



## CITY OF LEWISTON

### Department of Planning & Code Enforcement

TO: Mayor Cayer and Lewiston City Council

FROM: Doug Greene, City Planner

DATE: August 26, 2020

RE: August 24, 2020 Planning Board Actions

---

The Planning Board took the following actions at their meeting held on August 24, 2020 regarding the Design Lewiston project:

- 1.) Text amendments to the Lewiston Code of Ordinances, Appendix A, Zoning and Land Use Code.
- 2.) A Zoning Map Amendment for a zone change in the Tree Street Neighborhood.
- 3.) A Zoning Map Amendment to create a new Design District Overlay in the Riverfront (RF), Mill (M), Centreville (CV), and Downtown Residential (DR) Districts.
- 4.) Adoption of the Revised Site Plan Review and Design Guidelines.

#### **MOTION 1:**

By **Lucy Bisson** pursuant to Lewiston Zoning and Land Use Code, the Planning Board made a favorable recommendation pursuant to Article VII, Section 4 and Article XVII, Section 5 to the City Council on Zoning Text Amendments including: Article II, Definitions; Article IV, Establishment of Districts; Article V, Administration, and Enforcement; Article VI, Non-Conformance; Article VII, Planning Board; Article VIII, Board of Appeals; Article IX, Appeals; Article XI, District Regulations; Article XII, Performance Standards; and Article XIII, Development Review and Standards to support and govern the Site Plan Review and Design Guidelines: Design Lewiston.

Second by **Tim Gallant**.

**VOTED: 7-0 (Passed)**

#### **MOTION 2:**

By **Lucy Bisson** pursuant to the Lewiston Zoning and Land Use Code, the Planning Board made a favorable recommendation pursuant to Article VII, Section 4 and Article XVII, Section 5 to the City Council for a Zoning Map Amendment to re-zone properties along Pine Street, (from 123 and 124 Pine St. northeast to 224 Pine Street and 229 Pine Street and 4-10 Leeds Street) currently zoned Community Business (CB) district to Downtown Residential (DR) district and for areas in the Tree Street Neighborhood zoned

Neighborhood Conservation “B” (NCB) district to Downtown Residential (DR) district as shown on the attached map # 1, titled “Design Lewiston Zone Change” dated 8/21/20.

Second by **Tim Gallant.**

**VOTED: 7-0 (Passed)**

**MOTION 3:**

By **Lucy Bisson** pursuant to the Lewiston Zoning and Land Use Code, the Planning Board made a favorable recommendation pursuant to Article VII, Section 4 and Article XVII, Section 5 to the City Council for a Zoning Map Amendment to add the District Overlay District as shown on the attached map title Design Lewiston Design District Overlay Map dated 8/21/20, consisting primarily of the Riverfront (RF), Mill (M), Centreville (CV), and Downtown Residential (DR) Districts as depicted in attached map # 2, titled “Design Lewiston Design District Overlay Map” dated 8/21/20.

Second by **Tim Gallant.**

**VOTED: 7-0 (Passed)**

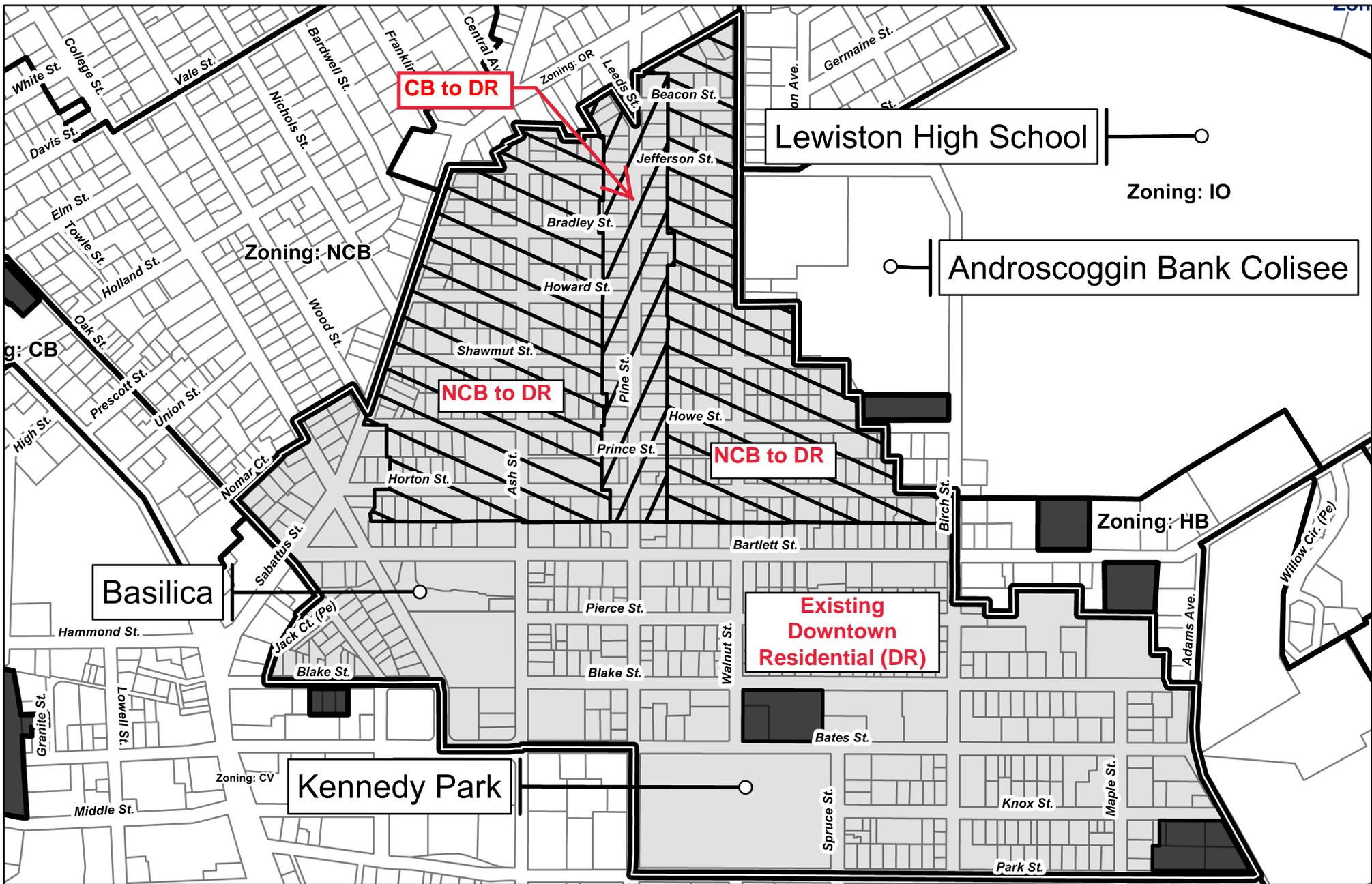
**MOTION 4:**

By **Lucy Bisson** pursuant to Article VII, Sections 3 and 4 and Article XIII, Section 6 of the Zoning and Land Use Code made a favorable recommendation to the City Council to adopt the amended Site Plan Review and Design Guidelines: Design Lewiston.

Second by **Tim Gallant.**

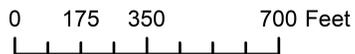
**VOTED: 7-0 (Passed)**

No one from the public spoke up during the public hearing portion of the meeting.

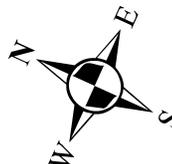


# Exhibit C - Design Lewiston Zone Change

MAP # 1

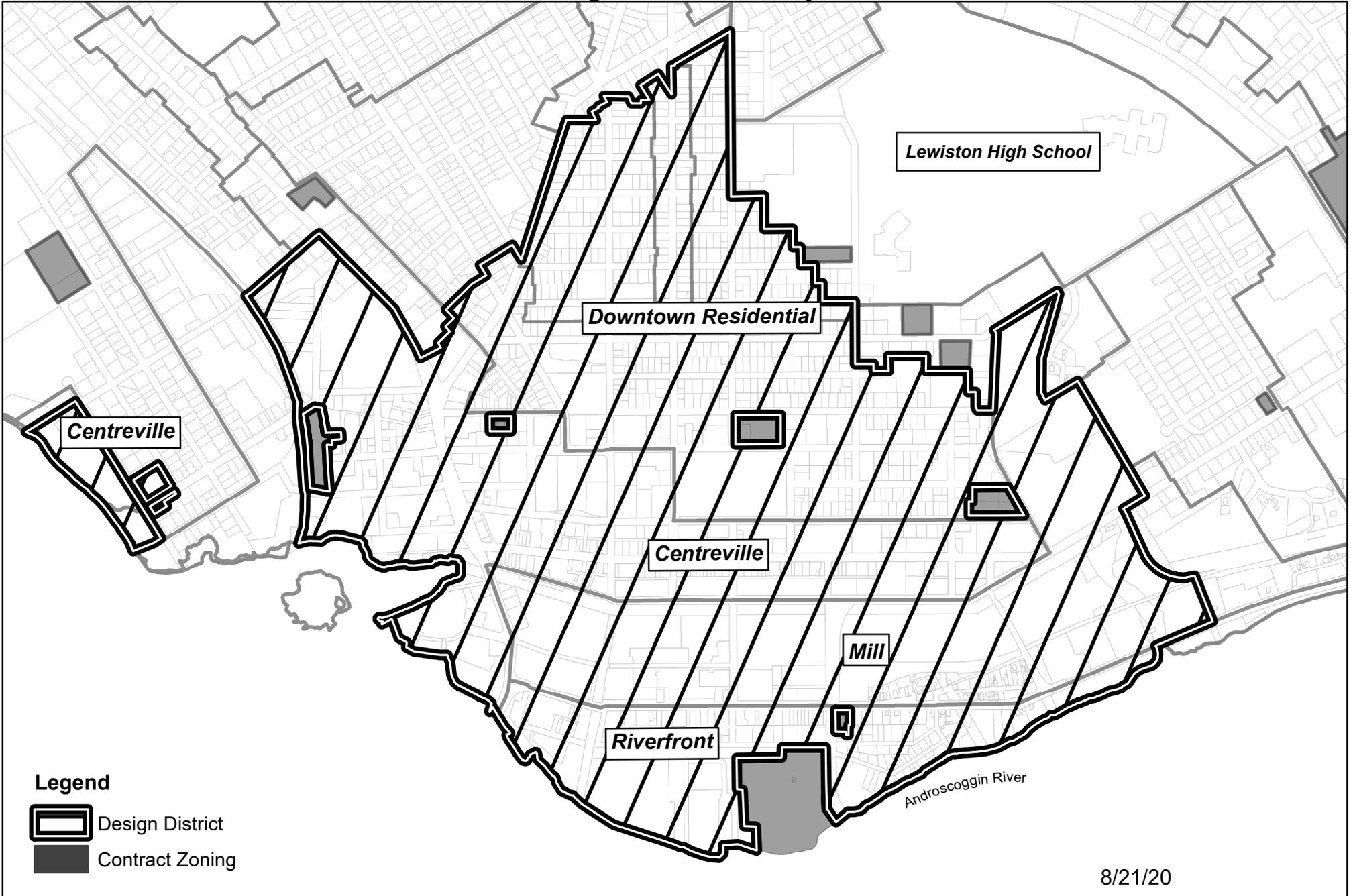


8/21/20



-  Proposed Expansion of Downtown Residential Zoning District
-  Contract Zone
-  Proposed Elimination of Community Business Zoning District
-  Proposed Elimination of Neighborhood Conservation B Zoning District
-  Zoning Lines to Remain

# Design Lewiston Design District Overlay



8/21/20



## CITY OF LEWISTON

### Department of Planning & Code Enforcement

TO: Planning Board  
FROM: David Hediger, Director of Planning and Code Enforcement  
DATE: August 21, 2020  
RE: Map, Zoning and Land Use Amendments in Support of Revised Site Plan Review and Design Guidelines: Design Lewiston

---

The Staff is pleased to present for City's adoption the final draft of text and map amendments and amended Site Plan Review and Design Guidelines/Standards (also known as the Design Guidelines).

These proposed amendments as recommended in the Comprehensive Plan and Riverfront Master Plan, will update and/or create new design standards that will result in predictable, reliable, attractive and high quality development in Lewiston. The current design regulations are close to 30 years old, are primarily optional and not required. This leaves implementing good design during the development review process at best, as a negotiated process. The proposed amendments will ensure projects reach a higher level of quality while not significantly impacting construction costs. Standards can also assist in reinforcing and protecting land use patterns and character.

A number of the current zoning ordinance regulations for historic, site plan and architectural design elements are out of date, lack specificity, are overly permissive (may vs. shall) or are missing important design elements. This situation forces the Staff and Planning Board to negotiate important design issues with developers on a case by case basis with little regulatory backing. Since the spring of 2019, staff has taken a comprehensive approach toward updating Lewiston's design standards with consultant Stantec, Design Lewiston Advisory Committee, and Planning Board in effort to create a predictable direction and vision for the City's future growth. Reasonable and effective design standards can be an important part of changing the future appearance and perception of Lewiston in a positive way. Adopting the proposed amendments would implement the goal of promoting quality development.

While working on those provisions, staff looked for opportunities to clean up, clarify, simplify, and make the zoning ordinance easier to understand and comply with. Staff is now looking to present draft text amendments and a zone change request that provide the following benefits:

1. Create incentives and flexibility that supports infill development

- Reduce the lot frontage and lot size requirements in the Downtown Residential (DR) and Riverfront (RF) zoning districts, providing more opportunity to build on currently undevelopable lots (page 66)
- Reduce the lot density requirement for mixed-use structures in the Community Business (CB) district by rezoning to Downtown Residential (DR) district. (page 131)
- Re-establish and allow modifications to development requests for non-dimensional space and bulk standards, now defined to include yards, impervious surface ratio, open space ration and building height (pages 13, 52)
- Allow Neighborhood Retail in the expanded Downtown Residential (DR) district with reduced parking requirements (pages 61, 86,128)
- Allow structures that are non-conforming with respect to setbacks to expand along their existing building line if not extending further into the required setback (pages 30)

## 2. Support the implementation and administration of City-wide Guidelines and the Development District Standards

- Require new development in the Design District to adhere to the Design District Overlay Standards(pages 90- 94, 96
- Require developers elsewhere to consider and reference the new Site Plan Review and Design Guidelines in their applications (pages 116)

## 3. Promote quality development

- Require new development in the Development District Overlay zoning districts (DR, RF, M, and CV) to follow simple design standards and be compatible to the surrounding neighborhood (pages 90-94, 96)
- Citywide requirement for landscaping on new commercial developments located along street frontages (pages 112-113)
- Revisions to approval criteria for new development(pages 105-115)

## 4. Re-organize and clarify portions of the zoning ordinance that are confusing

- Administration and Enforcement (Article V of the zoning ordinance) is now grouped by topics (pages 15-27)
- Appeals, Variances and Modifications (Article IX of the zoning ordinance) is now grouped by topics (pages 39-53)

## 5. Streamline the development application and review process

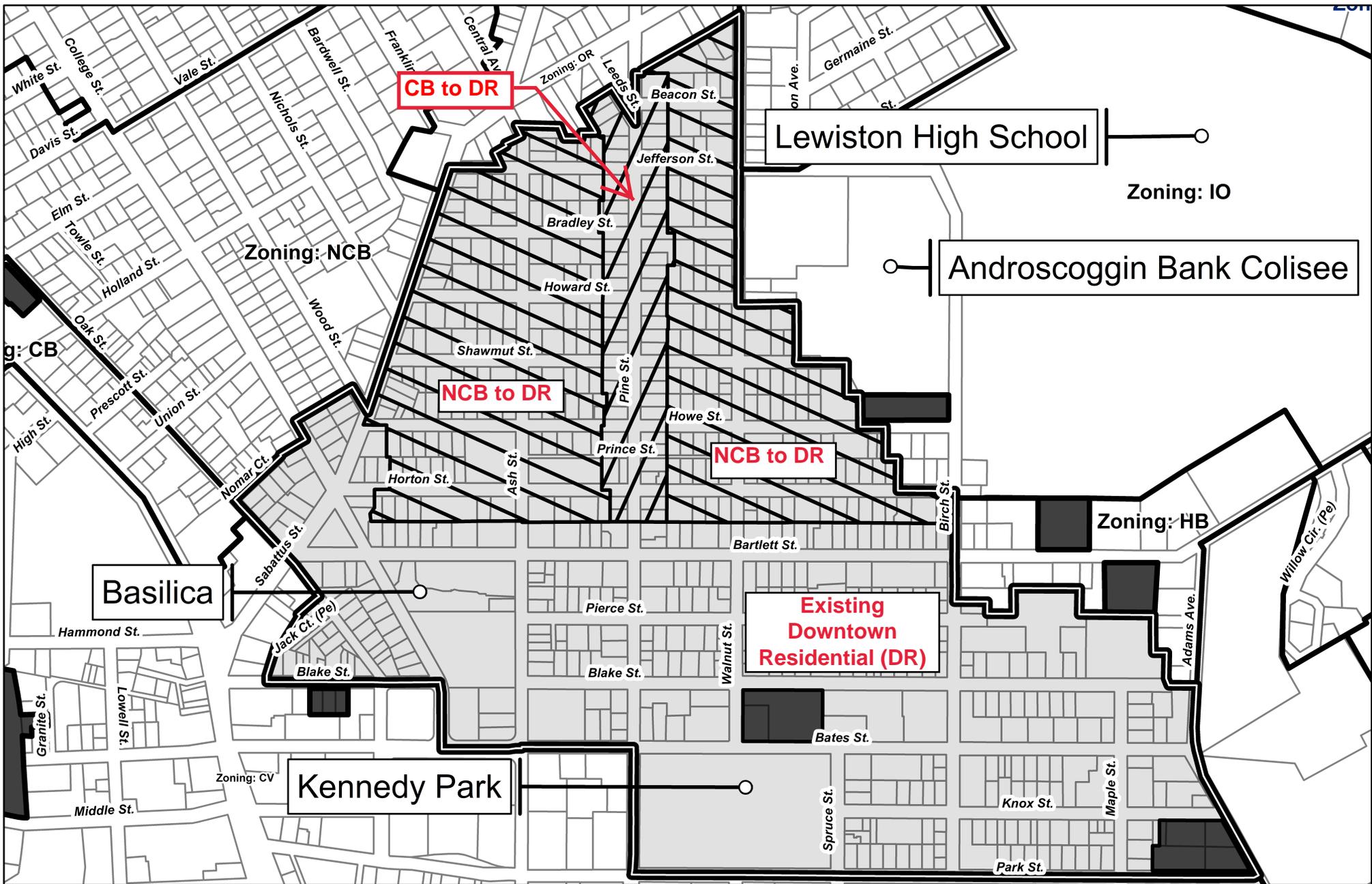
- Clarify the application requirements for Development Review projects (pages 95-105)
- Provide new on-line applications with ordinance and mapping links to help developers prepare applications (under construction)

The Design Lewiston Advisory Committee, Planning Board, Stantec Consultants, and the Staff have worked hard and taken care and effort to strike a balance between creating better quality development while avoiding expensive requirements to developers.

