

CHAPTER 9

LAND USE CONTROL

SUBCHAPTER I – GENERAL PROVISIONS

DIVISION A – PREAMBLE

SECTION 9-101 TITLE

This Chapter 9 shall be known and may be cited as the "Hallowell Land Use Ordinance." It will be referred to in this Chapter 9 as "this Chapter".

[Derivation: Section 1.1, 1989 Zoning Ordinance]

SECTION 9-102 AUTHORITY

This Chapter is adopted pursuant to the enabling provisions of 30-A M.R.S.A. § 3001; the Mandatory Shoreland Zoning Act, 38 M.R.S.A. §§ 435 – 448 and rules issued thereunder; and the National Flood Insurance Act of 1968, as amended, 42 USC §§ 4001, et. seq. and regulations issued thereunder.

[Derivation: Section 1.2, 1989 Zoning Ordinance]

SECTION 9-103 PURPOSE

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 of land throughout the municipality; to promote traffic safety; to provide safety from fire and other elements; to provide adequate light and air; to prevent overcrowding of real estate; to promote a wholesome home environment; to provide an allotment of land area in new developments sufficient for adequate enjoyment of community life; to conserve natural resources; to protect shoreland areas; to provide for adequate public services; to achieve the objectives and policies of the Hallowell Comprehensive Plan; and to preserve and protect the Historic District.

[Derivation: Section 1.3, 1989 Zoning Ordinance]

SECTION 9-104 JURISDICTION

The provisions of this Chapter shall govern all land and all structures within the boundaries of the City of Hallowell in concert with this Code and other ordinances of the City.

[Derivation: Section 1.4, 1989 Zoning Ordinance]

SECTIONS 9-105 THROUGH 9-120 (Reserved)

DIVISION B – LEGAL STATUS PROVISIONS

SECTION 9-121 CONFLICTS WITH OTHER LAWS

This Chapter shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit, or provision of the Federal, State or the City. Where this Chapter imposes a greater restriction upon the use of land, buildings, or structures than otherwise provided under this Code or under the State or Federal law, this Chapter shall control.

[Derivation: Section 2.1, 1989 Zoning Ordinance]

SECTION 9-122 VALIDITY AND SEVERABILITY

Should any section or provision of this Chapter be declared by the Courts to be invalid, such decision does not invalidate any other section or provision of this Chapter.

[Derivation: Section 2.2, 1989 Zoning Ordinance]

SECTION 9-123 CHANGES AND AMENDMENTS

No amendment of this Chapter shall be finally adopted until after the City Council or the Planning Board has held a public hearing on the proposed amendment. Public notice shall be made at least 7 days prior to the hearing. Amendments to this Chapter shall be considered following petition, recommendation of the Planning Board, or motion of the Council.

Copies of amendments to this Chapter that effect the shoreland zone, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the City Council and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the City within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

[Derivation: Section 2.3, 1989 Zoning Ordinance; Ord. No. 11-02b, eff. 8/18/2011]

SECTION 9-124 REPEAL OF CONFLICTING ORDINANCES

The 1989 Zoning Ordinance of the City of Hallowell, as amended, and all ordinances in conflict with this Chapter, are hereby repealed and replaced upon the adoption of this Chapter.

[Derivation: Section 2.4, 1989 Zoning Ordinance]

SECTION 9-125 REPETITIVE PETITIONS

No proposed change by Petition in this Chapter which has been unfavorably acted upon by the City Council shall be considered on its merits by the City Council within two years after the date of such unfavorable action unless adoption of the proposed change is recommended by vote of five of the seven members of the Planning Board.

[Derivation: Section 2.5, 1989 Zoning Ordinance]

DIVISION C - DEFINITIONS

SECTION 9-151

The following enumerated words and terms are defined and used in this Chapter as follows:

1. Abandonment. The relinquishment of property, or a cessation of the use of the property, by the owner without the intention of transferring rights to the property to another owner or resuming the use of the property.

[Derivation: Section 9.1, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 1.1 Accessory Dwelling Unit (ADU). A small apartment with less than seven hundred fifty (750) square feet of floor area that is located in and is accessory to a single-family home. For the purposes of density and lot area requirements, an ADU shall not be considered to be a dwelling unit even if it allows fully independent living. An ADU must be incorporated into the building in such a manner that the building's visual character as a single-family home as seen from public streets is maintained.

[Derivation: Ord. No. 12-10, effective 10/19/2012]

2. 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. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or common wall, is considered part of the principal structure. Personal recreational facilities may be accessory to a residential structure.

[Derivation: Ordinance No. 97-8 effective 11/20/97; Ord. No. 09-07, eff. 7/23/2009]

3. Adult business establishment. Any retail or service business whether conducted from a fixed or mobile location or vehicle including, but not limited to, any bookstore, newsstand, novelty store, nightclub, bar, cabaret, amusement arcade, or theater which:

- A. Keeps for public patronage or permits or allows the operation or use of any adult amusement device containing sexually explicit material; or
- B. Permits any person on the premises including an employee, entertainer, or patron to expose that person's genitals, pubic hair, buttocks or perineum, or the areola of a female breast, to a patron or member of the general public.
- C. Exhibits or displays, more often than an average of one week during any calendar month of operation, any motion pictures or any other visual representation described or advertised as being "X-rated" or "for adults only," or which customarily excludes persons from any portion of the premises by reason of immaturity of age by the use of such or similar phrases; or
- D. Has a substantial portion of its stock in trade that consists of products containing sexually explicit material; or
- E. "Distributes" or "exhibits" any "obscene matter" as those terms are defined by 17 M.R.S.A. §§2911, subsection 1.

[Derivation: Section 9.2A, 1989 Zoning Ordinance as adopted 9/28/92 and amended 12/11/95; Ord. No. 09-07, effective 7/23/2009]

- 4. Alteration. Any change or modification in construction or change in the structural members of a building or structure such as bearing walls, columns, beams or girders, or in the use of a building.

[Derivation: Section 9.3, 1989 Zoning Ordinance]

- 5. Aggrieved party. A person whose land is directly or indirectly adversely affected by the granting or denial of a permit, approval, license, or variance under this Chapter, or whose land abuts or is across a road or street from land for which a permit, approval, license, or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

[Derivation: Section 9.4, 1989 Zoning Ordinance; Ord. No. 01-07, Effective 5/17/01; Ord. No. 09-07, effective 7/23/2009; Ord. No. 11-02b. eff. 8/18/2011]

- 5.1 Agriculture. See Farming

[Derivation: Ord. No. 09-07, effective 7/23/2009]

- 6. Amusement facilities:

- A. Amusement Park. A commercial facility containing powered apparatus, such as ferris wheels, water slides or similar devices.

- B. Commercial Indoor Recreational Center. Any commercial enterprise which receives a fee in return for the provision of some recreational activity including, but not limited to video arcades, pool halls, and pinball arcades.
- C. Outdoor Recreation Facility. Any outdoor recreational use including, but not limited to, golf courses, tennis courts, riding stables, swimming pools, or ice skating rinks, but not including campgrounds, drive-in movie theaters, race tracks, water slides, miniature golf and mechanical or motorized rides.

[Derivation: Section 9.5, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 7. Animal breeding. The keeping or raising of animals, including domestic animals and pets, for any commercial use. This definition also includes kennels.

[Derivation: Section 9.6, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 7.1 Aquaculture. The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

[Derivation: Ord. No. 09-07, effective 7/23/2009]

- 8. Automobile graveyard, junkyard. Any use or activity involving the abandonment, demolition, dismantling, storage, or salvaging of automobiles or other vehicles not in running condition, machinery, or parts thereof.

[Derivation: Section 9.7, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 8.1 Automobile Service and Sales Business. Any establishment involving the provision of maintenance or repair services for motor vehicles and/or the sale of new or used motor vehicles including passenger cars, light trucks, and recreational vehicles.

[Derivation: Ord. No. 09-07, effective 7/23/2009]

- 8.5 Basal area. The area of cross-section of a tree stem at four and a half (4.5) feet above ground level and inclusive of bark.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 9. Bed and Breakfast. A residence occupied by the owner or a resident manager, that offers transient lodging, with or without meals, to the public. There shall be no more than five (5) lodging accommodations on the premises, there shall be one parking space for each lodging accommodation, and meals shall not be offered to the general public but shall be limited to those persons lodging on the premises.

[Derivation: Section 9.8, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

10. Boarding Home for sheltered care. A profit or nonprofit boarding house, rest home, or other home for the sheltered care of adult persons which, in addition to providing food and shelter to four or more persons unrelated to the proprietor, also provides any personal care or service beyond food, shelter, and laundry.

[Derivation: Section 9.9, 1989 Zoning Ordinance]

11. Boarding Home. Any residential structure where lodging and meals are provided for compensation for a period of at least two weeks, and where a family or full time manager residing in the building acts as proprietor or owner. Individual rooms may not have full kitchens but may have incidental provisions for food storage and preparation.

[Derivation: Section 9.10, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 11.5 Boat launching facility. A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

12. Building. A structure for the support, shelter or enclosure of persons, animals, goods or property of any kind.

[Derivation: Section 9.11, 1989 Zoning Ordinance]

13. Building Inspector. The Building Inspector of the City, also referred to as the Code Enforcement Officer.

[Derivation: Section 9.12, 1989 Zoning Ordinance]

14. Business and professional offices. The place of business of doctors, lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance businesses, psychiatrists, counselors, consultants, and the like or in which a business or organization conducts its administrative, financial or clerical operations including the administrative and clerical functions of banks and other financial services.

[Derivation: Section 9.13, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

15. Campground. Any area or tract of land used for commercial purposes to accommodate two or more parties, in temporary living quarters, including tents, trailers or other shelters.

