

City of Biddeford
Planning Board
November 01, 2023 6:00 PM City Hall
Council Chambers, & Zoom
<https://biddeford.zoom.us/j/91621088534?pwd=Tk5yRGtlblZ0eHEzTElSdGhKb3VuQT09>
Webinar ID 916 2108 8534; Passcode 276637

STATUS: Planning Board Meeting, Wednesday, November 1, 2023, 6:00 PM, City Council Chambers & Zoom

- 1. PLEDGE OF ALLEGIANCE**
- 2. DECLARATION OF QUORUM/VOTING MEMBERS**
- 3. ADJUSTMENTS TO THE AGENDA**
- 4. PLANNER'S BUSINESS**
 - 4.A. 2023.51 Introduction of the proposal to Re-Zone some of the R-2 & R1A lots to MSRD-2
[Zoning Map Amendment R2 to MSRD2 11-1-23 PB MEMO \(002\).pdf](#)
[Policy Brief Rezoning to MSRD2 9-20-23.pdf](#)
[R2_MSRD2_Zoning_Change_Map.PNG](#)
- 5. CONSENT AGENDA**
 - 5.A. Approval of Meeting Minutes from 10-18-23
[PB Minutes 101823-DRAFT.pdf](#)
- 6. OPEN PUBLIC HEARING**
- 7. UNFINISHED BUSINESS**
- 8. NEW BUSINESS**
 - 8.A. 2023.42: Public Hearing: Street Frontage Reduction Ordinance: City Code of Ordinances, Part III: Land Development Regulations, Article V - Establishment of Zones, Section 11, Notes for Table B. The amendment would, as proposed, allow for the reduction of the City's frontage requirements from 100-feet to 90 feet / 90%, in certain areas of the City, for increased lot creation and housing stock.

[Street Reduction Ordinance 11-1-23 MEMO \(002\).pdf](#)
[Street Reduction Ordinance NOTES TO TABLE B.pdf](#)
 - 8.B. 2023.52 Public Hearing: Accessory Dwelling Unit (ADU) Ordinance Amendment: City Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 78 – Accessory Dwelling Units (ADUs). This Ordinance amendment is being proposed to comply with LD 2003.
[ADU Ordinance Amendment 11-1-23 PB MEMO.pdf](#)
[Copy of BI3074-Va Table A.xlsx](#)

[Section 78 Accessory Dwelling Units TEXT AMENDMENT 11-1-23.pdf](#)

- 8.C. Public Hearing: Zoning Ordinance Amendment: Code of Ordinances, Part III: Land Development Regulations, Article VI - Performance Standards, Section 77 - Marijuana Establishments: This proposed amendment seeks to establish additional performance standards related to odor complaints and enforcement of such, including penalties / procedures for non-compliance.

[Marijuana Amendments 11-1-23 PB MEMO.pdf](#)

[Marijuana_Establishments_Article_VI_Section_77_-_DRAFT_1_Ordinance_Amendments_9-18-2023.pdf](#)

[Marijuana_Land_Use_Table_A_9-2023.pdf](#)

[Policy_Brief_Art._V_Table_of_Landuses.pdf](#)

[Policy_Brief_Performance_Standards_sec_77.pdf](#)

- 8.D. Public Hearing: Density Bonus Ordinance: City Code of Ordinances, Part III: Land Development Regulations, Article V - Establishment of Zones, Section 11, Notes for Table B. Amendments to Table B. This Ordinance amended would allow higher densities for low to moderate income housing.

[Density Bonus Ordinance BIDDEFORD CODE NOTES for Table B Planning Board Public Hearing AMENDED.pdf](#)

[Density Bonus Ordinance Planning Board Memo 11-1-2023.pdf](#)

[IZ Ordinance and Density Bonus Definitions 10-30-23.pdf](#)

- 8.E. Public Hearing: Inclusionary Zoning Ordinance – New Ordinance: Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 40 – Inclusionary Zoning. This Ordinance is being proposed to create additional housing opportunities for lower income housing.

[Inclusionary Zoning Ordinance 11-1-23 PB MEMO.pdf](#)

[IZ Ordinance Regulations Planning Board Public Hearing 11-1-23.pdf](#)

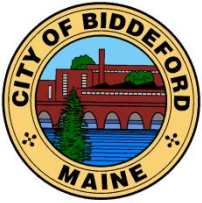
[IZ Ordinance and Density Bonus Definitions 10-30-23.pdf](#)

9. CLOSE PUBLIC HEARING

10. OTHER BUSINESS

11. 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 – Staff Report

David.Galbraith@biddefordmaine.org

TO: Chair Patoine and Members of the Biddeford Planning Board

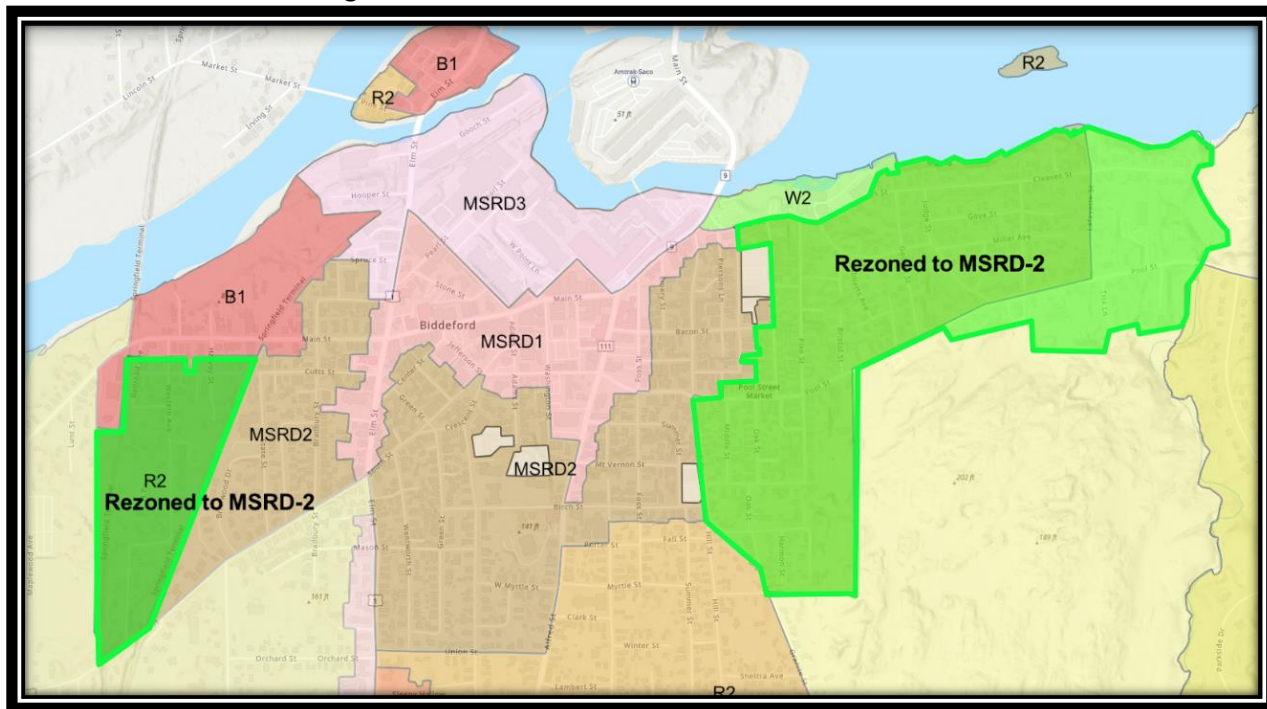
FROM: David C.M. Galbraith, Deputy Director / City Planner

DATE: October 25, 2023

RE: **Planner's Business: Zoning Map Amendment: Rezoning Portions of the City's R2 Zoning and R1A Districts to MSRD2.**

MEETING DATE: November 1, 2023

1. Overview: Staff is recommending a Zoning Map Amendment to portions of the R2 and R1A zones, as illustrated on the proposed Zoning map (below and attached) to MSRD2 so that they may also benefit from the affordable housing incentives.



Proposed Rezoning Areas from R2 and R1A to MSRD2 (highlighted in green)

Detailed Review:

This matter was discussed at the Policy Committee (June 22, 2023) the City has been reviewing our land use policies / zoning to create additional housing opportunities within the downtown. The easiest way to accomplish this goal, is to convert a portion of the R2 and R1A zones, as illustrated on the proposed Zoning map amendment, to MSRD2 so

Planner's Business: Zoning Map Amendment: Rezoning Portions of the City's R2 Zoning and R1A Districts to MSRD2.

Planning Board Date: November 1, 2023

that they may also benefit from the affordable housing incentives. The proposed rezoning areas are within the downtown and currently adjacent to the MSRD2 zone. The primary difference between the proposed map amendments is one of a series of land use amendments (text / map) toward compliance with "LD 2003".

Establishment of Zones – Table B – Dimensional Standards

Zoning District	Minimum Lot Size, Square Feet Per Unit A				Frontage			Minimum Setback, Feet**				Maximum Heights+	
	Water and Sewer	Water, No Sewer	Sewer, No Water	Neither Water Nor Sewer	Water and Sewer	Water or Sewer	Neither Water Nor Sewer	From Major R.O.W.	From Other R.O.W.	Side	Rear	Stories	Feet
SR-1	15,000 C	20,000 C	20,000 C	40,000 C	100	100	200	40	25	10	10	3	35
CR	See Table C below				150	150	150	40	25	25	25	3	35
R-1-A	10,000 B	20,000	10,000	20,000	100	100	100	40	25	10	10	3	35
R-1-B	5,000 B	20,000	5,000	20,000	50	50	50	25	10	5	5	3	35
R-2	4,500 B	N/A	N/A	N/A	45	N/A	N/A	25	15	5	5	3	35
R-3, single-family	10,000	20,000	20,000	40,000	100	120	200	40	25	10	10	3	35
R-3, duplex	7,500 B	30,000	N/A	N/A	120	120	120	40	25	15	15	3	35
R-3, multifamily	15,000 1st 2 units, then 6,000/unit D	N/A	N/A	N/A	150	N/A	N/A	40	40	25	25	3	35
R-3, all other	10,000	N/A	N/A	N/A	100	120	200	40	25	10	10	3	35

Zoning District	Minimum Lot Size, Square Feet Per Unit A				Frontage			Minimum Setback, Feet**				Maximum Heights+	
	Water and Sewer	Water, No Sewer	Sewer, No Water	Neither Water Nor Sewer	Water and Sewer	Water or Sewer	Neither Water Nor Sewer	From Major R.O.W.	From Other R.O.W.	Side	Rear	Stories	Feet
MSRD-1	None	N/A	N/A	N/A	None	None	None	None	None	None	None	Min. 2 stories or 26 feet; Max. 60 feet	
MSRD-2	2,000 B	N/A	N/A	N/A	50	N/A	N/A	15 R	15 R	10	10	3	35
MSRD-3	None	N/A	N/A	N/A	None	None	None	None	None	None	None	Min. 2 stories or 26 feet	

The primary difference between R2 and R1A zones when compared to the MSRD2 zoning district is the minimum square footage requirements per unit, as illustrated above. The proposed map amendment is one of a series of land use amendments (text / map) toward compliance with "LD 2003".

Staff Recommendation:

Staff is supportive of the proposed rezoning but is seeking input from the Planning Board prior to forwarding a formal recommendation for adoption of this amendment to the City Council.

ATTACHMENTS: Proposed Map Amendment Area



Policy Committee

Meeting Date: September 25, 2023

Meeting Time: 6:00 PM

Agenda Item No:

Item Description: Zoning Map Amendment – Additional Housing Units

Submitted by: Roby Fecteau, Director of Code Enforcement
David C.M. Galbraith, City Planner

Supporting Information/Documentation:

Attached is a map of the proposed rezoning area from R2 and R1A zones to MSRD2.

