet of perimeter) shall be planted and/or maintained. The minimum planting height of the required evergreens shall be between six feet and eight feet. Existing natural vegetation may be used so long as the density of plantings is equivalent to the density outlined above.

(2)

In addition, all such facilities, except for transmission lines which may be constructed of wood or steel, shall employ materials and colors that blend with the surroundings.

(3)

When regulated by the United States Federal Aviation Administration or Federal Communications Commission, applications for such facilities shall be accompanied by evidence that such facility meets or can meet the requirements and specifications of the FAA, FCC and the Augusta State Airport.

(4)

Except for transmission lines, security measures, in accordance with industry standards, shall be placed no less than at the perimeter of the developed area whenever such a facility abuts a residential property line.

C.

Minor municipal and public utilities and communications facilities. See "public utility" and "municipal or public utilities and communications facilities" in § [300-202](#), Additional definitions. Minor utilities and communications facilities shall carefully consider existing uses within view and ensure that site and building design is in character with the existing area to the extent possible.

(1)

Except in shoreland areas where special standards may apply, such facilities to be constructed off the public right-of-way need not comply with the minimum dimensional standards for lot size, frontage and side and rear setbacks as outlined in the districts in which they are located. Minimum lot and easement size shall be based on the facility's needs while meeting the minimum setbacks established below.

(2)

Such facilities shall meet a minimum twenty-foot setback from all residential property lines, 10 feet of which shall be planted in accordance with Buffer Yard C (§ [300-502](#)) and shall utilize a plant multiplier of 0.5. Such facilities shall meet a minimum ten-foot setback from all nonresidential property lines and be planted in accordance with a choice of Buffer Yards B or C using a plant multiplier of 0.5.

(3)

Section [300-505](#), Driveway and access standards, shall apply, and, in the case of such a utility proposed for a flag lot, the access standards applicable to flag lots shall apply.

[\(4\)](#)

Section [300-514](#), Air and water quality standards, shall apply.

[\(5\)](#)

The standard in Subsection [B\(4\)](#) of § [300-525B](#), Major municipal or public utilities and communications facilities, shall apply.

### **[§ 300-526. Waste facilities.](#)**

[A.](#)

Waste facilities Class 1.

[\(1\)](#)

Waste facilities Class 1 include recycling centers (as defined) and paper, cardboard, glass and metals recycling for business, commerce and industry.

[\(2\)](#)

The following information is required with any application for waste facility Class 1:

[\(a\)](#)

Detailed description of operation.

[\(b\)](#)

Description of on-site circulation pattern for loading and unloading of goods.

[\(c\)](#)

Description of markets; method of disposal of by-products.

[B.](#)

Waste facilities Class 2.

[\(1\)](#)

Uses. The following uses shall be considered waste facilities Class 2:

[\(a\)](#)

Composting facilities.

[\(b\)](#)

Junkyards (§ [300-523](#) also applies).

[\(c\)](#)

Landfills.

[\(d\)](#)

Waste to energy plants.

[\(e\)](#)

Septage handling facilities.

[\(f\)](#)

Tire processing and storage facilities.

[\(g\)](#)

Hazardous waste handling facilities.

[\(2\)](#)

Along with the information required with any application for waste facility Class 1, the following standards and restrictions apply to waste facilities Class 2:

[\(a\)](#)

All such applications shall include certification or evidence that certification can be obtained from the appropriate permitting authority of the State of Maine.

(b)

Such uses shall not be located within 500 feet of a residential property line or residential district boundary line.

(c)

Such uses shall not be located over a mapped sand and gravel aquifer.

(d)

Measures shall be taken to ensure that safe and healthful conditions shall be maintained.

(e)

The Planning Board may require that emergency power systems, special operational controls and any other measures be utilized to mitigate any adverse impacts to the neighborhood and environment.

(f)

Consideration shall also be given to the existing road and highway system when deciding on the location for such a facility. Locations on a major highway shall be given preference, as will transportation routes that do not utilize existing residential areas.

### **§ 300-527. Type "1" manufactured housing.**

[Amended 2-12-2001 by Ord. No. 21; 5-6-2002 by Ord. No. 212; 8-19-2002 by Ord. No. 257]

A.

Provisions for Type "1" manufactured housing located in Augusta on or before August 4, 1988. In accordance with 30-A M.R.S.A. § 4358, and notwithstanding § [300-304A\(1\)](#) of this chapter, Type "1" manufactured housing which legally existed in Augusta on or before August 4, 1988, regardless of its date of manufacture, can be moved from its existing location to another legally allowable location within Augusta, provided that the unit meets the requirements of minimum roof pitch and siding and roofing materials of that district.

B.

Type "1" manufactured housing located within the RA, RB1/RB2, RC, RD, BP, KBD1, KBD2, CB, CC, CD, GS, RBV, RR2, and RRES Zoning Districts.

(1)

Initial placement of Type "1" manufactured housing as defined in § [300-202](#) of this chapter is not permitted.

(2)

Type "1" manufactured housing legally existing prior to the effective date of this chapter and located on an individual lot or within a legally existing manufactured housing park shall be allowed to continue to be so located and may be upgraded or replaced with the following conditions:

(a)

The replacement Type "1" manufactured home shall be equal to in age or newer than the home being replaced, with the exception that for the initial placement of a unit by a new lessee of a mobile home pad within a manufactured housing park, that the mobile home unit meet as a minimum standard the "newer mobile home" definition; and further, that when that same lessee wants to upgrade to a better unit that the replacement unit be equal in age to or newer than the unit being replaced; and

(b)

The replacement Type "1" manufactured home shall be a newer mobile home as defined in § [300-202](#) of this chapter; and

(c)

The replacement Type "1" manufactured home shall be placed on a permanent foundation, frost wall, concrete slab, or gravel pad; and

(d)

The replacement Type "1" manufactured home shall be constructed with a shingled or standing-seam metal roof of adequate pitch\* that overhangs on all sides; and

(e)

The replacement Type "1" manufactured home shall be sided with wood, metal or vinyl siding of a type resembling clapboards or other residential exteriors.

**NOTES:**

\* 3:12 for single-width homes; 3:12 for double-width homes.

(3)

Initial placement of manufactured housing parks as defined in § [300-202](#) of this chapter is not permitted.

(4)

If a legally placed Type "1" manufactured home is removed from an existing legally permitted lot and not replaced within 12 calendar months of its removal, an upgraded or replacement Type "1" manufactured home may no longer be placed on that lot.

C.

Type "1" manufactured housing located within the Planned Development (PD) District.

(1)

Initial placement of Type "1" manufactured housing as defined in § [300-202](#) of this chapter is permitted, provided that it conforms to the following conditions:

(a)

The Type "1" manufactured home shall be a newer mobile home as defined in § [300-202](#) of this chapter; and

(b)

The Type "1" manufactured home shall be placed on a permanent foundation, frost wall, concrete slab or gravel pad; and

(c)

The replacement Type "1" manufactured home shall be constructed with a shingled or standing-seam metal roof of adequate pitch\* that overhangs on all sides; and

(d)

The replacement Type "1" manufactured home shall be sided with wood, metal or vinyl siding of a type resembling clapboards or other residential exteriors.

**NOTES:**

\* 3:12 for single-width homes; 3:12 for double-width homes.

(2)

Type "1" manufactured housing legally existing prior to the effective date of this chapter and located on an individual lot or within a legally existing manufactured housing park shall be allowed to continue to be so located and may be upgraded or replaced with the following conditions:

(a)

The replacement Type "1" manufactured home shall be equal to in age or newer than the home being replaced, with the exception that for the initial placement of a unit by a new lessee of a mobile home pad within a manufactured housing park, that the mobile home unit meet as a minimum standard the "newer mobile home" definition; and further, that when that same lessee wants to upgrade to a better unit that the replacement unit be equal in age to or newer than the unit being replaced; and

(b)

The replacement Type "1" manufactured home shall be a newer mobile home as defined in § [300-202](#) of this chapter; and

(c)

The replacement Type "1" manufactured home shall be placed on a permanent foundation, frost wall, concrete slab or gravel pad; and

(d)

The replacement Type "1" manufactured home shall be constructed with a shingled or standing-seam metal roof of adequate pitch\* that overhangs on all sides; and

(e)

The replacement Type "1" manufactured home shall be sided with wood, metal or vinyl siding of a type resembling clapboards or other residential exteriors.

D.

Type "1" manufactured housing located within the IA, RR, RV, and RPDS Zoning Districts. Initial Placement of Type "1" manufactured housing as defined in § [300-202](#) of this chapter is allowed within legally existing or newly established manufactured housing parks or on legally permitted individual lots in the IA, RR, RV and RPDS Zoning Districts, without age or design requirement restrictions.

## **Article VIII. Overlay Zoning Standards**

### **§ 300-528. Special standards applicable to shoreland areas.**

[Amended 5-17-2004 by Ord. No. 72; 4-19-2005 by Ord. No. 061; 3-20-2006 by Ord. No. 040]  
Notwithstanding other provisions of this chapter, the following performance standards shall apply to structures and uses of land in shoreland areas. Where the provisions of this section impose a stricter standard than another applicable provision of this chapter, the requirement of this section shall prevail.

A.

Agriculture.