[Derivation: Section 9.14, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 15.2 Canopy (tree canopy). The more or less continuous cover formed by tree crowns in a wooded area.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

16. Cemetery. Property used for the interring of the dead or their ashes.

[Derivation: Section 9.15, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

17. Child care center. A private establishment providing day care for eight (8) or more children under the age of 16 which charges for the day care of the children and holds all legally required licenses and approvals.

[Derivation: Section 9.16, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

18. Child care home. A private home providing day care for less than eight (8) children under the age of sixteen (16) which charges for the day care of children and which holds all legally required licenses and approvals.

[Derivation: Section 9.17, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

19. Church/Place of Worship. A building or structure, or group of buildings or structures, designed, primarily intended or used for the conduct of religious services and accessory uses associated therewith, but excluding schools.

[Derivation: Section 9.18, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

20. Club. A meeting place for a group of people organized for a common purpose to pursue common goals, interests or activities, such as social or recreational, and usually characterized by certain membership qualifications, payment of fees or dues, and a constitution and bylaws.

[Derivation: Section 9.19, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

21. Cluster development. A development consisting exclusively of residential dwelling units, planned and developed as a whole or in a programmed series of developments, and controlled by one developer or individual on a tract five acres or larger which contemplates an imaginative, more compact grouping of dwelling units. Cluster developments treat the developed area as an entirety to promote flexibility in design, architectural diversity, the efficient use of land, a reduction in the length or size of road and utility systems, the creation of common open space, and the retention of the natural characteristics of the land.

[Derivation: Section 9.20, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 21.8 Coastal wetland. All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any

swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

22. Code Enforcement Officer. The person appointed by the Mayor to administer and enforce this Chapter, pursuant to Section 9-181. Reference to the Code Enforcement Officer includes the Building Inspector and Plumbing Inspector, where applicable.

[Derivation: Section 9.21, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

23. Commercial center. A commercial activity and premises of a moderate capacity [not including retail sales unless it is incidental or accessory to a main function], which occupy premises owned or managed as a single or corporate entity, which may or may not accommodate more than one business and/or involve between 5,000 and 40,000 square feet of gross floor space.

[Derivation: Section 9.22, 1989 Zoning Ordinance]

[Derivation: Ordinance No.: 03-14, Effective September 18, 2003; Ord. No. 09-07, effective 7/23/2009]

24. Commercial activity. Any activity carried out for pecuniary gain.

[Derivation: Section 9.23, 1989 Zoning Ordinance]

25. Commercial complex. Any concentration of retail stores or service establishments occupying premises which are owned or managed as a single or corporate entity, including large department stores, grocery stores, or similar uses, which occupy more than 12,000 square feet of gross floor space.

[Derivation: Section 9.24, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

26. Community center. A building maintained by a governmental or non-profit organization, which is reasonably available to local area residents for social, cultural, or recreational activities and meetings or for educational or professional advisory services. Accommodations for meals may be included in services provided.

[Derivation: Section 9.25, 1989 Zoning Ordinance as amended 5/9/94; Ord. No. 09-07, effective 7/23/2009]

27. Community living use. A State-approved, authorized, certified or licensed group home, foster home, or intermediate care facility that provides housing for 8 or fewer persons with disabilities as defined by the term "handicapped" in the federal Fair Housing Act.

[Derivation: Section 9.26, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

28. Community uses. Non-commercial activities such as police and fire protection, schools, library and rescue services, etc., that are not hereinafter defined as a utility.

[Derivation: Section 9.27, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

29. Conditional use. A use of land or a building that would be generally appropriate with certain restrictions and controls to meet the intentions and purposes of this Chapter. Conditional uses are permitted only after review and approval by the Planning Board.

[Derivation: Section 9.28, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

30. Condominium. Real estate, portions of which are designated for separate ownership and the remainder of which are designed for common ownership solely by the owners of those portions under a declaration, or an amendment to a declaration, duly recorded pursuant to Maine law. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Any real estate development consisting exclusively of clustered, detached, single family residences is not a condominium, unless so designated in the declaration.

[Derivation: Section 9.29, 1989 Zoning Ordinance]

31. Conforming. A building, structure, use of land, or portion thereof, which complies with all the applicable provisions of this Code.

[Derivation: Section 9.30, 1989 Zoning Ordinance]

- 31.5 Continuing care facility. A facility in which continuing care is provided to residents in accordance with a Certificate of Authority issued by the Maine Bureau of Insurance pursuant to 24-A M.R.S.A. §6201 et seq. or its successor. For purposes of this definition, "continuing care" means furnishing shelter for the life of an individual or for a period in excess of one year and either health care, supportive services, or both, under an agreement requiring payment.

[Derivation: Ordinance No.: 05-03, Effective May 20, 2005]

32. Corner lot. A lot located at the intersection of a street, road or public right-of-way and a street, road or public right-of-way.

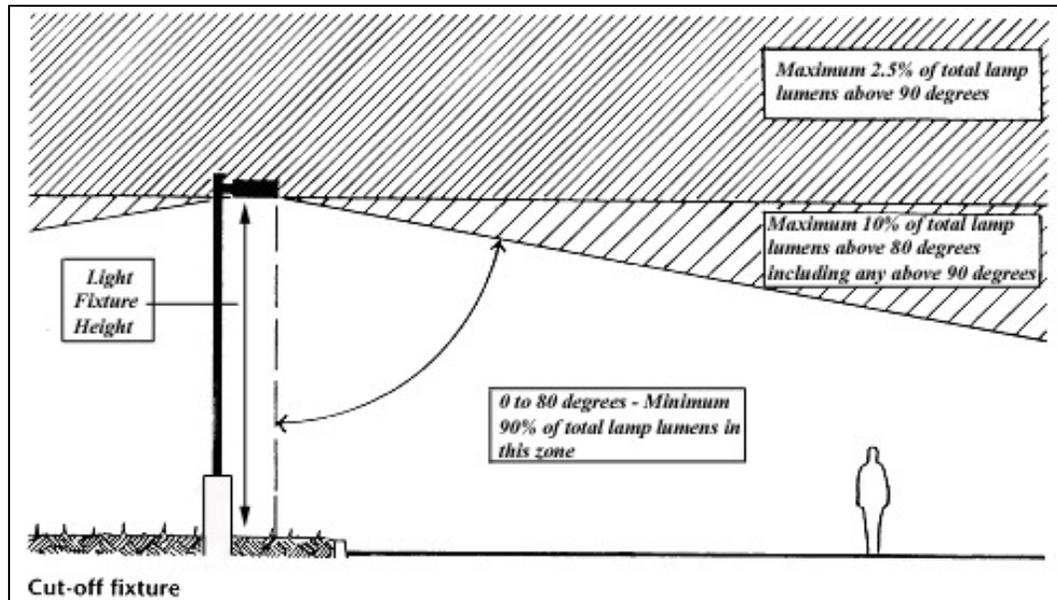
[Derivation: Section 9.31, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 32.2 Cross-sectional area (of a stream). The cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or

tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 32.5 Cut-off fixture. A lighting fixture or luminaire that controls glare by directing light well below the horizontal. A cut-off fixture limits the direction of light so that a maximum of 2.5% of the total lamp lumens shine above 90 degrees or a line parallel to the surface of the ground and a maximum of 10% of the lamp lumens shine above 80 degrees, including any above 90 degrees, as shown in the following sketch.



[Derivation: Ord. No.: 08-07, eff. 10/24/2008]

- 32.9 DBH (diameter at Breast Height). The diameter of a standing tree measured four and a half (4.5) feet from the ground level.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

33. Deck. A level structure attached or adjacent to a building elevated above the surface of the ground which may have a railing, awning or other covering.

[Derivation: Section 9.32, 1989 Zoning Ordinance]

34. Density. The number of families, individuals, dwelling units, or housing structures per unit of land.

[Derivation: Section 9.33, 1989 Zoning Ordinance]

- 34.3 Development. A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 34.5 Disruption of shoreline integrity. The alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 34.8 Driveway (for Shoreland purposes). A vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

35. Dwelling. Any building or structure or portions thereof containing one or more dwelling units, but not including a residential care facility, continuing care facility, motel, hotel, inn, or similar use.

- A. Single Family Dwelling: A building designed or intended to be used exclusively for residential occupancy by one family only and containing only one (1) dwelling unit.
- B. Duplex: A building designed or intended to be used exclusively for residential occupancy by two (2) families living independently of one another and containing two (2) dwelling units.
- C. Multi-Family Dwelling: A building or buildings designed or intended to be used exclusively for residential occupancy by three (3) or more families living independently of one another and containing three (3) or more dwelling units. Each individual unit which functions as separate living quarters is a dwelling unit.

[Derivation: Section 9.34, 1989 Zoning Ordinance]

[Derivation: Ord. No.: 05-03, eff. May 20, 2005; Ord. No. 09-07, effective 7/23/2009]

36. Dwelling unit. One or more habitable rooms arranged, designed, or intended to be used as a house-keeping unit for one or more persons living together as a family (see definition of family) with independent living, cooking, sleeping, bathing and

sanitary facilities. For purposes of Minimum Land Area requirements only, a unit within a residential care facility or continuing care facility shall not be considered a dwelling unit.

[Derivation: Section 9.35, 1989 Zoning Ordinance; Ord. No.: 05-03, Effective May 20, 2005; Ord. No. 09-07, effective 7/23/2009]

36.5 Emergency operations. 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.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

37. Essential services. Facilities owned or used for the transmission or distribution of water, gas, electricity or communications or for the collection, treatment or disposal of wastes, including without limitation, poles, wires, mains, drains, sewers, pipes, water storage tanks of the Hallowell Water District, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories but not other storage facilities or buildings or towers as herein defined which are necessary for the furnishing of such services or service drops.