Key Terms:

N/A

Executive Summary:

Staff is recommending a Zoning Map Amendment to portions of the R2 and R1A zones, as illustrated on the proposed Zoning map amendment, to MSRD2 so that they may also benefit from the affordable housing incentives

Detailed Review:

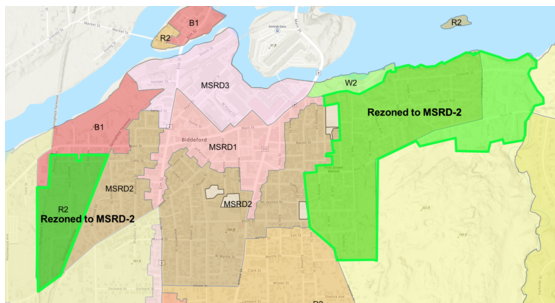
As previously discussed at the Policy Committee (June 22, 2023) the City has been reviewing our land use policies / zoning to create additional housing opportunities within the downtown. The easiest way to accomplish this goal, is to convert a portion of the R2 and R1A zones, as illustrated on the proposed Zoning map amendment, to MSRD2 so that they may also benefit from the affordable housing incentives. The proposed rezoning areas are within the downtown and currently adjacent to the MSRD2 zone. The proposed map amendment is one of a series of land use amendments (text / map) toward compliance with "LD 2003".

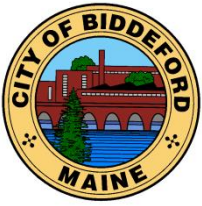
Funding Source:

N/A

Staff Recommendation:

Staff is proposing that the Policy Committee forward this rezoning request to the City Council for their input and a recommendation to forward the proposed map amendment to the Planning Board for discussion and a formal Council recommendation towards adoption.





CITY OF BIDDEFORD

Planning and Development Department

205 Main Street
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Planning Board Meeting Minutes

DRAFT

Date: October 18, 2023
Time: 6:00 PM
Location: Council Chambers & Zoom

1. Pledge of Allegiance
2. Declaration of Quorum/Voting Members
Quorum Present: Larry Patoine, Chair, Susan Deschambault, Roch Angers, Sean Tarpey, Steve Beaudette (Associate Member) * Mr. Beaudette voted in place of Ms. Plotkin
Staff Present: Eric Freeman & Nan Whitten
Chair Patoine opened the meeting at 6:00 PM
3. Adjustments to the Agenda
4. Planner's Business
5. Consent Agenda
Approval of Meeting Minutes from September 6, 2023
MOTION: 6:01PM
Angers-Motion-To approve the Meeting Minutes from September 6, 2023 as submitted
Tarpey-Second Motion passed unanimously
6. Unfinished Business-None
7. New Business
7. A. 2023.16 Site Plan (SP) Final Plan Review for the Sullivan Group for a Change of Use to construct a 30 room boutique hotel to be located at 25 Alfred Street (Tax Map 38, Lots 402).
 - Jason Jirele of Wood Hull represented the applicant
 - Parking-Premium Parking-Letter of Intent, Foss Street Lot has adequate space for hotel guests
 - Unloading spot for luggage-2 hour parking spots on Bacon and Alfred Streets or 15 minute spot on Alfred Street.
 - Trash-Private Hauler-will work out with operators on timing. Haulers will be flexible. Trash will be kept in side until pick up.
 - COA from HPC
 - No Public Comments
 - Ms. Deschambault-Outdoor Dining Plan? Left over from previous plans.
 - Mr. Beaudette-Parking, does this negate satellite lot? Owners still looking.MOTION: 6:13 PM
Deschambault-Motion-To Approve the Final Site Plan with the associated Findings of Fact and Conditions of Approval of Case # 2023.16 Site Plan (SP) Preliminary

Plan Review for the Sullivan Group for a Change of Use to construct a 30 room boutique hotel to be located at 25 Alfred Street (Tax Map 38, Lots 402).
Angers-Second Motion passed unanimously

7.B. 2023.45 Public Meeting to review and answer questions regarding a Shoreland Zoning Application for the University of New England to construct a permanent pier with floats at 11 Hills Beach Rd. (Tax map 52, Lot 4)

- Andrew Philipp, Director of Campus Planning for UNE represented the applicant.
- Pier has not gone into river in 3 seasons due to safety concerns
- Looking to make float permanent, keeping the gang planks seasonal
- Pier will be used for the rowing team and small sail boats
- The University has had approvals from SRCC, Submerged land, & Army Corp of Engineers (ACOE) all permits granted
- UNE is currently finalizing permit with DEP
- The college has met with the Harbor Commission and has a written endorsement from the Harbor Master

Public:

Kyle Noble-56 Hills Beach Road

- Tarpey is concerned about where dock will be, he does not believe ACOE gave their approval, he concurs with Mr. Noble. If UNE got an approval from ACOE then it may be a PBR, which is not substantial. The submitted drawing does not have Federal Navigation Markers. He would like another drawing with more information before he votes.

MOTION: 6:27 PM

Beaudette-Motion- To Table the Shoreland Zoning application for the proposed permanent float and dock at located at 11 Hills Beach Rd. (Tax Map 52, Lot 4), within the Shoreland zoning district for the following reasons: to obtain a survey plan showing further delineation of channel markers.

Angers-Second Motion passed unanimously

7. C. 2023.50 Biddeford Planning Board will hold a public meeting to review a Shoreland Zoning Permit request to rebuild a clubhouse for 125 families in Fortunes Rocks, (Mile Stretch Road, Biddeford Pool, Bridge Road & Granite Point). The structure will be located at 94 Fortunes Rocks Road, also described as Tax Map 65, Lot 41 in the Coastal Residential Shoreland Zone.

- Michael Richard-Contractor and member of Fortune Rocks Association represented the applicant.
- He gave a history of the clubhouse and neighborhood.
- He also gave list of what they do there now such as art shows, music venues etc.
- Mr. Richard showed an Existing Conditions plan and what would be demolished
- The association will be maintaining all parking spots
- The design of the new structure will allow migration of water and sand to move through, going under the structure. It will be an "open air pavilion" , the closed portion of structure would be for winter storage.
- There is no water or septic on the site.

- No public comments
- Freeman wanted to make sure Board knew that there is no water or septic on the site.

MOTION: 6:37 PM

Beaudette-Motion- To Approve the Shoreland Zoning Permit Application for the proposal located at 94 Fortunes Rocks Road (Tax Map 65, Lot41) within the Coastal Residential (CR) zoning district, as presented with the adoption of the Findings of Fact (FOF) and Conditions of Approval (COA).

Angers-Second Motion passed unanimously

7. D. 2023.49 Biddeford Planning Board will hold a public meeting to discuss and take questions regarding a Greatest Practical Extent/Shoreland Zoning Permit application for Dansky Realty Trust to relocate a nonconforming garage/storage building into a more conforming location. The property is located at 25 Mile Stretch Road further identified as lots 24 & 24-1 on tax map 62. This property is located in the Coastal Residential District and the shoreland overlay.

- Attorney Sandra Guay represented the applicant
- The request is a relocation of a nonconforming structure
- The existing 784 SF garage has a portion that is in the right-of-way (ROW) and the owners want to move it out of the ROW.
- Ms. Guay feels the application meets the requirements of the ordinance
- The proposed location removes it from ROW and maintains 25' from abutting structures.
- Slope is gentle does not affect relocation
- This is the only structure on lot
- Septic System is nonexistent, structure will be moved to the only place a septic would be able to be located so no septic can ever be added.
- They would like to amend Condition #1, erosion control there before Building Permit is there, amend it to silt fence goes in before construction begins.
- No public comments
- Tarpey-asked about the dimensions of proposed garage 26X30 the existing garage is 24X42, consolidating into smaller space, single story
- Tarpey wants to know about additional structures to the right on the drawing. Those are steps that have been left on the drawing to show access to the roof. They will leave them if Codes agrees.
- Tarpey wants it out of the 100' buffer zone. Guay answered that it cannot get out of the buffer zone and ROW. The proposed relocation is making it less non-conforming.
- Tarpey would like it not as deep in order to make it fit.
- If a rooftop, deck goes on the garage it would be a change of use per Tarpey. Guay, answered that it is a garage, an accessory to living space; an accessory use to a residential structure, it is not a change of use.
- Michael Dansky- (owner) Stated that the garage would house all outside furniture, bikes, etc. He has gone through the floor, there are rodents, and half of

the building is dilapidated. The owners need this structure for storage. The existing building is dangerous and they would like to make it safe.

- Note #15 on plan refers to the structure as a house. Mr. Tarpey would like to know if this is a typo. Per Guay, that is an error.
- Mr. Dansky does not intend to use this as a house or living space and they will guarantee this in writing to the town. They just want a safe garage.
- Mr. Tarpey-roof deck is a slippery slope. He is not happy to see it moving toward the wetlands. He would like to see them fit all setbacks.
- Ms. Guay- it is moving away from the wetlands a few feet.

MOTION: 6:56 PM

Deschambault-Motion- to Approve the Shoreland Zoning Permit (GPE) application for the proposal located on 25 Mile Stretch Road (Tax Map 62, Lots 24,24-1), within the Coastal Residential (CR) zoning district and in the Shoreland Overlay of Limited Residential & Resource Protection, as presented with the adoption of the Findings of Fact (FOF) and Conditions of Approval (COA). This approval amends Condition 1 of the Conditions of Approval to be that the silt fence will be established prior to construction activity.

Beaudette-Second Motion passed unanimously

7. E. 2023.42 The Biddeford Planning Board will hold a Public Hearing regarding an amendment to the Street Frontage Reduction Ordinance

- Mr. Freeman wanted to know that Galbraith has been working on this so he is a bit unfamiliar but will answer questions as best as he can.
- Deschambault confirmed that there are no amendments, and this is to be recommended to the Council.
- Patoine has questions about page 1, item C, why would not the 30% on page 1 pertain to condominiums also. Freeman is not entirely certain but will get back to the Board once he finds an answer.
- Beaudette-it is an attempt to make rentals more affordable than condominiums.
- Patoine-why would they not do both in order to create housing, he feels there is a discrepancy there.
- Deschambault agreed with Mr. Beaudette but understands what Patoine brings up.
- Freeman-there is a distinction between rental and condominium in the ordinance.
- Deschambault-not clear on verbiage, it says rental, and housing unit.
- Patoine-stop working with this now until the correct paperwork has been submitted.
- Deschambault-Clarification on Condos needed.
- This was to go from 100' to 90'.
- This will be brought up again on November 1 as a Public Hearing with a memo with a better explanation to the Board.
- Tarpey-do we really want to allow three structures on a lot? Freeman-some of this is to comply with LD2003.

8. Other Business

9. Adjourn

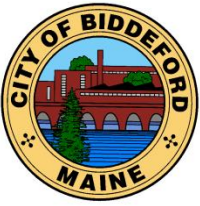
Meeting adjourned at 7:21 PM

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.

DRAFT



CITY OF BIDDEFORD

Planning and Development Department

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Planning Board – Staff Report

TO: Chair Patoine and Members of the Biddeford Planning Board

FROM: David C.M. Galbraith, Deputy Director / City Planner

DATE: October 25, 2023

RE: Case # 2023.42 Street Frontage Reduction Ordinance / Amendment to Table B – Notes

MEETING DATE: November 1, 2023

1. Amendment History / Overview:

At the July 18th City Council meeting there was a Committee of the Whole discussion item presented, related to reducing frontage requirements, from 100-ft to 90-ft, in certain areas of the city, to allow increased housing stock. This item was again discussed at the City Council meeting of September 5, 2023, where Staff presented draft Ordinance language which resulted in the Council forwarding the item to the Planning Board. This item was introduced to the Board on September 20th as a “discussion item”. It was most recently discussed at the October 18th meeting. Regretfully, at that meeting there was confusion regarding the exact text being reviewed by the Board as the Staff report had not been included in the Board’s packet. The Board “Tabled” the Proposed amendment until the November 1, 2023, meeting.

