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## SOUTH PORTLAND CODE OF ORDINANCES

### Chapter 24

### SUBDIVISIONS\*

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\* **Editor's note**--As currently set out Ch. 24 is derived from Ord. No. 8-75, adopted April 7, 1975. Said ordinance is included herein as enacted, including arrangement, article and section designations and titles and numbering.

Prior to the enactment of Ord. No. 8-75, Ch. 24 was derived from Code 1966: Ord. No. 6-71, adopted June 7, 1971; Ord. No. 7-74, adopted May 20, 1974; and Ord. No. 13-74, adopted June 17, 1974.  
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**Art. I. In General, §§ 24-1--24-7**

**Art. II. Plans, §§ 24-8--24-34**

- Div. 1. Preapplication, §§ 24-8, 24-9
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**ARTICLE I. IN GENERAL**

**Sec. 24-1.**

**Title.**

This chapter shall be cited as the "Subdivision Control Ordinance" or the "Ordinance Governing the Subdivision of Land."

(Ord. No. 8-75, 4-7-75)

**Sec. 24-2.**

**Authority.**

This chapter is enacted under the authority granted to the city by the statutes of the State of Maine.

(Ord. No. 8-75, 4-7-75)

**Sec. 24-3.**

**Definitions.**

As used in this chapter, the following words and phrases shall have the meanings ascribed to them in this section:

*Archaeological resource.* A site with established or potential value as a location of prehistoric or historic archaeological significance as recognized by the City Council and contained in the South Portland Inventory of Archeological and Historic Resources.

*Coastal wetlands.* All tidal and subtidal lands; all areas 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 lowland that is subject to tidal action during the highest tide level for the year in which the activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

*Comprehensive plan.* Any part or element of the overall plan or policy for development of the city as defined in Title 30 M.R.S.A. Section 4961.

*Construction drawings* means drawings showing the location, profile, grades, size and type of drains, sewers, water mains, underground fire alarm ducts, underground power ducts and underground

telephone ducts, pavements, cross section of streets, miscellaneous structures, drainage, easements, etc.

*Diameter at breast height (DBH).* The diameter of a standing tree measured 4.5 feet from ground level.

*Easement.* The authorization of the property owner for the use by another, and for a specified purpose, of any designated part of their property.

*Freshwater wetland.* Freshwater swamps, marshes, bogs and similar areas that are not considered part of a great pond, coastal wetland, river, stream, or brook and that are inundated or saturated by surface water or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted to life in saturated soils.

*Freshwater wetland of special significance* - A freshwater wetland meeting one or more of the following:

- is located within two hundred fifty (250) feet (measured horizontally) of a coastal wetland;

- is located within two hundred fifty (250) feet (measured horizontally) of the normal highwater line, and within the same watershed, of any pond classified GPA [a State water quality classification related to Great Ponds, of which there are none in South Portland];

- contains, under normal circumstances, at least twenty thousand (20,000) square feet of aquatic vegetation, emergent marsh vegetation, or open water;

- is a floodplain wetland that is inundated during a 100 year storm event as evidenced by the Federal Emergency Management Agency (FEMA) maps or other site specific information;

- contains significant wildlife habitat that has been mapped, identified, or defined by the Maine Department of Inland Fisheries and Wildlife in accordance with the state Natural Resources Protection Act at the time of the filing of an application;

- is identified as a peatland dominated by shrubs, sedges, and sphagnum moss; or

- contains a natural community that is critically imperiled (S1) or imperiled (S2) as defined by the Maine Natural Areas Program.

*Engineer.* Professional engineer licensed by the State of Maine.

*Final subdivision plan.* The final drawings on which the subdivider's plan of subdivision is presented to the planning board for approval and which, if approved, may be filed for record with the city clerk and county registry of deeds.

*Historic resource.* A building, structure, site, or object with established historic significance as recognized by the City Council and contained in the South Portland Inventory of Archaeological and Historic Resources.

*Hydric soil* - A soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part.

*Land subdivisions.* A subdivision shall be defined in accordance with the laws of the State of Maine.

*Legislative body.* City council.

*Official submittal date.* The time of submission of a preapplication plan, final plan for minor subdivision, preliminary plan for major subdivision or final plan for major subdivision shall be considered the submission date of the application for such plan approval to the board, complete and accompanied by any required fee and all data required by these standards. At such time as the planning board determines that it has before it a completed application it shall notify the applicant in writing of the official submittal date.

*Preliminary subdivision plan.* The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the planning board for its consideration.

*Professional Wetland Scientist* - Based on directly related graduate-level education and on extensive directly related work experience, a knowledgeable professional experienced in wetland science.

*Project Disturbance Area.* The area of the site impacted by the project in a manner such that vegetated areas are disturbed or removed. The Project Disturbance Area shall include all proposed structures, and site improvements, as well as areas disturbed for construction staging and operations.

*Significant wildlife habitat.* Any area that is identified as significant wildlife habitat in accordance with the state's Natural Resources Protection Act.

*South Portland Street Design Manual.* The most recent edition of the manual kept on file with the City Clerk and the Department of Public Works that sets forth street types, user priorities, street zone widths, and specific street design elements to us in the City's public streets, which manual is adopted by, and may be amended by, the Director of Public Works, in consultation with the Sustainability, Water Resource Protection, and Planning and Development Departments.

*Street.* A publicly dedicated way accepted by the city or, if not accepted, approved by the planning board with the proposed improvements conditioned by a performance bond in accord with section 24-24 of the subdivision ordinance.

*Subdivider.* Assessed owner or owners of land to be subdivided.

*Subdivider's agent.* That person who has written authorization to act for the assessed owner or owners of land to be subdivided.

*Subdivision, major.* Any subdivision containing more than four (4) lots, or any subdivision requiring any new street extension, or the extension of municipal facilities; provided, however, the planning board may reclassify a proposal as a minor subdivision if such reclassification will not be inconsistent with the purposes of this ordinance to protect the public's interest; provided, further, that no proposed subdivision containing more than six (6) parcels of land, six (6) buildings, or ten (10) dwellings may be eligible for such reclassification.

*Subdivision, minor.* A subdivision containing not more than four (4) lots and not otherwise qualifying for definition as a major subdivision.

*Upland buffer* - A vegetated strip of land adjacent to a coastal or freshwater wetland or other waterbody that is intended to protect the wetland or waterbody by filtering sediments and absorbing nutrients and to provide wildlife habitat and wildlife travel corridors.

*Vernal pool.* A natural, temporary to semi-permanent body of water occurring in a shallow depression that typically fills during the spring or fall and may dry during the summer. Vernal pools have no permanent inlet or outlet and no viable populations of predatory fish. A vernal pool may provide the primary breeding habitat for wood frogs (*Rana sylvatica*), spotted salamanders (*Ambystoma maculatum*), blue-spotted salamanders (*Ambystoma laterale*), and fairy shrimp as

well as valuable habitat for other plants and wildlife, including several rare, threatened, and endangered species.

*Vernal pool, significant.* A vernal pool that is defined as significant in accordance with the state's Natural Resources Protection Act determined by the number and type of pool-breeding amphibian egg masses in a pool, or the presence of fairy shrimp (*Eubranchipus* spp.) or use of the pool by threatened or endangered species.

(Ord. No. 8-75, 4-7-75; Ord. No. 7-83/84, 9-19-83, Ord. No. 3-01/02, 9/5/01 [Fiscal Note: Less than \$1000]; Ord. No. 10-07/08, 3/17/08 [Fiscal Note: Less than \$1000]; Ord. No. 3-14/15, 7/7/14 [Fiscal Note: Less than \$1000]; Ord. No. 4-20/21, 10/6/2020 [Fiscal Note: Less than \$1000]; Ord. No. 19-23/24, 4/16/2024 [Fiscal Note: Less than \$1000])

#### **Sec. 24-4.**

#### **Standards.**

When reviewing any subdivision for approval, the Planning Board shall consider the following criteria, and before granting approval, shall determine that:

- (a) The proposed subdivision will not result in undue water or air pollution. In making this determination it shall at least consider: 1) the elevation of the land above sea level and its relation to the floodplains; 2) the nature of soils and subsoils and their ability to adequately support waste disposal; 3) the slope of the land and its effect on effluents; 4) the availability of streams for disposal of effluents; and 5) the applicable state and local health and water resources regulations;
- (b) The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;
- (c) The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;
- (d) The proposed subdivision will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition may result;
- (e) The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;

- (f) The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
- (g) The proposed subdivision will not cause an unreasonable burden on the ability of the municipality to dispose of solid waste, if municipal services are to be utilized;
- (h) The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Maine Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas including the undue loss of trees and open space, or any public rights for physical or visual access to the shoreline;
- (i) The proposed subdivision is in conformance with this ordinance, other applicable ordinances and regulations and the city's comprehensive plan;
- (j) The subdivider has adequate financial and technical capacity to meet the standards of this section;
- (k) Whenever situated, in whole or in part, within the watershed of any pond or lake, or within two hundred fifty (250) feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely effect the quality of such body of water or unreasonably effect the shoreline of such body of water, and shall avoid or minimize to the extent feasible tree removal;
- (l) The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
- (m) If the subdivision, or any part of it, is in a flood-prone area based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant as to whether the subdivision is in a flood-prone area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;
- (n) The proposed subdivision will be carried out so that:

- (1) The alteration of any freshwater wetlands on the property will be avoided to the extent feasible considering cost, existing technology and logistics based upon the overall purpose of the project and the physical and natural features of the site;
- (2) The area of freshwater wetlands that is altered will be limited to the minimum amount necessary;
- (3) A twenty-five foot wide naturally vegetated buffer strip will be maintained between the activity and any river, stream or brook (this is in addition to any requirement for an upland buffer in accordance with Sec. 27-1526(e)); and
- (4) The project, including any alteration of freshwater wetlands, will not violate any state water quality law, including those governing the classification of the State's waters.

All freshwater wetlands within the subdivision must be identified on any maps submitted as part of the application, regardless of the size of these wetlands, and any trees of DBH 10 inches or greater located within the upland buffer of the wetland shall be identified by size, species and health. In determining whether the proposal avoids the alteration of wetlands to the extent feasible and if the area of any alteration is the minimum necessary to complete the project, the Planning Board shall be guided by the State of Maine's Natural Resources Protection Act, Wetlands and Waterbodies Protection Rules Chapter 310 as revised December 5, 2006.