[Derivation: Section 9.36, 1989 Zoning Ordinance]

[Derivation: Ordinance No.: 00-9, Eff. April 20, 2000; Ord. No. 09-07, effective 7/23/2009; Ord. No. 11-02b, eff. 8/18/2011]

38. Extractive industries. The excavation, processing or storage of earth materials such as soil, topsoil, peat, loam, sand, gravel, rock or other mineral deposits, not including:

- A. The excavation of material incidental to and at the site of approved construction of buildings, structures, driveways or parking areas;
- B. The excavation of material incidental to and at the site of construction or repair of streets; and
- C. The excavation, processing or storage of less than one hundred (100) cubic yards of material on a lot within a one year period.

[Derivation: Section 9.37, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

39. Family. One or more persons occupying a dwelling unit and living as a single housekeeping unit, as distinguished from a group occupying a tourist home, rooming house, hotel, motel or inn.

[Derivation: Section 9.38, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

40. Farming. A commercial activity involving growing food products, nursery stock, or other useful or valuable plants, and/or the raising of animals such as beef and dairy cattle, sheep and chickens. Farming includes the buildings and structures used in the agricultural activity. Structures accessory to a principal farming use include, without limitation, a single family dwelling, garage, a barn, a chicken coop, personal recreational facilities, and a roadside stand, but do not include a convenience store, gas station, or other commercial building.

[Derivation: Section 9.39, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

41. Fill. Sand, gravel, earth or other natural materials of any composition whatsoever placed or deposited by humans.

[Derivation: Section 9.40, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

42. Financial institutions. Banks, savings and loan institutions, and credit unions.

[Derivation: Section 9.41, 1989 Zoning Ordinance]

43. Flood plain. The area subject to inundation during the 100-Year or Base Flood as identified on the City's Flood Insurance Rate Maps (FIRM) prepared by the Federal Emergency Management Agency (FEMA).

[Derivation: Section 9.42, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 43.5 Floodway. The channel of a river or other watercourse and adjacent land areas that shall be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one floor in height.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

44. Floor area. The total number of square feet of floor area of all floors in a building, excluding unfinished cellars, uncovered steps, and uncovered porches or decks. In the Resource Protection and Shoreland Overlay Districts, the area of uncovered porches and decks shall be included in the total floor area.

[Derivation: Section 9.43, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009; Ord. No. 11-02b, eff. 8/18/2011]

- 44.5 Foot-candle. A measure of light falling on a given surface. One foot-candle is equal to the amount of light generated by one candle shining on a square foot surface one foot away.

[Derivation: Ord. No.: 08-07, eff. 10/24/2008]

- 44.6 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.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

44.7 Forest stand. A contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

44.8 Forested wetland. A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

45. Forestry conservation. Timber cruising and other forest resource evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands and other similar associated activities, but not the construction or creation of roads.

[Derivation: Section 9.44, 1989 Zoning Ordinance]

45.5 Foundation. The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

45.7 Freshwater wetland (see also 38 MRSA § 480-B.4). Freshwater swamps, marshes, bogs and similar areas that are:

- A. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
- B. Not considered part of a coastal wetland, river, stream or brook.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

46. Frontage. The length of a lot bordering on a public or private street, road or right-of-way. In the case of land fronting on public waters frontage is the length in a straight line measured between the intersections of the side lot lines with the shoreline at

normal high water elevation.

[Derivation: Section 9.45, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

47. Front yard. A space extending for the full width of a lot between the extreme front line of a building and the nearest street, road or right-of-way.

[Derivation: Section 9.46, 1989 Zoning Ordinance]

48. Functionally water-dependent uses. Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not 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 fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not functionally water-dependent uses.

[Derivation: Section 9.47, 1989 Zoning Ordinance; Ord. No. 11-02b, eff. 8/18/2011]

- 48.5 Glare. Excessive brightness that makes it difficult to see or that causes discomfort. Glare includes direct glare, disability glare, and discomfort glare as follows:

Direct glare means glare resulting from insufficiently shielded light sources or areas of excessive luminance within the field of view.

Disability glare means the effect of stray light in the eye whereby visibility and visual performance are reduced.

Discomfort glare means glare producing discomfort. It does not necessarily interfere with visual performance or visibility.

[Derivation: Ord. No.: 08-07, eff. 10/24/2008]

- 48.8 Ground cover. Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

49. Ground area. The total number of square feet of horizontal surface covered by a building, including covered steps and porches. The term shall be deemed to mean "footprint of a building."

[Derivation: Section 9.48, 1989 Zoning Ordinance]

50. Half story. A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than one-half (1/2) of the floor area is finished off for use.

[Derivation: Section 9.49, 1989 Zoning Ordinance]

- 50.5 Harvest Area. The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

51. Hazardous material. Any gaseous, liquid or solid materials, including asbestos and asbestos containing materials according to current guidelines of the U.S. Environmental Protection Agency, or substances designated as hazardous by the United States Environmental Protection Agency and/or the Maine Department of Environmental Protection.

[Derivation: Section 9.50, 1989 Zoning Ordinance]

52. Height of building. The vertical distance between the mean finished grade at the building or structure and the highest point of the roof, not including chimneys, spires, towers, widow's walks, cupolas, or similar auxiliary structures. The dimensional requirements for zoning districts may contain specific height standards.

[Derivation: Section 9.51, 1989 Zoning Ordinance]

[Derivation: Ordinance No.: 03-03, Effective March 21, 2003; Ord. No. 09-07, effective 7/23/2009]

53. High water mark or line, normal:
- A. Tidal. The line on the shore of tidal waters reached by the shoreward limit of the rise of the maximum spring tide.
 - B. Non-tidal Waters. That line which is apparent from visible markings, 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. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

[Derivation: Section 9.52, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009; Ord. No. 11-02b, eff. 8/18/2011]

54. Home occupation. A business or profession which is carried on in a dwelling unit, or other structure accessory to a dwelling unit, by a member of the family residing in the dwelling unit, which use is clearly incidental and secondary to the use of the dwelling unit for residential purposes. The retail sales of products does not qualify as a home business unless the item(s) sold is a product of the owner's labor, (e.g. manufactured, produced, created, grown, caught).

[Derivation: Section 9.53, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

55. Household pet. A tame or domesticated small animal such as a cat or dog living primarily within or at a dwelling unit.

[Derivation: Section 9.54, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

56. Hotel. A commercial building or group of buildings that accommodates, for a fee, travelers and other transient guests who are staying for a limited duration in sleeping rooms, each rental unit having its own private bathroom and its own separate entrance leading either to the outdoors or to a common corridor or hallway. A hotel room may not have a full kitchen but may have incidental provisions for food storage and preparation. A hotel or motel may include restaurant facilities where food is prepared and meals served to its guests and other customers.

[Derivation: Section 9.55, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 56.5 Impervious Area. The area of the surface of the ground that is covered by materials or surfaces that prevent the direct infiltration of precipitation into the soil such as buildings, paving, gravel roads or drives, swimming pools, and solid decks or porches.

[Derivation: Ord. No.: 08-07, eff. 10/24/2008]

- 56.7 Individual private campsite. An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

57. Inn. A building, which contains a dwelling unit occupied by an owner or resident manager, in which lodging rooms and meals are offered to the general public for compensation, and in which entrance to bedrooms is made through a lobby or other common room. Inn includes such terms as guest house, lodging house and tourist house.

[Derivation: Section 9.56, 1989 Zoning Ordinance]

58. Junkyard. Any land used for the abandonment, storage, keeping, collection or bailing of paper, rags, scrap metals or discarded materials.

[Derivation: Section 9.57, 1989 Zoning Ordinance]

59. Kennel. An establishment in which more than four (4) dogs or more than four (4) cats are sold, housed, bred, boarded, or trained for a fee (see Animal Breeding).

[Derivation: Section 9.58, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 59.3 Land management road. A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 59.7 Licensed forester. A forester licensed under 32 M.R.S.A. Chapter 76.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

60. Light manufacturing. A business establishment of less than 1600 square feet engaged in manufacturing, packaging, processing, assembling, or testing of goods or products, provided that all operations shall be carried on indoors and in such a manner as to confine smoke, fumes, dust, odors, and noise to the premises, and that no operations constitute a hazard by reason of the potential for fire, explosion, radiation or hazardous waste release into the air or water, or other casualty.

[Derivation: Section 9.59, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

61. Lot. An area of land in single ownership, or single leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the Kennebec County Registry of Deeds.

A. Front Lot Line. On an interior lot the line separating the lot from the street or right of way. On a corner or through lot, the line separating the lot from either street or right of way.

B. Rear Lot Line. The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line is an imaginary line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line is opposite the front lot line of least dimension.

- C. Side Lot Line. Any lot line other than the front lot line or rear lot line.

[Derivation: Section 9.60, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 61.1 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.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 61.5 Lumen. A standard measure of light energy generated by a light source, normally reported by the manufacturer of the lamp or bulb.

[Derivation: Ord. No.: 08-07, eff. 10/24/2008]

62. Manufactured housing. Manufactured Housing shall be subject to the Statutory definition contained in Title 30-A M.R.S.A. Section 4358. As of 1987, the Statutory definition read as follows: A structural unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on 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 utilized for housing and may be purchased or sold by a dealer in the interim. For purposes of this Chapter, 2 types of manufactured housing are included. They 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 therein; except that the term shall include 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 standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.; and
- B. Those units commonly called "modular homes", which the manufacturer certifies are constructed in compliance with the state's Manufactured Housing Act and regulations, 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 therein.

[Derivation: Section 9.61, 1989 Zoning Ordinance]

63. Manufacturing. A business establishment engaged in the making of goods and products by hand or machinery including assembly, fabrication, finishing, packaging and processing.

[Derivation: Section 9.62, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 63.5 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.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

64. Marina. A shorefront commercial facility with provisions for one or more of the following: boat storage, boat launching, or the sale of supplies and services for watercraft and their equipment and accessories. The term shall also include any dock, pier, wharf, float, floating business, or combination of such facilities that serve five or more boats as a commercial enterprise or in association with a club.

