

City of Biddeford

Planning Board

December 16, 2020 6:00 PM Zoom: Dec 16, 2020 06:00 PM Eastern Time (US and Canada)

Topic: Planning Board

Please click the link below to join the webinar:

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1. DECLARATION OF QUORUM/VOTING MEMBERS

2. ADJUSTMENTS TO THE AGENDA

3. PLANNER'S BUSINESS

4. CONSENT AGENDA

4.A. Approval of the Minutes of the Planning Board Meeting of December 2, 2020.

[PB Minutes 120220-DRAFT.pdf](#)

5. UNFINISHED BUSINESS

6. NEW BUSINESS

6.A. 2020.35 Public Hearing, take comments, and make a recommendation to the City Council regarding various zoning amendments related to Marijuana Establishments

[Marijuana Amendments for 121620 Public Hearing.pdf](#)

[2020.35 Marijuana Ordinance Amendments PB Memo 112520-signed.pdf](#)

6.B. 2020.36 Public Hearing, take comments, and make a recommendation to the City Council to delete Contract Zone #8 for John Conroy at 72 Hill Street and 37 Pool Street, or amend Contract Zone #8 that two of the units be designated as affordable housing; and not necessarily the two additional units that the applicant is requesting.

[Contract Zone 8 Agreement 2001.pdf](#)

[2020.36 Deletion CZ8 Conroy Packet 121620.pdf](#)

6.C. 2020.39 Discussion of proposed Historic Preservation Ordinance amendments.

[Memo HPC Ordinance Revisions.pdf](#)

[Historic Preservation Ordinance Revised for 121620 for web.pdf](#)

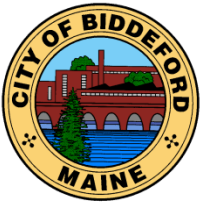
[NPS CLG Website.pdf](#)

7. OTHER BUSINESS

7.A. Village Mixed Use (VMU) Zone Update

8. ADJOURN

The Board reserves the right to halt official business at 9:30 p.m. Items not heard at tonight's meeting shall be rescheduled to the next meeting of the Board. All materials pertaining to items on the agenda are available for public review at the Biddeford Planning Department, second floor, Biddeford City Hall during normal business hours.



CITY OF BIDDEFORD

Planning and Development Department

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Planning Board Meeting Minutes

DRAFT

Date: December 2, 2020
Time: 6:00 PM
Location: REMOTE ACCESS MEETING (1MRSA § 403-A permits public proceedings through remote access during the declaration of state of emergency due to COVID-19).

1. Declaration of Quorum/Voting Members

- Quorum Present: Chair William Southwick, Roch Angers, Sean Tarpey, Spiros Droggitis, Bruce Benway, Alexa Plotkin (Alternate), Michael Cantara (Alternate).

2. Adjustments to the Agenda

3. Planner's Business

4. Consent Agenda

A. Minutes of November 18, 2020

Motion:

- Benway-Motion: to approve consent agenda
- Cantara-Second (Mr. Cantara voted in Mr. Angers Absence; Mr. Angers arrived at 6:03)
- Chair Southwick-Roll Call for Vote-Unanimous Approval (4-0) all in favor (Angers, Tarpey, Droggitis, Benway)

5. Unfinished Business

- ##### A. 2020.37 Item Tabled from 11-18-20; Multi-family Residential uses in the I-3 and B-2 Zones. This Zoning Amendment would not allow residential uses to be on the first floor or the ground floor of any structure or building located within 300 feet either Alfred Street (Route 111) or Elm Street (Route 1). Further, this amendment would not allow residential uses above off street parking lots or facilities.

Motion:

- Benway-Motion: to remove item from table
- Angers-Second
- Chair Southwick-Roll Call for Vote-Unanimous Approval (4-0) all in favor (Angers, Tarpey, Droggitis, Benway)
- Planner Greg Tansley did a brief presentation on the proposed amendment.

- Mr. Tansley said he has received 1 comment from a gentleman who lives on Pomerleau Street and wanted to point out that areas (such as the Old Alfred Street Industrial Park [OASIP] that are heavily industrially populated are not compatible with any residential proposals. Mr. Tansley pointed out that the Public Hearing on this subject is closed but excluding OASIP from the residential portion of the amendment is an option.
- Mr. Benway asked if there are any known properties on Pomerleau that would be subject to the ordinance.
- Planner Tansley answered there may be some if there was some redevelopment.
- The Board discussed what is and is not included in OASIP.
- Mr. Tansley showed an aerial map outlining the areas of the land in question.
- Chair Southwick opened the meeting to the public, there were no comments so the meeting went back to the Board.

Motion:

- Benway-Motion: To exclude OASIP from the proposed amendment
- Angers-Second
- Mr. Angers then asked if the YMCA would be included or not.
- Mr. Tansley answered not
- Mr. Angers believes it should be included.
- Mr. Benway amended his motion to include the YMCA
- Mr. Angers-Second
- Chair Southwick-Roll Call for Vote-Unanimous Approval (4-0) all in favor (Angers, Tarpey, Droggitis, Benway)
- Mr. Droggitis asked about underground parking
- Director of Planning and Development, Mathew Eddy answered that the market cannot support underground parking due to costs and safety concerns.

Motion:

- Benway-Motion: To send the ordinance to City Council
- Angers-Second
- Chair Southwick: Roll call for Vote-Motion passed 3-1 (Angers, Droggitis, Benway in favor; Tarpey against)

6. New Business

- A. 2020.25 Conditional Use Permit for a Medical Marijuana Manufacturing (Growing) Facility for Stoner & Company at 419 Hill Street (Tax Map 74, Lot 9) in the I-2 Zone.**
- Planner Tansley introduced the project, then mentioned there were two revisions for the Board to be aware:

1. The cost estimate is \$30,000
 2. The security plan was submitted to the Board but needs to be approved by the Police Department (BPD).
- Morgan Stoner represented the applicant (Stoner & Co). He told the Board about the business of Stoner & Co. He talked about the steps they have taken in order to control the odors omitting from his facility. They have sophisticated systems to take care that there are little to no odors from their facility.
 - Ted Kelleher from Drummond Woodsum spoke on behalf of the applicant stating that they will provide written evidence of approval from the Police Department and suggested we approve the application with the condition being the approval from BPD on the security plan.
 - Mr. Stoner told us that he has provided BPD with a security and lighting plan. The applicant is waiting for BPD to sign and return the approval.
 - Chair Southwick asked for comments from the public, there were no comments to the application was turned back to the Board.

Motion:

- **Benway-Motion:** To approve the application with a condition of approval being written approval from BPD.
- Discussion Continued
- Chair Southwick asked more about the odor of the facility as he has heard from several neighbors regarding their concerns.
- Mr. Morgan spoke of the improvements to their filtration system they have made. He spoke of a neighboring facility that has needed to upgrade their filtration system but has very recently.
- Harvest was discussed and Stoner & Co. method of harvest
- Mr. Cantara said that Mr. Benway's idea of written approval from BPD as a condition is very important.

Motions:

- **Benway-Motion:** To approve the application with a condition being obtaining written approval of the security plan from BPD.
- **Droggitis-Second**
- Chair Southwick-Roll Call for Vote-Unanimous Approval (4-0) all in favor (Angers, Tarpey, Droggitis, Benway).
- **Benway-Motion:** Motion to waive Article XI, Full Site Plan Review.
- **Angers-Second**
- Chair Southwick-Roll Call for Vote-Unanimous Approval (4-0) all in favor (Angers, Tarpey, Droggitis, Benway).
- **Benway-Motion:** Motion that due to the coronavirus pandemic and the Governor's declaration of a civil state of emergency the Biddeford Planning Board authorizes the City Planner to sign the final plan on behalf of the Planning Board and declares that the final plan once

signed by the City Planner shall be deemed to have been signed by individual members of the Planning Board evidencing approval of the final plan.

- Angers-Second
- Chair Southwick-Roll Call for Vote-Unanimous Approval (4-0) all in favor (Angers, Tarpey, Droggitis, Benway).
- Benway-Motion: Motion to approve the Conditional Use Permit and the Findings of Fact and Conclusions of Law for Morgan Stoner of Stoner and Company for a Medical Marijuana Growing Facility at 419 Hill Street (Tax Map 74, Lot 9) based on the conditions as provided in Staff's Report dated November 25, 2020 and Amended December 2, 2020.
- Angers-Second
- Chair Southwick-Roll Call for Vote-Unanimous Approval (4-0) all in favor (Angers, Tarpey, Droggitis, Benway).

B. 2020.38 Village Mixed Use Ordinance

- VMU was discussed by the entire Board with Planner Tansley going through the proposed changes to the ordinance line by line. Concerns and suggestions were discussed
- There will be a meeting on December 9, 2020 for Public Comments on the VMU proposal
- Chair Southwick told the Board that the first 15 minutes of the meeting were set aside for the Subcommittee of the Conservation Commission to give their findings, comments and recommendations.