- (o) Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For the purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;
- (p) The proposed subdivision will provide for adequate stormwater management;
- (q) If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond, or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1; and

- (r) For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

(Ord. No. 8-75, 4-7-75; Ord. No. 11-88/89, 11-7-88; Ord. No. 4-06/07, 10/2/06 [Fiscal Note: Less than \$1000]; Ord. No. 10-07/08, 3/17/08 [Fiscal Note: Less than \$1000]; Ord. No. 18-08/09, 4/22/09 [Fiscal Note: Less than \$1000]; Ord. No. 6-10/11, 9/20/10 [Fiscal Note: Less than \$1000]; Ord. No. 4-20/21, 10/6/2020 [Fiscal Note: Less than \$1000])

#### **Sec. 24-4.1.**

#### **Off-site public improvements.**

- (a) The board may require that a subdivider construct or reconstruct off-site improvements. Public improvements shall include but not be limited to waste water collection and treatment facilities, storm water drainage systems, solid waste facilities, fire protection facilities, roads and traffic control devices, parks and other open space areas. All such improvements shall be constructed according to the design and construction standards established in this chapter unless waived by the board.
- (b) In determining whether off-site public improvements shall be constructed by a subdivider, the board shall take into account:
- (1) The present condition of the affected public facilities and the existing level of municipal services;
  - (2) The burden on the existing public facilities and level of services caused by the proposed development;
  - (3) The city's comprehensive plan for public improvements; and
  - (4) The reports and recommendations of the Director of Public Works and other department/division heads. As an alternative to a requirement that an applicant construct off-site public improvements to serve a proposed subdivision, the board may approve the execution of a developer agreement between a subdivider and the city pursuant to which a subdivider may make full or proportional payment toward the construction costs of needed public improvements. Any such agreement must be recommended by the city manager and approved by the city council.
- (c) If the board requires off-site public improvements to be made by an applicant, the subdivider shall post performance guarantees required by this chapter.

(Ord. No. 11-88/89, 11-7-88; Ord. No. 4-06/07, 10/2/06 [Fiscal Note: Less than \$1000]; Ord. No. 19-23/24, 4/16/2024 [Fiscal Note: Less than \$1000])

**Sec. 24-5.****Fee schedule.**

Application fees as required by this chapter shall be as specified in the Schedule of License, Permit, Inspection and Application Fees established by City Council order.

(a) Independent Consulting and Peer Review Fees.

- (1) In addition to the application fee, every applicant may also be required by the Planning Director to pay a consulting cost fee to cover 100% of the City's costs related to independent geotechnical, hydrologic, wetland scientist, engineering, traffic, architectural, planning, legal and similar professional consulting services incurred in the City's review of the application. This fee must be paid to the City and shall be deposited in a non-interest bearing escrow account. When a consulting cost fee is required, the application will be considered incomplete until evidence of payment of this fee is submitted to the Planning Director. If the initial fee proves to be insufficient to meet the City's professional review costs, the Planning Director may assess an additional fee(s) to cover such professional review costs. Any excess amount deposited with the City in advance shall be promptly refunded to the applicant after final action on the application.
- (2) The consulting cost fee may be used by the Planning Director only to pay reasonable costs incurred by the Planning Department, at its discretion, which relate directly to the review of the application pursuant to the review criteria. The results of the consultation or peer review for which such fees are assessed shall be available for public review, but such results shall be deemed to have been made solely for the benefit of the City and shall remain its property. Such fees shall be assessed for the privilege of review and shall be payable without regard to consultation or peer review results or the outcome of the application.
- (3) No building permit or certificate of occupancy may be issued nor subdivision plat released until all fees assessed hereunder have been paid in full.

- (4) Any dispute regarding the application of this provision or the amount required to be paid, either in advance or upon completion, may be appealed in writing within ten (10) days of notice of the amount assessed hereunder to the Planning Director. If the dispute is not resolved to the applicant's satisfaction by the Planning Director, the matter may be appealed in writing within ten (10) days of the Planning Director's decision on the dispute to the City Manager. The City Manager, after due notice and investigation and for good cause shown, may affirm, modify or reverse the disputed decision, reduce the amount assessed or increase the amount assessed.

(Ord. No. 8-75, 4-7-75; Ord. No. 9-87/88, 8-17-87; Ord. No. 4-06/07, 10/2/06 [Fiscal Note: Less than \$1000]; Ord. No. 4-09/10, 9/9/09 [Fiscal Note: Less than \$1000]; Ord. No. 7-10/11, 9/20/10 [Fiscal Note: Less than \$1000])

#### **Sec. 24-6. Applicability date of amendments evidenced by Ordinance #4-20/21.**

Notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, the amendments to this ordinance evidenced by Ordinance #4-20/21, when enacted, shall govern any application for which the Planning and Development Department has not, prior to September 22, 2020, issued a completeness review letter indicating that the application is complete and that the project has been tentatively scheduled for a Planning Board public hearing agenda. In the case of a "major subdivision" as defined in this chapter, the amendments to this ordinance evidenced by Ordinance #4-20/21, when enacted, shall govern any application for which the Planning and Development Department has not, prior to September 22, 2020, issued a completeness review letter indicating that the final subdivision plan application is complete and that the final subdivision plan has been tentatively scheduled for a Planning Board public hearing agenda.

(Ord. No. 4-20/21, 10/6/2020 [Fiscal Note: Less than \$1000])

#### **Secs. 24-7. Reserved.**

(Ord. No. 4-06/07, 10/2/06 [Fiscal Note: Less than \$1000]; (Ord. No. 4-20/21, 10/6/2020 [Fiscal Note: Less than \$1000])

## ARTICLE II. PLANS

### DIVISION 1. PREAPPLICATION

#### Sec. 24-8.

#### Preapplication.

- (a) A subdivider may meet with the planning board prior to formal submission of a plan in order to generally discuss their proposal. At such time they may submit a sketch plan showing an outline of the lands, proposed roads and any other general conditions which may be pertinent to the planning board's classification of the subdivision.
- (b) After such preliminary inspection the planning board will classify the sketch plan into one of two (2) categories as defined in section 24-3:

Minor subdivision;

Major subdivision.

(Ord. No. 8-75, 4-7-75; Ord. No. 7-83/84, 9-19-83)

#### Sec. 24-9. Reserved.

### DIVISION 2. MINOR SUBDIVISION

#### Sec. 24-10.

#### General.

The planning board may require, where it deems it necessary for the protection of public health, safety and welfare, that a minor subdivision comply with all or any of the requirements specified for major subdivision.

(Ord. No. 8-75, 4-7-75)

**Sec. 24-11.****Procedure.**

- (a) Within six (6) months after classification of the sketch plan as a minor subdivision by the planning board, the subdivider shall submit an application for approval of a final plan at least ten (10) days prior to a scheduled meeting of the board. Failure to do so shall require resubmission of the plan to the planning board for reclassification.
- (b) All applications for plan approval for minor subdivisions or amended minor subdivisions shall be accompanied by a fee as specified in the Schedule of License, Permit, Inspection and Application Fees established by City Council order.
- (c) The subdivider, or their duly authorized representative, shall attend the meeting of the planning board to discuss the final plan.
- (d) The planning board shall, within sixty (60) days from the date of submission, approve, approve with conditions or disapprove the final plan. The board shall specify in writing its reasons for any such conditions or disapproval. Any such decision by the planning board shall be accompanied by and based upon a statement of findings of fact.

(Ord. No. 8-75, 4-7-75; Ord. No. 9-87/88, 8-17-87; Ord. No. 4-06/07, 10/2/06 [Fiscal Note: Less than \$1000]; Ord. No. 7-10/11, 9/20/10 [Fiscal Note: Less than \$1000]; Ord. No. 19-23/24, 4/16/2024 [Fiscal Note: Less than \$1000])

**Sec. 24-12.****Submissions.**

The subdivision plan for a minor subdivision shall consist of one original and three (3) copies of one or more maps or drawings drawn to a scale of not more than one hundred (100) feet to the inch, which shall be legibly reproduced on a durable material or clearly drawn in India ink on linen, and size of the sheets shall be eight and one-half (8 1/2) by eleven (11) inches or a multiple thereof, but in no case larger than twenty-four (24) by thirty-six (36) inches.

Such sheets shall have a margin of one and a half (1 1/2) inches outside of the border line on the left side for binding and a one-half (1/2) inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by all appropriate agencies. The application for approval of a minor subdivision shall include all the following information:

- (1) A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
- (2) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments as herein required, and shall be referenced as shown on the plan.
- (3) Sufficient data acceptable to the Planning Director or other duly designated person to determine readily the location, bearing and length of every lot line, and boundary line and to reproduce such lines upon the ground. Where practical these should be tied to reference points previously established.
- (4) The survey of the outside boundaries of the tract and the computation of the lot lines shall be performed to an accuracy of one foot in five thousand (5,000) feet. The surveyor if requested shall furnish copies of computation sheets for outside boundaries to the planning board for approval showing:
  - (a) Sketch of traverse lines;
  - (b) Closures;
  - (c) Adjustments;
  - (d) Coordinates; and
  - (e) Computation of outside boundaries.
- (5) Contour lines at intervals of two (2) feet or at such intervals as the planning board may require, based on United States Geological Survey datum at mean sea level.
- (6) A minimum of three (3) corners of the perimeter of the proposed subdivision tract shall be marked with granite or concrete monuments. All granite or concrete monuments shall be a minimum 4" square four (4) feet long and set six (6) inches aboveground except in lawns, drives, and parking areas where they shall be flush. Properly set existing granite or concrete monuments that do not meet these dimension requirements may be considered satisfactory. If the subsurface is ledge between one and three (3) feet deep, a two-foot diameter concrete encasement based on the ledge shall be required. If the ledge is less than one foot deep a one-inch steel rod shall be grouted into the ledge.

- (7) A soils report identifying the soils boundaries and names in the proposed development with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification.
- (8) All on site sewerage and water supply facilities shall be shown designed to meet the minimum specifications of these standards and all pertinent state and local ordinances. Compliance shall be stated on the plan and signed by a licensed civil engineer.
- (9) Proposed name of the subdivision or identifying title.
- (10) The date, north point, graphic map scale, name and address of record owner and subdivider and names of adjoining property owners.
- (11) The applicant's evaluation and demonstration of the adequacy and availability of public improvements necessary to serve the proposed subdivision.
- (12) If the applicant is required by Sec. 27-1526, Performance Standards for the Alteration of Freshwater Wetlands, to demonstrate compliance with the general standard for the alteration of freshwater wetlands, and the parcel contains freshwater wetlands, the application must contain the information set forth in either a. or b. below.

(a) Subdivisions Requiring a Permit for the Alteration of Wetlands Under the Maine Natural Resources Protection Act - A subdivision that will involve the alteration of a freshwater wetland that requires a permit other than a "permit-by-rule" from the Maine Department of Environmental Protection (DEP) under the Natural Resources Protection Act must include the materials submitted for such permit or approval, including all supporting documentation, as part of the site plan review application. A project subject to a DEP "permit-by-rule" must submit the information set forth in (b). If an upland buffer is required in accordance with Sec. 27-1432, the following additional information must be provided:

1. A delineation of all wetlands and proposed upland buffers on the subdivision plan or a separate plan at the same scale as the subdivision plan.
2. A description of the proposed treatment of the upland buffer to maintain/create these as naturally vegetated buffer strips. If planting will be done within the upland buffer to meet this

requirement, the type and extent of planting shall be provided in either a tabular or plan form.