The purpose of the proposed Ordinance would allow existing lots with excess frontage to create an additional residential lot providing the parent parcel and the divided parcel each provide 90% of the required frontage. As an example, if a property is required under the City’s dimensional standards to have 100 feet of frontage and the lot had 180 + feet of frontage the property could be divided, to create an additional buildable lot, providing each of the lots has a minimum of 90 feet of frontage. This frontage reduction, and lot creation, would be permitted only on existing lots of record, and not permitted in subdivisions creating more than one new lot. As drafted, the proposed Ordinance amendment would apply to lots within the Suburban Residential 1 (SR1), R1-A, R1-B, R-2 and R-3 zoning districts. Staff is recommending a text amendment to Table B of the City’s Land Use Ordinance which would include new text, which would include the following underlined language, which are highlighted in [blue underline](#):

Case # 2023.42 Street Frontage Reduction Ordinance / Amendment to Table B – Notes
Planning Board Hearing Date: November 1, 2023

T. Street Frontage Reduction Ordinance: Street frontage requirements may be relaxed in the Suburban Residential 1 (SR1), R1-A, R1B, R-2 and R-3 Zoning Districts providing the following:

1. Lots of record, in existence prior to (insert adoption date) may be divided, one time, to create an additional buildable house lot, providing both lots meet at least 90% of the required street frontage requirements for the particular zoning district.
2. Both properties shall meet all other dimensional requirements within the particular zoning district where the lot is located.
3. This Ordinance does not apply to any new subdivisions where 3 or more lots are being or have been created.

Attached is the entire “Notes for Table B” section of the Ordinance, where the proposed amendments, if adopted, would be located within the Ordinance. This document includes **new text** as blue underlined. There are no proposed text deletions. The only item proposed to be modified to said “Notes...” is Item “T” and including numbers 1-3 (shown above).

Staff Recommendation:

Staff requests that the Planning Board forward a positive recommendation for adoption of this amendment to the City Council.

ATTACHMENTS

1. Attachment # 1: Street Frontage Reduction Ordinance, Amendment

ESTABLISHMENT OF ZONES
Draft Ordinance Amendments to the City Code of Ordinances
Section 11 – Establishment of Zones, V Attachment 2, Notes for Table B
Text Amendment: Frontage Reduction Ordinance

ESTABLISHMENT OF ZONES

BIDDEFORD CODE

NOTES for Table B:

N/A: Not allowed.

* A new structure may be permitted to be built with less than the required setback, provided that the following are met:

1. The setback will be equal to the average front yard setback of the existing houses on the immediately adjacent lots; and
2. The setback shall be at least 15 feet; and
3. These provisions shall apply only along existing residential streets which were developed prior to the enactment of the present front yard setback requirements.

** The Building Inspector may allow a lessening of setback requirement for access structures, as necessary, to facilitate reasonable handicapped accessibility. This provision shall apply to existing structures only. Any access structure built under this provision shall be temporary to facilitate the handicapped or disabled occupant and shall be removed when no longer needed.

+ Maximum height is exclusive of chimneys, antennae, and roof-mounted, building-integrated, building mounted or architectural wind systems when attached to a structure. Chimneys and antennae shall not be higher than 12 feet above the structure. Roof-mounted, building-integrated, building-mounted or architectural wind systems shall not be higher than 15 feet above the maximum allowed building height in the zone.

A. Minimum land area per dwelling unit.

B. In order to promote condominium forms of housing and affordable housing in close proximity to downtown and services, in the R-1-A, R-1-B, R-2, R-3, OR, and MSRD-2 Zoning Districts, the density requirements may be relaxed as follows:

1. Redevelopment of existing structures:

- a. The Planning Board, or other appropriate approval authority, shall consider granting a density bonus of one residential unit for every 650 square feet of living space within an existing structure, provided the applicant presents redevelopment/renovation plans to the Code Enforcement Officer demonstrating how the redevelopment project will result in the number of residential units with two or more bedrooms being at least, if not more than, the number of units with two or more bedrooms before the density bonus was granted.
- b. If the project is provided a density bonus, the Code Enforcement Officer shall document the allowable density and number of units, in writing, for the Code Enforcement Office files.
- c. An applicant provided a density bonus for rental housing shall enter into a contractual agreement with the City of Biddeford requiring that at least 30% of the additional units created shall be leased such that they do not exceed 80% of the fair market rent (FMR) per bedroom size, as established annually by the U.S. Department of Housing and Urban Development (HUD). The contractual agreement shall

ESTABLISHMENT OF ZONES
Draft Ordinance Amendments to the City Code of Ordinances
Section 11 – Establishment of Zones, V Attachment 2, Notes for Table B
Text Amendment: Frontage Reduction Ordinance

be recorded at the York County Registry of Deeds, a copy of which shall be provided to the Code Enforcement Office prior to the issuance of any building permits. Rent-restricted units will be annually monitored by the Planning and Development Department for contract compliance.

2. Condominium conversions/development:

- a. A property may be proposed for redevelopment/renovation from apartments into condominiums in accordance with 1 above.
- b. An applicant provided a density bonus for condominiums shall enter into a contractual agreement with the City of Biddeford obligating them to complete the project as condominiums to be offered for sale upon or before completion of the project in return for receiving the density bonus. The contractual agreement shall be recorded at the York County Registry of Deeds, a copy of which shall be provided to the Code Enforcement Office prior to the issuance of any building permits.
- c. The applicant agrees that if the project is converted to condominiums, said units shall not be sold for a price that exceeds 125% of the York County median home price affordable to median-income households as set annually by HUD for the City of Biddeford.

C. Applies only to dwelling units. All other uses shall have a minimum of 10,000 square feet.

D. (Reserved)

E. All buildings and structures shall be set back at least 50 feet from any zone in which residential dwellings are an allowed use, except as otherwise provided in this table.

F. (Reserved)

G. (Reserved)

H. Roadside stands may be 10 feet from the major access road.

I. This is the density limit for the expansion of existing residential dwelling units.

J. Applies to all uses.

K. Hospital height limit shall be 110 feet.

L. Does not apply to cluster development.

M. The number of accessory structures shall meet setback requirements; and shall be limited to no more than three per lot; and shall not exceed the height of the primary structure; and any plumbing, if necessary, shall be limited to a utility sink. Structures associated with bona fide working agricultural uses are not subject to these limits.

N. Any use not serviced by a public water supply must show evidence that it is serviced by a potable water supply meeting minimum state standards for safe drinking water.

ESTABLISHMENT OF ZONES
Draft Ordinance Amendments to the City Code of Ordinances
Section 11 – Establishment of Zones, V Attachment 2, Notes for Table B
Text Amendment: Frontage Reduction Ordinance

- O. Any residential structures in existence prior to December 20, 1990, may be expanded or added to as long as they meet minimum setbacks (from major access, 40 feet; from other streets, 25 feet; from side and rear property lines, 10 feet).
- P. The location of new or expanded buildings and structures including the replacement of existing buildings in the Institutional Zone shall conform to the approved Institutional Master Plan and the following dimensional standards:
1. Maximum height. The maximum height of buildings in the Institutional Zone shall be 35 feet, 50 feet, or 65 feet depending upon in which building height subdistrict the building is located. The building height subdistricts and maximum building heights are shown on the Institutional Zone Subdistrict Map dated September 6, 2001, and described in boundary descriptions prepared by an independent registered land surveyor licensed to practice in the State of Maine which are made a part of this ordinance. Notwithstanding the maximum building height provision, the tallest point of any building or structure, including appurtenant structures, in the Institutional Zone shall not exceed 115 feet above sea level based upon the national geodetic vertical datum (NGVD), unless a higher elevation is mandated as part of a state or federal environmental approval or permit.
 2. Minimum building setbacks from public streets. All buildings in the Institutional Zone shall conform to the following minimum setbacks from public streets:
 - South side of Hills Beach Road from intersection with Old Pool Road east to a point 250 feet west of the zone boundary/property line: 25 feet.
 - South side of Hills Beach Road from a point 250 feet west of the zone boundary/property line east to the zone boundary: 50 feet with a provision that it can be reduced to 25 feet if replacement buildings at the housing park are located further from the wetland.
 - North side of Hills Beach Road from intersection with Old Pool Road east to the zone boundary: 50 feet.
 - Both sides of Hills Beach Road from intersection with Old Pool Road west to the zone boundary at Route 9: 50 feet with a provision that it can be reduced to 25 feet when a Hills Beach bypass is built that conforms to the following standards and is approved as part of the Institutional Master Plan.
 - Both sides of Old Pool Road: 50 feet.
 - Both sides of Pool Road (Route 9): 50 feet.
 - Both sides of Newtown Road: 40 feet.
 - Both sides of the Hills Beach bypass road when built: 50 feet.

The reduced setback along the westerly portion of Hills Beach Road shall be effective only if a Hills Beach bypass road has been constructed that meets the following standards:

ESTABLISHMENT OF ZONES
Draft Ordinance Amendments to the City Code of Ordinances
Section 11 – Establishment of Zones, V Attachment 2, Notes for Table B
Text Amendment: Frontage Reduction Ordinance

- a. The road shall be designed and located to allow traffic to Hills Beach to travel directly from Route 9 to the approximate vicinity of the intersection of Old Pool Road and Hills Beach Road without using campus roads.
 - b. The intersection with Route 9 will be located at an appropriate location for this use.
 - c. The road shall be designed as a limited access facility with not more than one curb cut on each side providing campus access through internal campus streets. These curb cuts shall be in addition to any intersections with public streets or roads.
 - d. No buildings or parking lots shall have direct access to or from the bypass road.
 - e. A landscaped street buffer shall be established as provided for in Section 43 of Article VI.
3. Minimum building setback from the perimeter of the Institutional Zone. All buildings shall be setback a minimum of 50 feet from the external boundary of the Institutional Zone where such zone boundary abuts a Suburban Residential (SR-1), Coastal Residential (CR), or Rural-Farm (R-F) Zone. The area along the zone boundary shall be maintained as a landscaped buffer in accordance with the provisions of Article VI, Section 12.
4. Maximum lot coverage. The maximum lot coverage shall be as follows:
- a. Within the area south of Route 9 and west of the Newtown Road: 10%.
 - b. Within the area South of Route 9 and east of the Newtown Road: 30%.
 - c. Within the area North of Route 9: No maximum except as provided for in 5, Restricted Development Areas.
5. Restricted development areas. Within the areas identified as “No Build Zones” on the Institutional Zone Subdistrict Map dated September 6, 2001, and described in boundary descriptions prepared by an independent registered land surveyor licensed to practice in the State of Maine which are made a part of this ordinance, the following additional requirements shall apply:
- a. No new buildings, parking, roads, or access drives shall be constructed except for the construction of a Hills Beach bypass road and connections to the bypass road from existing public streets.
 - b. Existing buildings, parking, roads, and access drives may be maintained and may be improved with Planning Board approval but may not be relocated or expanded except as provided for in a.
 - c. The existing student housing park located on the south side of the Hills Beach Road may be replaced with new low-impact academic or support facilities. Lowimpact is defined as meeting the following standards:
 - The replacement has been approved as part of the institutional master plan.
 - The total footprint area of all replacement buildings and structures shall not exceed 14,400 square feet.