7. Other Business

A. Comprehensive Plan Update

- Planner Tansley gave a brief update on the Comp Plan, it will be the top priority of the first quarter of 2021.
- On Tuesday, the 8th, the City Council is holding a workshop and one item that may be discussed is the Comp Plan.
- Planner Tansley and Director Eddy are working on an outline which is due to the Council by Friday the 4th.
- Chair Southwick said the following: Probably worth noting at this point that the Planning Board was only asked to complete the Comprehensive Plan less than two years ago and other groups were unsuccessful in completing this process, which is why we were assigned the task. Additionally, the council has continued to ask the Planning Board to tackle a number of larger issues, the regular work flow during a period of historic growth has continued and the Planning Department has been understaffed. Add to this, all the effects of the covid pandemic, and we're not doing a bad job. We all agree that the Comprehensive Plan needs to be completed and presented to the Council as soon as possible.

Chair Southwick stated that since we started meeting last year on the Comp Plan we met with the various groups to gather input and determine needs.

We will continue to invite input from the public, city departments, commissions and boards as we address additional parts of the Comp Plan.

8. Adjourn

Benway-Motion to adjourn

Angers-Second

Chair Southwick-Roll Call for Vote-Unanimous Approval (4-0) all in favor
(Angers, Tarpey, Drogitis, Benway)

Meeting Adjourned at 9:00 PM

Planning Board Chair/Vice Chair

Date

These minutes are summary and are not intended to be verbatim. Archived meetings are viewable on the City's website: www.biddefordmaine.org.

Marijuana Establishments Ordinance Amendments

NOTE: For ease, **highlighted** text identifies text that has been changed (underline = added, ~~strikethrough~~ = deleted).

Part III (Land Development Regulations), Article II (Definitions), Section 2 (Definitions):

MARIJUANA

~~As defined in State Administrative Rules (10-144 CMR Chapter 122), § 1.17, Marijuana.~~ The leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. "Marijuana" includes marijuana concentrate but does not include hemp as defined by Maine Statute, or a marijuana product.

MARIJUANA PRODUCT

A product composed of marijuana or marijuana concentrate and other ingredients that is intended for use or consumption. "Marijuana product" includes, but is not limited to, an edible marijuana, product, a marijuana ointment and a marijuana tincture. "Marijuana product" does not include marijuana concentrate.

MARIJUANA CONCENTRATE

The resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation of such resin, including, but not limited to, hashish.

~~MEDICAL~~ MARIJUANA, MEDICAL

Marijuana that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition, **consistent with Title 22 MRS 558-C.**

MARIJUANA, ADULT USE

Marijuana cultivated, manufactured, distributed or sold by a marijuana establishment, consistent with Title 28-B MRS.

MARIJUANA ESTABLISHMENT

A cultivation facility, a products manufacturing facility, a testing facility or a caregiver or adult use marijuana store licensed under Title 28-B MRS.

MARIJUANA CAREGIVER RETAIL STORE

A store that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours, accessibility to the public and sales of goods or services directly to a consumer, and that is used by a registered caregiver to offer marijuana plants or harvested marijuana for sale to qualifying patients.

Marijuana Establishments Ordinance Amendments

MARIJUANA STORE, ADULT USE

A facility licensed by the State of Maine to purchase adult use marijuana, immature marijuana plants and seedling from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a products manufacturing facility, to collect and transport samples of marijuana, marijuana concentrate and marijuana products in a marijuana store's possession for mandatory testing, and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

MARIJUANA CULTIVATION OR CULTIVATE

The planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana. "Cultivation" or "cultivate" does not include manufacturing, testing or marijuana extraction.

MARIJUANA CULTIVATION FACILITY

A facility licensed under Maine Statute to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package marijuana; to sell marijuana to products manufacturing facilities, and immature marijuana plants and seedlings to marijuana stores.

MARIJUANA TESTING

The research and analysis of marijuana, marijuana products or other substances for contaminants, safety or potency. "Testing" or "test" includes the collection of samples of marijuana and marijuana products for testing purposes, but does not include cultivation or manufacturing.

MARIJUANA TESTING FACILITY

A facility licensed by the State of Maine and certified to test medical use marijuana, including concentrates and products containing marijuana, for research and development purposes and to analyze contaminants in, and the potency and cannabinoid profile of, marijuana samples and products containing marijuana cultivated in accordance with Maine Statute.

MARIJUANA PRODUCTS MANUFACTURING

The production, blending, infusing, compounding or other preparation of marijuana and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation or testing.

MARIJUANA PRODUCTS MANUFACTURING FACILITY

A facility licensed under Maine Statute to purchase marijuana from a cultivation facility or other products manufacturing facility; to manufacture, label and package marijuana products; and to sell marijuana and marijuana products to marijuana stores and to other products manufacturing facilities.

Marijuana Establishments Ordinance Amendments

MEDICAL MARIJUANA CAREGIVER

A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with state law. A person who is a medical marijuana caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense, consistent with 22 MRS 558-C.

MEDICAL MARIJUANA DISPENSARY

A not for profit entity registered pursuant to state law that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to qualifying patients and the primary caregivers of those patients. Note that a dispensary may be either a single facility, or it may be divided into two separate but related facilities where growing is done at only one of the facilities. This shall be considered a commercial land use.

MEDICAL MARIJUANA GROWING FACILITY

A facility used for cultivating, processing, and/or storing medical marijuana by one or more medical marijuana caregiver(s) at a location which is not the medical marijuana caregiver's primary year-round residence or his or her patient's primary year-round residence. This shall be considered a commercial land use.

MEDICAL MARIJUANA HOME PRODUCTION

Cultivating, processing and/or storing of medical marijuana by a qualifying patient at his or her own residence or a medical marijuana caregiver at his or her own primary year-round residence for use by a qualifying patient. This use shall be considered an accessory land use.

MEDICAL MARIJUANA LAND USES

Any of three types of land uses, defined herein, that cover the full range of options for lawful cultivating, processing, storing and distributing medical marijuana.

AGRICULTURE

The production, keeping or maintenance for sale or lease of plants and/or animals, including but not limited to, forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, fruits and vegetables; and ornamental and greenhouse products. "Agriculture" does not include forest management or timber harvesting activities, or the growing of medical marijuana by medical marijuana dispensaries, caregivers or patients or the cultivation of medical or adult use marijuana.

Marijuana Establishments Ordinance Amendments

COMMERCIAL GARDENING

Any land area in which plants, vegetables, flowers and similar materials are grown for sale.

"Commercial gardening" does not include the cultivation of medical or adult use marijuana growing of medical marijuana by medical marijuana dispensaries, caregivers, or patients.

COMMERCIAL GREENHOUSE

Any structure in which plants, vegetables, flowers and similar materials are grown for sale.

"Commercial greenhouse" does not include the cultivation of medical or adult use marijuana growing of medical marijuana by medical marijuana dispensaries, caregivers, or patients.

DRUG/MEDICAL SUPPLY STORE

A retail store where the primary business is the sales of medical prescriptions, drugs, medical devices, medical supplies, and nonprescription medicines but where nonmedical products may be sold as well provided they do not subordinate the principle medical sales use. A

"drug/medical supply store" does not include a caregiver or adult use marijuana store.

EXPERIMENTAL RESEARCH AND TESTING LABORATORY

A facility for carrying on investigation in the natural, physical or social sciences, which may include engineering and product development, usually associated with wet labs or places with running water, gases, special ventilation devices, chemicals, special heating and electrical or electronic equipment, or use of animals or human subjects under controlled conditions. An

"experimental research and testing laboratory" does not include a marijuana testing facility.

MANUFACTURING

The making of goods and articles by hand or machinery including assembly, fabrication, finishing, packaging and processing. "Manufacturing" does not include marijuana products manufacturing.

1. LIGHT MANUFACTURING/INDUSTRY

A use engaged in the manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

2. HEAVY MANUFACTURING/INDUSTRY

A use engaged in basic processing and manufacture of material or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

Marijuana Establishments Ordinance Amendments

NEIGHBORHOOD CONVENIENCE STORE/SERVICE

A store or service business of less than 1,500 square feet of total area intended to service the convenience of a residential neighborhood primarily with the sale of merchandise, including, but not limited to, basic foods, prepared foods to go, newspapers, emergency home repair articles, and other household items and/or services, including, but not limited to, Laundromats, dry cleaners, beauty salons, business and educational services, financial services, and tailoring. Services such as building, electrical, plumbing, and landscape contracting are not considered "neighborhood services." Motor vehicle service and repair is not included and is defined separately. **A "neighborhood convenience store/service" does not include a caregiver or adult use marijuana store.**

RETAIL BUSINESS

Any business engaged in sales and related services to the ultimate consumer for direct consumption and/or use, and not for resale. For purposes of this chapter, eating and drinking places, auto sales, motor vehicle service and repair and gasoline sales are not considered as a retail business and are defined separately. **A "retail business" does not include a caregiver or adult use marijuana store.**

Part III (Land Development Regulations), Article V (Establishment of Zones), Table A (Table of Land Uses):

KEY:

- * Subject to Article VI, Performance Standards, of this ordinance.
- P Permitted use.
- Not permitted.
- C Conditional use. See Article VII for specific standards.
- A Accessory use

	Article VI Section	I-1	I-2	I-3
Commercial uses:				
Marijuana caregiver retail store	XX	C	C	C
Marijuana store, adult use				
Marijuana cultivation facility		C	C	
Marijuana testing facility		C	C	
Marijuana products manufacturing facility		C	C	
Medical marijuana dispensaries				C23
Medical marijuana growing facilities		C23	C23	

Marijuana Establishments Ordinance Amendments

23. All medical marijuana dispensaries and growing facilities shall be governed by and subject to the Maine Department of Health and Human Services, Division of Licensing and Regulatory Services, 10-144 CMR Chapter 122 (as amended)

Part III (Land Development Regulations), Article VI (Performance Standards), Section 77 (Medical Marijuana establishments).