3. A narrative describing how the upland buffer will be managed and maintained over time including drafts of proposed easements, deed restrictions, or other legally binding documentation.

(b) Subdivisions That Do Not Require a Permit for the Alteration of Wetlands Under the Maine Natural Resources Protection Act - A subdivision on a parcel that contains a freshwater wetland but that does not require a permit from the Maine Department of Environmental Protection (DEP) under the Natural Resources Protection Act or a project that is subject to a DEP "permit-by-rule" must provide the following information as part of the application:

1. A plan and accompanying documentation delineating the location, type, and area of freshwater wetlands on the parcel prepared by a professional wetland scientist either on the site plan or on a separate plan drawn at the same scale as the site plan. The documentation must describe the vegetation, soils, and hydrology of the identified wetlands and identify any freshwater wetlands of special significance. The plan must show any areas of marsh or open water within the identified freshwater wetlands. This plan must also show existing and proposed buildings, structures, roads, and other improvements on the parcel, and any waterbodies on the parcel or within seventy-five (75) feet of the wetlands.

2. A statement that there will be no alteration of freshwater wetlands or, if alteration is proposed, a plan showing the area of freshwater wetlands proposed to be filled or otherwise altered. This may be a separate plan or be included as part of the plan required in 1.

3. Color photographs showing the characteristics of the wetland vegetation, soils, and hydrology on the parcel. The photos must be labeled and keyed to the plan provided in 1.

4. If alteration of any freshwater wetlands is proposed, the submission must include an alternatives analysis report prepared by a professional wetland scientist. This report must address whether there is a practical alternative to the proposed wetlands alteration and, if there is no practical alternative, how the extent of wetland alteration has been minimized. The report must assess at least the following:

- a. Whether the need for the alteration could be avoided by using, managing, or expanding one or more other sites.
  - b. Whether the need for the alteration could be avoided or minimized by reducing the size, scope, configuration, or density of the activity as proposed.
  - c. Whether the need for the alteration could be avoided or minimized by the location or design of the activity.
5. If upland buffers are required in accordance with Sec. 27-1432, the following additional information must be provided:
- a. A delineation of all proposed upland buffers on the subdivision plan or a separate plan at the same scale as the subdivision plan.
  - b. A description of the proposed treatment of the upland buffer to maintain/create these as naturally vegetated buffer strips. If planting will be done within the upland buffer to meet this requirement, the type and extent of planting shall be provided in either a tabular or plan form.
  - c. A narrative describing how the upland buffer will be managed and maintained over time including drafts of proposed easements, deed restrictions, or other legally binding documentation.
- (13) A Basic Stormwater Management Plan meeting the requirements of Sec. 27-1536, Performance Standards with Respect to Stormwater Management.
- (14) Information on the presence on the property of any historic or archaeological resources, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the City, vernal pools, or rare or irreplaceable natural areas, or any public rights for physical or visual access to the shoreline (including copies of any legal instruments relating to any such public rights) on or across the property.
- (15) A description of how the impact of the development activities on vernal pools, including significant vernal pools, and significant wildlife habitats will be minimized and what actions will be taken to mitigate any negative impacts on these resources. If the proposed activities require a permit or other approval under the state's Natural Resources Protection Act or from the Army Corps of Engineers, any such application and supporting information shall be provided as part of the submission.

- (16) A narrative describing how historic or archaeological resources will be preserved and incorporated into the development plan. If a resource will be removed, altered, or not included as part of the development plan, a statement shall be provided as to why the resource cannot be preserved and the options considered but rejected for including it as part of the development plan.

(Ord. No. 8-75, 4-7-75; Ord. No. 11-88/89, 11-7-88; Ord. No. 10-93/94, 11-1-93; Ord. No. 4-06/07, 10/2/06 [Fiscal Note: Less than \$1000]; Ord. No. 10-07/08, 3/17/08 [Fiscal Note: Less than \$1000]; Ord. No. 18-08/09, 4/22/09, [Fiscal Note: Less than \$1000]; Ord. No. 6-10/11, 9/20/10 [Fiscal Note: Less than \$1000]; Ord. No. 3-14/15, 7/7/14 [Fiscal Note: Less than \$1000]; Ord. No. 19-23/24, 4/16/2024 [Fiscal Note: Less than \$1000])

### **Sec. 24-13. Additional Requirements for Minor Subdivision Applications.**

Minor subdivision applications shall include all requirements as outlined in Ordinance Section 24-38, General Requirements for major subdivisions - final plan.

(Ord. No. 3-01/02, 9/5/01 [Fiscal Note: Less than \$1000])

### **Secs. 24-14--24-16. Reserved.**

## **DIVISION 3. MAJOR SUBDIVISION--PRELIMINARY PLAN**

### **Sec. 24-17.**

### **Procedure.**

- (1) The application for conditional approval of the preliminary plan shall be accompanied by a fee as specified in the Schedule of License, Permit, Inspection and Application Fees established by City Council order.
- (2) The subdivider, or their duly authorized representative shall attend the meeting of the planning board to discuss the preliminary plan.
- (3) Within thirty (30) days after formal submission of a preliminary plan, the planning board shall take action to give preliminary plan approval, with or without conditions, or disapprove such preliminary plan. The reasons of any condition required or the grounds for disapproval shall be stated upon the records of the

planning board. Prior to preliminary approval the planning board may hold a public hearing after reasonable notice of such hearing shall be given

to the applicant. The planning director shall prepare and deliver public hearing notices to the newspaper. All public hearing legal notices published in the newspaper shall be paid for by the applicant. The applicant is responsible for arranging direct payment to the newspaper.

- (4) When granting preliminary approval to a preliminary plan, the planning board shall state the conditions of such approval, if any, with respect to:
1. The specific changes which it will require in the final plan;
  2. The character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, and general welfare;
  3. The amount of improvement or the amount of all bonds therefor which it will require as prerequisite to the approval of the final subdivision plan. The decision of the planning board plus any conditions imposed shall be noted on three (3) copies of the preliminary plan. One copy shall be returned to the subdivider, one retained by the planning board and one forwarded to the municipal officers.
- (5) Preliminary approval of a preliminary plan shall not constitute approval of the final plan, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval of the planning board and for recording upon fulfillment of the requirements of these standards and the conditions of the preliminary approval, if any. Prior to approval of the final subdivision plan, the planning board may require additional changes as a result of new information obtained at a public hearing.

(Ord. No. 8-75, 4-7-75; Ord. No. 4-85/86, 8-5-85; Ord. No. 9-87/88, 8-17-87; Ord. No. 8-89/90, 9-18-89; Ord. No. 4-06/07, 10/2/06 [Fiscal Note: Less than \$1000]; Ord. No. 6-10/11, 9/20/10 [Fiscal Note: Less than \$1000])

## **Sec. 24-18.**

### **Submissions.**

- (a) *Location map.* The preliminary plan shall be accompanied by a map drawn at a scale of not over four hundred (400) feet to the inch to show the relation of the proposed subdivision to the adjacent

properties and to the general surrounding area. The preliminary plan shall show all the area within one thousand (1 000) feet of any property line of the proposed subdivision. Within such area the location map shall show:

- (1) All existing subdivisions and approximate tract lines of acreage parcels together with the names of the record owners of all adjacent parcels of land, those directly abutting or directly across any street adjoining the proposed subdivision.
  - (2) Locations, widths and names of existing, filed or proposed streets, easements, and building lines pertaining to the proposed subdivision and to the adjacent properties.
  - (3) The boundaries and designations of zoning districts, parks and other public spaces.
  - (4) An outline of the proposed subdivision together with its street system and an indication of the future probable street system of the remaining portion of the tract, if the preliminary plan submitted covers only part of the subdivider's entire holding.
- (b) If the applicant is required by Sec. 27-1526. Performance Standards for the Alteration of Freshwater Wetlands, to demonstrate compliance with the general standard for the alteration of freshwater wetlands, and the parcel contains freshwater wetlands, the application must contain the information set forth in Sec. 24-12(12) of the submission requirements for minor subdivisions.

(Ord. No. 8-75, 4-7-75; Ord. No. 10-07/08, 3/17/08 [Fiscal Note: Less than \$1000]; Ord. No. 6-10/11, 9/20/10 [Fiscal Note: Less than \$1000])

## **Sec. 24-19.**

### **Preliminary plan requirements.**

The preliminary subdivision shall be submitted in four (4) copies of one or more maps or drawings which may be printed or reproduced on paper with all dimensions shown in feet or decimals of a foot, drawn to a scale of one inch equals not more than one hundred (100) feet, showing or accompanied by the following information:

- (1) Proposed subdivision name or identifying title and the name of the municipality.

- (2) Name and address of record owner, subdivider and designer of preliminary plan. This will be required only when final plans are submitted.
- (3) Number of acres within the proposed subdivision, location of property lines, existing easements, buildings and other essential existing physical features.
- (4) The names of all subdivisions immediately adjacent and the names of owners of record of adjacent acreage.
- (5) The provisions of the zoning ordinance applicable to the area to be subdivided and any zoning district boundaries affecting the subdivision.
- (6) The location and size of any existing sewers and water mains on the property to be subdivided.
- (7) Location, names and present widths of existing and proposed streets, highways, easements, building lines, alleys, parks and other public open spaces.
- (8) The width and location of any streets within the area to be subdivided, and the width, location, grades, and street profiles of all streets or other public ways proposed by the subdivider.
- (9) Contour lines at intervals of two (2) feet or at such intervals as the planning board may require, based on United States Geological Survey datum.
- (10) A soils report identifying the soils boundaries and names in the proposed development with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification.
- (11) Typical cross sections of the proposed grading for roadways and sidewalks.
- (12) Date, true north bearing and graphic scale.
- (13) Deed description and map of survey of tract boundary made and certified by a registered land surveyor, tied into established reference points.
- (14) Connection with existing water supply or alternative means of providing water supply to the proposed subdivision.

- (15) Connection with existing sanitary sewerage system or alternative means of treatment and disposal proposed.
- (16) If a private sewage disposal system is proposed, it shall comply with all requirements of the Maine State Department of Health and Welfare and all related requirements of the city's sewer ordinance.
- (17) A Post-Construction Stormwater Management Plan meeting the requirements of Sec. 27-1536, Performance Standards with Respect to Stormwater Management.
- (18) The proposed lot lines with dimensions and suggested locations of buildings.
- (19) The location of temporary markers adequate to enable the board, if requested by the board, to locate readily and appraise the basic layout in the field.
- (20) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- (21) The location of all natural features or site elements to be preserved.
- (22) A grading plan may be required for any or all lots as determined by the planning board.
- (23) Preliminary layout of any bridges required.
- (24) Information on the presence on the property of any historic or archaeological resources, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the City, vernal pools, or rare or irreplaceable natural areas, or any public rights for physical or visual access to the shoreline (including copies of any legal instruments relating to any such public rights) on or across the property.
- (25) A description of how the impact of the development activities on vernal pools, including significant vernal pools, and significant wildlife habitats will be minimized and what actions will be taken to mitigate any negative impacts on these resources. If the proposed activities require a permit or other approval under the state's Natural Resources Protection Act or from the Army Corps of Engineers, any such application and supporting information shall be provided as part of the submission.

