

Regulation #5

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STANDARD CONDITIONS OF APPROVAL

I. The following Standard Conditions of Approval will be attached to all Planning Board approvals:

	Condition	Municipal Oversight	Must be Completed By:
1.	This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals and supporting documents, except changes as determined by the Planning Director which do not affect approval standards and are not subject to de minimis change review by the Planning Board pursuant to <u>Sections 27-140 or 24-27</u> of the Code of Ordinances, is subject to the review and approval of the Planning Board prior to implementation.	Planning Division	Ongoing
2.	All conditions of approval and any waivers granted shall appear on the face of the plans submitted with Building Permit applications, and the face of the subdivision plan, if applicable.	Code Office	Prior to Issuing Building Permit
3.	Prior to the issuance of a Building Permit, or release of the recording Subdivision-Signing Plan, if applicable, the applicant shall pay all outstanding review escrow account fees, post the necessary performance guarantee(s) in such amount(s) as established by the City, post erosion and sedimentation control inspection escrow, hold a pre-construction meeting with the City if necessary, and pay compensation and/or impact fees as determined by the Planning Board.	Planning Division	Prior to Issuing Building Permit
4.	This Planning Board approval is valid for [insert parameters] months from the date of approval. Unless the Special Exception use has commenced, if applicable, or Start of Construction, as defined in Section 27-201 of the Code of Ordinances and verified by the Code Enforcement Office, is completed within that period, the approval shall expire.	Planning Division	Ongoing

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Condition	Municipal Oversight	Must be Completed By:
5. Prior to the issuance of a Building Permit, the applicant shall submit three hard-copy plans at 24" x 36" size to the Planning Division with all conditions and waivers listed on the plans, and a CADD file meeting the City's G.I.S. requirements; grades will not be modified from the approved grading plan without Planning Board approval.	Planning Division	Prior to Issuing Building Permit
6. The applicant shall provide the Planning and Development Director with satisfactory evidence that one of the first six methods set forth in Section 3(B) of the City's Site Plan application form relating to the applicant's financial capacity is in place.	Planning Division	Prior to Issuing Building Permit
7. The applicant shall secure a Building Permit from the Code Enforcement Office in coordination with the Planning Division, Fire Department, and all relevant review authorities, prior to commencing any construction activities.	Code Office	Prior to Issuing Building Permit
8. All exterior lighting shall be Dark Sky compliant.	Code Office	Prior to Issuing Building Permit
9. Prior to the issuance of a Certificate of Occupancy, the applicant shall submit to the Planning Director a certified "as-built" grading plan & CADD file meeting the City's G.I.S. requirements; grades will not be modified from the approved grading plan without Planning Board approval.	Planning Division	Prior to Occupancy
10. A waiver has been granted pursuant to Section [insert parameters] of the Code of Ordinances, which allows [insert parameters].	Planning Division	Ongoing
11. Energy stretch code. New residential and commercial construction must comply with the IECC 2021 energy code.	Code Office	Ongoing
12. All underground utilities, including stubbing out all utilities to all lots, if applicable, shall be completed prior to the final coat of paving.	Code Office	Ongoing
13. A soil quality permit is required for any alteration of land for the purpose of construction, reconstruction, renovation, relocation, alteration, demolition, or enlargement of any structure that results in 2,000 square feet or more of soil disturbance, compaction, vegetation removal, and/or regarding on the site that will not be covered with impervious surfaces. Soil quality standards (decompaction & top soil with organic material) must be met. A soil quality permit shall be required prior to the issuance of a building or a demolition permit, if one is required, and shall be in addition to any other permits or approvals, including site plan, special exception, subdivision, and shoreland zoning permits or approvals, that may be required by law. (See Section 32-25 of the Code of Ordinances, Soil Quality Requirements for Regulated Development).	Code Office	Ongoing

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	Condition	Municipal Oversight	Must be Completed By:
14.	Prior to the issuance of a Certificate of Occupancy, the area between any street utility excavations for the project shall be milled so that pavement restoration is unified.	Code Office	Prior to Occupancy

II. The following Standard Conditions of Approval will be attached to all Planning Board approvals for projects involving the following parameters:

A. Projects involving Marijuana Establishments:

	Condition	Municipal Oversight	Must be Completed By:
1.	Prior to the issuance of a Certificate of Occupancy, the Code Enforcement Office shall inspect all marijuana establishments to verify that the facilities are constructed and can be operated in accordance with the land use approval(s) issued, the requirements of the Code of Ordinances, local and state building codes and electrical codes. The Fire Department will inspect all marijuana establishments prior to the issuance of a Certificate of Occupancy to verify that the facilities are constructed and can be operated in accordance with the requirements of Chapter 8 of the Code of Ordinances and all applicable fire codes.	Code Office	Prior to Occupancy
2.	The marijuana establishment shall ensure that all odor control measures are maintained in good operating standard at all times to ensure that odor nuisances at adjacent or adjoining properties are avoided. Per Section 27-1902(e)(2) of the Code of Ordinances, each marijuana operation and all associated odor control systems must operate such that marijuana odor cannot be reasonably detected at premises that are not under the custody or control of the establishment. The operator of the marijuana business shall maintain this standard at all times.	Code Office	Ongoing
3.	Prior to the issuance of a Certificate of Occupancy to operate a marijuana establishment, the individual or entity that will operate at the premises shall submit both a State and local license to operate a marijuana establishment at the premises to the Planning Director.	Planning Division	Prior to Occupancy

B. Projects involving an Accessory Dwelling Unit:

	Condition	Municipal Oversight	Must be Completed By:
1.	Prior to issuing a certificate of occupancy or completion the applicant shall provide evidence to the Planning Director that the Certificate of Approval and Findings of Fact for the Accessory Dwelling Unit has been recorded in the Cumberland County Registry of Deeds.	Planning Division	Prior to Occupancy

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C. Projects involving Subdivision:

Condition	Municipal Oversight	Must be Completed By:
1. Prior to the issuance of any Certificates of Occupancy for the project, except as otherwise allowed by the Planning Board through a granted waiver, the applicant shall submit an inspection report to the Code Enforcement Officer documenting that the stormwater facilities have been installed and are functioning as designed and approved and are fully operational. This inspection report must be prepared by a qualified third party inspector as defined in Section 27-1536(c)(3)(e) of the Code of Ordinances.	Code Office	Prior to Occupancy
2. Final incorporation by the developer of a condominium/homeowners' association shall be required. The developer shall provide the Planning Director with proof of filing of the condominium/homeowners' association's articles of incorporation with the Secretary of State's Office prior to the issuance of any building permit. Prior to the sale of any unit/lot, the City's Corporation Counsel, at the developer's expense, must review and approve the condominium/homeowners' association bylaws, declaration of protective covenants, and sample unit deed for all units (that references the stormwater management system maintenance agreement) for legal sufficiency.	Planning Division	Prior to Issuing Building Permit
3. The developer is responsible for the maintenance and repair of the stormwater facilities, annual reporting, and otherwise complying with Section 27-1536(c)(3)(a) of the Code of Ordinances until such time as the condominium/homeowners' association is formed and is operational and these obligations are assigned to the condominium/homeowners' association.	Planning Division	Ongoing
4. Prior to the scheduling of a preconstruction meeting, a Stormwater Management System Maintenance Agreement that runs with the land and is binding upon the property owner and its successors and assigns as their interests may from time to time appear must be submitted to the Planning Director. The City's Corporation Counsel, at the developer's expense, must review and approve all legal documentation relating to the stormwater management system for legal sufficiency. Prior to the issuance of any building permit for any lot shown on the plan, said maintenance agreement shall be duly executed and recorded by the developer at the Cumberland County Registry of Deeds, with a copy of the recorded instrument contemporaneously provided to the Planning Director.	Planning Division	Prior to Issuing Building Permit

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	Condition	Municipal Oversight	Must be Completed By:
5.	For Lot(s) [insert parameters], an individual drainage plan is required for each lot, which plan must be reviewed and approved by the Water Resource Protection Department prior to the issuance of a building permit for the lot. Individual lot grading as depicted on the approved drainage plans shall not be altered without first obtaining approval for the same from the Planning Board.	Planning Division	Prior to Issuing Building Permit

D. Residential Development Projects on Non-Conforming Lots of Record:

	Condition	Municipal Oversight	Must be Completed By:
1.	Prior to holding a pre-construction meeting and submitting a Building Permit application, the applicant shall provide evidence to the Planning Director that they have recorded the certificate of approval and findings of fact for the development in the Cumberland County Registry of Deeds (CCRD) and that they have signed the Level One Contractor's Erosion and Sedimentation Control Certification.	Planning Division	Prior to Submitting a Building Permit application
2.	Prior to holding a pre-construction meeting and submitting a Building Permit application, the applicant shall provide a Stormwater Management Drainage Maintenance Agreement acceptable to the Planning Director that has been recorded at the Cumberland County Registry of Deeds. The owner of the property and all future owners shall be required to operate, repair, maintain, and replace the Stormwater Management Facilities show in the Stormwater Management Plan.	Planning Division	Prior to Submitting a Building Permit application
3.	In accordance with Section 27-304(f)(2) of the Code of Ordinances, the height of the building shall not exceed 28 feet.	Code Office	Ongoing
4.	Prior to the issuance of a Certificate of Occupancy, the applicant shall submit to the Planning Director a certified "as-built" grading plan meeting the City's G.I.S. requirements; grades will not be modified from the approved grading plan without Planning Board approval.	Planning Division	Prior to Occupancy