## **ACTION NECESSARY**

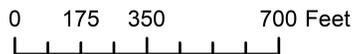
The Planning Board is being asked to make four separate motions pursuant to Article VII, Section 4 and Article XVII, Section 5, all in support of governing the Site Plan Review and Design Guidelines: Design Lewiston:

1. The Planning Board provides recommendation pursuant to Article VII, Section 4 and Article XVII, Section 5 to the City Council on Zoning Text Amendments including: Article II, Definitions; Article IV, Establishment of Districts; Article V, Administration, and Enforcement; Article VI, Non-Conformance; Article VII, Planning Board; Article VIII, Board of Appeals; Article IX, Appeals; Article XI, District Regulations; Article XII, Performance Standards; and Article XIII, Development Review and Standards to support and govern the Site Plan Review and Design Guidelines: Design Lewiston.
2. The Planning Board provides recommendation pursuant to Article VII, Section 4 and Article XVII, Section 5 to the City Council for a Zoning Map Amendment to re-zone properties along Pine Street, (from 123 and 124 Pine St. northeast to 224 Pine Street and 229 Pine Street and 4-10 Leeds Street) currently zoned Community Business (CB) district to Downtown Residential (DR) district and for areas in the Tree Street Neighborhood zoned Neighborhood Conservation “B” (NCB) district to Downtown Residential (DR) district as shown on the attached map # 1, titled, “Design Lewiston zone Change” dated 8/21/20.
3. The Planning Board provides a recommendation pursuant to Article VII, Section 4 and Article XVII, Section 5 to the City Council for a Zoning Map Amendment to add the District Overlay District as shown on the attached map # 2, titled “Design Lewiston Design District Overlay Map” dated 8/21/20, consisting primarily of the Riverfront, Mill, Centreville, and Downtown Residential Districts.
4. The Planning Board adopts the amended Site Plan Review and Design Guidelines: Design Lewiston as per Article VII, Sections 3 and 4 and Article XIII, Section 6 of the Zoning and Land Use Code.

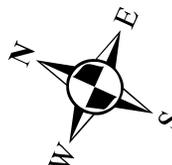


# Exhibit C - Design Lewiston Zone Change

MAP # 1

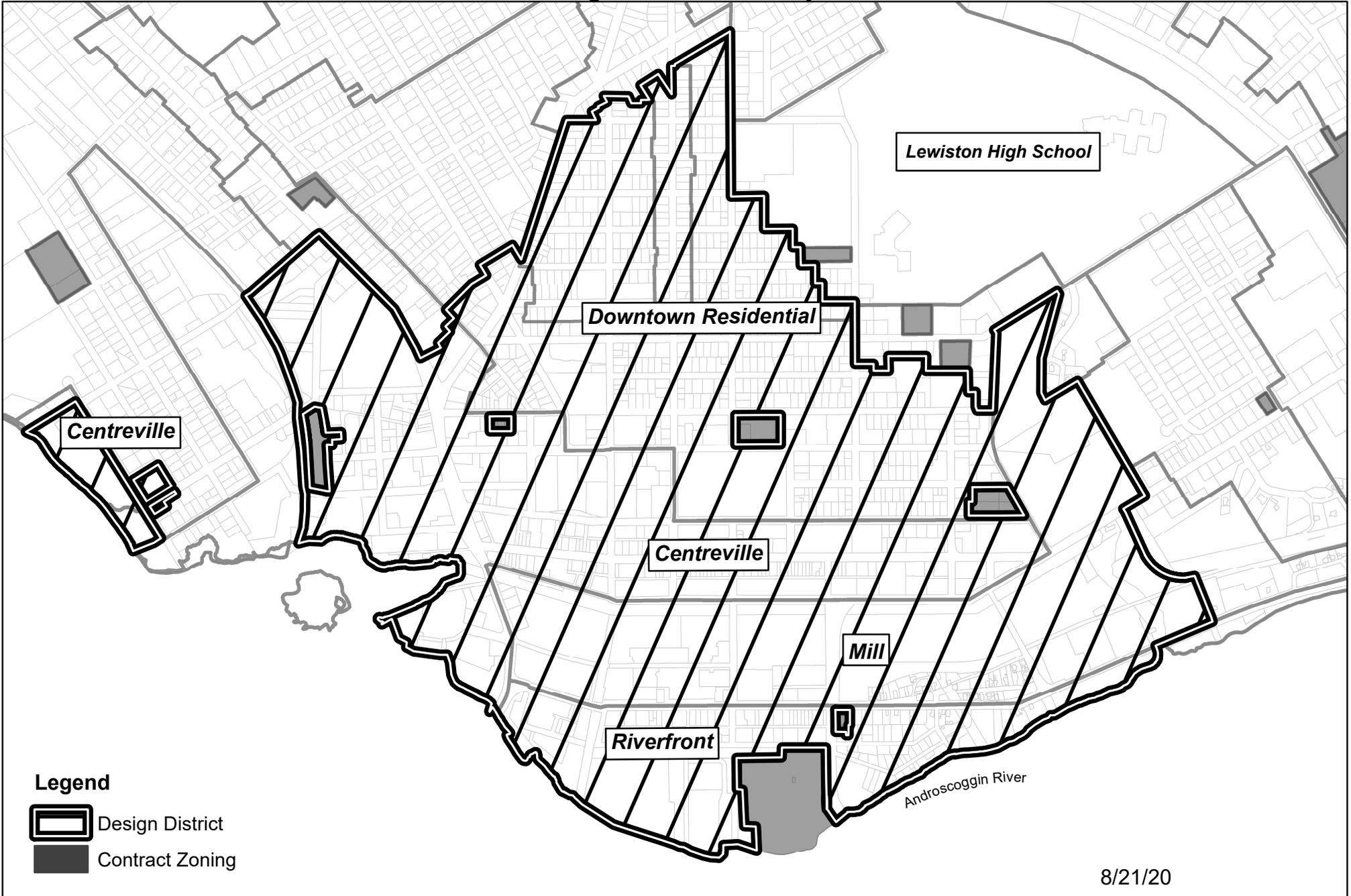


8/21/20



-  Proposed Expansion of Downtown Residential Zoning District
-  Contract Zone
-  Proposed Elimination of Community Business Zoning District
-  Proposed Elimination of Neighborhood Conservation B Zoning District
-  Zoning Lines to Remain

# Design Lewiston Design District Overlay





## CITY OF LEWISTON

### Department of Planning & Code Enforcement

#### Summary of Design Lewiston Text Amendments and Tree Street Neighborhood Zone Change

The following is a summary of changes and associated pages:

1. Article II, Definitions (page 1 of 58).

New definitions added are:

- *Alcove* means a recessed entrance to a structure.
- *Design District Overlay* means designated areas where specific design standards, as per Article XII, Section 22, are required for new development and building additions greater than 50% of the existing building.
- *Front Setback Area* means the area between the principal building facade and the public street as applied in the Design District Overlay.
- *Modification* means a relaxation of the terms in Appendix A of the Lewiston Code of Ordinances.
- *Parking Lot, Large* means any new parking lot greater than 40 spaces

2. Article IV, Establishment of Districts (page 2 of 58).

- Added “Design District Overlay” as a new overlay district

3. Article V, Administration and Enforcement (pages 3-10).

This section of the zoning ordinance is currently a “miscellaneous” collection of regulations that don’t fit into other better-defined Articles. These “random” regulations are also challenging to identify what the subject matter or topic is. Different sections in this Article have been deleted that are no longer applicable. The changes made to Article V are:

- Re-organized the various regulations found in Section 3, General Provisions into categories of:
  - Lots, Yard and Setbacks
  - Uses and Access
  - Structures
  - Property Maintenance
  - Temporary Housing
- Titles have been added to each section to help identify the regulation’s topic
- Removed a section on lot orientation to the sun
- Amend the restriction for one structure per lot for single-family and mobile homes to include duplexes. This change will clarify what kind of development will allow multiple structures on one-lot.

- Remove a section on modifications by Code Enforcement Officers. Modifications to non-dimensional requirements are now addressed in Article IX, Appeals, Variances, and Modifications.
  - Remove a section on Registered Primary Caregivers (Medical Marijuana) as it is now addressed in the Code of Ordinances and Article XI, District Regulations of the zoning ordinance.
  - Move the section on the keeping of chicken to the Land Use Table found in Article XI, District Regulations, Section 22, Land Use Requirement, Natural Resources, and new, associated note 39.
4. Article VI, Non-conformance (pages 11-17).  
 Non-conformance can be a confusing subject to understand and generally involves development that occurred prior to “modern” zoning regulations. In Lewiston, non-conformity can apply to lots, structures, uses, signs, adult businesses, drinking places, off-street parking and loading spaces.
- Titles have been added to each section to help identify the regulation’s topic
  - Section 3(a)(3) has been amended to allow the side or rear of a non-conforming structure to be expanded vertically or horizontally along the existing building plane.
5. Article VII, Planning Board (page 18 of 58).  
 Modifications to non-dimensional requirements are now addressed in Article IX, Appeals, Variances, and Modifications.
6. Article VIII, Board of Appeals (page 19-20).
- Amend Section 4, Powers and Duties, 10, Clarify section on *Modifications* to coordinate with changes to Article IX.
7. Article IX, Appeals (pages 21-33).  
 For years, Lewiston’s zoning ordinance allowed modifications of certain dimensional standards by either the Staff, the Board of Appeals, the Staff Review Committee, or the Planning Board. The City Attorney issued an opinion in 2017 that our zoning ordinance was not in-line with Maine State Law on variances by allowing modifications to dimensional standards instead of requiring variances from the Board of Appeals. As a result, the Staff stopped considering modification requests. Since then, Staff has worked with the City Attorney to come up with an approach to allow modifications for non-dimensional requirements such as yard, impervious surface ratio, open space ratio, and building height.
- Article IX, Appeals is now called Appeals, Variances, and Modifications
  - The various sections of Article IX have been re-organized into categories for Appeals, Variances, and Modifications that are easier to understand.
  - Modifications are amended to clearly state what can be modified and by what deciding body.
  - Language has been added providing clarification for variances related to dimensional space and bulk standards, setbacks for single-family dwellings, and improvements to

dwelling to accommodate individuals with a disability consist with MRS Title 30-A, §4353.

8. Article XI- District Regulations (Pages 34-44).

This Article describes the purpose of each Zoning or Overlay District. Article XI also includes Section 22, a Land Use Table that lists allowable, prohibited, or conditional uses for each zoning district, and Section 23, Space, and Bulk Table that lists the dimensional, density, and development standards for each zoning district.

- This Article has been re-organized so all overlay districts are now located in Section 24. This specifically includes the Design District Overlay, which includes all of the requirements required for new development and building additions greater than 50% of the existing building when in that district, including:
  - Exterior building standards
  - Parking access and design
  - Treatment of front yards
  - Roofs
  - Context sensitive design
  - Waiver criteria
- Article XI, Section 22, Land Use Table has changes to:
  - Add “*individual residential lots*” to Residential/two-family dwelling use.
  - Remove *retail stores* as a permitted use in the Downtown Residential district (DR), but add *neighborhood retail stores* a conditional use in the Downtown Residential (DR) district.
  - Add *Keeping of Chickens* as a permitted use in the RA, LDR, MDR, SR, and NCA subject to the conditions of special note 39, which has also been added.
- Article XI, Section 23, Space and Bulk Table has changed to:
  - Reduce the minimum lot size in the Downtown Residential (DR) and Riverfront (RF) district from 5,000 *sf* to 4,000 *sf*.
  - Reduce the minimum lot frontage in the Downtown Residential (DR) and Riverfront (RF) district from 50 *ft* to 40 *ft*.
  - Make the minimum front building setback from *none* to 5 *ft*. in the DR and RF district.
  - Create a new maximum building setback of 10 *ft*. in the DR and RF district.
  - Change the side building setback from 10 *ft*. to 5 *ft*. in the DR district.
  - Create a minimum building height of 20 *ft*. in the DR, RF, M and CV districts.
  - Change the lot coverage ratio in the RF from 0.25 to 0.60 and in the M from 1.00 to 0.90. Both changes are in line with the exiting impervious surface ratios allowed in those district.

9. Article XII, Performance Standards (pages 45-50).

There are currently 21 sections in the Performance Standards that apply to a wide range of topics. Development applications frequently have to meet these standards as part of the approval process. The changes are:

- Add a table of contents to help identify and locate required performance standards.
- Updates to current references of building codes and state requirements.
- Changes to Section 17, Off-Street Parking and Loading include:
  - Group Child Care and Nursery School Facilities into one parking type with parking requirement of one space for each staff person and one parking space for every six children.
  - Create a separate parking requirement for Neighborhood Retail Stores of one space per 500 sf of gross floor area. This is half the retail store parking requirement of one space per 250 sf of gross floor space and will help create new retail opportunities in the neighborhood.
  - Added “*similar uses*” to Community Centers, libraries, museums, civic clubs, theatres, places of indoor assembly, amusement or culture, religious facilities.
- Add “*Public and Private*” Improvement Standards “*for Design and Construction*” to the title of Section 18.
- Delete the former Section 22, “Residential Design Standards for the Downtown Residential and Riverfront Districts,” which is now incorporated into the new Design District Standards.

10. Article XIII, Development Review and Standards (pages 51-57).

This section has been updated to better reflect the development review and subdivision application submission requirements and to amend specific approval criteria.

- Section 2,(a) requires minor and major plans located in the Design District to meet the requirements of the Design District Overlay Standards.
- Section 3, Procedure,(a) 1, Minor Development, breaks down a narrative description of the requirements into individual parts to make it easier to understand.
- Section 3, Procedure, (g), Application Requirements, 1-5, adds and updates the requirements for a development review application.
- Section 3, Procedure, (h), Review Procedures, (1) Minor Developments, and (2) Major Developments breaks down a narrative description of the requirements into individual parts to make it easier to understand.
- Section 4, Approval Criteria, (d), Internal Vehicular Circulation, delete language that encourages cul-de-sacs.
- Section 4, Approval Criteria, (e), Pedestrian Circulation, add “Complete Streets Policy” to the sidewalk standards that need to be met.
- Section 4, Approval Criteria, (k), Natural Features, add “A grading plan for the project shall be included in the application and communicate the following:,” which will help the Staff and Planning Board evaluate development impacts on natural features.
- Section 4, Approval Criteria, (n), Exterior Lighting, add, “Pole lighting shall be a maximum of 25 feet tall to the greatest extent possible”.

- Section 4, Approval Criteria, (p), Lot Layout. There is nothing mentioned for this approval criteria. Add, “Lot layout shall conform to Article II, Definitions, Net Lot Area and Article V, Administration and Enforcement, Section 3, A”.
- Section 4, Approval Criteria, (q), Landscaping, make revisions and additions to:
  - Refer the applicant to the Site Plan Review and Design Guidelines and list specific plantings and their location.
  - Require “New major or minor developments in non-residential districts shall provide a landscape plan along street edges, parking areas adjacent to a street frontage, and for commercial development to buffer adjacent residential properties.”
  - Specify the spacing and sizes of street trees and shrubs along street frontages.
  - Specify that the property owner is responsible for the maintenance of landscaping for approved projects.
- Section 4, Approval Criteria, (s), Open Space, has been amended to:
  - Limit the open space requirements to projects consisting of ten or more residential units that are part of a land subdivision.
  - Change the open space requirement for senior residential projects from none to 250 sf per dwelling unit.
- Section 4, Approval Criteria, (u), Buffering now instructs the development applicant to reference the Site Plan Review and Design Guidelines for guidance on buffering.
- Section 6, Design Guidelines. The title is now “Site Plan Review and Design Guidelines” and distinguishes between the Citywide Design Guidelines and the Design District Overlay Design Standards and requires all development review applications to consider and incorporate them in the preparation of applications.

Also included in your packet:

- The proposed zone change for the Tree Street Neighborhood from Community Business (CB) and Neighborhood Conservation “B” (NCB) to Downtown Residential (DR).
- The proposed Design District Overlay map.

**AN ORDINANCE PERTAINING TO THE ZONING AND LAND USE CODE**

**THE CITY OF LEWISTON HEREBY ORDAINS:**

**Appendix A of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:**

**APPENDIX A  
ZONING AND LAND USE CODE  
ARTICLE II. DEFINITIONS**

**Sec. 2. Definitions.**

Unless otherwise expressly stated, the following words shall, for the purpose of this Code, have the meaning herein indicated:

*Alcove* means a recessed entrance to a structure.

*Congregate care and assisted living facilities* means a residential facility that is primarily engaged in providing residential and personal care services for the elderly and/or other persons who are unable to or do not desire to live independently. The care typically includes room, board, supervision, and assistance in daily living, such as housekeeping, community spaces, common dining areas, transportation and specialized services such as medical support and physical therapy.

*Design District Overlay* means designated areas where specific design standards, as per Article XI, Section 24(5), are required for new development and building additions greater than 50% of the existing building.

*Equipment dealer* means a business or commercial enterprise involving the retail sales and service of trucks and construction, wood harvesting, or similar wheeled or tracked vehicles designed primarily for non-highway use.

*Modification* means an adjustment to or relaxation of the standards, requirements, or rules in Appendix A of the Lewiston Code of Ordinances, where applicable, as provided in Article IX.

*Parking Lot, Large* means any new parking lot greater than 40 spaces.

*Setback Area, Front* means the area between the principal building facade and the public street as applied in the Design District Overlay.

*Space and bulk standards, dimensional* means and is limited to *lot area, lot coverage ratio, frontage, and setbacks.*

*Space and bulk standards, non-dimensional* means *yard, impervious surface ratio, open space ratio, and building height.*

**APPENDIX A**  
**ZONING AND LAND USE CODE**  
**ARTICLE IV. ESTABLISHMENT OF DISTRICTS**

**Sec. 2. Zoning districts.**

The city is divided into the following districts, as shown by the district boundary lines on the official zoning map:

RA Rural Agricultural District

LDR Low Density Residential District

SR Suburban Residential District

MDR Medium Density Residential District

RF Riverfront District

NCA Neighborhood Conservation "A" District

NCB Neighborhood Conservation "B" District

NCBP Neighborhood Conservation "B" Preservation Overlay District

OR Office-Residential District

DR Downtown Residential District

IO Institutional-Office District

CB Community Business District

HB Highway Business District

CV Centreville District

OS Office-Service District

I Industrial District

UE Urban Enterprise District

M Mill District

RC Resource Conservation District

GC Groundwater Conservation Overlay District

LC Lake Conservation Overlay District

MH Mobile Home Park Overlay District

DD Design District Overlay District

**APPENDIX A**  
**ZONING AND LAND USE CODE**  
**ARTICLE V. ADMINISTRATION AND ENFORCEMENT**

**Sec. 3. General provisions.**

A. Lots, Yards and Setbacks.

~~(a1)~~ Arrangement of Buildings and Structures on Lots. All buildings and other structures shall be so located and arranged on lots as to provide safe and convenient access for fire protection, servicing, and off-street parking and loading located on the premises. No building or structure may be constructed or erected on any lot which does not have at least fifty (50) feet of frontage or twenty-five (25) feet of frontage for lots located in the Centreville and Mill Districts or forty (40) feet of frontage in the Riverfront (RF) and Downtown Residential (DR) districts.

However, lots of record that existed prior to December 9, 1987, which were legally established having less than fifty (50) feet of frontage, may apply for a variance pursuant to Article VIII, section 4(2) of this Code in order to have a building or structure constructed or erected on said lot.