[Derivation: Section 9.63, 1989 Zoning Ordinance]

65. Meeting and conference center. A facility used for conferences and seminars which may include accommodations for sleeping, eating, and recreation in which not more than twenty (20) percent of the rooms may be made available for transient trade.

[Derivation: Section 9.64, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 65.3 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.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 65.4 Mineral extraction. (See extractive industries).

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 65.6 Minimum lot width. The closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

66. Mobile Home Park. A contiguous parcel of land designed for the location of 2 or more manufactured homes, which is licensed as a mobile home park by the Maine Department of Business Regulation.

[Derivation: Section 9.65, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 66A. Moderate Manufacturing. A business establishment of no more than 40,000 (total) square feet engaged in manufacturing, packaging, processing, assembling or testing of goods or products, provided that all operations are carried on indoors and in such a manner as to confine smoke, fumes, dust, odors, and noise to the premises and that no operations constitute a hazard by reason of the potential for fire, explosion, radiation or hazardous waste release into the air or water, or other casualty.

[Derivation: Ordinance No.: 03-14, Effective: September 18, 2003; Ord. No. 09-07, effective 7/23/2009]

67. Motel. A building or group of detached or connected buildings designed or intended or used primarily to provide sleeping accommodations for travelers for short periods of time that has a parking space adjacent to the sleeping room, and where entrance to rooms is made directly from the outside of the building.

[Derivation: Section 9.66, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

68. Municipal recreation facility. A recreation facility owned and operated by the City of Hallowell and open to the general public.

[Derivation: Section 9.67, 1989 Zoning Ordinance]

69. Municipal use. A municipal or quasi-municipal entity funded in whole or in part by the City of Hallowell including, by way of illustration and without limitation, municipal buildings, public schools, public parks, public recreational facilities and fire stations.

[Derivation: Section 9.68, 1989 Zoning Ordinance]

- 69.5 Native. Indigenous to the local forests.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

70. Neighborhood grocery store. A retail store with less than 1600 square feet of sales area for food and convenience items, and serving the residents in the immediate vicinity.

[Derivation: Section 9.69, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

71. Net residential area. The area of a lot or lots which is useable for determining allowable densities in cluster developments.

[Derivation: Section 9.70, 1989 Zoning Ordinance]

72. Non-conforming. A building, structure, use of land, or portion thereof, that existed on the effective date of adoption or amendment of this Chapter which thereafter fails to

conform to all applicable provisions of this Chapter (see Section 9-162 of this Chapter).

[Derivation: Section 9.71, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

73. Non-hazardous solid waste. Waste which is not designated as hazardous material by the United States Environmental Protection Agency and/or the Maine Department of Environmental Protection.

[Derivation: Section 9.72, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

74. Non-hazardous solid waste facility. Any land, buildings, structures or combination thereof used for disposal of non-hazardous solid waste, excluding (1) municipality operated facilities for disposal of non-hazardous building materials and discarded vegetation resulting from normal property maintenance activities.

[Derivation: Section 9.72, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

75. Non-ionizing Electromagnetic Radiation (NIER). The lower portion of the electromagnetic spectrum which includes household electrical current, radio, television, and microwave communication, radar, and visible light.

[Derivation: Section 9.73-A, 1989 Zoning Ordinance as adopted 9/28/92; Ord. No. 09-07, effective 7/23/2009]

76. Nursing Homes. A privately operated establishment, licensed by the State of Maine, where nursing care and related medical services are provided twenty- four hours a day (see 22 MRSA §1812-A for more detail).

[Derivation: Section 9.74, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 76.5 Off-site Services Facility. A small business providing only off-site services related to agriculture, forestry, landscaping, or arboriculture and having not more than fifteen (15) employees. Off-site Services Facility specifically includes offices and equipment storage and maintenance. Off-site Services Facility specifically excludes any business manufacturing or providing goods or services on site.

[Derivation: Ord. No. 14-08, effective 11/20/2014]

77. Older mobile homes, trailers. "Older mobile homes" and "trailers" are terms that may be used interchangeably, and mean any factory built home which fails to meet the definition of "manufactured housing" as defined above including any mobile home constructed prior to June 15, 1976.

[Derivation: Section 9.75, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

78. Open space. Areas that are not otherwise included in Residential, Business, Downtown or Resource Protection Districts.

- A. Which is presently used for farming, agriculture, timber harvesting, or which is suitable for such use, or

- B. Which because of its nature or location is unsuited for any of the foregoing uses.

[Derivation: Section 9.76, 1989 Zoning Ordinance]

79. Outdoor conservation. Non-intensive recreational uses not requiring structures, such as hunting, fishing, hiking, snowmobiling, fire prevention activities, wildlife management practices, soil and water conservation practices, harvesting of wild crops, and public and private parks and recreation areas involving minimal structural development.

[Derivation: Section 9.77, 1989 Zoning Ordinance]

80. Parking space. A minimum area of 162 square feet, 18 feet by 9 feet, exclusive of drives, aisles or entrances, fully accessible for the storage or parking of vehicles.

[Derivation: Section 9.78, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

81. Patio. A level area adjacent to a dwelling unit constructed of stone, cement or other material located at ground level, with no railing or other structure above the level of the ground. The term does not include driveways.

[Derivation: Section 9.79, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 81.5 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.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 81.6 Personal Services. Establishments engaged in providing services involving the care of the person or personal apparel including, but not limited to, barber shops, beauty shops and manicurists, tailors, laundromats, shoe repair shops, tattoo parlors, and photographic studios.

[Derivation: Ord. No. 12-10, eff. 10/19/2012]

82. Piers, docks, wharves, breakwaters, causeways, marinas, bridges over 20 feet in length, and uses projecting into water bodies:

- A. Temporary. Structures which remain in the water for less than seven months in any period of twelve consecutive months.
- B. Permanent. Structures which remain in the water for seven months or more in any period of twelve consecutive months.

[Derivation: Section 9.80, 1989 Zoning Ordinance]

82.1 Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland.

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

83. Permitted use. Includes only uses listed as permitted uses in the zone in which it is located and not conditional uses or prohibited uses.

[Derivation: Section 9.81, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

83.5 Planned mixed-use development. A development in the Stevens School Planned Development District that meets the requirements of Section 9-387 Additional Requirements for a Planned Mixed Use Development.

[Derivation: Ord. No. 11-03, eff. 8/18/2011]

84. Planned unit development. A development planned and developed under unified management, consisting of mixed residential and commercial and/or community uses and developed as a whole according to a comprehensive and detailed plan, including streets, utilities, 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 in a single operation, or a programmed series of operations including all lands and buildings with provision for operation and maintenance of such areas and improvements and facilities necessary for common use by the occupants of the development.

[Derivation: Section 9.82, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

85. Planning Board. The Planning Board of the City of Hallowell established under Subchapter I of Chapter 8.

[Derivation: Section 9.83, 1989 Zoning Ordinance]

86. Principal structure. The structure in which the primary use of the lot is conducted.

[Derivation: Section 9.84, 1989 Zoning Ordinance]

86.5 Principal use. A use other than one which is wholly incidental or accessory to another use on the same premises.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

87. Public building. A building owned by a unit or agency of local government, the State of Maine or any of its agencies, or the United States Government or any of its agencies.

[Derivation: Section 9.85, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

88. Public and private schools. Institutions for education or instruction in any branch or branches of knowledge, or a place where knowledge is imparted and which satisfies either of the following requirements: the school is not operated for a profit or as a gainful business; or the school teaches courses of study which are sufficient to qualify attendance in compliance with state compulsory education requirements.

[Derivation: Section 9.86, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

89. Public utility. Any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public, or any structure or use of such entity, but excluding "Essential Services" as defined in Subsection 37.

[Derivation: Section 9.87, 1989 Zoning Ordinance]

[Derivation: Ordinance No.: 00-9, Eff. April 20, 2000]

89.5 Recent floodplain soils. The following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Alluvial	Cornish	Charles
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

90. Recreational facility. A commercial facility for leisure or recreational activities, including, but not limited to, tennis, racquetball, golf driving ranges, bowling alleys, ice or roller skating, arcades or miniature golf.

[Derivation: Section 9.88, 1989 Zoning Ordinance; Ord. No. 09-07, eff.7/23/2009]

91. Recreational vehicle. A self-propelled or drawn vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling such as a pick-up camper, travel trailer, tent trailer, or motor home.

[Derivation: Section 9.89, 1989 Zoning Ordinance; Ord. No. 09-07, eff.7/23/2009]

92. Recycling Center. An enclosed facility located and operated primarily for the convenience of residents of the City and devoted to the collection or redemption and separation of household non-organic waste products, including paper, cardboard, and plastic, glass and metal containers, for subsequent off-site reprocessing and recycling into usable products for sale to the general public.

[Derivation: Section 9.89-A, 1989 Zoning Ordinance as adopted 4/7/97]

- 92.5 Residential care facility. A facility licensed by the State of Maine Department of Health and Human Services per 22 M.R.S.A. §7801(1) or its successor, that provides residents with assisted housing and living services that include: assistance with activities of daily living and instrumental activities of daily living, personal supervision, protection from environmental hazards, meals, diet care, care management, diversional or motivational activities, medication administration, and nursing services. Such services are provided to residents in private or semi-private bedrooms in buildings with common living and dining areas.

[Derivation: Ordinance No.: 05-03, Effective May 20, 2005; Ord. No. 09-07, effective 7/23/2009]

- 92.7 Residual basal area. The average of the basal area of trees remaining on a harvested site.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 92.8 Residual stand. A stand of trees remaining in the forest following timber harvesting and related activities.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

93. Restaurant. An establishment where food and drink is prepared and consumed by the public on the premises. An establishment that provides for any consumption on the premises is a restaurant (see definition of retail business).