E. Projects Involving In-Lieu Compensation for Wetland Impacts:

	Condition	Municipal Oversight	Must be Completed By:
1.	Prior to holding a pre-construction meeting and submitting a Building Permit application, the applicant shall pay the Wetland Compensation Fee as determined by the Code Enforcement Office in compliance with the provisions of Section 27-1526(f) of the Code of Ordinances. In adopting this condition, the Planning Board delegates the review and verification of the fee payment to the Code Enforcement Office in consultation with the Planning Division, and Water Resources Protection Department if necessary, as required by Section 27-1526(f)(1) of the Code of Ordinances.	Planning Division	Prior to Submitting a Building Permit application
2.	Pursuant to Section 27-1526(e)(4) of the Code of Ordinances, the Planning Board has approved provisions for the long term maintenance of the upland buffer strip surrounding the impacted wetlands as outlined in the approved Plans and as may be amended by the approved Conditions of Approval for the Project. The buffer strip shall not be planted with non-invasive species. All long term maintenance measures must be established prior to the issuance of a Certificate of Occupancy and must be maintained in perpetuity. Any alterations or modifications to the wetlands, the upland buffer strip, or the long term maintenance measures for the wetlands and the upland buffer strip on the property shall require review and approval by the Planning Board.	Planning Division	Prior to Occupancy
3.	Prior to holding a pre-construction meeting and submitting a Building Permit application, wetlands and their uplands, associated setbacks and stream setbacks are to be staked to ensure that all erosion and sedimentation controls and site disturbance and construction activities avoid the protected wetland or required upland buffer areas.	Planning Division	Prior to Submitting a Building Permit application

F. Projects Involving Tree Preservation as Shown on a Site Plan:

	Condition	Municipal Oversight	Must be Completed By:
1.	Prior to holding a pre-construction meeting and submitting a Building Permit application, the applicant shall establish fencing at the drip line of all trees that are designated for preservation in the approved Site Plan. No construction staging or other construction-related activity is permitted within the drip line fence barrier unless reviewed and approved by the Planning Director.	Planning Division	Prior to Submitting a Building Permit application

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G. Projects Involving a Landscaping Plan:

	Condition	Municipal Oversight	Must be Completed By:
1.	The landscaping plan shall only use native plant species and shall not include trees and shrub species listed on the States Advisory List of Invasive Plants.	Planning Division	Prior to Occupancy

H. Projects with New or Updated Lot Lines:

	Condition	Municipal Oversight	Must be Completed By:
1.	Prior to the issuance of a Building Permit, the applicant shall submit to the Planning Director an AutoCADD dataset, ArcGIS Shapefile dataset, or other equivalent geospatial dataset that may be readily converted to AutoCADD and ArcGIS-compatible files, of the proposed parcel boundaries.	Planning Division	Prior to Building Permit issuance

I. Construction Staging:

	Condition	Municipal Oversight	Must be Completed By:
1.	Prior to the issuance of a Building Permit, a construction staging plan is required that outlines [insert parameters]. Should the staging plan include a request to stage materials in the public right of way (ROW), the request to use the ROW must be submitted via an application to the Public Works Director and must be approved by the Public Works Director before any staging in the ROW occurs.	Public Works	Prior to Building Permit issuance

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J. New Road to be Offered to the City for Acceptance:

	Condition	Municipal Oversight	Must be Completed By:
1.	Prior to the construction of the new road, all utilities, the stormwater management system, and the sewer system, the developer shall hold a preconstruction meeting with the City, post the sedimentation control inspection escrow, install all erosion control measures associated with building the road—including the storm and sewer infrastructure and the infiltration basin—and have the erosion control measures verified by the City’s field inspector or his/her designee.	Planning Division	Ongoing
2.	Unless and until the City Council accepts [street name] as a public way, the developer shall be responsible for maintaining all [street name] improvements, including providing for snowplowing of the street, street sweeping, solid waste hauling, and maintaining roadside ditches, roadside culverts, and the stormwater management system.	Code Office	Ongoing
3.	No request that the City Council accept [street name] as a public way shall occur until final paving is complete.	Code Office	Ongoing
4.	Prior to any request that the City Council accept [street name] as a public way, the developer shall provide third party certification that the road, stormwater and sewer infrastructure have been built in accordance with the submitted plans and provide stamped as-builts plans of the infrastructure to be accepted. The road certification shall include all materials and compaction testing that meet current Maine Department of Transportation specifications.	Planning Division	Ongoing
5.	After final paving and any City Council acceptance of [street name] as a public way, it shall be subject to a five year moratorium on issuance of street opening permits in accordance with Article IV of Chapter 23 of the Code of Ordinances.	Code Office	Ongoing

