City of Biddeford
City Council
October 19, 2021 6:00 PM Council Chambers & via Zoom
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1. **Roll Call**
2. **Pledge of Allegiance**
3. **Adjustment(s) to Agenda**
4. **Proclamations:**
   - 4.a. Lung Cancer Awareness Month - November 2021
     10-19-2021 Proc-Lung Cancer Awareness Month.pdf
   - 4.b. Extra Mile Day - November 1, 2021
     10-19-2021 Proc-Extra Mile Day-PDF.pdf
5. **Consideration of Minutes:**
   - 5.a. October 5, 2021 Council Meeting Minutes
     10-05-2021 Council Meeting Minutes.docx
6. **Second Readings:**
   - 6.a. 2021.101) Amendment/Land Development Regulations/Art. XIII-Amendments/Section 3-Contract and Conditional Zoning/Add Adams Street Contract Zone
     10-05-2021 Adams Point Contract Zone-ORDER.docx
     10-05-2021 Adams Point Contract Zone-MEMO.pdf
     10-05-2021 Adams Point Contract Zone-PB Notice of Decision.pdf
     10-05-2021 Adams Point Final Approval-Notice of Decision.pdf
     10-05-2021 Adams Point-Draft Contract Zone Agreement.pdf
   - 6.b. 2021.102) Amendment/Land Development Regulations/Art. VI-Performance Standards/Section 56-Restaurants - Add Mobile Food Vendor Courts in the MSRD-1 and MSRD-3 Zones; and Ch. 22, Businesses/Sec. 22-17 to 22-21.1/Add Mobile Food Vendor Courts
     10-05-2021 Mobile Food Vendor Courts - ORDER-PDF.pdf
     10-05-2021 Mobile Food Vendor Courts -MEMO.pdf
     10-05-2021 Mobile Food Vendor Courts-DDC Recommendation.pdf
7. **Orders of the Day:**

7.a. 2021.106) Approval/MainePERS (Public Employees Retirement System) Change in Option to Enroll
10-19-2021 MPERS Enrollment Option Change-ORDER.doc
10-19-2021 MPERS Option Change-backup docs.pdf

7.b. 2021.107) Amendment/Ch. 42, Motor Vehicles & Traffic/Sec. 42-90 - No Parking/Add on Main Street, at intersection with Emery Street to Laconia Street
10-19-2021 Main Street-No Parking Emery to Laconia Street.doc
Lower Main Street Traffic Assessment-August 2021.pdf

7.c. 2021.108) Amendment/Ch. 42, Motor Vehicles & Traffic/Sec. 42-90 - No Parking/Add and Delete on Foss Street; and Sec. 42-92 - Limited Parking/Delete on Foss Street
10-19-2021 Foss Street-No Parking King to Main St-ORDER.doc
10-19-2021 Foss Street-No Parking King to Main St-MEMO.docx
10-19-2021 Foss Street Traffic Assessment-October 2021.pdf

7.d. 2021.109) Approval/Blanket Letter of Approval for Game of Chance & Beano/Bingo Applications for 2022
10-19-2021 Blanket Letter Approval-Gaming Apps-ORDER.docx
10-19-2021 Blanket Letter Approval-Gaming Apps-LETTER.docx

7.e. 2021.110) Approval/Extension of City Manager Employment Contract
10-19-2021 City Manager Contract Extension-ORDER.doc
10-19-2021 City Manager Contract.pdf

8. Public Addressing the Council..(5 minute limit per speaker; 30 minute total time limit)

9. City Manager Report

10. Other Business

11. Council President Addressing the Council

12. Mayor Addressing the Council

13. Adjourn

City of Biddeford

STATE OF MAINE

PROCLAMATION

Whereas lung cancer is the leading cause of cancer death among men and women in the United States and in Maine in 2021, accounting for more deaths than colon cancer, breast cancer, and prostate cancer combined;

Whereas, according to the Maine Center for Disease Control & Prevention, there were 1,396 new lung cancer cases and 920 deaths because of lung cancer in 2017 in Maine;

Whereas, the 5-year survival rate for localized lung cancer is ~59%, yet only ~17% of lung cancers are diagnosed at this stage;

Whereas, screening for lung cancer for high-risk individuals using low-dose computed tomography can lead to the earlier detection of lung cancer and save lives, reducing the mortality by 20% when compared to screening by chest x-ray in the National Lung Screening Trial and reducing the risk of death at 10 years by 24% in men and 33% in women as demonstrated by another large randomized trial;

Whereas, funding for lung cancer research trails far behind funding for research of many other cancers, and additional research is needed in early diagnosis, screening, and treatment for lung cancer as well as in lung cancer affecting women and lung cancer health disparities;

Whereas, lung cancer incidence is decreasing twice as fast in men as it is in women, each year more women die from lung cancer than breast cancer and by 2035, more women will die from lung cancer than men;

Whereas, African Americans have the highest lung cancer incidence and mortality of all races, and disparities in lung cancer screening, diagnosis, treatment, and mortality are well characterized among African Americans and other racial minorities;

In Witness Whereof, We, the undersigned have herewith affixed our signatures this 19th *day of* October 2021

Carmen J. Mon
City Clerk

Mayor

City of Biddeford

STATE OF MAINE

PROCLAMATION

Whereas lung cancer in never smokers is the 7th leading cause of cancer-related death and accounts for 17,000-26,000 deaths in the US every year(7), 60-70% of never smokers diagnosed with lung cancer are women(9,10), and the proportion of lung cancers diagnosed in never smokers is increasing in the US;

Whereas, organizations working in the Biddeford community, such as the American Lung Cancer Screening Initiative and Women's Lung Cancer Forum, are committed to educating about lung cancer and lung cancer screening and working to increase lung cancer screening rates in Biddeford.

Now Therefore, I, Mayor Alan Casavant, and the Biddeford City Council do hereby proclaim **November 2021 as Lung Cancer Awareness Month** in Biddeford, and recognize the need for research in lung cancer affecting women and lung cancer health disparities, and encourage all citizens, to learn about lung cancer and early detection through lung cancer screening.

In Witness Whereof, We, the undersigned have herewith affixed our signatures this 19th *day of* October 2021

Carmen J. Maw
City Clerk

Mayor

City of Biddeford

STATE OF MAINE

PROCLAMATION

Whereas Biddeford is a community which acknowledges that a special vibrancy exists within the entire community when its individual citizens collectively "go the extra mile" in personal effort, volunteerism, and service; and

WHEREAS, Biddeford is a community which encourages its citizens to maximize their personal contribution to the community by giving of themselves wholeheartedly and with total effort, commitment and conviction to their individual ambitions, family, friends and community; and

WHEREAS, Biddeford is a community which chooses to shine a light on and celebrate individuals and organizations within its community who "go the extra mile" in order to make a difference and lift up fellow members of their community; and

WHEREAS, Biddeford acknowledges the mission of Extra Mile America to create 550 Extra Mile cities in America and is proud to support "Extra Mile Day" on November 1, 2021.

NOW THEREFORE, I, Alan M. Casavant, Mayor of Biddeford do hereby proclaim November 1, 2021 to be ***Extra Mile Day***. I urge each individual in the community to take time on this day to not only "go the extra mile" in his or her own life, but to also acknowledge all those who are inspirational in their efforts and commitment to make their organizations, families, community, country, or world a better place.

In Witness Whereof, We, the undersigned have hereunto affixed our signatures this 19th *day of* October 2021

Carmen J. Morin
City Clerk

Mayor

SPECIAL COUNCIL MEETING
OCTOBER 5, 2021

Mayor Casavant called the meeting to order at 5:00 p.m.

Roll Call: William Emhiser, John McCurry, Jr., Stephen St. Cyr, Ashanti Williams, Amy Clearwater, Norman Belanger, Michael Ready, Marc Lessard

Doris Ortiz was excused.

Executive Session:

- **1 MRSA 405(6)(D)…Labor Contract Negotiations**
- **1 MRSA 405(6)(A)…Personnel Matter**

Motion by Councilor McCurry, seconded by Councilor Ready to move into Executive Session.
Vote: Unanimous. Time: 5:00 p.m.

Motion by Councilor McCurry, seconded by Councilor Clearwater to move out of Executive Session.
Vote: Unanimous. Time: 6:11 p.m.

Motion by Councilor McCurry, seconded by Councilor Clearwater to adjourn.
Vote: Unanimous. Time: 6:11 p.m.

COUNCIL MEETING
OCTOBER 5, 2021
NOTE: Due to COVID-19, this meeting was held in-person in the Council Chambers, as well as virtually (via ZOOM),

Mayor Casavant called the meeting to order at 6:18 p.m.

Roll Call: William Emhiser, John McCurry, Jr., Stephen St. Cyr, Ashanti Williams, Amy Clearwater, Norman Belanger, Michael Ready, Marc Lessard

Doris Ortiz was excused.

The Council, and all who were present, recited the Pledge of Allegiance.

There were no adjustments to the agenda.

Presentation: **GIS Update**
GIS System Manager Greg Copeland gave a presentation on the different features of the City's GIS System – from various mapping programs to the ability for citizens to see who their Councilors are and even view a Sample Ballot, when available.

Consideration of Minutes: **September 21, 2021**
Motion by Councilor McCurry, seconded by Councilor Clearwater to accept the minutes as printed.
Vote: Unanimous.

Orders of the Day:
2021.99 IN BOARD OF CITY COUNCIL…OCTOBER 5, 2021
BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, Chapter 42, Motor Vehicles and Traffic, Article IV Specific Street Regulations, **Section 42-90 No Parking**, be amended by <u>adding</u> or deleting to read as follows:

<u>Main Street, even-numbered side, beginning at a point of the perpendicular sight line with the northeast corner of the intersection with Foss Street, thence westerly to Laconia Street, No Parking.</u>

NOTE: The Policy Committee considered this ordinance amendment at their September 27, 2021 meeting and voted unanimously to recommend passage by the Council.

Motion by Councilor McCurry, seconded by Councilor Lessard to grant the first reading of the ordinance amendment.
Vote: Unanimous.

Motion by Councilor McCurry, seconded by Councilor Lessard to suspend the rules to consider this as an emergency ordinance and allow for an immediate second reading and effective date due to safety issues.
Vote: Unanimous.

Motion by Councilor McCurry, seconded by Councilor Lessard to grant the second reading of the ordinance amendment.
Vote: Unanimous.

2021.100 IN BOARD OF CITY COUNCIL..OCTOBER 5, 2021

BE IT ORDERED, that the City Council of the City of Biddeford does hereby ~~advise~~ **request** the Planning Board ~~of its endorsement of~~ **review** the concept of a new Contract Zone for BVH Biddeford, LLC, as outlined in the letter from Barrett Made Architecture + Construction dated September 24, 3021, to allow "public and private schools" at 420 Alfred Street (5 Points Shopping Center) and per Biddeford Code of Ordinances, Part III (Land Development Regulations), Article V (Establishment of Zones), Section 9.F.2, the City Council advises the applicant to continue with the Contract Zoning process.

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

Motion by Councilor Belanger, seconded by Councilor Lessard to amend the order by changing the word "advise" to **request**; and by changing the words "of its endorsement of" to **review**.
Vote: Unanimous.

Vote on order, as amended: 7/1; Councilor McCurry opposed.
Councilors Emhiser, St. Cyr, Williams, Clearwater, Belanger, Ready and Lessard in favor.
Motion carries.

2021.101 IN BOARD OF CITY COUNCIL..OCTOBER 5, 2021

BE IT ORDAINED by the City Council of Biddeford, Maine to amend the Code of Ordinances of the City of Biddeford as follows:

Part III (Land Development Regulations) Article XIII (Amendments), § 3 (Contract and Conditional Zoning) is amended as follows:

Contract Zone #20 Southern Maine Affordable Housing/Adams Point (Tax Map 38, Lot 296).

BE IT FURTHER ORDAINED by the City Council of Biddeford, Maine that Contract Zone #20, as recommended by the Planning Board on September 29, 2021, be adopted, and that said Contract Zone be considered an amendment to the Zoning Ordinance and the Official Zoning Map of the City of Biddeford,

BE IT ORDERED that the City Manager be authorized to sign and execute an Agreement between the City of Biddeford and Southern Maine Affordable Housing to establish said Contract Zone #20.

Motion by Councilor Ready, seconded by Councilor Clearwater to grant the first reading of the ordinance amendment.

Motion by Councilor Lessard, seconded by Councilor McCurry to amend language in the *Findings of Facts and Recommendations of the Planning Board* to change from .75 parking spaces to one parking space per unit.
Vote: 1/7; Councilor Lessard in favor.
Councilors Emhiser, McCurry, St. Cyr, Williams, Clearwater, Belanger and Ready opposed.
Amendment fails.

Vote on ordinance amendment: Unanimous.

BE IT ORDAINED by the City Council of Biddeford, Maine to amend the Code of Ordinances of the City of Biddeford as follows:

Sec. 22-17 Purpose.

The purpose of Sections 22-17 through 22-21.2 is to regulate mobile food vending on property owned or under the control of the City of Biddeford and mobile food vending on private property in order to create a desirable situation where mobile food apparatuses may conduct business.

Sec. 22-18 Definitions.

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings.

EDIBLE GOODS

May include, but are not limited to:

(1) Prepackaged food, including, but not limited to, candy, beverages, chips, popsicles and ice cream.
(2) Prepared food, including, but not limited to, hot dogs, desserts, sandwiches and pizza.
(3) On-site prepared food, including, but not limited to, shaved ice, sandwiches and tacos.

MOBILE FOOD VENDOR

Any business which sells edible goods from a nonstationary location within the City. The terms shall include, but not be limited to:

(1) MOBILE FOOD TRUCK— A self-contained motorized unit selling items defined as "edible goods."
(2) CONCESSION TRAILER— A vending unit which is pulled by a motorized unit and has no power to move on its own.

MOBILE FOOD VENDOR COURT

A collection of mobile food vendors in a common outdoor plaza or site providing a common area for self-serve dining. Mobile Food Vendor Courts are also subject to Article 56 (Restaurants) of the Zoning Ordinance and Planning Board Site Plan Review.

NONREFRIGERATED

Edible goods that are not required to be kept at a temperature below 41° F.

Sec. 22-19 Application and permit.

(a) Permit. Every mobile food vendor shall have a permit issued by the City to conduct business in the City.

(b) Application. Every mobile food vendor shall apply for a permit on a form promulgated by the City. Each vending unit requires a separate permit. Applications for permits meeting the requirements for mobile vendors shall be processed within 10 business days.

(c) Mobile food vendor application form. A complete application shall require the following information from the applicant to be considered:
(1) Name of applicant, as well as physical street address, mailing address, telephone number(s), and e-mail address.
(2) Legal name of business or entity.
(3) Signed permission form, or provide notarized affidavit from the private property owner granting permission for unit placement.
(4) Name, phone number and driver's license number of business owner and all employees operating within the mobile food vendor unit.
(5) Proposed itinerary with route, vending locations and times.
(6) Contact name and phone number for mobile food vending unit while in route.
(7) Description of product being sold.
(8) Site plan where the mobile food vending unit will be located on the property.
(9) Valid and current vehicle/trailer registration of mobile food unit.

Sec. 22-20 Permit regulations.

(a) The application fee for a mobile food vendor permit shall be $200. Each mobile food vendor unit shall be permitted separately.
(b) Mobile food vendor permits shall expire on December 31 of each year.
(c) Mobile food vendors shall provide, at their expense, and keep in force during the term of their contract, with a responsible insurance company or companies authorized to do business in the state, commercial general liability insurance in the amount of at least $1,000,000. The mobile food vendor shall deliver certificates of such insurance to the City at the time of application.
(d) Mobile food vendors shall provide proof of a State of Maine health certificate at the time of application.

(e) Upon renewal the applicant shall pay the renewal fee of $200 and update any changes in the permitting documentation upon permit renewal. The applicant must submit the application and the renewal fee within 30 days before expiration of the permit or must reapply as a new applicant.

(f) The City Manager is authorized to make reasonable rules and regulations, not inconsistent with this section, governing the design, construction and location of pushcarts or food trucks.

(g) Display of permit. Every permit, including those from the City, shall be displayed at all times in a conspicuous place where they can be read by the general public on the mobile food vendor's truck or concession trailer.

Sec. 22-21.1 Prohibited conduct.

(a) Distance regulations:

(1) No mobile food vendor shall conduct business within any single-family residential or agricultural zoning district unless otherwise approved in writing by the Code Enforcement Officer.

(2) A mobile food vendor may not be located within 100 feet of the primary entrance of an open and operating fixed-location food service or eating establishment; or within 40 feet from another mobile food vendor except in the following:

- During City sponsored or other community events; or
- Within a mobile food vendor court consistent with the Article VI (Performance Standards), Section 56 (Restaurants) of the Zoning Ordinance.
-

(b) A mobile food vendor, except when located in a mobile food vendor court, shall not conduct sales at a stationary location:

(1) For a duration exceeding 60 minutes on any public street or public streets adjacent to public parks and recreational facilities, next to fire lanes and no-parking designated areas. Mobile vendors parking on public streets may not move to a new location without prior approval from the City.