- ~~(b)~~ ~~Land Within Street Right of Way Land within the lines of a street may not be counted as part of any lot for the purposes of meeting the area requirements of this Code even though the fee to such land is owned by the owner of such lot.~~
- ~~(e2)~~ No Undersized Lots. No division of land shall be made whereby any lot created thereby is smaller than the minimum size required for the district in which said lot is located, or has less frontage, setback or yard space that the minimum required, except as provided by Article VI and subsections (w) and (z), below.

In addition, the following criteria apply to the creation of all lots unless demonstrated adequately to the reviewing authority that the application of one (1) or more of the following criteria is not practical:

- ~~(1a)~~ Lots Along Physical Barriers. If a lot on one (1) side of a stream, road, or other similar barrier fails to meet the minimum lot size required by the zoning ordinance, it may not be extended to the other side of the barrier to meet the minimum lot size or for the purposes of individual, on-site waste disposal.
- ~~(2b)~~ Irregular Lots Prohibited. Lots in which parcels of land such as narrow strips are used or are joined to other parcels to meet minimum lot size or frontage requirements, or other reconfiguration of parcels which create irregular-shaped lots ~~(examples of such lots are illustrated in the Site Plan Review Ordinance and Design Guidelines)~~ are prohibited.
- ~~(3c)~~ Lot Width. For all proposed lots the lot width shall be at least equal to the minimum frontage requirement.

- (4d) Required Lot Proportions. All proposed lots must be able to completely contain within its boundaries an area as would be defined by a circle with minimum diameter equal to the required minimum frontage for the district.
- ~~(5) — To the extent possible, lots will be oriented in order to make maximum use of direct sunlight and where feasible, side lot lines shall be at right angles to street lines (or radial to curving street lines.)~~
- (d3) Land Taken by Eminent Domain. Any land taken by eminent domain, or conveyed to a public entity incident to the construction or improvement of a public way or utility line shall not be deemed to be transferred in violation of the area, width, setback and yard space provisions of the Code.
- (e4) No Reduction in Space and Bulk Requirements. Except as provided in subsection w and z, below, no lot may be reduced in size if, as a result, the setbacks, yards, or other open spaces are smaller than prescribed by this Code. No setback, yard, or other open space may be counted as required open space for more than one (1) building.
- (f5) Corner Lots, Setback and Yards. On a corner lot in any district, a building or structure may face either street, and the front setback and yard shall be between the principal building or structure and the street on which the building or structure is to be numbered. The side setback and yard, between the building and side street, shall meet front setback and yard requirements of the applicable district. Additionally, the rear setback and yard, between the principal building and the abutting property on the side street, shall meet side setback and yard requirements of the applicable district.
- (h6) Non-compliant Land Areas in Calculating Lot Size. The following land areas shall not be included in the calculation of net lot area or minimum lot size in any zoning district:
- (a) Land which is situated below the normal high water mark of any water body.
  - (b) Land which is located within the one-hundred (100) year flood plain as identified by an authorized federal or state agency.
  - (c) Land which is located within a wetland as identified and defined by the State of Maine.
  - (d) Land within the lines of a street may not be counted as part of any lot for the purposes of meeting the area requirements of this Code even though the fee to such land is owned by the owner of such lot.
- (j7) Lot Size Calculations for Certain Developments. The minimum lot size, minimum frontage, minimum setback and minimum yard requirements of Article XI for single-family cluster developments, mixed residential developments, mixed single-family residential developments and mobile home parks shall apply to the development in its entirety as if it were a single unit. The setback and yard requirements shall apply only where the development abuts an existing public street or easement or property which is

not part of the development. Individual buildings or lots within these developments shall comply with the space and bulk regulations appropriate to the type of use.

- (s8) Reduced Lot Frontage on Cul-De-Sacs. Lots which front on existing or proposed cul-de-sac may reduce their required frontage by not more than 25 percent as long as the lot width is not less than the minimum frontage required in the district.
- (t9) Gas Stations on Nonconforming Lots. Notwithstanding the provisions under Article VI, nonconformance, lots on which a gasoline service station existed on December 9, 1987, which are going through modernization modifications, may replace existing nonconforming pump islands as long as the installation does not worsen the existing violation of the required setback or yard, and is approved in connection with development review pursuant to article XIII hereof.
- (z10) Subdivision of Lots With Multiple Principal Structures. Notwithstanding Appendix A, Article XI Section 23 of this Code, single lots developed with three or more principal structures in residential use, at the time of the division, may be divided to create new lots for each of the individual principal structures in residential use, provided that the following provisions can be met and satisfied:
  - (a) All principal residential structures on the lot to be divided were constructed prior to the enactment of State Subdivision Law (i.e. September 23, 1971).
  - (b) All principal residential structures on the lot to be divided are single-family detached dwellings, two-family dwellings and three-unit multifamily dwellings.
  - (c) All new lots must, to the greatest extent practicable, comply with the applicable space and bulk requirements of Appendix A, Article XI Section 23 and Article XII, Section 2 of this Code. Whether the new lots meet this standard shall be in the reasonable judgment of the code enforcement director, whose approval shall be required.

## B. Uses and Access

- (g1) Determination of Similar But Not Listed Uses. A use which is not specifically listed as a permitted or conditional use shall be regulated as a conditional use if the board of appeals or the planning board, reviewing a major development under Article XIII, determines that the proposed use is substantially similar to and compatible with permitted or conditional uses in that district.
- (i2) Transition of Legal Use to Conditional Uses. Any use which was a legally existing permitted use prior to the adoption or subsequent amendment of this Code and which becomes a conditional use as a result of the adoption or amendment shall not be deemed to be a nonconforming use but shall be deemed to be, and regulated as, a conditional use for which a permit was duly issued.
- ~~(j) The minimum lot size, minimum frontage, minimum setback and minimum yard requirements of Article XI for single family cluster developments, mixed residential~~

~~developments, mixed single-family residential developments and mobile home parks shall apply to the development in its entirety as if it were a single unit. The setback and yard requirements shall apply only where the development abuts an existing public street or easement or property which is not part of the development. Individual buildings or lots within these developments shall comply with the space and bulk regulations appropriate to the type of use.~~

- (k3) *Prohibition of Access Through Residential Districts.* Except for streets, no access for a use shall be permitted across a residential zoning district in which said use is not permitted, unless no other means of access is available and the proposed access and use are to be located on a single lot of record in existence as of December 9, 1987; and the use complies with the standards of Article XI, district regulations and the development of the lot and access complies with the standards of Article XII, performance standards; and Article XIII, development review standards, of this Code.

### C. Structures

- (h1) *Multiple Principal Structures Prohibited.* Unless expressly designated as an allowed use under Article XI of this Code, no lot in any zoning district may contain more than one (1) principal structure in residential use.
- (m2) *Temporary Structures.* In all zones, non-permanent structures may be used for the purposes of temporary construction offices during on-site construction. Permits for such structures will be issued for a period not to exceed twelve (12) months. Such permits may be extended by the Code Enforcement Official upon submission of evidence that construction is proceeding in good faith and in accordance with approved plans.
- (p3) *Unenclosed Projections in Required Yards.* Lots on which a building existed on December 9, 1987 may contain unenclosed porches, landings, other similar building features up to thirty-six square feet in total area, and wheelchair ramps, which project up to seven feet into a required yard.
- (q4) *Other Projections in Required Yards.* Chimneys, air conditioners, cornices, eaves, belt courses, sills, canopies and awnings made of nonpermanent materials, architectural or other similar features, excluding building projections with interior space such as bay windows, may encroach into a required yard by up to two feet. [Canopies made of permanent materials, such as those commonly found at gasoline service stations, must meet setback requirements at their fixed location on or in the ground, and the ends and sides of the canopies must meet all yard requirements.]

However, for nonresidential uses, all types of proposed awnings and canopies may encroach into a required yard to the extent the existing yard has been legally occupied by pavement, crushed stone or hard-packed gravel, as long as the installation will not result in undue impact on adjacent properties, due to the placement of the awnings or canopies, location of service, parking or storage areas, or blocking of solar access, and shall in no way interfere with the utilities or with convenient and safe use of the sidewalk and street

right-of-way by all pedestrians and vehicles, but in no case may the canopy be closer than two feet from the property line.

- (5) Awnings. Awnings and canopies that are attached to a building without any support structures affixed to the ground or pavement may project over a sidewalk or street right-of-way as long as the following criteria are met:
- (a) The awning or canopy must be safely made, fixed, supported and maintained, so as in no way to interfere with the convenient and safe use of the sidewalk and street right-of-way by all pedestrians and vehicles;
  - (b) The lowest part of such awning or canopy shall be at least eight 10 feet in height above the sidewalk or street right-of-way;
  - (c) The awning or canopy shall be a minimum distance of two feet from the curb-face or edge of pavement line;
  - (d) On designated historic structures, or within designated historic districts, canopy or awning installations must be approved by the historic preservation review board for appropriateness as provided under article XV, section 5; and
  - (e) Signage on the awning or canopy must conform to the standards of article XII, section 16.
- (#6) Unenclosed Fire Escapes. Lots on which a building existed on December 9, 1987 may contain unenclosed fire escapes to the lot line if they are required by law as a second means of egress. Fire escapes will be located and designed to minimize encroachment into the yard area. This provision shall not apply when a fire escape is required as a result of alterations to a building.
- (#7) Conveyance of Attached Principal Residential Structures. In the downtown residential zoning district, attached principal residential structures that do not share common hallways or stairways for access to individual dwelling units and detached principal residential structures may be conveyed separately if the staff review committee, pursuant to the provisions of article XIII section 3, finds that all the following standards are met:
- (a) The structures were constructed prior to December 9, 1987.
  - (b) At least one dwelling unit in each building shall be owner occupied.
  - (c) The lot shall be divided to minimize any resulting nonconformities with regard to the space and bulk standards of the zoning district in which the buildings are located.
  - (d) The applicant shall assure implementation of any easements required for access, parking, utilities, maintenance and similar circumstances.
  - (e) The applicant shall submit a standard boundary survey plan prepared by a professional surveyor depicting the location of each building and the boundaries

of each lot. Such plan shall also include any easements as described in subsection (4), above.

- (#8) Setbacks for Small Structures. Notwithstanding the provisions under article XI, district regulations, with respect to standards for minimum side and rear setbacks and yards, one structure not exceeding 100 square feet in floor area and a height of ten feet, which is accessory to a residential use and is to be utilized for storage purposes only, may be constructed within three feet of the side or rear property line, but not closer than 15 feet from the nearest point of any principal residential structure existing on any adjacent lot unless otherwise allowed by this Code.

#### D. Property Maintenance

- (#1) Multiple Unregistered Vehicles Prohibited. Unless expressly designated as an allowed use under Article XI of this Code, a lot in a residential zoning district or a lot in residential use may not contain in outside storage more than one (1) unregistered or uninspected motor vehicle.
- (#2) Parking of Commercial Vehicles in a Residential District. No lot in any residential zoning district may contain any vehicle utilized for commerce which is parked thereon when not in use except for one passenger-type van, small utility van or pickup truck, and an enclosed trailer not to exceed eighteen (18) feet in total length (but not including tow trucks or ambulances).
- ~~(v) Notwithstanding the provisions under article XI, sections 1 through 14, district regulations, with respect to space and bulk standards for setbacks, yards, maximum lot coverage ratios, maximum impervious surface ratios, minimum open space ratios, and maximum building height, modifications of these standards not to exceed 25 percent may be granted by the code enforcement official provided that the criteria contained in article IX, subsections 3(9)(a) through (d) are met and satisfied; for lots in the highway business and community business zoning district with frontage on Main Street, Sabattus Street or Lisbon Street, the modification may be up to 30 percent. The code enforcement official shall not grant modifications for developments that also require other levels of approval by the board of appeals, planning board, or staff review committee; where additional levels of approval are required, the board of appeals, planning board or staff review committee may grant such modifications.~~

~~If the code enforcement official finds that the aforementioned criteria is met, at least ten days prior to granting such modification, he/she must notify the owner(s) of the property(ies) that is/are immediately adjacent to the proposed improvement, of the proposed modification. For the purpose of this subsection, immediately adjacent to the proposed improvement shall mean, with respect to setback or yard requirements, only those properties which share the common property line from which the required setback is measured or by reference to which the required yard is defined; with respect to maximum lot coverage ratios, maximum impervious surface ratios, minimum open space ratios and maximum building height, "immediately adjacent to the proposed~~

~~improvement" shall mean those properties that share any common property line with the property which is the subject of the requested modification. If an aggrieved party feels that the code enforcement official has erred in his/her finding, he/she may take an administrative appeal pursuant to article VIII, section 4(1), except that, for the purpose of this subsection, the time set forth in said article VIII, section 4(1) for taking such an appeal shall be ten days after the mailing of the notification required hereby. If an administrative appeal is not filed, or if each owner of property immediately adjacent to the proposed improvement waives in writing the ten-day appeal period, the code enforcement official may grant the modification.~~

#### E. Temporary Housing

- (~~1~~) *Temporary Housing.* Notwithstanding Article V, section 3(1) and Article XI, district regulations, mobile homes and recreational vehicles such as motorhomes and travel trailers may be used as temporary housing on lots where owner occupied single-family detached dwellings and owner occupied two-family dwellings have been damaged or destroyed by fire, flood, lightning, wind, structural failure or any other cause provided that the following conditions can be met and satisfied:
- (~~1~~a) Temporary housing shall only be approved in those situations where the homeowner makes a valid case to the satisfaction of the code enforcement official that it is in the best interest of the home owner to not leave the site for other temporary housing.
  - (~~2~~b) Temporary housing shall be approved on a lot where reconstruction is underway or pending.
  - (~~3~~c) Upon receipt of a permit by the code enforcement official, temporary housing may be established for not longer than 90 days; however, two extensions, each not to exceed 90 days, may be granted by the code enforcement official provided that the reconstruction of the permanent housing is being diligently pursued to a level of completion where a temporary certificate of occupancy may be issued by the code enforcement official.
  - (~~4~~d) Temporary housing shall be placed not closer than five feet from a side and rear property line and ten [feet] from a front property line; however, the ten-foot front setback may be reduced by the code enforcement official to the extent necessary to accommodate temporary housing if he/she finds, following an on-site inspection of the premises, that a lesser distance will neither create, nor aggravate a safety hazard or interfere in municipal snow plowing activities.
  - (~~5~~e) Temporary housing must be located a minimum of six feet from the nearest point of any principal structure.
  - (~~6~~f) There shall not be more than one mobile home or recreational vehicle placed on any lot for use as temporary housing.

- (7g) The temporary housing shall be connected to an approved electrical supply other than a generator, and to municipal or private water and sewer; and connection permits are required.
- (8h) Temporary housing shall be removed within 30 days from the completion of the reconstruction; however, in the event that the reconstruction is not completed at the termination of the approved time period, including any extensions, the temporary housing must be removed within 30 days from said termination.
- ~~(y) — *Adult use and medical marijuana.* Notwithstanding Article IX, District Regulations, the following provisions apply to registered caregivers as defined in Article II, Section 2 and personal adult use:-~~
- ~~(1) — Each person 21 years of age or older who is cultivating as a caregiver or for adult use as allowed per state law other than for the personal use shall not cultivate marijuana on or within any property containing more than two dwelling units.~~
- ~~(2) — Each person 21 years of age or older who is cultivating as a caregiver for their personal medical use and/or for their personal adult use as allowed per state law are not subject to sections 5 and 6 of this Article and are permitted throughout the City.~~
- ~~(3) — Each person 21 years of age or older who is cultivating as a caregiver or for adult use as allowed per state law other than for the personal use are permitted in accordance with Article XI and subject to licensing as per Chapter 22. Article XV of the Code of Ordinances of the City of Lewiston.—~~
- ~~(aa) — Notwithstanding, the provisions under Article XI, Sec. 23 of this Code, the keeping of up to six female chickens is permitted in the Rural Agricultural (RA), Low Density Residential (LDR), Suburban Residential (SR), Medium Density Residential (MDR), and the Neighborhood Conservation “A”(NCA) districts on lots of no less than 30,000 square feet developed with single family detached dwellings including mobile homes on individual lots pursuant to the provisions contained in Chapter 14, Article XIII, Sec. 14-45 through 14-53.~~

**APPENDIX A  
ZONING AND LAND USE CODE  
ARTICLE VI. NONCONFORMANCE**

**Sec. 2. Nonconforming lots.**

- (a) *Use of Single, unimproved lots.* A single, unimproved, nonconforming lot which is not contiguous with any other lot in the same ownership may be used as if it were a conforming lot provided that all of the following are met:
- (1) *Lot Frontage-* The lot shall have at least fifty (50) feet of frontage; except for lots in the Riverfront and Downtown Residential Districts which shall have at least forty (40) feet of frontage and for lots in the Centreville and Mill District which shall have at least twenty-five (25) feet of frontage.
  - (2) *Lot Size and Use-* The use does not require a lot size greater than the established minimum lot size for the particular district;
  - (3) *Conformance of Use-* The use conforms to all other requirements of the particular district, or a variance has been obtained from the board of appeals;
  - (4) *Conformance to Local and State Regulations-* The use conforms to all other applicable local and state land use regulations; and
  - (5) *Conformance of Structures to Space and Bulk Requirements-* All structures conform to all space and bulk requirements except lot size and frontage.
- (b) *Combine Multiple unimproved lots.* Two or more contiguous, unimproved nonconforming lots held in the same ownership of record at the time of adoption or amendment of this Code shall be combined to the extent necessary to comply with the space and bulk regulations of the district in which they are located and thereafter shall be considered under the provisions of subsection 2(a) of this article.
- (c) *Single, unimproved lots adjacent to developed lot.*
- (1) *Developable Unimproved Lot Requirements-* A single, unimproved, nonconforming lot contiguous with a developed conforming lot held in the same ownership at the time of adoption or amendment of this Code shall be developable only if the unimproved is a lot of record and satisfies the requirements of subsections 2(a)(1)--(5) of this article. If the unimproved lot does not meet said requirements, it shall be combined with the developed lot.
  - (2) *Unimproved Lot on Parallel Street-* If an unimproved lot has frontage on a parallel or nearly parallel street from a contiguous nonconforming developed lot held in the same ownership at the time of adoption of this Code and complies with subsection 2(a) of this article, the lots may be conveyed separately or together.
- (e) *Single developed, non-conforming lots.* A nonconforming lot containing a legally existing structure may be used as if it were a conforming lot provided that any change or expansion of the use or structure shall comply with all applicable space and bulk regulations of the district in which it is located and shall not increase any nonconformity with respect to lot area, floor area ratio or impervious surface ratio.
- (f) *Multiple developed non-conforming lots.* If two or more contiguous, nonconforming lots or parcels are in the same ownership of record at the time of adoption or amendment of this Code, and if a principal structure or use exists on each lot, the nonconforming lots

may be conveyed separately or together, providing all other state law and local land use ordinance requirements are met.

- (g) *Contiguous non-conforming lots in shoreland area.* Two or more contiguous lots or parcels held in single or joint ownership at the time of adoption or amendment of this Code that do not individually meet the dimensional requirements of the shoreland area standards as outlined under Article XII, subsection 2(e) shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to two or more contiguous lots, at least one of which is nonconforming, held in single or joint ownership at the time of adoption or amendment of this Code and recorded in the registry of deeds if the lot is serviced or to be serviced by a public sewer, or can accommodate a subsurface sewage disposal system in conformance with Article XII, subsection 2(m), the State of Maine Subsurface Wastewater Disposal Rules, and if they can meet either of the following criteria:

- (1) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
- (2) The lots must be reconfigured or combined so that each lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

Should the lots not be able to meet either of the aforementioned criteria, the owner(s) of record may apply to the board of appeals for a variance in order to develop said lots provided that: (1) Each lot can meet the minimum lot size for newly created lots in their underlying residential zoning district; and (2) each lot is serviced by public sewage; and (3) all of the standards for the granting of a variance as listed under article ~~XIX~~, Section 3(b)(4) have been met.