[Derivation: Section 9.90, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

94. Retail business. A business establishment engaged in the sale, rental, or lease of goods or services to the ultimate consumer for direct use or consumption and not for resale. Any establishment that provides food and/or drink entirely for take-out and consumption off the premises is a retail business (see definition of restaurant).

[Derivation: Section 9.91, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 94.5 Retail business, low-intensity. A retail business that due to the nature or scale of the business activity does not result in a large number of peak hour vehicle trips, have substantial exterior operations, or generate noise or other external impacts that are substantially greater than those associated with residential uses.

[Derivation: Ord. No. 11-03, eff. 8/18/2011]

95. Right-of-way. All public or private roads and streets, state and federal highways, private ways (now called public easements), and public land reservations for the purpose of public access, including utility rights-of-way.

[Derivation: Section 9.92, 1989 Zoning Ordinance]

- 95.5 Riprap. Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of one (1) unit vertical to two (2) units horizontal or less.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

96. River. Any free flowing body of water from that point at which it provides drainage for a water-shed of 25 square miles to its mouth.

[Derivation: Section 9.93, 1989 Zoning Ordinance]

- 96.1 River (for Shoreland purposes). A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth (the Kennebec River).

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 96.5 Road. See street.

[Derivation: Ord. No. 09-07, effective 7/23/2009]

97. Rooming House. Same as Boarding Home.

[Derivation: Section 9.94, 1989 Zoning Ordinance]

- 97.5 Service drop. Any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service
 - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and

- b. the total length of the extension is less than one thousand (1,000) feet.
- 2. in the case of telephone service
 - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
 - b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

98. Setback. The minimum horizontal distance from a lot line to the nearest part of a building.

[Derivation: Section 9.95, 1989 Zoning Ordinance]

- 98.1 Setback, shore (water or wetland). The nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a shoreland wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

99. Sexually explicit. The display or depiction of sex organs during actual or simulated sexual intercourse or sexual acts as defined in 17-A M.R.S.A. §251.

[Derivation: Section 9.95-A, 1989 Zoning Ordinance as adopted 9/28/92]

- 99.5 Shore frontage. The length of a lot bordering on a water body or shoreland wetland measured in a straight line between the intersections of the lot lines with the shoreline.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

100. Shoreland. All land areas subject to mandatory shoreland zoning as set forth in 38 M.R.S.A. §435.

[Derivation: Section 9.96, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 100.1 Shoreland freshwater wetland. (see also wetland) Freshwater wetlands, other than forested wetlands, that are of ten (10) or more contiguous acres; or if less than ten (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 ten (10) acres. Shoreland freshwater wetlands may contain small stream

channels or inclusions of land that do not conform to the criteria of this definition.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

100.5 Shoreland stream. (see also stream) A free-flowing body of water from the confluence of two (2) 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 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

100.7 Shoreland wetland. (see also wetland) A coastal wetland or shoreland freshwater wetland.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

100.8 Shoreline. The normal high-water line of a water body or upland edge of a freshwater or coastal wetland.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

101. Sign. An object, device or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

A. Billboard. A structure designed, intended or used for advertising a product, property, business, entertainment, service, amusement or the like, and not located where the matter advertised is available or occurs. A billboard is not a sign.

B. Free Standing Sign. A sign supported by one or more uprights or braces permanently affixed into the ground.

C. Portable Sign. A sign not designed or intended to be permanently affixed into the ground or to a structure.

D. Roof Sign. A sign located upon or over a roof of a building.

E. Temporary Sign. A sign or advertising display designed, intended to be displayed or displayed for a short period of time.

[Derivation: Section 9.97, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

101.3 Skid road or skid trail. A route repeatedly used by forwarding machinery or animals to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

101.5 Slash. The residue, e.g., treetops and branches, left on the ground after a timber harvest.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

101.8 Stream (see also 38 MRSA § 480-B.9) (see also shoreland stream). A channel created by the action of surface water that has 2 or more of the following characteristics:

- A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map or, if that is not available, a 15-minute series topographic map.
- B. It contains or is known to contain flowing water continuously for a period of at least 3 months of the year in most years.
- C. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
- D. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed.
- E. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

"Stream" does not mean a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining storm water, nor a grassy swale.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

102. Street (Road). Any vehicular way which: (1) is an existing state, county or City roadway; or (2) is shown upon a plat approved pursuant to law; or (3) is approved by other official public action; or (4) is shown on a plat duly filed and recorded in the Kennebec County Registry of Deeds prior to the appointment of the Planning Board and the grant to the Board of the power to review plats; and includes the land between the street lines, whether improved or unimproved. For the purposes of this Chapter, all dimensional requirements are measured from street right-of-way lines.

[Derivation: Section 9.98, 1989 Zoning Ordinance; Ord. No. 09-07, eff.7/23/2009]

103. Structure. Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind. Structures include buildings, platforms, decks, in-ground swimming pools, fixed above ground swimming pools, wharves, piers, and floats; excluded are patios, fences, boundary walls, walks and driveways, earthwork and sanitary sewage disposal facilities.

[Derivation: Section 9.99, 1989 Zoning Ordinance as amended 9/28/92]

- 103.5 Structure (shoreland). For the purposes of the shoreland zoning requirements and within the Resource Protection and Shoreland Overlay Districts, anything built for the support, shelter, 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, and poles, wiring and other aerial equipment normally associated with service drops, as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

104. Subdivision. "Subdivision" has the same meaning as in Title 30-A M.R.S.A. Section 4401, et. seq.

[Derivation: Section 9.100, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

- 104.3 Subsurface sewage disposal system. Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 104.5 Sustained slope. A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

- 105 Swale. A depression in the ground which channels runoff.

[Derivation: Section 9.101, 1989 Zoning Ordinance]

106. Tax maps. Maps showing the property lines and lot number of each parcel of real estate. The Tax Maps shall be created by a qualified mapping professional and approved by the Board of Assessors. The approved Tax Maps shall be kept on file in the office of the Board of Assessors.

[Derivation: Section 9.102, 1989 Zoning Ordinance; Ord. No. 15-07, eff. 07/23/2015]

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

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

107. Timber harvesting. The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section O of the Shoreland performance standards, *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

[Derivation: Section 9.103, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009; Ord. No. 11-02b, eff. 8/18/2011]

107.5 Timber harvesting and related activities. Timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

108. Tourist Home. Same as Bed and Breakfast.

[Derivation: Section 9.104, 1989 Zoning Ordinance]

109. Towers. Any structure in excess of 50 feet above natural ground level used to support electric, electronic or mechanical devices or antennas, or used to transmit, receive or carry electric or electronic impulses. A tower is not a utility pole that supports electric, telephone, and/or cable television transmission lines owned by a public utility.

[Derivation: Section 9.104-A, 1989 Zoning Ordinance as adopted 9/28/92; Ord. No. 09-07, effective 7/23/2009]

110. Trailer. Any non-motorized vehicle used as a temporary dwelling for travel, recreation and vacation use. This term includes but is not limited to camper, camper-trailer and all other similar short-term shelter devices.

[Derivation: Section 9.105, 1989 Zoning Ordinance; Ord. No. 09-07, eff.7/23/2009]

111. Trailer Park. See Campground or Mobile Home Park.

[Derivation: Section 9.106, 1989 Zoning Ordinance]

111.5 Tributary stream. A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent

material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" or "shoreland stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

112. Undue hardship. As used in this Chapter, the words "undue hardship" shall mean all of the following:

- 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.
- D. That the hardship is not the result of action taken by the applicant or a prior owner.

A variance is not justified unless all four elements are met.

[Derivation: Section 9.107, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

112.5 Upland edge of a wetland. The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

113. Use. The purpose for which land or a building or structure is arranged, designed or intended, or is occupied.

[Derivation: Section 9.108, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

114. Variance. A relaxation of the terms of this Chapter that may be granted by the Board of Appeals only where strict application of this Chapter, or a provision of the Chapter, to the petitioner or his property, would cause undue hardship. A variance may only be granted in conjunction with a use that is allowed in the district in which it is located.

[Derivation: Section 9.109, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009]

114.3 Vegetation. All live trees, shrubs, and other plants including without limitation, trees both over and under four (4) inches in diameter, measured at four and a half (4.5) feet above ground level.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

114.7 Volume of a structure. The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

115. Warehousing. The storage, deposit, or stocking of merchandise or commodities in a structure or room.

[Derivation: Section 9.110, 1989 Zoning Ordinance]

115.4 Water body (for Shoreland purposes). Any river or shoreland stream.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

115.5 Water crossing. Any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

116. Wetland. A freshwater or coastal wetland.

[Derivation: Section 9.111, 1989 Zoning Ordinance; Ord. No. 09-07, effective 7/23/2009; Ord. No. 11-02b, eff. 8/18/2011]

117. Wholesale business. A business establishment engaged in the bulk sale of goods or materials, not manufactured or processed on the premises.

[Derivation: Section 9.112, 1989 Zoning Ordinance]

117.2 Windfirm. The ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

117.5 Woody vegetation. Live trees or woody, non-herbaceous shrubs.

[Derivation: Ord. No. 11-02b, eff. 8/18/2011]

118. Yard. An unoccupied space, open to the sky, on the same lot with a building or structure.

[Derivation: Section 9.113, 1989 Zoning Ordinance]

SECTIONS 9-152 THROUGH 9-160 (Reserved)

DIVISION D – NON-CONFORMANCE

SECTION 9-161 PURPOSE

It is the intent of this Chapter to promote land use conformities and to encourage the elimination of non-conforming uses. However, in the interest of fairness, nonconforming conditions that existed before the effective date of this Chapter or that were created as a result of amendments to this chapter will be allowed to continue, subject to the Rules and Conditions set forth in this Division D. Except as otherwise specifically permitted, a non-conforming condition may not be permitted to become more non-conforming.