- A. All marijuana establishments shall be located indoors. Any common areas, including, but not limited to storage areas and building facilities, shared with another marijuana establishments shall be clearly identified as such on the site plan or conditional use application.
- B. Odor management. For all Marijuana establishments, the odor of marijuana shall not be detectable off-premises, meaning not detectable on any property that is not under the control of the establishment. To prevent and control marijuana odors, an odor control plan shall be submitted as part of the site plan application describing the odor(s) originating or anticipated to originate at the premises and the control technologies to be used to prevent such odor(s) from leaving the premises. The odor control plan shall, at a minimum, include the following:
1. A facility floor plan that identifies the locations of all odor-emitting activities and sources. The plan shall also identify the location of doors, windows, vents, HVAC systems, odor control systems and other relevant information.
 2. A list of specific odor-emitting activities and sources, and a description of the processes that will take place at the facility, including, but not limited to, vegetative flowering, processing and storage.
 3. For each odor-emitting activity or source, a description of the administrative procedures as well as the engineering processes, technologies, and equipment the facility will use.
 - a. Administrative controls shall include, at a minimum: management practices to isolate odor activities and sources, use of standard operating procedures, employee training, regular equipment inspections and maintenance of inspection logs.
 - b. Engineering controls shall include, at a minimum, building design features; use of equipment and technology to address each specific odor-emitting activity or source; a systems and equipment maintenance and replacement schedule; and evidence that proposed equipment and technology are sufficiently capable and appropriately sized consistent with marijuana industry best practices for control technologies designed to effectively mitigate odors.
- Marijuana establishments shall implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein. While the City does not mandate any particular equipment specifications with

Marijuana Establishments Ordinance Amendments

regard to filtration, all marijuana establishments are strongly encouraged to adopt best management practices with regard to implementing state-of-the-art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.

- c. Noxious gases and fumes. Marijuana establishments shall have appropriate ventilation systems to mitigate noxious gases or other fumes used or created as part of the establishment. Gases or fumes shall not extend beyond the premises of any establishment, meaning not detectable on any property that is not under the control of the establishment.
- d. Sufficient measures and means of preventing smoke, debris, dust, fluids and other substances from exiting a marijuana establishment shall be provided at all times.
- e. All marijuana and marijuana byproducts intended for disposal shall be stored indoors in a self-contained room that is intended solely for this purpose and in accordance with all applicable federal, state and local laws and regulations. When moving material from the self-contained storage room for disposal, marijuana and marijuana by-product shall be moved only in receptacles with a cover or lid. Security cameras shall be installed to record activities in the area of the storage room as well the areas between the storage room and where said material is loaded onto vehicle(s) for disposal.

A. Before submission of a conditional use application, the applicant must demonstrate his or her authorization to cultivate, process and store medical marijuana pursuant to the Maine Use of Medical Marijuana Program.

B. As an accessory use, medical marijuana home production shall be allowed in any qualifying patient's residence or any medical marijuana caregiver's primary year round residence in every base zone and overlay zone, without any requirement for land use permitting.

C. No medical marijuana dispensary or medical marijuana growing facility shall be closer than 250 linear feet, measured in a straight line from the dispensary or facility building entrance, to the nearest point on the boundary of any property which is occupied by a licensed day care facility, school, Town park, Town playground or church.

D. Before granting an approval, the Planning Board shall ensure the applicant has reviewed his or her property and building security plans with the Biddeford Police Department and the Police Department finds the security measures are consistent with state requirements.

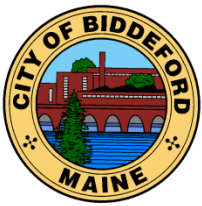
E. No signs containing the word "marijuana," or a graphic/image of any portion of a marijuana plant or otherwise identifying medical marijuana shall be erected, posted or in any way

Marijuana Establishments Ordinance Amendments

displayed on the outside of a medical marijuana dispensary or a medical marijuana growing facility. Interior advertisements, displays of merchandise or signs depicting the activities of a medical marijuana dispensary or a medical marijuana growing facility shall be screened to prevent public viewing from outside such facility.

F. No use shall emit offensive, harmful, or noxious odors beyond the property line.

For PUBLIC HEARING



CITY OF BIDDEFORD

2020.35

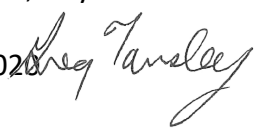
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PLANNING BOARD REPORT

TO: William Southwick, Chair & Members of the Biddeford Planning Board

FROM: Greg Tansley, AICP, City Planner

DATE: November 25, 2020 

RE: Public Hearing – 2020.35 Marijuana Ordinance Amendments

MEETING/PUBLIC HEARING DATE: DECEMBER 16, 2020 @ 6:00 PM

At the request of the City Council, the Planning Board has been directed to hold a Public Hearing and make recommendations back to the City Council regarding various amendments to address Marijuana uses in the City of Biddeford. A goal of the amendments is to better align Biddeford's Ordinance with State Statute and Rules, especially concerning the now active Adult Use Marijuana market in Maine.

The framework of the Marijuana Ordinance Amendments are as follows:

- Cultivation (Adult Use and Medical) would be a Conditional Use in the I-1 and I-2 Zones.
- Manufacturing (Adult Use and Medical) would be a Conditional Use in the I-1 and I-2 Zones.
- Testing (Adult Use and Medical) would be a Conditional Use in the I-1 and I-2 Zones.
- Retail Sales (Medical) would be a Conditional Use in the I-3 Zone.
- Retail Sales (Adult Use) would be prohibited in the City of Biddeford.

The Planning Board also considered Marijuana Cultivation in the I-3 Zone. Staff recommended against this during the workshop on the 18th, and the Planning Board concurred with Staff.

SAMPLE MOTIONS:

*Motion to send to the City Council with a **positive/negative** recommendation to pass.*

ATTACHMENTS:

1. Marijuana Ordinance Amendments

**AGREEMENT
BETWEEN THE CITY OF BIDDEFORD AND
JOHN CONROY**

THIS AGREEMENT made this 23rd day of Feb, 2001, by and between THE INHABITANTS OF THE CITY OF BIDDEFORD, a body corporate and politic, having a place of business in Biddeford, York County, Maine (hereinafter referred to as the "CITY") and JOHN CONROY, of 72 Hill Street, Biddeford, ME. 04005, the owner of the real estate depicted on Tax Map 39, Lots 54 and 55 and specifically:

A certain lot or parcel of land together with the buildings and improvements thereon situated at the junction of Hill Street and Pool Street in Biddeford, York County, Maine, and being more particularly bounded and described as follows:

Beginning at the intersection of the northeasterly sideline of Pool Street with the northwesterly sideline of Hill Street; THENCE in a northwesterly direction along the said sideline of Pool Street a distance of One Hundred Forty one (141) feet, more or less, to a point and land now or formerly of Alcide Bedard; THENCE in a northeasterly direction along land now or formerly of said Bedard and land now or formerly of Auguste Laverriere a distance of Ninety Seven (97) feet, more or less, to a point and other land now or formerly of said Laverriere; THENCE in a southeasterly direction by said land of Laverriere and land now or formerly of Conroy a distance of One Hundred Forty (140) feet, more or less, to a point and the northwesterly sideline of said Hill Street; THENCE in a southwesterly direction along the said sideline of Hill Street a distance of Ninety Seven (97) feet, more or less, to its intersection with said Pool Street and the point of beginning.

The above described premises are shown and depicted on the Assessor's Maps of the City of Biddeford as Map 39, Lots 54 and 55 and are described in deed of Gertrude E. Conroy to John P. Conroy, Jr. and Madelyn J. Conroy dated July 24, 1997, and recorded in York Registry of Deeds in Book 8361, page 325.

WHEREAS, the City council has adopted a contract Zone (CZ-8) pursuant to the recommendations of the Planning Board and on the basis of the plans, reports and other materials submitted by JOHN CONROY; and

WHEREAS, the Council's approval of the Contract Zone was granted expressly subject to the execution by JOHN CONROY and the CITY of an agreement setting forth the terms and conditions under which JOHN CONROY will develop the real estate pursuant to the Contract Zone.

WHEREAS, JOHN CONROY has now sought and received approval from the Planning Board; and as directed in Article V (Zoning Districts) of the Biddeford Zoning Ordinance

WHEREAS, JOHN CONROY has demonstrated that his proposal has met the mandatory conditions for contract zoning, specifically:

- a) It is consistent with the Comprehensive Plan of the City of Biddeford.
- b) It is consistent with the existing or permitted uses within the original zone.
- c) It includes only conditions and restrictions which relate to the physical development of the property.
- d) Changes proposed will be subject to the agreement (CZ-8) between JOHN CONROY and the CITY for the implementation and enforcement of all terms and conditions imposed and agreed to by the parties pursuant to this section. Said agreement shall be recorded at the York County Registry of Deeds and a copy placed on file in the Municipal Offices.

NOW, THEREFORE, in consideration of the foregoing and of the mutual agreements contained herein, the parties agree as follows:

1) This Agreement shall specifically incorporate the following documents which are on file with the Planning Board of the City of Biddeford and copies of or reduced copies of which are attached hereto:

- a) Application and site plan prepared by the applicant.
- b) Findings of Fact, dated as submitted by the City Planner
- c) Fire letter from Biddeford Fire Department dated
- ✓d) Title to property, Book 8361, Page 325.