### Sec. 3. Nonconforming structures.

- (a) *Maintenance and enlargement.* A structure in lawful existence as of the effective date of this Code that does not meet space and bulk regulations of the district in which it is located, may be repaired and maintained. ~~Unenclosed porches, decks, stairways and other similar facilities may be added or modified provided that they are located so that they comply with setback and yard requirements or do not worsen the violation of the required setback or yard requirement of the existing structure.~~ It may be enlarged and/or accessory structures may be added to the site without a variance upon obtaining a building permit from the code enforcement official, provided that all of the following are met:

- (1) The enlargement or accessory structure does not itself exceed the prescribed height standard;
- (2) The enlargement in combination with the existing structure does not exceed, or worsen the existing violation of, the prescribed maximum lot coverage, floor area ratio, impervious surface ratio, off-street parking requirement or other regulation of intensity of use; and
- (3) The enlargement or accessory structure itself meets the prescribed setback requirements and yard requirements; provided, however, that ~~a vertical-and~~ horizontal expansions of a ~~single family residential~~ structures, which does not meet the prescribed setback requirements and yard requirements, may be built;

(a) if the ~~vertical~~ expansion does not extend any further into the required yard or setback than does the existing structure, but not less than five feet ~~over which it is~~

built; and

(b) if the expansion will not result in undue impact on adjacent properties, due to the placement of buildings or structures, location of service, parking or storage areas, diversion of surface water or blocking of solar access.

- (4) Structures which are located in a shoreland area and are nonconforming because they; (a) do not meet the current space and bulk standards of the zoning district in which they are located; or (b) do not meet the shoreline setback requirements as outlined under Article XII, subsection 2(d)(1) of this Code, may be enlarged as long as subsections (1), (2) and (3) above are met, and the expansion of the structure's ~~volume~~ or floor area, during the lifetime of the structure, is less than 30 percent.
- (b) Reconstruction of any Non-conforming Structure with Less than 80% Damage- A nonconforming structure which is damaged or destroyed by fire, flood, lightning, wind, structural failure or any other cause to an extent less than 80 percent of the market value of the structure at the time of such damage or destruction may be reconstructed. The reconstructed structure need not comply with the space and bulk regulations of the district in which it is located, Article VI, Section 2, or Article XII, Section 17 (d), but shall be the same size or less than the previous structure, and comply with all other requirements of this Code.

Reconstruction of a Non-conforming Commercial Structure with greater than 80% damage- A nonconforming structure, other than a single-family detached dwelling, two-family dwelling, or three-unit multifamily dwelling, that is damaged or destroyed by fire, flood lightning, wind, structural failure or any other cause to an extent of 80 percent or more of the market value may be reconstructed only in conformance with space and bulk regulations of the district in which it is located.

Reconstruction of a Non-Conforming Residential Structure with greater than 80% damage - A nonconforming single-family detached dwelling, two-family dwelling, or three-unit multifamily dwelling damaged or destroyed by fire, flood, lightning, wind, structural failure or other cause to an extent of 80 percent or more of the market value of the structure at the time of such damage or destruction may be reconstructed. The reconstructed structure need not comply with the space and bulk regulations of the district in which it is located, Article VI, Section 2, or Article XII, Section 17(d), but shall be the same size or less than the previous structure and comply with all other requirements of this Code. Any reconstruction permitted by this subsection shall begin within one year and be completed within two years of the date of such damage or destruction. The board of appeals may extend the period for reconstruction upon a showing that work could not begin or be completed for reasons outside the control of the owner. The request to the board must be filed before the expiration of the applicable time and not more than a one year extension shall be granted.

- (c) Shoreland Zone Reconstruction Standards- A residential structure which is located in a shoreland area and is nonconforming because it; (a) does not meet the current space and bulk standards of the zoning district; or (b) does not meet the shoreline setback as outlined under Article XII, subsection 2(d)(1), and which is damaged or destroyed by 50 percent or less of the market value of the structure before such damage or destruction, excluding normal maintenance or repair, may be reconstructed, in place, as it existed. However, if the structure is removed, or damaged or destroyed by more than 50 percent of the market value of the structure before such damage or destruction, it may be reconstructed or replaced, provided that a permit is obtained within one year of the date

of said removal, damage or destruction, and that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the code enforcement director. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.

- (2) In determining whether the building enlargement, reconstruction or replacement meets the setback requirements, as outlined under Article XII, subsection 2(d)(1), to the greatest practical extent, the following criteria shall be considered:
- a. The size of the lot;
  - b. The slope of the land;
  - c. The potential for soil erosion;
  - d. The location of other structures on the property and on adjacent properties;
  - e. The location of the septic system, and other on-site soils suitable for septic systems; and
  - f. The type and amount of vegetation to be removed in order to accomplish the enlargement, reconstruction or replacement.

#### **Sec. 4. Nonconforming uses.**

- (a) *Continuance of a Non-conforming Use*-. The use of land, buildings, structures, lawful at the time of adoption or subsequent amendment of this Code, may continue, although such use does not conform to the provisions of this Code. This shall include the replacement of mobile homes in a nonconforming mobile home park, provided all other provisions of Article XII, section 14 are met, as well as the replacement of mobile homes on individual lots, provided all other provisions of Article XII, sections 2, 4, and section 13, subsections (2) through (6) are met. ~~and the new mobile home must meet the suggested safety standards as proposed in appendix A of "Maine's New Mobile Home Park Law - A Guidebook for Local Officials," dated September, 1989.~~ Permitted uses that were made conditional uses as a result of the adoption or amendment of this Code shall be treated as conditional uses for which a permit was duly issued, and any expansion of such structure or use shall occur only after the issuance of a conditional use permit in accordance with Article X.
- (b) *Resumption of Non-conformance Prohibited After Coming into Compliance*-. Whenever a nonconforming use of land and/or a structure is superseded by an allowed use, such structure and/or land shall thereafter conform to the provisions of this Code and the nonconforming use may not be resumed, except as provided below in section 4(c)(2).
- (c) *Abandonment of Non-conforming Use*.
- (1) *Non-residential Abandonment*-. Except for single-family detached dwellings on individual lots and two-family dwellings on individual lots, if any nonconforming use of a building, structure or land is discontinued for a period of 12 consecutive months or more, abandonment, except as provided below, is conclusively presumed and such use shall not be resumed, and only a use conforming with the provisions of the district in which the property is located shall be made of such building, structure or land. Abandonment of a seasonable nonconformity is conclusively presumed when the building, structure or use is idle, unopened or otherwise not in actual use during any part of any two consecutive calendar years. Nonconforming uses presumed abandoned may be reestablished during the 12-

month period immediately following the date of presumed abandonment as long as a completed application for the conditional use permit is submitted to the office of the director of code enforcement within this period, and the permit is subsequently granted by the board of appeals. In addition to applying the standards for conditional use permits (article X, sections 3 and 4), the board of appeals shall grant a permit only when it finds that the following additional standards have been met:

- (a) Good cause has been shown for the discontinuance of the use; and
- (b) The proposed use will not inhibit or discourage the creation, development or use of permitted uses in the neighborhood.

(2) *Abandonment of use of historic structures in the Centreville district* - For those historic buildings and structures identified in Appendix A, Article XV, Sections 6 through 10 of this Code located in the Centreville district, a nonconforming use may be reestablished to its original use in an effort to retain and preserve the original purpose of said building or structure as long as a completed application for the conditional use permit is submitted to the office of the director of planning and code enforcement and the permit is subsequently granted by the board of appeals. In addition to applying the standards for conditional use permits (Article X, sections 3 and 4), the board of appeals shall grant a permit only when it finds that the following additional standards have been met:

- a. Documentation has been shown demonstrating what the original use of the building or structure was;
- b. Good cause has been shown for the discontinuance of the use;
- c. That the proposed use will not inhibit or discourage the creation, development or use of permitted uses in the Centreville district;
- d. That the proposed use will not create a traffic hazard, nor increase an existing traffic hazard;
- e. That the amount of parking required to meet the minimum code requirements for the proposed use exists on the site or will be otherwise provided in accordance with article XII, Section 17 of the Code;
- f. That the amount of noise, odors, vibrations, smoke, dust and air discharges of the proposed use shall be equal to or less than the present use;
- g. That the rate of surface water runoff from the site will not be increased;
- h. That the hours of operation of the proposed use will be compatible with the existing, surrounding land uses;
- i. That the proposed use will not increase the adverse impact on surrounding properties.

(d) *Expansion of Non-conforming Use Prohibited*. The expansion of a nonconforming use including a nonconforming outdoor use of land is not permitted. Additions to residential buildings and structures accessory to residential uses are permitted as long as the use is not intensified. ~~In all zoning districts, except the Resource Conservation District and the Groundwater and Lake Conservation Overlay Districts, on legally developed existing lots of record as of the adoption date of this Code, which contain less than 75 feet of lot width, said residential additions and accessory structures shall meet the applicable minimum space and bulk requirements of article XI, section 5 Neighborhood Conservation "A" District, subsection (3) for existing lots having less than 20,000 square feet. On developed lots of record as of July 2, 1998, containing 75 or more feet of lot~~

~~width, the minimum space and bulk regulations of the applicable zoning district shall apply.~~

- (e) *Conversion to a new, nonconforming use.* The board of appeals may grant permission for the conversion of an existing nonconforming use into another nonconforming use in accordance with the procedures of ~~a~~Article IX if the board finds that the new use will be more conforming to the intent of this Code and more compatible with the existing development of the neighborhood than the existing use. The existing nonconforming use shall be discontinued if the conversion is approved by the board of appeals and the approved change implemented. In determining whether the new use is more conforming to the intent of the Code, the board of appeals shall find all of the following:
- (1) That the existing use was legally established, was made nonconforming by the adoption or amendment of the Code and is not a home occupation;
  - (2) That the proposed use is of the same character or less noxious than the current nonconforming use. The determination as to whether such a use is of the same character or less noxious is to be made by a reference to the most restrictive zoning district where the current nonconforming use is allowed;
  - (3) That the proposed use will not create a traffic hazard, nor increase an existing traffic hazard;
  - (4) That the amount of parking required to meet the minimum code requirements for the proposed use exists on the site or will be otherwise provided in accordance with article XI of the Code;
  - (5) That the amount of noise, odors, vibrations, smoke, dust and air discharges of the proposed use shall be equal to or less than the present use;
  - (6) That the rate of surface water runoff from the site will not be increased;
  - (7) That the hours of operation of the proposed use will be compatible with the existing, surrounding land uses;
  - (8) That the proposed use will not increase the adverse impact on surrounding properties.
- (f) *Reconstruction-~~Replacement~~ of any Nonconforming Use with Less than 80% Damage.* A nonconforming use which is damaged or destroyed by fire, flood, lightning, wind, structural failure or other cause to an extent less than 80 percent of the market value of the structure at the time of such damage or destruction may be reconstructed. The reconstructed use need not comply with the space and bulk regulations of the district in which it is located, Article VI, Section 2, or Article XII, Section 17(d), but shall be the same size or less than the previous structure, and the intensity of use shall not be made more nonconforming.

*Reconstruction of a Non-conforming Commercial Use with Greater Than 80 % Damage-*

A nonconforming use, other than a single-family detached dwelling, two-family dwelling, or three-unit multifamily dwelling, that is damaged or destroyed by fire, flood, lightning, wind, structural failure or any other cause to an extent of 80 percent or more of the market value may be reconstructed, upon the receipt of development approval and a building permit, only in full conformance with the space and bulk regulations of the district in which it is located. Any reconstruction of a nonconforming use shall be the same size or less than the previous structure, and the intensity of use shall not be increased. Any reconstruction permitted by this subsection shall begin within one year

and be completed within two years of the date of such damage or destruction. The board of appeals may extend the period for reconstruction upon a showing that work could not begin or be completed for reasons outside the control of the owner. The request to the board must be filed before the expiration of the applicable time and not more than a one year extension shall be granted.

*Reconstruction of a Non-conforming Residential Use with Greater Than 80% Damage-* A nonconforming use of a single-family detached dwelling, two-family dwelling or three-unit multifamily dwelling damaged or destroyed by fire, flood, lightning, wind, structural failure or other cause to an extent of 80 percent or more of the market value of the structure at the time of such damage or destruction may be reconstructed. The reconstructed use need not comply with the space and bulk regulations of the district in which it is located, Article VI, Section 2, or Article XII, Section 17(d), but shall be the same size or less than the previous use, and the intensity of use shall not be made more nonconforming. Any reconstruction permitted by this subsection shall be begun within one year and completed within two years of the date of such damage or destruction. The board of appeals may extend the period for reconstruction, upon a showing that work could not begin or be completed for reasons outside the control of the owner. The request to the board must be filed before the expiration of the applicable time and not more than a one year extension shall be granted.

#### **Sec. 7. Off-street parking and loading spaces.**

- (a) *Non-conforming Structure and Parking-*A building or structure which is nonconforming as to the requirements for off-street parking space shall not be enlarged or altered to create additional dwelling units, seats, accommodations, or floor space unless off-street parking is provided sufficient to satisfy the requirements of this Code for the enlargement or alteration.
- (b) *Non-conforming Use and Parking-* A use which is nonconforming as to the requirements for off-street parking space may not be changed or intensified unless off-street parking is provided for an additional number of spaces representing the difference between what this Code would require for the existing use were it not nonconforming and what this Code requires for the proposed use.
- (c) *Non-conforming Structure and Loading Area-* A building which is nonconforming as to the requirements for off-street loading space shall not be enlarged or added to unless off-street loading space is provided sufficient to satisfy the requirements of this Code for the addition or enlargement.

**APPENDIX A  
ZONING AND LAND USE CODE  
ARTICLE VII. PLANNING BOARD**

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

- (k) Modifications. The Board shall hear and decide requests for the reduction of the ~~provisions under article XI, sections 1 through 14, district regulations, with respect to~~ nondimensional space and bulk standards ~~for setbacks, yards, maximum lot coverage ratios, maximum impervious surface ratios, minimum open space ratios, and maximum building height,~~ where the development is a major development as defined in Article XIII, subsection 3(a)(2) of this Code. In order for the board to grant the aforementioned relief, it must find that the standards contained in Article IX, sections 3(c), as applicable, are met.

**APPENDIX A  
ZONING AND LAND USE CODE  
ARTICLE VIII. BOARD OF APPEALS**

**Sec. 3. Organization and rules.**

The board of appeals shall:

- (a) ~~e~~Conduct its meetings in accordance with the provisions of 30-A M.R.S.A. section 2691, and chapter 2, Article IV, division 2, of the Code of Ordinances as amended; and
- (b) ~~The board of appeals shall a~~Adopt rules of procedure to aid it in the orderly conduct of its meetings.

**Sec. 4. Power and duties.**

The board of appeals shall have the following powers and duties under this Code:

- (1a) *Administrative appeals.* To affirm, modify, or reverse the action of the code enforcement official in issuing or denying any building permit, certificate of occupancy, other permit, order, requirement, decision, determination or interpretation in the enforcement of this Code. No administrative appeal shall lie to the board of appeals from a determination of the planning board. An administrative appeal shall be taken within 30 days of the date of the decision or action of the enforcement official, or within 60 days of the date of application, if no action has been taken thereon, unless otherwise specified by law. The filing of an administrative appeal shall not stay the administrative action form which said appeal is taken.
- (2b) *Appeals of staff decisions on development reviews.* To affirm, modify or reverse the action of the staff review committee in approving or denying applications for development review and approval of minor projects when the applicant or any party to the action appeals the decision of the committee as provided for in Article VIII.
- (3c) *Appeals of historic preservation review board actions on certificates of appropriateness.* To affirm, modify or reverse the actions of the historic preservation review board in issuing or denying certificates of appropriateness as provided for in Article XV.
- (2d) *Variances.* To approve, approve with conditions, or disapprove appeals for variances from the strict enforcement of only the provisions of this Code which relate to the dimensional space and bulk standards of the district regulations (Article XI), and/or floodplain management and administration standards (Article XIV). The board of appeals is not empowered to grant a variance to allow a use in a district in which it is not allowed under the district regulations of Article XI.
- (3e) *Changes from one nonconforming use to another nonconforming use, or for the reestablishment of an abandoned nonconforming use.* To approve, approve with conditions, or disapprove requests to change a nonconforming use to a new nonconforming use or for the reestablishment of an abandoned nonconforming use, pursuant to Article VI of this Code.
- (4f) *Determination of zoning boundaries.* To interpret the boundaries of land use districts

shown on the "official zoning map" in accordance with the standards set forth in Article IV of this Code when there is uncertainty about the location of a district boundary.

- ~~(5) — Appeals of staff decisions on development reviews. To affirm, modify or reverse the action of the staff review committee in approving or denying applications for development review and approval of minor projects when the applicant or any party to the action appeals the decision of the committee as provided for in Article VIII.~~
- (6g) *Conditional use permits.* To hear and decide applications for conditional use permits in accordance with the standards and procedures set forth in Articles IX and X of this Code unless the development is a major development as defined in Article XIII of this Code.
- (7h) *Modification of off-street parking standards.* To hear and decide requests for modifications of the requirements of Article XII, subsections 17(e) and (h).
- (8i) *Modification of fence and wall standards.* To hear and decide requests for modifications of the requirements of Article XII, section 7, of this Code relative to walls and fences.
- ~~(9) — Appeals of historic preservation review board actions on certificates of appropriateness. To affirm, modify or reverse the actions of the historic preservation review board in issuing or denying certificates of appropriateness as provided for in Article XV.~~
- (10j) *Modifications.* The board shall hear and decide requests for the reduction of the provisions under Article XI, sections 1 through 14, district regulations, with respect adjustments to the non-dimensional space and bulk standards, for setbacks, yards, maximum lot coverage ratios, maximum impervious surface ratios, open space requirements and maximum building height.

The board of appeals may not further reduce space and bulk requirements already reduced pursuant to the cluster provisions found under Article XIII, sections 7 and 9; or reduce the minimum lot size, minimum setback and minimum yard requirements of Article XI for single-family cluster developments, mixed residential developments, mixed single-family residential developments and mobile home parks as they apply to the development in its entirety as if it were a single unit; or further modify yard and setback reductions allowed for awning and canopy installations, and existing service stations, pursuant to Article V, subsections 3(A)(9) and (C)(4), respectively.

~~The board of appeals may not further reduce space and bulk requirements already reduced pursuant to the cluster provisions found under Article XIII, sections 7 and 9; or reduce the minimum lot size, minimum setback and minimum yard requirements of Article XI for single-family cluster developments, mixed residential developments, mixed single-family residential developments and mobile home parks as they apply to the development in its entirety as if it were a single unit; or further modify yard and setback reductions allowed for awning and canopy installations, and existing service stations, pursuant to Article V, subsections 3(q) and (t), respectively.~~

**APPENDIX A**  
**ZONING AND LAND USE CODE**  
**ARTICLE IX. APPEALS, VARIANCES, AND MODIFICATIONS**

**Sec. 1. Applicability.**

The procedures and standards set forth in this Article shall apply to appeals that are brought before either the ~~h~~Board of ~~a~~Appeals or ~~p~~Planning ~~h~~Board under this Code, requests for variances or modifications from the requirements of this Code, and, except as otherwise provided in ~~a~~Article X, to applications for conditional use permits pursuant to ~~a~~Article X.