[Derivation: Section 3.1, 1989 Zoning Ordinance; Ord. No. 11-02b, eff. 8/18/2011]

SECTION 9-162 DEFINITIONS

1. Non-conforming or "Grandfathered" Use. Use of premises that is not permitted to locate 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.
2. Non-conforming or "Grandfathered" Structure. A structure that does not meet any one or more of the following dimensional requirements: set-backs, height, yard, or lot coverage. It is allowed solely because it was in lawful existence at the time this Chapter or subsequent amendments took effect.
3. Non-conforming or "Grandfathered" Lots of Record. A single lot of record which, at the effective date of adoption or amendment of this Chapter, does not meet the area, frontage, width, or depth requirements, of the District in which it is located.

[Derivation: Section 3.2, 1989 Zoning Ordinance]

SECTION 9-163 NON-CONFORMING USES

1. Continuance. The use of land, building or structure, lawful at the time of adoption or subsequent amendment of this Chapter, may continue although such use no longer conforms to the provisions of this Chapter.

2. Non-conforming Use Forfeited. If a non-conforming use or business is terminated by the owner/operator and is discontinued for twelve consecutive months, such use shall no longer be permitted. Abandonment shall constitute discontinuance. Any non-conforming use housed in a building or structure destroyed by fire, or other cause to the extent of 50% or more of the market value of the structure before such damage or destruction, shall be presumed to be forfeited at the time of the damage, and such use shall not be resumed, unless reconstruction is started within eighteen (18) months. Once a non-conforming use is terminated, only a conforming use shall thereafter be made of such building or land.

3. Resumption. Whenever a non-conforming use is superseded for any period of time by a permitted use of a structure, or structure and land in combination, such structure or combination of land and structure shall thereafter conform to the provisions of this Chapter and the non-conforming use shall be terminated.

4. Change of Use. An existing non-conforming use may not be changed to another non-conforming use unless a conditional use permit is obtained from the Planning Board, provided that the following provisions are met:
 - A. Conversion from one business to another. A change from one type of non-conforming business to a lesser non-conforming business shall be permitted, provided that the creation of any additional parking demands can be met.

 - B. Conversion from commercial to dwelling. The conversion of the Water Street level of commercial structures to dwellings shall be prohibited between Temple Street and Wilson Lane.

 - C. Changes within required setback of the normal high water mark and over the water. Within twenty-five (25) feet of the normal high water mark of the Kennebec River, and within seventy-five (75) feet of all other rivers and ponds, the following activities shall be prohibited:
 - (1) The expansion of a non-conforming use.

 - (2) The projection of second floor overhangs or decks into required setbacks.

 - D. Additional shoreland requirements. If the non-conforming use is located in the Resource Protection District or the Shoreland Overlay District, the

Planning Board must find that the new use will have no greater adverse impact on the water body, tributary stream or shoreland wetland, or on the subject and adjacent properties and resources than the existing use. In determining that no greater adverse impact will occur, the Planning Board may 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 marine activities and other functionally water-dependent uses.

5. Expansion. A non-conforming use, including a non-conforming open use of land, shall not be extended or expanded in area or function, unless the following conditions are met:

A non-conforming use may be extended within a building or other structure to any portion of the floor area that was not occupied by such use on the effective date of this Code (or on the effective date of a subsequent amendment that causes such use to become non-conforming).

[Derivation: Section 3.3, 1989 Zoning Ordinance; Ord. No. 11-02b. eff. 8/18/2011; Ord. No. 12-11, eff. 10/19/2012]

SECTION 9-164 NON-CONFORMING STRUCTURES

1. Expansion of an Existing Structure. A non-conforming structure may be added to or expanded if such addition or expansion does not increase the non-conformity of the structure. Property changes or structures which either meet the dimensional standard of the district in which it is located or which cause no further increase in the linear extent of non-conformance of the existing structure shall not be considered to increase non-conformity. There is no increase in non-conformity if an expansion extends no further into a setback area than does any portion of the existing structure.

In addition, after January 1, 1989, if any portion of a non-conforming structure that is located in the Resource Protection District or Shoreland Overlay District is less than the required setback from the normal high-water line of a water body, tributary stream, of the upland edge of a shoreland wetland, that portion of the structure shall not be expanded by 30% or more as measured in floor area or volume during the lifetime of the structure.

2. Patios, Steps, Decks. The addition of an open patio, not to exceed an area eight (8) feet by ten (10) feet, to be constructed of brick, flagstone or other material, and with no structures elevated above ground level, shall not constitute the expansion of a non-conforming structure. The addition of steps shall not constitute the expansion of a non-conforming structure unless the patio is located within the Resource Protection or Shoreland Overlay Districts. The addition of a deck not to exceed eight (8) feet by ten (10) feet does not constitute the expansion of a non-conforming

structure unless the deck is located within the Resource Protection or Shoreland Overlay Districts but the deck shall meet all the dimensional setback requirements of this Code. The side-lot setback for a new deck may be reduced to equal that of a non-conforming side-lot setback of an existing building to which the deck is to be attached. A non-conforming deck may not be converted to an enclosed structure of any kind.

3. Foundations. The placement of a foundation below a lawfully existing non-conforming structure shall not constitute the expansion of the structure, so long as the first floor area of the structure is not increased.

Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure in the Resource Protection District or Shoreland Overlay District, the structure and new foundation shall be placed such that the water setback requirement is met to the greatest extent practical as determined by the Planning Board. In determining if the location meets the setback to the greatest practical extent, the Planning Board 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 soils suitable for on-site sewage disposal, and the type and amount of vegetation that would need to be removed.

4. Resumption. Non-use or vacancy of a legally existing non-conforming structure shall not constitute abandonment of the structure. Any conforming use of the structure may be resumed at any time.
5. Reconstruction\Restoration\Replacement. Any non-conforming building or structure which is damaged or destroyed by fire or any other cause or which is removed may be restored or reconstructed, provided that restoration or reconstruction is initiated within eighteen (18) months of the date of said damage or destruction, and completed within the next twelve months. The Planning Board may grant an extension upon request. Such restoration or reconstruction shall not enlarge the size or change the nature of the prior non-conforming building or structure.

A non-conforming structure destroyed by fire, flood, or other casualty or that is removed, may be replaced provided:

- A. The new structure has a permitted or conditional use; and
- B. All dimensional requirements of this Code are met to at least the same extent as the original structure.
- C. The replacement complies with the provisions of Subchapter V, Division B of this Chapter.
- D. Any non-conforming structure in the Resource Protection District or Shoreland Overlay District that is located less than the required setback from

a water body, tributary stream, or shoreland wetland and that is removed, or damaged or destroyed, regardless of the cause, 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 eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or shoreland wetland setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to sub-section 1. above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with sub-section 6.B below.

In determining if the location meets the setback to the greatest practical extent, the Planning Board 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 soils suitable for on-site sewage disposal, and the type and amount of vegetation that would need to be removed.

- E. Any non-conforming structure in the Resource Protection District or Shoreland Overlay District that is located less than the required setback from a water body, tributary stream, or shoreland wetland and that is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.
 - F. Nothing in this section shall prevent the demolition of the remains of any building so damaged or destroyed.
6. Relocation of an Existing Structure. An existing non-conforming structure may be relocated on a lot subject to the following:
- A. The relocated structure is no more non-conforming than prior to relocation. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

- B. If the structure is located in the Resource Protection District or the Shoreland Overlay District, it 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. If the property is not served by the public sewer system the applicant must demonstrate 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 determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board 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. When it is necessary to remove vegetation within the water or shoreland wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed shall be replanted with vegetation. Replanting shall be required as follows:

- (1) Trees removed in order to relocate a structure shall be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees shall be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure shall be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed shall be reestablished within the setback area. The vegetation and/or ground cover shall consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (2) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

7. Parking or Loading Space. A building or structure which is non-conforming as to the requirements for off-street parking spaces shall not be enlarged or altered to create additional dwelling units, or seats, as in the case of commercial, industrial, business, institutional, or recreational buildings, or accommodations, unless off-street parking is provided for such addition, enlargement, or alteration of the original building or structure sufficient to satisfy the requirements of this Code. A building which is non-

conforming as to the requirements for off-street loading space shall not be enlarged or added to unless off-street space is provided sufficient to satisfy the requirements of this Code for both the addition or enlargement of the original building or structure.

8. Handicapped Access. Nothing in this section shall be construed to prevent construction or reconstruction necessary to make a building accessible to handicapped persons. Handicapped ramps and steps shall not constitute the expansion of a structure.

[Derivation: Section 3.4, 1989 Zoning Ordinance; Ordinance No. 00-7, Eff. 4/20/00; Ord. No. 11-02b, eff. 8/18/2011; Ord. No. 11-05, effective 10/21/2011]

SECTION 9-165 NON-CONFORMING LOTS

1. Vacant Lots. A non-conforming lot may be built upon provided that such lot shall be in a separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Chapter except lot size and street and shore frontage can be met. Variance of front, side or rear setbacks or other requirements not involving area or frontage may be obtained only by action of the Board of Appeals.
2. Built Lots. A structure on a non-conforming lot may be expanded, enlarged or improved, in conformity with the dimensional standard of the district in which it is located except for lot area, lot width, street frontage, or shore frontage.
3. Contiguous Built Lots.
 - A. If two or more contiguous lots or parcels are in single or joint ownership of record, if all or part of the lots do not meet the dimensional requirements of this Chapter, and if a principal structure exists on each lot, the non-conforming lots may be conveyed separately or together.
 - B. If two or more principal structures existed on a single lot of record on April 18, 1997, each principal structure may be located on a newly created separate lot of record if each lot complies with the State of Maine Minimum Lot Size and Subsurface Wastewater Disposal Rules and each lot created is as conforming as possible to the dimensional requirements of this Chapter and is approved by the Code Enforcement Officer.
4. Contiguous Vacant Lots. If two or more vacant, contiguous lots or parcels are in single or joint ownership of record, and if these lots do not individually meet the dimensional requirements of this Chapter, the lots shall be combined to the extent necessary to meet the dimensional standards.
5. Contiguous Built and Vacant Lots. If two or more contiguous lots or parcels are in single or joint ownership of record, if all or part of the lots do not meet the

dimensional requirements of the Chapter, and if a principal structure exists on one of the lots and one or more of the other lots are vacant, the lots shall be combined to the extent necessary to meet the dimensional requirements.