2) JOHN CONROY agrees that upon construction of housing and office units on the premises described in Attachment, after obtaining all regulatory approvals for the same, he shall construct the contemplated improvements in accordance with the plans above referred to or any amendments which may be approved by the Planning Board of the City of Biddeford.

3) Unless otherwise specifically stated in the approval, this approval shall be subject to the following conditions:

- a) Limits and restrictions. The permitted uses in the zone be the same as in the existing R-2 Zone and include the existing use of professional office space. The minimum lot size for each use shall be 1,650 square feet per unit. The setback requirements shall be the same as in the existing R-2 zone. No change to the existing footprint except for the addition of a stairway exit on northeast side of building.
- b) The complex shall involve the rehabilitation and reconstruction of the former Emond & Conroy Funeral Home at the corner of Hill and Pool Streets in Biddeford. The plan calls for 8 units. Six (6) units will be one (1) and two (2) bedroom apartments and two (2) will be professional office space. This is an actual addition of four units since there already exist two apartments and two offices. The office space will occupy not more than 30% of first floor's 3000 square feet or 825 s.f., a downsizing of office/commercial usage by 70%. Any lease of parking space or garage storage to non tenants shall not deprive each unit of two parking spaces.
- c) Approval of Variations from Plans. The granting of this approval is dependent upon and limited to the proposal and plans contained in the application and supporting documents submitted and affirmed to by the applicant, and to the plans and agreements referenced in the Findings of Fact. Any variations from these plans, proposals, agreements and supporting documents are subject to review and approval by the Planning Board.
- d) Compliance With All Applicable Laws. The applicant shall secure and comply with all applicable federal, state and local licenses, permits, authorizations, conditions, agreements and orders prior to or during construction and operation, as appropriate.
- e) Compliance With All Terms and Conditions of Approval. The applicant shall submit all reports and information requested by the City Council or the Planning Board demonstrating that the applicant has complied or will comply with all terms and conditions of this approval.

- f) Transfer of Land. Unless otherwise provided in this approval, the applicant shall not sell, assign or otherwise transfer the land described herein or any portion thereof (except for easement rights to facilitate construction) without prior written approval of the Planning Board where the purpose or consequence of the transfer is to transfer any of the obligations of the developer as incorporated in this approval. Such approval shall be granted only if the applicant or transferee demonstrates that the transferee has the technical capacity and financial ability to comply with conditions of this approval and the proposals and plans contained in the application and supporting documents submitted by the applicant.
- g) Initiation of Development Within Two Years. If the construction or operation of the activity is not begun within two years of the date hereof, this approval shall lapse and the applicant shall re-apply for a new approval upon lapse. The applicant may not begin construction or operation of the development until a new approval is granted. Re-application for approval shall state the reasons why the development was not begun within two years from the granting of the initial approval and the reasons why the applicant will be able to begin the activity within one year from the granting of the new approval, if granted. Re-application for approval may include information submitted in the initial application by reference.
- h) Re-examination After Three Years. If the approved development is not completed within three years from the date of the granting of approval, the Planning Board may re-examine its approval and impose additional terms or conditions or prescribe other necessary corrective action to respond to significant changes in circumstances which may have occurred during the three year period.

4) Any failure of the City to enforce the terms and conditions of this Agreement or the terms and conditions of the plans, approval, and other documents incorporated herein, in any one instance shall not constitute a waiver of any subsequent breach of this Agreement.

IN WITNESS WHEREOF, the parties hereto have hereunto caused this Agreement to be signed and sealed all as of the day and date first above written.

WITNESS:

Maura White

Maura White

THE INHABITANTS OF THE
CITY OF BIDDEFORD

BY: Bruce E. Benway
Bruce E. Benway, City Manager,

thereunto duly authorized.

JOHN CONROY

BY: John P. Conroy
Owner, applicant

STATE OF MAINE
YORK, SS.

Feb. 23, 2000

Personally appeared BRUCE E. BENWAY, CITY MANAGER of the CITY OF BIDDEFORD, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said body corporate and politic.

Before me, Marcella J. Faucher Notary Public
Attorney-at-Law

Printed name: MARCELLA J. FAUCHER

MARCELLA J. FAUCHER
Notary Public, Maine
My Commission Expires December 30, 2006

STATE OF MAINE
YORK, SS

Feb. 23, 2000

Personally appeared the above named JOHN CONROY, and acknowledged the foregoing instrument to be his free act and deed.

Before me, Marcella J. Faucher Notary Public
Attorney-at-Law

Printed Name: MARCELLA J. FAUCHER

MARCELLA J. FAUCHER
Notary Public, Maine
My Commission Expires December 30, 2006



CITY OF BIDDEFORD

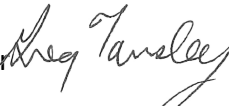
2020.38

Planning and Development Department

Greg D. Tansley, A.I.C.P.
City Planner
205 Main Street
P.O. Box 586
Biddeford, ME 04005
(207) 282-7119 or (207) 284-9115
Greg.Tansley@biddefordmaine.org

PLANNING BOARD REPORT

TO: William Southwick, Chair & Members of the Biddeford Planning Board

FROM: Greg Tansley, AICP, City Planner 

DATE: November 25, 2020

RE: Public Hearing – Delete Contract Zone #8 at 72 Hill Street and 37 Pool Street

MEETING/PUBLIC HEARING DATE: DECEMBER 16, 2020 @ 6:00 PM

At the request of the City Council, the Planning Board has been directed to hold a Public Hearing and make recommendations back to the City Council regarding a request from Mr. John Conroy to delete Contract Zone #8 on his property(s). Contract Zone #8 is located at the northwest corner of the intersection of Hill Street and Pool Street (see next page).

The request of the property owner was simply to delete Contract Zone #8. Deleting Contract Zone #8 would result in his property(s) being zoned no different than those parcels surrounding him – MSRD-2. During the City Council meeting the Council amended the Council Order to add the following, and asked the Board not to simply consider deleting the Contract Zone, but instead to also consider the following:

“or amend Contract Zone #8 that two of the units be designated as affordable housing; and not necessarily the two additional units that the applicant is requesting.”

Staff are researching this additional request and have asked the City Solicitor for guidance since it would be inconsistent with the original request from the property owner. We should have legal guidance for the Board in time for the Public Hearing on December 16.

For background, in 2001 the City Council approved Contract Zone #8 for parcels of land identified as 72 Hill Street (Tax Map 39, Lot 55) and 37 Pool Street (Tax Map 39, Lot 54). The reason for Contract Zone #8 was that the owner (John Conroy) wished to convert three (3) funeral chapels in what had been a funeral home into 4 new residential units. The zoning at the time, R-2, would not have supported 6 Residential Units and 2 Offices on the property.

Since 2001 the zoning was changed to MSRD-2 which allows a density to support the existing 6 residential units on the properties. Further, the MSRD-2 now provides a residential density bonus

that the owner would like to take advantage of. In sum, Contract Zone #8 is no longer needed, it places a burden on the property that is not imposed on surrounding properties, and the owner is requesting it be deleted. The City Council has also asked the Board to consider amending the Contract Zone as stated above, which Staff is awaiting legal guidance on.

The subject properties are identified as follows:

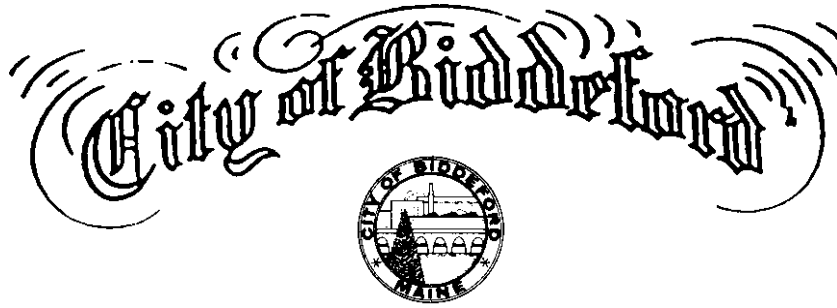


SAMPLE MOTIONS:

Motion to recommend/not recommend that Contract Zone #8 be deleted.

ATTACHMENTS:

1. John Conroy Request Letter
2. Council Order to Planning Board Re: CZ 8 Deletion



2020.106 **IN BOARD OF CITY COUNCIL..NOVEMBER 17, 2020**
BE IT ORDERED, that the City Council does hereby request the Planning Board conduct a Public Hearing and make recommendations to the City Council regarding a requested amendment to the Zoning Ordinance to delete Contract Zone #8, or amend Contract Zone #8 that two of the units be designated as affordable housing; and not necessarily the two additional units that the applicant is requesting.

November 17, 2020

Motion by Councilor McCurry, seconded by Councilor Clearwater to grant the order.

Motion by Councilor McCurry, seconded by Councilor Clearwater to allow Councilor Belanger to participate in the discussion and vote despite the fact that he has worked with a company associated with the applicant and has had direct dealings with Mr. Conroy, although, not on this issue.

Vote: Unanimous.

Motion by Councilor Lessard, seconded by Councilor Clearwater to amend the order by including language that the Planning Board consider either deleting Contract Zone #8, OR amending Contract Zone #8 to have two of the units be designated as affordable housing; and not necessarily the two additional units that the applicant is requesting.