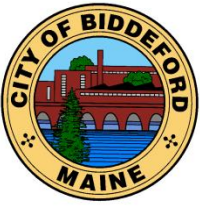
ESTABLISHMENT OF ZONES
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- The amount of non-vegetated area after redevelopment shall be not more than the amount of non-vegetated area existing at the time of adoption of this provision.
 - No buildings, structures, parking, or other impervious surfaces shall be located closer to any adjacent wetland or the external boundary of the Institutional Zone than the existing facilities being replaced and, where possible, the setback from wetlands shall be increased.
 - The architectural design of the low-impact academic or support facilities shall be compatible with the adjacent residential character, consistent with the approved University Master Plan Architectural Design Standards, and shall be limited to a maximum height of 35 feet.
 - The low-impact academic or support facilities shall have no greater impact on the adjacent wetlands, than did the development existing at the time of the approval of the 2003-2007 Master Plan (approved May 7, 2003), as demonstrated by a wetlands delineation plan and stormwater management plan submitted as part of the application for site plan approval.
 - The low-impact academic or support facilities shall have no greater light intrusion, noise or traffic impact (both vehicular and pedestrian) on adjacent residential properties, than did the development existing on the site at the time of the approval of the 2003-2007 Master Plan (approved May 7, 2003), as demonstrated by a noise mitigation plan and traffic study submitted as part of the application for site plan approval.
- d. No new athletic fields or athletic facilities shall be constructed.
- e. Existing athletic fields may be maintained and improved but may not be expanded. Improvements to the existing fields shall be limited to items such as fencing, buffering, portable grandstands, scoreboards, lighting, temporary rest room facilities, storage sheds with less than 300 square feet of floor area, and similar facilities.
- f. The areas not currently used for athletic fields, parking or the student housing park shall be maintained as naturally vegetated areas and shall not be converted to lawns or other improved open space. Existing vegetation shall be maintained subject to sound management practices relative to cutting, thinning, pruning, and similar activities.
- Q. Existing nonconforming lots or structures may be considered for conversion to nonresidential uses allowed in the OR Zone, provided that neither structure nor lot are made more nonconforming as a result of the conversion.
- R. The setback may be reduced to the average of the lots immediately adjacent to the lot, as determined by the Code Enforcement Officer.
- S. The Building Inspector may allow a lessening of setback requirements, to no less than 10 feet, for utility buildings and structures to facilitate utility infrastructure improvements. Any such buildings or structures built under this provision shall be removed when no longer used for such necessary utility infrastructure.

[T. Street Frontage Reduction Ordinance: Street frontage requirements may be relaxed in the Suburban Residential 1 \(SR1\), R1-A, R1B, R-2 and R-3 Zoning Districts providing the following:](#)

ESTABLISHMENT OF ZONES
Draft Ordinance Amendments to the City Code of Ordinances
Section 11 – Establishment of Zones, V Attachment 2, Notes for Table B
Text Amendment: Frontage Reduction Ordinance

1. Lots of record, in existence prior to (insert adoption date) may be divided, one time, to create an additional buildable house lot, providing both lots meet at least 90% of the required street frontage requirements for the particular zoning district.
2. Both properties shall meet all other dimensional requirements within the particular zoning district where the lot is located.
3. This Ordinance does not apply to any new subdivisions where 3 or more lots are being or have been created.



CITY OF BIDDEFORD

Planning and Development Department

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Planning Board – Staff Report

TO: Chair Patoine and Members of the Biddeford Planning Board

FROM: David C.M. Galbraith, Deputy Director / City Planner

DATE: **October 31, 2023 (Amended Ordinance / Memo)**

RE: **Accessory Dwelling Unit (ADU) Ordinance Amendment: City Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 78 – Accessory Dwelling Units (ADUs) and Table A “Table of Land Uses”.**

MEETING DATE: November 1, 2023

1. Overview:

The City's Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 78 – Accessory Dwelling Units (ADUs), and “Table A – Table of Land Uses” both currently prohibit accessory structures from locating within the Coastal Residential (CR) Zoning District. To comply with State Law LD 2003, Staff is proposing the following Ordinance Amendments:

- A. Modify Table of Land Uses to add “P” which stands for “Permitted” within the Coastal Residential (CR) column, for Accessory Dwelling Unit row.
- B. Amend the City's Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 78 – Accessory Dwelling Units (ADUs) to modify Section B.1.a. Text deletions are illustrated in **Red strike-thru** and text additions are shown in **Blue Underline**.

B. Procedural requirements.

1. Review procedure:

a. One ADU is permitted per residentially zoned parcel (See Article V, Table A, Table of Land Uses.), except within the ~~Coastal Residential (CR) Zone, including the RP and LR~~ overlay districts ~~within the CR Zone, where ADUs are not permitted~~... ADUs are also permitted on nonresidentially zoned parcels containing a single nonconforming (as to use) dwelling unit which was in existence as of January 1, 2017. All ADUs shall comply with standards contained within Article XIV – Shoreland Zoning

Accessory Dwelling Unit (ADU) Ordinance Amendment: City Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 78 – Accessory Dwelling Units (ADUs) and Table A “Table of Land Uses”.
Planning Board Hearing Date: November 1, 2023

Ordinance. A permit for an ADU may be issued by the Code Enforcement Office so long as all of the standards in this section are met.

Below is a link to the City's existing Accessory Dwelling Unit (ADU) Ordinance.

<https://ecode360.com/32261933#32261933>

Attached proposed amendment to Table A, to list ADU's as a "Permitted" use. Also attached is Article VI – Performance Standards, Section 78 – Accessory Dwelling Units (ADUs) illustrating the proposed Ordinance modifications to Section B.1.a. within the context of the entire Ordinance. Text deletions are illustrated in ~~Red strike-thru~~ and text additions are shown in Blue Underline.

Staff Recommendation:

Staff requests that the Planning Board forward a positive recommendation for adoption of this amendment to the City Council to bring this Ordinance into compliance with LD2003.

ATTACHMENTS

1. Attachment # 1: Amendment to Table A, to list ADU's as a "Permitted" use.
2. Attachment #2: Article VI – Performance Standards, Section 78 – Accessory Dwelling Units (ADUs) with proposed Ordinance modifications to Section B.1.a. within the context of the entire Ordinance.
3. Attachment #3: Table A – Table of Land Uses to allow ADU's as a Conditional Use within the Costal Residential (CR) zoning district.

V Attachment 1 City of Biddeford Table A

Table of Land Uses

[Amended 2-2-2010 by Ord. No. 2009.98; 8-3-2010 by Ord. No. 2010.70; 9-21-2010 by Ord. No. 2010.93; 6-21-2011 by Ord. No. 2011.37; 4-3-2012 by Ord. No. 2012.24; 4-16-2013 by Ord. No. 2013.24; 3-18-2014 by Ord. No. 2014.16; 1-16-2018 by Ord. No. 2018.3; 1-16-2018 by Ord. No. 2018.5; 6-5-2018 by Ord. No. 2018.44; 10-2-2018 by Ord. No. 2018.45]

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 ^a	SR-1	CR	R-1-A	R-1-B	R-2	R-3	B-1
Residential uses:								
Accessory dwelling units* 27	78	P	<u>P</u>	P	P	P	P	
Accessory structure*	2	P3	P3	P3	P3	P3	P3	P
Boarding, rooming house*	10					C	C	
Bed-and-breakfast*	9		C			C		
Cluster development*	18	C	C	C	C	C	C	
Congregate housing*	19					C	C	
Duplex/2-family	24	C	<u>C</u>			P	P	
Home occupation*	38	C	C	C	C	C	C	C
Manufactured housing*								
Mobile home park*								
Multifamily dwelling*	47					P	P	P
Planned unit development*	73					C	C	
Single-family dwelling 11	2	P	P	P	P	P	P	
Commercial uses:								
Adult business	3							
Amusement center*	5							C
Art gallery			C					P
Art studio			C					P
Auto body shops								
Automobile graveyard, automobile recycling business, junkyard*	7							
Automobile repair, sales								
Boat building, repair, marine services, sales, boat livery, marina, yacht club								P

	Article VI Section ^a	SR-1	CR	R-1-A	R-1-B	R-2	R-3	B-1
Building materials retail sales								P
Carwash*	14							C
Commercial gardening, commercial greenhouse*	17	C	C	C	C			
Commercial recreation*	18							C
Commercial school*	53							P
Drugstore/medical supply								P
Financial institution								P
Firewood processing*	33							
Fisheries processing, storage*	34							
Funeral parlor								P
Gasoline service station*	36							P
Hotel/motel*	40							P
Indoor theater								P
Kennel, veterinary hospital*	42							
Medical marijuana dispensaries								
Medical marijuana growing facilities								
Neighborhood convenience store/service		C4	C4	C4	C4	P	P	P
Off-street loading and parking lot and facilities, commercial parking garage	49					C	P	P
Offices, business and professional*	52							P
Planned unit developments*	73							C
Publishing, printing								P
Restaurant*	56							P
Retail store								P
Sawmill*	33							
Services								P
Shopping center								C
Telecommunications facilities	71							
Wholesale business								
Industrial uses:								
Air transportation related use								
	Article VI Section ^a	SR-1	CR	R-1-A	R-1-B	R-2	R-3	B-1
Air transportation dependent use*								
Airport	4							
Bulk oil terminal*	41							
Contractor's storage yard								

Demolition disposal*	23							
Experimental research and testing laboratory	29							
Light manufacturing*	41							
Light trucking dependent industry*	41							
Manufacturing*	41							
Planned unit developments*	73							
Resource recovery facility								
Recycling facilities	76							
Redemption centers								
Storage of bulk gaseous fuels*	41							
Transportation facilities								
Trucking, distribution terminal*								
Warehousing and storage*	60							
Self-storage facilities*	60							C16
Educational, institutional public uses:								
Addiction treatment facility 22								
Church, synagogue*		C	C	C	C	C	C	
Civic, convention centers								C
Community centers, clubs						C	C	C
Day-care center, adult	22	C	C	C	C	C	C	C
Day-care home, adult	22	C	C	C	C	C	C	
Day-care home, children's	22	C	C	C	C	C	C	
Day-care center, children s	22	C	C	C	C	C	C	C
Essential services	27	C	C	C	C	C	C	C
Fire, police station						C	C	P
Group homes, hospice	19	C	C	C	C	P	P	P
Hospital*	39							
Municipal use	47.1	C	C	C	C	C	C	P
Museum, library			C					P
Nursing home*	39	C				P	P	
Public and private schools*	53			C	C	P	P	
Public facility		C	C	C	C	C	C	P
	Article VI Section^a	SR-1	CR	R-1-A	R-1-B	R-2	R-3	B-1
Rehabilitation facility								
University/college*		C	C					
University uses*		C						
Water supply system	27	C	C	C	C	C	C	C
Outdoor, resource-based uses:								
Agriculture*	3, 31							
Agricultural products processing and storage*	3, 31							
Animal breeding or care	42							
Campground*	13							

Cemetery	14.1	C	C	C	C	C	C	
Extractive industry*	30							
Farm stands* 13	31							
Timber harvesting	64		C					
Golf course excluding miniature golf		P	P	P	P			
Parks and recreation*		P	P	P	P	P	P	P

NOTES:

^a This column has been provided to serve as an aid in finding specific performance standards, but does not address all standards that may apply. Please consult the following:

1. Multifamily use shall not exceed 10 units per structure.
2. Requires Planning Board approval.
3. Accessory structures shall be limited to:
 - (a) Private detached garages for the storage of no more than three automobiles.
 - (b) Private greenhouses less than 200 square feet in floor area.
 - (c) Private swimming pools.
 - (d) Storage sheds, provided that they are uninhabitable and less than 200 square feet in area.
 - (e) Decks, porches, patios, gazebos, summerhouses, and other structures intended for outdoor use, provided they are uninhabitable.
4. No closer than 1,000 feet to another similar facility.
5. (Reserved)
6. (Reserved)
7. Drive-through establishments (except as provided in Note 8) and street level residential uses are prohibited in the MSRD-1 Commercial Core District in
 - (a) Along both sides of Main Street between the intersection of Elm Street (Route 1) and Main Street through to the Saco City Line north of Water Street;
 - (b) On both sides of Adams Street from Main Street to Jefferson Street;
 - (c) On the north side of Jefferson Street from Main Street to Alfred Street;
 - (d) On both sides of Washington Street from Main Street to Jefferson Street;
 - (e) On both sides of Federal Street between Washington Street and Franklin Street;
 - (f) On both sides of Franklin Street; and
 - (g) On both sides of Alfred Street from Jefferson Street/Pool Street to Main Street.
8. Financial institutions are permitted drive-throughs limited to two lanes, are a conditional review by the Planning Board, and must adhere to the following
 - (a) Located on the side or rear of the building and never between the building and the Main Street.
 - (b) Access drive located to minimize impact on pedestrians:

Not between building and the street;

Entrance from a side street where possible;

Sidewalk material carried across any driveways.