[Derivation: Section 3.5, 1989 Zoning Ordinance; Ordinance No. 00-7, Eff. 4/20/00; Ordinance No. 06-05, Effective August 17, 2006; Ord. No. 11-02b, eff. 8/18/2011]

SECTION 9-166 TRANSFER OF OWNERSHIP

Ownership of lots and structures which remain lawful but become non-conforming by the adoption or amendment of this Chapter may be transferred and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Chapter, provided that such lots or structures are first combined with other contiguous lots as required in Section 9-165, Subsections 4 and 5.

[Derivation: Section 3.6, 1989 Zoning Ordinance]

SECTION 9-167 MAINTENANCE

Nothing in this Chapter precludes the normal up-keep and maintenance of non-conforming uses and structures; including repairs, renovations, or modernizations which do not involve expansion of the non-conforming use or structure and such other changes to a non-conforming use or structure as conformance with federal, state, or local building and safety codes may require.

[Derivation: Section 3.7, 1989 Zoning Ordinance; Ord. No. 11-02b, eff. 8/18/2011]

SECTION 9-168 PENDING APPLICATION FOR BUILDING PERMITS

Nothing in this Chapter shall require any change in the plans, construction, size, or designated use for any building, structure, or part thereof for which application for a building permit has been made or a building permit has been issued and upon which construction lawfully commenced prior to the adoption or amendment of this Chapter, provided construction is started within one year of the issuance of such permit. In a multi-phase development application, only those phases approved and actually commenced prior to the adoption of the Chapter shall be considered a pending application for the purposes of this section.

[Derivation: Section 3.8, 1989 Zoning Ordinance]

SECTIONS 9-169 THROUGH 9-170 (Reserved)

DIVISION E – ESTABLISHMENT OF DISTRICTS AND LAND USE MAP

SECTION 9-171 DISTRICTS

1. Designation. For the purpose of this Chapter, the City of Hallowell is divided into the following districts:
 - A. Residential Districts (See Subchapter II):

 Medium Density Residential District (R1)
 Moderate Density Residential District (R2)
 Residential Development District (R3)
 Rural Farm District (RF)
 - B. Downtown, Business, and Mixed-Use Districts (See Subchapter III):

 Downtown District (DT)
 Northern Gateway Business A District (BA)
 Business B District (BB)
 Business C District (BC)
 Southern Gateway Business District (BD)
 Stevens School Planned Development District (SSPD)
 - C. Resource Conservation Districts (See Subchapter IV):

 Resource Protection District (RP)
 Open Space District (OP)
 - D. Overlay Districts (See Subchapter V):

 Shoreland District (SD)
 Floodplain Management District (FM)
 Historic District (HD)
2. Official Zoning Map. The location and boundaries of the above Districts (except the Floodplain Management District (FM); See Section 9-531) are located and bounded as shown on the Official Zoning Map which is adopted by reference. The Official Zoning Map (as revised) will be identified by the signature of the Mayor and attested by the signature of the City Clerk.
3. District Boundaries. For interpretation of the boundary lines the following rules shall apply:
 - A. Unless otherwise indicated, district boundary lines are the center lines of roads, streets, or rights of way.

- B. Where discrepancy exists between the map and written descriptions of each district, the written description shall prevail.
- C. Where discrepancy exists between physical features existing on the ground and the official map and/or written description, the Board of Appeals shall interpret the district boundaries.

[Derivation: Section 4, 1989 Zoning Ordinance as amended 5/9/94. Further amended by Ord. No. 98-1, 5/2/98; Ord. No. 99-4 eff. 8/19/99; Ord. No. 11-03, eff. 8/18/2011, Ord. No. 12-10, eff. 10/19/2012]

SECTION 9-172 EXPLANATION OF PERMITTED AND CONDITIONAL USES

Within each district, uses which are listed as permitted uses require a permit from the Code Enforcement Officer. Uses which are listed as Conditional Uses require a permit from the Planning Board and in addition are subject to the standards and procedures set forth in Subchapter VI of this Chapter. In the Stevens School Planned Development District, uses that are identified in an approved Master Plan for a Planned Mixed-use Development shall be treated as permitted uses. In addition, uses that require site plan approval under Subchapter VIIIA must obtain Planning Board approval prior to the issuance of any permits by the Code Enforcement Officer.

[Derivation: Section 4, 1989 Zoning Ordinance; Ord. No. 11-03, eff. 8/18/2011]

SECTION 9-173 OVERLAY DISTRICTS

The Shoreland District, Floodplain Management District and Historic District, which are set forth in Subchapter V, are each an "overlay district." They are "overlay districts" because each of them adds standards to the zoning requirements already established for the areas designated therein. For example, a parcel of land along the Kennebec River may be in the Downtown District, and may also be subject to the requirements of the Shoreland District, Floodplain Management District and Historic District.

SECTIONS 9-174 THROUGH 9-180 (Reserved)

DIVISION F – ADMINISTRATION

SECTION 9-181 CODE ENFORCEMENT OFFICER

- 1. Office of Code Enforcement Officer:
 - A. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall be the Building Inspector and the Plumbing Inspector as those offices are designated by statute and the City Charter.

B. (Reserved)

2. Powers and Duties:

A. The Code Enforcement Officer shall have the following duties:

- (1) Administer and enforce the provisions of this Chapter, Chapter 4 relating to the construction, alteration, removal and demolition of buildings and structures, and other provisions of this Code where designated.
- (2) Examine preliminary plans.
- (3) Act upon building permit applications, and refer Conditional Use Permit applications to the Planning Board.
- (4) Inspect sites where building permits have been issued to insure compliance with this Ordinance and keep all activities subject to this Code under surveillance at all times.
- (5) Investigate complaints and reported violations.
- (6) Keep written inspection reports and thorough records.
- (7) Issue violation notices.
- (8) Participate in Appeals procedures as provided in Subchapter X.
- (9) Appear in court when necessary.
- (10) Confer with citizens upon request.
- (11) Act as staff to the Planning Board and prepare background reports on each action before the Board at its regular and special meetings and workshops.
- (12) Attend meetings of the Planning Board and Board of Appeals.
- (13) Keep records of zoning interpretations made by the Board of Appeals for use of City officials in future cases.
- (14) Refer questions concerning the interpretation of this Ordinance to the City Solicitor for opinion and advice.
- (15) The Code Enforcement Officer shall keep a complete record of all essential transactions within the shoreland zone, 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. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

- B. Right of entry. The Code Enforcement Officer and all other inspectors required under this Code, in the discharge of their official duties, and upon prior notice and presentation of proper identification, shall have authority to enter any building, structure or premises for cause at any reasonable hour.

[Derivation: Ord. No. 11-02b, eff. 8/15/2011]

SECTION 9-182 **BUILDING PERMITS**

1. Building Permit required. No person shall erect, locate, construct, enlarge, alter, remove, demolish, convert or change the nature of the occupancy, or cause the same to be done, of any building or structure, costing or valued more than \$1500, without first obtaining a separate building permit from the Code Enforcement Officer for each building or structure: except that no Building Permit shall be required for the performance of repairs which are not structural in nature.

2. Application for Permit:
 - A. The application for the Building Permit shall be in writing, shall be made to the Code Enforcement Officer in such form as he shall prescribe and shall include a description of the proposed work, together with appropriate plans or drawings drawn to scale. Plans or scale drawings may be omitted at the discretion of the Code Enforcement Officer, provided however, the application and all exhibits thereto shall provide sufficient information to permit the Code Enforcement Officer to make a decision under both this Ordinance and the Building Code. After issuance of the Permit, the applications shall be filed with the Board of Assessors.

 - B. The completed application shall be filed with the Code Enforcement Officer not less than thirty (30) calendar days before the proposed start of construction, except on emergency at the discretion of the Code Enforcement Officer, but in no case may construction be scheduled to start, or in fact be started before the Permit is issued.

 - C. For new and relocated buildings and structures and additions thereto, the application shall include a plot plan, drawn to a scale not smaller than 20 feet to the inch, showing property and street lines, location of other buildings where pertinent, finished grades, driveways, parking spaces, water and sewer connections, or water supply, septic tank and disposal fields, as applicable.

- D. Each application shall be accompanied by a statement from the Hallowell Water District approving the water and sewer connections. If the proposed construction is located outside the Hallowell Water District service area, the application shall include a statement from the Plumbing Inspector that the proposed sewage disposal system is in accordance with State law.
 - E. All plans required under this Section shall bear the stamp or seal of a registered architect in accordance with Title 32 M.R.S.A. § 220 or the stamp and seal of a registered engineer in accordance with Title 32 M.R.S.A. § 1355. Excluded from this requirement are the following:
 - (1) Any building or enlargement or alteration intended for occupancy by the person making the drawings or any person, association or corporation regularly employing him;
 - (2) Any building or enlargement or alteration which is to be used for farm purposes; and
 - (3) Any single family residence of any size which is to be used by the applicant as his residence.
3. Prior approvals. Upon receipt of a completed application the Code Enforcement Officer shall review it to assure that the applicant and the proposed project will comply with all applicable provisions of this Code. The Code Enforcement Officer shall advise the applicant whether a variance, or other permits or approvals are required. If a variance is required it shall be obtained before any application is considered by the Planning Board under Subchapters V and VII. No building permit shall be issued unless:
- A. Any variance that may be required has been granted by the Board of Appeals and certificate thereof recorded in the Kennebec County Registry of Deeds.
 - B. Any approval that may be required by the Planning Board, including subdivision approval, conditional use permit, and historic district permit has been granted and evidenced in writing.
 - C. The applicant has complied with all applicable provisions of the Maine Uniform Building and Energy Code as adopted under Section 4-501.
 - D. The applicant has obtained and applicant has complied with all applicable provisions of State law relating to plumbing and sewage disposal.
4. Display of Permit. Every Building Permit shall be displayed in a conspicuous place on the premises, clearly visible from the principal traveled street and shall not be removed until the work covered by the permit has been approved.