Vote: Unanimous.

Vote on order, as amended: Unanimous.

Attest by: _____
Carmen J. Morris, City Clerk

John P. Conroy

Hillview Apartments

72 Hill Street # 105

Biddeford, ME 04005

jc72@maine.rr.com

cell (207) 468-8602

home (207) 284-9348

work (207) 282-6300

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11/10/2020

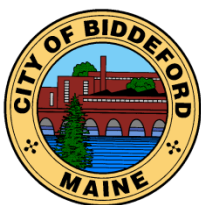
Mathew Eddy
Director of Planning and Development
Greg Tansley
City Planner

Gentlemen:

I am owner of the apartment building at 72 Hill Street in Biddeford. Twenty years ago, in an effort to effectively utilize my large building which was a former funeral home, I negotiated a contract zone to allow me to have six apartment units as well as two offices. I understand that the contract specifying the two offices cannot simply be amended to have two additional apartments. That being the case I am requesting a dissolution of my contract with the City of Biddeford thereby returning the property to what is now the MSRD-2 District, where a density bonus is possible.

Sincerely,

John Conroy



CITY OF BIDDEFORD

Planning and Development Department

Brad Favreau
Economic Development Coordinator
205 Main Street
P.O. Box 586
Biddeford, ME 04005
(207)-282-7119 or (207)-284-9115
Brad.Favreau@biddefordmaine.org

MEMORANDUM

TO: William Southwick, Chair & Members of the Biddeford Planning Board
Greg Tansley, AICP, City Planner

FROM: Brad Favreau, Economic Development Coordinator

DATE: December 10, 2020

RE: **Proposed Revisions to Historic Preservation Ordinance**

The Historic Preservation Commission is seeking Certified Local Government (CLG) Status through the Maine Historic Preservation Commission. This status opens the city to new grant opportunities for preservation purposes. This grant money may also be used for training and education purposes, as well as conducting an architectural survey of the historic district.

One requirement needed to achieve CLG status is revising our current ordinance to include criteria for establishing new historic sites, historic landmarks, and historic districts, and a procedure for establishing such sites, landmarks, and districts.

In the attached edit of the ordinance, Section 6 provides the criteria and Section 7 provides the procedure for such actions.

Also, under Section 10 (newly revised section) paragraph A, subparagraph 6, establishes a process for certain improvements such as paving, on the property of a "Contributing" building or structure. This subparagraph was added in response to the paving project that covered a cobblestone alley on Pepperell Mill Campus.

Beyond these major additions, minor grammatical and punctuation corrections have been made.

I look forward to discussing these proposed amendments with you at your December 16, 2020 Meeting. In the meantime, if you have any questions please let me know.

Thank you for your attention to this matter.

Section 1. Authority.

This ordinance is adopted by the municipal officers of the City of Biddeford, Maine, pursuant to the authority granted under 30-A M.R.S.A. § 3001 and § 3007.

Section 2. Purpose and intent.

- A. Purpose. The purpose of this ordinance is to promote the educational, cultural, economic and general welfare of the City of Biddeford by providing a legal framework within which the residents of the City can protect the historic and architectural heritage of historically significant areas, landmarks and sites while accepting compatible new construction.
- B. Intent. The intent of this ordinance is to create a legal mechanism to further the above-mentioned purpose and to:
1. Protect, preserve and enhance the outward appearance and architectural features of [historic landmarks and](#) structures within designated historic districts and of designated historic landmarks.
 2. Protect and enhance neighborhood character.
 3. Enhance the economic welfare of the City by stabilizing and improving the values of structures and properties within designated historic districts.
 4. Protect and enhance the attractiveness of the City to its home buyers, home owners, residents, tourists, visitors, businesses and shoppers.
 5. Foster civic pride in the City's history and development patterns as represented in such designated historic districts and landmarks.
 6. Apply design standards in a reasonable and flexible manner to prevent the unnecessary loss of the community's historical features and to ensure compatible construction and rehabilitation in historic districts while not stifling change and development or forcing modern recreations of historic styles.
 7. Prevent the demolition or removal of significant historic buildings or structures within designated historic districts or of designated historic landmarks.
 8. Preserve, protect and enhance the essential character of designated historic districts by protecting relationships of groups of buildings and structures.
 9. Accept new buildings and structures in designated historic districts, which are designed and built in a manner which is compatible with the character of the district.

10. Encourage the use of environmentally sustainable practices in building construction and renovations, while ~~at the same time~~ supporting the ~~overall~~ purpose of this ordinance being historic preservation.

Section 3. Definitions.

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

ALTERATION — Any act or process requiring a building permit and any other act or process not requiring a building permit but specifically listed in this article as a reviewable action, including, without limitation, the repair, reconstruction, demolition or relocation of any structure or object or any part of a structure or object.

ALTERED — The word altered includes "rebuilt," "reconstructed," "rehabilitated," "restored," "removed" and "demolished."

APPLICANT — A person who submits an application for issuance of a certificate of appropriateness.

APPLICATION — A form submitted for approval of alteration, construction, demolition or removal that requires issuance of a certificate of appropriateness.

APPROPRIATE — Refers to those changes in historic properties, landmarks, buildings, structures or sites within historic overlay zones, or sites or landmarks, which are not incongruous with what is historically and architecturally significant as determined by the Commission or its designee.

APPROVAL AUTHORITY — Either the Commission or its designee as provided for in Section 8 of this ordinance.

CERTIFICATE OF APPROPRIATENESS — A certificate issued by the Commission or its designee evidencing approval of specific plans for alteration of a structure or construction on a site in accordance with this article.

CERTIFICATE OF ECONOMIC HARDSHIP — A certificate issued by the Commission or its designee evidencing a hardship variance approved by the Board of Appeals in accordance with Section 11E of this ordinance.

CERTIFICATE OF NONAPPLICABILITY — A certificate issued by the Commission or its designee evidencing a determination that specific plans for alteration of a structure or construction on a site do not require approval under this article.

COMMISSION — The Commission acting as the Historic Preservation Commission established in Section 6 of this ordinance.

CONSTRUCTION — The adding to a structure by an addition, or the erection or placement of any new structure on a lot or property.

CONTRIBUTING — A classification applied to a site, structure or object within an historic district signifying that it contributes generally to the qualities that give the historic district cultural, historic, architectural or

archeological significance as embodied in the criteria for designating an historic district, but without being itself a landmark. See Section 17 of this ordinance.

CONTRIBUTING STRUCTURE — A structure located within a designated historic district and identified as contributing to the historical or architectural significance of said district. See Section 17 of this ordinance.

DEMOLITION —

- A. Any act or process that partially or totally destroys a structure or object.
- B. The razing of a building or a structure or the removal of any exterior architectural feature or structure or object.

DEPARTMENT — The Planning Department.

EXTERIOR ARCHITECTURAL FEATURE — The architectural parts, elements, style and general arrangement of the exterior of a building or structure, including but not limited to:

- A. The kind, type, and texture of the building materials;
- B. The type and style of elements including, but not limited to, all windows, doors, lights, dormers, roofs, gable cornices, porches, and decorative trim, ~~etc.~~;
- ~~C. The location and treatment of any vehicle access or parking space;~~
- ~~D. C. The design of any signs;~~ and
- ~~E. D. The arrangement of any fencing.~~

HISTORIC (a ~~D~~d.) — Important in or contributing to history.

HISTORIC DISTRICT — Any place or area which includes or encompasses such historic landmarks, buildings, signs, appurtenances, structures or objects as may be designated within this ordinance in Section 5 as appropriate for historic preservation.

HISTORIC LANDMARK — Any improvement, building or structure of particular historic or architectural significance to the City relating to its heritage or cultural, social, economic or political history or which exemplifies historic personages or important events in local, state or national history, as may be designated in accordance with this chapter article. An historic landmark does not necessarily need to be located within an historic district.

HISTORIC SIGNIFICANCE — Any building, structure or site identified in Section 17~~9~~ as contributing. Any building, structure, or site not identified in Section 17~~9~~ is not considered to possess historical significance.

LANDMARK — A structure that has significant historical, architectural, or cultural meaning and that has been given legal protection from alteration and destruction by City Council. ~~A property, site, structure or object designated as a "landmark" by the City Council.~~

MASSING — The perception of the general shape and form as well as size of a building.

MAJOR REPAIR — Any exterior alteration that does not qualify as a minor repair.

MINOR REPAIR — Exterior alterations that do not change materials, form,

style, or overall appearance, and are only necessary to correct deficiencies resulting from normal wear and tear.

NONCONTRIBUTING STRUCTURE — Any structure which is neither a contributing structure within a district nor a landmark and is not identified as contributing in Section 179 of this ordinance.

OBJECT — Anything constructed, fabricated or created the use of which does not require permanent or semipermanent location on or in the ground.

ORDINARY MAINTENANCE — Acts of maintenance or repair which do not include a change in the design, material or outer appearance of a structure, including, without limitation, repainting, replacement of materials or windows of the same scale, texture and color, and landscaping other than within an historic landscape district.

OWNER — The person or persons holding record title to the building, site or property; provided, however, the last previous tax roll in the records of the City Assessor's office may be relied upon as showing record ownership in the absence of substantial evidence to the contrary.

PROPERTY — Land and improvements identified as a separate lot for purposes of subdivision, site plan, or zoning regulation.