- (c) Adequate queuing land preferably separate from the parking lot.
 - (d) Architectural treatment compatible with main building.
 - (e) Controlled lighting that does not glare onto neighboring property.
9. Review by the Board of Appeals required for all truck loading facilities for new buildings and for changes in tenancy.
 10. Limited to offices for medical professionals and associated fields.
 11. Unless otherwise stated or allowed within the provisions of this ordinance, no more than one dwelling unit shall be allowed per lot.
 12. (Reserved)
 13. Shall be considered as a home occupation; only products grown on the premises may be sold, unless the stand is recognized as a commercial operation.
 14. Transportation facilities here shall be limited to facilities associated with firms or businesses serving passenger transport, such as bus terminals, taxi stands.
 15. (Reserved)
 16. Shall be limited to internal storage in existing buildings that require no external structural changes. No loading bays shall be constructed. Off-street parking shall be limited to internal storage in existing buildings that require no external structural changes. No loading bays shall be constructed. Off-street parking shall be limited to internal storage in existing buildings that require no external structural changes.
 17. Adult businesses are restricted to that portion of the B-2 District between Dartmouth Street and Landry Street. No adult business shall be located on any other portion of the B-2 District.
 18. All subdivisions in the Rural Farm Zoning District shall be clustered, and developed in accordance with Article VI, Section 16, Cluster Developments, or other applicable zoning regulations.
 19. This use does not include facilities, activities, or programs conducted by or hosted by a college or university that meet the definition of university uses.
 20. Within that portion of the Institutional (IN) Zone subject to a Shoreland Zoning District, existing buildings, structures, and roads may be maintained, modified, or replaced, provided they meet the requirements of applicable local, state, or federal codes or regulations, the existing sewage treatment plant may be expanded or replaced, and the existing sewage treatment plant may be expanded or replaced.
 21. See Article V, Section 7, Main Street Revitalization Districts for land uses.
 22. All addiction treatment facilities shall meet all applicable federal, state, and local laws and regulations. No occupancy permits shall be issued until evidence of compliance is provided.
 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 Public Health.
 24. (Reserved)
 25. Internal storage fully enclosed within buildings only. Loading bays shall be located on the side or rear of buildings and shall be screened from view from the street.
 26. Self-storage facilities in the B-2 Zone shall not be permitted northeast of the Route 1/Dartmouth Street intersection.
 27. Accessory dwelling units may also be permitted in nonresidential zones where there exists a nonconforming (as to use) single-family dwelling on a lot that is zoned for residential use.

l-2011 by Ord. No. 2011.36;

Ord. No. 2014.16; 9-6-2016 by Ord. No. 2016.74; 1-17-2017 by Ord. No. 2016.87; 6-20-2017 by Ord. No. 2017.110; 3-5-2019 by Ord. No. 2019.15; 3-5-2019 by Ord. No. 2019.16]

B-2	I-1	I-2	I-3	W-1	W-2	W-3	R-F	LR-F	M
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				P		P	P		
P	P	P	P	P	P	P	P		
				C			C		
							C17		
							C		
						P	C		
					C	C	C		

See Article VI, Section 45.

See Article VI, Section 45.

					P1	P			
				P		P	P		

C17									
C									
						C	C		
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	C		C						
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B-2	I-1	I-2	I-3	W-1	W-2	W-3	R-F	LR-F	M
P	P		P				C		
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			C23						
	C23	C23							
P			P				P		
P9	P		A	P	P	P	C		
P	P	P	P		P	P			P10
C									
P	P	P	P						
P	P		P	P	P	P	C		C
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B-2	I-1	I-2	I-3	W-1	W-2	W-3	R-F	LR-F	M
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C	C	C	C						C
C	P	P	P						
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C	P							P	
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	P		C14	P		P			
C	P	P	C						
P	P	P	A						
C25, 26	P		C						

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B-2	I-1	I-2	I-3	W-1	W-2	W-3	R-F	LR-F	M
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P2	P2						P2	P2	
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P	P	P	P	P	P	P	P	P	

ilt Article VI for subsequent standards that may apply to a particular project. All uses cited above are subject to specific lot and setback, height, and performa

the following areas:

standards:

tions, passenger rail stations, etc.

ing shall be available with no fewer than one space per 20 storage units. A copy of the contract that will be offered to prospective tenants shall be submitted for each lot or parcel of land with road frontage on Elm Street.

f this ordinance.

Such uses shall be considered as university uses and shall be permitted in the institutional zone subject to the requirements of the zone and the additional provisions of this ordinance. No new buildings shall be built or located and no existing buildings shall be enlarged (including the replacement of existing buildings) on the Marine Science Center may be expanded through the construction of one additional building, provided that such changes meet all shoreland requirements.

nance of state certification has been presented to the Code Enforcement Office.

Division of Licensing and Regulatory Services, 10-144 CMR Chapter 122 (as amended).

public streets and any abutting residential uses.

as it was in existence as of January 1, 2017. See Article VI, Section 78.

7.57; 1-

IN ²⁰	OR	MSRD-1 ^{7,8}	MSRD-2	MSRD-3
	P		P	
P	P	P	P	P
			C	C
	C	P	C	P
			C	
	C	P	C	P
	P		P	
	C	C	C	C
	C	P	P	P
	C	C	C	C
	P		P	
		C		C
	C	P	C	P
	C	P	P	P
				C
		C		

IN ²⁰	OR	MSRD-1 ^{7,8}	MSRD-2	MSRD-3
		C		P
				C
		P		P
		P		P
		P		P
C19		P		P
				P
		P		P
		P		P
		P	C	
		P	C	P
	C	P	C	P
		C		C
	C	P		P
		P		P
		P		P
	C	P		P
		C		P
				P

IN ²⁰	OR	MSRD-1 ^{7,8}	MSRD-2	MSRD-3

C19				C
				P
				P
				P
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				P
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		C	C	C
C	C	C	C	C
C19		P	C	
		C	C	P
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	C	P	C	P
C19		P	C	P
		C	C	C
		C	C	C
C	C	P	C	P
IN ²⁰	OR	MSRD-1 ^{7,8}	MSRD-2	MSRD-3
				C
P		C		P
P		C		P
C	C	C	C	C

C19				
C19				
P19		P	P	P

nce requirements, as well as specific notes below:

or review.

formance standards for colleges/universities.

except as follows: The existing buildings and roads may be modified to the extent necessary to
s and the performance standards of Article XIV.

Section 78 **Accessory dwelling units (ADUs).**

[Added 3-7-2017 by Ord. No. 2017.16]

A. Purpose and intent. The intent of permitting ADUs is to:

1. Provide older homeowners with a means of obtaining rental income, companionship, security, and services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
2. Add moderately priced rental units to the housing stock to meet the needs of smaller households and make housing units available to moderate income households who might otherwise have difficulty finding housing;
3. Develop housing units in single-family neighborhoods that are appropriate for households at a variety of stages in their life cycle;
4. Provide housing units for persons with disabilities;
5. Protect stability, property values, and the residential character of a neighborhood.

B. Procedural requirements.

1. Review procedure:

- a. One ADU is permitted per residentially zoned parcel (See Article V, Table A, Table of Land Uses.), except within the ~~Coastal Residential (CR) Zone, including the RP and LR~~ overlay districts ~~s within the CR Zone, where ADUs are not permitted.~~ ADUs are also permitted on nonresidentially zoned parcels containing a single nonconforming (as to use) dwelling unit which was in existence as of January 1, 2017. [All ADUs shall comply with standards contained within Article XIV – Shoreland Zoning Ordinance.](#) A permit for an ADU may be issued by the Code Enforcement Office so long as all of the standards in this section are met.

[Amended 6-20-2017 by Ord. No. 2017.57]

- b. The Code Enforcement Office shall conduct the administrative review of all applications for an ADU. All findings and decisions of the Code Enforcement Office shall be final except where subject to appeal to the Zoning Board of Appeals as provided in Article IX of the Biddeford Land Development Regulations.

2. Application fee required:

- a. In addition to all applicable building, electrical, plumbing, etc., permit fees, ADU applications shall cost a nonrefundable fee of \$200.

C. Use and dimensional regulations.

1. The Code Enforcement Office may issue a building permit authorizing the installation and use of an ADU within an existing or new owner-occupied, single-family dwelling, attached to an

existing or new owner-occupied, single-family dwelling, or in a detached structure on a single-family home lot only when the following conditions are met:

- a.** The unit will be a complete, separate housekeeping unit containing both kitchen and bath.
- b.** Only one ADU may be created within a single-family house or house lot.
- c.** ADUs may be created on lots meeting the minimum lot size for a single-family dwelling in the zoning district or on legally nonconforming lots as of January 1, 2017.
- d.** ADUs shall not be intended for sale and shall remain in common ownership with the principal dwelling unit.
- e.** All ADUs shall have a gross floor area of at least 300 square feet.
- f.** The gross floor area of an ADU (including any additions) shall not be greater than 35% of the gross floor area of the principal dwelling unit or 900 square feet, whichever is greater.
- g.** Once an ADU has been added to a single-family residence or lot, the ADU shall never be enlarged beyond the 35% of the gross floor area of the principal dwelling unit or the 900 square feet allowed by this ordinance.
- h.** Rooftop decks are not permitted.
- i.** Balconies shall not face interior side lot lines.
- j.** An ADU may not have more than two bedrooms.
- k.** The construction of any ADU must be in conformity with all applicable federal, state and local laws, ordinances and regulations.
- l.** One off-street parking space is required for an ADU unless legal on-street parking or publicly supplied off-street parking is located within 1,000 feet. Tandem parking is permitted.
- m.** Internal ADUs shall also comply with the following:
 - i.** Internal ADUs shall not result in additional entrances facing a public street on the primary structure.
 - ii.** Any stairways leading to the internal ADU shall be enclosed.
- n.** Attached ADUs shall also comply with the following:
 - i.** Attached ADUs shall not result in additional entrances facing a public street on the primary structure.

- ii. Any stairways associated with an attached ADU shall be enclosed.
- iii. The primary exterior materials of an attached ADU shall match the primary exterior materials of the principal structure.

o. Detached ADUs shall also comply with the following:

- i. Not less than 10% of the total area of the facade of a detached accessory dwelling unit facing an alley or public street shall be windows.
- ii. Exterior stairways shall be allowed, provided that the finish of the railing matches the finish or trim of the detached accessory dwelling unit. Raw or unfinished lumber shall not be permitted on an exterior stairway.

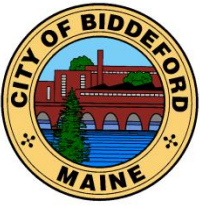
- 2.** In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the Code Enforcement Office may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.

D. Occupancy requirements.

- 1.** The owner(s) of the residence in which the ADU is created must continue to occupy either the ADU or the principal dwelling unit.
- 2.** If an owner is unable or unwilling to fulfill the requirement to occupy either the ADU or the principal dwelling unit, the owner shall remove those features of the ADU that make it a dwelling unit.
- 3.** An ADU may not be occupied by more than three people.

E. Administration and enforcement.

- 1.** It shall be the duty of the Code Enforcement Office to administer and enforce the provisions of this ordinance.
- 2.** No building shall be constructed or changed in use or configuration until the Code Enforcement Officer has issued a permit. ADUs shall not be occupied until a certificate of occupancy has been issued by the Code Enforcement Office.



CITY OF BIDDEFORD

Planning and Development Department

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Planning Board – Staff Report

TO: Chair Patoine and Members of the Biddeford Planning Board

FROM: David C.M. Galbraith, Deputy Director / City Planner

DATE: October 25, 2023

RE: Zoning Ordinance Amendment: Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 77 – Marijuana Establishments Odor Complaints and Amendment to Table A “Table of Land Uses” allow adult use marijuana retail sales within the City’s I-1, I-2 and I3 zoning districts.

MEETING DATE: November 1, 2023

Overview: This issue involves two (2) Zoning Ordinance text amendments, namely:

1. An amendment to Table A “Table of Land Uses” to allow adult use marijuana retail sales within the City’s I-1, I-2 and I3 zoning districts. Table A currently lists “Marijuana store, adult use” within Table A, however the Table does not permit the use within any zoning District.
2. Zoning Ordinance text amendments to Article VI – Performance Standards, Section 77 – Marijuana Establishments which would establish formal procedures related to odor complaints with the operations of marijuana related businesses.