- (26) A narrative describing how historic or archaeological resources will be preserved and incorporated into the development plan. If a resource will be removed, altered, or not included as part of the development plan, a statement shall be provided as to why the resource cannot be preserved and the options considered but rejected for including it as part of the development plan.

(Ord. No. 8-75, 4-7-75; Ord. No. 22-76, 10-4-76; Ord. No. 4-81/82, 9-9-81; Ord. No. 4-06/07, 10/2/06 [Fiscal Note: Less than \$1000]; Ord. No. 18-08/09, 4/22/09 [Fiscal Note: \$1000]; Ord. No. 6-10/11, 9/20/10 [Fiscal Note: Less than \$1000]; Ord. No. 3-14/15, 7/7/14 [Fiscal Note: Less than \$1000]; Ord. No. 3-14/15 purported to include amendments to Sec. 24-19(24), (25) and (26) as part of Sec. 24-18; this was a scrivener's error and has been corrected by the Editor."

**Secs. 24-20--24-23. Reserved.**

**DIVISION 4. MAJOR SUBDIVISION--FINAL PLAN**

**Sec. 24-24.**

**Procedure.**

- (a) The subdivider shall, within six (6) months after the preliminary approval of the preliminary plan, file with the planning board an application for approval of the final subdivision plan in the form described herein. If the final plan is not submitted to the planning board within six (6) months after the approval of the preliminary plan, the planning board may refuse without prejudice to act on the final plan and require resubmission of the preliminary plan. All applications for final plan approval for major subdivisions or for amended major subdivisions shall be accompanied by a fee as specified in the Schedule of License, Permit, Inspection and Application Fees established by City Council order.
- (b) No final plan of a proposed major subdivision shall be officially submitted to the planning board until the applicant shall have first secured in writing the approval of such proposed subdivision from the State of Maine Department of Environmental Protection if the proposed subdivision:
- (1) Occupies a land area in excess of twenty (20) acres, or
  - (2) Involves a structure or structures having in excess of sixty thousand (60,000) square feet of ground area coverage, or

- (3) Requires a license from the said department of environmental protection under some regulation such as waste discharge or air quality; or
  - (4) In any other way falls within the jurisdiction of and is subject to review by said department of environmental protection including permits for activities subject to the Natural Resources Protection Act.
- (c) Water supply system proposals contained in the proposed subdivision final plan shall be approved in writing, which written approval shall accompany the proposed final plan upon official submission, and which approval shall be from the following authority:
- (1) The servicing water department or district if public water service is to be used, or
  - (2) The State of Maine Department of Health and Welfare if the subdivider proposes to provide a central water supply system, or
  - (3) A professional engineer licensed by the State of Maine and qualified in the field of civil engineering if individual wells serving each building site are to be used,
  - (4) The planning board may also require the subdivider to submit the results of water quality tests for such water supply, as performed by the State of Maine Department of Health and Welfare.
- (d) Sewage disposal systems shall be in accordance with all applicable laws, codes and regulations of the State of Maine and City of South Portland, Maine.
- (e) The planning board shall, within thirty (30) days after official submission of a final plan of a proposed subdivision, conduct a public hearing on such plan. Notice of the public hearing shall be published in a newspaper of local circulation at least seven (7) days prior to date of such hearing and such notice shall also be posted in three (3) places in the city at least seven (7) days prior to such hearing. The planning director shall prepare and deliver public hearing notices to the newspaper. All public hearing legal notices published in the newspaper shall be paid for by the applicant. The applicant is responsible for arranging direct payment to the newspaper.

- (f) No final plan shall be in order for approval or approval with conditions until after the applicant or developer shall have filed with the director of finance of the city a performance bond or guarantee as required by the provisions of this chapter.
- (g) The planning board shall, within thirty (30) days after the public hearing on a final plan, approve, approve with conditions, or disapprove the final plan. Any such decision of the planning board shall include findings of fact, and any approval with conditions or disapproval shall be accompanied by the reasons therefor in writing. Failure of the planning board to act within the required time period shall constitute disapproval of such plan, except that the applicant and board may mutually agree to such other time limit for any final action as may be necessary and mutually agreeable.
- (h) No plan may be approved by the planning board as long as the applicant, subdivider or principals of any such applicant or subdivider shall be in default or shall have failed to complete improvements on any previously approved plan by the city. Such default or failure to complete shall constitute conclusive evidence of the inability of such applicant or developer to comply with the terms of this chapter or to complete work required by a plan.

(Ord. No. 8-75, 4-7-75; Ord. No. 4-85/86, 8-5-85; Ord. No. 9-87/88, 8-17-87; Ord. No. 8-89/90, 9-18-89; Ord. No. 4-06/07, 10/2/06 [Fiscal Note: Less than \$1000]; Ord. No. 10-07/08, 3/17/08 [Fiscal Note: Less than \$1000]; Ord. No. 7-10/11, 9/10/11 [Fiscal Note: less than \$1000])

## **Sec. 24-25.**

## **Submissions.**

- (A) The final plan shall consist of four (4) copies of one or more maps or drawings which shall be printed or reproduced in the same manner as the preliminary plan. Space shall be reserved thereon for endorsement by all appropriate agencies. The final plan shall show:
  - (1) All of the information presented on the preliminary plan and location map and any amendments thereto suggested or required by the board.
  - (2) The name, registration number, seal, and signature of the engineer or land surveyor who prepared the plan.
  - (3) Street names and lines, pedestrian ways, lots, easements and areas to be reserved for or dedicated to public use.
  - (4) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances,

- made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments as herein required, and shall be referenced as shown on the plan.
- (5) Sufficient data to determine readily the location, bearing and length of every lot line and boundary line and to reproduce such lines upon the ground. Where practical these should be tied to reference points previously established.
  - (6) The survey of the outside boundaries of the tract and the computation of the lot lines shall be performed to an accuracy of one foot in five thousand (5,000) feet. The surveyor shall furnish copies of computation sheets for outside boundaries showing:
    - (a) Sketch of traverse lines;
    - (b) Closures;
    - (c) Adjustments;
    - (d) Coordinates; and
    - (e) Computation of outside boundaries.
  - (7) Contour lines at intervals of two (2) feet or at such intervals as the planning board may require, based on United States Geological Survey datum.
  - (8) A minimum of 3 corners of the perimeter of the subdivision tract shall be marked with granite or concrete monuments. All granite or concrete monuments shall be a minimum 4" square and four (4) feet long and set six (6) inches aboveground except in lawns, drives, and parking areas, where they shall be flush. Properly set existing granite or concrete monuments that do not meet these dimension requirements may be considered satisfactory. If the subsurface is ledge between one and three (3) feet deep, a two-foot diameter concrete encasement based on the ledge shall be required. If the ledge is less than one foot deep a one-inch steel rod shall be grouted into the ledge.
  - (9) By proper designation, all public open space for which offers of cession are made by the subdivider and those spaces to which title is reserved by them.

- (10) Lots and blocks within the subdivision numbered in accordance with local practice.
- (11) Construction plans for streets, sanitary sewers, and storm drainage systems shall be designed and prepared by a professional engineer registered in the State of Maine. Drawings shall show the plan, profile, cross sections and details of appurtenances and shall be prepared in accordance with the provisions of this chapter, including the South Portland Street Design Manual. Drawings submitted to the planning board for its review shall have been previously reviewed by a registered engineer and appropriate agencies, unless this prerequisite review is waived by the Planning Board or deferred through conditions of approval.

Plans shall be bound and submitted to the planning board in the following order. Plans not submitted in this order will be cause for rejection by the planning board:

1. Cover sheet. To include but not limited to the following:
  - (a) Plan showing layout of total subdivision including development phases if applicable.
  - (b) Contours at two-foot intervals.
  - (c) Layout of sanitary and storm sewers.
  - (d) Layout of brooks, streams or other natural drainage features.
  - (e) Summary table to include road names, road lengths, sanitary and storm sewer lengths in each road.
2. Construction drawings. Drawings are to include all engineering information necessary to locate streets, storm drains, and sanitary sewers both in plan and profile and shall conform to accepted engineering practices. Typical cross sections shall be provided showing the materials to be used in all phases of construction as applicable in the South Portland Street Design Manual.
3. Plat plan. The plat plan will be the last drawing in the set. All drawings previous to the plat plan will be numbered consecutively. The plat plan will not be numbered as part of the set.

- (B) There shall be submitted to the board with final plan:
- (1) Written offers of cession to the city of all public open space shown on the plan, and copies of agreements or other documents showing the manner in which spaces, title to which is reserved by the subdivider, are to be maintained.
  - (2) Written evidence that the city manager and corporation counsel are satisfied with the legal sufficiency of the documents referred to in subparagraph (1), above. Such written evidence shall not constitute an acceptance by the municipality of any public open space referred to in subparagraph (1), above.
  - (3) A performance bond or guarantee in a form and amount meeting the requirements of this chapter to secure completion of all improvements required by the board and written evidence that the city manager, or his/her designee has reviewed and approved said bond or guarantee in accordance with the provisions of this chapter.
  - (4) Written evidence from the municipal fire chief to the effect that the final plan meets all fire regulation requirements.
  - (5) The applicant's evaluation and demonstration of the adequacy and availability of public improvements necessary to serve the proposed subdivision.

(Ord. No. 8-75, 4-7-75; Ord. No. 22-76, 10-4-76; Ord. No. 11-88/89, 11-7-88; Ord. No. 10-93/94, 11-1-93; Ord. NO. 4-06/07, 10/2/06 [Fiscal Note: Less than \$1000], Ord. No. 12-19/20, 11/7/19 [Fiscal Note: Less than \$1000]; Ord. No. 19-23/24, 4/16/2024 [Fiscal Note: Less than \$1000])

## **Sec. 24-26.**

### **Final approval and filing.**

- (a) Upon completion of the requirements stated in this division, including planning board approval, and notation to that effect upon the plan, the plan shall be deemed to have final approval and a copy of the final plan as approved shall be filed by the applicant with the municipal officers. The plan shall then be recorded in the Cumberland County Registry of Deeds by the subdivider. Any subdivision plan not so filed or recorded within ninety (90) days of the date upon which such plan is approved and signed by the planning board as herein provided shall become null and void, unless the particular circumstances of said applicant warrant the planning board granting an extension which shall not exceed two (2) additional periods of ninety (90) days.

- (b) The Planning Board may approve plans to develop a major subdivision in separate and distinct phases subject to any conditions the Planning Board deem necessary in order to insure the orderly development of the plan. This may be accomplished by limiting final approval to those lots or areas abutting that section of the proposed subdivision street that is covered by a performance guarantee. When development is phased, road and any other construction shall commence from an existing public way. Final approval of lots or other development in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases. The Planning Board shall establish commencement of construction and completion of construction deadlines for each phase of the development upon approval of each phase.