(1)

The following regulations shall apply to all agriculture uses proposed in the City.

(2)

All spreading or disposal of manure shall be accomplished in conformance with the Maine Guidelines for Manure and Manure Sludge Disposal on Land published by the University of Maine and the Maine Soil and Water Conservation Commission, July 1972.

(3)

Manure shall not be stored or stockpiled within 100 feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA or within 75 feet horizontal distance of other water bodies, tributary streams, or wetlands. Within five years of the effective

date of this chapter, all manure storage areas within the Shoreland Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater. Existing facilities which do not meet the setback requirement may remain but must meet the no discharge provision within the above five-year period.

(4)

Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area or the spreading, disposal or storage of manure within the Shoreland Zone shall require a soil and water conservation plan to be filed with the Planning Board. Nonconformance with the provisions of said plan shall be considered a violation of this chapter. (Note: Assistance in preparing a soil and water conservation plan may be available through the Kennebec County Soil and Water Conservation District office.)

(5)

There shall be no new tilling of soil within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA, within 75 feet, horizontal distance, from other water bodies, or within 25 feet, horizontal distance, of tributary streams and wetlands. Operations in existence on the effective date of this chapter and not in conformance with this provision may be maintained.

(6)

After the effective date of this chapter, newly established livestock grazing areas shall not be permitted within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA, within 75 feet, horizontal distance of other water bodies, or within 25 feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated at the effective date of this chapter with ongoing farm activities and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with an approved soil and water conservation plan.

B.

Archeological sites. Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least 20 days before action is taken by the permitting authority. The permitting authority shall consider comments received from the Commission before rendering a decision on the application.

C.

Clearing of vegetation for development.

(1)

Within a shoreland area zoned for resource protection abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

(2)

Elsewhere in any Resource Protection District, the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

(3)

Except in areas as described in Subsection C(1), above, and except to allow for the development of permitted uses, within a strip of land extending 100 feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond

classified GPA, and 75 feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

[\(a\)](#)

There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed 10 feet in width as measured between tree trunks is permitted, provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond classified GPA, or stream or river flowing to a great pond classified GPA, the width of the footpath shall be limited to six feet. Note: The footpath permitted in accordance with this section is not intended to be included in the two-hundred-fifty-square-foot limitation of cleared openings.

[\(b\)](#)

Selective cutting of trees within the buffer strip is permitted, provided that a well-distributed stand of trees and other vegetation is maintained. For the purposes of this section, a "well-distributed stand of trees and other vegetation" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA shall be defined as maintaining a rating score of 12 or more in any twenty-five-foot by twenty-five-foot square (625 square feet) area as determined by the following rating system:

**Diameter of Tree at 4 1/2 Feet Above Ground Level**

<b>(inches)</b>	<b>Points</b>
2 to 4	1
4 to 12	2
12 plus	4

[\[1\]](#)

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of eight per twenty-five-foot square area.

Note: As an example, adjacent to a great pond, if a twenty-five-foot by twenty-five-foot plot contains three trees between two and four inches in diameter, three trees between four and 12 inches in diameter, and three trees over 12 inches in diameter, the rating score is:

$$(3 \times 1) + (3 \times 2) + (3 \times 4) = 21 \text{ points}$$

Thus, the twenty-five-foot by twenty-five-foot plot contains trees worth 21 points. Trees totaling nine points ( $21 - 12 = 9$ ) may be removed from the plot, provided that no cleared openings are created.

[\[2\]](#)

Notwithstanding the above provisions, no more than 40% of the total volume of trees four inches or more in diameter, measured at 4 1/2 feet above ground level, may be removed in any ten-year period.

[\(c\)](#)

In order to protect water quality and wildlife habitat adjacent to great ponds classified GPA, and streams and rivers which flow to great ponds classified GPA, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in Subsections [C\(3\)](#) and [C\(3\)\(a\)](#) above.

[\(d\)](#)

Pruning of tree branches on the bottom 1/3 of the tree is permitted.

[\(e\)](#)

In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

(f)

Notwithstanding other provisions of this subsection, in the Historic Waterfront District, in order to protect water quality and wildlife habitat, and to maintain historical integrity, ground cover will be required but will not extend over three feet in height, except along the immediate water's edge. Taller vegetation may be left in place but will be left to the Tree Warden's discretion. To provide bank stabilization, a limited number of trees and tree species shall remain along the lower 25 feet of the river bank as determined by the Tree Warden. Nonnative invasive species will be permitted to be removed, so long as vegetation is replanted in these areas and soil disturbance remediation is in place until vegetation is established. Any vegetative cover needs prior approval in writing from the City Tree Warden.

The provisions contained in Subsection C(2) above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

(g)

Notwithstanding other provisions of this subsection, in the Kennebec Arsenal Historic Waterfront District, in order to protect water quality and wildlife habitat, and to maintain historical integrity, maintainer grass cover will be required. Trees and shrubs will be permitted to be removed, so long as vegetation is replanted in these areas and soil disturbance remediation is in place until vegetation is established.

(4)

At distances greater than 100 feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and 75 feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten-year period, selective cutting of not more than 40% of the volume of trees four inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the 40% calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area. In no event shall cleared openings be development, including but not limited to principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate 25% of the lot area or 10,000 square feet, whichever is greater, including land previously developed. This provision shall not apply to the General Development District.

(5)

Cleared openings legally in existence on the effective date of this chapter may be maintained, but shall not be enlarged, except as permitted by this chapter.

(6)

Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

D.

Commercial and industrial uses. The following new commercial and industrial uses are prohibited within the Shoreland Zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

(1)

Auto washing facilities.

(2)

Auto or other vehicle service and/or repair operations, including body shops.

(3)

Chemical and bacteriological laboratories.

(4)

Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms.

(5)

Commercial painting, wood preserving, and furniture stripping.

(6)

Dry-cleaning establishments.

(7)

Electronic circuit assembly.

(8)

Laundromats, unless connected to a sanitary sewer.

(9)

Metal plating, finishing, or polishing.

(10)

Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas.

(11)

Photographic processing.

(12)

Printing.

E.

Erosion and sedimentation control. See § [300-514B](#) and the Technical Standards Handbook.

F.

Essential services.

(1)

Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

(2)

The installation of essential services is not permitted in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

G.

Flood protection. Where applicable, all structures and uses in shoreland areas shall comply with the provisions of § [300-508](#).

H.

Mineral exploration. See Chapter [198](#), Article [I](#), Mineral Extraction.

I.

Piers, docks, wharfs, bridges and other structures and uses extending over or beyond the normal high-water line of a water body or within a wetland. In addition to federal or state permits which may be required for such structures and uses, they shall conform to the following:

(1)

Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion. Appropriateness of soils shall be subject to the standards outlined in the Maine Erosion and Sediment Control Handbook for Construction, published by the Maine Department of Environmental Protection.

(2)

The location shall not interfere with developed or natural beach area.

(3)

The facility shall be located so as to minimize adverse effects on fisheries.

(4)

The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.

(5)

No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.

(6)

No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to a residential dwelling unit or units in any district.

(7)

Except in the General Development District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed 20 feet in height above the pier, wharf, dock or other structure.

**NOTE:** Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C.

J.

Roads and driveways. The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features:

(1)

See Driveway and Access Standards, § 5.3, City of Augusta Technical Standards Handbook.

(2)

See City of Augusta Technical Standards Handbook, Road Standards.

(3)

The maximum driveway length in the Shoreland District is 500 feet.

(4)

Roads and driveways shall be set back at least 100 feet from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and 75 feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, but if no reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback requirement to no less than 50 feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques

may include, but are not limited to, the installation of settling basins and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

(a)

On slopes of greater than 20%, the road and/or driveway setback shall be increased by 10 feet for each 5% increase in slope above 20%.

(b)

This subsection shall apply neither to approaches to water crossings nor to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline due to an operational necessity.

(5)

Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.

(6)

New permanent roads are not permitted within the Shoreland Zone along significant river segments, except:

(a)

To provide access to structures or facilities within the zone; or

(b)

The applicant demonstrates that no reasonable alternative route exists outside the Shoreland Zone. When roads must be located within the Shoreland Zone, they shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

(7)

New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

(8)

Road banks shall be no steeper than a slope of two horizontal to one vertical and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in § [300-514B\(1\)](#), General drainage and erosion control standards, of this chapter.

(9)

Road grades shall be no greater than 10%, except for shore segments of less than 200 feet.

(10)

In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty into an unscarified buffer strip at least 50 feet, plus two times the average slope in width between the outflow point of the ditch or culvert and normal high-water line of a water body, tributary stream, or upland edge of a wetland. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

(11)

Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road

or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:

(a)

Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

**Road Grade Spacing**

<b>(percent)</b>	<b>(feet)</b>
0 to 2	250
3 to 5	200 to 135
6 to 10	100 to 80
11 to 15	80 to 60
16 to 20	60 to 45
21+	40

(b)

Drainage dips may be used in place of ditch relief culverts only where the road grade is 10% or less.

(c)

On road sections having slopes greater than 10%, ditch relief culverts shall be placed across the road at approximately a 30° angle downslope from a line perpendicular to the center line of the road.

(d)

Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

(12)

Ditches, culverts, bridges, dips, water turnouts and other stormwater runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

K.