(2) In congested areas where the operation impedes vehicular or pedestrian traffic.

(3) Between the hours of 1:00 a.m. and 6:00 a.m.

(c) Offenses and regulations.

(1) It shall be unlawful for any individual as the agent or employee of another regulated under this section to sell edible goods in the City unless its principal or employer has received a permit under this section.

(2) A permit issued under this section is not transferable.

(3) It shall be unlawful for an individual to sell edible goods while displaying a valid permit issued by the City in the name of another individual, organization, or entity.

(4) It shall be unlawful for any individual, directly or through an agent or employee, to sell goods within the corporate limits of the City after the expiration of the permit issued by the City under this section.

(5) It shall be unlawful for an individual, directly or through an agent or employee, to misrepresent on the permit affidavit any acts that are regulated under this section.

(6) It shall be unlawful for any individual, directly or through his agents or employees, to represent that the issuance of a permit by the City constitutes the City's endorsement or approval of the product for sale.

Sec. 22-21.2 Mobile food vendor requirements.

The following regulations shall apply to mobile food vendors:

(1) Each unit shall be equipped with a portable trash receptacle and shall be responsible for proper disposal of solid waste and wastewater in the sanitation facility legally accessed by the food service establishment. All disturbed areas must be cleaned following each stop to a minimum 20 feet of the sales location.

(2) Mobile food vendors may not have a drive-through.

(3) Continuous music or repetitive sounds shall not project from the mobile unit.

(4) A five-foot clear space shall be maintained around the mobile food vending unit.

(5) All mobile units shall have a gray water holding tank.

(6) The mobile unit will be subject to inspection upon permit application through the Code Enforcement Department, the Health Department and the Fire Department, and may be subject to random inspection and upon reissuance of the permit.

(7) No sales are allowed within public park facilities while park concession units are operating. Mobile units operating in public parks and on streets adjacent to public parks or recreational facilities require approval by the City's Recreation Director.

Land Development Regulations, Article VI, Section 56 Restaurants.

1. a. The following provisions address restaurants, whether year-round or seasonal, seat down or takeout, building or mobile. Subsections A through E refer to nonmobile food service operations.

b. For the purposes of this section, the term “restaurants” shall be divided into four categories:

(1) Establishments in permanent buildings;

(2) Establishments in mobile units, either towed or self-propelled, preparing and serving food products on a particular site; and

(3) Establishments in mobile units, either towed or self-propelled, serving prepared food products, and travelling to selected locations on a daily basis, and remaining on-site for limited time periods, i.e., during lunch breaks, etc. Such units are often referred to as catering services or food services.

(4) Establishments in mobile food units located in mobile food vendor courts and permitted in the MSRD1 and MSRD-3 Districts.

A. The application for a permit shall state the maximum seating capacity of the restaurant. Any expansion or enlargement over the stated capacity shall require a new permit, and shall comply with setbacks, square footage, and all other requirements of this ordinance.

B. Any restaurant located within 500 feet of an existing public sewer line shall connect with the sewer system at the expense of the owners. When subsurface sewage disposal is proposed, completed soil evaluation forms (HHE-200) shall be submitted. All proposed subsurface disposal systems shall meet the requirements of the Maine State Plumbing Code.

C. All parking and loading facilities shall be located to side or rear of the building, and shall be screened from abutting residential lots. Screening shall be comprised of a continuous landscaped area not less than eight feet in width, containing evergreen shrubs, trees, fences, walls, berms, or any combination, forming a visual barrier not less than six feet in height. In the Rural Farm Zone, the parking and loading facilities shall also be screened from all public roadways.

D. (Reserved)

E. Storage and disposal of refuse, fuel, and other potentially hazardous materials shall be so conducted as to create no health hazard, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. Areas where such activities occur shall be effectively enclosed and screened by safety fences, walls, or any combination thereof.

F. Mobile food service operations shall comply with the State of Maine rules relating to eating and lodging places, as periodically amended, and shall require a victualer's permit from the municipal officers consistent with Section 22-17 to 22-21.2.

a. Further, mobile food service operations, preparing food on-site, unless permanently connected to public utilities and approved by the Planning Board, shall not be left on-site or displayed, or left in public view, in the location of business during nonbusiness hours, unless otherwise conditioned by the City Council in their specific permit/licensing process.

b. The Building Inspector shall review mobile food service operations, preparing food on-site, to ensure, as a minimum, the following:

1. The placement of the vehicle:
   a. Shall not hinder vehicular traffic or cause traffic congestion; and
   b. Shall not hinder, or interfere with, pedestrian traffic; and
   c. Shall not block or otherwise hinder access to or from private property; and
   d. Shall not adversely impact on abutting properties in regards to:
      (1) Noise.
      (2) Odor, fumes or smoke.

(3) Light and glare.

2. The operator shall have written permission from the property owner to locate the vehicle on said property.

3. The operator shall have available, and under written agreement, at least three off-street parking spaces. In cases where on-street parking is available immediately in front, the operator must have one off-street parking space for any vehicle belonging to an employee working on a given shift.

4. a. The operator shall provide at least one fifty-five-gallon covered trash receptacle, or similar sized container, to hold wastes and debris. No paper, food or other wastes shall be allowed to accumulate on-site.
b. The waste container shall be emptied at least daily into an approved commercial dumpster (it being emptied by a licensed hauler on a regular basis) or other suitable and approved means of transport away from the site. It shall be the responsibility of the operator to ensure that all wastes are handled and disposed of properly.

5. The operator shall ensure that there is an adequate supply of potable water for cleaning equipment and the preparation of foods.

6. The operator shall ensure that there is an adequate and safe source of electrical power.

7. The operator shall ensure that all storage of food supplies and other business material is within the vehicle or other container secured to the vehicle. No loose material shall be permitted outside of the vehicle.

8. There shall be no signs placed on sidewalks or other rights-of-way. No temporary or mobile signs shall be allowed.

9. The trailer, or vehicle, being used shall be registered, in good upkeep, and provide a neat appearance.

Motion by Councilor Clearwater, seconded by Councilor McCurry to grant the first reading of the ordinance amendment.
Vote: 7/1; Councilor Lessard opposed.
Councilors Emhiser, McCurry, St. Cyr, Williams, Clearwater, Belanger and Ready in favor.
Motion carries.

2021.103 IN BOARD OF CITY COUNCIL..OCTOBER 5, 2021
BE IT ORDERED, that the City Council of the City of Biddeford does hereby authorize the City Manager to execute the proposed **Public Works Department Supervisory Union Contract** substantially in the form presented to the City.

Motion by Councilor Belanger, seconded by Councilor Clearwater to grant the order.
Vote: 6/2; Councilors McCurry and St. Cyr opposed.
Councilors Emhiser, Williams, Clearwater, Belanger, Ready and Lessard in favor.
Motion carries.

2021.104 IN BOARD OF CITY COUNCIL..OCTOBER 5, 2021
BE IT ORDERED, that the City Council of the City of Biddeford does hereby authorize the City Manager to execute the proposed **Public Works Department Non-Supervisory Union Contract** substantially in the form presented to the City.

Motion by Councilor Belanger, seconded by Councilor Lessard to grant the order.
Vote: 6/2; Councilors McCurry and St. Cyr opposed.
Councilors Emhiser, Williams, Clearwater, Belanger, Ready and Lessard in favor.
Motion carries.

2021.105 IN BOARD OF CITY COUNCIL..OCTOBER 5, 2021

BE IT ORDERED, that the regularly scheduled Council Meeting of November 2, 2021 be postponed to **Thursday, November 4, 2021** due to the State Referendum and Municipal General Election on November 2, 2021.

Motion by Councilor McCurry, seconded by Councilor Belanger to grant the order.
Vote: 7/1; Councilor St. Cyr opposed.
Councilors Emhiser, McCurry, Williams, Clearwater, Belanger, Ready and Lessard in favor.
Motion carries.

Appointments:

IN BOARD OF CITY COUNCIL..OCTOBER 5, 2021

ORDERED, that I, Alan M. Casavant, Mayor of the City of Biddeford, do hereby appoint:

Jenna Driscoll
12 Grenier Avenue
Ward 3

to the *Project Canopy Committee,* for a term to expire in December 2026.

Motion by Councilor Ready, seconded by Councilor Lessard to confirm the appointment.
Vote: Unanimous.

IN BOARD OF CITY COUNCIL..OCTOBER 5, 2021

ORDERED, that I, Alan M. Casavant, Mayor of the City of Biddeford, do hereby appoint:

Janice Goodrow
25 Dandelion Way
Ward 3

to the *Recycling & Waste Management Commission,* for a term to expire in December 2023.

Motion by Councilor Ready, seconded by Councilor Lessard to confirm the appointment.
Vote: Unanimous.

Public Addressing the Council…(5 minute limit per speaker; 30 minute total time limit):
There were no public comments.

City Manager Report:
Chief Operating Office Brian Phinney provided an update on the May Street calming issue: the Police Dept. will be conducting an updated traffic study, and it is expected that it will take about three weeks to get a good sampling of traffic. Staff will review the results of the study and solicit public comments. The hope is to have a proposal before the Council for approval in mid-November.

The Finance Dept. is working through the Berry Dunn Report and will hopefully have a final report by the October 19th Finance and Council Meetings.

A parking garage draft report has been submitted, which provides data on usage. Unfortunately, the data is not broken down in such a way that is useful to the City.

Other Business:
Councilor Lessard: requested that for future processing of agenda items like Union Contracts, that the meeting packets provide the information attached for the item that is being discussed so that the public has the opportunity to review and offer comments.

Councilor Lessard urged folks to order/purchase supplies sooner rather than later since the supply chain in the U.S. is currently under tremendous pressure. He cautioned that supplies may not be available in a few months.

Councilor Ready was pleasantly shocked when he was talking with City Planner Greg Tansley to find out that well over 1000 paper copies of the Comp Plan survey have been returned. He's pleased with the significant response.

Councilor Ready noted that some of the Councilors were able to visit the Lincoln Mill project last week and he was surprised to find out that the developer, Tim Harrington, is encouraging his tenants to use the parking garage. Councilor Ready was under the impression that parking spaces were supposed to be provided as a requirement of the Lincoln Mill project. COO Brian Phinney confirmed that they had to provide X number of parking spaces and the overflow would end up going into the garage. Councilor Ready would like to know how many parking spaces are now available as part of the project.

Council President Addressing the Council: Councilor McCurry announced an upcoming shredding event at the Dept. of Public Works on Saturday, October 9th from 9am to noon.

Councilor McCurry also announced that paving on Main Street from Alfred Street to Hill Street will begin very soon and folks can expect some congestion in that area. The Policy Committee will be discussing the parking in that area at their October 12th meeting, which means that painting of parking spaces in that area of Main Street will be held off until after decisions about parking have been made.

Councilor McCurry asked about the Main-Hill-Water Street project. COO Brian Phinney said that City Manager Jim Bennett will be looking into the status of this project, including the funding issue.

Councilor McCurry brought up the recycling vs. trash issue and asked if Staff is looking at this. COO Brian Phinney confirmed that it is being discussed and will be looking at what the budget implications might be in the FY23 budget. Councilor McCurry would like to see this issue resolved by the end of this November.

Lastly, Councilor McCurry asked for a list of those entities who have a PILOT program with the City and what they are paying.

Mayor Addressing the Council: Mayor Casavant shared that a Biddeford citizen, Robert Provencher recently passed away. Bob was very involved in the community, serving as the President of LaKermesse for many years; as well as a volunteer on various City committees. He will be greatly missed.

Mayor Casavant talked about Governor Mills' visit to Biddeford last week. She toured the new Lincoln Mill project, a few stores on Washington Street, Main Street and Alfred Street, and then visited the Center of Technology at the Biddeford High School. She also had a tour of the Maine Water Plant on South Street.

Lastly, Mayor Casavant reminded folks to be kind; and urged them to remember that there will be shortages of supplies and goods, and that it's not the fault of the workers at the businesses.

Motion by Councilor McCurry, seconded by Councilor Lessard to adjourn.
Vote: Unanimous. Time: 7:27 p.m.

Attest by:_____
Carmen J. Morris, City Clerk

2021.101 **IN BOARD OF CITY COUNCIL..OCTOBER 5, 2021**

BE IT ORDAINED by the City Council of Biddeford, Maine to amend the Code of Ordinances of the City of Biddeford as follows:

Part III (Land Development Regulations) Article XIII (Amendments), § 3 (Contract and Conditional Zoning) is amended as follows:

Contract Zone #20 Southern Maine Affordable Housing/Adams Point (Tax Map 38, Lot 296).

BE IT FURTHER ORDAINED by the City Council of Biddeford, Maine that Contract Zone #20, as recommended by the Planning Board on September 29, 2021, be adopted, and that said Contract Zone be considered an amendment to the Zoning Ordinance and the Official Zoning Map of the City of Biddeford,

BE IT ORDERED that the City Manager be authorized to sign and execute an Agreement between the City of Biddeford and Southern Maine Affordable Housing to establish said Contract Zone #20.

October 5, 2021

Motion by Councilor Ready, seconded by Councilor Clearwater to grant the first reading of the ordinance amendment.

Motion by Councilor Lessard, seconded by Councilor McCurry to amend language in the *Findings of Facts and Recommendations of the Planning Board* to change from .75 parking spaces to one parking space per unit.
Vote: 1/7; Councilor Lessard in favor.
Councilors Emhiser, McCurry, St. Cyr, Williams, Clearwater, Belanger and Ready opposed.
Amendment fails.

Vote on ordinance amendment: Unanimous.

Biddeford City Council

Meeting Date: October 5, 2021
Meeting Time: 6:00 PM

Agenda Item No: 2021.101

Item Description: **Adams Point Housing-Southern Maine Affordable Housing Contract Zone**

Submitted by: Mathew Eddy, Director of Planning and Development
Greg Tansley, AICP, City Planner/Deputy Director of Planning and Development

Supporting Information/Documentation:

- Biddeford Code Of Ordinances, Part III (Land Development Regulations), Artcile V (Establishment of Zones), Section 9 (Contract and Conditional Zoning).
- Affordable Housing TIF approval September 21, 2021: https://d3n9y02raazwpg.cloudfront.net/biddeford/3e00c0b7-365d-11eb-bc32-0050569183fa-7da928e4-31b6-4ad8-adb8-4e0359e8f9ab-1632241378.pdf
- Adam's Point Approved Site Plan Drawings
- **Draft** Contract Zone Agreement
- Planning Board Contract Zone Findings of Fact and Recommendation
- Planning Board Site Plan and Subdivision Notice of Decision (Approval)

Key Terms:

- *Contract Zoning:* "Contract zoning" is where a property owner or person/entity with interest in property accepts certain conditions or restrictions not imposed on other similarly zoned properties in return for the rezoning of the property as a "Contract Zone". Contract zones are typically best-suited for unique or unusual projects that are generally consistent with existing or allowed uses in the existing zones.
- Affordable Housing Tax Increment Finance District **(AHTIF)**: The direct housing alternative for Tax Increment Financing managed by Maine Housing Authority. To utilize the **AHTIF**, the project must product at least 30% of affordable housing units at 80% of median family income or below. In Maine, most **AHTIF** applications pair with Low Income Housing Tax Credits **(LIHTC)** to create much deeper affordability. No Low Income Housing Tax Credit application are approved in Maine without **AHTIF**.

- Low Income Housing Tax Credits **(LIHTC)**: The federal Low Income Housing Tax Credit (**LIHTC**) provides subsidy in the form of a federal tax credit to developers of affordable rental housing. Developers using funding must reserve a portion of the rental units for lower income renters. Maine Housing approves **LIHTC** applications. The process is competitive and scored on a 100 points basis, anything less than 70 points will not be funded.
- Affordable Housing Program-Federal Home Loan Bank. The Affordable Housing Program (**AHP**) awards grants and low-cost financing to our members for affordable housing creation and preservation. The grant will act as subsidy into the program and create a local bank partner as a part of the mortgage.

Executive Summary:

The Biddeford Housing Authority (BHA) would like to develop between 39 units of subsidized housing for families at the end of Adams Street. The project, to move forward, requires contract zoning changes for the height of the building, a reduction in parking provided on-site, and for the density of units proposed. The project also needed and Affordable Housing Tax Increment Financing District agreement which was approved by the City Council on September 21, 2021.

The Planning Board completed its review of the project on September 29, 2021 and has approved the site plan and subdivision contingent upon the City Councils approval of the Contract Zone. **The Planning Board recommended unanimously that the Contract Zone be approved by the City Council.**

Detailed Review:

The subject parcel is at the end of Adam's Street with an address of 69 Adam's Street. The property lies at the top of the hill, abutting BHA's housing project on Birch Street, the catholic elementary school owned by the Diocese and the Graham Street apartments.