(Ord. No. 8-75, 4-7-75; Ord. No. 7-10/11, 9/10/11 [Fiscal Note: Less than \$1000]; Ord. No. 7-10/11, 9/10/20 [Fiscal Note: Less than \$1000])

#### **Sec. 24-27.**

#### **Plan revisions after approval.**

- (a) Any subdivision plan that has been previously approved by the Planning Board, may not be changed without amended subdivision review and approval by the Planning Board.
- (b) Amendments to plans previously approved by the Planning Board shall be subject to one of the following levels of review:
- (1) Minor Amendments, pursuant to the provisions outlined in Sec. 24-27(c) below.
  - (2) Major Amendments, pursuant to the provisions outlined in Sec. 24-27(d) below.
- (c) Planning Board Consent Calendar Review.
- (1) The following project amendments to a previously approved subdivision are eligible for Planning Board Consent Calendar review:
    - (A) Amendments to lot lines where all lots remain conforming and no new lots are created. All current owners of lots or units shown on the recorded plan shall receive notice of the consent calendar review for a lot line adjustment.

- (B) Modifications to landscaping that do not reduce landscaped area by more than 500 sq. ft.
  - (C) Modifications to landscaping to relocate or amend trees that were provided as mitigation trees for tree loss, where the number and quality of trees provided as mitigation is not reduced.
  - (D) Modifications to utilities, including redesign of utility networks or connections and the addition of new utilities (e.g., adding natural gas lines to a project that did not initially propose a gas line connection). The modifications to utilities cannot involve new easements or modifications to existing easements, must maintain equivalent service capacity, and cannot negatively impact open space and natural resources (e.g., a new utility trench location that results in new tree removal).
  - (E) Applicant, property owner, and agent contact information updates.
  - (F) Amendments to stormwater design so long as there is no loss of stormwater management capacity on site, no more than a 15% increase in municipal MS4 discharge, no new easements or modifications to existing easements, and no negative impacts to open space and natural resources (e.g., a new utility trench location that results in new tree removal shall be evaluated by the Planning Board).
  - (G) Modifications to impervious area resulting in no more than 250 sq. ft. of new impervious area. Increases in impervious area may be offset by a corresponding decrease in impervious area elsewhere on the same parcel.
  - (H) Redesigning parking areas, with no modifications to site access (e.g., no new curb cuts or relocated curb cuts).
- (2) Minor Amendment applications shall be submitted to the

Planning Director, and the Planning Director shall place all complete applications on the Consent Calendar of a Planning Board meeting for action by the Planning Board. The application shall be accompanied by a recommendation on the application from the Planning Director, which shall be prepared in consultation with City staff and consultants as may be necessary. Third-party consultation shall be conducted in accordance with Sec. 24-5(a) of this chapter.

- (3) The Planning Board may take action on a Minor Amendment application without specific discussion as part of a slate of Consent Calendar items, take the item off the Consent Calendar for specific discussion, postpone the item to enable the provision of further public notice, determine that the proposed change or set of changes are not minor in nature and do not qualify for the minor amendment change review procedure as outlined above, or take such other action as it deems appropriate.
- (4) Minor Amendment applications may be approved by the Planning Board if they:
  - (A) do not amount to a waiver or substantial alteration of any condition or requirement previously set by the Planning Board;
  - (B) do not affect an approval standard; and
  - (C) meet all applicable ordinances and laws.
- (d) Major Amendments Requiring a Duly Noticed Planning Board Public Hearing.
  - (1) Amendments or modifications to a previously approved subdivision plan that meet any of the following criteria shall be subject to a Planning Board public hearing, duly noticed in accordance with the requirements of this chapter:
    - (A) Modifications that amount to a waiver or substantial alteration of any condition of

approval previously set by the Planning Board;

- (B) Modifications that affect an approval standard or modify the basis for finding conformance with an applicable standard;
- (C) Modifications to lot lines in an approved subdivision where new lots are created;
- (D) Modifications that otherwise do not meet applicable ordinances and/or laws;
- (E) Modifications that may otherwise meet the criteria for Planning Board Consent Calendar (Minor Amendment) review pursuant to Sec. 24-27(c) but which are, in the sole discretion of the Planning Director, appropriate for more enhanced review and therefore require a duly-noticed public hearing pursuant to 24-27(d)(1).

(Ord. No. 8-75, 4-7-75 Ord. No. 3-01/02, 9/5/01 [Fiscal Note: Less than \$1000] Ord. No. 12-19/20, 11/7/19 [Fiscal Note: Less than \$1000]; Ord. No. 6-23/24, 11/14/2023)

## **Sec. 24-28.**

### **Inspection and required improvements.**

- A) At least thirty (30) days prior to the beginning of construction of the required improvements, and prior to the issuance of a building permit, the subdivider shall notify the Planning Director that it seeks to start construction. The Planning Director shall coordinate a pre-construction meeting to review, at a minimum, the following:
  - (1) Type of improvement(s).
  - (2) Description of and amount of work to be completed.
  - (3) Beginning date.
  - (4) Duration of construction.
  - (5) Erosion and sedimentation control, and other site stabilization.

## (6) Planning Board requirements and conditions.

Construction shall be scheduled continuously until date of completion.

- B) [RESERVED]
- (C) [RESERVED]
- (D) If the Planning Director or other duly designated person shall find, upon receiving reports of inspection of the improvements performed before expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, the Planning Director shall notify the subdivider and, if necessary, the bonding company, and take all necessary steps to preserve the municipality's rights under the bond. The Planning Board shall be notified of any action to utilize a performance bond at its next public meeting following the call for use of the performance bond.
- E) If at any time before or during the construction of the required improvements the subdivider seeks to modify the location or design of such required improvements, an application shall be filed by the subdivider with the Planning Division for review and approval by the planning board. The Planning Director or other duly designated person shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the planning board at its next regular meeting.
- (F) The applicant shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of said improvements by the city council.
- (G) Upon completion of the subdivision the subdivider shall notify the planning board in writing stating that all improvements have been completed. Along with this statement shall be submitted the following information:
- (a) As-builts of all construction drawings previously approved by the planning board as final plans, and to include the following:
- (1) Cover sheet to include:

- a. Total layout of subdivision showing phases of construction if applicable.
- b. Layout of water mains, hydrants, sanitary and storm sewers.
- c. Contours at two-foot intervals.
- d. Summary table to include road name, length and total length of sanitary and storm sewer.
- e. Index of streets.

(2) Construction drawings. As-built information concerning street locations; plan and profile of storm and sanitary sewers; plan and profile of drainage courses as provided for in the original final drawings approved by the planning board.

(3) Plat plan.

(H) Street improvements shall be completed in accordance with the provisions of this chapter and the Code of Ordinances. The improvements are to include the following:

(1) All utilities shall be constructed and operative. The utilities shall include, but not be limited to, the following:

- (a) Sanitary sewers.
- (b) Storm sewers and drainage.
- (c) Water.
- (d) Natural gas.
- (e) Telephone (underground).
- (f) Electrical (underground).

(2) Street paving and related base materials:

(a) All work within the City right-of-way shall require a street opening permit application and approval in accordance with Chapter 23, Street and Sidewalks, of the Code of Ordinances.

- (3) Street curbing and esplanades:
    - (a) No curb cuts shall be allowed until the subdivider has first obtained the necessary curb cut permits as stated in Chapter 23, Article III, of the City Ordinances.
  - (4) Driveway aprons: Driveway aprons shall be constructed at the time the street is constructed should curb cut be obtained as outlined in (3) above. Base material requirements shall be the same as that of the street. Pavement shall be applied within the time frame designated in section 24-30 (b) of this chapter.
  - (5) Sidewalks:
    - (a) Where no sidewalks are to be installed the ground within the right-of-way shall be graded as provided for in the South Portland Street Design Manual.
    - (b) Where sidewalks are to be provided (a) shall apply and granular base materials shall be provided. Pavement shall be applied within the time frame designated in section 24-30 (b) of this chapter.
- (I) Unless specifically otherwise provided in this chapter, or by action of the city council, the subdivider or applicant shall be liable for payment of the full cost of all improvements required for completion of any subdivision in accordance with the plan as finally approved.

(Ord. No. 8-75, 4-7-75; Ord. No. 34-76, 11-1-76; Ord. No. 35-76, 12-6-76; Ord. No. 4-06/07, 10/2/06 [Fiscal Note: less than \$1000]; Ord. No. 19-23/24, 4/16/2024 [Fiscal Note: Less than \$1000])

## **Sec. 24-29.**

### **Public acceptance of streets, recreation areas.**

The approval by the planning board of a subdivision plan shall not be deemed to constitute an acceptance by the city of any street, easement, or other open space shown on such plan.

When a park, playground, or other recreation area shall have been shown on the plan, approval of the plan shall not constitute an acceptance by the municipality of such areas. The planning board shall require the plan to be endorsed with appropriate notes to this effect. The planning board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title, dedication, and provision for the cost of grading, developing, equipment, and maintenance of any such recreation area.

(Ord. No. 8-75, § 4-7-75)

**Sec. 24-30.**

**Improvement completion time.**

- (a) Any person, firm, or corporation making a subdivision in the City of South Portland agrees to have all improvements required by section 24-28 (H) (1) through (5) completed before any building constructed within the confines of the subdivision is occupied. Should a building become occupied and said improvements not completed the subdivider shall be in violation of this chapter. The official occupancy date shall be that issued by the building inspector's office. All improvements are to include the construction of streets from a previously constructed city street to the extremity of the lot in question.
- (b) All required improvements shall be completed no later than two (2) years after approval of the final plan. Should the subdivider request an extension it shall be made in writing to the planning board. Should the planning board grant an extension it shall be for a period not to exceed six (6) months. Only one extension shall be granted. Should the subdivider not complete the required improvements within the time specified the subdivider shall be in violation of this chapter.

(Ord. No. 34-76, 11-1-76)

**Secs. 24-31--24-34. Reserved.**

**ARTICLE III. ENFORCEMENT****Sec. 24-35.****Procedure.**

- (a) No plan of a subdivision of land within the City of South Portland which would constitute a subdivision as defined herein shall hereafter be filed or recorded in the registry of deeds until a final plan thereof shall have been approved by the planning board in accordance with all of the requirements, design standards, and construction specifications set forth elsewhere in this chapter, nor until such approval shall have been entered on such final plan by the planning board.
- (b) No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the planning board and recorded in the registry of deeds.
- (c) Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by this section shall be punished by a fine as set forth by state law or in the Code of Ordinances, City of South Portland, Maine for each such conveyance, offering or agreement. The attorney general, district attorney or the City of South Portland or the appropriate municipal officers may institute proceedings to enjoin the violation of this section.
- (d) No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the planning board.
- (e) Not only is making a subdivision without planning board approval a violation of law, but so also within such a subdivision is grading or construction of roads, grading of land or lots, or construction of buildings until such time as a final plan of such subdivision shall have been duly prepared, submitted, reviewed, approved, and endorsed as provided in these standards, and until the original copy of the final plan so approved and endorsed has been duly recorded in the Cumberland County Registry of Deeds.
- (f) In the event that the subdivider shall fail to comply with the requirements of section 24-28(F), the building inspector may issue a stop work order directing cessation of all work in the subdivision, or the planning board, after notice and hearing, may

revoke its approval of the final plan, or both such steps may be taken.