Septic waste disposal.

(1)

All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules (rules).

(2)

**NOTE:** The rules, among other requirements, include:

(a)

The minimum setback for new subsurface sewage disposal systems shall be no less than 100 horizontal feet from the normal high-water line of a perennial water body. The minimum setback distances from water bodies for new subsurface sewage disposal systems shall not be reduced by variance.

(b)

Replacement systems shall meet the standards for replacement systems as contained in the rules.

L.

Signs. See the sign standards in § [300-516](#).

M.

Soils. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe

erosion, mass soil movement or improper drainage and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report, based on an on-site investigation, and be prepared by state certified professionals. Certified persons may include Maine certified soil scientists, Maine registered professional engineers, Maine state certified geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum groundwater elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

N.

Stormwater. See § [300-514](#).

O.

Timber harvesting.

(1)

Within the strip of land extending 75 feet inland from the normal high-water line in a shoreland area zoned for resource protection abutting a great pond, there shall be no timber harvesting, except to remove safety hazards. All timber harvesting in the Resource Protection District and outside the seventy-five-foot setback area shall be reforested within two growing seasons after harvest is complete.

(2)

Except in areas as described in Subsection [O\(1\)](#), timber harvesting shall conform with the following provisions:

(a)

Selective cutting of no more than 40% of the total volume of trees four inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten-year period is permitted. In addition:

[1]

Within 100 feet, horizontal distance of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within 75 feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings, and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

[2]

At distances greater than 100 feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than 75 feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, 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 the purposes of these standards, volume shall be considered to be equivalent to basal area.

(b)

No accumulation of slash shall be left within 50 feet of the normal high-water line of a water body. In all other areas, slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.

(c)

Timber harvesting equipment shall not use stream channels as travel routes, except when:

[1]

Surface waters are frozen;

[2]

The activity will not result in any ground disturbance.

(d)

All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

(e)

Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

(f)

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 of at least 75 feet in width for slopes up to 10% shall be retained between the exposed mineral soil and the normal high-water line of a water body or the upland edge of a wetland. For each ten-percent increase in slope, the unscarified strip shall be increased by 20 feet. The provisions of this subsection apply only to a face sloping toward the water body or wetland; provided, however, that no portion of such exposed mineral soil on a back face shall be closer than 25 feet from the normal high-water line of a water body or upland edge of a wetland.

P.

Water quality protection. No activity shall deposit on or in the ground or discharge to the waters of the state any pollutant that, by itself or in conjunction with other activities or substances, will impair designated uses or the water classification of the water body.

Q.

Minimum dimensional requirements in shoreland areas. All land use activities within the Shoreland Zone shall conform with the following applicable provisions, with the exception of allowable land use activities utilizing existing structures and/or activities that utilize public sewer, in the GD District adjacent to the Kennebec River. For these above-stated exceptions, the dimensional requirements of the underlying zoning district shall apply. Provisions:

(1)

Minimum lot standards.

	<b>Minimum Lot Area (square feet)</b>	<b>Minimum Shore Frontage (feet)</b>
Residential, per dwelling unit:		
(a) Within the Shoreland Zone adjacent to tidal areas	30,000	150
(b) Within the Shoreland Zone Adjacent to nontidal areas	40,000	200
Governmental, institutional, commercial or industrial, per principal structure:		
(a) Within the Shoreland Zone adjacent to tidal areas	40,000	200

	<b>Minimum Lot Area (square feet)</b>	<b>Minimum Shore Frontage (feet)</b>
(b) Within the Shoreland Zone adjacent to nontidal areas	60,000	300
Public and private recreational facilities:		
(a) Within the Shoreland Zone adjacent to tidal and nontidal areas	40,000	200

(2)

Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two lots shall not be included toward calculating minimum lot area.

(3)

Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

(4)

The minimum width of any portion of any lot within 100 feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

(5)

If more than one residential dwelling unit or more than one principal commercial or industrial structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure.

**NOTE:** Cluster housing is permitted, provided that the overall dimensional requirements, including frontage and lot area per dwelling unit, are met. When determining whether dimensional requirements are met, only land area within the Shoreland Zone shall be considered.

R.

Principal and accessory structures.

(1)

All new principal and accessory structures shall be set back at least 100 feet from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and 75 feet from the normal high-water line of other water bodies, streams (as defined), or the upland edge of a wetland, except that, in the Stream Protection 50 (SP50) District, the setback from the normal high-water line shall be at least 50 feet, and, in the General Development District, the setback from the normal high-water line shall be at least 25 feet. In addition:

(a)

The water body or wetland setback provision shall apply neither to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

(b)

All principal structures along significant river segments as listed in 38 M.R.S.A. § 437 shall be set back a minimum of 125 feet from the normal high-water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.

**NOTE:** The Planning Board is authorized to increase the required setback of a proposed

structure, as a condition to permit approval, if necessary to accomplish the purposes of this chapter. Instances where a greater setback may be appropriate include, but are not limited to, areas of steep slope, shallow or erodible soils, or where an adequate vegetative buffer does not exist.

(2)

Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts shall not exceed 35 feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

(3)

The first-floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the one-hundred-year flood, the flood of record, or, in the absence of these, the flood as defined by soil types identified as recent floodplain soils.

(4)

The total area of all structures, parking lots and other nonvegetated surfaces within the Shoreland Zone shall not exceed 20% of the lot or a portion thereof, located within the Shoreland Zone, including land area previously developed, except in the General Development District adjacent to tidal waters and rivers which do not flow to great ponds classified GPA, where lot coverage shall not exceed 70%.

(5)

Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils, provided that the structure is limited to a maximum of four feet in width, that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C), and that the applicant demonstrates that no reasonable access alternative exists on the property.

**§ 300-529. Capitol View District.**

(Reserved)

**§ 300-530. Highway Corridor District.**

(Reserved)

**§ 300-531. Historic District.**

(Reserved)

**§ 300-532. Resource Conservation and Use District.**

(Reserved)

**Part 6. ADMINISTRATION**

**§ 300-601. Enforcement; violations and penalties.**

[Amended 1-19-1993 by Ord. No. 707; 3-1-1993 by Ord. No. 41; 5-16-1994 by Ord. No. 494; 3-20-1995 by Ord. No. 40]

A.

Enforcement. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this chapter.

(1)

If the Code Enforcement Officer shall find that any provision of this chapter is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings, structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

(2)

The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this chapter.

(3)

Before issuing a certificate of occupancy, the Code Enforcement Officer may require the applicant to submit a performance bond running to the City or certified check payable to the City, in an amount and form acceptable to the Director of Finance, with the advice and consent of the Code Enforcement Officer and the Corporation Counsel. The performance bond or certified check must equal at least the total cost of furnishing, installing and completing all permit approval items as required by the Code Enforcement Officer at the time of issuing the certificate of occupancy. The surety shall not expire without written approval of the Director of Finance.

(4)

The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

(5)

On an annual basis, a summary of the records listed in Subsection A(3) of this section affecting shoreland areas shall be submitted to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.

(6)

With respect to flood damage prevention requirements and in addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

(a)

The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

(b)

A clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance;

[\(c\)](#)

A clear statement that the public body making the declaration has authority to do so and a citation to that authority;

[\(d\)](#)

Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and

[\(e\)](#)

A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.[\[1\]](#)

[\[1\]](#)

Editor's Note: See 42 U.S.C. § 4023.

[\(7\)](#)

Subdivisions. The Director of Code Enforcement or his designee may issue a cease work order on any subdivision or major development in which the subdivider, developer or his contractor is violating the terms of the subdivision approval. Such order may be issued only after counsel with the City Engineer. The cease work order shall apply until violations are sufficiently corrected. Work done after issuance of a cease work order shall be considered a violation of this chapter and subject to the fines of this chapter.

[\(8\)](#)

Actions or failure to act by the Code Enforcement Officer pursuant to Subsection [A](#) of this section are not appealable to the Board of Appeals.

[B.](#)

Legal actions. When the above action does not result in the correction or abatement of the violation or nuisance condition, the municipal officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this chapter in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this chapter and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by the authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage. Actions or failure to act by the municipal officers pursuant to this section are not appealable to the Board of Appeals.

[C.](#)

Penalty.

[\(1\)](#)

Any person, firm, or corporation, including a landowner's agent or a contractor, who orders or conducts any activity in violation of any of the provisions of this chapter or who fails to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or conditional uses, shall, upon conviction thereof, be penalized in accordance with 30-A M.R.S.A. § 4452. As of the effective date of this chapter,

such penalties include fines of not less than \$100 nor more than \$2,500 per violation. Each day such violation continues shall constitute a separate offense.

(2)

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, or agent, or other person who commits, participates in, or maintains such violation, may each be found guilty of a separate offense and suffer the penalties herein provided.

(3)

With respect to flood damage prevention regulations, the penalties contained in 30-A M.R.S.A. § 4452 shall apply to any violation of this chapter.

(4)

With respect to the subdivision regulations, any person who conveys or offers or agrees to convey any land by reference to a subdivision plan which has not been approved as required by this chapter and recorded by the proper Register of Deeds, shall be subject to by a civil penalty of not more than \$1,000 for each lot conveyed or offered or agreed to be conveyed, except that nothing herein contained shall be deemed to bar any legal or equitable action to restrain or enjoin any act in violation of these regulations.