RELOCATION — Any removal or relocation of a structure on its site or to another site.

RESTORATION — Any act which returns a structure or a feature of a structure to a prior state of historic significance.

RHYTHM — Characterized by the regular recurrence of strong and weak elements.

SCALE — The size or apparent size of an object seen in relation to other objects, people, or its environment or format.

Section 4. Applicability.

This ordinance shall apply to exterior alterations of all lands, building, structures, and exterior architectural building features ~~which require a building permit, including but not limited to sign and demolition permits, from the Code Enforcement Office, as identified in Section 10 A.,~~ either located within a designated Historic District or designated as an historic landmark in Section 5 of this ordinance.

Section 5. Historic districts and historic landmarks designated.

The following described lands, buildings, structures, or areas of the City of Biddeford are designated as historic districts or historic landmarks:

A. Districts:

1. Downtown Historic District, as defined by the MSRD-1 Zone.
2. Mill Area Historic District, as defined by the MSRD-3 Zone, except for those lands within MSRD-3 located northwest of Elm Street.
3. Mixed Residential Historic District, as defined by the MSRD-2 Zone.

- B. Landmarks: All such structures/places, not including districts, identified on the National Register of Historic Places.

Section 6. Eligibility for Historic Designation.

The historic districts, historic sites, and historic landmarks established in accordance with this article shall have one or more of the following characteristics:

- A. History of Biddeford. Structures, buildings or sites at which events have occurred that contribute to and are identified with or significantly represent or exemplify the broad cultural, political, economic, military, social history of Biddeford or the nation, including sites or buildings at which visitors may gain insight or see examples of particular items or of larger patterns in the North American heritage.
- B. Persons. Structures, buildings, or sites associated with important historic persons.
- C. Ideas. Structures, buildings, or sites associated with important examples of a great idea or ideal.
- D. Architecture. Structures or structural remains and sites embodying examples of architectural types or specimens valuable for study of a period, style or method of building construction, of community organization and living; landscaping; a single notable structure; or a site representing the work of a master builder, master designer, architect or landscape architect.
- E. Visual continuity. Structures or buildings contributing to the visual continuity of the historic district.
- F. National register. Those sites or areas listed on or eligible for listing on the National Register of Historic Places or as a National Historic Landmark.

Section 7. Establishment of Historic Sites, Landmarks, and New Historic Districts; and Expansion of Existing Historic Districts.

- A. Amendment process. Any person, including acting members of the Historic Preservation Commission, seeking to add or expand historic districts, sites, or landmarks shall request the amendment in writing to the Commission. Any proposal by the Council or Planning Board shall be referred to the Commission for comment before Council action. After receiving the Commission's recommendation concerning the request, the City Manager shall place the matter on the agenda of the City Council. Any applications or designation of buildings, structures, sites and districts shall be in writing.
- B. Application requirements. Applications shall be in writing and shall include the following, as appropriate:
 - 1. A concise description of the physical elements, qualities, architectural style, period and historical significance represented by the building, structure or site, including a consideration of scale, materials, workmanship and spatial qualities, as relevant.
 - 2. A concise statement of how the building, structure or site meets the review criteria of this article.
 - 3. Exterior photographs of the building or structure, and/or a site map, illustrating significant details. In addition, the Commission may request photographs of interior

- features of particular historic significance. These interior photographs may be provided by the applicant on a voluntary basis and are not required submissions.
- a. A concise statement of the physical elements which justify making this area an historic district and a description of building types and architectural styles and periods represented
 - b. An explanation of the proposed boundaries of the district.
 - c. Details on the structures that do not contribute to the significance of the district.
 - d. A map showing the location of all district structures.
- C. Studies and recommendations. Before making its recommendation concerning the proposed establishment or expansion of an historic district, historic site or historic landmark, the Commission may conduct studies and research on the proposal. The Commission shall make a report to the City Manager on every request received within six months. Drafts of the report shall also be mailed to the Maine Historic Preservation Commission for review.
- D. Public hearing. Prior to making a recommendation concerning the proposed establishment or expansion of an historic district, historic site, or historic landmark, the Commission shall hold a public hearing on the request, after due notice is provided at least seven days prior to the hearing in a newspaper of general local circulation. Written notice of the proposal shall be given to the applicant, owners of all property to be included within the proposed designation and property within a 200-foot radius of the property under consideration.
- E. Final report. Not later than 30 days after the public hearing, the Commission shall submit a final report to the City Council with the Commission's recommendation.
- F. Action by the City Council. After receipt of the Commission's recommendations, as provided above, the City Council shall consider said proposed designation and approve or disapprove the request. Within 20 days after the designation of any historic district, historic site or historic landmark, the owner of each property so designated shall be given written notice.
- G. From the time of nomination until the Historic Preservation Board acts upon such nomination, a site, structure, object or area nominated but not yet designated as a landmark or district shall be subject to all of the provisions of Section 12 governing demolition, to the same extent as if designated. Upon final action of the Historic Preservation Board recommending designation, the site, structure, object, or area nominated shall be subject to all of the protections of this article until a final decision on designation by the City Council becomes effective. If the City Council rejects designation or fails to designate a property, that property shall no longer be subject to the provisions of Section 14 of this article.
- H. Applicability of this section. All land, buildings or structures within an historic district are subject to the requirements of this article after a district has been designated by the City Council. All historic sites and landmarks are subject to the requirements of this article after they have been so designated by the City Council.

Section 86. Historic Preservation Commission membership; meetings.

A. Membership.

- 1. The Board shall consist of seven members, five voting members and two associate members, each a resident of the City of Biddeford.**

Each member shall be nominated by the Mayor, confirmed by the City Council, for a three year-term. The Mayor shall have the discretion of appointing members and associate members to the Commission with terms expiring after two years but less than three years for the purpose of staggering appointments throughout a calendar year.

2. Associate members may be made voting members of the Board upon the retirement or no appointment of a voting member. Associate members are expected to participate in all hearings and discussions. They shall vote only if the Chair appoints an associate to act in place of a regular member who is absent or has been disqualified because of conflict of interest.
 3. When there is a permanent vacancy, the Mayor shall nominate, with confirmation by the City Council, a new member to serve for the remainder of the unexpired term.
 4. No serving municipal officer or official of the City of Biddeford shall serve as a member or associate member of the Board.
- B. Member qualifications.
1. All members of the Commission shall be residents of the City of Biddeford.
 2. Appointments shall be made on the basis of demonstrated interest, knowledge, ability, experience and desire to promote historic preservation in the City of Biddeford. To the extent possible, members should have a background in architecture, historic preservation, planning, engineering, building construction, or a combination thereof.
 3. Ideally a member of the Biddeford Historical Society would be a member, as well as a resident of one of the Historic Districts designated by this ordinance.
- C. Removal of an Historic Preservation Commission member.
1. Members of the Commission may be removed for cause by the City Council. Cause may include, but not necessarily be limited to, the following reasons:
 - a. A member is no longer a resident of the City of Biddeford;
 - b. A member is absent from meetings without good cause; or
 - c. A member conducts himself/herself in a manner that is inconsistent with the official position of the Historic Preservation Commission, such as consistently having conflicts of interest or displaying unprofessional behavior toward applicants, City employees, or members of the public.
 2. Removal action may be initiated by the Mayor or the City Council; however, any member proposed for removal shall be given written notice and shall have an opportunity to be heard prior to final action.
- D. Commission officers.
1. The Commission shall elect from its voting membership a Chair, Vice Chair, and Secretary. Each officer shall be elected each January and

- shall serve a term of one year.
2. Elected officers shall be responsible for the following:
 - a. The Chair shall preside at all meetings and shall be responsible for the scheduling of special meetings of the Commission as needed. The Chair shall vote only in case of a tie.
 - b. In the event the Chair is absent or has been recused due to conflict of interest, the Vice Chair shall act as the Chair.
 - c. Secretary: ensures that the records of meetings are accurate and available for the Commission's review and reference.
- E. Staff. The Commission shall be staffed by the Planning Department.
- F. Meetings.
1. The Commission shall conduct monthly meetings. Meetings shall convene on the second Wednesday of each month, unless prior arrangement and announcement has been made by the Commission.
 2. In coordination with the Planning Department, the Chair may call special meetings and workshops as needed.
 3. All meetings of the Commission shall be open to the public. All meeting agendas shall be posted at the same location in CityHall as Planning Board agendas no less than seven days prior to the hearing. Materials and records of the meetings shall be maintained and available for public inspection in the Planning Department.
 4. The Commission shall adopt Roberts Rules of Order and may adopt rules of procedure for the conduct of its business not inconsistent with this article. The Commission shall allow for public comment at all meetings on all applications, with a reasonable amount of time provided to all who wish to speak. In cases where there are applications and a number of those present wish to speak, the Commission may by motion establish a time limit for public comment.
 5. Commission meetings shall be called to order when a quorum of the voting members is present. For this purpose a quorum shall be three voting members. When a regular member of the Commission is unable to serve because of conflict of interest, incapacity, absence or lack of confirmed appointment to fill a permanent vacancy, an associate member shall be designated to vote by the Chairman.
 6. The Commission shall issue a written decision, appropriately signed by the Chairman, on matters when determined by the Commission to be necessary. The decisions shall include:
 - a. A statement of findings and conclusions.
 - b. Any conditional actions and the timetable for completion.
- G. Conflicts. Any questions raised by any interested party of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting shall be decided by a majority of the members present except the member who is being challenged.