(Ord. No. 8-75, 4-7-75)

**Secs. 24-36.**

**Enforcement Officer.**

It shall be the duty of the Code Enforcement Officer or other person duly authorized to act in his or her absence or incapacity to enforce the provisions of this chapter. If the enforcement officer finds that any of the provisions of this chapter are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The enforcement officer shall order discontinuance of illegal use of land, buildings, or structures, removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions.

(Ord. No. 3-01/02, 9/5/01 [Fiscal Note: Less than \$1000])

**Secs. 24-37. Reserved.**

**ARTICLE IV. GENERAL REQUIREMENTS OF ALL SUBDIVISIONS****Sec. 24-38.****General requirements.**

In reviewing applications for the subdivision of land, the board shall consider the following general requirements. In all instances the burden of proof shall be upon the person proposing the subdivision.

- (A) *Subdivision plan shall conform to the comprehensive plan.* Any proposed subdivision shall be in conformity with the comprehensive plan of South Portland and with the provisions of all pertinent state and local codes and ordinances.
- (B) *Preservation of natural and historic features.* The applicant for a proposed subdivision shall provide a grading and landscape plan that shows the Project Disturbance Area that includes the proposed structures or improvements as well as construction staging and operations activity that will disturb the site, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas. Within the Project Disturbance Area, the plan shall identify the drip line of the trees, the existing location of trees with a 10 inch DBH or greater, or 30 inch DBH or greater in aggregate for a multi-stemmed tree, the species and health of trees to be removed, and replacement trees. The street and lot layout shall be adopted to the topography. Extensive grading and filling shall be avoided as far as possible.
- (C) *Blocks.*
- (1) The length, width and shape of blocks shall be determined with due regard to:
- Provision of adequate building sites suitable to the special needs of the type of use contemplated.
- Zoning requirements as to lot sizes and dimensions.
- Needs for convenient access, circulation, control and safety of street traffic.
- (2) Blocks shall not be less than four hundred (400) feet, nor more than one thousand two hundred (1,200) feet in length except as the planning board considers necessary to secure the efficient use of land or desired features of street pattern. In blocks exceeding eight hundred (800) feet in length, the planning board may require the reservation of a

twenty-foot wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a four-foot wide paved footpath be included. The planning board shall require the subdivider to provide for the proper maintenance of any such easement.

(D) *Lots.*

- (1) The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- (2) Depth and width of properties reserved or laid out for all purposes shall be adequate to provide for off-street parking and service facilities for vehicles required by the type of use and development contemplated.
- (3) Double frontage lots and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet, across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.
- (4) Side lot lines shall be substantially at right angles or radial to street lines.
- (5) No person shall make a subdivision within the city unless all lots of the proposed subdivision have frontage, as regulated by the zoning ordinance, upon a way granting legal access. The following ways shall constitute legal access to a lot:
  1. A way accepted by or established as belonging to the city, provided access is not specifically prohibited.
  2. A way shown on a plan approved in accordance with the provisions of the subdivision.
  3. A private way (unaccepted street) existing prior to June 17, 1963, which way is shown on a plan recorded in the registry of deeds prior to such date and is deemed adequate by the planning board as evidenced by the board's endorsement on a final plan for the subdivision of land. In its approval of an existing private way, the

board may make whatever requirements it feels necessary to improve the way commensurate with the projected use of same.

(E) *Easements for natural drainageways.* Where a subdivision is traversed by a natural watercourse, drainageway, channel, or stream, the subdivider shall, prior to approval of the plan by the Planning Board, be prepared to convey to the city a storm water and drainage easement or right-of-way in a form acceptable to the city the confines of which conform substantially with the lines of such watercourse and such further width or construction, or both, as will assure that no flooding occurs and all storm water can be disposed of properly. Such easement or right-of-way shall not be less than thirty (30) feet in width. This section shall not be construed as rendering the City liable for any subsequent drainage problems or flooding. The Planning Board may reduce the width of the easement upon the positive recommendation of the Director of Water Resource Protection or his/her designee if the narrower easement will allow the drainageway to be maintained or if the unique characteristics of the site make the creation of a wider easement impractical.

(F) *Utilities.*

(1) The location of public utilities, such as streetlights, electrical lines, telephone lines, gas lines, fire hydrants, etc., shall be installed in accordance with the provisions of this chapter. All utilities will be located underground unless otherwise approved by the planning board.

(2) The following shall constitute the utility provisions of this Subdivision Ordinance, and reference is made to the South Portland Street Design Manual.

(a) Electrical systems.

Belowground.

Location: Under sidewalk area (either side).

Operational width: Five (5) feet.

Minimum depth: Two (2) feet six (6) inches of cover.

Aboveground.

Poles and light standards (either side).

Face of structure one foot in back of face of curb,  
or four (4) feet inside right-of-way line.

(b) Gas systems.

Location: On south and east side of street. Five (5)  
feet inside of pavement edge or curb.

Operational width: Six (6) feet.

Minimum depth: Four (4) feet of cover.

(c) Sewer/storm systems.

Location: Highway center line for sanitary. Gutter  
lines for storm (at curb) both and/or either side of  
street.

Operational width: Six (6) feet.

Recommended minimum depth: Seven (7) feet for sanitary,  
four (4) feet for storm.

(d) CATV/telephone systems.

Belowground.

Location: Under sidewalk area (either side).

Operational width: Five (5) feet.

Minimum cover: Three (3) feet.

Aboveground.

Poles and pedestals (either side).

Face of structure one foot in back of face of curb,  
or four (4) feet six (6) inches inside right-of-way  
line.

(e) Water systems.

Location: On north and west side of street. Five (5)  
feet inside of pavement edge or curb face.

Operational width: Six (6) feet.

Recommended minimum depth: Six (6) feet of cover.

Hydrants: One foot in back of face of curb.

(f) Traffic/street lighting.

Location: Adjacent and generally parallel to pole line (either side).

Minimum depth: Two (2) feet.

(G) *Additional requirements.* Street trees, site trees, esplanades, and open green spaces may be required at the discretion of the planning board to complement the architecture, enhance the human scale, reinforce circulation paths, highlight entrances, provide shade, provide new or mitigate for lost significant habitat and natural resources, and add color and seasonal interest. Where such improvements are required, they shall be incorporated in the final plan and executed by the subdivider as construction of the subdivision progresses.

(H) *Flood damage prevention.*

- (1) The planning board shall determine that all subdivision proposals reviewed are consistent with the need to minimize flood damage, and
- (2) All utilities and facilities, including but not limited to, sewer, gas, electrical and water systems are so located, elevated and constructed as to minimize or eliminate flood damages, and
- (3) That adequate drainage is provided so as to reduce exposure to flood hazard, and
- (4) That in all subdivision proposals for developments greater in number than forty (40) lots or greater in total area than five (5) acres (whichever is the lesser), base flood elevation data be provided by the developer in both the preliminary and final subdivision plans.

(Ord. No. 8-75, 4-7-75; Ord. No. 6-77, 5-16-77; Ord. No. 18-08/09, 4/22/09 [Fiscal Note: Less than \$1000]; Ord. No. 4-20/21. 10/6/2020 [Fiscal Note: Less than \$1000] ); Ord. No. 19-23/24, 4/16/2024 [Fiscal Note: Less than \$1000])

**Secs. 24-39, 24-40. Reserved.**



**ARTICLE V. DESIGN AND CONSTRUCTION STANDARDS****Sec. 24-41.****Streets (General).**

- (a) *Street classification definitions and designation.* Refer to the most recent of the South Portland Street Design Manual for street type definitions and designations. A proposed new street within a subdivision may be preliminarily classified by the subdivder using the Street Design Manual for guidance, but the planning board may modify that classification to the one that the planning board determines to be the most appropriate under the specific facts and circumstances of the project.
- (b) *Street signs.*
- (1) Streets which join or are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality and shall be subject to approval of the board.
  - (2) Street name signs shall be furnished and installed by the city.
- (c) *Future street extensions.* Reserve strips prohibiting access to streets or adjoining property shall not be permitted, except where, in the opinion of the planning board, such strips shall be in the public interest.
- d) *Sidewalks.* Sidewalks will be provided at the discretion of the planning board. Refer to the most recent of the South Portland Street Design Manual for sidewalk construction standards.

(Ord. No. 8-75, 4-7-75; Ord. No. 19-23/24, 4/16/2024 [Fiscal Note: Less than \$1000])

**Sec. 24-42.****Street standards.**

- (A) Refer to the most recent version of the South Portland Street Design Manual for street design and construction standards. In addition to the standards set forth in the Street Design Manual, the latest edition of the Maine Department of Transportation (DOT) Design Standards also apply. In cases where the City's standards differ from those of Maine DOT, the City's standards shall guide but DOT shall be consulted. State and State Aid roads, as classified by Maine DOT, shall require a design exception from the Engineering Council for any deviations from the Maine DOT Design Standards.
- (B) *Dead-end streets.* This section applies to local streets as described in the South Portland Street Design Manual only.

The following requirements shall be fulfilled:

Maximum length of dead-end street: Six hundred (600) feet measured from the center line of feeder street to center of turnaround radius.

Radii of turnaround at end:

Property line: Sixty-five (65) feet.

Outer edge of pavement: Fifty-five (55) feet.

Inner edge of pavement: Thirty-three (33) feet.

(Ord. No. 8-75, 4-7-75; Ord. No. 18-76, 8-16-76; Ord. No. 4-06/07, 10/2/06 [Fiscal Note: Less than \$1000]; Ord. No. 18-08/09, 4/22/09 [Fiscal Note: Less than \$1000]; Ord. No. 19-23/24, 4/16/2024 [Fiscal Note: Less than \$1000])

### **Sec. 24-43.**

### **Storm drainage design and construction standards.**

(A) *Intent.* Recognizing that development activity increases storm water runoff by reducing the infiltrative capacity of the soils and that storm water runoff poses dangers of flooding, adds pollution to water resources, and increases erosion and sedimentation, the purpose of the City's stormwater management requirements is to encourage the disposal of storm water on the land at the site of development and, to the extent practicable, to do so through the wise use of the natural features of the site. This policy will preserve the natural drainage system, valuable topsoil, water quality and wildlife habitat during and after construction through infiltration, detention, or retention of water falling on the site. The disposal of storm water shall not

constitute a threat to public health, safety and welfare and shall not degrade the quality of South Portland's surface water or groundwater below state or city standards. It shall be the responsibility of the developer to adequately provide for the necessary control of storm water runoff and erosion.