D.

Permit required; general. The Code Enforcement Officer shall review and approve, approve with condition or deny applications for permits in accordance with this chapter. The Code Enforcement Officer shall inform applicants as to the need for a conditional use permit by the Planning Board as outlined in § [300-603A](#). In accordance with § [300-606B](#), the Board of Appeals shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Code Enforcement Officer or Planning Board.

(1)

Building permit plans required.

(a)

Where specifically permitted "by right," no building permit is needed.

(b)

No structure and/or parking lot shall be erected, enlarged, moved or improved without a permit from the Code Enforcement Officer. No permit shall be issued except in conformity with the provisions of this chapter. An administrative fee of \$5 will be charged for each permit application, in addition to building permit fees.

(c)

No earth filling resulting in a net increase of 25 cubic yards of material or more in any one year shall be done without a permit from the Code Enforcement Officer. A one-time administration fee of \$5 will be charged for each permit application.

(d)

The Code Enforcement Officer may institute a permit by rule process for accessory buildings.

(2)

Special fees. The City Council shall set fees for conditional uses, appeals and variances, appeals from Planning Board decisions, rezonings, subdivisions, flood hazard development permits and major developments, which fees shall be adjusted from time to time. Said fee schedule shall be filed with the City Clerk.

(a)

Said fees will be collected at the time the applicant files, and the fees are nonrefundable.

[\(b\)](#)

An additional fee may be charged if the Code Enforcement Officer, City Planner, City Engineer, Board of Appeals and/or Planning Board needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of this chapter and be grounds for the issuance of a stop-work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

[\(3\)](#)

Application for permit; plans required:

[\(a\)](#)

Site plan required. All applications for permits shall be accompanied by a site plan of suitable scale showing:

[\[1\]](#)

The actual shape, size, and location of the lot to be built upon and the names of the landowner of record as well as the names of the abutting property owners;

[\[2\]](#)

A survey prepared by a Maine registered land surveyor and tied to the Maine Coordinate System (as outlined in § 3.2.6 of the City of Augusta Technical Standards Handbook) shall be required by the Code Enforcement Officer for all nonresidential uses with a proposed floor area in excess of 10,000 square feet;

[\[3\]](#)

The size (specific dimensions), the shape, height, and location (with setbacks noted) of any buildings to be erected, altered, or removed from the lot;

[\[4\]](#)

The location of street entrances to, exits from and driveways on the premises;

[\[5\]](#)

The location, size, and site design, construction, and traffic service arrangement of existing or proposed off-street parking and loading areas;

[\[6\]](#)

Abutting rights-of-way and right-of-way widths;

[\[7\]](#)

Show how applicable performance standards will be met;

[\[8\]](#)

The proposed location, size (design, lighting, and display characteristics) of all signs;

[\[9\]](#)

The location of existing and/or proposed sewage disposal facilities;

[\[10\]](#)

The location of existing and/or proposed water supply facilities; and

[\[11\]](#)

Any areas to be cut and filled.

[\(b\)](#)

The application shall include any other information is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. The issuance or refusal of a permit shall be made within 10 working days of the submission of a complete application to the Code Enforcement Officer. In shoreland areas, no permit shall be issued for any structure or use involving the construction, installation or alteration of plumbing facilities unless a permit for such facilities has first been secured by the applicant from the licensed plumbing inspector, according to the requirements of this chapter and state law.

(c)

All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.

(d)

If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the licensed plumbing inspector, shall be submitted whenever the nature of the proposed structure would require the installation of a subsurface sewage disposal system.

(e)

Right, title or interest. The Planning Board shall consider an application only when an applicant has demonstrated sufficient right, title or interest in all of the property which is proposed for development or use. An applicant shall demonstrate in writing sufficient right, title or interest, as follows:

[1]

When the applicant claims ownership of the property, a copy of the deed(s) to the property shall be submitted.

[2]

When the applicant has an option, purchase-sale agreement or other contractual agreement for the acquisition of the property, a copy of such agreement(s) shall be submitted. Such agreements shall contain terms to establish future title.

[3]

When the applicant has a lease on the property, a copy of the lease shall be submitted. The lease shall be of sufficient duration to permit construction and reasonable use of the development.

(4)

If no substantial progress of construction has been made within six months of the date of the permit, the permit shall become invalid.

E.

Permit required, flood hazard areas. The following additional application information is required:

(1)

The elevation in relation to mean sea level, or to a locally established datum in Zone A only, of the:

(a)

Base flood at the proposed site of all new or substantially improved structures, which is determined:

[1]

In Zones A1-30, AE, AO, and AH, from data contained in the "Flood Insurance Study — City of Augusta, Maine," as described in § [300-508A](#); or

[2]

In Zone A, to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building;

(b)

Highest and lowest grades at the site adjacent to the walls of the proposed building;

(c)

Lowest floor, including basement, and whether or not such structures contain a basement; and

(d)

Levels, in the case of nonresidential structures only, to which the structure will be floodproofed;

(2)

A description of a base flood elevation reference point established on the site of all new or substantially improved structures;

(3)

A written certification by a registered State of Maine surveyor that the elevations shown on the application are accurate;

(4)

Certification by a registered State of Maine professional engineer or architect that floodproofing methods for any nonresidential structures will meet the floodproofing criteria of Subsection E(1)(d) of this section, § 300-508E(6) and other applicable standards in § 300-508E;

(5)

A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development; and

(6)

A statement of construction plans describing in detail how each applicable development standard in § 300-508E will be met.

F.

Installation of public utility service, Shoreland Zones only. No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in any Shoreland Zone unless written authorization attesting to the validity and currency of all local permits required under this chapter or any previous ordinance has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

### § 300-602. Technical standards.

A.

The City staff shall promulgate a Technical Standards Handbook, which may be revised from time to time, regarding the specific design criteria, including but not limited to streets, driveways, water, sewer, other utilities, parks, and drainage, erosion and sedimentation control. All standards defined and outlined in this handbook and approved by the Planning Board shall be considered official standards of development for land use in the City of Augusta.

B.

Before approval or revision of the technical standards, the Planning Board shall hold a public hearing on said proposed standards. Public notice will be posted at least seven days before said hearing.

### § 300-603. Conditional uses.

[Amended 1-21-1992 by Ord. No. 303]

#### A.

General. The Planning Board is hereby authorized to hear and decide, in accordance with Chapter 14, Article II, of the Code of the City of Augusta, as amended, upon applications for conditional uses. The Planning Board shall hear and approve, approve with modifications or conditions (see Subsection F of this section), or disapprove all applications for conditional uses. No conditional use permit shall be authorized unless specific provision for such conditional use is made in this chapter. A person informed by the Code Enforcement Officer that he requires a conditional use permit shall file an application for the permit with the Planning Board.

#### B.

Exemption (one time only). Expansion/enlargement of an existing listed conditional use not exceeding 500 square feet may be processed without Planning Board review if no written requests for a public hearing are filed with the City Planner within seven working days after the official notification by the City of property owners within 500 feet. If a written request for public hearing is received within the seven-working-day period, the project will be processed as a conditional use as outlined in this section.

#### C.

Public hearing.

##### (1)

Following the filing of an application, and before taking action on any application, the Planning Board shall hold a public hearing on the application within 30 days. The Planning Board shall provide notice of a public hearing on the application, in the form and manner and to the persons specified herein.

##### (a)

The notice shall include the time and place of such hearing, which shall be within 30 days of such application, the nature of the matter to be heard, the address or location of the property involved. Where notice by mail is required, it shall be mailed at least 10 days in advance of the hearing date by regular United States mail.

##### (b)

Notices shall be given to each of the following:

##### [1]

To the applicant, City Council, Planning Board and Board of Zoning Appeals.

##### [2]

To all residents of the City, by publication in a newspaper of general circulation in the City at least 10 days before the hearing, and by posting a sign on the portion of the property involved that is nearest the public road.

##### [3]

To the owners of the properties within 500 feet of the parcel involved if the parcel is located in the Urban Growth Area Districts or within 1,000 feet of the parcel involved if the parcel is located in the Planned Development and/or Rural Districts by regular United States mail.

##### [4]

For the purposes of this section, the owners of property shall be considered to be the parties listed by the Assessor's office of the City of Augusta as those against whom taxes are assessed.

Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action by the Planning Board.

(2)

The applicant's case shall be heard first. The applicant shall be allowed to directly cross-examine witnesses. To maintain order by procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chair.

D.

Conditional use decision. Within 30 days of the public hearing, the Planning Board shall approve, deny, or approve with conditions all applications for a conditional use permit if it makes a positive finding based on each of the following applicable criteria. The applicant shall have the burden of proving that his/her application is in compliance with the requirements of this chapter.

E.

Site plan review criteria applicable to conditional uses.

(1)

Neighborhood compatibility. [The intent of this subsection is to encourage the applicant to design the proposal in consideration of the physical impact it will have on the immediate neighborhood (within 500 feet if the property is in the Urban Growth Area Districts and within 1,000 feet if the property is in the Planned Development and/or Rural Districts).]