**Sec. 2. Appeal procedures.**

(a) *Petition.*

(2) The petition for appeals shall contain the following information:

- g. A drawing, which is substantially to scale, of the site, showing existing and proposed buildings, roads, drives, parking areas and utilities, the actual relationship of these facilities to each other and the boundaries of the parcel and the location of buildings or abutting lots which are within 50 feet of the property line of the site. Where development approval is required by ~~a~~Article XIII of the Code, this drawing shall meet the requirements of ~~a~~Article XIII, subsection 3(h)(3).

(c) *Public notice.* Before taking action on a petition for appeal, the Board of Appeals shall hold a public hearing. The office of the director of code enforcement shall notify, by regular mail, the following parties of the subject matter, time, date and place of the hearing at least seven days before the date of such hearing:

- (1) Each member of the Board of Appeals;
- (2) The petitioner, the development department, the mayor and city council, the director of code enforcement, and the owner of the property which is the subject matter of the appeal, if other than the petitioner;
- (3) The owners of property within 300 feet of all the frontage on both sides of the street and all landowners whose property touches upon the lot involved in the appeal.

The owners of property shall be considered to be the parties listed by the chief assessor as those against whom taxes are assessed. Failure of any property owner to receive said notice shall not necessitate another hearing and shall not invalidate any action by the ~~h~~Board of ~~a~~Appeals.

**~~Sec. 3. Standards for the granting of appeals.~~**

~~The Board of appeals shall grant an appeal only when it finds that the following standards have been met:~~

- (1) ~~*Administrative appeals.* That the code enforcement official erred in either his interpretation of the Code or in the application of the Code to the particular~~

~~circumstances of the application. If the board of appeals finds that the code enforcement official correctly interpreted and applied the provisions of this Code, the board shall affirm his decision. If the board finds that the code enforcement official erred in the interpretation or application of the Code, the decision of the code enforcement official shall be reversed and the board shall make an official interpretation of the Code to be used by the code enforcement official.~~

~~(2) — *Variances.*~~

~~a. — The board of appeals shall grant a variance only when it finds that the strict application of a provision of this Code to the petitioner and his property would cause undue hardship. The term "undue hardship" as used in this subsection means:~~

- ~~1. — The land in question cannot yield a reasonable return unless a variance is granted because there are physical conditions unique to the property which are of such an extraordinary nature that strict application of the provisions of this Code greatly decreases its value for any use to which it can be put under the provisions of this Code;~~
- ~~2. — The need for the variance is due to unique circumstances of the property and not to the general conditions of the neighborhood;~~
- ~~3. — The hardship is not the result of action taken by the petitioner or a prior owner;~~
- ~~4. — The granting of the variance will not alter the essential character of the locality;~~
- ~~5. — The granting of the variance will not result in undue impact on adjacent properties due to the placement of buildings or structures, location of storage, parking or service areas, diversion of surface water or blocking of solar access; and~~
- ~~6. — The granting of the variance will not impede the ability of public safety services to reach or service the property or adjacent properties.~~

~~b. — In addition to the standards contained in subsection a., within mandated shoreland zoning areas or in resource conservation, lake conservation or groundwater conservation districts, the board of appeals shall grant a variance only when it finds that the granting of the variance:~~

- ~~1. — Will not result in unsafe or unhealthful conditions;~~
- ~~2. — Will not result in erosion or sedimentation;~~
- ~~3. — Will not result in water pollution;~~
- ~~4. — Will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;~~
- ~~5. — Will conserve shoreland vegetation;~~

- ~~6. Will conserve visual points of access to waters as viewed from public facilities;~~
- ~~7. Will conserve actual points of public access to waters;~~
- ~~8. Will conserve natural beauty; and~~
- ~~9. Will avoid problems associated with floodplain development and use, such as erosion, increased risk of flood damage to upstream properties or increased flood damage.~~
- ~~e. Variance from the floodplain management standards of article XIV.~~
  - ~~1. The board of appeals shall grant a variance from the floodplain management standards of article XIV only when it finds that the granting of the variance:
 
    - ~~a. Within any designated regulatory floodway will not result in an increase in flood levels during the base flood discharge;~~
    - ~~b. Is supported by good and sufficient cause;~~
    - ~~c. Will not result, should a flood comparable to the base flood occur, in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws and ordinances;~~
    - ~~d. Will not cause a conflict with other state, federal or local laws or ordinances;~~
    - ~~e. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the board of appeals may impose such conditions to a variance as it deems necessary; and~~
    - ~~f. Would result in "undue hardship," which in this subsection means:
 
      - ~~i. that the land in question cannot yield a reasonable return unless a variance is granted; and~~
      - ~~ii. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and~~
      - ~~iii. that the granting of a variance will not alter the essential character of the locality; and~~
      - ~~iv. that the hardship is not the result of action taken by the applicant or a prior owner.~~~~~~
  - ~~2. The board of appeals shall grant a variance for new construction, substantial improvements, or other development for the conduct of a functionally dependent use only when it finds that:
 
    - ~~a. Other criteria of article IX and article XIV, subsection 6(k) are met;~~~~



criteria set out in article VI, section 4 have been met.

- (4) ~~Determination of zoning district boundaries.~~ That the criteria set out in article IV, section 3 have been met.
- (5) ~~Appeals of staff decisions on development reviews.~~ That the staff review committee erred in the interpretation or application of the approval criteria set forth in article XIII. If the board finds that the staff review committee correctly interpreted and applied the provisions of this Code, the board shall affirm its decision. If the board finds that the committee erred in its decision, the decision of the committee shall be reversed and the board shall approve, approve with conditions or deny the application.
- (6) ~~Modifications of off street parking requirements.~~ That the criteria set out in article XII, section 17, subsections (e) and (h) have been met.
- (7) ~~Modification of wall and fence requirements.~~ That the criteria as set out in article XII, section 7, subsection (f), have been met.
- (8) ~~Appeals of historic preservation review board actions on certificates of appropriateness.~~ That the historic preservation review board erred in the application of the approval criteria set forth in article XV. If the board of appeals finds that the historic preservation review board correctly interpreted and applied the provisions for granting a certificate of appropriateness, the board of appeals shall affirm its decision. If the board of appeals finds that the historic preservation review board erred in its decision, the decision of the review board shall be reversed and the board of appeals shall approve, approve with conditions, or deny the application.
- (9) ~~Modifications of setbacks, yards, maximum lot coverage ratio, maximum impervious surface ratio, minimum open space ratios, and maximum building height requirements by not more than 25 percent; for lots in the highway business and community business zoning districts with frontage on Main Street, Sabattus Street or Lisbon Street, the modification may be up to 30 percent. The requested modifications of the aforementioned space and bulk requirements shall meet the following criteria:~~
- a. ~~Detached single family dwellings and their accessory structures may be located a minimum of ten feet from the nearest point of any existing principal structure or building on any adjacent lot.~~  
~~All other residential and nonresidential structures requesting modifications must be constructed in accordance with the current building code.~~
  - b. ~~The granting of the reduction will not result in undue impact on adjacent properties due to the placement of buildings or structures, location of service, parking or storage areas, diversion of surface water or blocking of solar access;~~
  - c. ~~The modification will not impede the ability of public safety services to~~

reach or service the property or adjacent properties;

d. ~~The modification provisions cannot be used to further modify space and bulk requirements already reduced pursuant to the cluster provisions found under article XIII, sections 7 and 9; or to reduce the minimum lot size, minimum frontage, minimum setback and minimum yard requirements for article XI for single-family cluster developments, mixed residential developments, mixed single-family residential developments and mobile home parks as they apply to the development in its entirety as if it were a single unit; or to further modify yard and setback reductions allowed for awning and canopy installations, and existing service stations, pursuant to article V, subsections 3(q) and (t), respectively.~~

~~(10) Modifications of front setbacks limited to vertical expansions, side and rear yards, side and rear setbacks, maximum lot coverage ratios, maximum impervious surface ratios, minimum open space ratios, maximum building height requirements by more than 25 percent (or by more than 30 percent for lots in the highway business and community business zoning districts with frontage on Main Street, Sabattus Street or Lisbon Street), but not greater than 50 percent. The requested modifications of the aforementioned space and bulk requirements shall meet the criteria contained in subsection 3(9) above and the following additional criteria:~~

~~For modifications to the front setbacks, side and rear yards, side and rear setbacks, maximum lot coverage ratios, maximum impervious surface ratios, minimum open space ratios and maximum building height requirements, the proposed structure, building, storage area, parking or other impervious area cannot otherwise be practically located on the lot to satisfy the code requirements from which relief is sought. In assessing practicality, the board shall take into consideration impediments to development imposed by floodplains, wetlands, shore land zoning, topography, geology, lot size and configuration and limitations caused due to existing conditions of development.~~

~~The reviewing authority shall also assess the need for the development and the use of the property in relation to the relief requested such as could the proposed improvements be reduced in scope or be reasonably placed at another location on the lot and still generally meet the petitioners objectives; or are there aesthetic, architectural or structural considerations that warrant that the proposed relief be granted.~~

~~(11) Modifications of side and rear yard and side and rear setback requirements by more than 50 percent. The requested modification of the aforementioned space and bulk requirements shall meet the criteria contained in subsections 3(9) and 3(10) above. In addition, the reviewing authority shall require that the petitioner obtain a maintenance easement/agreement from the owner(s) of adjacent impacted property(ies), (i.e. those properties that are immediately adjacent to the proposed improvement(s) requiring relief that will, in the reviewing authority's opinion, be impacted due to construction, maintenance, stormwater runoff, snow and the potential to limit future development opportunity). The easement/maintenance agreement shall be in a form acceptable to the reviewing authority and shall be recorded at the Androscoggin County Registry of Deeds~~

~~by the petitioner prior to the issuance of any required permits. In addition, the property boundary subject to the requested relief shall be established by a licensed land surveyor with verification provided to the code enforcement official prior to the issuance of any permits for the requested improvements.~~

**Sec. 3. Standards for the granting of appeals, variances, and modifications.**

(a) Appeals. The Board of Appeals shall grant an appeal only when it finds that the following standards have been met:

(1) Administrative appeals. That the code enforcement official erred in either his interpretation of the Code or in the application of the Code to the particular circumstances of the application. If the Board of Appeals finds that the code enforcement official correctly interpreted and applied the provisions of this Code, the Board shall affirm his decision. If the Board finds that the code enforcement official erred in the interpretation or application of the Code, the decision of the code enforcement official shall be reversed and the Board shall make an official interpretation of the Code to be used by the code enforcement official.

(2) Appeals of staff decisions on development reviews. That the Staff Review Committee erred in the interpretation or application of the approval criteria set forth in Article XIII. If the Board finds that the Staff Review Committee correctly interpreted and applied the provisions of this Code, the Board shall affirm its decision. If the Board finds that the Committee erred in its decision, the decision of the Committee shall be reversed and the Board shall approve, approve with conditions or deny the application.

(3) Appeals of Historic Preservation Review Board actions on certificates of appropriateness. That the Historic Preservation Review Board erred in the application of the approval criteria set forth in Article XV. If the Board of Appeals finds that the Historic Preservation Review Board correctly interpreted and applied the provisions for granting a certificate of appropriateness, the Board of Appeals shall affirm its decision. If the Board of Appeals finds that the Historic Preservation Review Board erred in its decision, the decision of the review Board shall be reversed and the Board of Appeals shall approve, approve with conditions, or deny the application.

(b) Variances.

(1) General. The Board of Appeals shall grant a variance only when it finds that the strict application of a provision of this Code to the petitioner and his property would cause undue hardship. The term "undue hardship" as used in this subsection means:

a. The land in question cannot yield a reasonable return unless a variance is granted because there are physical conditions unique to the property which are of such an extraordinary nature that strict application of the provisions of this Code would result in the practical loss of all beneficial use of the land.

b. The need for the variance is due to unique circumstances of the property

and not to the general conditions of the neighborhood;

- c. The hardship is not the result of action taken by the petitioner or a prior owner;
- d. The granting of the variance will not alter the essential character of the locality;
- e. The granting of the variance will not result in undue impact on adjacent properties due to the placement of buildings or structures, location of storage, parking or service areas, diversion of surface water or blocking of solar access; and
- f. The granting of the variance will not impede the ability of public safety services to reach or service the property or adjacent properties.

(2) *Variance from dimensional space and bulk standards.* The Board of Appeals shall grant a variance from the dimensional space and bulk standards of the Zoning and Land Use Code when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

- a. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
- b. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
- c. The practical difficulty is not the result of action taken by the petitioner or a prior owner;
- d. No other feasible alternative to a variance is available to the petitioner;
- e. The granting of a variance will not unreasonably adversely affect the natural environment; and
- f. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

(3) *Setback variance for single-family dwellings.* The Board of Appeals shall grant a variance from setback requirements only under the following conditions:

- a. The strict application of the ordinance to the petitioner and the petitioner's property would cause undue hardship;
  - 1. The term "undue hardship" as used in this subsection means:
    - i. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
    - ii. The granting of the variance will not alter the essential character of the locality;

- iii. The hardship is not the result of action taken by the applicant or a prior owner;
      - iv. The granting of the variance will no substantially reduce or impair the use of abutting property; and
      - v. The granting of the variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.
    - b. The request for a variance is for a single-family dwelling that is the primary year-round residence of the petitioner;
    - c. The variance does not exceed twenty percent (20%) of the prescribed setback requirement; and
      - 1. The Board may grant a setback variance to exceed twenty percent (20%) of the prescribed setback requirement if the petitioner has obtained the written consent of the abutting landowner.
    - d. The variance will not cause the area of the dwelling to exceed the maximum permissible lot coverage.
- (4) Variance from shoreland zoning standards. In addition to the standards contained in subsection (b)(1), within mandated shoreland zoning areas or in resource conservation, lake conservation or groundwater conservation districts, the Board of Appeals shall grant a variance only when it finds that the granting of the variance:
- a. Will not result in unsafe or unhealthful conditions;
  - b. Will not result in erosion or sedimentation;
  - c. Will not result in water pollution;
  - d. Will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
  - e. Will conserve shoreland vegetation;
  - f. Will conserve visual points of access to waters as viewed from public facilities;
  - g. Will conserve actual points of public access to waters;
  - h. Will conserve natural beauty; and
  - i. Will avoid problems associated with floodplain development and use, such as erosion, increased risk of flood damage to upstream properties or increased flood damage.
- (5) Variance from the floodplain management standards of Article XIV.
- a. General. The Board of Appeals shall grant a variance from the floodplain management standards of Article XIV only when it finds that the granting of the variance:
    - 1. Will not result in an increase in flood levels during the base flood

discharge;

2. Is supported by good and sufficient cause;
3. Will not result, should a flood comparable to the base flood occur, in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws and ordinances;
4. Will not cause a conflict with other state, federal or local laws or ordinances;
5. the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary; and
6. Would result in “undue hardship,” which in this subsection means:
  - i. that the land in question cannot yield a reasonable return unless a variance is granted; and
  - ii. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and
  - iii. that the granting of a variance will not alter the essential character of the locality; and
  - iv. that the hardship is not the result of action taken by the applicant or a prior owner.

b. *New construction and improvements.* The Board of Appeals shall grant a variance for new construction, substantial improvements, or other development for the conduct of a functionally dependent use only when it finds that:

1. Other criteria of Article IX and Article XIV, subsection 6(k) are met; and
2. The structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

c. *Historic structures.* The Board of Appeals may grant a variance for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or a state inventory of historic places. Upon the determination that:

1. The development meets the criteria of subsections 3(2)(a) through (d) above; and
2. The proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the

historic character and design of the structure.

d. *Disclaimer.* Any applicant who meets the criteria of Article IX, Section 3(b)(5) subsections (a) through (c) shall be notified by the Board of Appeals in writing over the signature of the chairman of the Board of Appeals that:

1. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25.00 per \$100.00 of insurance coverage;
2. Such construction below the base flood level increases risks to life and property; and
3. The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

e. *Report to Code Enforcement.* The Board of Appeals shall submit to the code enforcement official a report of all variance actions, including justification for the granting of the variance and an authorization for the code enforcement official to issue a flood hazard development permit, which includes any conditions to be attached to said permit.

f. *Appeals to Superior Court.* Any aggrieved party who participated as a party during the proceeding before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of appeals.

(6) *Disability variance.* The Board of Appeals may grant a disability variance to an owner of a dwelling only in the following circumstances:

a. *Accessibility.* For the purpose of making the dwelling accessible to a person with a disability who resides in or regularly uses the dwelling.

1. The Board shall restrict any variance granted under this section solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability.

i. For the purposes of this section, the term “structures necessary for access to or egress from the dwelling” is defined to include railing, wall, or roof systems necessary for the safety or effectiveness of the structure.

2. The Board may impose conditions on the variances granted pursuant to this section including limiting the variance to the duration of the

disability or to the time that the person with the disability lives in the dwelling.

b. Storage and parking of a noncommercial vehicle. To allow an owner of a dwelling who resides in the dwelling and who is a person with a permanent disability to construct a place of storage and parking for a noncommercial vehicle owned by that person.

1. For the purposes of this subsection, "noncommercial vehicle" mean a motor vehicle as defined in Title 29-A section 101, subsection 42 with a gross vehicle weight of no more than 6,000 pounds, bearing a disability registration plate issued pursuant to Title 29-A, section 521 and owned by the person with the permanent disability.

2. The width and length of the structure may not be larger than 2 times the width and length of the noncommercial vehicle.

3. The owner shall include in an application to the Board proposed plans for such structure.

4. The person with the permanent disability shall prove by a preponderance of the evidence that the person's disability is permanent.

(c) Modifications

(1) Modifications of non-dimensional space and bulk standards. The reviewing authority shall grant modifications to non-dimensional space and bulk standards in Article XI only when it finds that:

a. The proposed structure, building, storage area, parking or other impervious area cannot otherwise be practically located on the lot to satisfy the code requirements from which relief is sought;

1. In assessing practicality, the board shall consider the following:

i. Impediments to development imposed by floodplains, wetlands, shoreland zoning, topography, geology, lot size, and limitation caused due to existing conditions of development.

ii. Aesthetic, architectural, or structural considerations unique to the property or proposed improvements which warrant relief from the standards.

b. The modification will not impede the ability of public safety services to reach or service the property or adjacent properties;

c. The modification is not related to changes in the following standards:

1. Space and bulk standards already reduced pursuant to the cluster provisions found under Article XIII, sections 7 and 9;

2. Minimum lot size, minimum frontage, minimum setback, and

minimum yard requirements under Article XI for single-family cluster developments, mixed residential developments, mixed single-family developments, and mobile home parks as they apply to the development in its entirety as if it were a single unit;

3. Additional reductions to setback and yard reductions allowed for awning and canopy installations, and existing service stations, pursuant to Article V, subsections 3(q) and (t), respectively;

(2) *Modifications of off-street parking requirements.* That the criteria set out in Article XII, section 17, subsections (e) and (h) have been met.

(3) *Modification of wall and fence requirements.* That the criteria as set out in Article XII, section 7, subsection (f), have been met.