BHA proposes to develop the site into 39 subsidized housing units. From a location perspective, the site is ideal for working families, close to the downtown business sector and within services and transit.

To do so, BHA will need three sources of funding, along with a mortgage through Maine Housing:

- **AHTIF -** Affordable Housing Tax Increment Finance District
- **LIHTC -** Low Income Housing Tax Credits
- **AHP** – (Federal) Affordable Housing Program

The AHTIF requires local approval, as well as approval by Maine Housing. For the LIHTC application to compete and receive the greatest possible points in the AHTIF scoring system, the City Council approved a 75% TIF commitment for the 30 years of the mortgage on September 21, 2021.

The Contract Zone amendment from the City will accommodate the height of the building, the reduction in the amount of parking on-site for the project, and for the number of units for the project (39 Units).

Funding Source: TIF Approved by City Council September 21, 2021: https://d3n9y02raazwpg.cloudfront.net/biddeford/3e00c0b7-365d-11eb-bc32-0050569183fa-7da928e4-31b6-4ad8-adb8-4e0359e8f9ab-1632241378.pdf

Staff/Planning Board Recommendation:

Recommend approval of Adams Point Contract Zone as presented.

Findings of Fact and Recommendations of the City of Biddeford Planning Board

To: Mayor Alan Casavant
Members of the Biddeford City Council

The Planning Board of the City of Biddeford has met and reviewed the Request for Contract Zone submitted by Adams Point, LP and Southern Maine Affordable Housing, with respect to property located at 69 Adams Street in Biddeford. The property is composed of the property currently designated as Tax Map 38, Lot 296 and contains approximately 67,082 square feet (1.54 acres). The Project will involve the construction of 39 total family housing units. In addition to the creation of a Contract Zone, it was necessary for the Project to be further reviewed under the site plan review procedures of the Biddeford Zoning Ordinance.

Upon review, the Planning Board of the City of Biddeford makes the following findings of fact:

A. The proposed contract zone as hereinafter set forth is consistent with the Comprehensive Plan of the City of Biddeford in that the area to be developed is located in a section of the City of Biddeford which is currently developed for large scale uses such as municipal offices, medical offices, office buildings, higher-density residential housing, and elderly care support facilities; and

B. The proposed residential use is consistent with the existing or permitted uses within the original zone that is, the existing MSRD2 zone which provides for areas of medium density residential development; and

C. The proposed zone change shall meet all of the area, front yard, side yard, rear yard and height requirements of the proposed contract zone; and

D. The proposed zone will not create unreasonable traffic congestion on contiguous or adjacent streets, provided anticipated improvements required by various governmental approvals are constructed; and

E. The proposed zone change and use authorized includes provisions for providing and maintaining adequate:

1. Utility services; and
2. Sewage disposal; and
3. Drainage; and
4. Solid waste disposal; and
5. Access; and
6. Parking and loading; and
7. All other necessary site improvements; and

F. The proposed use will conform to the general character of the neighborhood in that the materials to be used, style of buildings, fences, plantings and the like are compatible with the character of the neighborhood; and

G. Insofar as practicable, the landscaping will be preserved in its natural state; and

H. There will be sufficient setbacks of structures and screening to provide an adequate visual and sound barrier; and

I. Off-street parking facilities are sufficiently screened from view of surrounding properties; and

J. There will be no significant adverse effect resulting from the proposed use and the proposed zone change upon the public health, safety and general welfare of the neighborhood.

The Planning Board of the City of Biddeford specifically finds there is a demonstrated need for the type of housing to be constructed which is intended to be for families of personnel employed by businesses located in the neighborhood. While Biddeford does have an existing rental housing stock, the units in this building will be affordable units specifically for families in the community.

The Planning Board of the City of Biddeford therefore recommends that the Request for Zone Change be affirmatively acted upon by the City Council.

The Board recommends that the real estate depicted on the Materials and plans entitled "Adams Point Housing-Biddeford, ME; Site Plan", prepared by Oak Point Associates and attached hereto as Exhibit A, be rezoned pursuant to the provisions of Article XVII, Section 3 of the Zoning Ordinance of the City of Biddeford to a zone which is labelled Contract Zone 20 (CZ-20).

CZ-20 shall provide for the following:

1. The permitted uses in the zone shall include the multifamily apartment building containing no more than 39 units of housing on the property.

2. The minimum lot size for each unit shall be 1,900 square feet. All buildings shall be located as ultimately approved by the Biddeford Planning Board as a part of its separate review under the Site Plan Review standards of the City of Biddeford Zoning Ordinance.

3. No building or structure as located and constructed shall exceed 60 feet in height or a maximum of five (5) stories. Height shall be as defined as the vertical distance from grade to top of the highest roof beams of a flat roof, excluding any parapets for elevators, roof access, or the screening of mechanical equipment.

4. The minimum required parking in the zone shall be 0.75 parking spaces per dwelling unit.

In consideration of such Contract Zone Change the Applicant agrees to use Applicant's (or the Developer's) best efforts to:

1. Construct thereon a maximum of 39 units of multifamily residential housing, all in accordance with the aforesaid Plan.

2. It shall be a condition of this Contract Zone Change that the Applicant shall undertake significant commencement of construction within 4 years of the effective date of the Zone Change and shall complete construction within 7 years of the effective date of the Zone Change. Significant commencement of construction shall mean the installation of all infrastructure improvements and grading within the limits of the Project.

In the event Applicant shall not comply with the provisions of this paragraph, the Zone Change granted hereby shall automatically be void and the property shall revert to the zoning classification that the Property was in of the date of the Contract Zone Agreement. In the event that the zones have changed, the property shall revert to the zoning classifications of the abutting properties. In the event the abutting properties shall have more than one zoning classification, the property shall become part of the most restrictive abutting zone.

City of Biddeford Planning Board

9/30 ,2021

By: _____
Its Chairman Duly authorized

The undersigned Applicant agrees with the City of Biddeford to be bound by the terms, conditions and provisions of this Approval, if the zone change is enacted

9/30 ,2021

ADAMS POINT, LP

By: _____
Guy M. Gagnon, Member

SOUTHERN MAINE AFFORDABLE HOUSING

By: _____
Guy M. Gagnon, Executive Director

CITY OF BIDDEFORD

Planning and Development Department

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

NOTICE OF DECISION

September 30, 2021

Guy Gagnon (via e-mail)
Southern Maine Affordable Housing
22 South Street
Biddeford, ME 04005

RE: 2021.04 Final Subdivision and Site Plan Approval and the creation of a new Contract Zone for 69 Adam's Street (Tax Map 38, Lot 296) for 39 residential units.

Dear Guy,

At their meeting of September 29, 2021, the Biddeford Planning Board reviewed the final Subdivision and Site Plan for Southern Maine Affordabe Housing to develop 69 Adams Street (Tax Map 38, Lot 296) into 39 apartments. Southern Maine Affordable Housing owns the property and you and Jacques Gaganon of Oak Point Associates presented the application to the Board.

Based on the presentation, materials submitted, and public comment the Planning Board approved the Site Plan and Subdivision, approved the findings of fact, and authorized the City Planner to sign the plans, with the approval conditioned on the following:

1. **Prior to any ground disturbance (other than that required under Condition of Approval 1.h. for the installation of erosion and sediment control measures, including a stabilized construction entrance) or issuance of any permits:**
    a. **The following outstanding items related to review comments shall be addressed to the satisfaction of the City Planner:**
        i. **Revise the proposed sign, 'Not a through Street' to reflect that the access is a private driveway and not a street at all, and add the address of the property to facilitate emergency 911 calls.**
        ii. **Revise the Photometrics Plan to reflect the latest design and to extend the limits to the property line (that is depicted on the plan) and submit to the City Planner.**
        iii. **Address with a revised plan, the proposed electric service lines to the proposed development from Birch Street with regard to its need to be supported by an easement since it is located on the abutting property.**
        iv. **All sidewalks shall be concrete rather than bituminous (asphalt).**

v. **Revise the Landscape Plan to reflect changes recommended in the Board Report from Long Meadow Planning & Landscape Architecture (9/23/2021)**
vi. **Revise plans to clearly indicate areas designated as a 'Fire Lane' in a plan note and include that the pavement will be striped/painted accordingly or in the manner that the Fire Department indicates.**
vii. **Revise plans to change the cast in place concrete retaining wall to a segmented retaining wall from the parking lot through to the stairway adjacent to the building.**
viii. **Revise plans and/or submit information to address comments from Site Design Associates and remaining City comments, including the provision of additional spot grades and enlarged plans to verify ADA accessibility compliance.**

b. **1 mylar set and 1 paper set of the approved plans (with signature block) shall be provided for signature by the City Planner. Final Approved Plans shall reflect any changes resulting from Condition of Approval 1.a., and additionally required changes per Planning Board review.**
c. **A pre-construction meeting with the contractor needs to be held with the Engineering Department to discuss inspection requirements.**
d. **A copy of all required Maine DEP Permits must be submitted to the Planning Department.**
e. **A sewer permit is required prior to any permit issuance. Sewer impact fee will be assessed once final flow numbers are provided to the Director.**
f. **A Unit Cost Estimate on City form shall be submitted to the City Planner for review and acceptance. A Separate Unit Cost Estimate shall be provided for the improvements required for the intersection of Jefferson Street and Adam's Street.**
g. **An Erosion and Sedimentation Control Performance Guarantee (acceptable to the Planning Department) in an amount to be determined by the City based on Condition of Approval 1.e. shall be submitted to the Planning Department.**
h. **All erosion and sediment control measures need to be installed. Applicant shall notify the Engineering Department once installed so that Staff may inspect said installation, as necessary. A Stabilized Construction Access shall be constructed and maintained through the duration of this project.**

2. **<u>Prior to the issuance of any occupancy permits:</u>**
   a. **A performance guarantee (acceptable to the Engineering Department) in the amount of 150% of any remaining site and off-site improvements shall be submitted to the Planning Department. Amount to be determined based on City inspections and the recommendation of the City Engineer.**
   b. **A compliance inspection needs to occur by the Planning and Engineering Departments to determine that all site improvements as shown on the submitted plan were constructed in accordance with the approved plans. The City will hold a Performance Guarantee sufficient to cover any remaining site improvements and/or deficiencies.**
3. **No trash is permitted to be placed at the curb for City pickup. Trash pickup and disposal, for all units associated with this approval or previous approvals, is the responsibility of the applicant,**

4. **Site lighting that is not necessary to maintain minimal security throughout the site shall be dimmed after normal hours of business, typically between 9 PM and 6 AM daily and on weekends and holidays.**
5. **Best management practices shall be adhered to during all ground disturbance operations. All Catch Basin's in the vicinity of earthwork operations shall have silt sacks installed & maintained for the duration of the work.**
6. **Copies of the maintenance logs for any stormwater facilities shall be submitted to the City for each calendar year no later than January 15th of the following year. If the Engineering Department does not receive these copies within 30 days after the deadline, the applicant may be required to return to the Planning Board for further review.**
7. **The applicant shall obtain all other pertinent local, state and federal permits, licenses, and insurance such as blasting, building, electrical, plumbing, etc., prior to commencing business, unless authority issuing said permit allows for such actions.**
8. **Once completed, as-built drawings of the site shall be provided to the Planning Department.**
9. **Upon completion of the work the project engineer shall certify that the project has been completed as per the approved plans or shall note any deviations from the approved plans.**
10. **Standard Conditions of Approval apply.**
11. **This approval is conditioned upon approval of a Contract Zone by the Biddeford City Council.**

Following the date of final approval, the site plan approval is valid for one year one year. If a building permit/occupancy permit has not been issued, then said approval shall become automatically null and void.

Appeals of the Planning Board's decision may be made as per the Biddeford Revised Code of Ordinances.

If you have any questions please call the Planning Department at 284-9115.

FOR THE BIDDEFORD PLANNING BOARD

Sincerely,

Greg D. Tansley, AICP
City Planner

Cc: J. Gagnon, Oak Point Associates (via e-mail)
R. Fecteau, Code Enforcement Officer (via e-mail)
T. Milligan, P.E., City Engineer (via e-mail)
M. Eddy, Planning and Development Director (via e-mail)
File

Standard Conditions of Approval

Owner/Applicant: Southern Maine Affordable Housing

Project Description: Adam's Point 39-unit residential apartments

Project Location: 69 Adam's Street

Tax Map / Lot Number: Tax Map 38, Lot 296

Project ID: 2021.17

1. The material provided for the proposed project has been reviewed only for general conformance to the City technical requirements. The applicant(s) and/or their technical consultant shall be responsible for the actual design details and completeness of their work. It is incumbent upon the applicant(s) to ensure that the project is in conformance and complies with all City Codes, ordinances and regulations as well as with all state regulations, including, but not limited to, space and bulk standards, performance standards, use standards and other zoning type requirements.

2. All work shall be in conformance with the approved plans and submission documents. No deviations from the approved plans are permitted without prior approval from the Planning Board for major changes, and from the City Planner and City Engineer for minor changes. The City Planner shall make the determination of major or minor.

3. Contact the Department of Public Works for driveway location permits, curb cut permits and/or street opening permits prior to the start of construction.

4. If Site Development is required as part of the project, an as-built plan must be provided to the City of Biddeford Engineering Office at the end of the project on mylar and on a disk, in a format, which can be read by the City of Biddeford's Geographic Information System software. If a disk copy cannot be provided, a charge for staff time to enter the plan into the City system will be assessed to the applicant.

5. The applicant shall incorporate appropriate erosion control measures into this project to reduce erosion affects from the work. All disturbed areas must be re-vegetated and/or otherwise stabilized at the appropriate stage of the work per Maine DEP standards in the Best Management Practice (BMP) manual.

6. That the Article VI Performance Standards requirements, including but not limited to, Dust, Fumes, Vapors & Gases (Section 25), Explosive Materials (Section 28), Glare (Section 37), Noise (Section 48) be followed.

7. The applicant is required to comply with all applicable requirements of Chapter 70 (Utilities) and Chapter 71 (Utilities/Industrial Pretreatment Program).

8. If Site Development is required as part of the project, at the completion of the project the owner/applicant shall request a final inspection. This request shall be directed to the Planning Office. Performance Guarantees and remaining escrow accounts shall not be released until the Planning Office certifies that the project has been completed and is in compliance with the approval and all applicable City Ordinances.

DRAFT – FOR CITY COUNCIL CONSIDERATION

CONTRACT ZONE AGREEMENT

AGREEMENT made as of _____, 2021, by and between Adams Point, LP, a Maine limited partnership and Southern Maine Affordable Housing, a Maine corporation with an established place of business in Biddeford, Maine (hereinafter, jointly and severally called the "Owner") and THE CITY OF BIDDEFORD, a body politic and corporate located in Biddeford, Maine, (hereinafter called "Biddeford").

WHEREAS, the Owner (or one of them) is the owner of certain real estate (the "Property") situated at 69 Adams Street, so-called, in Biddeford, the Property is currently designated as Tax Map 38, Lot 296, and contains approximately 1.54 acres. Owner desires to transfer to Adams Point, LP (the "Developer") who intends to develop the Property as a 39 unit affordable housing building for families on the Property. The description of the Property is shown on the plan entitled "Adams Point Housing – Biddeford, ME; Existing Conditions" prepared by Oak Point Associates as approved by the Planning Board on September 29, 2021, attached hereto as EXHIBIT A; and

WHEREAS, Owner has applied for and obtained approval to re-zone the Property pursuant to the Contract Zoning provisions of the Zoning Ordinance of the City of Biddeford to create the Contract Zone; and

WHEREAS, the parties are entering into this Agreement to provide written contractual evidence of the agreement of the parties and the terms and conditions of the Contract Zone.

NOW, THEREFORE,

in consideration of the mutual agreements hereinafter set forth and in consideration of the granting of the zoning ordinance change, the parties agree as follows:

1. **Development of the Property.** Owner agrees that in the event it shall transfer title to Developer, it shall require as a condition of sale that the Developer or its assignee approved by the Biddeford Planning Board or such other municipal board or committee having jurisdiction (the "Approved Assignee") shall develop the Property in accordance with the following provisions and conditions:

    A. Findings of Fact and Recommendations of the City of Biddeford Planning Board attached hereto as EXHIBIT B; and

    B. Materials and plans entitled "Adams Point Housing", prepared by Oak Point Associates and which contains the signatures of the Biddeford Planning Board members, or their authorized designee, and will be duly recorded in the York Registry of Deeds.

2. **Failure to Complete Development.** In the event the Developer, or its Approved Assignee, shall fail to commence significant construction of the improvements within four (4) years of the effective date of the Contract Zone and shall complete construction within seven (7) years of the effective date of the Contract Zone, the Contract Zone granted hereby shall automatically

be void and the Property shall revert to the zoning classification of the abutting properties. Significant commencement of construction shall mean the installation of all infrastructure improvements and grading within the limits of the Project.