(a)

Is the proposal compatible with and sensitive to the character of the site and neighborhood relative to:

[1]

Land uses;

[2]

Architectural design;

[3]

Scale, bulk and building height;

[4]

Identity and historical character;

[5]

Disposition and orientation of buildings on the lot; and

[6]

Visual integrity?

(b)

Are the elements of the site plan (e.g., buildings, circulation, open space and landscaping) designed and arranged to maximize the opportunity for privacy by the residents of the immediate area?

(c)

Will the proposal maintain safe and healthful conditions within the neighborhood? This criterion shall not be limited to the standards affecting safety and health as outlined in this chapter. Additional regulations may be found in the City of Augusta Code, as amended.

(d)

Will the proposal have a significant detrimental effect on the value of adjacent properties (which could be avoided by reasonable modifications of the plan)? In determining whether this criterion

has been met, the Planning Board may require the applicant to submit an appraisal prepared by a State of Maine certified appraiser.

(2)

Plans and policies.

(a)

Is the proposal in accordance with the adopted elements of the 1988 Growth Management Plan?

(3)

Traffic pattern, flow and volume.

(a)

Is the proposal designed so that the additional traffic generated does not have a significant negative impact on surrounding neighborhood?

(b)

Will safe access be assured by providing proper sight distance and minimum width curb cuts for safe entering and exiting? See City of Augusta Technical Standards Handbook.

(c)

Does the proposal provide access for emergency vehicles and for persons attempting to render emergency services?

(d)

Does the entrance and parking system provide for the smooth and convenient movement of vehicles both on and off the site? Does the proposal satisfy the parking capacity requirements of the City and provide adequate space suited to the loading and unloading of persons, materials and goods?

(4)

Public facilities. Is the proposal served by utilities with adequate capacity or have arrangements been made for extension and augmentation of the following services:

(a)

Water supply (both domestic and fire flow);

(b)

Sanitary sewer/subsurface waste disposal system;

(c)

Electricity/telephone;

(d)

Storm drainage?

(5)

Resource protection and environment.

(a)

If the proposal contains known sensitive areas such as erodible or shallow soils, wetlands, aquifers, aquifer recharge areas, floodplain or steep slopes (over 15%), what special engineering precautions will be taken to overcome these limitations?

(b)

Does the proposal conform to applicable local, state DEP and federal EPA air quality standards, including but not limited to odor, dust, fumes or gases which are noxious, toxic or corrosive, suspended solid or liquid particles, or any air contaminant which may obscure an observer's vision?

(c)

Does the proposal conform to applicable local, state DEP and federal EPA water quality standards, including but not limited to erosion and sedimentation, runoff control, and solid wastes and hazardous substances?

[\(d\)](#)

Will all sewage and industrial wastes be treated and disposed of in such a manner as to comply with applicable federal, state and local standards?

[\(e\)](#)

Shoreland and Wetland Districts. Will the proposal:

[\[1\]](#)

Maintain safe and healthful conditions;

[\[2\]](#)

Not result in water pollution, erosion, or sedimentation to surface waters;

[\[3\]](#)

Adequately provide for the disposal of all wastewater;

[\[4\]](#)

Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

[\[5\]](#)

Conserve shore cover and visual as well as actual points of access to inland and coastal waters;

[\[6\]](#)

Protect archeological and historic resources as designated in the 1988 Growth Management Plan;

[\[7\]](#)

Avoid problems associated with floodplain development and use; and

[\[8\]](#)

Conform with the provisions of § [300-528](#), Special standards applicable to shoreland areas?

[\(6\)](#)

Performance standards.

[\(a\)](#)

Does the proposal comply with all applicable performance and dimensional standards as outlined in this chapter?

[\(b\)](#)

Can the proposed land use be conducted so that noise generated shall not exceed the performance levels specified in Part [5](#), Performance Standards, of this chapter? Detailed plans for the elimination of objectionable noises may be required before the issuance of a building permit.

[\(c\)](#)

If the proposal involves intense glare or heat, whether direct or reflected, is the operation conducted within an enclosed building or with other effective screening in such a manner as to make such glare or heat completely imperceptible from any point along the property line?

Detailed plans for the elimination of intense glare or heat may be required before issuance of a building permit. Temporary construction is excluded from this criterion.

[\(d\)](#)

Is the exterior lighting, except for overhead streetlighting and emergency warning or traffic signals, installed in such a manner that the light source will be sufficiently obscured to prevent excessive glare on public streets and walkways or into any residential area?

[\(e\)](#)

Does the landscaping screen the parking areas, loading areas, trash containers, outside storage areas, blank walls or fences and other areas of low visual interest from roadways, residences, public open space (parks) and public view?

(f)

Are all the signs in the proposal in compliance with provisions of this chapter?

(7)

Financial and technical ability.

(a)

Does the applicant have adequate technical ability to meet the terms of this chapter?

(b)

Does the applicant have adequate financial ability to construct the development in compliance with the terms of this chapter?

(8)

It is incumbent upon the Planning Board to approve the application unless it makes one or more negative written findings with respect to the above applicable criteria. All decisions of the Planning Board shall be accompanied by a written statement that sets forth the precise reasons why the findings were made. Once a decision is made, the Planning Board shall inform, in writing, the applicant and the Code Enforcement Officer of its decision and its reasons therefor. Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Planning Board, or deny a conditional use permit.

F.

Conditions attached to conditional uses. Upon consideration of the criteria listed above, the Planning Board may attach such conditions, in addition to those required elsewhere in this chapter, that it finds necessary to further the purposes of this chapter. Violation of any of these conditions shall be a violation of this chapter. Such conditions may include, but are not limited to, specifications for type of vegetation; increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational controls (including noise and odor control); professional inspection and maintenance; sureties; deed restrictions; restrictive covenants; locations of facilities; type of construction; or any other conditions necessary to fulfill the purposes of this chapter.

G.

Effective date of approval. All projects approved by the Planning Board in accordance with this section shall be commenced within two years of the date of the Planning Board decision and shall be substantially completed within five years of the date of the Planning Board decision unless a permit extension has been granted by the Board.

### § 300-604. Special exception uses.

[Added 12-3-2001 by Ord. Nos. 141-A, 141-B, 141-C]

A.

General.

(1)

The Planning Board is hereby authorized to hear and decide, in accordance with Chapter 14, Article II, of the Code of the City of Augusta, as amended, upon applications for special exception uses. The Planning Board shall hear and approve, approve with modifications or

conditions (see Subsection [D](#) of this section), or disapprove all applications for special exception uses. Special exception uses are typically commercial land uses and developments that could support or enhance the purposes of a predominantly residential zoning district with adherence to reasonably high design standards.

[\(2\)](#)

A 2/3 majority of the minimum meeting quorum of the Planning Board shall be required to approve a special exception use permit. No special exception use permit shall be authorized unless specific provision for such special exception use is made in this chapter. A person informed by the Code Enforcement Officer that he requires a special exception use permit shall file an application for the permit with the Planning Board.

[B.](#)

Public hearing. Following the filing of a complete application for a special exception use review, and before taking action on the application, the Planning Board shall hold a public hearing on the proposed project at its next monthly meeting, providing the application is determined to be complete by the City Planner or the Planning Board Chairman at a date not later than the application deadline for said meeting. The Planning Board shall provide notice of a public hearing on the application, in the form and manner and to the persons specified herein.

[\(1\)](#)

The notice shall include the time and place of such hearing, which shall be within 30 days of such application, the nature of the matter to be heard, the address or location of the property involved. Where notice by mail is required, it shall be mailed at least 10 days in advance of the hearing date by regular United States mail.

[\(2\)](#)

Notices shall be given to each of the following:

[\(a\)](#)

To the applicant, City Council, Planning Board and Board of Zoning Appeals.

[\(b\)](#)

To all residents of the City, by publication in a newspaper of general circulation in the City at least 10 days before the hearing, and by posting a sign on the portion of the property involved that is nearest the public road.

[\(c\)](#)

To the owners of the properties within 500 feet of the parcel involved if the parcel is located in the Urban Growth Area Districts or within 1,000 feet of the parcel involved if the parcel is located in the Planned Development and/or Rural Districts by regular United States mail.

[\(d\)](#)

For the purposes of this section, the owners of property shall be considered to be the parties listed by the Assessor's office of the City of Augusta as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action by the Planning Board.

[\(e\)](#)

The applicant's case shall be heard first. The applicant shall be allowed to directly cross-examine witnesses. To maintain order by procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chair.

[C.](#)

Site plan review criteria applicable to special exception uses.

(1)

Design review requirements. Does project meet the design standards of § [300-605C](#) of this chapter?

(2)

Project design impact upon purposes of district. Does the project support/advance the purposes of the zoning district(s) that it is part of?

(3)

Special exception use criteria. Does the project meet all the criteria for conditional uses identified in § [300-603E](#) of this chapter?

D.

Conditions attached to special exception uses. Upon consideration of the criteria listed above, the Planning Board may attach such conditions, in addition to those required elsewhere in this chapter, that it finds necessary to further the purposes of this chapter. Violation of any of these conditions shall be a violation of this chapter. Such conditions may include, but are not limited to, specifications for type of vegetation; increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational controls (including noise and odor control); professional inspection and maintenance; sureties; deed restrictions; restrictive covenants; locations of facilities; type of construction; or any other conditions necessary to fulfill the purposes of this chapter.