(B) *Standards for storm water runoff.*

- (1) Minor subdivisions must comply with the standards set forth for Basic Stormwater Management Plans in Sec. 27-1536, Performance Standards with Respect to Stormwater Management.
- (2) Major subdivisions must comply with the standards set forth for Post-Construction Stormwater Management Plans in Sec. 27-1536, Performance Standards with Respect to Stormwater Management.

(Ord. No. 8-75, 4-7-78; Ord. No. 4-81/82, 9-9-81; Ord. No. 21-00/01, 4/18/01 [Fiscal Note: Less than \$1000]; Ord. No. 4-06/07, 10/2/06, [Fiscal Note: Less than \$1000]; Ord. No. 18-08/09, 4/22/09 [Fiscal Note: Less than \$1000]; Ord. No. 6-10/11, 9/20/10 [Fiscal Note: Less than \$1000])

**Sec. 24-44.**

**Sanitary sewer design and construction standards.**

- (a) *Intent.* An adequately piped sanitary sewer system including appurtenances such as manholes, wye connections and leads shall be provided for the adequate removal of sanitary wastes.
- (b) *Standards.*
  - (1) All sanitary sewer systems within the subdivision shall be designed to meet criteria dictated by the zoned area. Design computation shall be submitted to the planning board for approval.
  - (2) Upstream sewage shall be accommodated by an adequately sized system through the proposed subdivision for existing conditions and potential development in the upstream area or areas tributary to the proposed subdivision, as determined by the planning board.
  - (3) Existing down-stream sewage facilities shall be studied to determine the effect of the proposed subdivision's sewage. The developer shall demonstrate to the satisfaction of the planning board that the sewage from the proposed subdivision will not in any way overload the existing sewer systems downstream from the proposed subdivision.

- (4) Manholes shall be located at intervals not to exceed four hundred (400) feet and shall be located at intersections and changes of direction. Drop manholes will be required where invert differences of incoming to outgoing sewer pipes are two (2) feet or greater. The average velocity when flowing full shall not be less than two (2) feet per second. If a sewer changes direction in a manhole without change of size a drop of four hundredths (.04) foot will be provided in the manhole. If the sewer changes size, the crowns of the inlets and outlet sewers are to be at the same elevation. Branches coming into a manhole shall have their crowns at the same elevation as that of a larger sewer. These criteria are minimal and the actual engineering design will take precedence.
- (5) Materials. The following materials shall be utilized for sanitary sewer construction:
- (a) Reinforced concrete pipe. Reinforced concrete pipe for gravity sewers shall conform to standard specifications for reinforced concrete sewer pipe, ASTM C-76. Pipe classes shall be as required to meet soil and traffic loads with a factor of safety of 1.2 on .01 inch crack strength with Class B bedding. Joints in the pipe shall be of the tongue and groove type incorporating a single rubber gasket in which the gasket is in compression and which will permit both longitudinal and angular movement without leakage. The gaskets shall conform to the requirements of ASTM designation C-443.
  - (b) Asbestos cement pipe. Asbestos cement pipe shall meet the requirements of ASTM designation C-428 and shall be designed to resist soil and traffic loads with a factor of safety of 1.5 on the crushing strength with a Class B bedding. Joints will be the rubber gasket type meeting the requirements of ASTM D-1869 and installed in accordance with the manufacturer's direction.
  - (c) Clay pipe. Clay pipe shall conform to standard specifications ASTM C-200. Joints shall be of flexible gasket type meeting the requirements of ASTM designation C-425 latest revision.
  - (d) Manholes. Manhole super structure shall be of precast reinforced concrete conforming to the requirements of ASTM designation C-478. Joints shall be of the flexible gasket type and meeting the requirements of ASTM designation C-433.

- (e) Testing. Pipelines will be tested for leakage between manholes as the work progresses. The inspector will conduct the test, but the developer will furnish all apparatus required in connection with tests. The infiltration or exfiltration of groundwater into any section of pipe shall not exceed five hundred (500) gallons per one inch diameter of pipe mile in twenty-four (24) hours. At all times when work is not in progress all open ends of pipes and fittings shall be securely closed to the satisfaction of the inspector so that no trench water or earth will enter the pipes or fittings. Any section of pipe already laid and found to be defective shall be replaced.

(Ord. No. 8-75, 4-7-75)

#### **Sec. 24-45**

#### **Alteration of Freshwater Wetlands**

- (a) If the parcel contains freshwater wetlands and the activity is not exempt from having to demonstrate compliance with the freshwater wetland alteration standard of Sec. 27-1526, the plan must provide for upland buffers adjacent to the identified freshwater wetlands in accordance with Sec. 27-1526(e) and preserve, to the maximum extent possible, trees located within the upland buffer.
- (b) If the parcel contains freshwater wetlands, and if any of these freshwater wetlands will be altered, the project shall provide compensation or mitigation for the wetland alteration if required by Sec. 27-1526(d) in accordance with the provisions of that section. The Planning Board may require that trees removed within the affected wetland area or its upland buffer are replaced.

(Ord. No. 10-07/08, 3/17/08 [Fiscal Note: less than \$1000]; Ord. No. 6-10/11, 9/20/10 [Fiscal Note: Less than \$1000]; Ord. No. 4-20/21, 10/6/2020 [Fiscal Note: Less than \$1000])

**Secs. 24-46--24-49. Reserved.**



## ARTICLE VI. GENERAL CONSTRUCTION REQUIREMENTS

**Sec. 24-50.****General construction requirements.**

- (a) Trenching. All trenching shall be accomplished in accordance with all appropriate state and federal safety requirements.
- (b) Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two (2) feet.
- (c) Pipe shall be bedded in crushed or screened stone with a minimum depth of six (6) inches to provide a Class B bedding. The stone will be deposited in the trench and brought to proper invert grade. The maximum size of stone aggregate will be three-fourths ( $3/4$ ) inch. When the trench bottom has been excavated below grade it shall be filled and thoroughly compacted to grade before the utility pipe is placed. When the excavated trench bottom is not sufficiently firm to properly support the utility pipe, the Planning Director, in consultation with the Director of Public Works, may direct the subdivider to excavate below grade and bed the trench bottom with a specified depth of select material. Unless otherwise shown on the final plan the stone shall be brought to the spring line of the pipe. Bedding materials other than those stated above may be used, subject to the review and approval of the Planning Director, in consultation with the Director of Public Works. Allowances to excavate below grade and bed the trench, or to alter bedding materials as allowed in this subsection shall not require Planning Board review and approval.
- (d) Alignment shall be straight in both the horizontal and vertical unless specific approval of a curvilinear drain is obtained in writing from the planning board.
- (e) Manholes shall be provided at all changes in vertical or horizontal alignment, and at all junctions. On straight runs manholes shall be placed at a maximum of four hundred (400) foot intervals.
- (f) All drain outlets shall be terminated in an end wall of concrete construction or shall be riprapped to prevent erosion. Facilities for energy dissipation shall be provided.
- (g) Underdrains shall be laid with perforations down with a backfill consisting of graded stone or gravel.

(Ord. No. 8-75, 4-7-75; Ord. No. 4-06/07, 10/2/06 [Fiscal Note: Less than \$1000]; Ord. No. 19-23/24, 4/16/2024 [Fiscal Note: Less than \$1000])

**Secs. 24-51, 24-52. Reserved.**

**ARTICLE VII. MONUMENTS****Sec. 24-53.****Monuments.**

- (a) Granite or concrete monuments a minimum four (4) inches square and 4' long with a flat top shall be set at all street corners, at all points where the street line intersects the exterior of the subdivisions and at angle points and points of curve in each street. The top of the monument shall have an indented cross to identify properly the location and shall be set flush with the finished grade. Properly set existing granite or concrete monuments that do not meet these dimension requirements may be considered satisfactory.
- (b) All other lot corners, except those required to have granite or concrete monuments, shall be marked with minimum 3/4" iron pipe not less than three-fourths (3/4) inch in diameter or 5/8" steel rebar a minimum of twenty-four (24) inches long. All such markers shall be set 6" above ground, except in lawns, drives, and parking areas where they shall be flush.

(Ord. No. 8-75, 4-7-75; Ord. No. 10-93/94, 11-1-93)

**Secs. 24-54, 24-55. Reserved.**



**ARTICLE VIII. VARIANCES AND WAIVERS; ACCEPTANCE OF STREETS****Sec. 24-56.****Variances and waivers.**

- (1) Where the planning board finds that extraordinary and unnecessary hardships may result from strict compliance with these standards or where there are special circumstances of a particular plan, it may vary these standards so that substantial justice may be done and the public interest secured; provided that such variations will not have the effect of nullifying the intent and purpose of the official map, the comprehensive plan or the zoning ordinance, where such exist.
- (2) Where the planning board finds that, due to special circumstances of a particular plan, the provision of certain required improvements is not requisite in the interest of public health, safety and general welfare, or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.
- (3) In granting variances and modifications, the planning board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified.
- (4) Notwithstanding any other provisions of this chapter to the contrary, the planning board shall have no authority to grant a variance or waiver to any right-of-way requirements under this chapter.

(Ord. No. 8-75, 4-7-75; Ord. No. 15-85/86, 11-18-85)

**Sec. 24-57.****Public interest governs acceptance of streets.**

Nothing in this article is to be construed as a limitation on the City Council's authority to accept any street in the city as a public street whenever the public interest so requires.

(Ord.No.7-96/97, 9-4-96)

**Sec. 24-58. Modification of local street standards – stormwater management.**

The Planning Board, with input from the Planning Director, in consultation with the Fire Chief and the Director of Public Works, or their designees, may approve the design and construction of a new

local street as described in the South Portland Street Design Manual or the extension or alteration of an existing local street that does not conform to the standards of Sec. 24-41, Streets (General), and Sec. 24-42, Street standards, as part of a Post-Construction Stormwater Management Plan if the Planning Board finds that the modification of the street design is necessary to meet the stormwater management standards of Sec. 27-1536, Performance Standards with Respect to Stormwater Management. If the street is constructed in accordance with the design approved by the Planning Board, the modification of the standards shall not preclude the street from being accepted as a public street in accordance with the City's street acceptance procedures.

The Planning Board's authority to modify the local street standards as part of a Post-Construction Stormwater Management Plan is limited to the following areas:

- (1) Pavement width - the Planning Board may reduce the minimum pavement width to not less than twenty-four (24) feet but only if the Planning Board finds that the reduced width will allow for safe traffic movement and adequate, all-season emergency vehicle access to the lots served by the street.
- (2) Sidewalks - the Planning Board may allow a sidewalk to be provided on only one side of the street and may reduce the minimum width of sidewalks to not less than four (4) feet but only if the sidewalk will not be maintained by the City. In addition, the Planning Board may allow the sidewalk to be located immediately adjacent to the travelway or curb without provisions for an esplanade.
- (3) Curbing - the Planning Board may allow the use of discontinuous curbing or alternative curbing material that allows stormwater to drain from the roadway into a stormwater facility or the stormwater system without going into a conventional underground storm sewer.
- (4) Stormwater system - the Planning Board may allow the use of an open stormwater drainage system or a system that drains stormwater directly into stormwater treatment facilities rather than a conventional underground storm sewer.
- (5) Materials - The Planning Board may allow the use of alternative provisions for the roadway and sidewalk base and subbase as part of the stormwater management system and may allow the use of pervious paving materials for sidewalks.