The issue of adult use marijuana retail sales was discussed at the City’s Policy Committee September 25, 2023, and subsequently forwarded, by the Council to the Planning Board for review. The detailed review provided to the Policy Committee is below:

Detailed Review:

Maine law allows the delivery of adult use marijuana in Biddeford. This amendment would allow adult use stores in zones where medical use stores are currently allowed. Biddeford does have a 500’ setback for new establishments. Existing establishments may transition to adult use and this setback would not apply.

Permitting adult use storefronts in these zones made sense to staff because we have had zero issues with medical marijuana sales and existing marijuana businesses have not expressed concerns with the locations.

Expanding the sale of adult use sales to other zones, may create economical differences in the price per square foot for rental space or the sale of property. In the very beginning of Marijuana operations in Maine, many communities saw a spike in the rental price for space because, operators were paying over the average price to set up locations. Permitting adult use to existing zones where medical marijuana is currently allowed, would not reintroduce the economic differences in other zoning districts.

This amendment will require Planning Board approval prior to council action

Zoning Ordinance Amendment: Code of Ordinances, Part III: Land Development Regulations

- 1. Amendment to Table A “Table of Land Uses” allow adult use marijuana retail sales within the City’s I-1, I-2 and I3 zoning districts.**
- 2. Article VI – Performance Standards, Section 77 – Marijuana Establishments - Odor Complaints and Enforcement.**

Planning Board Meeting: November 1, 2023

This issue relates to the State law which allows adult use marijuana to be delivered within the City limits. Although other marijuana related uses are allowed within the city, they are all limited to the City’s I-1, I-2 and I-3 zoning districts. Adult use retail sales are currently not permitted in any zoning district. However, Table A of the City’s “Table of Land Uses” lists “Marijuana store, adult use” although it is currently not permitted within any district as the Table row does not list the use as permitted, as shown with a “P” or even as a “Conditional Use” as identified within the Table by a “C”.

As discussed above, the proposal to allow adult use marijuana retail sales would be limited to the City’s I-1, I-2 and I-3 zoning districts only, and the proposal is to amend Table A “Table of Land Uses” to make the use “Conditional” which would require Planning Board review and approval. Each proposal would be evaluated on the merits of such and impacts to the community and surrounding neighborhoods. Attached is Table A “Table of Land Uses” including the use as “C” for “Conditional Use”.

The second marijuana related Zoning Ordinance text amendment relates to Article VI – Performance Standards, Section 77 – Marijuana Establishments. This text amendment would establish formal performance standards related to odor complaints, of all marijuana related businesses. Past practice has been that the Planning Board has adopted the same, or similar, Conditions of Approval (COA) on most marijuana related businesses. However, the below text amendment would formally adopt the regulations into the City’s Land Use Ordinance to standardize the rules for enforcing odor complaints. The proposed text a new section on the ordinance and would be added to the end of the existing ordinance. The new text is shown below and is highlighted in blue and underlined. There are no proposed text deletions.

D. Odor Disobedience Process. Any licensed operator who receives multiple, legitimate complaints for the cannabis odor emitted by their business, may be unable to renew their business license, and therefore also may become unable to operate within the City of Biddeford.

- a) First complaint - The office of code enforcement will review the complaint, and current odor abatement plan. The Operator will have 30 days to address the problem and come up with a solution. After which they will have another 60 days to fix the issue(s).
- b) After these initial 90 days the business should stay complaint free. If another complaint is made they will have another 90 days to address and fix the issue.
- c) If three complaints are made throughout the licensed year, the operator will need to update their odor abatement plan, go through the site plan review process, and may not be granted a renewed license.
- d) If the operator's license is up for renewal within the 90 days of a complaint the city may offer an extension or temporary license to allow for proper reconditioning of the odor abatement system.

Below is a link to the City’s existing Marijuana Establishments Ordinance.
<https://ecode360.com/31970024#31970024>

Staff Recommendations:

These amendments need to be voted upon independently as they relate to two (2) separate marijuana amendments, namely, “Adult Use” retail sales and the regulation of odor complaints and enforcement actions. Staff requests that the Planning Board forward a positive recommendation for adoption of both of the proposed amendments to the City Council to formally adopt:

Zoning Ordinance Amendment: Code of Ordinances, Part III: Land Development Regulations

- 1. Amendment to Table A “Table of Land Uses” allow adult use marijuana retail sales within the City’s I-1, I-2 and I3 zoning districts.**
- 2. Article VI – Performance Standards, Section 77 – Marijuana Establishments - Odor Complaints and Enforcement.**

Planning Board Meeting: November 1, 2023

SAMPLE MOTION #1 – Table A:

- A. Motion to Approve: I motion to APPROVE the proposed Amendments to Code of Ordinances, Part III: Land Development Regulations, Amendment to Table A “Table of Land Uses” allow adult use marijuana retail sales within the City’s I-1, I-2 and I-3 zoning districts, as a “Conditional Use”, as written.
- B. Motion to Deny I motion to DENY the proposed Amendments to Code of Ordinances, Part III: Land Development Regulations, Amendment to Table A “Table of Land Uses” allow adult use marijuana retail sales within the City’s I-1, I-2 and I-3 zoning districts, as a “Conditional Use”, for the following reasons:
- 1) _____.
 - 2) _____.
 - 3) _____.
- C. Motion to Table: I motion to TABLE the proposed Amendments to Code of Ordinances, Part III: Land Development Regulations, Amendment to Table A “Table of Land Uses” allow adult use marijuana retail sales within the City’s I-1, I-2 and I-3 zoning districts, as a “Conditional Use”, for the following reasons:
- 1) _____.
 - 2) _____.
 - 3) _____.

SAMPLE MOTION #2 – Marijuana Odor Complaints:

Amendments to Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 77 – Marijuana Establishments, to adopt odor complaint regulations into the City’s Land Use Ordinance to standardize the rules and enforcement of odor complaints at marijuana related business operating within the City.

A. Motion to Approve: I motion to APPROVE the proposed Amendments to the City’s Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 77 – Marijuana Establishments, to adopt odor complaint regulations into the City’s Land Use Ordinance to standardize the rules and enforcement of odor complaints at marijuana related business operating within the City, as written and proposed.

B. Motion to Deny: I motion to DENY the proposed Amendments to the City’s Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 77 – Marijuana Establishments, to adopt odor complaint regulations into the City’s Land Use Ordinance to standardize the rules and enforcement of odor complaints at marijuana related business operating within the City, for the following reasons:

- 1) _____.
- 2) _____.
- 3) _____.

C. Motion to Table: I motion to TABLE the proposed Amendments to the City’s Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 77 – Marijuana

Zoning Ordinance Amendment: Code of Ordinances, Part III: Land Development Regulations

- 1. Amendment to Table A “Table of Land Uses” allow adult use marijuana retail sales within the City’s I-1, I-2 and I3 zoning districts.**
- 2. Article VI – Performance Standards, Section 77 – Marijuana Establishments - Odor Complaints and Enforcement.**

Planning Board Meeting: November 1, 2023

Establishments, to adopt odor complaint regulations into the City’s Land Use Ordinance to standardize the rules and enforcement of odor complaints at marijuana related business operating within the City, for the following reasons

- 1) _____.
- 2) _____.
- 3) _____.

ATTACHMENTS

1. Attachment # 1: Table A “Table of Land Uses” including “Marijuana store, adult use” as Conditional Uses (“C”) within the City’s I-1, I-2 and I-3 zoning districts, including the Use as “C” for “Conditional Use”.
2. Attachment #2: Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 77 – Marijuana Establishments including proposed amendments.

Article VI. Performance Standards

Section 77. Marijuana establishments.

DRAFT ORDINANCE AMENDMENTS

Planning Board Review / Workshop #1: September 20, 2023

Article VI. Performance Standards

Section 77. Marijuana establishments.

[Added 1-17-2017 by Ord. No. 2016.88; amended 1-19-2021 by Ord. No. 2021.1]

- 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 establishment 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 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.

Article VI. Performance Standards

Section 77. Marijuana establishments.

DRAFT ORDINANCE AMENDMENTS

Planning Board Review / Workshop #1: September 20, 2023

- 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 by-products 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-products 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.
- C. Separation of marijuana establishments. No new marijuana establishment may be located within any building that is located within 500 feet of any other building containing a marijuana establishment.
- D. Odor Disobedience Process. Any licensed operator who receives multiple, legitimate complaints for the cannabis odor emitted by their business, may be unable to renew their business license, and therefore also may become unable to operate within the City of Biddeford.
- a) First complaint - The office of code enforcement will review the complaint, and current odor abatement plan. The Operator will have 30 days to address the problem and come up with a solution. After which they will have another 60 days to fix the issue(s).
 - b) After these initial 90 days the business should stay complaint free. If another complaint is made they will have another 90 days to address and fix the issue.
 - c) If three complaints are made throughout the licensed year, the operator will need to update their odor abatement plan, go through the site plan review process, and may not be granted a renewed license.
 - d) If the operator's license is up for renewal within the 90 days of a complaint the city may offer an extension or temporary license to allow for proper reconditioning of the odor abatement system.

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
1	MARIJUANA USE CLASSIFICATIONS	Table A - Table of Land Uses																						
2		Article 5 Section	SR-1	CR	R-1-A	R-1-B	R-2	R-3	B-1	B-2	I-1	I-2	I-3	W-1	W-2	W-3	R-F	LR-F	M	IN	OR	MSRD-1	MSRD-2	MSRD-3
3	Marijuana Caregiver Retail Store	77									C	C	C											
4	Marijuana Store, Adult Use	77									C	C	C											
5	Marijuana Cultivation Facility	77									C	C	C											
6	Marijuana Testing Facility	77									C	C	C											
7	Marijuana Products Manufacturing Facility	77									C	C	C											



Policy Committee

Meeting Date: September 25, 2023

Meeting Time: 6:00 PM

Agenda Item No:

Item Description: Article V Establishment of Zones; Table A: Table of Land uses

Submitted by: Roby Fecteau, Director of Code Enforcement/ David Galbraith, City Planner

Supporting Information/Documentation:

Key Terms:

N/A

Executive Summary:

Staff is recommending adult use marijuana sales be added to the table of land uses as a conditional use permit in the following zones, I1, I2 and I3 zones

Detailed Review:

Maine law allows the delivery of adult use marijuana in Biddeford. This amendment would allow adult use stores in in zones where medical use stores are currently allowed. Biddeford does have a 500' setback for new establishments. Existing establishments may transition to adult use and this setback would not apply.

Permitting adult use storefronts in these zones made sense to staff because we have had zero issues with medical marijuana sales and existing marijuana businesses have not expressed concerns with the locations.

Expanding the sale of adult use sales to other zones, may create economical differences in the price per square foot for rental space or the sale of property. In the very beginning of Marijuana operations in Maine, many communities saw a spike in the rental price for space because, operators were paying over the average price to set up locations. Permitting adult use to existing zones where medical marijuana is currently allowed, would not reintroduce the economic differences in other zoning districts.

This amendment will require Planning Board approval prior to council action

Funding Source:

N/A

Staff Recommendation:



Policy Committee

Meeting Date: September 25, 2023

Meeting Time: 6:00 PM

Agenda Item No:

Item Description: Performance Standards Sec. 77 Marijuana Establishments

Submitted by: Roby Fecteau, Director of Code Enforcement/ David Galbraith, City Planner

Supporting Information/Documentation:

Key Terms:

N/A

Executive Summary:

Staff is recommending a section be added to the Performance Standards section 77 Marijuana. This added language deals with the number of odor complaints and what steps needed to review ongoing complaints.

Detailed Review:

All marijuana uses require a conditional permit from the planning board. Many of the Notices of decisions included language about the number of odor complaints and the need to additional review from planning board. That language is not supported in the ordinance. This amendment defines the process.

This amendment will require Planning Board approval prior to council action

Funding Source:

N/A

Staff Recommendation:

ESTABLISHMENT OF ZONES
V Attachment 2
City of Biddeford
Table B

DRAFT Amendments – Density Bonus Ordinance
Planning Board Public Hearing: November 1, 2023

BIDDEFORD CODE NOTES for Table B:

N/A: Not allowed.