**APPENDIX A  
ZONING AND LAND USE CODE  
ARTICLE XI. DISTRICT REGULATIONS**

**Sec. 19. ~~Groundwater conservation overlay district (GC).~~**

- (a) ~~Statement of purpose. The purpose of the groundwater conservation overlay district is to protect, preserve and maintain the quality and quantity of the existing and potential groundwater supply within the city by controlling the use, storage and disposal of potential contaminants of the groundwater in areas of the city and identified significant sand and gravel aquifers and by assuring the groundwater recharge areas associated with these aquifers are protected from overdevelopment.~~

**Sec. 20. ~~No name pond conservation overlay district (LC).~~**

- (a) ~~Statement of purpose. The purpose of the no name pond conservation overlay district is to protect the water quality of no name pond by controlling the discharge of surface runoff into the lake, thereby limiting nutrient loading to levels which will not result in substantial degradation of the pond's water quality.~~

**Sec. 21. ~~Mobile home park overlay district (MH).~~**

- (a) ~~Statement of purpose. The purpose of the mobile home park overlay district is to provide for the accommodation of mobile homes in planned, integrated mobile home parks, and mobile homes on individual residential lots, at a standard consistent with the protection of the health, safety and general welfare of the residents of the city while establishing safeguards to minimize the adverse impacts on neighboring property owners.~~

**Sec. 22. Land Use Requirements.**

- (a) *Land Use Table* – uses appearing in the table are part of this Code and set forth the uses allowed in all district.

Article XI, District Regulations, Section 25, Land Use Table

Land Use Table: All Zoning Districts 7-22-20	Rural Agricultural (RA)	Low Density Residential (LDR)	Suburban Residential (SR)	Medium Density Residential (MDR)	Neighborhood Conservation "A" (NCA)	Neighborhood Conservation "B" (NCB)	Downtown Residential (DR)	Riverfront (RF)	Centreville (CV) <sup>(36)</sup>	Mill (M)	Office Residential (OR)	Institutional Office (IO)	Community Business (CB)	Highway Business (HB)	Office Service (OS)	Industrial (I)	Urban Enterprise (UE)	Resource Conservatio n (RC) (18)	Groundwater conservation Overlay (GC) <sup>(25)</sup>	No Name Pond Conservation Overlay (NNP) <sup>(29)</sup>	Mobile Home Park Overlay (MH) <sup>(30)</sup>
<b>USES(15)(33)</b>																					
Accessory use or structure	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			
<b>Commercial-Service</b>																					
Veterinary facilities excluding kennels and humane societies											P	P	P	P							
Veterinary facilities including kennels and humane societies	C														P		P				
Nursery School	C	C	C	C	C	C	P	P	P	P	P	P	P	P	P	P	P				
Small day care facilities	C	P(22)	P(22)	P(22)	P(22)	P	P				P	P	P	P	P	P	P				
Day care centers	C						P	P	P	P	P	P	P	P	P	P	P				
Day care centers accessory to public schools, religious facilities,		C(22)	C(22)	C(22)	C(22)	C(22)															
Business and professional offices including research, experimental,						C(31)	P(9)	P(9)	P(9)	P(6)	P(9)	P	P(9)	P	P	P	P				
Restaurants							P(1)	P(1)	P(1)	P(1)		P(5)	P(26)	P(26)	P	P(6)	P				
Drinking places								P	P	P			C	C		P(6)					
Adult business establishments													C								
Hotels, motels, inns							C	P	P	P		P(4)	P	P	P		P				
Movie theaters except drive-in theaters							P	P	P	P			P	P	P		P				
Places of indoor assembly, amusement or culture								P	P	P			P	P	P		P				
Art and crafts studios						C	P	P	P	P		C	P	P	P		P				
Personal Services						P	P	P	P	P	P	P	P	P	P	P(6)	P				
Retail stores							P	P	P	P			P	P		P(6)	P				
Neighborhood retail stores				C(21)		P	C					C									
Lumber and building materials dealer										P			C	P			P				
Gasoline service stations														P			P				
Gasoline service stations which are a part of and subordinate to a														P							
New and used car dealers														P			P (17)				
Recreational vehicle, mobile home dealers														P			P				
Equipment dealers and equipment repair														C		P	P				
Automotive services including repair										C(9)			P(9)	P			P				
Registered dispensary(27)														C	C	C	C				
Registered primary caregivers engaged in the cultivations of														P	P	P	P				
Tattoo Establishments													C	C							
<b>Industrial</b>																					
Light industrial uses									P(9,38)	P				P(9)	P	P	P				
Industrial uses									P(16)	C						P	C				
Building and construction contractors										P(6,7)				P(6)	P(6)	P(6,7)	P(6,7)				
Fuel oil dealers and related facilities																P	P(6,7)				
Wholesale sales, warehousing and distribution facilities and										P				P	P	P	P				
Self storage facilities										P					P		P				
Commercial solid waste disposal facilities																C					
Junkyards and auto graveyards																C					
Recycling and reprocessing facilities										P(9)						C	C				
Private industrial/commercial developments(23)										P			P	P	C	P	P				
<b>Transportation</b>																					
Airports or heliports	C																				
Commercial parking facilities						C	C(3)	P	P	P		C	C	P			P				
Transit and ground transportation facilities							C	P	P	P											
Transportation facilities										P(10)				P	C	P	P				
<b>Public and Utility</b>																					
Pumping stations, standpipes or other water supply uses involving	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			
Power transmission lines, substations, telephone	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C			
Municipal buildings and facilities	C	C	C	C	C	C	P	P	P	P	C	C	P	P	P	P	P				
Preservation of historic areas; emergency and fire protection																		P			
Dams																		C			

Article XI, District Regulations, Section 25, Land Use Table

Land Use Table: All Zoning Districts 7-22-20	Rural Agricultural (RA)	Low Density Residential (LDR)	Suburban Residential (SR)	Medium Density Residential (MDR)	Neighborhood Conservation "A" (NCA)	Neighborhood Conservation "B" (NCB)	Downtown Residential (DR)	Riverfront (RF)	Centreville (CV) (36)	Mill (M)	Office Residential (OR)	Institutional Office (IO)	Community Business (CB)	Highway Business (HB)	Office Service (OS)	Industrial (I)	Urban Enterprise (UE)	Resource Conservation (RC) (18)	Groundwater Conservation Overlay District (GC) (28)	No Name Pond Conservation Overlay (NNP)(29)	Mobile Home Park Overlay (MH) (30)
<b>Institutional</b>																					
Religious facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P				
Cemeteries	P	P	P	P	P	P															
Congregate care/assisted living facilities, institutions for the handicapped, nursing or convalescent homes, group care facilities				C		C	P	P	P	P	P	P	P	P	P		P				
Hospitals, medical clinics,						C	C	P	P	P	P	P	P	P	P		P				
Museums, libraries, and non-profit art galleries and theaters							P	P	P	P		P									
Academic institutions, including buildings or structures for classroom, administrative, laboratory, dormitories, art, theater, dining services, library, bookstores, athletic facilities and student recreational uses, together with buildings accessory to the foregoing permitted principal buildings or structures,				C(13)		C(13)	P	P	P	P	C	P(12)(24)	P	P	P	P	P				
Civic and social organizations						C			P		P	C									
Public community meeting and civic function buildings including auditoriums							P	P	P	P		P									
<b>Residential</b>																					
Single-family detached dwellings on individual residential lots	P(8)	P	P	P	P	P(2)	P(11)				P	P(2)									
Mobile homes on individual residential lots	P(8)			P(35)																	
Two-family dwellings on individual residential lots				P	P(37)	P	P(11)				P			P(14)							
Multifamily dwellings in accordance with the standards of Article XIII				P(34)		P	P(11)	P(11)	P	P	P	P	P				P				
Single-Family attached dwelling in accordance with the standards of Article XIII	C			P(34)		P	P(11)	P(11)			P	P									
Mixed single-family residential developments in accordance with the standards of Article XIII	C	P		P		P															
Mixed residential developments in accordance with the standards of Article XIII		P		P		P					P										
Mixed use structures						P	P(11)	P(11)	P	P	P	P	P	P			P				
Lodging houses						P	P(11)														
Home occupations	P	P	P	P	P	P	P				P		P								C
Bed and breakfast establishments as a home occupation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P				
In-law apartments in accordance with the standards of Article XII	P	P	P	P	P	P	P		P	P	P										
Single family cluster development	P	P	P	P																	
Family day care home	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				
Shelters						C	C														
Dormitories														P							
<b>Natural Resource</b>																					
Agriculture	P(8)																				P
Farm Stands	P																				
Forest management and timber harvesting activities in accordance with the standards of Article XIII	P	P	P	P	P	P					P		P	P	P	P	P	P			
Earth material removal	C														C	C					
Community gardens(20)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				
Water dependent uses, e.g. docks and marinas								P		P											C
Non-residential structures for educational, scientific or nature interpretation purposes, containing a maximum floor area of not more than ten thousand (10,000) square feet.																					C
Keeping of Chickens (39)	P (39)	P (39)	P (39)	P (39)	P (39)																
<b>Recreation</b>																					
Campgrounds	C																				C
Public or private facilities for nonintensive outdoor recreation	C	C	C	C	C	C	C	P		P	C										P
Commercial outdoor recreation and drive-in theaters								P		P(32)			C	C	C						
Fitness and recreational sports centers as listed under NAICS Code 713940								P	P	P	P		P	P	P	P	P				

*Land Use Table Notes*

(39) Keeping of Chickens- Notwithstanding, the provisions under Article XI, Sec23 of this Code, the keeping of up to six female chickens is permitted in the Rural-Agricultural(RA), Low Density Residential (LDR), Suburban Residential (SR), Medium Density Residential (MDR), and the Neighborhood Conservation “A”(NCA) districts on lots of no less than 30,000 square feet developed with single family detached dwellings including mobile homes on individual lots pursuant to the provisions contained in Chapter 14,Article XIII, Sec. 14-45 through 14-53.

**Sec. 23. Space and Bulk Requirements**

*Space and Bulk Table* - Lots in each District shall meet or exceed the following minimum space and bulk standards as noted in the Space and Bulk Standards Table.

Article XI, District Regulations, Section 25, Space and Bulk Table: All Zoning Districts 7-22-20

Dimensional Requirements (13)	Resource Conservation (RC)	Rural Agricultural (RA)	Suburban Residential (SR)	Low Density Residential (LDR)	Medium Density Residential (MDR)	Neighborhood Conservation A (NCA)	Neighborhood Conservation B (NCB)	Downtown Residential (DR) (2) (22)	Riverfront (RF) (2)	Centreville (CV)	Mill (M)	Urban Enterprise (UE)	Office Residential (OR) (12)	Institutional Office (IO)	Community Business (CB) (12)	Highway Business (HB) (18)	Office Service (OS) (18)	Industrial (I) (1)	Ground water Conservation Overlay (GC)	No Name Pond Conservation Overlay (LC)	Mobile Home Park Overlay (MH)
<b>Minimum lot size with public sewer</b>																					
Single family detached (24)		60,000 sf	20,000 sf	10,000 sf	10,000 sf	7,500 sf							7,500 sf								
Single family attached		20 acres			20,000 sf								12,000 sf								
Two-family dwellings					15,000 sf	12,500 sf							10,000 sf								
Single family cluster development		20 acres	5 acres	5 acres	5 acres	5 acres															
Mixed single family residential development (14)		20 acres		5 acres	5 acres																
Mixed residential development (14)				5 acres	5 acres								5 ac								
Multifamily dwellings					20,000 sf							5,000 sf	20,000 sf								
Mixed use structures													7,500 sf								
Agriculture		120,000 sf																			
Religious facilities		120,000 sf	40,000 sf	40,000 sf	40,000 sf	20,000 sf															
Veterinary facilities		120,000 sf																			
Other uses		40,000	20,000 sf	20,000 sf	40,000 sf	20,000 sf							7,500 sf								
All permitted uses	10,000 sf						None	<del>5,000 sf-4,000 sf</del>	<del>5,000 sf-4,000 sf</del>	None	None	5,000 sf		10,000 sf	None	None	20,000 sf	40,000 sf			5 acres
<b>Minimum lot size without public sewer (3)</b>																					
Single family detached, mobile homes on individual lots (24)		60,000 sf	40,000 sf	40,000 sf	40,000 sf	20,000 sf							20,000 sf								
Single family attached		60,000 sf											60,000 sf								
Two-family dwellings					80,000 sf	20,000 sf							40,000 sf								
Single family cluster development (1)		20 acres	10 acres	5 acres	5 acres	5 acres															
Mixed single family residential development (14)		20 acres		5 acres	5 acres																
Mixed residential development (14)				5 acres	5 acres								5 ac		20,000 sf						
Multifamily dwellings												20,000 sf	60,000 sf		20,000 sf						
Mixed use structures													60,000 sf								
Agriculture		120,000 sf																			
Religious facilities		120,000 sf	40,000 sf	40,000 sf	40,000 sf	40,000 sf									20,000 sf						
Veterinary facilities		120,000 sf													20,000 sf						
Other uses	10,000 sf	40,000	40,000 sf	40,000 sf	40,000 sf	40,000 sf						20,000 sf	20,000 sf	20,000 sf	20,000 sf	20,000 sf	20,000 sf	40,000 sf			5 acres
<b>Minimum net lot area per d.u. with public sewer</b>																					
Single family detached		60,000 sf																			
Single family attached		60,000 sf			5,000 sf																
Two-family dwellings					5,000 sf																
Mixed single family residential development (14)		60,000 sf		7,000 sf	5,000 sf																
Mixed residential development (14)				7,000 sf	5,000 sf																
Multifamily dwellings												1,500									
Mixed use structures												1,500									
All permitted residential uses							26	1,250 sf	1,250 sf	None	None		3,000 sf	3,000 sf	3,000 sf	3,000 sf					6,500 sf per unit
<b>Minimum net lot area per d.u. without public sewer</b>																					
Single family detached, mobile homes on individual lots		60,000 sf																			
Single family attached		60,000 sf																			
Two-family dwellings					5,000 sf																
Mixed single family residential development (14)		60,000 sf		20,000 sf	20,000 sf																
Mixed residential development (14)				20,000 sf	20,000 sf																
Multifamily dwellings												1,500 sf									
Mixed use structures												1,500 sf				3,000 sf					
All permitted residential uses													20,000 sf		3,000 sf						6,500 sf per unit
<b>Minimum lot frontage</b>																					
Single family detached, mobile homes		200 ft	125 ft	100 ft	100 ft	75 ft															
Single family attached		200 ft			200 ft								100ft (50ft)								
Two-family dwellings					125 ft																
Single family cluster development (with multiple vehicular accesses)		200 ft (50 ft)	200 ft (50 ft)	200 ft (50 ft)	200 ft (50 ft)	200 ft (50 ft)															
Mixed single family residential development (with multiple vehicular accesses)		200 ft (50 ft)		200 ft (50 ft)	200 ft (50 ft)																
Mixed residential development (with multiple vehicular accesses) (14)				200 ft (50 ft)	200 ft (50 ft)								100ft (50ft)								
Multifamily dwellings (with multiple vehicular accesses)					200 ft								100ft (50ft)								
Mixed use structures																					
Agriculture		250 ft																			
Religious facilities		250 ft	200 ft	200 ft	200 ft	125 ft															
Veterinary facilities																					
Other uses		200	125 ft	100 ft	100 ft	125 ft															
All permitted uses	50 ft (9)						50 ft	<del>50 ft-40 ft</del>	<del>60 ft-40 ft</del>	25 ft	25 ft	100 ft	100 ft	100 ft	100 ft	150 ft	100 ft	100 ft			200 ft
<b>Minimum front building setback</b>																					
Single family detached, mobile homes on individual lots		25 ft	25 ft	20 ft	20 ft	20 ft (21,22)		None													
Single family attached		50 ft			30 ft			None													
Two-family dwellings					20 ft	20 ft (21,22)		None													
Single family cluster development		50 ft	50 ft	50 ft	30 ft	50 ft															
Mixed single family residential development (14)		50 ft		50 ft	30 ft																
Mixed residential development (14)				50 ft	30 ft			None													

Article XI, District Regulations, Section 25, Space and Bulk Table: All Zoning Districts 7-22-20

Dimensional Requirements (13)	Resource Conservati on (RC)	Rural Agricultura l (RA)	Suburban Residential (SR)	Low Density Residential (LDR)	Medium Density Residential (MDR)	Neighborhood Conservation A (NCA)	Neighborhood Conservation B (NCB)	Downtown Residential (DR) <sup>(2)</sup>	Riverfront (RF) <sup>(2)</sup>	Centreville (CV)	Mill (M)	Urban Enterprise (UE)	Office Residential (OR) <sup>(12)</sup>	Institutional Office (IO)	Community Business (CB) <sup>(12)</sup>	Highway Business (HB) <sup>(18)</sup>	Office Service (OS) <sup>(18)</sup>	Industrial (I) <sup>(11)</sup>	Groundwater Overlay District (GC)	No Name Pond Conservati on Overlay District (LC)	Mobile Home Park Overlay District (MH)
<b>Minimum front building setback (Continued)</b>																					
Multifamily dwellings					30 ft																
Mixed use structures																					
Agriculture		50 ft						None													
Religious facilities		25 ft	50 ft	50 ft	50 ft	20 ft (21,22)															
Veterinary facilities		25 ft						None													
Other uses		25 ft	25 ft	20 ft	50 ft	20 ft (21,22)															
All permitted uses	50 ft (8)					20 ft (21,22)	10 ft (21,22)	5 ft / (Note 22)	5 ft / (Note 22)	0 ft / (Note 22)	0 ft / (Note 22)	25ft (Note 22)	20 ft (Notes 22,23)	30 ft (17, 27)	20ft	20ft	50 ft	50 ft			50 ft
<b>Maximum front building setback</b>																					
Single Family Detached																					
Single family attached																					
Multifamily dwellings																					
Other uses																					
All permitted uses								10 ft	10 ft	5 ft	10 ft										
<b>Minimum front yard</b>																					
Single family detached, mobile homes on individual lots		25 ft	25 ft	20 ft	20 ft	15 ft (21)															
Single family attached		50 ft																			
Two-family dwellings																					
Single family cluster development		50 ft	50 ft	50 ft	30 ft	50 ft															
Mixed single family residential development (14)		50 ft		50 ft	30 ft																
Mixed residential development (14)				50 ft	30 ft																
Multifamily dwellings					30 ft																
Mixed use structures		25 ft																			
Religious facilities		25 ft	25 ft	20 ft	30 ft	20 ft (21)															
Veterinary facilities		25 ft																			
Other uses		25 ft	25 ft	20 ft	30 ft	20 ft (21)															
All permitted uses	20 ft						10 ft (21,22)	N/A	N/A	N/A	N/A	10 ft	10 ft (23)	10 ft (17)	15 ft	15ft	20 ft	25 ft (6)			25 ft
<b>Minimum side and rear setback</b>																					
Single family detached, mobile homes on individual lots		25 ft	15 ft	10 ft	10 ft	10 ft															
Single family attached		50 ft			30 ft																
Two-family dwellings					30 ft	10ft															
Single family cluster development		50 ft	30 ft	30 ft	30 ft	30 ft															
Mixed single family residential development (14)		50 ft			30 ft																
Mixed residential development (14)					30 ft																
Multifamily dwellings					30 ft																
Religious facilities		50 ft	50 ft	50 ft		30 ft															
Mixed use structures																					
Veterinary facilities		50 ft																			
Farm structures for keeping of animals		100 ft																			
Other uses		50 ft	30 ft	25 ft	30 ft	30 ft															
All permitted uses	25 ft						5 ft	5 ft side/ 10 ft rear	0 ft side/10 ft rear	none	none	20 ft	15 ft (23)	20 ft	20 ft	20 ft (15)	25 ft	25 ft			
<b>Minimum side and rear yard</b>																					
Single family detached, mobile homes on individual lots		10 ft	15 ft	10 ft	30 ft	10 ft															
Single family attached		50 ft			30 ft																
Two-family dwellings					30 ft	10 ft															
Single family cluster development			30 ft		30 ft	30 ft															
Mixed single family residential development (14)		50 ft			30 ft																
Mixed residential development (14)		50 ft			30 ft																
Multifamily dwellings					30 ft																
Mixed use structures					30 ft																
Religious facilities			30 ft	25ft		30 ft (16)															
Veterinary facilities		25 ft		25 ft																	
Farm structures for keeping of animals		25 ft																			
Other uses		25 ft	30 ft		30 ft	30 ft (16)															
All permitted uses	15 ft	25 ft		25 ft			5 ft (16,21)	10 ft (required on	10 ft	None	None	10 ft (10,16)	10 ft (16,23)	10 ft (16,17)	10 ft	10 ft	10 ft (7,10)	10 ft (10,20)			
<b>Minimum height</b>																					
All permitted uses								20 ft	20 ft	20 ft	20 ft										
<b>Maximum height</b>																					
Agriculture		75 ft																			
Other permitted uses	35 ft	35 ft	35 ft	35 ft	35 ft	35 ft	65 ft	60 ft	75 ft	150 feet <sup>(25)</sup>	100 ft	80 ft	35 ft	75 ft	50 ft	65 ft	75 ft	100 ft			
Hospital, nursing homes and medical offices														120 ft							
<b>Ratios</b>																					
Maximum lot coverage	0.10	0.15	0.20	0.3	0.30	0.40	0.75		0.60	1.00	0.90	0.60	0.30	0.75(28)	0.50	0.50	0.50	0.75			0.4
Maximum impervious coverage	0.10								0.75	1.00	0.90	0.80	0.60	0.75(28)	0.75	0.75	0.75	0.75	0.25	0.1	