Section 97. Responsibilities.

The Historic Preservation Commission shall have the following responsibilities:

- A. Issue certificates of appropriateness for eligible activities identified in Section 8-10 of this ordinance.
- B. Conduct or administer an ongoing survey to identify historically and architecturally significant areas, sites, structures, and landmarks.
- C. Make recommendations for designation of landmarks or new or expanded districts to the Planning Board.
- D. Advise the City Council, Planning Board, and City Departments, as necessary, regarding the protection of historic landmarks and districts.
- E. Review and make recommendations regarding all national register proposals for properties and districts within the City.
- F. Assist in the development of relevant sections of the City's Comprehensive Plan pertaining to historic resources and historic preservation.
- G. Educate and inform the citizens and property owners in Biddeford concerning the historic and architectural heritage of the City.
- H. To engage in other activities in furtherance of the purposes of this ordinance.

Section 810. Certificate of appropriateness required.

- A. Historic Preservation Commission review. The Historic Preservation Commission shall protect historic districts and historic landmarks by the issuance of certificates of appropriateness for certain activities in historic districts and involving historic landmarks. Certificates of appropriateness from the Commission are required for:
 - 1. Any change to the exterior appearance or to an exterior architectural feature of any building or structure in an historic district that requires a building permit or a sign permit from the Code Enforcement Office and for any change to the exterior appearance or to an exterior architectural feature of an historic landmark that requires either a building permit or a sign permit from the Code Enforcement Office;
 - 2. New construction of a principal or accessory building or structure visible from a public street where such a building or structure will be located in an historic district;
 - 3. Demolition of an historic landmark or ~~any~~ building or exteriorsignificant architectural feature in an historic district;
 - 4. Moving of an historic landmark or any building in an historic district; and/or
 - 5. Any change, except for minor repair, in siding materials, roofing materials, door and window sash and integral decorative elements, such as, but not limited to, cornices, brackets, window architraves,

doorway pediments, railings, balusters, columns, cupolas, and cresting ~~and~~ roof decorations.

~~5-6.~~ Improvement projects and objects on contributing properties, such as lighting, sidewalks, raised walkways, handicapped access ramps, paving, curbing, located beyond the right-of-way of any public street or way, but visible from the street, and located within an historic district or affecting any historic site or landmark.

- B. Subcommittee review. In order to process certificates of appropriateness more efficiently, applications for minor alterations, temporary alterations, and the installation or alteration of any exterior sign shall be reviewed by a subcommittee consisting of the City Planner and the Chair of the Historic Preservation Commission, or their respective designees, rather than the Historic Preservation Commission, as follows:
1. The subcommittee shall review the application under the standards of Section ~~44-13~~ and approve the application, approve it with modifications or deny it within 10 working days of receiving a complete application.
 2. No public hearings, meeting agenda postings, or abutter notices are required for applications reviewed under this section.
 3. If the subcommittee has not acted on an application within 10 working days the applicant may seek approval from the Commission instead. Inaction by the subcommittee under this section does not constitute approval or disapproval of the plan.
 4. If the applicant is not satisfied with the determination of the subcommittee, the applicant shall be permitted to have the entire application reviewed by the Commission. The subcommittee can, for any reason, forward any application received under these provisions to the Commission for review.
 5. For purposes of this section only, "temporary" is defined as either a one-time occurrence that does not exceed 30 days or as an annual occurrence that does not exceed one thirty-day period each year.
 6. The City Planner or Commission Chair shall report back to the Commission at the next meeting of the Commission any decisions made by the subcommittee since the last meeting.
 7. "Minor alterations" are defined as incidental changes or additions to a building or site features which will neither result in substantial changes to any significant historic features nor obscure such features. In no event shall any change be deemed minor when, in the determination of the subcommittee, such change shall alter the historic character of the building or site.
- C. When a certificate of appropriateness is required in any historic district or for any historic landmark, no building or sign permit shall be issued by the Code Enforcement Office until a corresponding certificate of appropriateness has been issued by the authorities described above.

Section 11. Application for certificate of appropriateness.

- A. Applications for certificates of appropriateness can be obtained either in the Code Enforcement Office or the Planning Department.
- B. Completed applications shall be submitted to the Biddeford Planning Department, which shall date and time stamp said applications upon receipt. Completed applications are due 14 days prior to the Commission's regularly scheduled meetings, which are the second Wednesday of every month.
- C. The Commission shall review and make a decision on all complete applications within 35 days of submission. If after 35 days no decision has been made, the certificate of appropriateness shall be deemed as approved.
- D. Applications shall be on a form developed by the Planning Department, and all applications shall include the following:
 - 1. The applicant's name and address and his or her interest in the property;
 - 2. The owner's name and address, if different from the applicant's;
 - 3. If applicable, the contractor's and/or architect's name and address;
 - 4. The address or location of the subject property;
 - 5. The existing use and zoning of the property;
 - 6. A brief description of the proposed activity for which a certificate of appropriateness is sought.
- E. The applicant may wish to also provide, or the Planning Department may also request, on behalf of the Commission, additional information to better enable the Commission to reach a timely decision on an application under review, which may include:
 - 1. Drawings (i.e., exterior elevations) and/or plans to better illustrate the proposed activity for which the certificate is being applied for;
 - 2. Samples of materials proposed for use in the activity;
 - 3. Photographs of other recently completed projects by the applicant in a similar fashion to which the certificate is being applied for; and
 - 4. Photographs of the building involved as well as adjacent buildings.

Section 102. Hearings and action on applications for certificates of appropriateness.

- A. Hearing required. Where applications under Section 810A are reviewed by the Commission, the Commission shall conduct a public hearing prior to rendering a decision.
- B. Notice requirements.
 - 1. Notice requirements for all items scheduled for a public hearing shall include posting the meeting agenda at the same location in City Hall as Planning Board agendas are posted no less than seven days prior to the hearing; and
 - 2. Notice via United States Postal Service shall also be sent to the applicant, owner, and all property owners within 100 feet of the

- subject property no less than seven days prior; and
- C. Hearing and notice not required. Where applications are reviewed under Section [810B](#), no public hearing or notice is required. If the applicant requests a public hearing, the application shall be forwarded to the Commission, which shall then review and make a decision regarding a certificate of appropriateness for said application under its normal procedure of review.
 - D. Approval. If the approval authority determines that the proposed activity is appropriate, it shall approve the certificate of appropriateness and forward it to the Planning Department, which shall subsequently forward it to the Code Enforcement Office for the issuance of necessary permits.
 - E. Disapproval. If the approval authority determines that the proposed activity is not appropriate, it shall make findings as to why it is not appropriate and shall forward said decision to the Planning Department, which shall notify the applicant of said determination and provide, as applicable, guidance regarding the opportunity to resubmit the application with revisions or to appeal the determination as outlined in Section [15-17](#) of this ordinance.

Section [113](#). Evaluation standards for certificate of appropriateness.

- A. Reconstruction and alterations.
 - 1. A building or structure classified as an historic landmark or located within an historic district, or any part thereof, or any appurtenance related to such structures, including but not limited to walls, fences, light fixtures, steps, paving and signs, shall not be reconstructed or altered unless a certificate of appropriateness has been issued for such activity. No certificate of appropriateness for a structure or building identified as contributing to the district shall be issued unless the proposed activity is found to preserve or enhance a building's or structure's historical or architectural character. No certificate of appropriateness shall be issued for a noncontributing structure or building unless the proposed activity is complementary to the historic character of surrounding structures and buildings and meets the intent of this ordinance.
 - 2. The standards and requirements in the United States Secretary of the Interior's Standards of Rehabilitation as well as the following factors shall be considered when reviewing applications for reconstruction or alteration of buildings or structures subject to review under this ordinance:
 - a. Every reasonable effort shall be made to use a property for its historic purpose and in a way which will require minimum alteration to the structure and its environment;
 - b. Rehabilitation work shall not destroy the distinguishing qualities nor character of the structure and its environment. The removal

- or alteration of any historic material or architectural features should be avoided;
- c. Deteriorated architectural features should be repaired rather than replaced, wherever possible. In the event that replacement is necessary, the new material should match the material being replaced in composition, design, texture and other visual qualities. Repair or replacement of missing architectural features should be based on physical or pictorial evidence rather than on conjectural designs or the availability of different architectural features from other buildings;
 - d. Distinctive stylistic features or examples of skilled craftsmanship which characterize historic structures and often predate the mass production of building materials shall be treated with sensitivity;
 - e. Changes which may have taken place in the course of time are evidence of the history and development of the structure and its environment, and these changes shall be recognized and respected;
 - f. All structures shall be recognized as products of their own time. Alterations to create an earlier appearance shall be discouraged;
 - g. Contemporary design for additions to existing structures shall be encouraged if such design is compatible with the size, scale, material and character of the neighborhood, the structure or its environment; and
 - h. Wherever possible, new additions or alterations to structures shall be done in such a manner that if they were to be removed in the future the essential form and integrity of the original structure would be unimpaired.
- B. Demolition or removal: See Section [12-14](#) of this ordinance.
- C. Construction of new buildings or structures. The construction of a new building or structure within an historic district shall be generally of such a design, form, proportion, mass, configuration, building material, texture, color and location on a lot as will be compatible with buildings, structures and open spaces where it is visually related and in keeping with the area. The following factors shall be considered:
- 1. Height. The height of proposed buildings shall be compatible with adjacent buildings;
 - 2. Proportion of building's front facade. The relationship of the width of the building to the height of the front elevation shall be visually compatible with buildings, structures and open spaces where it is visually related;
 - 3. Proportion of openings within the facade. The relationship of the width of the windows to the height of windows and doors in a building shall be visually compatible with that of windows and doors of buildings to which the building is visually related;