* A new structure may be permitted to be built with less than the required setback, provided that the following are met:

1. The setback will be equal to the average front yard setback of the existing houses on the immediately adjacent lots; and
2. The setback shall be at least 15 feet; and
3. These provisions shall apply only along existing residential streets which were developed prior to the enactment of the present front yard setback requirements.

** The Building Inspector may allow a lessening of setback requirement for access structures, as necessary, to facilitate reasonable handicapped accessibility. This provision shall apply to existing structures only. Any access structure built under this provision shall be temporary to facilitate the handicapped or disabled occupant and shall be removed when no longer needed.

+ Maximum height is exclusive of chimneys, antennae, and roof-mounted, building-integrated, building-mounted or architectural wind systems when attached to a structure. Chimneys and antennae shall not be higher than 12 feet above the structure. Roof-mounted, building-integrated, building-mounted or architectural wind systems shall not be higher than 15 feet above the maximum allowed building height in the zone.

A. Minimum land area per dwelling unit.

B. In order to promote condominium forms of housing and affordable housing in close proximity to downtown and services, in the R-1-A, R-1-B, R-2, R-3, OR, and MSRD-2 Zoning Districts, the density requirements may be relaxed as follows:

1. Redevelopment of existing structures:

- a. The Planning Board, or other appropriate approval authority, shall consider granting a density bonus of one residential unit for every 500 square feet of gross building living space floor area, excluding unfinished basements, within an existing structure, provided the applicant presents redevelopment/renovation plans to the Code Enforcement Officer demonstrating how the redevelopment project will result in the number of residential units with two or more bedrooms being at least, if not more than, the number of units with two or more bedrooms before the density bonus was granted.
- b. If the project is provided a density bonus, the Code Enforcement Officer shall document the allowable density and number of units, in writing, for the Code Enforcement Office files.

ESTABLISHMENT OF ZONES

V Attachment 2

City of Biddeford

Table B

DRAFT Amendments – Density Bonus Ordinance

Planning Board Public Hearing: November 1, 2023

- c. An applicant provided a density bonus for rental housing shall enter into a thirty (30) year contractual agreement with the City of Biddeford requiring that at least ~~51%~~ 30% of the additional units created shall be leased such that they do not exceed ~~80%~~ 70% of the fair market rent (FMR) per bedroom size, as established annually by the U.S. Department of Housing and Urban Development (HUD). The contractual agreement shall be recorded at the York County Registry of Deeds, a copy of which shall be provided to the Code Enforcement Office prior to the issuance of any building permits. Rent-restricted units will be annually monitored by the Planning and Development Department for contract compliance.
 - d. For projects proposing to demolish and rebuild an existing building, the existing approved density, may be re-utilized within the redevelopment.
2. Density Bonus Review Process: Expansions of low/moderate income (LMI) projects shall be reviewed as followed:
- a. Where expansions of affordable housing units under this provision are being utilized, up to a maximum of eight (8) or less units being created, shall be reviewed and approved by the City's Staff Review Committee (SRC). Projects exceeding eight (8) units shall be reviewed by the Planning Board for Site Plan and Subdivision review.
 - b. Parking standards for affordable housing projects of this nature, shall provide a minimum of one parking space for every two (2) low/moderate income (LMI) housing units created. For units exceeding the low/moderate income (LMI) threshold, parking shall be provided as required within the City's parking standards.
3. Vacant Land Development: For vacant lots located within the R-1-A, R-1-B, R-2, R-3, OR, and MSRD-2 Zoning Districts, utilizing the density bonus standards within Section B, for low/moderate income (LMI) housing developments, may increase the base density by 2.5% of the particular zoning district where the lot is located.
4. The developer may elect to utilize either the 500 square feet of gross building living space floor area calculation outlined in Section 1A, or increasing the base density by 2.5%, as outlined in Section 3, providing it equates to more affordable housing being provided.
2. 5. Condominium conversions/development:
- a. A property may be proposed for redevelopment/renovation from apartments into condominiums in accordance with 1 above.
 - b. An applicant provided a density bonus for condominiums shall enter into a contractual agreement with the City of Biddeford obligating them to complete the project as condominiums to be offered for sale upon or before completion of the project in return for receiving the density bonus. The contractual agreement shall be recorded at the York County Registry of Deeds, a copy of which shall be provided to the Code Enforcement Office prior to the issuance of any building permits.

ESTABLISHMENT OF ZONES
V Attachment 2
City of Biddeford
Table B

DRAFT Amendments – Density Bonus Ordinance
Planning Board Public Hearing: November 1, 2023

- c. The applicant agrees that if the project is converted to condominiums, said units shall not be sold for a price that exceeds 125% of the York County median home price affordable to median-income households as set annually by HUD for the City of Biddeford.
- C. Applies only to dwelling units. All other uses shall have a minimum of 10,000 square feet.
- D. (Reserved)
- E. All buildings and structures shall be set back at least 50 feet from any zone in which residential dwellings are an allowed use, except as otherwise provided in this table.
- F. (Reserved)
- G. (Reserved)
- H. Roadside stands may be 10 feet from the major access road.
- I. This is the density limit for the expansion of existing residential dwelling units.
- J. Applies to all uses.
- K. Hospital height limit shall be 110 feet.
- L. Does not apply to cluster development.
- M. The number of accessory structures shall meet setback requirements; and shall be limited to no more than three per lot; and shall not exceed the height of the primary structure; and any plumbing, if necessary, shall be limited to a utility sink. Structures associated with bona fide working agricultural uses are not subject to these limits.
- N. Any use not serviced by a public water supply must show evidence that it is serviced by a potable water supply meeting minimum state standards for safe drinking water.
- O. Any residential structures in existence prior to December 20, 1990, may be expanded or added to as long as they meet minimum setbacks (from major access, 40 feet; from other streets, 25 feet; from side and rear property lines, 10 feet).
- P. The location of new or expanded buildings and structures including the replacement of existing buildings in the Institutional Zone shall conform to the approved Institutional Master Plan and the following dimensional standards:
 - 1. Maximum height. The maximum height of buildings in the Institutional Zone shall be 35 feet, 50 feet, or 65 feet depending upon in which building height subdistrict the building is located. The building height subdistricts and maximum building heights are shown on the Institutional Zone Subdistrict Map dated September 6, 2001, and described in boundary descriptions prepared by an independent registered land surveyor licensed to practice in the State of Maine which are made a part of this ordinance. Notwithstanding the maximum building height provision, the tallest point of any building

ESTABLISHMENT OF ZONES
V Attachment 2
City of Biddeford
Table B

DRAFT Amendments – Density Bonus Ordinance
Planning Board Public Hearing: November 1, 2023

or structure, including appurtenant structures, in the Institutional Zone shall not exceed 115 feet above sea level based upon the national geodetic vertical datum (NGVD), unless a higher elevation is mandated as part of a state or federal environmental approval or permit.

2. Minimum building setbacks from public streets. All buildings in the Institutional Zone shall conform to the following minimum setbacks from public streets:

- South side of Hills Beach Road from intersection with Old Pool Road east to a point 250 feet west of the zone boundary/property line: 25 feet.
- South side of Hills Beach Road from a point 250 feet west of the zone boundary/property line east to the zone boundary: 50 feet with a provision that it can be reduced to 25 feet if replacement buildings at the housing park are located further from the wetland.
- North side of Hills Beach Road from intersection with Old Pool Road east to the zone boundary: 50 feet.
- Both sides of Hills Beach Road from intersection with Old Pool Road west to the zone boundary at Route 9: 50 feet with a provision that it can be reduced to 25 feet when a Hills Beach bypass is built that conforms to the following standards and is approved as part of the Institutional Master Plan.
- Both sides of Old Pool Road: 50 feet.
- Both sides of Pool Road (Route 9): 50 feet.
- Both sides of Newtown Road: 40 feet.
- Both sides of the Hills Beach bypass road when built: 50 feet.

The reduced setback along the westerly portion of Hills Beach Road shall be effective only if a Hills Beach bypass road has been constructed that meets the following standards:

- a. The road shall be designed and located to allow traffic to Hills Beach to travel directly from Route 9 to the approximate vicinity of the intersection of Old Pool Road and Hills Beach Road without using campus roads.
- b. The intersection with Route 9 will be located at an appropriate location for this use.
- c. The road shall be designed as a limited access facility with not more than one curb cut on each side providing campus access through internal campus streets. These curb cuts shall be in addition to any intersections with public streets or roads.
- d. No buildings or parking lots shall have direct access to or from the bypass road.
- e. A landscaped street buffer shall be established as provided for in Section 43 of Article VI.

ESTABLISHMENT OF ZONES
V Attachment 2
City of Biddeford
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DRAFT Amendments – Density Bonus Ordinance
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3. Minimum building setback from the perimeter of the Institutional Zone. All buildings shall be setback a minimum of 50 feet from the external boundary of the Institutional Zone where such zone boundary abuts a Suburban Residential (SR-1), Coastal Residential (CR), or Rural-Farm (R-F) Zone. The area along the zone boundary shall be maintained as a landscaped buffer in accordance with the provisions of Article VI, Section 12.
4. Maximum lot coverage. The maximum lot coverage shall be as follows:
 - a. Within the area south of Route 9 and west of the Newtown Road: 10%.
 - b. Within the area South of Route 9 and east of the Newtown Road: 30%.
 - c. Within the area North of Route 9: No maximum except as provided for in 5, Restricted Development Areas.
- 5.-Restricted development areas. Within the areas identified as “No Build Zones” on the Institutional Zone Subdistrict Map dated September 6, 2001, and described in boundary descriptions prepared by an independent registered land surveyor licensed to practice in the State of Maine which are made a part of this ordinance, the following additional requirements shall apply:
 - a. No new buildings, parking, roads, or access drives shall be constructed except for the construction of a Hills Beach bypass road and connections to the bypass road from existing public streets.
 - b. Existing buildings, parking, roads, and access drives may be maintained and may be improved with Planning Board approval but may not be relocated or expanded except as provided for in a.
 - c. The existing student housing park located on the south side of the Hills Beach Road may be replaced with new low-impact academic or support facilities. Low impact is defined as meeting the following standards:
 - 1). The replacement has been approved as part of the institutional master plan.
 - 2). The total footprint area of all replacement buildings and structures shall not exceed 14,400 square feet.
 - 3). The amount of nonvegetated area after redevelopment shall be not more than the amount of nonvegetated area existing at the time of adoption of this provision.
 - 4). No buildings, structures, parking, or other impervious surfaces shall be located closer to any adjacent wetland or the external boundary of the Institutional Zone than the existing facilities being replaced and, where possible, the setback from wetlands shall be increased.
 - 5). The architectural design of the low-impact academic or support facilities shall be compatible with the adjacent residential character, consistent with the approved University

ESTABLISHMENT OF ZONES
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Master Plan Architectural Design Standards, and shall be limited to a maximum height of 35 feet.

- ~~6.~~ 6. The low-impact academic or support facilities shall have no greater impact on the adjacent wetlands, than did the development existing at the time of the approval of the 2003-2007 Master Plan (approved May 7, 2003), as demonstrated by a wetlands delineation plan and stormwater management plan submitted as part of the application for site plan approval.
- ~~7.~~ 7. The low-impact academic or support facilities shall have no greater light intrusion, noise or traffic impact (both vehicular and pedestrian) on adjacent residential properties, than did the development existing on the site at the time of the approval of the 2003-2007 Master Plan (approved May 7, 2003), as demonstrated by a noise mitigation plan and traffic study submitted as part of the application for site plan approval.

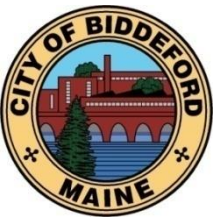
d. No new athletic fields or athletic facilities shall be constructed.

e. Existing athletic fields may be maintained and improved but may not be expanded.