*Space and Bulk Table Notes*

- (12) The land on the on the east side of Main Street from Brooks Avenue to the Russell Street overpass, including 579 Main Street and 15-18 Pettingill Street, and the land on the west side of Main Street to the Maine central Railroad right-of-way from Strawberry Avenue south to the Russell Street overpass is subject to the following additional standards:
- a. Modifications of the space and bulk standards may not be granted by ~~granted by~~ the board of appeals, planning board, staff review committee or code enforcement officials, with the exception of side and rear yards where the abutting use is nonresidential.
- (13) Modifications (~~i.e. relaxation of standards~~) of setbacks, yards, ~~maximum lot coverage ratios~~, maximum impervious surface ratios, minimum open space ratios, and maximum building height as contained in the district space and bulk standard may be granted by the board of appeals, planning board, and the staff review committee ~~and the code enforcement official~~ pursuant to Articles V, VII, VIII, IX, and XIII of this Code.
- (18) Existing lots of record having 150 feet or less of frontage on a street functionally classified as an arterial shall be limited to one point of vehicular access to the arterial to serve all development on the lot including the division of the lot into additional lots.

Existing lots of record having more than 150, but less than 500 feet of frontage on a street functionally classified as an arterial shall be limited to two points of vehicular access to the arterial to service all development on the lot including the division of the lot into additional lots. Existing lots of record having 500 feet or more of frontage on a street functionally classified as an arterial shall be limited to two points of vehicular access to the arterial for up to 1,000 feet of frontage, plus one additional point of access to the arterial for each additional 500 feet of frontage on the arterial or portion thereof. These points of access shall service all development on the lot, including the division of the lot into additional lots.

**Sec. 24. Additional Overlay District Regulation Requirements**

**5) Design District Overlay district**

- a) Applicability- All major and minor Development Review projects in the Design District Overlay shall comply with the following Design District Standards.
- b) Purpose- The general intent of these standards is to encourage quality infill development, preserve historic structures and community character, achieve an attractive city and urban neighborhood environment, and foster a sense of community and place. Varied and human-scaled building facades are key to making a place "pedestrian-oriented," as well as friendlier and safer. Building

designs should be compatible with surrounding buildings, provide a high level of visual interest, and include design elements that enhance the streetscape.

c) Exterior Building Standards

1) Commercial and Mixed-Use Building Standards-

- a. Commercial First Floor Doors and Windows- A minimum of fifty percent (50%) of the first floor façade shall consist of clear glass as visible from a public street. No minimum requirement shall be imposed for theaters, places of worship, fire and police stations, municipal service facility, or transformer stations.
- b. Commercial First Floor Elevation- Commercial first floors shall be at street grade.
- c. Commercial First Floor Entrances- Commercial buildings shall have a minimum of one entrance every 75 feet of street frontage. The entrance shall be visible and accessible from a sidewalk and shall be open during normal business hours. Commercial entrances shall be recessed and between 15 and 100 square feet in size, with a surface grade that matches the sidewalk.
- d. Commercial Upper Floor Doors and Windows- A minimum of twenty-five percent (25%) of the upper floor façade shall consist of clear glass as visible from a public street.

2) Residential Building Standards-

- a. Residential First Floor Doors and Windows- A minimum of twenty-five percent (25%) of the first floor façade shall consist of clear glass as visible from a public street.
  - b. Residential First Floor Elevation- A residential first floor elevation shall be twenty-one inches (21") or three steps above the grade of any adjacent sidewalk and first floor window sills of dwelling units shall be a minimum of sixty inches (60") above sidewalk grade.
  - c. Residential First Floor Entrances- Multifamily entrances shall have covered weather protection.
  - d. Residential Upper Floor Doors and Windows- A minimum of twenty-five percent (25%) of the upper floor façade shall consist of clear glass as visible from a public street.
  - e. Residential Entrances shall provide weather protection and include one of the following entrance features; a stoop, porch or landing.
4. Windows- Windows shall not be flush with exterior wall treatments and shall be recessed at least 2 ½ inches and/or provided with an architectural surround at the jambs, header, and sill.
5. Blank Walls- Building facades visible from a public street shall not contain blank walls longer than fifteen feet.

6. Mechanical Protrusions: Vent stacks, roof vents, and other mechanical protrusions shall be screened or painted the color of the roof or the adjacent façade. Roofs and roof lines shall minimize the visual impact of mechanical systems.

d) Parking Access and Design

1. Parking in Front Setbacks and Yards- Vehicle parking is prohibited in the area between building frontage and public streets except in conjunction with single or two-family dwellings.
2. Driveways- Driveways to parking areas and service facilities on the site shall be limited to a total width of 24 feet unless a wider entrance is justified for any individual driveway. The number of access drives shall be limited to one per 100 feet of lot frontage.
3. Maximum Number of Parking Spaces: For buildings greater than 10,000 gross square feet, no more than 140 % of the required minimum number of parking spaces are permitted, except as provided in Article XII, Section 17 Off-Street Parking and Loading.
4. Multi-modal Facilities: Projects with 20 or more parking spaces shall provide outdoor bicycle racks for a minimum of 4 bicycles. Required bicycle racks shall be within 100 feet walking distance of the main building entrance.

e) Treatment of Front Yards in the Design District Overlay

1. The areas between the principal facade of a building and the public right of way shall be landscaped except for driveways, sidewalks, and allowable building projections (stoops, chimneys, awnings, porches).
2. Front yard landscaping shall consist of ground covers, annual or perennial flowers, shrubs or appropriately sized trees. Plant materials shall not encroach into the sidewalk or right-of-way.
3. Trees are recommended if the front setback is at least 5 feet wide to provide adequate space for the tree roots.
4. Short fences of approximately 3 feet in height are desirable in residential front yards.

f) Roofs

1. Rooflines- Roofs and roof ridgelines shall avoid unbroken expanses the length of the building through the use of dormers, chimneys, and changes in the ridgeline. Variations in design shall connect to the overall building design, such as being shaped to define building corners and entries.
2. Solar panels- Solar panels shall follow rooflines and, where possible, be integrated with the roof design.
3. Falling snow- Roofs shall be designed to prevent falling ice and snow onto entrances and walkways.

g) Context-Sensitive Design-

1. Documentation of Surrounding Context- Development Review applications in the Design District Overlay shall include documentation consisting of:

- a) A narrative that describes how the development proposal meets the Context-Sensitive Design Criteria, the architectural style, character, and site conditions of the eight adjacent principal buildings, structures or lots (two buildings on the right, two on the left, and four across the street).
- b) A site map and a map of adjacent principal buildings or structures
- c) Elevation drawings of all proposed building facades visible from the public right of way including calculations of all first and upper floor window and door coverage
- d) Photos of the development site and adjacent principal buildings or structures,

2. Context-Sensitive Design Criteria- An applicant shall address the following criteria in a narrative to ensure the proposed project will be compatible and in harmony with the adjacent principal buildings or structures by describing how:

- a) The height of proposed principal building or structure, its bulk; the nature of its roofline and the will be of similar scale and proportion as the adjacent principal buildings, structures or lots.
- b) The location, size, and proportions of openings in the facade, primarily windows and doors, of new construction will be consistent in proportion and rhythm with openings in the facade of the adjacent principal buildings, structures or lots.
- c) The massing and type of roof (flat, gabled, hip, gambrel, mansard) of the new construction shall complement the massing and type of roof as the adjacent principal buildings, structures or lots.
- d) Building materials and texture shall exhibit the characteristics of texture, composition, and reflectivity of the adjacent principal buildings, structures or lots.
- e) The placement and orientation of the new construction/in-fill shall be in harmony with the adjacent principal buildings, structures or lots.
- f) Architectural consistency: The proposed project shall maintain consistency of architectural character, treatments, and details on all building facades visible from public rights of way.

h) Waiver Requests

- 1) Development Review applications shall meet all the standards contained in Article XI, Section 24(5) unless the appropriate reviewing authority grants a waiver request.

- 2) Applicants shall provide written justification as to how the waiver request meets the following criteria.
- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property. For example, the waiver is justified because of topographic or other special conditions unique to the property and development involved as opposed to the mere inconvenience or financial disadvantage.
  - b. The conditions do not generally apply to other property in the vicinity.
  - c. The conditions are not the result of the applicant's own actions.
  - d. Granting of the waiver would not substantially conflict with the Comprehensive Plan, and the purposes and intent of this Code
  - e. Because of these conditions, the application of this Code to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.
  - f. The authorization of a waiver will not be of substantial detriment to adjacent property or the public good, and the character of the zone will not be harmed by the granting of the waiver.

**APPENDIX A – ZONING AND LAND USE CODE  
ARTICLE XII. PERFORMANCE STANDARDS**

**TABLE OF CONTENTS**

<u>Section 1- Applicability</u>	A XII:
<u>Section 2- Shoreland (Zoning) Area Standards</u>	A XII:
<u>Section 3- Timber Harvesting Standards</u>	A XII:
<u>Section 4- Community Garden Standards</u>	A XII:
<u>Section 5- Earth Removal Standards</u>	A XII:
<u>Section 6- Swimming Pools</u>	A XII:
<u>Section 7- Walls and Fences</u>	A XII:
<u>Section 8- Wind Energy Systems</u>	A XII:
<u>Section 9- Adult Business and Tattoo Establishments and Drinking Place Standards</u>	A XII:
<u>Section 10- Frontage Right-of-Way Provisions</u>	A XII:
<u>Section 11- In-Law Apartment Standards</u>	A XII:
<u>Section 12- Campground Standards</u>	A XII:
<u>Section 13- Standards for the Installation of Mobile Homes on Individual Lots</u>	A XII:
<u>Section 14- Standards for the Installation of Mobile Homes in Mobile Home Parks</u>	A XII:
<u>Section 15- Erosion and Sedimentation Control</u>	A XII:
<u>Section 16- Signs</u>	A XII:
<u>Section 17- Off Street Parking and Loading</u>	A XII:
<u>Section 18- Public and Private Improvement Standards for Design and Construction</u>	A XII:
<u>Section 19- Environmental Performance Standards</u>	A XII:
<u>Section 20- Child Care Facilities Standards</u>	A XII:

## Sec. 6. Swimming pool standards.

(g) ~~Pool occupancy permit.~~ After construction of a pool, a pool occupancy permit must be obtained from the code enforcement official prior to the use of the pool, and said permit must be displayed near the swimming pool.

## Sec. 7. Walls and fences.

(b) *Retaining walls.* Retaining walls may be constructed, altered, added to or changed anywhere on a lot to the lot line provided the following conditions are met:

- (1) Retaining wall exceeding six feet in height shall be designed by a registered professional engineer in accordance with the requirements of the ~~BOCA code~~ Maine Uniform Building and Energy Code, as amended, and shall be approved by the code enforcement official prior to the start of construction.
- (2) A wall or fence may be required by the code enforcement official in accordance with subsection (c) if a potential safety hazard will be created by a retaining wall.
- (3) The retaining wall shall be located and constructed in a manner that will not create a barrier or undue impediment to public safety officers in performing their function in connection with the premises or adjacent properties.
- (4) Retaining walls may be located in the corner cutback area of any lot provided the height of the wall does not exceed three feet.

(f) *Modifications.* The code enforcement official may allow a modification in the requirements of this section if he finds, following an on-site inspection of the premises, that the modification will neither create, nor aggravate a safety hazard. The owner(s) of the property(ies) which is(are) directly impacted by the proposed modification and is(are) abutting to the subject property will be notified by the code enforcement official of said determination.

If an abutter feels that the code enforcement official erred in his determination, he may request an administrative appeal in writing within ten days of the mailing date of the notification in accordance with article VIII, section 4(4a) of the Revised Code of Ordinances of the City of Lewiston [appendix A].

## Sec. 13. Standards for the installation of mobile homes on individual lots.

The installation of mobile homes on individual residential lots shall conform to the following standards:

- (3) The unit shall have its wheels, axles and tongue removed and shall be placed on a permanent foundation meeting the requirements of the ~~BOCA Building~~ Maine Uniform Building and Energy Code.
- (6) The mobile home shall be anchored in accordance with the standards of article XIV, ~~section 4~~ if it is located in an area of special flood hazard as identified by the flood insurance rate map of the city.

#### Sec. 14. Standards for the installation of mobile homes in mobile home parks.

The creation of mobile home lots in mobile home parks and the installation of mobile homes on those lots shall conform to the following standards:

- (1) *Lot development standards.*
  - a. *Utilities.* Each lot shall be serviced by public water and sewer and provided with electrical and telephone service, all in accordance with the standards contained in article XIII, section 4(j) of this Code.
  - b. *Stand.* Each lot shall be developed with a suitable stand for the mobile home. This stand may consist of any one of the following systems:
    1. A four-inch reinforced concrete slab. This slab shall be located on soils which are not susceptible to frost action or shall be located on a 12-inch gravel base with appropriate underdrains; or
    2. A pair of reinforced concrete grade beams designed in accordance with the BOCA Building Maine Uniform Building and Energy Code, as amended; or
    3. A series of columns and footings in which the footings are a minimum of two feet on a side and extend below the frost line.
  - c. *Off-street parking.* Each site shall contain two off-street parking spaces meeting the requirements of article XII, section 17. This parking shall be surfaced with a minimum of two inches of bituminous paving on a 12-inch gravel base or equivalent as approved by the city engineer.
  - d. *Drainage.* Each site shall be graded to provide positive surface water drainage away from the stand and into the overall stormwater system.
  - e. *Landscaping.* All areas of the lot not covered by buildings, structures, paving or other improvements shall be maintained in a vegetated state.

#### Sec. 15. Erosion and sedimentation control.

- (c) *Standards.* Any person, entity or property owner who conducts, causes or allows to be conducted, an activity which results in unstabilized soil conditions shall take measures to prevent unreasonable erosion of sediment or soil beyond the project site or into a protected natural resource as defined by M.R.S.A, Title 38 § 480-B. Erosion control measures must be in place before the activity begins and remain in place and be maintained until the site is permanently stabilized. All erosion control and stabilization measures required by this section shall be in accordance with Maine Erosion and Sediment Control Best Management Practices (BMPs) Manual for Designers and Engineers, October 2016, as amended ~~the Maine Erosion and Sedimentation Control BMPs Pub. No. DEPLW0588, published by the Maine Department of Environmental Protection, Bureau of Land and Water Quality, (March 2003)~~, or other measures determined to be appropriate by the Lewiston Director of Planning and Code Enforcement.

**Sec. 17. Off-street parking and loading.**

- (d) *Off-street parking required.* The following minimum off-street parking shall be provided and maintained for each situation identified in subsection (a). In computing the number of spaces required, lots with two or more uses shall meet the combined requirement for all of the uses. In calculating the parking requirement, major fractional spaces (0.5 or greater) shall be rounded up to the next whole space. Employee parking is based on the largest shift.

Single-family detached dwellings	two spaces per dwelling unit
Two-family dwellings	two spaces per dwelling unit
Single-family attached or multifamily dwellings with	one space per dwelling unit plus 0.1 spaces per dwelling unit for visitor parking for all single-family attached or multi-family dwellings
Housing for the elderly	one-half space per dwelling unit
Types "A" and "B" group care facilities	one space per three bedrooms, plus one space per employee
Tourist homes	two spaces plus one space per lodging unit
Motels, hotels and inns	three spaces plus one space per sleeping room (accessory eating and drinking establishments or other facilities shall provide additional parking as required).
Rooming houses, boarding houses, lodging houses	one space per three bedrooms
Bed and breakfast establishments	one space per guest sleeping room and two spaces per dwelling unit plus one space per every two employees on the largest shift; establishments approved by development review pursuant to article XIII for meeting facilities for non-guests or for special outdoor functions shall provide one space per two seats in any meeting facilities and one space per two special outdoor function guests based on the approved capacity; if such additional off-street parking is provided off the site, it shall comply with the requirements of article XII section 17.e except that, notwithstanding the provisions of subsection e, the planning board shall have the authority to approve such off-site parking.
Hospitals	one space per patient bed plus one space per three employees
Medical clinics	two spaces per treatment room or patient bed, whichever is greater

Nursing or convalescent homes	one parking space per five resident beds and one space per employee
<u>Child Care and Nursery School Facilities</u> <u>Family Day Care</u> <u>Small Day Care</u> <u>Day Care Centers</u>	<u>One on-site space for each staff person plus one space for each six children</u>
Schools	
Elementary schools	one and a half spaces per classroom
Secondary schools	five spaces per classroom
Residential colleges, universities and institutions of higher education, including accessory facilities athletic and assembly facilities designed primarily for student use	one space per 7 seats in classroom facilities
Business colleges and schools	one space per 4 seats in classroom facilities
Retail and personal service establishments	one space per two hundred fifty square feet of gross floor area. For retail stores which are part of a gasoline service station complex, one-half of the service spaces at the pump islands may be applied to meet not more than one-half of the required parking demand
<u>Neighborhood Retail Store</u>	<u>One space per five hundred square feet of gross floor area</u>
Eating and drinking establishments	one space per three seats
Drive-in restaurants	ten spaces plus one additional space per one hundred feet of gross floor area
Professional and business offices	one space per 300 square feet of gross floor area
Construction contractors, tradesman, offices, laboratories and similar uses	one space per 500 square feet of gross floor area
Adult business establishments, drinking place	one space per 3 seats or 200 square feet of gross floor area, whichever is greater
New and used car dealers	five spaces plus one space per 3,000 square feet of display area (indoor and outdoor)
Auto repair garages and gasoline service stations	two spaces per service bay plus one space per employee
Light industrial uses, industrial uses, wholesale, storage and distribution facilities	one space per 500 square feet of gross floor area up to 3,000 sq. ft. plus one space for each 1,000 sq. ft. of gross floor area in excess of 3,000 square feet
Community centers, libraries, museums, civic clubs, theatres, places of indoor assembly, amusement or culture, religious facilities, and <u>similar uses</u>	one space per 4 seats where fixed seating is provided plus 1 space per 200 square feet of area otherwise available for assembly

Auditoriums, stadiums, sport arenas, race tracks, skating rinks, gymnasiums, convention halls or similar uses	one space per each 4 seats; where individual seats are not provided, each 24 inches of bench or other similar seating, or eight sq. ft. of seating or standing space shall be considered as one seat for the purpose of determining requirements thereof
Self storage facilities	five spaces
Uses not specifically listed or able to be placed into one of the above categories, or listed uses which can be clearly shown to have a differing parking need (either fewer or greater) than otherwise required	Sufficient spaces to accommodate the normal parking demand of the use without requiring on-street parking. The number of required spaces shall be determined by the planning board for major project development review or by the staff review committee for minor project development review or by the planning director if no review is required in accordance with accepted standards.