5. Denial of permits. If the Code Enforcement Officer is compelled to deny the building permit application because it does not meet one or more requirements of this Ordinance, he may do so immediately upon application.
6. Expiration of permits. An issued Building Permit shall automatically expire if substantial construction does not begin within one year from the date of issue. If such construction has not occurred within one year, the permit may be renewed prior to the expiration date for an additional six months from the expiration date under like conditions without charge.

[Derivation: Ord. No. 12-03, Eff. 2/23/2012]

SECTION 9-183 FEES

A fee for each plan examination, building permit and inspection shall be paid in accordance with the following schedule, except that no fee shall be less than \$30.00:

1. Commercial Properties
New 15 cents/sq. ft. of floor area
Renovation \$30.00
2. Residential Properties
New 10 cents/sq. ft. of floor area
Renovation \$30.00
3. Minor Structures
porches, decks, residential garages for 4 or less
vehicles, utility sheds less than 250 sq.ft.,
small agricultural barns less than 500 sq.ft.,
parking lots \$30.00

[Derivation: Section 8.2, 1989 Zoning Ordinance;; Ordinance No.: 03-05, Effective: April 17, 2003; Ord. No. 12-11, eff. 10/19/2012]

SECTION 9-184 PUBLIC COMMENT, ABUTTER NOTIFICATION. PUBLIC HEARINGS.
AND POSTING OF NOTICE

1. **Public Comment.**
 - A. Every application that comes before the Planning Board will have the benefit of a public comment period.
 - B. The public comment period will take place after the applicant has made a presentation and the Board has made a determination that the application is complete and before the Board takes action on the application.

- C. The purpose of the public comment period will be for the public to ask questions of the applicant and to comment on the application. A public comment period will be in addition to any public hearing that may be held.

2. Abutter Notification.

- A. Abutters will be notified for all applications that are reviewed by the Planning Board for a site plan review application, a conditional use application, a Master Plan submittal for a Planned Mixed-Use Development, or for an historic district review application when a change in square footage, or volume of the existing structure is proposed.
- B. For purposes of this Section, the term ‘abutter’ is defined as: Abutter: The owner of any parcel with one or more common boundaries; the owner of any parcel within 25 feet of the parcel involved in the application; and, the owner of any parcel located directly across any road, railroad or stream from the parcel involved in the application.
- C. For a site plan review application, a conditional use application, a Master Plan submittal for a Planned Mixed-Use Development, or for an historic district review application when a change in square footage, or volume of the existing structure is proposed the responsibility for providing the required notice rests with the applicant.
- D. For a subdivision application, comprehensive plan amendment or adoption, ordinance amendment or adoption, contract/conditional zoning, shoreland zoning amendment or adoption, and new or amended zoning ordinances and maps, abutter notification shall be in accordance with the appropriate State statute and be the responsibility of the Code Enforcement Officer.
- E. For purposes of a variance appeal or for an administrative appeal, abutters shall be as outlined in Section 9-1003.
- F. Property owners shall mean all parties listed as of April 1st each year by the City Tax Assessor against whom taxes are assessed.

[Derivation: Ord. No.: 08-08, eff. 11/20/2008; Ord. No. 11-03, eff. 8/18/2011; Ord. No. 12-11, eff. 10/19/2012]

3. Public Hearings.

- A. Public hearings for a conditional use application and for an historic district review application will be held when the Planning Board determines that the proposed use could have an impact on abutting properties.
- B. A public hearing for a variance appeal or for an administrative appeal shall be as outlined in Section 9-1003.

- C. A public hearing for a subdivision application, comprehensive plan amendment or adoption, ordinance amendment or adoption, contract/conditional zoning, shoreland zoning amendment or adoption, and new or amended zoning ordinances and maps shall be in accordance, with the appropriate State statute.
- D. A public hearing for a site plan review application will be held as provided by the requirements of Subchapter VIII A.
- E. A public hearing on a Master Plan for a Planned Mixed-Use Development will be held as provided for in Division E of Subchapter III: Downtown, Business and Mixed-Use Districts.

[Derivation: Ord. No.: 08-08, eff. 11/20/2008; Ord. No. 11-03, eff. 8/18/2011; Ord. No. 12-11, eff. 10/19/2012]

4. Publication of Public Hearings.

- A. Public hearings for a conditional use application and for an historic district review application, held when the Planning Board determines that the proposed use could have an impact on abutting properties, and for a site plan review application and a Master Plan for a Planned Mixed-Use Development shall be published in the Kennebec Journal by the applicant at least 7 days prior to when the public hearing will be held.
- B. A public hearing for a variance appeal or for an administrative appeal shall be published as outlined in Section 9-1003.
- C. A public hearing for a subdivision application, comprehensive plan amendment or adoption, ordinance amendment or adoption, contract/conditional zoning, shoreland zoning amendment or adoption, and new or amended zoning ordinances and maps shall be published by the Code Enforcement Officer in accordance with the appropriate State statute.

[Derivation: Ord. No.: 08-08, eff. 11/20/2008; Ord. No. 11-03, eff. 8/18/2011]

5. Posting of Notice.

Every applicant for a site plan review, review of a Master Plan for a Planned Mixed-Use Development, or a conditional use application and for an historic district review application when a change in square footage or volume of the existing structure is proposed, who comes before the Planning Board, shall be required to post a notice on the premises for either abutter notification or a public hearing and to replace or remove the notice as directed by the Code Enforcement Officer.

[Derivation: Ord. No. 11-03, eff. 8/18/2011]

6. Responsibility of the City.

- A. It shall be the responsibility of the City to prepare the form and content of the abutter notification notice and of the public hearing notice and to provide these to the applicant when the applicant is responsible for providing notice. The notices shall contain, at a minimum, the name of the applicant, the street location and map and lot location of the property that is the subject of the application, the reason for the hearing or notification, and the date, time, and place when the hearing will be held or when the application will be heard.
- B. It shall also be the responsibility of the City to generate a map and lot list of abutters and to provide a properly completed notice for posting. This list and notice shall be provided to the applicant.

[Derivation: Ord. No. 12-11, eff. 10/19/2012]

7. Responsibility of the Applicant.

- A. It shall be the responsibility of the applicant to provide the information for the content of the abutter notification notice and of the public hearing notice to the Code Enforcement Officer at least 14 days prior to when the application will be heard or at least 14 days prior to the date of the public hearing, except as otherwise required to satisfy the time constraints in subsection 8.A.
- B. When the applicant is responsible for providing notice, it shall also be the responsibility of the applicant to ensure that the public hearing notice is published in the Kennebec Journal at least 7 days prior to the date of the public hearing.
- C. When the applicant is responsible for providing notice, it shall also be the responsibility of the applicant to send the abutter notification notices to the abutters via the postal service, using the Certificate of Mailing service, at least 7 days prior to when the application will be heard.
- D. It shall also be the responsibility of the applicant to post the notice on the premises at least 7 days prior to when the application will be heard and at least 7 days prior to the date of the public hearing if one is to be held.
- E. It shall also be the responsibility of the applicant to submit the Certificate of Mailing receipts to the Code Enforcement Officer at least 5 days prior to when the application will be heard or at least 5 days prior to the date of the public hearing so that the City can confirm that the notices were sent.
- F. It shall also be the responsibility of the applicant to pay the cost of the abutter notification notices and for all costs associated with the posting of the public hearing notice in the Kennebec Journal prior to the issuance of a permit or

approval by the Planning Board.

[Derivation: Ord. No. 12-11, eff. 10/19/2012]

8. Additional responsibilities of the applicant when the City provides notice.

- A. For purposes of a subdivision application, comprehensive plan amendment, or adoption; ordinance amendment or adoption; contract/conditional zoning, shoreland zoning amendment or adoption, and new or amended zoning ordinances and maps abutter notification and public hearing notices shall be in accordance with the appropriate State statute and shall be the responsibility of the applicant to comply with any additional notification timelines by submitting the information for the content of the abutter notification notice and public hearing notice to the Code Enforcement Officer at least 21 days prior to when the application will be heard.
- B. The applicant shall be responsible for all costs incurred if any of the above is initiated by the applicant.

[Derivation: Ord. No. 12-11, eff. 10/19/2012]

9. Grounds for inaction on an application.

If the City is not able to confirm that the abutter notification notices were sent by the applicant, or that the applicant has not paid for all costs directly to the Kennebec Journal and the Post Office associated with the abutter notification notices or with the public hearing notice in the Kennebec Journal, or that the applicant has not properly posted the notice on the premises, then the Planning Board shall postpone action on the application until the City is able to confirm the above.

[Derivation: Ordinance No.: 05-10 Effective November 18,2005]

SECTION 9-185 AFTER THE FACT PERMIT AND APPLICATION FEE

Any work or project that requires a permit as identified in Chapter 9, and that is started prior to a permit being granted, is in violation of this Ordinance. Any permit issued for work, or for a project, that is started prior to a permit being granted is considered an after the fact permit and the fee for the permit is doubled, in addition to any fines or actions taken in the enforcement of this ordinance.

[Derivation: Ordinance No.: 05-10 Effective November 18,2005]