In the event that the zones have changed, each portion of the Property shall revert to the zoning classifications of the abutting properties. In the event the changed abutting properties shall have more than one zoning classification, the Property shall become part of the more restrictive abutting zone.

3. **Construction and Effect.** This agreement shall be construed in accordance with the laws of the State of Maine and shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have caused this instrument to be signed all as of the day and date above written.

Witness:

ADAMS POINT, LP

By:_____
Guy M. Gagnon, Member

SOUTHERN MAINE AFFORDABLE HOUSING

By: _____
Guy M. Gagnon, President

CITY OF BIDDEFORD

By: _____
James Bennett, Its Manager

DRAFT

City of Biddeford

2021.102 **IN BOARD OF CITY COUNCIL..OCTOBER 5, 2021**

BE IT ORDAINED by the City Council of Biddeford, Maine to amend the Code of Ordinances of the City of Biddeford as follows:

Sec. 22-17 **Purpose.**
[Added 3-20-2018 by Ord. No. 2018.17]

The purpose of Sections 22-17 through 22-21.2 is to regulate mobile food vending on property owned or under the control of the City of Biddeford and mobile food vending on private property in order to create a desirable situation where mobile food apparatuses may conduct business.

Sec. 22-18 **Definitions.**
[Added 3-20-2018 by Ord. No. 2018.17]

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings.

EDIBLE GOODS

May include, but are not limited to:

(1) Prepackaged food, including, but not limited to, candy, beverages, chips, popsicles and ice cream.
(2) Prepared food, including, but not limited to, hot dogs, desserts, sandwiches and pizza.
(3) On-site prepared food, including, but not limited to, shaved ice, sandwiches and tacos.

MOBILE FOOD VENDOR

Any business which sells edible goods from a nonstationary location within the City. The terms shall include, but not be limited to:

(1) MOBILE FOOD TRUCK— A self-contained motorized unit selling items defined as "edible goods."
(2) CONCESSION TRAILER— A vending unit which is pulled by a motorized unit and has no power to move on its own.

MOBILE FOOD VENDOR COURT

A collection of mobile food vendors in a common outdoor plaza or site providing a common area for self-serve dining. Mobile Food Vendor Courts are also subject to Article 56 (Restaurants) of the Zoning Ordinance and Planning Board Site Plan Review.

NONREFRIGERATED

Edible goods that are not required to be kept at a temperature below 41° F.

Sec. 22-19 **Application and permit.**

[Added 3-20-2018 by Ord. No. 2018.17]

(a) Permit. Every mobile food vendor shall have a permit issued by the City to conduct business in the City.

(b) Application. Every mobile food vendor shall apply for a permit on a form promulgated by the City. Each vending unit requires a separate permit. Applications for permits meeting the requirements for mobile vendors shall be processed within 10 business days.

(c) Mobile food vendor application form. A complete application shall require the following information from the applicant to be considered:

(1) Name of applicant, as well as physical street address, mailing address, telephone number(s), and e-mail address.

(2) Legal name of business or entity.

(3) Signed permission form, or provide notarized affidavit from the private property owner granting permission for unit placement.

(4) Name, phone number and driver's license number of business owner and all employees operating within the mobile food vendor unit.

(5) Proposed itinerary with route, vending locations and times.

(6) Contact name and phone number for mobile food vending unit while in route.

(7) Description of product being sold.

(8) Site plan where the mobile food vending unit will be located on the property.

(9) Valid and current vehicle/trailer registration of mobile food unit.

Sec. 22-20 Permit regulations.

[Added 3-20-2018 by Ord. No. 2018.17]

(a) The application fee for a mobile food vendor permit shall be $200. Each mobile food vendor unit shall be permitted separately.

(b) Mobile food vendor permits shall expire on December 31 of each year.

(c) Mobile food vendors shall provide, at their expense, and keep in force during the term of their contract, with a responsible insurance company or companies authorized to do business in the state, commercial general liability insurance in the amount of at least $1,000,000. The mobile food vendor shall deliver certificates of such insurance to the City at the time of application.

(d) Mobile food vendors shall provide proof of a State of Maine health certificate at the time of application.

(e) Upon renewal the applicant shall pay the renewal fee of $200 and update any changes in the permitting documentation upon permit renewal. The applicant must submit the application and the renewal fee within 30 days before expiration of the permit or must reapply as a new applicant.

(f) The City Manager is authorized to make reasonable rules and regulations, not inconsistent with this section, governing the design, construction and location of pushcarts or food trucks.

(g) Display of permit. Every permit, including those from the City, shall be displayed at all times in a conspicuous place where they can be read by the general public on the mobile food vendor's truck or concession trailer.

Sec. 22-21.1 Prohibited conduct.

[Added 3-20-2018 by Ord. No. 2018.17]

(a) Distance regulations:

(1) No mobile food vendor shall conduct business within any single-family residential or agricultural zoning district unless otherwise approved in writing by the Code Enforcement Officer.

(2) A mobile food vendor ~~r~~ may not be located within 100 feet of the primary entrance of an open and operating fixed-location food service or eating establishment; or within 40 feet from another mobile food vendor- except in the following:

- During City sponsored or other community events; or
- Within a mobile food vendor court consistent with the Article VI (Performance Standards), Section 56 (Restaurants) of the Zoning Ordinance.

~~(3) A mobile food vendor shall not be located within 40 feet from another mobile food vendor except during City sponsored or other community events.~~

(b) A mobile food vendor, except when located in a mobile food vendor court, shall not conduct sales at a stationary location:

(1) For a duration exceeding 60 minutes on any public street or public streets adjacent to public parks and recreational facilities, next to fire lanes and no-parking designated areas. Mobile vendors parking on public streets may not move to a new location without prior approval from the City.

(2) In congested areas where the operation impedes vehicular or pedestrian traffic.

(3) Between the hours of 1:00 a.m. and 6:00 a.m.

(c) Offenses and regulations.

(1) It shall be unlawful for any individual as the agent or employee of another regulated under this section to sell edible goods in the City unless its principal or employer has received a permit under this section.

(2) A permit issued under this section is not transferable.

(3) It shall be unlawful for an individual to sell edible goods while displaying a valid permit issued by the City in the name of another individual, organization, or entity.

(4) It shall be unlawful for any individual, directly or through an agent or employee, to sell goods within the corporate limits of the City after the expiration of the permit issued by the City under this section.

(5) It shall be unlawful for an individual, directly or through an agent or employee, to misrepresent on the permit affidavit any acts that are regulated under this section.

(6) It shall be unlawful for any individual, directly or through his agents or employees, to represent that the issuance of a permit by the City constitutes the City's endorsement or approval of the product for sale.

Sec. 22-21.2 Mobile food vendor requirements.

[Added 3-20-2018 by Ord. No. 2018.17]

The following regulations shall apply to mobile food vendors:

(1) Each unit shall be equipped with a portable trash receptacle and shall be responsible for proper disposal of solid waste and wastewater in the sanitation facility legally accessed by the food service establishment. All

disturbed areas must be cleaned following each stop to a minimum 20 feet of the sales location.

(2) Mobile food vendors may not have a drive-through.

(3) Continuous music or repetitive sounds shall not project from the mobile unit.

(4) A five-foot clear space shall be maintained around the mobile food vending unit.

(5) All mobile units shall have a gray water holding tank.

(6) The mobile unit will be subject to inspection upon permit application through the Code Enforcement Department, the Health Department and the Fire Department, and may be subject to random inspection and upon reissuance of the permit.

(7) No sales are allowed within public park facilities while park concession units are operating. Mobile units operating in public parks and on streets adjacent to public parks or recreational facilities require approval by the City's Recreation Director.

Land Development Regulations, Article VI, Section 56 Restaurants.

[Ord. of 8-3-1993(1); Ord. No. 2006.13, 3-7-2006]

1. a. The following provisions address restaurants, whether year-round or seasonal, seat down or takeout, building or mobile. Subsections A through E refer to nonmobile food service operations.

b. For the purposes of this section, the term “restaurants” shall be divided into ~~three~~four categories:

(1) Establishments in permanent buildings;

(2) Establishments in mobile units, either towed or self-propelled, preparing and serving food products on a particular site; and

(3) Establishments in mobile units, either towed or self-propelled, serving prepared food products, and travelling to selected locations on a daily basis, and remaining on-site for limited time periods, i.e., during lunch breaks, etc. Such units are often referred to as catering services or food services.

(4) Establishments in mobile food units located in mobile food vendor courts and permitted in the MSRD1 and MSRD-3 Districts.

A. The application for a permit shall state the maximum seating capacity of the restaurant. Any expansion or enlargement over the stated capacity shall require a new permit, and shall comply with setbacks, square footage, and all other requirements of

this ordinance.

B. Any restaurant located within 500 feet of an existing public sewer line shall connect with the sewer system at the expense of the owners. When subsurface sewage disposal is proposed, completed soil evaluation forms (HHE-200) shall be submitted. All proposed subsurface disposal systems shall meet the requirements of the Maine State Plumbing Code.

C. All parking and loading facilities shall be located to side or rear of the building, and shall be screened from abutting residential lots. Screening shall be comprised of a continuous landscaped area not less than eight feet in width, containing evergreen shrubs, trees, fences, walls, berms, or any combination, forming a visual barrier not less than six feet in height. In the Rural Farm Zone, the parking and loading facilities shall also be screened from all public roadways.

D. (Reserved)

E. Storage and disposal of refuse, fuel, and other potentially hazardous materials shall be so conducted as to create no health hazard, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. Areas where such activities occur shall be effectively enclosed and screened by safety fences, walls, or any combination thereof.

F. Mobile food service operations shall comply with the State of Maine rules relating to eating and lodging places, as periodically amended, and shall require a victualer's permit from the municipal officers consistent with Section 22-17 to 22-21.2.

a. Further, mobile food service operations, preparing food on-site, unless permanently connected to public utilities and approved by the Planning Board, shall not be left on-site or displayed, or left in public view, in the location of business during nonbusiness hours, unless otherwise conditioned by the City Council in their specific permit/licensing process.

b. The Building Inspector shall review mobile food service operations, preparing food on-site, to ensure, as a minimum, the following:

1. The placement of the vehicle:

a. Shall not hinder vehicular traffic or cause traffic congestion; and

b. Shall not hinder, or interfere with, pedestrian traffic; and

c. Shall not block or otherwise hinder access to or from private property; and

d. Shall not adversely impact on abutting properties in regards to:

(1) Noise.

(2) Odor, fumes or smoke.

(3) Light and glare.

2. The operator shall have written permission from the property owner to locate the vehicle on said property.

3. The operator shall have available, and under written agreement, at least three off-street parking spaces. In cases where on-street parking is available immediately in front, the operator must have one off-street parking space for any vehicle belonging to an employee working on a given shift.

4. a. The operator shall provide at least one fifty-five-gallon covered trash receptacle, or similar sized container, to hold wastes and debris. No paper, food or other wastes shall be allowed to accumulate on-site.

   b. The waste container shall be emptied at least daily into an approved commercial dumpster (it being emptied by a licensed hauler on a regular basis) or other suitable and approved means of transport away from the site. It shall be the responsibility of the operator to ensure that all wastes are handled and disposed of properly.

5. The operator shall ensure that there is an adequate supply of potable water for cleaning equipment and the preparation of foods.

6. The operator shall ensure that there is an adequate and safe source of electrical power.

7. The operator shall ensure that all storage of food supplies and other business material is within the vehicle or other container secured to the vehicle. No loose material shall be permitted outside of the vehicle.

8. There shall be no signs placed on sidewalks or other rights-of-way. No temporary or mobile signs shall be allowed.

9. The trailer, or vehicle, being used shall be registered, in good upkeep, and provide a neat appearance.

Biddeford City Council

Meeting Date: October 5, 2021
Meeting Time: 6:00 P.M.

Agenda Item No: 2021.102
Item Description: Mobile Food Vendor Courts (MFVCs)

Submitted by: Mathew Eddy, Director of Planning and Development
Greg Tansley, AICP, Deputy Director of Planning and Development/City Planner

Supporting Information/Documentation:

None

Key Terms:

See Council Order 2021.102

Executive Summary:

Attached is a proposal to modify the city licensing and land use ordinances regarding mobile food vendors, and more specifically, Mobile Food Vendor Courts (MFVCs). The ordinance changes will permit Mobile Food Vendor Courts in the MSRD-1 (Downtown) and MSRD-3 (Mill District) Zone subject to Site Plan Review by the Planning Board. Any MFVC allowed in these districts would also have to comply with the licensing requirements established in Chapter 22 of the General Code of Ordinances and the Land Development Regulations Performance standards for Restaurants (LDR, Article VI, Section 56).

This concept has been reviewed by several city bodies including the City Council, Policy Committee and Downtown Development Commission where the idea has received support. The City's Policy Committee met on August 10, 2021 and endorsed the changes before the Council.

Restaurant interests in the downtown and the Heart of Biddeford also supported the idea. MFVCs are seen as both an attraction and an opportunity to promote a wider variety of food options. We were asked to present ordinance amendments that would eliminate some of the existing barriers to the establishment of MFVCs in the downtown area and the Mill District, such as requirements for the separation of mobile food vendors. Staff believe the proposal before you does just that.

Lastly, the Planning Board has reviewed the changes and held a Public Hearing on September 29, 2021 where it recommended (3-1 vote) that the amendments be enacted by the City Council as presented.

Detailed Review:

The City has received a request for a Mobile Food Vendor Court to be located on the empty lot at the corner of Alfred and Jefferson. Mobile Food Vendors are permitted through Article VI, Section 56 of the Land Development Regulations (Zoning Ordinance), but the Zoning Ordinance does not address a situation where multiple vendors may wish to be located at the same location in a "court" fashion and does not identify where such a "court" could happen.

At the same time, the standards of Article VI, Section 56 are inconsistent with the licensing standards for mobile food vendors in Section 22 of the General Code by requiring mobile vendors to be located a minimum of 100 feet apart from each other and 100-foot setback from any fixed base food operation (restaurant). These restrictions would be changed per the Amendments to Section 22 of the General Code (not the Zoning Ordinance).

From a Land Development Regulations (Zoning) perspective, these amendments would allow Mobile Food Vendor Courts in the MSRD-1 and MSRD-3 Districts which encompass Downtown and the Mill District. Any Mobile Food Vendor Court would have to comply with Section 22 Licensing and LDR, Section 56 for Restaurants.

We have also reviewed these concepts with the Code Enforcement Officer and the City Attorney, who are both in agreement with this approach.

In sum, the proposed amendments would:

1. Chapter 22.18 - Create a definition for a Mobile Food Vendor Court which includes a requirements that all MFVCs be subject to Site Plan Review by the Planning Board;
2. Chapter 22.21.1 (a) - provide and exemption to separation requirements for Mobile Food Vendors when part of an approved MFVC;
3. Chapter 22.21.1 (b) - allow MFVCs to be stationary when in a MFVC;
4. Land Development Regulations, Article VI, Section 56.1.b. - add a provision that allows for MFVCs in the MSRD-1 and MSRD-3 Districts; and
5. Land Development Regulations, Article VI, Section 56.F. - clearly tie the Performance Standards for Restaurants back to Chapter 22 Licensing.

Funding Source:

N/A

Staff/Planning Board Recommendation:

Both Staff and the Planning Board (3-1 vote) recommend these amendments be passed by the City Council.

CITY OF BIDDEFORD

Planning and Development

Mathew Eddy
Director, Planning and Development
205 Main Street
Biddeford, ME 04005
Mathew.Eddy@biddefordmaine.org
207-282-7119

To: Biddeford City Council
From: Chrysta St. Cyr, Chair
Mathew Eddy

Date: August 28, 2021

Subject: Downtown Development Commission (DDC) Recommendation: Mobile Food Vendor Courts

The DDC, at its regular meeting of August 30, recommended sending the following to Biddeford City Council:

> Mobile Food Vendors offer a unique consumer option for food sales. Because of their growing popularity[1], the DDC recommends that City Council make changes to City ordinance that permit the development of this food option in Biddeford; in particular, the downtown. In doing so, we recommend the following:
>
> - Municipal review through the Planning Board Site Plan Review process be required for any food court layout and operation;
> - That existing safety and health ordinance requirements for mobile food vendors be extended to mobile food vendor courts through the licensing and site plan approval process; and,
> - That the City continue to evaluate mobile food vendor courts for their impact, making changes to underlying rules when deemed necessary.

[1] For examples: Case Study: On the Go - Insights into Food Truck Regulation in US Cities | Data-Smart City Solutions (harvard.edu); Food Truck Trends for 2019 | ACityDiscount;

2021.106 **IN BOARD OF CITY COUNCIL..OCTOBER 19, 2021**

BE IT ORDERED, that the City Council of the City of Biddeford does hereby adopt the provisions of 5 M.R.S. § 18252-C (PL 2021, Chapter 286) as allowed by MainePERS Rule Chapter 803.