E.

Special exception use decision.

(1)

A finding by a minimum of 2/3 majority of the minimum meeting quorum of the Planning Board that the project satisfactorily meets all the applicable review criteria identified in Subsection [C](#) above shall be required to approve the application. All decisions of the Planning Board shall be accompanied by a written statement that sets forth the precise reasons why the findings were made. Once a decision is made, the Planning Board shall inform, in writing, the applicant and the Code Enforcement Officer of its decision and its reasons therefor. Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Planning Board, or deny a special exception use permit.

(2)

Within 30 days of the public hearing, the Planning Board shall approve, deny, or approve with conditions all applications for a special exception use permit if it makes a positive finding based on each of the following applicable criteria. The applicant shall have the burden of proving that his/her application is in compliance with the requirements of this chapter.

F.

Effective date of approval. All projects approved by the Planning Board in accordance with this section shall be commenced within two years of the date of the Planning Board decision and shall be substantially completed within five years of the date of the Planning Board decision unless a permit extension has been granted by the Board.

### **§ 300-605. Design review.**

[Added 12-3-2001 by Ord. Nos. 141-A, 141-B, 141-C]

A.

Purpose. The purpose of this section is to provide design standards for reviewing commercial development within certain residential and mixed-use zoning districts within Augusta. The following rural residential zoning districts require design review for special exception uses: Rural River 2 District (RR2) and the Rural Residential District (RRES). Design review is also required for specified land uses within the Riggs Brook Village (RBV) District. These standards ensure that the public health, safety, and general welfare are protected and the general interest of the public is served. The standards provide for originality, flexibility and innovation in commercial development, including quality architectural design and outdoor signage that will enhance Augusta as a unique place to live and conduct business.

## B.

Design standards.

### (1)

Exterior building design. Buildings with exterior walls greater than 50 feet in horizontal length shall be constructed using a combination of architectural features and a variety of building materials and landscaping near the walls. Walls which can be viewed from public streets shall be designed using architectural features and landscaping (abutting the building) for at least 50% of the wall length. Other walls shall incorporate architectural features and landscaping for at least 30% of the wall length.

### (2)

Architectural features. Architectural features include but are not limited to the following: recesses, projections, wall insets, arcades, window display areas, awnings, balconies, window projections, landscape structures or other features that complement the design intent of the structure and are acceptable to the review authority. A portion of the on-site landscaping shall abut the walls so that the vegetation combined with the architectural features significantly reduce the visual impact of the building mass as viewed from the street.

### (3)

Building materials. The predominant building materials shall be materials that are characteristic of Central Maine such as brick, wood, native stone and tinted/textured concrete masonry units and/or glass products. Other materials such as smooth-faced concrete block, undecorated tilt-up concrete panels, or prefabricated steel panels should only be used as accents and not dominate the building exterior of the structure. Metal roofs may be allowed if compatible with the overall architectural design of the building. Materials shall be of low reflectance, subtle, neutral or earth-tone colors. The use of high-intensity colors such as black, neon, metallic or florescent colors for the facade and/or roof of the building are prohibited except as approved for building trim. The use of trademark colors will require approval by the Planning Board.

### (4)

Roof design. Roofs shall be designed to reduce the apparent exterior mass of a building, add visual interest and be appropriate to the architectural style of the building. Variations within one architectural style are highly encouraged. Visible rooflines and roofs that project over the exterior wall of a building enough to cast a shadow on the ground are highly encouraged. Architectural methods shall be used to conceal flat rooftops. Overhanging eaves, sloped roofs and multiple roof elements are highly encouraged. Mansard-style roofs are discouraged.

### (5)

Customer entrance(s). Each building shall have at least one clearly defined, highly visible customer entrance using a combination of the following architectural features: canopies, porticos, arcades, arches, wing walls, and permanent above-grade integral planters.

(6)

Community amenities along Church Hill Road, Route 3, and the Frontage Access Road (applies to Riggs Brook Village District only). Each building along Church Hill Road, Route 3, and the Frontage Access Road shall contribute to the enhancement of the Village and its public spaces during warm seasons by providing at least two community amenities such as a picnic area, water feature, artwork or sculpture, clock tower, landscaped garden with park benches or other features acceptable to the Planning Board. These features shall abut the sidewalks.

C.

Design certificate. In considering applications for design review, the Planning Board shall use the criteria appearing in Subsection F below. An approved design certificate from the Planning Board shall be required before a permit to proceed is issued for any special exception uses, or for land uses requiring design review in § 300-314.7C in the Riggs Brook Village (RBV) District.

D.

Application process. The application process shall be as follows:

(1)

The application for a design certificate shall be made to the City Planning Bureau on forms provided therefor. Each application shall be accompanied by such sketches, drawings, photographs, descriptions or other information showing the proposed alterations, additions, changes or new construction as may be required for the Board to make a decision.

(2)

The staff shall transmit the application for a design review certificate, together with the supporting information and material, to the Planning Board (the Board) at its next meeting for examination and approval. The Board shall act within 60 days from the date the applicant files a completed application and pays all required application fees. If the Board does not act within 60 days, the application is deemed to be approved and a design certificate shall be issued.

(3)

Nothing herein shall prohibit an extension of time, by a formal action for a specific period of time, for review and approval of the application if the parties have mutually agreed that more information and/or discussion is required. Unless the Board disapproves an application, a design certificate shall be issued with or without conditions. When the Board disapproves an application, its reasons shall be issued to the applicant in written form.

E.

Required submission materials:

(1)

Completed application, including application fee.

(2)

A conceptual site plan, drawn to a scale of one inch equals 40 feet (or similar) by a professional engineer or architect, showing the following:

(a)

A general site location map of where property is located in Augusta.

(b)

Location of all property boundaries of the development parcel.

(c)

Location of all existing structures within 200 feet of either end of the frontage boundary line (including both sides of the road).

(d)

Location of all existing and proposed structures, showing total building square footage; elevation of lowest floor; proposed land use(s); location of customer entrances.

(e)

All existing and proposed parking areas; driveways; loading and delivery areas.

(f)

All existing and proposed landscape areas; buffer yard areas; fences; natural vegetation areas; outside equipment; trash containers; storage areas; and community amenities (if within Riggs Brook Village).

(3)

Elevation drawings, drawn by a professional engineer or architect, showing the following:

(a)

The facade and roof (with identification of materials) of the side of the proposed building(s) facing the street;

(b)

The facade and roof (with identification of materials) of the side of the proposed building(s) facing the customer entrance(s); and

(c)

If not shown by Subsection E(3)(a) and (b) above, an elevation of the side of the building that best depicts the profile of the roofline(s).

(4)

Photographs of street scenes showing the architectural context of adjacent and nearby properties on both sides of the street, and a photograph taken from across the street looking at the proposed area of development.

F.

Criteria for approval. The Design Review Board shall approve or approve with conditions an application based upon a finding that the proposed design adequately meets all the applicable design standards identified in Subsection B above. If the proposed project fails to adequately meet one or more of the applicable design standards, the application shall be denied.

### § 300-606. Appeals.

A.

Establishment of Board of Appeals. There is hereby established a Board to be known as the "Board of Zoning Appeals," which Board's duties shall include, but not be limited to, hearing appeals under this chapter.

(1)

Compliance with state law. The Board of Zoning Appeals shall comply with the provisions of 30-A M.R.S.A. § 2691 and 30-A M.R.S.A. § 4353, as amended.

(2)

Membership. The Board of Zoning Appeals shall consist of seven members and two associate members, all of whom shall be residents of the City of Augusta. Neither a municipal officer nor a spouse of a municipal officer may be a member or associate member of the Board. All members shall serve without pay.

(3)

Municipal officers to appoint members. All members of the Board of Zoning Appeals, including associate members, shall be appointed by the Mayor and confirmed by the City Council.

(4)

Members' terms. The initial appointed members shall hold office, two for one year, two for two years and three for three years. Thereafter, the appointments shall be for a term of three years. Associate members shall be appointed for three-year terms. The municipal officers may dismiss a member of the Board for cause before the member's term expires.

(5)

Vacancies. When a member of the Board of Zoning Appeals is unable to act because of conflict of interest, physical incapacity, absence, or any other reason satisfactory to the Chairman, one or both associate members are hereby empowered to act in place of the regular member or members who are unable to act. When there is a permanent vacancy, the senior associate member shall automatically assume the position created by the vacancy and shall serve for the unexpired term of said position without the necessity of being specifically appointed or sworn to said position. The Mayor shall thereafter appoint a new associate member for a three-year term. The appointment shall be confirmed by the City Council.

(6)

Quorum and voting requirements.

(a)

The presence of four or more Board of Zoning Appeals members shall constitute a quorum, and associate members in attendance may be included in determining the existence of a quorum. When a member of the Board is unable to act because of a conflict of interest, physical incapacity, absence or any other reason satisfactory to the Chair, one or both associate members shall be empowered by the Chair to act in place of the regular member or members who are unable to act. Only members and associates authorized to vote are permitted to make and second motions. No meeting of the Board of Zoning Appeals shall be held without a quorum as established in this section. The Board of Zoning Appeals shall act by majority vote, calculated as follows:

<b>Majority</b>	
<b>Authorized Voters (votes needed to pass motion)</b>	
4	3
5	3
6	4
7	4

(b)

A Board member may abstain from voting. If a member wishes to abstain, he or she shall so declare prior to discussion on the matter. An exception can be made by the Chair if it is determined during deliberations that a member has a conflict of interest. If and when this occurs, the member must then abstain. Once a member has abstained, he or she shall not be counted as an authorized voter.