4. Rhythm of solids to voids in front facades. The relationship of solids to voids in the front facade of a building shall be visually compatible with that of the buildings to which it is visually related;
 5. Rhythm of spacing of buildings on streets. The relationship of the building to the open space between it and adjoining buildings shall be visually compatible with that prevailing in the area to which it is visually related;
 6. Rhythm of entrance and/or porch projection. The relationship of entrances and porch projections to sidewalks of a building shall be visually compatible with that of buildings to which it is visually related;
 7. Relationship of materials and textures. The relationship of the materials and textures of the facade of a building shall be visually compatible with that of the predominant materials used in the buildings to which it is visually related;
 8. Roof shapes. The roof shape of a building shall be visually compatible with that of the buildings to which it is visually related;
 9. Scale of building. The size of the building and the building mass of a building in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with those characteristics of buildings and spaces to which it is visually related; and
 10. Directional expression of front elevation. A building shall be visually compatible with the building, squares and places to which it is visually related in its directional character, whether this shall be vertical character, horizontal character or nondirectional character.
- D. Signs. Signs shall be reviewed based on the standards contained in Article VI (Performance Standards), Section 59 (Signs). When a certificate of appropriateness is required for a new or altered sign, the following factors shall be considered:
1. See Article VI (Performance Standards), Section 59 (Signs).
 2. Sign size should be contextually compatible with the building or storefront facade. Signs should be placed so as to not obscure architectural details related to the building.
 3. Sign placement should respect adjacent signs and structures.
- E. Exceptional circumstances.
1. The approval authority may issue a certificate of hardship in lieu of a certificate of appropriateness where the standards otherwise set forth in this section are not met but where the approval authority determines that failure to issue a certificate would result in undue hardship to the owner of the property. Before the approval authority may issue a certificate under this subsection, the records must show the following:
 - a. The property cannot yield a reasonable economic return or the owner cannot make any reasonable use of the property;
 - b. The plight of the owner is due to exceptional or unique

- circumstances and not due to the general applicability of this ordinance; and
 - c. The conditions or circumstances which constitute the hardship were not caused or created by the property owner after this ordinance became applicable to that property.
2. For the purposes of Subsection E1a, "reasonable economic return" shall not be construed to mean a maximum return, and "any reasonable use" shall not be construed to mean the highest and best use.

Section 124. Demolition.

- A. An historic landmark, or any building or structure identified as contributing, shall not be demolished or removed and a certificate of appropriateness to do so shall not be issued unless one of the following conditions is met:
 - 1. The building or structure has been identified by the Historic Preservation Commission (hereafter referred to as "the Commission") as noncontributing or incompatible with the MSRD District in which it is located; or
 - 2. The property owner can demonstrate to the Commission that it cannot be renovated or reconstructed so as to earn an economic return on its value in its present location as determined by a qualified real estate appraiser; or
 - 3. The property owner can demonstrate to the Commission that he/ she has offered the property for sale through a real estate broker for at least 180 days and that there has been no bona fide offer to buy the property from any person or entity that is willing to preserve and restore the property.
- B. Applicants applying for the demolition or removal of designated historic landmarks or contributing structures or buildings, or important portions and features thereof, shall clearly demonstrate that their application meets one or more of the following demolition or removal criteria before the Commission will approve the application for demolition or removal:
 - 1. The physical condition of the building makes the continued upkeep of the building, or important portions or features thereof, uneconomical; or
 - 2. The building or structure, or important portions and features thereof, has been determined by the Division of Code Enforcement to represent an immediate hazard to the public health or safety, which hazard cannot be abated by reasonable measures.
- C. Demolition delay. Before the issuance of a demolition permit by the Code Enforcement Office, a delay period of 90 days shall apply to any building or structure and portion thereof that is:
 - 1. An historic landmark or is designated as contributing.
 - 2. Listed and eligible for listing on the National Register of Historic Places, but not designated significant locally.

- D. Demolition delay procedures. At the hearing on an application to relocate or demolish a contributing building in an historic preservation district, or an historic landmark, the Commission may, in the interest of exploring reasonable alternatives, delay issuance of a permit for up to 120 days from the date of the hearing. If, 10 days prior to the expiration of the delay period, the Commission finds that there are still reasonable alternatives to explore, the Commission may continue the delay for an additional period of up to 60 days. The purpose of the delay is to find alternatives to demolition, such as assisting in securing funding to preserve in place the building, structure, or important portions and features thereof; or finding other ways to preserve the building or structure, such as outright purchase of the property, when feasible, or relocation; or proper recordation of buildings, structures and sites, including photography and narrative report; or preservation of historic artifacts.
- E. This section shall not apply to any structure which has been ordered demolished by the City Council or the court in accordance with 17 M.R.S.A. §§ 2851 through 2959 and amendments thereto, or to any structure which has been partially destroyed and is determined by the Division of Code Enforcement to represent an immediate hazard to the public health or safety, which hazard cannot be abated by reasonable measures, specified by the Division of Code Enforcement, including securing apertures and/or erecting fences.

Section 135. Exceptions to requirement for certificate of appropriateness.

A certificate of appropriateness is not required and the City Planner shall issue a certificate of nonapplicability for the following:

- A. Where a certificate of hardship has been issued within the previous 12 months.
- B. Where the activity involves ordinary maintenance, or the repair of exterior features of an historic landmark or of a building or structure in an historic district is permitted, so long as it does not alter the design, materials, or outer appearance thereof.
- C. The construction, reconstruction, alteration, restoration or demolition of any feature which the Code Enforcement Office has certified as required to maintain public safety because of an unsafe or dangerous condition.
- D. Where the activity involves emergency repairs of a temporary nature.
- E. Where the activity proposed results in exterior alterations not readily visible at pedestrian heights, when viewed at any height between four and six feet from any open space or street.

Section 146. Certificate validity.

All certificates of appropriateness, nonapplicability, and hardship shall be valid for no more than 12 months from the date of issuance.

Section 157. Appeals.

Appeals of the issuance of any certificate under this ordinance or denial of any certificate under this ordinance may be appealed within 30 days of such a decision as follows:

- A. Appeals of decisions made by the Commission shall be to the Zoning Board of Appeals.
- B. Appeals of any decision made by the City Planner and Chair of the Commission under Section ~~8B-10B~~ of this ordinance shall be to the Historic Preservation Commission. Appeals of this nature shall be appellate reviews by the Commission and not de novo.

Section 168. Enforcement.

Enforcement of this ordinance shall be as per Part III (Land Development Regulations), Article VIII (Administration, Enforcement, and Penalties).

Section 179. Parcels with structures or buildings identified as historically contributing.

Parcels identified as "contributing" are contained in the "Official Listing of Historically Contributing Buildings or Structures" which has been certified by the Mayor and attested by the City Clerk together with the date of adoption of this ordinance. Identified parcels/structures/buildings may only be added to the list through a zoning amendment that approves such —an amended list. Parcels/structures/buildings may be removed from the list upon recommendation by the Historic Preservation Commission and approval of the Planning Board, at which time it shall be recertified by the Mayor and re—attested by the City Clerk.



Certified Local Government Program

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Certified Local Government Program & Local Preservation Tools

Preservation through Partnership: this is the goal of the Certified Local Government (CLG) Program. Local, State, and Federal governments work together in the Federal Preservation Program to help communities save the irreplaceable historic character of places. Through the certification process, communities make a local commitment to historic preservation. This commitment is key to America's ability to preserve, protect, and increase awareness of our unique cultural heritage found in the built environment across the country.

How

Jointly administered by the National Park Service (NPS) and the State Historic Preservation Offices (SHPOs), each local community works through a certification process to become recognized as a Certified Local Government (CLG). Once certified CLGs become an active partner in the Federal Historic Preservation Program. Each community gains access to benefits of the program and agrees to follow required Federal and State requirements. The [How To Become a CLG](#) page will help you get started.

Why

Community certification opens doors to funding, technical assistance, and other preservation successes.

- **Funding:** States receive annual appropriations from the Federal Historic Preservation Fund. States are required to give at least 10% of their funding to CLGs as subgrants. These grants can fund a wide variety of projects including: surveys, National Register nominations, rehabilitation work, design guidelines, educational programs, training, structural assessments, and feasibility studies, to name a few.
- **Technical Assistance:** As a CLG, communities have direct access to SHPO staff for assistance with their

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commission, building assessments, surveys and nominations, and general preservation assistance. State staff and NPS offer regular training for CLGs as well, an added benefit of the partnership. Each SHPO has a designated CLG Coordinator.

- **Sustainability:** Historic preservation has proven economic, environmental, and social benefits. Studies show that historic districts maintain higher property values, less population decline, more walkability and greater sense of community.

Being a CLG demonstrates your community's commitment to saving what is important from the past for future generations. As a certified community it becomes easy to demonstrate a readiness to take on successful preservation projects, making your community able to compete for new opportunities!

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