As part of a Post-Construction Stormwater Management Plan, the Planning Board may allow stormwater facilities that treat the stormwater runoff from private property to be located within the street right-of-way if the Planning Board finds that there is no appropriate location for the facilities on the private property, that

the location of the facilities within the street right-of-way will not adversely impact the City's ability to maintain the street and related improvements, and that permanent, enforceable provisions for the maintenance and replacement of the stormwater facilities by the private property owner are established in a form acceptable to the City as part of the approved stormwater management plan.

(Ord. No. 18-08/09, 4/22/09 [Fiscal Note: Less than \$1000]; Ord. No. 6-10/11, 9/20/10 [Fiscal Note: Less than \$1000]; Ord. No. 19-23/24, 4/16/2024 [Fiscal Note: Less than \$1000])

**Sec. 24-59.**

**Reserved.**



## ARTICLE IX. NONRESIDENTIAL SUBDIVISIONS

### Sec. 24-60.

### Procedure and standards.

Any subdivision proposed for other than residential uses shall comply with the procedures, requirements and standards applicable to major subdivisions as set forth in this chapter.

(Ord. No. 8-75, 4-7-75)

### Sec. 24-61.

### Vehicular access and traffic.

Notwithstanding any other provisions of the Code of Ordinances, City of South Portland, Maine, the planning board shall consider vehicular access, traffic flow and projected traffic flow increase resulting from such proposed subdivision and may require that such subdivision and all uses therein be serviced and access provided by means of one or more entrances complying with the specifications contained in Sec. 23-37. Maximum allowed curb cut width, with a splitter island.

(Ord. No. 8-75, 4-7-75; Ord. No. 10-02/03, 1/22/03 [Fiscal Note: Less than \$1000]; Ord. No. 19-23/24, 4/16/2024 [Fiscal Note: Less than \$1000])

**Secs. 24-62--24-65. Reserved.**



**ARTICLE X. PERFORMANCE GUARANTEE OR BOND AND RELEASE OF GUARANTEE****Sec. 24-66.****Performance guarantees required.**

No approved subdivision plat requiring approval under the provisions of this chapter, shall be released, by the Planning Department, to the applicant after receiving Planning Board approval until the city receives a faithful performance bond running to the city and issued by a surety company licensed to do business in the State of Maine, or an irrevocable letter of credit from a financial institution acceptable to the city in the amount required under section 24-67. Notwithstanding any other provisions of this chapter to the contrary, any such performance guarantee must be filed within the ninety (90) days after receipt of final planning board approval. In the event such performance guarantee has not been tendered and approved by the Planning Director, the applicant may request an additional ninety day subdivision approval by submitting a an amended subdivision application. No work may begin on such project until such performance guarantee(s) has been received and approved by the city and the subdivision plat has been released by the Planning Department to the applicant for recording at the Cumberland County Registry of Deeds.

(Ord. No. 8-75, 4-7-75; Ord. No. 22-83/84, 5-7-84, Ord. #3-01/02, 9/5/01 {Fiscal Note: Less than \$1000})

**Sec. 24-67.****Form, amount and duration of performance guarantee.**

The certified check, performance bond, or irrevocable letter of credit required under this article shall be accompanied by a guarantee or be in a form comparable to the sample forms at forth elsewhere in this article. The performance guarantee shall be valid for the duration of time required for completion and approval of the improvements required by the provisions of this chapter. The performance guarantee shall be in an amount equal to the greater of (a) the cost of all public improvements and other improvements affecting the public health, safety, or welfare as determined by the planning board and required under the provisions of this chapter or (b) the cost of reasonable restoration of the subdivision tract, which amount shall be determined by the city manager, or his/her designee with the advice of various city departments and agencies concerned. The performance guarantee shall be in the form set forth elsewhere in this chapter or in a form substantially similar thereto and approved by the corporation counsel.

(Ord. No. 8-75, 4-7-75; Ord. No. 22-83/84, 5-7-84, Ord. No. 12-19/20, 11/7/19 [Fiscal Note: Less than \$1000])

**Sec. 24-68.****Release of performance guarantee.**

- (a) The performance guarantee required by this article shall not be released by the planning board until the applicant establishes that all work required under the approved subdivision plan, including all improvements which served as the basis for establishing the amount of the performance guarantee, has been completed in accordance with approved plans and has been inspected and found satisfactory by the Planning Director pursuant to the requirements of this chapter.
- (b) The performance guarantee shall not be released until the subdivider has furnished to the planning board a statement from a registered land surveyor that all pertinent bounds or monuments have been accurately installed.
- (c) The performance guarantee shall not be released by the planning board until the subdivider has furnished the Planning Director an accurate record plan and profile (original ink drawings on linen) of all drainage lines and structures, sanitary and storm sewerage lines and appurtenances, water mains and appurtenances, and all other utilities as actually installed with sufficient ties for proper identification.

(Ord. No. 8-75, 4-7-75; Ord. No. 22-83/84, 5-7-84; Ord. No. 4-06/07, 10/2/06 [Fiscal Note: Less than \$1000]; Ord. No. 19-23/24, 4/16/2024 [Fiscal Note: Less than \$1000])

**Secs. 24-69--24-72. Reserved.**

**ARTICLE XI. APPEALS**

**Sec. 24-73.**

**Appeals.**

- (1) An appeal from a decision of the planning board on any final plan may be taken to the superior court.

(Ord. No. 8-75, 4-7-75)



**ARTICLE XII. SEPARABILITY AND EFFECTIVE DATE**

**Sec. 24-74.**

**Separability and effective date.**

- (1) The invalidity of any provision of these standards shall not invalidate any other part.
- (2) These standards shall take effect immediately on adoption of the same by the city council.

(Ord. No. 8-75, 4-7-75)



ARTICLE XIII. FORMS

Sec. 24-75.

Performance bond--Surety company.

**KNOW ALL MEN BY THESE PRESENTS** that \_\_\_\_\_ as Principal and \_\_\_\_\_ a corporation duly organized and existing under the laws of the State of \_\_\_\_\_ and having a usual place of business in \_\_\_\_\_, as Surety, hereby bind and obligate themselves and their respective heirs, executors, administrators, successors and assigns, jointly and severally, to the City of South Portland, Maine, municipal corporation, in the sum of \_\_\_\_\_ dollars.

The condition of this obligation is that if the Principal shall fully and satisfactorily observe and perform in the manner and in the time therein specified, all of the covenants, conditions, agreements, terms and provisions contained in the following:

1. Application for Approval of Final Plan signed by the Principal and dated \_\_\_\_\_.
2. The Subdivision Control Ordinance as enacted by the City of South Portland, Maine.
3. The Definitive Plan as defined by the above Ordinance and as qualified by the Certificate of Approval issued by the Planning Board dated \_\_\_\_\_ then this obligation shall be void; otherwise, it shall remain in full force and effect.

Whenever the Principal shall be, and declared by the Planning Board to be in default under the Definitive Plan and its Certificate of Approval, the Surety may promptly remedy the default or shall promptly:

1. Complete the Definitive Plan in accordance with its terms and conditions, or

- 2. Obtain a bid or bids for submission to Planning Board for completing the Definitive Plan in accordance with its terms and conditions, and upon determination by Planning Board and Surety of the lowest responsible bidder, arrange for a contract between such bidder and Planning Board and make available as work progresses sufficient funds to pay the cost of completion; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof.

IN WITNESS WHEREOF we have hereunto set our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 1975.

Principal

By

(Title)

Surety

By

Attorney-in-Fact

(Ord. No. 8-75, 4-7-75)

**Sec. 24-76.**

**Performance bond--Secured by deposit.**

**KNOW ALL MEN BY THESE PRESENTS** that \_\_\_\_\_ of \_\_\_\_\_ hereby binds and obligates himself/itself and his/their executors, administrators, devisees, heirs, successors and assigns to the City of South Portland, Maine municipal corporation, in the sum of \_\_\_\_\_ dollars, and has secured this obligation by the deposit with the Treasurer of the said City of South Portland of said sum in money or negotiable securities.

The condition of this obligation is that if the undersigned or his/its executors, administrators, devisees, heirs, successors and assigns shall fully and satisfactorily observe and perform in the manner and in the time therein

specified, all of the covenants, conditions, agreements, terms and provisions contained in the following:

1. Application for Approval of Final Plan signed by the Principal and dated \_\_\_\_\_.
2. The Subdivision Control Ordinance as enacted by the City of South Portland, Maine.
3. The Definitive Plan as defined by the above Ordinance and as qualified by the Certificate of Approval issued by the Planning Board dated \_\_\_\_\_ then this obligation shall be void, otherwise, it shall remain in full force and effect, and that portion of the aforesaid security required to complete the Principal's obligation under this agreement shall become the sole property of said City of South Portland as liquidated damages.

IN WITNESS WHEREOF the undersigned has hereunto set his hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_

(Ord. No. 8-75, 4-7-75)

**Sec. 24-77.**

**Performance guarantee--Irrevocable letter of credit.**

[Date]

TO: City of South Portland

This letter shall constitute an irrevocable letter of credit verifying that this lending institution has on account and available a sum or sums not less than [include amount] for the account of [name of subdivider] to be paid to the City of South Portland upon receipt of your signed, written statement that payment is due based upon the developer's default or failure to construct or install in a timely and satisfactory manner (including inspection and approval by the Planning Director) the improvements listed below on or before [add termination date].

*[Here list improvements]*

*This obligation, however, shall be reduced by the amount(s) stated for each of the above-listed improvements upon receipt of written certification from the Planning Director that the corresponding improvements have been satisfactorily completed, inspected and approved by the city prior to notice in writing by the city of any such default or failure by the developer.*

*In the event that the developer has failed to perform or is in default in timely and satisfactory completion of the improvements referred to above, any funds collected by the City of South Portland under this obligation shall be used towards completion of said improvements or reasonable restoration of the subdivision tract.*

*We hereby agree with the City of South Portland, its successors and assigns, acting in compliance with the terms of this obligation, that the same shall be duly honored upon notice duly given on or before [add termination date].*

*Very truly yours,*

*[signed by official of lending  
institution]*

(Ord. No. 22-83/84, 5-7-84; Ord. No. 4-06/07, 10/2/06 [Fiscal Note: Less than \$1000]; Ord. No. 19-23/24, 4/16/2024 [Fiscal Note: Less than \$1000])