(7)

Meetings; officers. The Board of Zoning Appeals shall have regular monthly meetings and have such other special meetings as shall be called by the Chairperson or by a written petition by four or more members of the Board. The Board shall have a Chairperson and Secretary and such other officers as it may determine by vote.

(8)

Regulations, bylaws. The Board shall have the power to adopt all necessary regulations and bylaws to regulate its own activities. Such regulations and bylaws shall be filed with the City Clerk.

B.

Powers and duties of the Board of Appeals. The Board of Appeals shall have the following powers and duties:

[Amended 1-21-1992 by Ord. No. 303; 3-1-1993 by Ord. No. 41; 12-19-1994 by Ord. No. 685; 3-20-1995 by Ord. No. 40; 6-4-2007 by Ord. No. 109; 6-16-2011 by Ord. No. 11-71]

(1)

Administrative appeals. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by or failure to act by the Code Enforcement Officer or Planning Board in the enforcement of this chapter or to effect any variation in the application of this chapter from its stated terms. Actions or failure to act by the Code Enforcement Officer or the municipal officers in the enforcement of this chapter pursuant to § [300-601A](#) shall not be appealable to the Board of Appeals. The Board may modify or reverse any ruling or decision of the Planning Board or Code Enforcement Officer if the Board finds that such ruling or decision is contrary to the specific provisions of this chapter. The Board is authorized to hear and decide appeals where it is alleged that due process, as outlined in this chapter and, in the case of appeals of Planning Board decisions, as outlined in Chapter [14](#), Article [II](#), of the Code of the City of Augusta, has been violated. In regard to allegations that specific findings of fact are in error, the Board of Appeals is empowered to modify or reverse a Planning Board finding only if such finding is found to be clearly erroneous.

(2)

Variances; conditions governing applications; procedures. To hear and decide upon appeal in specific cases in variance from the strict requirements of this chapter where, owing to special conditions or circumstances affecting a particular parcel of land or building or structure thereon which are not applicable to other lands, buildings, or structures in the same district, as in the case of exceptionally irregular, narrow, or steep lots or other physical conditions, a literal enforcement of the terms of this chapter would result in undue hardship. As used in this chapter, a variance is authorized only for dimensional requirements, including but not limited to lot width, structure height, percent lot coverage, setbacks, sign size, buffer yard width. A variance may not be granted to permit a use that is not provided for as a permitted use or a conditional use. The Board of Appeals shall not grant a variance from the terms of this chapter in respect to such land or structures unless and until:

(a)

A written application for a variance is filed with the Board demonstrating:

[1]

That well-documented, exceptional conditions affect the particular land or building which do not generally affect other property in the district.

[2]

That such conditions do in fact constitute an undue hardship to the owner of such land or building. The term "undue hardship" shall mean:

[a]

That the land in question cannot yield a reasonable return unless a variance is granted;

[b]

That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

[\[c\]](#)

That the granting of a variance will not alter the essential character of the locality; and

[\[d\]](#)

That the hardship is not the result of action taken by the applicant or prior owner.

[\[3\]](#)

That a variance from the particular terms of this chapter can be granted without detriment to the public interest or the health, safety, or general welfare of the residents of the municipality, and without impairment of the integrity of the Comprehensive Plan for municipal development, or of the purpose and intent of this chapter.

[\(b\)](#)

Limit on variances. No variance shall be granted for placement of a structure less than five feet from the property line unless the abutting owner gives a construction, maintenance and repair easement which shall be recorded with the Kennebec County Registry of Deeds. No variance shall be granted which does not provide for a snow storage area of a minimum of five feet from the right-of-way line. In shoreland areas, the minimum setback from the normal high-water mark for subsurface sewage disposal facilities shall not be reduced by variance.

[\(c\)](#)

A copy of all variances granted by the Board of Appeals in shoreland areas shall be sent by the Code Enforcement Officer to the Department of Environmental Protection within 14 days of the decision.

[C.](#)

Appeals and variances.

[\(1\)](#)

The Board of Appeals of the City of Augusta may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this chapter.

[\(2\)](#)

The Board of Appeals may grant a variance from the requirements of this chapter consistent with state law and the following criteria:

[\(a\)](#)

Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

[\(b\)](#)

Variances shall be granted only upon:

[\[1\]](#)

A showing of good and sufficient cause; and

[\[2\]](#)

A determination that, should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and

[\[3\]](#)

A showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and

[\[4\]](#)

A determination that failure to grant the variance would result in "undue hardship," which in this subsection means:

[\[a\]](#)

That the land in question cannot yield a reasonable return unless a variance is granted; and

[\[b\]](#)

That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and

[\[c\]](#)

That the granting of a variance will not alter the essential character of the locality; and

[\[d\]](#)

That the hardship is not the result of action taken by the applicant or a prior owner.

[\(c\)](#)

Variations shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.

[\(d\)](#)

Variations may be issued for new floodplain construction, substantial improvements, or other development for the conduct of a functionally dependent use, provided that:

[\[1\]](#)

Other criteria of this Subsection [C](#) and § [300-508E\(11\)](#) are met; and

[\[2\]](#)

The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

[\(e\)](#)

Variations may be issued for the repair, reconstruction, rehabilitation, or restoration of historic structures upon the determination that:

[\[1\]](#)

The development meets the criteria of Subsection [C\(2\)\(a\)](#) through [\(d\)](#) above; and

[\[2\]](#)

The proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

[\(f\)](#)

Any applicant who meets the criteria of Subsection [C\(2\)\(a\)](#) through [\(e\)](#) shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

[\[1\]](#)

The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;

[\[2\]](#)

Such construction below the base flood level increases risks to life and property; and

[\[3\]](#)

The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

(g)

Appeal procedure for administrative and variance appeals.

[1]

An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within 30 days after receipt of a written decision of the Code Enforcement Officer or Planning Board.

[2]

Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

[3]

The Board of Appeals shall hold a public hearing on the appeal within 35 days of its receipt of an appeal request.

[4]

The person filing the appeal shall have the burden of proof.

[5]

The Board of Appeals shall decide all appeals within 35 days after the close of the hearing and shall issue a written decision on all appeals.

[6]

The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a flood hazard development permit, which includes any conditions to be attached to said permit.

[7]

Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with state laws within 45 days from the date of any decision of the Board of Appeals.

D.

Burden of proof. In any proceeding before the Board of Appeals, the burden of proof shall be upon the applicant to establish the application/use is in compliance with the requirements of this chapter.

E.

Board of Appeals may impose conditions. In granting appeals, the Board may impose such conditions and safeguards regarding the location, character, fencing, screening, landscaping, or other features as it may deem advisable in furtherance of the intent and purpose of this chapter and may require posting of bonds to assure performance. The issuance of any variance shall be contingent upon the applicant's agreeing in writing to indemnify and save harmless the City against all loss, cost, damage or expense occurring by reason of the erection or maintenance of a structure and upon his or her filing with the City Clerk a certificate of public liability insurance

covering property damage up to \$1,000 and bodily damage with a coverage of \$10,000 to \$20,000 minimum limits.

#### F.

Filing of appeals.

[Amended 6-4-2007 by Ord. No. 109]

##### (1)

In all cases, a person aggrieved by any decision of the Code Enforcement Officer or Planning Board shall commence his or her appeal within 30 calendar days after the date the official written decision is signed by the Code Enforcement Officer or Planning Board Chair. If the 30th day falls on a nonbusiness day for the City, the final date for filing an appeal shall be the end of the next business day for the City.

##### (2)

Such appeal shall be commenced by filing with the Board of Appeals a written notice of appeal, which includes:

##### (a)

A concise written statement indicating what relief is required/requested and why it should be granted.

##### (b)

A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

##### (3)

Upon being notified of an appeal from a decision of a Code Enforcement Officer, the Code Enforcement Officer shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from. Upon being notified of an appeal from a decision of the Planning Board, City planning staff shall have prepared and transmitted to the Board of Appeals a written certified transcript of the Planning Board proceedings from which an appeal is being taken.

#### G.

Public hearing. Before making any decisions or taking action on any appeal, the Board of Appeals shall, within 35 days of its receipt of an appeal request, hold a public hearing. The Board shall notify the appellant, the Code Enforcement Officer, the Planning Board, the municipal officers, the Kennebec Journal and owners of abutting property at least 10 days in advance of the hearing specifying the nature of the appeal and the time and place of the hearing.

##### (1)

Whenever an appeal is filed of a decision made by the Planning Board where abutters were notified, all abutters initially notified shall be notified of the upcoming appeal.

##### (2)

In the case of appeals from decisions made by the Planning Board, the public hearing shall be limited to the certified transcript and record of the Planning Board proceedings; no new information shall be considered.

##### (3)

The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked only through the Chair. All persons at the hearing shall abide by the order of the Chair.

#### H.

Appeal decision.