The City of Biddeford agrees:

1) To adopt the provisions of 5 M.R.S. §18252-C as enacted by PL 2021, Chapter 286 as allowed by MainePERS Rule Chapter 803 for its non-participating employees with optional membership who previously declined to participate in MainePERS ("eligible employees") and to comply with the following requirements:

a. To offer by November 1, 2021 the opportunity to join MainePERS prospectively to all its eligible employees who have been employed for 5 years or more, to advise these employees that this will be their only opportunity to join, and to provide MainePERS with documentation of each eligible employee's election; and

b. Beginning in 2022, to annually offer eligible employees who have been employed for less than 5 years, and in 2022 eligible employees who had reached 5 years of employment between November1, 2021 and November1, 2022, the opportunity to join MainePERS on a prospective basis during an open enrollment period from September 1st through November 1st and to provide MainePERS with documentation of each election made by eligible employees under this provision: and

c, To withhold employee contributions for employees who join under this provision after all taxes have been withheld, and to remit them to MainePERS as after-tax contributions.

2) To authorize City Manager, James Bennett to sign the Amended Agreement between the Employer and the Maine Public Employees Retirement System

Council Meeting

Meeting Date: Tuesday, October 19, 2021
Meeting Time: 6pm

Agenda Item No:

Item Description: MPERS Provisions

Submitted by: Diana DePaolo

Supporting Information/Documentation:

Proposed legislation

Sample wording for adopting the provisions

Executive Summary:

MPERS Board has adopted legislative changes allowing an opportunity for employees who previously opted out of MPERS to again have an opportunity to sign up through post tax contributions. The Council must vote to make this change. This is time sensitive because the new election opportunity for those employees working for the City more than five years is by November 1st, 2021.

Detailed Review:

There is legislation being passed by MPERS board to allow employees who have declined MPERS in the past to have another opportunity to sign up. For those employees who have worked for the City for over 5 years they would have one opportunity to sign up, by November 1st of this year. For employees who have worked for the City less than five years, they will have an opportunity to sign up during open enrollments annually for their first five years. This ability to change the one time election requirement is through making these particular employees' contributions *after tax* contributions.

After the MainePERS Board of Trustees have adopted the proposed changes to Rule Chapter 803 at their meeting on September 9, 2021, employers can take action to adopt this provision for their non-participating, MainePERS eligible employees (this would include all employees- both City and School). The City excludes employees who work less than full-time from participating in the MainePERS plan.

To make this change with MainePERS, the City's governing body has to take a certified action (vote) to make the change that contains the specific language provided. The City should take this action as soon as possible and definitely before November 1, 2021 if you want the provision to apply to employees who have been employed for more than 5 years.

MainePERS has advised that the council will need to adopt the provision in whole. If you adopt it before November 1, 2021 then it will apply to those with over 5 years of employment and provide an annual open enrollment for those with less than 5 years of employment starting in 2022. If you wait to adopt it later, then it will only apply to employees with less than 5 years of employment during annual open enrollment.

Funding Source:

n/a

Staff Recommendation:

I recommend the council adopt these changes as soon as possible so that employees have an opportunity to contribute to an additional retirement option. This opportunity is particularly important at this time when the labor market is reacting to a shortage of employees and many employers are paying much higher wages and providing benefits that match or exceed those that the City offers at this time. MPERS is a competitive advantage that the City has over private employers- one of the only benefits the City can offer that others cannot. By expanding this offering to the best of our ability it improves both our recruiting and our retention opportunities which is critical at this time. Finding and keeping the best possible employees is the most effective way to provide the very best services to the citizens of Biddeford.

City of Biddeford's Council to adopt the provisions of 5 M.R.S. § 18252-C (PL 2021, Chapter 286)

To see if the City of Biddeford will vote to adopt the provisions of 5 M.R.S. § 18252-C (PL 2021, Chapter 286) as allowed by MainePERS Rule Chapter 803.

The City of Biddeford agrees:

1) To adopt the provisions of 5 M.R.S. §18252-C as enacted by PL 2021, Chapter 286 as allowed by MainePERS Rule Chapter 803 for its non-participating employees with optional membership who previously declined to participate in MainePERS ("eligible employees") and to comply with the following requirements:

    a. To offer by November 1, 2021 the opportunity to join MainePERS prospectively to all its eligible employees who have been employed for 5 years or more, to advise these employees that this will be their only opportunity to join, and to provide MainePERS with documentation of each eligible employee's election; and
    b. Beginning in 2022, to annually offer eligible employees who have been employed for less than 5 years, and in 2022 eligible employees who had reached 5 years of employment between November 1, 2021 and November 1, 2022, the opportunity to join MainePERS on a prospective basis during an open enrollment period from September 1st through November 1st and to provide MainePERS with documentation of each election made by eligible employees under this provision: and
    c. To withhold employee contributions for employees who join under this provision after all taxes have been withheld, and to remit them to MainePERS as after-tax contributions.

2) To authorize *James Bennett* to sign the Amended Agreement between the Employer and the Maine Public Employees Retirement System.

Article approved as written.

City of Biddeford's Council to adopt the provisions of 5 M.R.S. § 18252-C (PL 2021, Chapter 286)

To see if the City of Biddeford will vote to adopt the provisions of 5 M.R.S. § 18252-C (PL 2021, Chapter 286) as allowed by MainePERS Rule Chapter 803.

The City of Biddeford agrees:

1) To adopt the provisions of 5 M.R.S. §18252-C as enacted by PL 2021, Chapter 286 as allowed by MainePERS Rule Chapter 803 for its non-participating employees with optional membership who previously declined to participate in MainePERS ("eligible employees") and to comply with the following requirements:

    a. Beginning in 2022, to annually offer eligible employees who have been employed for less than 5 years, and in 2022 eligible employees who had reached 5 years of employment between November 1, 2021 and November 1, 2022, the opportunity to join MainePERS on a prospective basis during an open enrollment period from September 1st through November 1st and to provide MainePERS with documentation of each election made by eligible employees under this provision: and
    b. To withhold employee contributions for employees who join under this provision after all taxes have been withheld, and to remit them to MainePERS as after-tax contributions.

2) To authorize *James Bennett* to sign the Amended Agreement between the Employer and the Maine Public Employees Retirement System.

Article approved as written.

MainePERS
PUBLIC EMPLOYEES RETIREMENT SYSTEM

EXECUTIVE DIRECTOR
Sandra J. Matheson

BOARD OF TRUSTEES
Brian H. Noyes, *Chair*
Richard T. Metivier, *Vice Chair*
Henry Beck, *State Treasurer, ex-officio*
John S. Beliveau
Shirrin L. Blaisdell
Mark A. Brunton
John H. Kimball
Kenneth L. Williams

August 18, 2021

To: PLD Consolidated Plan Employers with Social Security Section 218 Agreements

Subject: Important, Time-Sensitive Legislative Changes to the Participating Local District (PLD) Consolidated Plan – PLD Employers Must Take Prompt Action for the Provision to Apply to Employees

Dear PLD Employer:

This letter contains important information for your Chief Administrative Officer and members of your governing body. You will have to act quickly if you would like to give your employees who have declined MainePERS membership another opportunity to join the MainePERS PLD Consolidated Plan.

MainePERS sent an eBlast communication to PLD employers on August 11 that explains two laws that were enacted during the recent legislative session that make changes to the one-time election requirement. Under this requirement, which comes from federal law, an election by an employee with optional membership to join or not join MainePERS is irreversible for as long as the employee is with the same employer. One of the newly enacted statutes, specifically PL 2021, c. 286, applies to you and creates an exception to the one-time election requirement that does not conflict with federal law. It does this by making employee contributions after-tax for employees joining the plan under the law. **That means that if this law is adopted into your plan, you will have to withhold and report employee contributions as pre-tax or after-tax depending upon how the employee entered the plan.**

The new law will become part of your plan only if adopted through rulemaking by the MainePERS Board of Trustees and by you through formal action of your governing body and an amendment of your participation agreement with MainePERS. The Board of Trustees is expected to consider adopting the new law on September 9, 2021.

The provisions of the new law permit any PLD employee who has declined membership in the Plan to have another opportunity to join the Plan prospectively effective November 1, 2021. PLD employers will need to take action before November 1, 2021 for the provision to apply to their employees who have been employed in an eligible position for 5 or more years. It also allows PLD employees to have an annual open enrollment opportunity during their first five years of employment beginning in 2022. Employee contributions for those who join the Plan under this provision are paid with after-tax dollars.

As stated above, the provisions of this new law must be formally adopted by the MainePERS Board of Trustees through its rulemaking process prior to being fully implemented. Additional information on this process was provided to employers in the August 11 eBlast communication and is available on our website at www.mainepers.org. We are providing you with this information now so you have time to decide whether to adopt the provision for your employees and for your governing body to take any necessary action to adopt the provision before the November 1, 2021 deadline. Suggested language to be used in the certified action is enclosed for your convenience should you decide to adopt this provision

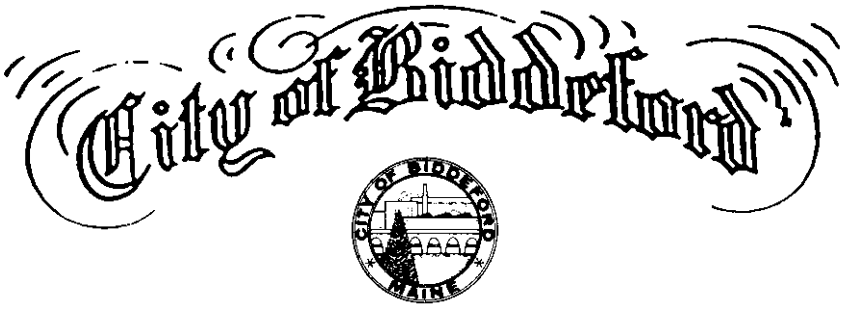
for your employees.

Please contact Deanna Doyle at Deanna.Doyle@mainepers.org or by phone at 1-800-451-9800 if you have questions about this new provision or how to adopt it for your employees.

Sincerely,

Deanna Doyle, PLD Plan Administrator and Business Unit Leader
Service Programs Division

ERCORR

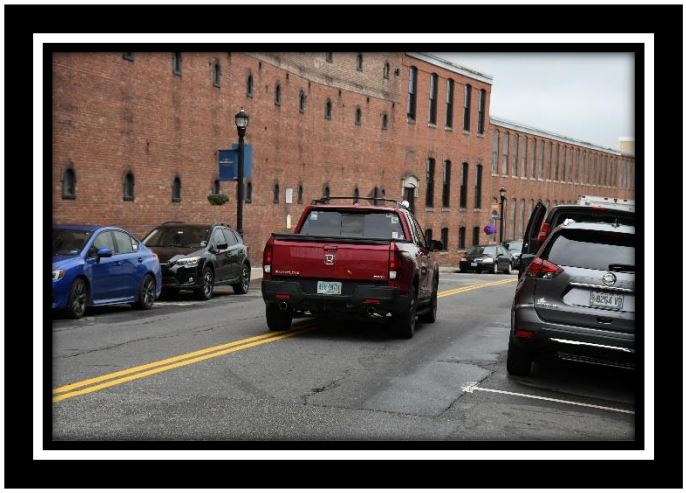


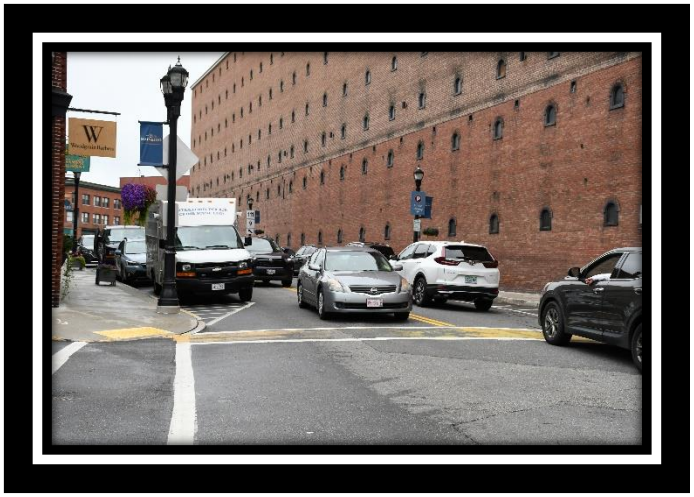
2021.107 **IN BOARD OF CITY COUNCIL..OCTOBER 19, 2021**

BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, Chapter 42, Motor Vehicles and Traffic, Article IV Specific Street Regulations**, Section 42-90 No Parking**, be amended by adding or deleting to read as follows:

Main Street, even-numbered side, beginning at a point 20 feet west of the perpendicular sight line with the northwest corner of the intersection with Emery Street, thence westerly to Laconia Street, No Parking.

NOTE: The Policy Committee considered this amendment at their October 12, 2021 meeting and voted 3 to 1 to recommend passage by the City Council.





Main Street Traffic and Parking Study

08/23/2021

Corporal Matthew D. Baldwin

Biddeford Police Dept.

39 Alfred St.

Biddeford, Maine

OVERVIEW

Upon Request, a study was conducted on lower Main Street between the areas of Foss Street and Hill Street.

The study was prepared in order to demonstrate potential issues of travel lane width through the area and to examine potential *Line of Sight* issues from the involved intersections. Congestion through this area due to narrow lane width and on street parking has become a point of concern.

The area examined expands approximately 600 feet of lower Main Street between the intersections of Foss Street and Hill Street. It includes the intersection at Emery Street..

Main Street through this area runs in an East–West direction with a slight curve at the Emery Street intersection. Foss Street, Emery Street and Hill Street all intersect and end at Main Street from the South. The distance between Foss Street and Emery Street (center of intersection) is approximately 250 feet. The distance between Emery Street and Hill Street is approximately 285 feet.

The asphalt through this area is in average condition. It has not been re-paved in several years and there are several patches and repairs that have been made. Main Street runs at an uphill grade from east to west at approximately 10 degrees from Hill Street to Emery Street. It then runs at approximately 5 degrees through the Foss Street intersection.

Main Street retains the older squared off granite curbing which eliminates the options of yielding a vehicle easily onto the sidewalk if necessary. A double yellow line is present through this area representing the two adjacent travel lanes and prohibiting the passing of vehicles. The double yellow line is approximately 1 foot wide.

Parallel parking is legal on both sides of Main Street through this 600-foot stretch and each parking spot is individually marked. There are currently 18 legal individual parallel

parking spots available on the north side of Main Street. There are currently 13 legal individual parallel parking spots available on the south side of Main Street. Each parallel spot only averages 7'04" inches wide at the widest points (outside edge of the white paint) and just under 20 feet long.

One parking change in the area near the Emery Street intersection was made in 2020. This small change may be contributing to some of the recent congestion. The water company moved a fire hydrant in July of 2020 from Main Street to Emery Street. The hydrant had originally been installed in front of Woodgrain Barbers and as a result, offered a 30-foot no parking buffer from the crosswalk. The hydrant was subsequently moved around the corner on Emery Street and the no parking buffer was reduced to just 20 feet. This small change occurred at the narrowest portion of the street, only further adding to congestion issues.

Both Foss Street and Emery Street have crosswalks available at the intersections that allow the crossing of Main Street. Foss Street's crosswalk in located on the east side of the intersection and Emery Street's crosswalk is on the West side of the intersection.

Per Biddeford City Ordinance, there remains at least a 20-foot "no parking buffer" on either side of each crosswalk. Emery Street displays a 30-foot no parking buffer on the northwest corner of the crosswalk.