**Sec. 18. Public and Private Improvement Standards for Design and Construction.**

**Sec. 22. Residential design standards for the downtown residential and riverfront districts. Reserved.**

(a) — ~~New residential development in the downtown residential (DR) and riverfront (RF) districts shall be reviewed for compliance with the following development standards. The general intent of these standards is to achieve an attractive city neighborhood environment, fostering a sense of community and place. Varied and human-scaled building facades are key to making a place "pedestrian-oriented", as well as friendlier and safer. Building designs should provide a high level of visual interest and include design elements that enhance the streetscape.~~

- ~~(1) — Porches and bays should face the street;~~
- ~~(2) — Primary ground floor residential entries to multifamily building must orient to streets, not to interior blocks or parking lots. Secondary and upper floor entries from the interior of a block are acceptable. The front door to single family homes, duplexes and townhouses must be visible from the street;~~
- ~~(3) — The design approach shall provide an architecture that will be a visible and permanent expression of the character of the neighborhood through appropriately scaled entries, porches, fenestration, landscaping and architectural details;~~
- ~~(4) — The facade shall be varied and articulated to provide visual interest to pedestrians;~~
- ~~(5) — Each project must provide visual and acoustical privacy between units and shall maximize natural light and ventilation within units.~~

**APPENDIX A  
ZONING AND LAND USE CODE  
ARTICLE XIII. DEVELOPMENT REVIEW AND STANDARDS**

**Sec. 1. Purpose.**

The purpose of development review is to provide for the review and approval of development plans for nonresidential and residential developments including, but not limited to, subdivisions and mobile home parks to ensure that the development of both private and public land occurs in a manner which minimizes the adverse impact on public facilities, the natural environment, and neighboring uses, and to otherwise protect the health, safety and general welfare of the people.

**Sec. 2. Applicability.**

- (a) The requirements of this article shall apply to the following:
- (15) Minor or major development of properties located within the Design District Overlay shall meet the requirements for Article XII, Section 22, Development District Overlay Standards.

**Sec. 3. Procedure.**

- (a) Classification of a project. Projects subject to development review ~~shall be~~ are divided into two classes, minor developments and major developments:
- (1) *Minor development.*
- a. A minor development shall be those projects involving:
    - i. \_\_\_\_\_ The construction or addition of less than 5,000 square feet of nonresidential floor area,
    - ii. \_\_\_\_\_ The conversion of a residential structure with less than 5,000 square feet of total floor area to a nonresidential use,
    - iii. \_\_\_\_\_ The change of use of an existing nonresidential building or structure, the separate conveyance of attached and detached principal residential structures,
    - iv. \_\_\_\_\_ The construction or alteration of a multifamily residential structure, or a conversion of a nonresidential building which involves the creation of 12 or less additional dwelling units, (unless required to be reviewed under state subdivision law),
    - v. \_\_\_\_\_ Earth moving, removal, filling or grading activities involving greater than 5,000 cubic yards of material, the creation of a right-of-way for the purpose of allowing a residential lot to gain required frontage,
    - vi. \_\_\_\_\_ The establishment of a new nonresidential use when no buildings or structures are proposed; and
    - vii. \_\_\_\_\_ The modernization modifications of existing gasoline service stations that involve existing nonconforming pump island replacement.

- (d) *Staff review committee actions.* In considering development plans under this section, the staff review committee may act to approve, approve with conditions, or deny site plan applications based on the applicable criteria set forth in this article.

~~The staff review committee shall hear and decide requests for the reduction of the provisions under article XI, sections 1 through 14, district regulations, with respect to space and bulk standards for setbacks, yards, maximum lot coverage ratios, maximum impervious surface ratios, minimum open space ratios, and maximum building height, where the development is a minor development as defined in article XIII, subsection 3(a)(1) of this Code. In order for the committee to grant the aforementioned relief, it must find that the standards contained in article IX, section 3(9), (10) and (11), as applicable, are met.~~

- (e) *Pre-application procedures.* The applicant for any development approval shall meet with the planning director or designee prior to the submission of a development ~~plan~~ review application to generally discuss the proposal and to obtain guidance in the development of the plan.

The planning director or designee, shall review materials in terms of the requirements of this Code and shall provide direction to the applicant on the plan concept, overall suitability of the proposal, questions or issues to be addressed in the development plan and act on any modifications or waivers requested by the applicant pursuant to subsection 3(h)(5) of this article. Modifications or waivers will be granted when the size of the project or circumstances of the site are such that the requirements would not be applicable or would be an unnecessary burden upon the applicant and that such modification or waiver would not adversely affect the abutting landowners or the general health, safety and welfare of the city, and must be confirmed by the reviewing authority at the meeting.

- (g) *Application requirements.* The application for development review, the site plan and related submissions shall contain at least the following exhibits and information:
- (1) A fully executed and signed copy of the application for development review.
  - ~~(2) One original of all maps and drawings on durable, permanent transparency material.~~
  - (2) Initial Review Materials- Five ~~Three~~ copies (for both minor and major developments) of written application materials plus five sets (for both minor and major developments) of maps or drawings containing the information listed below. The written materials shall be contained in a bound report. The maps or drawings shall be at a scale sufficient to allow the review of the items listed under approval criteria, but in no case shall be more than 50 feet to the inch for that portion of the tract of land being proposed for development.
  - (3) Digital files for all written materials and plans (.PDF files are acceptable).
  - (4) Final Development Review Application- After the application has been reviewed by staff and revisions made, and the application is deemed complete by Staff, a meeting date shall be established for consideration by the Staff Review Board or Planning Board. The applicant shall be notified of the meeting date.

- (5) Final Development Review Materials- A complete application for the Planning Board shall consist of twelve copies of the complete application, nine 11" x 17" and three 24" x 36" copies of maps and drawings and PDF files of all application materials shall be submitted to the Planning Office no later than 5 days before the scheduled meeting.
- a. *General Application Information.*
1. Record owner's name and address and applicant's name and address if different.
  2. The name of the proposed development.
  3. Sketch map showing general location of the site within the city.
  4. Boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time.
  5. The tax map number and street or parcel number of the parcel or parcels.
  6. A copy of the deed to the property, option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.
  7. The name, registration number and seal of the land surveyor, architect, engineer and/or similar professional who prepared the plan.
- (6) Additional information that may be required due to the nature of the project. The applicant shall consult with Staff to determine if the following is required:
- (7) The planning board or staff review committee shall confirm the modification or waiver of any of the submission requirements in article XIII, subsection 3(g) recommended by the planning director or designee, when it determines that because of the size of the project or circumstances of the site such requirements would not be applicable or would be an unnecessary burden upon the applicant and that such modification or waiver would not adversely affect the abutting landowners or the general health, safety and welfare of the city.
- (h) *Review procedures.* The following procedures shall be used for the review of development applications:
- (1) *Minor developments.*
- a. \_\_\_\_\_ Upon receipt of an application for a minor development, the planning director shall, within five working days, determine substantial completeness of the application and, if so determined, notify the applicant in writing that the application is substantially complete, additional information necessary to complete the application the date, time and place on which the staff review committee will consider the application.
  - b. \_\_\_\_\_ Staff shall notify all abutting property owners and the appropriate municipality when a development review project abuts or is in close

proximity to an adjacent municipality's border, by mail sent no less than seven days prior to the meeting, of: the pending application, the opportunity to submit written comments on the application to the office of the planning director, and the date, time and place of the staff review committee meeting at which the application will be considered.

- c. \_\_\_\_\_ If the application is not substantially complete, the planning director shall notify the applicant of the additional information necessary to complete the application.
- d. \_\_\_\_\_ Upon determination of substantial completeness, the planning director shall also transmit copies of the plans and related information to the following departments; public services, planning and code enforcement, police and fire.
- e. \_\_\_\_\_ The staff review committee shall meet to review the application and the committee shall approve, approve with conditions or deny the application. A written record of the staff review committee's meeting shall be maintained and shall be available for public inspection. The committee shall act on each application within 30 days of the date on which said application was determined by the planning director to be complete so long as the required notice to abutters has been given, or at its next regularly scheduled meeting after said required notice has been given, whichever occurs later.
- f. \_\_\_\_\_ Within five working days of the date of the committee's action, the office of the planning director shall notify the applicant in writing thereof.

(2) *Major developments.*

- a. \_\_\_\_\_ Upon receipt of an application for a major development, the planning director shall review said application for substantial completeness and if so determined, schedule a review of said application before the planning board and notify the applicant and all abutting property owners, by mail, sent no less than seven days prior to the meeting, of the pending application, the opportunity to submit written comments on the application to the planning board on or before the date of said review and the date, time and place of the planning board meeting at which the application will be considered.
- b. \_\_\_\_\_ All reviews of applications for development review shall be public hearings, and shall be held within 30 days of the date the planning director determined the application to be substantially complete and shall advertise said public hearing in a newspaper of general circulation in the city at least two times, the date of the first publication to be at least six days prior to the date of the hearing.
- c. \_\_\_\_\_ The planning board shall take final action on said application within 30 days of the public hearing.
- d. \_\_\_\_\_ Except for developments which involve the creation of a subdivision as defined by 30-A M.R.S.A. Section 4401 as amended, the limits provided for in this subsection may be extended by mutual agreement between the planning director and the applicant. For those developments which involve

the creation of a subdivision as defined by 30-A M.R.S.A. Section 4401 as amended, the limits provided in this subsection may be extended only by mutual agreement between the planning board and the applicant.

#### Sec. 4. Approval criteria.

- (d) *Internal vehicular circulation.* The layout of the site will provide for the safe movement of passenger, service and emergency vehicles through the site.
- (1) ~~Nonresidential p~~ Projects with delivery needs shall provide a clear route for delivery vehicles with appropriate geometric design to allow turning and backing for WB-40 vehicles.
  - (4) All streets will be designed to harmonize with the topographic and natural features of the site. The road network will provide for vehicular and pedestrian safety, all season emergency access, snow storage and delivery and collection services.
    - b ~~Culs-de-sac and loop streets are encouraged so that through traffic on residential streets is minimized.~~ Similarly, to the extent practicable, driveway access to collector or arterial streets will be minimized to facilitate the free flow of traffic and avoid traffic hazards.
    - c. Streets will be designed to provide for proper continuation of streets from adjacent development and for ~~proper~~, projection of streets into adjacent unsubdivided and open land. Where the developer owns substantial contiguous land that is not part of the proposed development, the planning board may require a conceptual layout of streets to serve the contiguous land. This layout will not be binding, but shall provide an indication of how the contiguous area can be served in relation to the proposed development.
- (e) *Pedestrian circulation.* The development plan will provide for a system of pedestrian circulation within the development. This system will connect with existing sidewalks if they exist in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system will be designed to link residential units with recreational and commercial facilities, other common facilities, school bus stops and existing sidewalks in the neighborhood. Sidewalks shall meet the standards identified in the City of Lewiston's Policy for the Design and Construction of Streets and Sidewalks and Complete Streets Policy ordinance.
- (g) *Erosion control.* For all projects, building and site designs and street layouts will fit and utilize existing topography and desirable natural surroundings to the fullest extent possible. Filling, excavation and earth moving activity will be kept to a minimum. Parking lots on sloped areas will be terraced to avoid undue cuts and fills, and the need for retaining walls. Natural vegetation will be preserved and protected wherever possible. Erosion and sedimentation control measures shall comply with the Maine Erosion and Sedimentation Law, 38 M.R.S.A. § 420-C, and regulations promulgated thereunder, as amended, both during construction and continuously after construction is complete. In

addition, erosion and sedimentation measures consistent with the Maine Erosion and Sedimentation Control BMPs, Pub. No. DEPLW0588, published by the Maine Department of Environmental Protection (March 2003) Manual for Designers and Engineers, October 2016 as amended shall be implemented.

- (k) *Natural features.* The landscape will be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil and by retaining existing vegetation insofar as practical during construction. A grading plan for the project shall be included in the application and communicate the following:
- (2) ~~Cutting of trees on the northerly borders of the development will be avoided to extent possible to retain natural wind buffers.~~
- (n) *Exterior lighting.* The proposed development will provide for adequate exterior lighting to provide for the safe use of the development in nighttime hours.
- (1) All exterior lighting will be designed and shielded to avoid undue adverse impact on neighboring properties and rights-of-way.
- (2) Pole lighting shall be a maximum of 25' tall to the greatest extent possible.
- (3) Lighting will be provided, at a minimum, in the following areas:
- a. Entrances to facilities and recreation areas;
  - b. Street intersections;
  - c. Pedestrian crossings; and
  - d. Entrance roads.
- (p) *Lot layout.* Lot layout shall conform to Article II, Definitions, Net Lot Area and Article V, Administration and Enforcement, Section 3.
- (q) *Landscaping.* The development plan will provide for landscaping to define street edges, break up parking areas, soften the appearance of the development and protect abutting properties from adverse impacts of the development.
- (1) ~~A~~ The landscaping plan will be provided and comply with the guidelines contained in the City of Lewiston's Site Plan Review and Design Guidelines as amended. The landscape plan shall list the location, spacing, species and size of the plant materials.
- (2) ~~Where required-~~ New major or minor developments in non-residential districts shall provide a landscape plan along street edges, parking areas adjacent to a street frontage, and for commercial development from adjacent residential properties.
- (1) Landscaping requirements- Required frontage landscaping shall consist of one canopy tree for every 25-50 linear feet of frontage and shrubs planted between the street trees every 5 feet on center. Trees shall be a minimum of 8 feet in height and 2.5" caliper at the time of planting. Shrubs shall be a minimum of 24' in height at the time of planting. Perennial or annual flower beds may comprise

25% of the frontage landscaping. The spacing of trees and shrubs may altered to better fit the conditions of the site.

- (4) Maintenance: Property owners are responsible for maintaining the landscaping on the property as approved in Development Review. Canopy trees may have the lower 1/3 branches pruned to allow visibility into the site and shrubs must be maintained at a minimum height of 36”.
- (s) *Open space.* The development plan will provide for recreation areas and open space to meet the needs of residents and users of the development.
- (1) For projects involving the construction of ten or more new residential dwelling units in a land subdivision, a portion of the site shall be set aside as permanent open space or recreational land.
- (2) Required Open Space-  
The size of the area to be set aside for open space shall be based upon the following:
- a. Dwelling units exclusively for occupancy by persons 55 years or older--  
~~None.~~ Two hundred and fifty square feet per dwelling unit.
  - b. Parcels ~~which that~~ can be combined with existing city-owned property, dedicated open space on adjacent parcels, or with possible future land dedications shall be given priority.
- (u) *Buffering.* The development ~~will~~ shall comply with the guidelines contained in the City of Lewiston's Site Plan Review and Design Guidelines as amended and provide for the buffering of adjacent uses where there is a transition from one type of commercial use to ~~another~~ a residential use and to screen service and storage areas.
- (w) *Design consistent with performance standards.* The applicant has so designed the development as to make it probable that the development and its use will comply with performance standards of article XII, insofar as they may be applicable.

## **Sec. 6. Site Plan Review and Design gGuidelines.**

The planning board shall adopt, on the recommendation of the planning director, site plan review and design guidelines. The Site Plan Review and Design Guidelines contains two distinct components; 1.) City-wide Design Guidelines which shall be advisory in nature, unless specifically stated otherwise and 2.) Design District Standards which are required, unless specifically stated otherwise. Applicants for all development review projects are encouraged to shall consider and incorporate said guidelines in the preparation of applications. The planning board and staff review committee shall consider said guidelines in evaluating appropriate design solutions to specific situations.

## **Sec. 9. Additional standards for mobile home parks.**

In addition to the standards set forth in article XIII, section 4, applications for mobile home parks shall meet the following additional standards.

- (4) *Mobile home park cluster developments.*
- b. In addition to the criteria set forth in article XIII, section 4 of this Code, applications for mobile home park cluster developments shall meet the following standards:
6. Individual lot side setbacks on one side of the lot may be reduced to five feet provided that the minimum fire separation distance required by the ~~International Residential Code~~ Maine Uniform Building and Energy Code, as amended, is maintained between adjacent structures; rear setbacks may be reduced to zero along rear lot lines adjacent to required buffers;

**Sec. 10. Additional standards for private commercial or industrial subdivisions.**

Lots within a private commercial or industrial development may gain their required frontage on private roads. In addition to the criteria set forth in Article XII, section 18 and Article XIII, section 4, applications for these developments shall meet the following additional standards:

- (4) Existing buildings on proposed private roads may have their required front yard and setbacks from the private road reduced by the planning board to an extent necessary to accommodate the road within the development. The reductions, however, must not interfere with the convenient and safe use of the road right-of-way for all vehicles and pedestrians, and must be noted on the plans and be incorporated into the covenants of the development. Unless the necessary modifications or variances are obtained from the board of appeals or planning board, all other space and bulk standards required for the respective zoning district must be met by the existing structures, proposed lot and any proposed building or structure.

## **REASON FOR THE PROPOSED AMENDMENT**

The current zoning ordinance regulations for historic, site plan, and architectural design elements are out of date, lack specificity, are overly permissive, (may vs. shall) or are incomplete. This situation forces the Staff and Planning Board to negotiate important design issues with developers on a case by case basis with little regulatory backing. New standards that clarify and simplify what is required for structures and landscaping for development projects in the Design Districts will benefit the City, developers, and residents alike.

## **CONFORMANCE WITH 2017 COMPREHENSIVE PLAN**

“Regulatory Barriers Simplify the Code” The comprehensive plan encourages the City to pursue form-based codes in order to achieve “desired outcomes in appropriate areas.” (pg. 226-228) The new guidelines and standards are based on form-based principles and provide more clarity and certainty for the City and for developers.

“Improving the Quality of Affordable Housing” through Form Based Code (pg. 236) The new standards will encourage flexible but quality development while allowing for a “wide variety of building types and housing options.”

“Simplifying and Improving Historic Preservation Regulations and Improve the Effectiveness and Predictability of Design Review” (pg. 240)