Improvements to the existing fields shall be limited to items such as fencing, buffering, portable grandstands, scoreboards, lighting, temporary rest room facilities, storage sheds with less than 300 square feet of floor area, and similar facilities.

f. The areas not currently used for athletic fields, parking or the student housing park shall be maintained as naturally vegetated areas and shall not be converted to lawns or other improved open space. Existing vegetation shall be maintained subject to sound management practices relative to cutting, thinning, pruning, and similar activities.

- Q. Existing nonconforming lots or structures may be considered for conversion to nonresidential uses allowed in the OR Zone, provided that neither structure nor lot are made more nonconforming as a result of the conversion.
- R. The setback may be reduced to the average of the lots immediately adjacent to the lot, as determined by the Code Enforcement Officer.
- S. The Building Inspector may allow a lessening of setback requirements, to no less than 10 feet, for utility buildings and structures to facilitate utility infrastructure improvements. Any such buildings or structures built under this provision shall be removed when no longer used for such necessary utility infrastructure.



CITY OF BIDDEFORD

PLANNING DEPARTMENT

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Planning Board Memorandum

TO: Chair Patoine and Members of the Biddeford Planning Board

FROM: David C.M. Galbraith, Acting Planning Director / City Planner

DATE: October 30, 2023

RE: **Density Bonus Ordinance – Amendments to Table B “Dimensional Requirements”**

MEETING DATE: November 1, 2023

1. Amendment Overview:

The purpose of the proposed Ordinance would allow higher housing densities for Low/Moderate Income housing projects in close proximity to downtown and services, in the R-1-A, R-1-B, R-2, R-3, OR, and MSRD-2 Zoning Districts. A copy of the proposed amendments are attached.

It should be noted that the proposed amendments are located within Table B “Dimensional Requirements” and modifies **only** Item # B, items 1-3, with the exception on modifying original numbering at #4 which was formerly #2, where the numbering progresses in sequential order.

Staff Recommendation:

Staff requests that the Planning Board forward a positive recommendation for adoption of this ordinance amendment to the City Council to bring this Ordinance into compliance with LD2003 and to provide additional incentives for low / moderate Income housing developments. This document includes deleted text in ~~red-strikethrough~~ or new text as blue underlined.

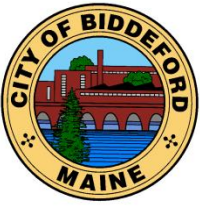
ATTACHMENTS

1. Attachment # 1: Proposed – Density Bonus Ordinance - Amendments to Table B
2. Attachment #2: Amendment to Article II – Definitions - AFFORDIBLE HOUSING DEVELOPMENT

Amendment to Code of Ordinances, Part III: Land Use Development Regulations, Article II – Definitions:

AFFORDABLE HOUSING DEVELOPMENT:

- A. For rental housing, a development in which a household whose income does not exceed 70% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority (51% or more) of the units that the developer designates as affordable in the development, without spending more than 30% of the household's monthly income on housing costs; and
- B. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority (51% or more) of the units that the developer designates as affordable in the development without spending more than 30% of the household's monthly income on housing costs.
- C. Affordable Housing. Housing for which the percentage of income a household is charged in rent and other housing expenses or must pay in monthly mortgage payments (including condominium/HOA fees, mortgage insurance, other insurance and real estate taxes), does not exceed 30% of a household income, or other amount established in City regulations that does not vary significantly from this amount.



CITY OF BIDDEFORD

Planning and Development Department

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Planning Board – Staff Report

TO: Chair Patoine and Members of the Biddeford Planning Board
FROM: David C.M. Galbraith, Deputy Director / City Planner
DATE: October 31, 2023
MEETING DATE: November 1, 2023

RE: NEW ORDINANCE: Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 40 – Inclusionary Zoning (IZ) and a Zoning Text Amendment to Code of Ordinances, Part III: Land Use Development Regulations, Article II – Definitions.

1. Overview:

The proposed Inclusionary Ordinance has previously been discussed with the Planning Board on a couple of occasions. The proposed Ordinance is being proposed as a new Section (40) within the City's Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 40 (New) – Inclusionary Zoning (IZ). As all of the text is new the document is presented "clean" so there is not any blue underlined text, for text additions, or ~~red-strikethrough~~ for text deletions.

The Ordinance also requires a Zoning Text Amendment to the Code of Ordinances, Part III: Land Use Development Regulations, Article II – Definitions to include a new definition for "Affordable Housing Development".

2. Staff Recommendation:

Staff requests that the Planning Board forward a positive recommendation for adoption of this amendment to the City Council to increase low / Moderate Income (LMI) housing within the City and to further bring the City into compliance with LD2003.

ATTACHMENTS

1. Attachment # 1: Section 40 – Inclusionary Zoning (IZ)
2. Attachment #2: Text Amendment to Code of Ordinances, Part III: Land Use Development Regulations, Article II – Definitions

City of Biddeford, Maine
DRAFT Inclusionary Zoning Regulations
***NEW ORDINANCE: Code of Ordinances, Part III: Land Development**
Regulations, Article VI – Performance Standards,
Section 40 – Inclusionary Zoning.

Planning Board Public Hearing: November 1, 2023

Amendment to Code of Ordinances, Part III: Land Use Development Regulations, Article II – Definitions:

ITEM # 1: New Definition:

Amendment to Code of Ordinances, Part III: Land Use Development Regulations, Article II – Definitions and Article VI – Performance Standards, and included within Section 40 – Inclusionary Zoning.

40.1 AFFORDIBLE HOUSING DEVELOPMENT:

- A. For rental housing, a development in which a household whose income does not exceed 70% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority (51% or more) of the units that the developer designates as affordable in the development, without spending more than 30% of the household's monthly income on housing costs; and
- B. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority (51% or more) of the units that the developer designates as affordable in the development without spending more than 30% of the household's monthly income on housing costs.
- C. Affordable Housing. Housing for which the percentage of income a household is charged in rent and other housing expenses or must pay in monthly mortgage payments (including condominium/HOA fees, mortgage insurance, other insurance and real estate taxes), does not exceed 30% of a household income, or other amount established in City regulations that does not vary significantly from this amount.

40.2 Workforce housing unit for rent for which:

- A. The rent is affordable to a household earning 100% or less than of AMI.
- B. The unit is rented to a household earning 100% or less than of AMI.
- C. The requirements of (A) and (B) above are limited by deed restriction or other legally binding agreement for the applicable length of time in this ordinance.

City of Biddeford, Maine
DRAFT Inclusionary Zoning Regulations
***NEW ORDINANCE: Code of Ordinances, Part III: Land Development**
Regulations, Article VI – Performance Standards,
Section 40 – Inclusionary Zoning.

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40.3 Purpose

It is in the public interest to promote an adequate supply of housing that is affordable to a range of households at different income levels. The purpose of this section therefore is to offer incentives to developers to include units of affordable and workforce housing within development projects, thereby mitigating the impact of market rate housing construction, or the demonstrated increase in affordable housing needs resulting from the creation of new lower-income jobs, on the limited supply of available land for suitable housing, and helping to meet the housing needs of all economic groups within the city. The City believes that this section will assist in meeting the City's comprehensive goals for affordable housing, in the prevention of overcrowding and deterioration of the limited supply of affordable housing, and by doing so promote the health, safety, and welfare of its citizens.

40.4 Ensuring Workforce Housing

- A. Purpose.** Based on the City Council adopted the 2023 City's Comprehensive Plan and the Mayor Affordable Housing Task Force Report dated December 2022, it is in the public interest to promote an adequate supply of housing that is affordable to a range of households at different income levels. The purpose of this subsection is to ensure that housing developments over a certain size provide a portion of workforce housing units and, by doing so, promote the health, safety, and welfare of City of Biddeford citizens. This Ordinance shall regulate properties located within the City's MSRD1 and MSRD3 zoning districts and any undeveloped residentially zoned properties.
- B. Applicability.** This subsection shall apply to development projects that create eight (8) or more net new dwelling units for rent through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a nonresidential use to residential use, or any combination of these elements. This ordinance shall not apply to projects as follows:
- a. Using public financing requiring affordability restrictions, as defined by tax increment financing, U.S. Department of Housing and Urban Development funds such as HOME or CDBG, other federal, state, or local housing program, or the Low-Income Housing Tax Credit Program or
 - b. Existing residential projects with Planning Board and/or City Council approvals.
 - c. Projects that qualify for a Density Bonus pursuant to "Table B – Dimensional Requirements".

City of Biddeford, Maine
DRAFT Inclusionary Zoning Regulations
***NEW ORDINANCE: Code of Ordinances, Part III: Land Development**
Regulations, Article VI – Performance Standards,
Section 40 – Inclusionary Zoning.

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C. Standards. Development projects subject to this subsection shall be subject to the following requirements:

1. Notwithstanding any language to the contrary in this Land Use Code, all developments of eight (8) units or more are conditional uses subject to Planning Board review on the condition that they comply with the requirements of this subsection.
2. At least 10% of the units in the project shall meet the definition of workforce housing units for rent to an eligible household, as defined in Article I, In General. The project shall have the option of paying a partial fee-in-lieu as outlined in Subsection 6a below. Where the required number of units results in a fraction of less than 0.5, the required number of onsite units is rounded down to the nearest whole number. Where the required number of units results in a fraction of 0.5 or more, the development project shall have the option of paying a partial fee-in-lieu for the fractional value or rounding the number of onsite units up to the nearest whole number.
3. Projects shall not be segmented or phased to avoid compliance with these provisions. In cases where projects are completed in phases, affordable units shall be provided in proportion to the development of market rate units unless otherwise permitted through regulations.
4. Workforce units must be integrated with the rest of the development, must use a common entrance, and must provide no indications from common areas that these units are workforce housing units. Exteriors of affordable units shall be consistent with and indistinguishable from the exteriors of other units in the project. Workforce units shall be comparable in materials, interior finishes, amenities, and parking to dwelling units in the neighborhood and in the development in which they are located.
5. Workforce units need not be the same size as other units in the development but the number of bedrooms in such units shall be no less than 10 percent of the total number of bedrooms in the development. For the purposes of calculating the number of bedrooms in a development, every 400 square feet in each market rate unit will count as a bedroom if the Planning Authority determines this method is appropriate in lieu of counting actual bedrooms.
6. As an alternative to providing workforce housing units, the project may:
 - a. Pay a fee-in-lieu of some or all of the units. In-lieu fees shall be paid into the Housing Trust Fund. The fee for affordable units not provided shall be \$100,000 per unit. The payment shall be required in conjunction with a request for a Certificate of Occupancy.
7. If at least 33% of the units in a development are workforce units, the development is eligible for subsidy through an Affordable Housing Tax Increment Financing (TIF) District Credit Enhancement Agreement, subject to City Council approval.

City of Biddeford, Maine
DRAFT Inclusionary Zoning Regulations
***NEW ORDINANCE: Code of Ordinances, Part III: Land Development**
Regulations, Article VI – Performance Standards,
Section 40 – Inclusionary Zoning.

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8. The term of affordability for the required % workforce units provided shall be thirty (30) years.

D. Implementing regulations. Regulations to further specify the details of this subsection shall be developed, including, but not limited to:

1. Specific methodology for income verification.
2. Situations where less than permanent affordability might be considered.

E. Reporting to City Council. In conjunction with the annual report on the Housing Trust Fund, the Planning Authority shall annually report on developments subject to this subsection, the number of units produced, the amount of fee-in-lieu collected, and the overall effectiveness of this subsection in achieving its stated purpose.

F. Sunset Regulations. Municipal Inclusionary Zoning Regulations will sunset within ten (10) years following City Council adoption unless extended by the City Council. All Inclusionary Zoning Projects approved by the Planning Board shall remain in full effect if the Inclusionary Zoning Regulations Sunset.

Amendment to Code of Ordinances, Part III: Land Use Development Regulations, Article II – Definitions:

AFFORDABLE HOUSING DEVELOPMENT:

- A. For rental housing, a development in which a household whose income does not exceed 70% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority (51% or more) of the units that the developer designates as affordable in the development, without spending more than 30% of the household's monthly income on housing costs; and
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