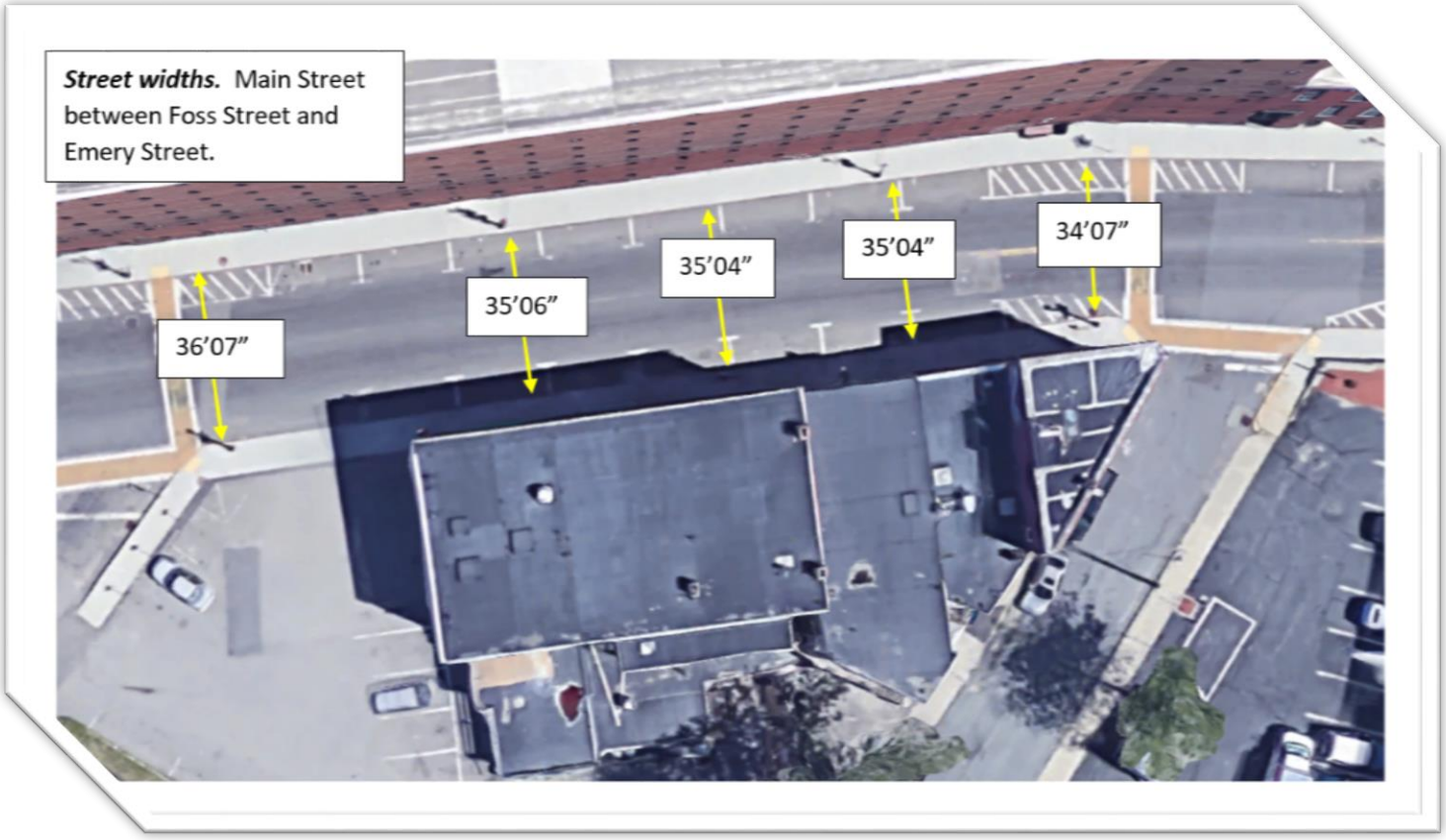
There have been a number of crashes reported throughout this area over the last few years, many a direct result of the narrow nature of the Main Street through this area.

TRAFFIC FLOW ANALYSIS

STREET / LANE WIDTH and PARALLEL PARKING

Observing this portion of Main Street for any length of time during regular business hours will highlight very quickly the narrow ease of access for both east and west moving traffic. This becomes even more apparent when the parallel parking on either side begins to fill with parked or standing vehicles. It additionally does not take into account the issues with snow and snowbanks during the winter months that will arguably narrow the street further.

Measurements of Main Street were taken to determine widths at separate increments. It was apparent that the section between Foss Street and Emery Street was narrower than the remaining portion of Main Street headed east towards Hill Street from Emery Street. In the satellite image displayed below, I have noted the street widths throughout that portion of the street.



As mentioned in the previous Foss Street study, interpreting the various City Ordinances outlining the necessary safe and recommended travel width for individual lane use was complicated.

Below, the ordinance mentions the minimum width of a 10 foot travel lane with no curbing. Regardless, the **minimum** width referred to in the City Ordinance, when referring to any travel lane width was at least 10 feet. This is additionally reflected in most State and Federal DOT standards as well. Most State DOT standards operate at an 11 foot minimum width.

Also highlighted below in section **.2** is the provision for parallel parking, which is set at a minimum requirement of ***7.5 feet.***

Biddeford City Ordinance: *Sec. 62-109**Roadway features.***

[Ord. of 12-4-1991, § 20-79; Ord. No. 2003.16, 2-4-2003]

1. *Travel lanes: Lane width for City streets shall not be less than those values shown in Section*

***62-126**, **Table A**. The shoulders must be a minimum of two feet on each side. If a curb or berm is installed, the travel lane shall be a minimum of **13 feet in width**.*

*For minor residential streets in the RF Zone, the travel lane width shall be a minimum of **10 feet** with two-foot gravel shoulders at each side and no curbing. If curbing is technically necessary, as determined by the engineer, for a RF Zone minor residential street, then the street must comply with the City street standards previously stated.*

2. *Parking lanes: When provision is made for parallel parking along the side of any street, the parking lane shall be at **least 7 1/2 feet** (2.3 m) in width.*

Newer roads appear to require a 13 foot width. Another table suggests a 12 foot width on urban streets for both arterial and collector streets. (See attachment 62 below)

This portion of Main Street between Foss Street and Emery Street averages 36’04” wide and never exceeds the width of 37 feet.

When using the average 36’04” width and after subtracting the 7’06” minimum threshold for parallel parking x 2 for each side (15 feet), it equals a 21’04” width. 21’04” divided by two equals only 10’08” feet for each individual east and west bound travel lane through that area (best-case scenario). This margin appears to have been increased slightly however due to the smaller 7 foot parallel parking spots instead if the recommended 7.5.

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

62 Attachment 1

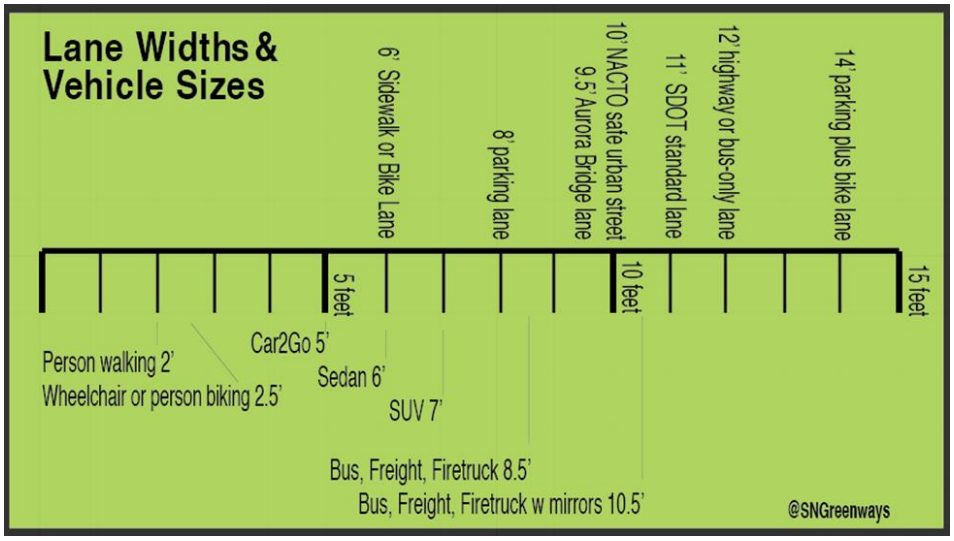
City of Biddeford

Table A
Minimum Roadway Construction Standards
[Ord. of 12-4-1991, § 20-91; Ord. No. 2003.16, 2-4-2003]

Road Classification	Local Arterial Streets		Local Collector Streets			Major Residential Streets		Minor Residential Streets	
Subcategories	Urban	Nonurban	Industrial	Urban	Nonurban	Urban	Nonurban	Urban	Nonurban
Right-of-way width (feet)	60	50	50	50	50	50	50	50	50
Travel lane width (feet)	12	11	12	12	11	12	11	11	10
Shoulder width (feet)	5	3 gravel	4	4	3 gravel	3	2 gravel	3 gravel	2 gravel
Sidewalk width (See Section 62-110, Sidewalks, for requirements) (feet)	5	5	5	5	5	5	5	5	5
Additional travel lane width (when required) (feet)	11	11	11	11	11	11	11	11	11
Parking lane width (parallel parking) when required (feet)	8	8	8	8	8	8	8	8	8
Bike lane, where applicable (feet)	3	3	3	3	3	3	3	3	3
Subsurface/surface drainage	Subsurface	Surface	Subsurface	Subsurface	Surface	Subsurface	Surface	Subsurface	Surface
Roadway crown (inches per foot)	1/4	1/4	1/4	1/4	1/4	1/4	1/4	1/4	1/4
Center-line radius (feet)	250	250	250	250	200	150	150	150	150
Curb and pavement radius at intersections (feet)	30	30	30	30	30	30	30	30	30
Tangent between curves of reverse	150	150	150	150	100	100	50	50	50

62 Attachment 1:1

09 - 01 - 2011



This average vehicle traveling on the roads today is between 6 and 7.5 feet in width. Commercial vehicles are 8'06" in width and Fire and Rescue apparatus can be as wide as 9'06" in width and 10'06" if you include the mirrors.

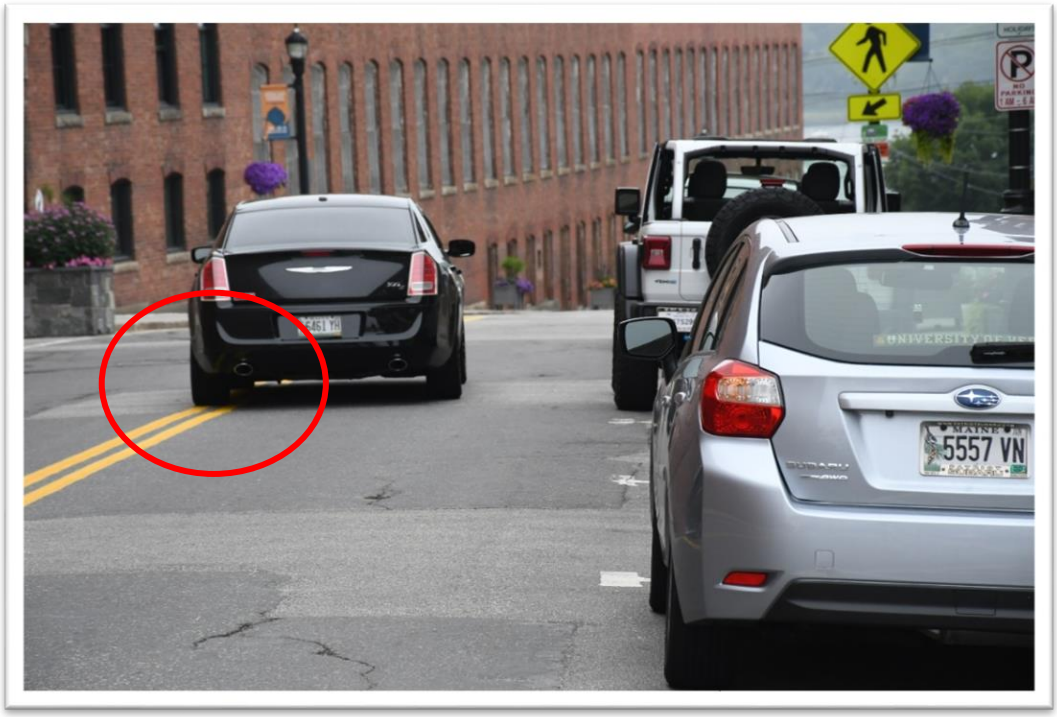
These measurements also do not account for the 5-inch paint stripes that are used to denote the individual parallel parking areas and to denote the 1-foot (approximate) double center lane stripes.

The white colored parking notation stripes coupled with the double yellow centerline eliminates another 1'10" of total space, or another 11 inches per lane. The remaining open travel lane space under best-case scenario is approximately 9'09" feet per travel lane, which is under the recommended 10 minimum ten-foot travel lane. This fact also takes into consideration that the double yellow line splits the difference between the two travel lanes. Measurements through this area determines that the centerlines considerably favor a greater width to the westbound travel lane by approximately 5 feet. The travel way headed west on Main Street in front of Woodgrain Barber Shop is 12'07" wide while the eastbound lane is only 7'08" wide (asphalt between the paint).

Civil engineers will indicate that paint striping, whether it is the center line(s) or parallel parking lines, are "included" when calculating lane width. Human nature however does not, as motorists do regularly "share" the centerline with adjacent and oncoming traffic.

An average full sized truck (6.5 to 7.5 feet wide) parked 1 foot off of the curb will be 7.5 to 8.5 feet into the roadway, thus shrinking the adjacent travel lanes to only 9 feet or less if the centerline was in the middle (its not). This is a full foot below the minimum standard set by ordinance, 2 feet less than DOT recommendations and a full 4 feet less than set by the Biddeford ordinance for new construction.

I have included several images below to demonstrate the effects of the narrow travel lanes. Observers should note the position of the vehicles as they attempt to maneuver through the narrow lanes, especially while vehicles are parked on either sides of the road.

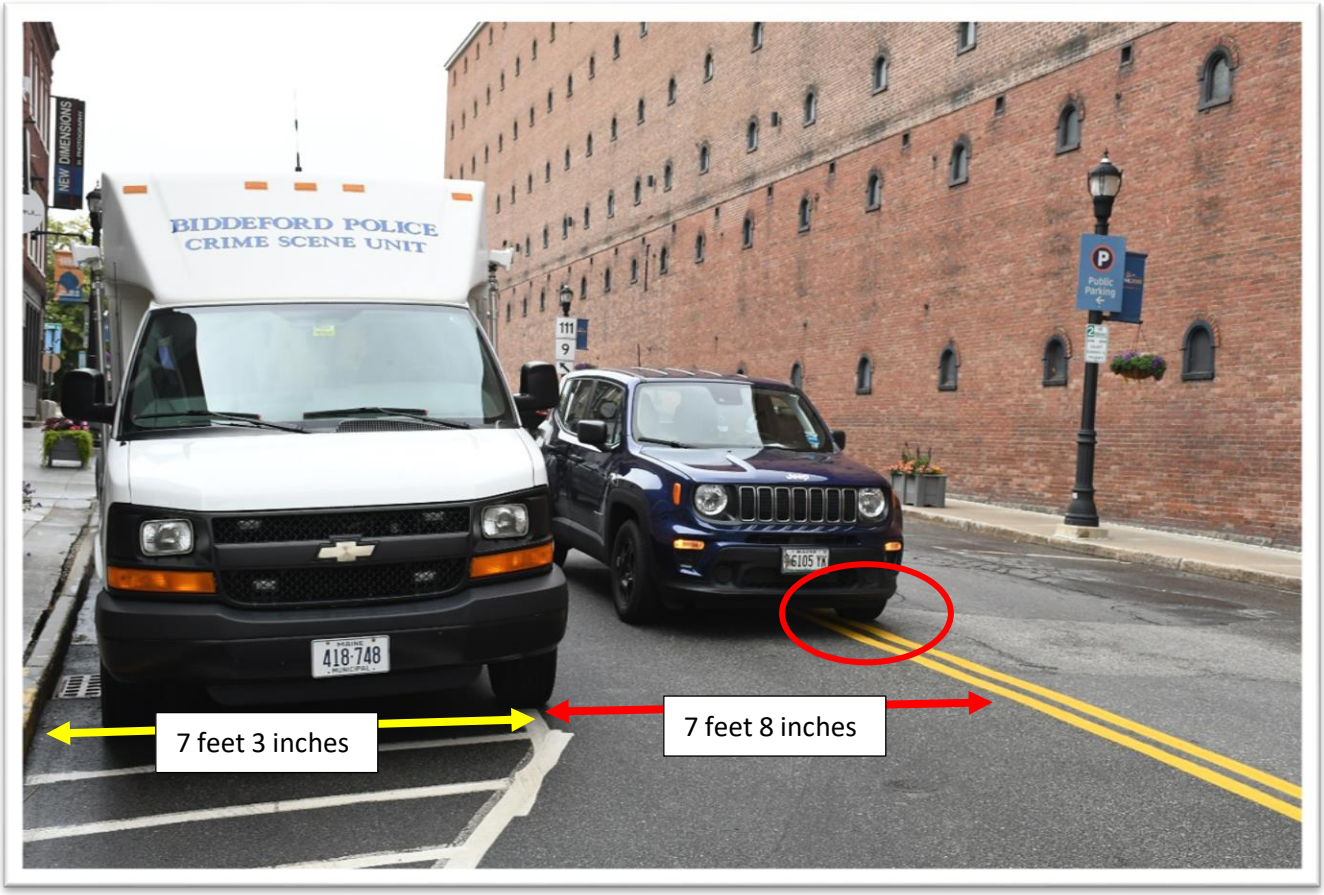


In one image, you will notice a pickup truck towing a boat trailer. A UPS truck is parallel parked while making a delivery. Approximately 3/4ths of the boat trailer is in the adjacent lane in an effort to maneuver around the UPS truck.