[\(1\)](#)

Within 30 days of the public hearing, the Board of Appeals shall reach a decision and shall inform, in writing, the appellant and the Code Enforcement Officer of its decision and its reasons therefor. Upon notification of the decision of the Board of Appeals, the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Board of Appeals, or deny a permit.

[\(2\)](#)

All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefor, and the appropriate order, relief or denial thereof.

[\(3\)](#)

All variances granted by the Board of Appeals but not recorded at the Registry of Deeds by the applicant within 90 days of granting shall be void.

[I.](#)

Appeals from the Board of Appeals. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with state laws within 30 days from the date of any decision of the Board of Appeals.

[J.](#)

Reconsideration. The Board of Appeals may reconsider any of its decisions within 30 days of its prior decision.

## DERIVATION TABLE

### Chapter DT. Derivation Table

In order to assist Code users in the transition to the new Code's organization, the Derivation Table indicates where chapters and articles of the 1990 Code have been included in the 2015 Code, or the reason for exclusion.

#### § DT-1. Derivation Table of 1990 Code to 2015 Code

NI = Not included in Code.

#### **Chapter/Title From 1990 Code**

#### **Location in 2015 Code**

#### **Part I, Charter and Related Laws**

Subpart A, Charter

City Charter

Subpart B, Charter of the Augusta Sanitary District

NI

Subpart C, Charter of the Augusta Water District

NI

Subpart D, Charter of the Augusta Parking District

NI

Subpart E, Rules and Regulations of the Augusta Parking District

NI

#### **Part II, Code of Ordinances**

Ch. 1, General Provisions

Ch. [1](#), Arts. II and III

Ch. 2, Administration

Art. I, In General	Ch. <a href="#">5</a>
Art. II, City Council	Ch. <a href="#">23</a>
Art. III, Officers and Employees	
Div. 1, Generally	NI
Div. 2, Reserved	NI
Div. 3, Director of Finance and Administration	Ch. <a href="#">70</a> , Art. <a href="#">IV</a>
Div. 4, City Clerk	Ch. <a href="#">70</a> , Art. <a href="#">I</a>
Div. 5, Corporation Counsel	Ch. <a href="#">70</a> , Art. <a href="#">II</a>
Div. 6, City Auditor	Ch. <a href="#">70</a> , Art. <a href="#">III</a>
Div. 7, Augusta Development Commission	Ch. <a href="#">14</a> , Art. <a href="#">I</a>
Art. IV, Personnel Rules and Regulations	Ch. <a href="#">75</a>
Art. V, Finance	Ch. <a href="#">42</a>
Art. VI, Procurement	Ch. <a href="#">83</a>
Art. VII, Advertising Policy	Ch. <a href="#">9</a>
Ch. 3, Amusements	Ch. <a href="#">115</a>
Ch. 4, Animals and Fowl	Ch. <a href="#">119</a>
Ch. 5, Bicycles	Ch. <a href="#">126</a>
Ch. 6, Development Services	
Art. I, In General	Ch. <a href="#">70</a> , Art. <a href="#">V</a>
Art. II, Code Enforcement	
Div. 1, Generally	Ch. <a href="#">134</a>
Div. 2, Safe and Sanitary Housing Code	Ch. <a href="#">173</a>
Div. 3, Mineral Extraction Ordinance	Ch. <a href="#">198</a> , Art. <a href="#">I</a>
Div. 4, Blasting Ordinance	Ch. <a href="#">130</a>
§§ 6-92 — 6.99, Vacant and Abandoned Building Registration	Ch. <a href="#">137</a>
Art. III, Planning	
Div. 1, Generally	NI
Div. 2, Planning Board	Ch. <a href="#">14</a> , Art. <a href="#">II</a>
Div. 3, Regional Planning Commission	Ch. <a href="#">14</a> , Art. <a href="#">III</a>
Div. 4, Regional Council of Governments	Ch. <a href="#">14</a> , Art. <a href="#">IV</a>
Div. 5, Historic Preservation	Ch. <a href="#">169</a>
Div. 6, Reserved	NI
Div. 7, Subdivisions	Ch. <a href="#">245</a> , Art. <a href="#">I</a>
Art. IV, Streets and Sidewalks	
Div. 1, Generally	Ch. <a href="#">241</a> , Art. <a href="#">I</a>
Div. 2, Development of New Streets	Ch. <a href="#">241</a> , Art. <a href="#">II</a>
Div. 3, Reserved	NI
Div. 4, Sewers, Drains and Drainage	Ch. <a href="#">229</a>

Art. V, Airport	Ch. <a href="#">14</a> , Art. <a href="#">V</a>
Art. VI, Property Assessed Clean Energy (PACE) Ordinance	Ch. <a href="#">142</a> , Art. <a href="#">I</a>
Ch. 6.2, Public Works	
Art. I, In General	Ch. <a href="#">70</a> , Art. <a href="#">VI</a>
Art. II, Streets and Sidewalks	
Div. 1, Generally	Ch. <a href="#">241</a> , Art. <a href="#">III</a>
Div. 2, Reserved	NI
Div. 3, Excavations	Ch. <a href="#">198</a> , Art. <a href="#">II</a>
Div. 4, Sewers, Drains and Drainage	Ch. <a href="#">241</a> , Art. <a href="#">IV</a>
Div. 5, Snow Removal	Ch. <a href="#">241</a> , Art. <a href="#">V</a>
Art. III, Solid Waste	Ch. <a href="#">237</a>
Ch. 6.5, Community Services	
Art. I, In General	
§ 6.5-1, Director	Ch. <a href="#">70</a> , Art. <a href="#">VII</a>
§ 6.5-2, Truant officers	Ch. <a href="#">70</a> , Art. <a href="#">VIII</a>
§ 6.5-3, Reserved seats at Civic Center	Ch. <a href="#">215</a> , Art. <a href="#">I</a>
§ 6.5-4, Pesticides	Ch. <a href="#">142</a> , Art. <a href="#">II</a>
Art. II, Reserved	NI
Art. III, Health and Welfare	
Div. 1, Generally	Ch. <a href="#">165</a>
Div. 2, General Assistance	Ch. <a href="#">157</a>
Div. 3, Smoking	Ch. <a href="#">233</a>
Art. IV, Libraries	Ch. <a href="#">186</a>
Art. V, Museums	Ch. <a href="#">64</a>
Art. VI, Conservation	
Div. 1, Generally	NI
Div. 2, Conservation Commission	Ch. <a href="#">14</a> , Art. <a href="#">VI</a>
Art. VII, Parks and Recreation	
Div. 1, Generally	Ch. <a href="#">215</a> , Art. <a href="#">II</a>
Div. 2, Conduct in Public Parks	Ch. <a href="#">215</a> , Art. <a href="#">III</a>
Div. 3, Harbor Rules and Regulations	Ch. <a href="#">215</a> , Art. <a href="#">IV</a>
Art. VIII, Trees	Ch. <a href="#">254</a>
Art. IX, Cemeteries	Ch. <a href="#">20</a>
Ch. 7, Elections	Ch. <a href="#">31</a>
Ch. 8, Emergency Management	Ch. <a href="#">35</a>
Ch. 9, Reserved	NI
Ch. 10, Reserved	NI
Ch. 11, Licenses, Permits and Miscellaneous Business Regulations	

Art. I, In General	Ch. <a href="#">190</a> , Part <a href="#">1</a>
Art. II, Bottle Clubs	Ch. <a href="#">190</a> , Part <a href="#">2</a>
Art. III, Licensing of Commercial Solid Waste and/or Septage Waste Facilities	Ch. <a href="#">190</a> , Part <a href="#">3</a>
Art. IV, Franchising and Regulation of Cable Television Systems	Ch. <a href="#">190</a> , Part <a href="#">4</a>
Art. V, Alarm Systems	Ch. <a href="#">190</a> , Part <a href="#">5</a>
Art. VI, Massage Establishments and Massage Therapists	Ch. <a href="#">190</a> , Part <a href="#">6</a>
Art. VII, Tattooing	Ch. <a href="#">190</a> , Part <a href="#">7</a>
Ch. 12, Reserved	NI
Ch. 13, Offenses and Miscellaneous Regulations	Ch. <a href="#">207</a>
Ch. 14, Reserved	NI
Ch. 15, Reserved	NI
Ch. 16, Public Safety	
Art. I, In General	NI
Art. II, Operation	Ch. <a href="#">79</a>
Art. III, Fire Prevention and Protection	Ch. <a href="#">148</a>
Art. IV, Consumer Fireworks	Ch. <a href="#">151</a>
Ch. 17, Reserved	NI
Ch. 18, Motor Vehicles and Traffic	Ch. <a href="#">270</a>
Ch. 19, Vehicles for Hire	Ch. <a href="#">250</a>
<b>Appendix</b>	
A, Land Use Ordinance	Ch. <a href="#">300</a>

## DISPOSITION LIST

### [Chapter DL. Disposition List](#)

The following is a chronological listing of legislation of the City of Augusta adopted since the 2015 publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] The last legislation reviewed for the 2015 publication of the Code was Ord. No. 15-161, adopted 10-1-2015.

#### [§ DL-1. Disposition of legislation.](#)

#### **Ord. No. Adoption Date Subject Disposition**