K. Site Plan Review for Subdivisions per 30-A M.R.S. § 4402(6):

	Condition	Municipal Oversight	Must be Completed By:
1.	Only site plan review per 30-A M.R.S. § 4402(6) required. The South Portland Planning Board finds that (a) Section 27-1421 et seq. of the Code of Ordinances, governing site plan review, is at least equivalent to the City’s subdivision standards in Chapter 24, and addresses all statutory review criteria established in 30 A M.R.S. § 4402(6); and (b) the Project meets the requirements of 30-A M.R.S. § 4402(6). Therefore, pursuant to Planning Board Regulation #11, the Project is subject to municipal site plan review only and does not require subdivision review.	Planning Division	Perpetual

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L. City Acceptance of Improvements, Facilities, or Dedications, Other than Roads

Condition	Municipal Oversight	Must be Completed By:
<p>1. Proposed drainage, maintenance, access and utility easements/conveyances related to the project shall be submitted to the Planning Director prior to the issuance of a building permit. The City's Corporation Counsel, at the developer's expense, must review and approve all legal documentation relating to the proposed easements/conveyances. On or before the issuance of a building permit, the deed(s) shall be accepted by the City Council, duly executed, and recorded by the developer at the Cumberland County Registry of Deeds, with a copy of the recorded instrument contemporaneously provided to the Planning Director.</p>	<p>Planning Division</p>	<p>Prior to Issuing Building Permit</p>
<p>2. Prior to City acceptance of stormwater facilities, as evidenced by a deed or bill of sale accepted by the City Council, the developer shall submit an inspection report to the Code Enforcement Officer documenting that the stormwater facilities have been installed and are functioning as designed and approved and are fully operational. This inspection report must be prepared by a qualified third party inspector as defined in Section 27-1536(c)(3)(e) of the Code of Ordinances. The third party inspector must be on the City's pre-approved list used for annual stormwater inspections. Installation of storm pipe must be witnessed by the developer's inspector and field logs documenting materials, alignment and compaction will need to be submitted for City review prior to acceptance. The City shall utilize its CCTV truck to televise the pipe after construction.</p>	<p>Code Office</p>	<p>Prior to Occupancy</p>
<p>3. Prior to City acceptance of sewer utilities, as evidenced by a deed or bill of sale accepted by the City Council, the developer shall a third party inspector conduct pressure and vacuum testing in accordance with Chapter 22 of the Code of Ordinances. A representative from the City's Water Resource Protection Department shall be present to witness the sewer system testing. Installation of sewer pipe must be witnessed by the developer's inspector and field logs documenting materials, alignment and compaction will need to be submitted for City review prior to acceptance. The City shall utilize its CCTV truck to televise the pipe after construction.</p>	<p>Code Office</p>	<p>Prior to Occupancy</p>

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M. Signs:

	Condition	Municipal Oversight	Must be Completed By:
1.	Prior to the issuance of any sign permit, the applicant shall submit a sign permit application for processing by the Code Enforcement Office. This Planning Board approval does not establish a sign standard, unless otherwise stated in this Findings of Fact and Decision. Any future sign permit shall be processed by the Code Enforcement Office, pursuant to Section 27-1561 of the South Portland Code of Ordinances, as may be amended, and the addition of revision of signage on the property shall not require review by the Planning Board unless it impacts an approval standard otherwise, as determined by the Planning Director.	Code Office	Prior to Issuing Sign Permit

N. Stormwater Management System Maintenance Agreements, Generally:

	Condition	Municipal Oversight	Must be Completed By:
1.	Prior to the scheduling of a preconstruction meeting, a Stormwater Management System Maintenance Agreement that runs with the land and is binding upon the property owner and his/her/its successors and assigns as their interests may from time to time appear must be submitted to the Planning Director. The City's Corporation Counsel, at the developer's expense, must review and approve all legal documentation relating to the stormwater management system for legal sufficiency. Prior to the issuance of a building permit, said maintenance agreement shall be duly executed and recorded by the developer at the Cumberland County Registry of Deeds, with a copy of the recorded instrument contemporaneously provided to the Planning Director.	Planning Division	Prior to Issuing Building Permit