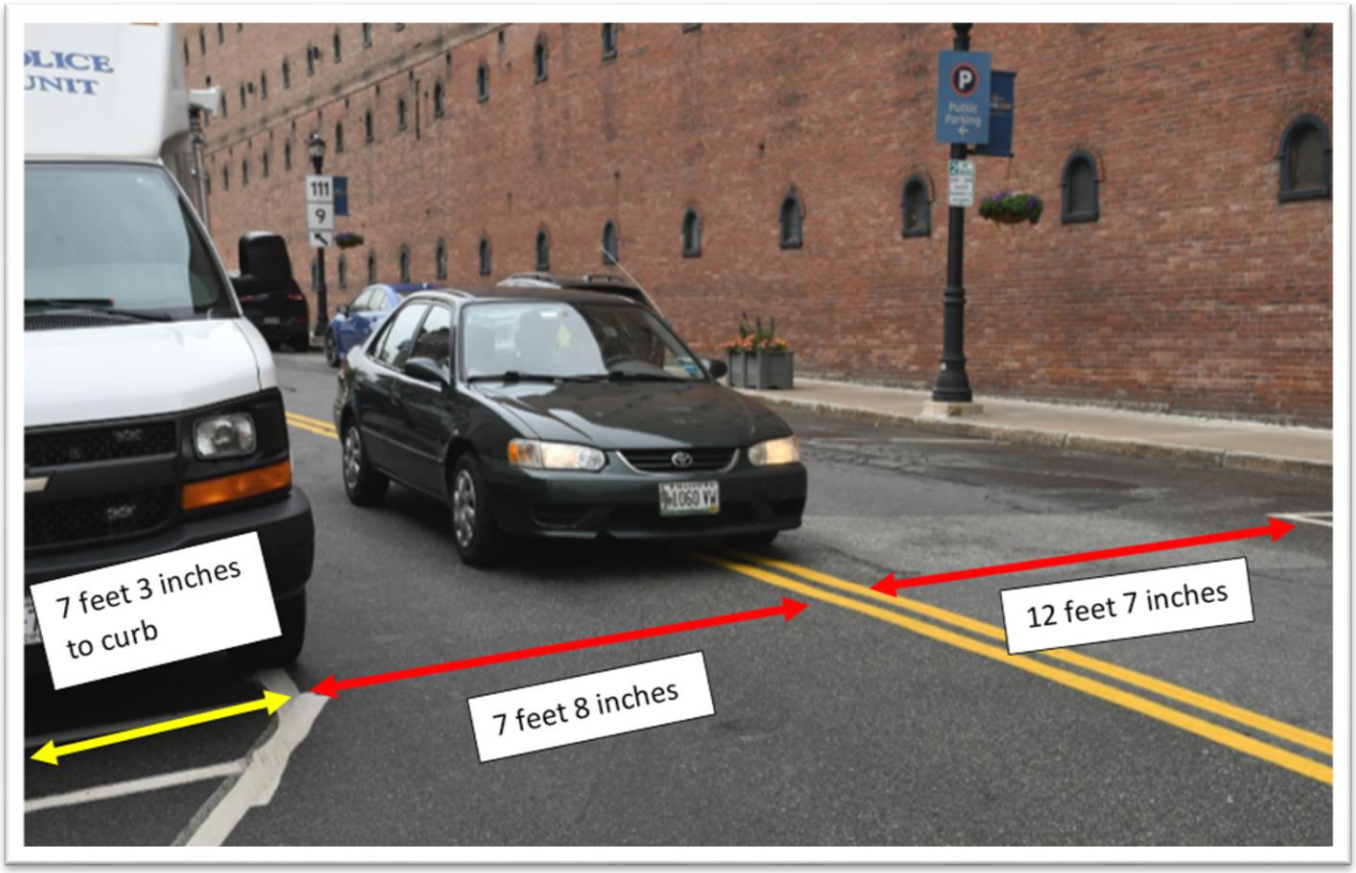
As we approach the intersection of Emery Street, the road slightly curves. This area is the narrowest portion of Main Street at only 34 feet and 7 inches wide at the crosswalk. I have included images below noting traffic flow through this portion of Main Street.

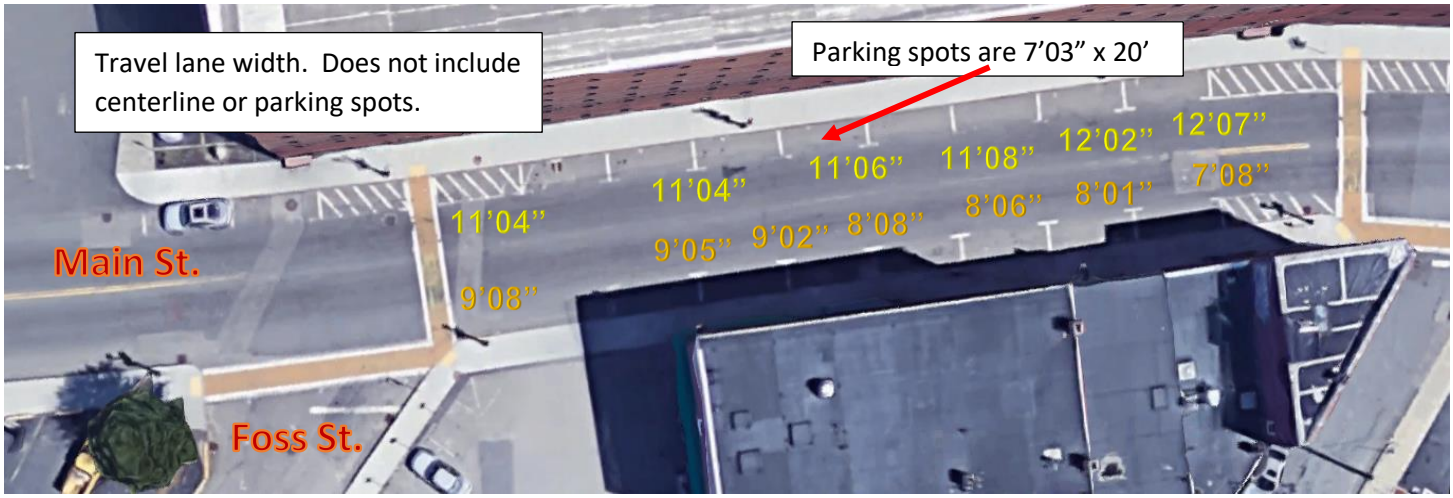
The parallel parking spots on the south side of the street average about 7'3" wide and just under 20 feet long. That measurement are taken to the outer edge of the white paint hash marks that denote the edges of the parking spot. The white stripes are approximately 5 inches wide, but vary per spot. As the spots have been re-painted over the years, the stripes have become wider in some areas.

In the image below, you will see the Biddeford Police Crime Van parked in front of Woodgrains Barber shop. This portion of Main Street is the narrowest stretch. The parking spot where the van is parked is approximately 7'03" wide to the outer edges of the paint. The van is approximately 6'08" inches wide without factoring in the side mirrors.



The travel area (travel lane) between the outer edge of the white parking spot and the yellow centerline is only 7'08" wide at this location. That is 2'04" narrower than the recommended minimum 10-foot travel lane. On the opposite side, the travel lane is measured at 12'07" between the painted lines.





The double yellow clearly does not represent the true middle of the road at this location. If the line was centered, it would offer 10'01" of travel between the painted lanes or 10'07" if you include the center line.

Note however that the parking spots at this location are still at just over 7'00" and not the recommended 8'00" for standard vehicles. Parking for 7-foot wide parking spaces are traditionally limited for compact sized vehicles.

LOWER MAIN STREET

Eastbound on lower Main Street as it continues past Emery Street towards Hill St. starts to widen. The image below displays the widening measurements.

The street remains at under 37 feet wide just east of Emery Street, but then quickly widens out to over 55 feet wide at Hill Street.

The travel lanes are wider here also with the widths of the eastbound travel lane ranging between 11'00" at its narrowest and 15'00'' at its widest. The average was between 11 and 12 feet (between the paint). In the westbound lane, the average was the same at 11 to 12 feet of available travel lane between the paint. The slimmest distance being 11 feet at the Emery Street intersection and the widest being 16 feet at the intersection of Hill Street.

Parallel parking on Main Street though the stretch east of Emery Street remains available on both sides. The spots are approximately 7'02" wide on average and just under 20 feet long. Eleven parallel spots are on the north side of the street for westbound traffic and there are six available parallel spots on the south side of the street for vehicle operating east.

As a side note, I observed two parking spots on the north side of the street (across from Safe Harbor Storage) that were 1 foot thinner than the others were. These two parallel spot were only 6'02 feet wide. I circled the two smaller spots in the image below. As mentioned above, the remaining parking spots all range around 7'02" to 7'04" wide.

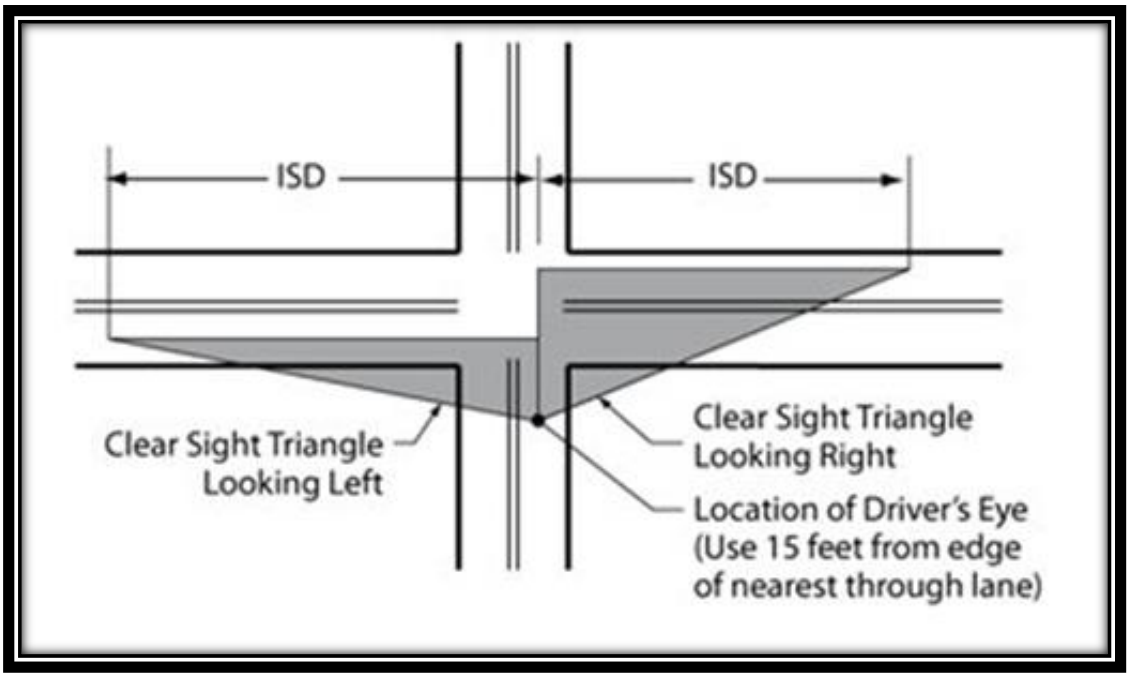
SIGHT DISTANCES

Insufficient sight distance can be a contributing factor in intersection traffic crashes. Intersection sight distance is the distance a motorist can see approaching vehicles before their *Line of Sight* is blocked by an obstruction near the intersection. The driver of a vehicle approaching or departing from a stopped position at an intersection should have an unobstructed view of the intersection, including any traffic control devices, and sufficient lengths along the intersecting roadway to permit the driver to anticipate and avoid potential collisions. Examples of obstructions can include trees, parked vehicles, utility poles, or buildings. In addition, the horizontal and vertical alignment of the roadway approaching the intersection can reduce the sight triangle of vehicles navigating the intersection.

It is important for approaching motorists on the major road to see side intersection vehicles, and for motorists exiting on to a travel way to see approaching vehicles before entering onto the road. Poor sight distance can lead to rear-end crashes on the approaches and to side impact crashes within the intersection because motorists may be unable to see and react to approaching vehicles.

The area needed for provision of this unobstructed view is called the Clear Sight Triangle (see Figure 1).

Figure 1. Sight Distance Triangles for 4-Leg Stop-controlled Intersections



The Intersection Sight Distance (ISD) is measured along the major road beginning at a point that coincides with the location of the minor road vehicle. Table 3 provides the recommended values for ISD, based on the following assumptions:

- Stop control of the minor road approaches;
- Using driver eye and object heights associated with passenger cars;
- Both minor and major roads are considered at level grade;
- Considers a left-turn from the minor road as the worst-case scenario (i.e., requiring the most sight distance); and
- The major road is an undivided, two-way, two-lane roadway with no turn lanes.

Speed (mph) *	Stopping Sight Distance (ft.)	Design Intersection Sight Distance (ft.)
25	155	280
30	200	335
35	250	390
40	305	445
45	360	500
50	425	555
55	495	610
60	570	665
65	645	720

Source: A Policy on Geometric Design of Highway and Streets, 5th Edition, American Association of State Highway and Transportation Officials (AASHTO), 2004.

Biddeford City Ordinance Sec. 62-114 **Sight distance.**

[Ord. No. 2003.16, 2-4-2003]

Sight distance is the length of approaching roadway, which is visible to the driver.

Stopping sight distance in the sum of the distance traveled during driver perception/reaction time (2 1/2 seconds) and the distance traveled while braking to a stop. The measurement is from the driver's eye 3 1/2 feet above the pavement to a six-inch height of object.

Table 62-114-1 lists the design guidelines for stopping sight distances at various speeds. The Table is based on 10 feet of sight distance for every mile per hour. In no case shall the minimum sight distances be less than the MDOT Highway Design Guide requirements.

Table 62-114-1

Stopping Sight Distance

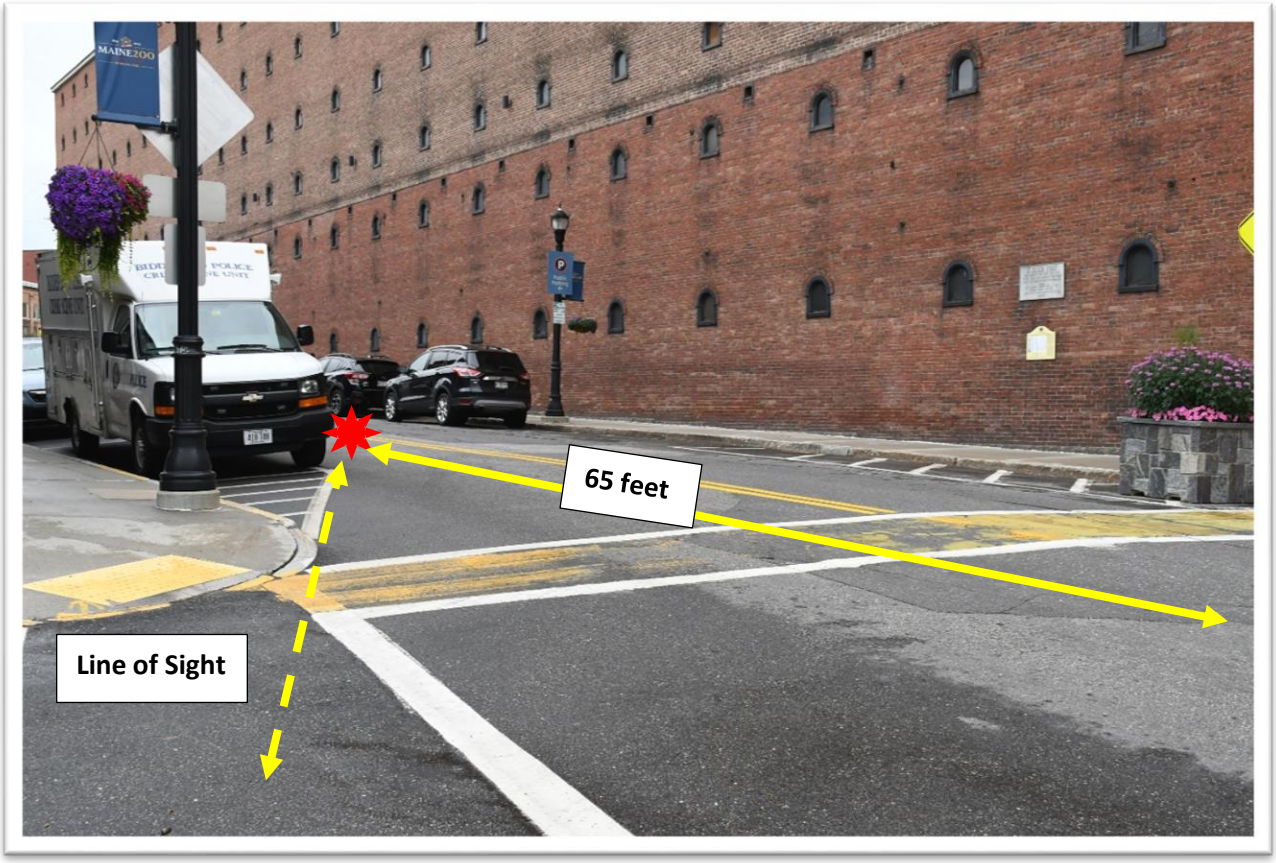
Design Speed (miles per hour)	**Sight Distance (feet)**
15	150
25	250
30	300
35	350
40	400
45	450
50	500
55	550

Intersections at grade sight distance: *Any intersection street or road shall be so designed in profile and grading to provide minimum sight distances measured in each direction. The height of eye of the driver is 3 1/2 feet and the height of object (an approaching car) is 4 1/4 feet. This section is based on Chapter 8 of the Maine DOT Highway Design Guide. Refer to the most recent version of this manual for sight distance requirements for various intersections.*

Of three intersections in this area, the intersection most effected by "*Line of Sight*" issues is the Emery Street intersection. I first examined the eastbound lane of travel on Main Street, which is the closest travel way.

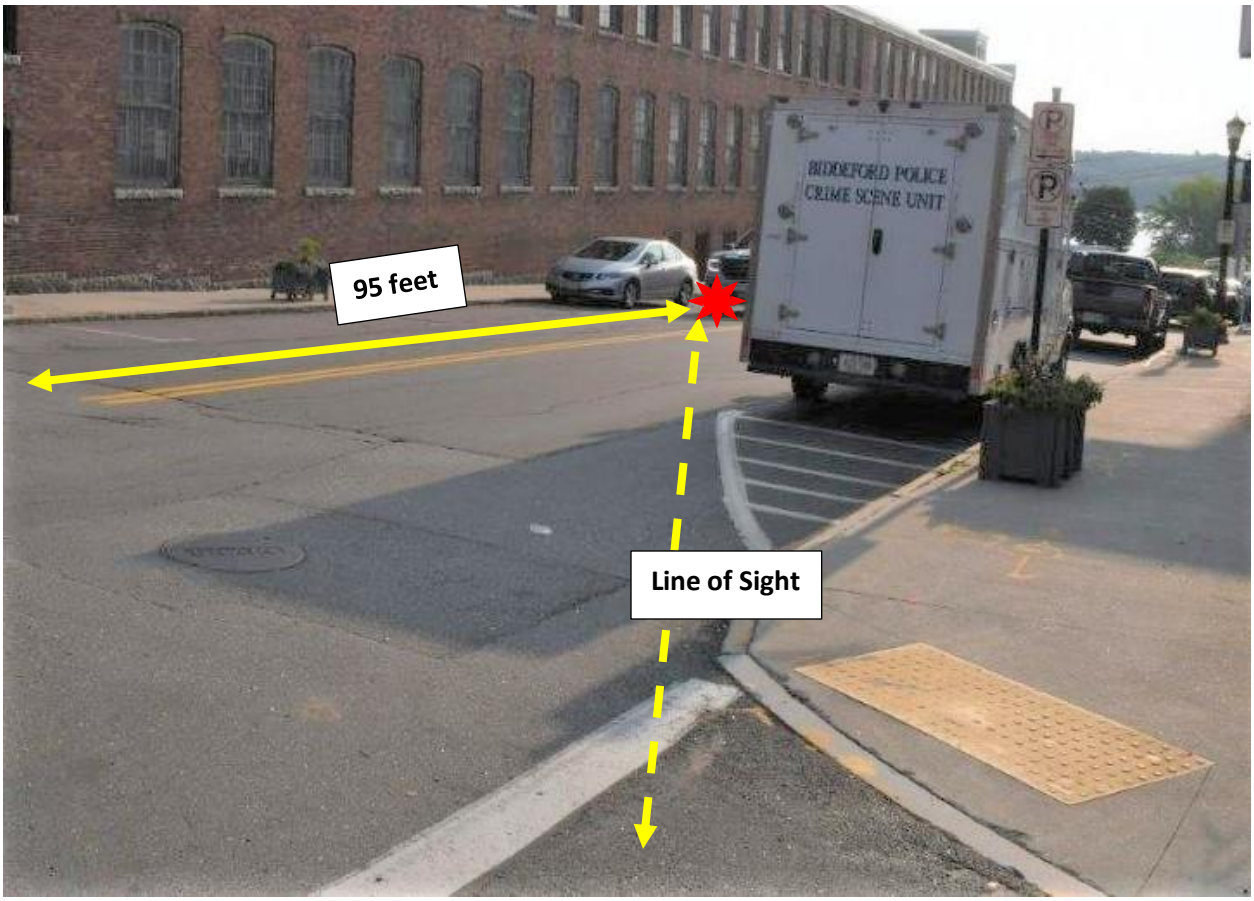
I took the opportunity to legally park the Biddeford Police Department Crime Van facing eastbound at the closest available parallel parking spot on the west side of the Emery Street intersection, just in front Woodgrain's Barber Shop.

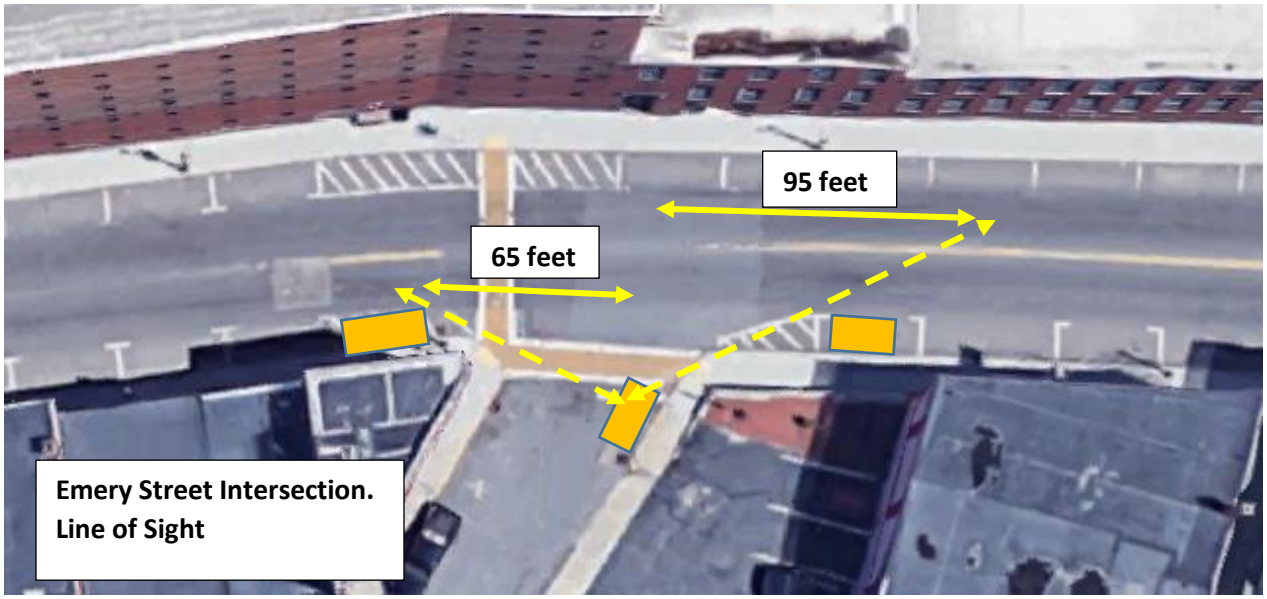
For vehicles traveling east on Main Street, and with a large vehicle parked legally in that spot, the *Line of Sight* was measured at roughly 65 feet. See image below.



I then parked the Biddeford Police Department Crime Van facing eastbound at the closest available parallel parking spot on the east side of the Emery Street intersection in front of Safe Harbor Storage.

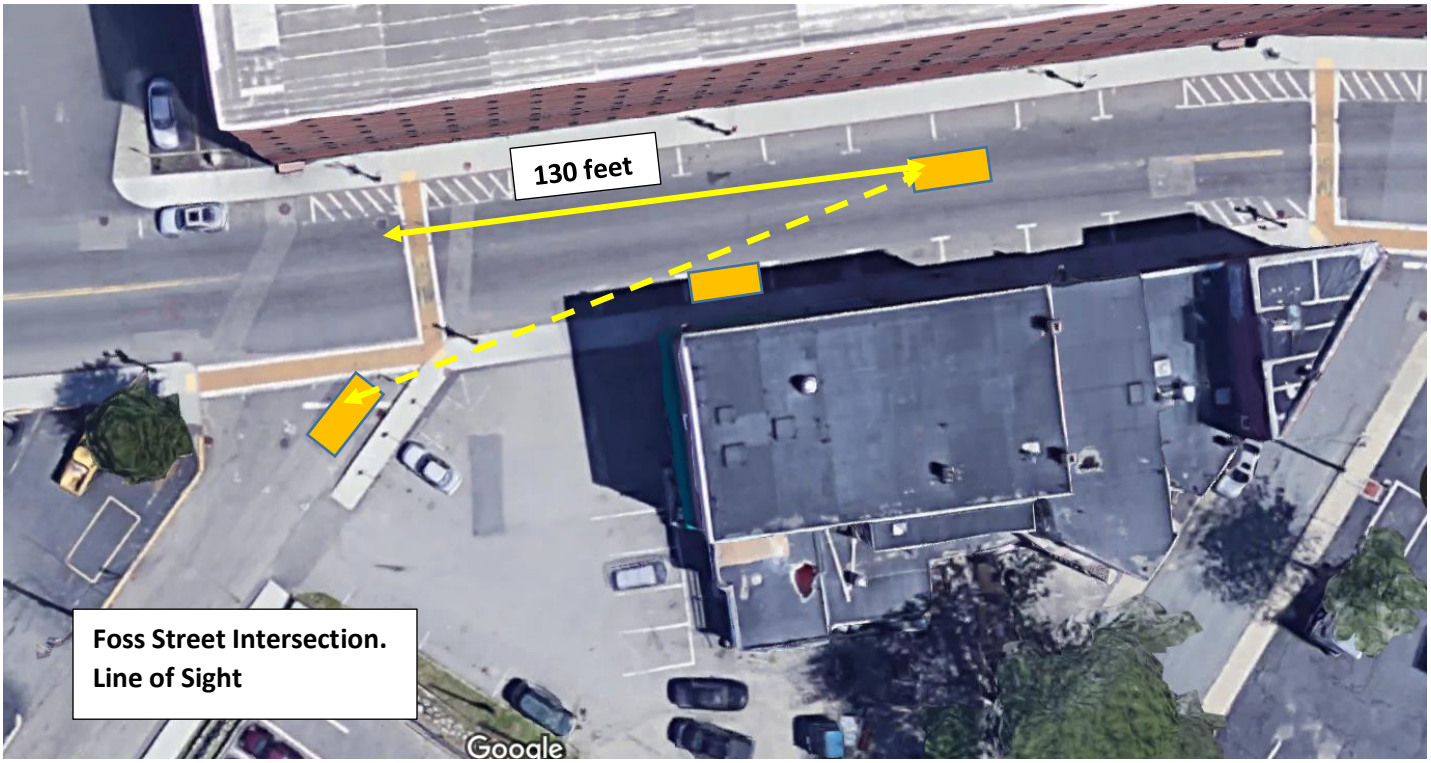
For vehicles, traveling in a westerly direction on Main Street and with a large vehicle parked legally in that spot, the *Line of Sight* measures approximately 95 feet. See images below.


95 feet
Line of Sight
BIDDEFORD POLICE
CRIME SCENE UNIT


95 feet
65 feet
Emery Street Intersection.
Line of Sight

The Foss Street Intersection is less of an issue with *Line of Sight* due to more general visibility in the intersection. The lack of any buildings to the west and northwest allows for a generous *Line of Sight* and generally high visibility of east flowing traffic. Traffic visibility from westbound motorists is slightly more limited however.

A vehicle parallel parked on the south side of Main Street in front of Dizzy Birds (as displayed below) may offer a shorter *Line of Sight*. The *Line of Sight* displayed below (130 feet) is an average representation of what the operator would view while stopped at the end of the Foss Street intersection. This *Line of Sight* can change dramatically depending on where the operator stops at the intersection.



Foss Street Intersection.
Line of Sight

CRASHES

Crashes reported in this area of Main Street were reviewed dating back through the year 2019. This does not account for crashes that were never reported or that were misclassified by location or other means. A total of 25 crashes occurred at or between the intersections of Foss and Hill Street. Most of these crashes were a direct result of narrow lanes or crowded parallel parking.

Twenty crashes on Main Street at or between the Foss Street Intersection and the Emery Street Intersection:

19-4288 Non-reportable Crash - 45 Main Street (Woodgrain Barbers)

19-6047 Non-reportable Crash - 45 Main Street (Woodgrain Barbers)

19-9352 Non-reportable Crash - 45 Main Street (Woodgrain Barbers)

19-11381 Non-reportable Crash - 45 Main Street (Woodgrain Barbers)

19-264-AC Reportable Crash - 45 Main Street (Woodgrain Barbers)

19-269-AC Reportable Crash - 45 Main Street (Woodgrain Barbers)

19-19594 Non-reportable Crash - 45 Main Street (Woodgrain Barbers)

19-11658 Non-reportable Crash - 65 Main Street (Dizzy Birds)

19-32669 Non-reportable Crash - 45 Main Street (Woodgrain Barbers)

19-38194 Non-reportable Crash - 65 Main Street (Dizzy Birds)

19-608-AC Reportable Crash - 45 Main Street (Woodgrain Barbers)

20-2314 Non-reportable Crash - 65 Main Street (Dizzy Birds)

20-82-AC Reportable Crash - 65 Main Street (Dizzy Birds)

20-419-AC Reportable Crash - 45 Main Street (Woodgrain Barbers)

21-76-AC Reportable Crash - 65 Main Street (Dizzy Birds)

21-3451 Non-reportable Crash - 45 Main Street (Woodgrain Barbers)

21-251-AC Reportable Crash - 65 Main Street (Dizzy Birds)

21-257-AC Reportable Crash - 65 Main Street (Dizzy Birds)

21-371-AC Reportable Crash - 45 Main Street (Woodgrain Barbers)

21-379-AC Reportable Crash - 45 Main Street (Woodgrain Barbers)

Five crashes occurring at or between Emery Street and Hill Street:

19-12493 Non-reportable Crash – 41 Main Street (Safe Harbor Storage)

20-24363 Non-reportable Crash – 40 Main Street

20-26832 Non-reportable Crash – 41 Main Street (Safe Harbor Storage)

20-381-AC Reportable Crash - 41 Main Street (Safe Harbor Storage)

20-381-AC Reportable Crash - 40 Main Street

INTERVIEWS and OBSERVATIONS

Throughout the study, while spending time in the area, I had the opportunity to watch and observe various traffic flow patterns. I also had the opportunity to meet and speak with several business owners, tenants and pedestrians who frequent the area and observe the same traffic nuances as I had.

One of the business owners I spoke with was State Representative Erin Sheehan and her husband Carson. Erin and Carson own Lorne Wine shop at 61 Main Street. This business stands right in the middle of the most congested portion of Main Street and they literally have a front row seat. They advised that during the busiest times of day, the traffic becomes very congested. Often times, two vehicles cannot safely pass each other. Vehicles will frequently have to stop and yield to the side in order to allow oncoming traffic to pass. They have also witnessed some of the same crashes I listed above, as well as some that have never been reported.

I was also able to speak to some tenants that live in the apartments above Lorne as well as several persons walking their dogs, walking for morning coffee or just enjoying their day. The theme was universal in that they all expressed the same concerns with the narrow travel lanes and narrow parking spots.

My personal observations from a Law Enforcement perspective included concerns of road-rage and quick tempers flaring due to the congestion and sometimes pauses in traffic flow. While I was on scene, fully visible in uniform, there were several occurrences of revving engines, squealing tires, imprudent speed, unsafe maneuvering and the use of foul language. It is undoubtedly a cause of frustration during heavy and congested periods of traffic.

SUMMERY

This concludes the requested study of traffic flow and parking issues of Main Street between Foss Street and Hill Street. The study includes the current and potential effects of travel lane width as it relates to vehicles operating east and west adjacent to each other and the effects of the on-street parallel parking. It additionally includes the summary measurements for *Line of Sight* perception for motorists exiting Emery Street and Foss Street onto Main Street. Beyond the observations already stated, this author draws no conclusions from the information collected and presented for this study.

All measurements are approximate. The margin of error is within a few inches.

2021.108 IN BOARD OF CITY COUNCIL..OCTOBER 19, 2021

BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, Chapter 42, Motor Vehicles and Traffic, Article IV Specific Street Regulations**, Section 42-90 No Parking**, be amended by adding or ~~deleting~~ to read as follows:

Foss Street, odd-numbered side, from King Street to Main Street

~~*Foss Street*, odd numbered side, No Parking within three (3) feet of either side of the entrance (*within the curb cut*) to the Foss Street Public Parking Lot.~~

BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, Chapter 42, Motor Vehicles and Traffic, Article IV Specific Street Regulations**, Section 42-92 Limited Parking**, be amended by adding or ~~deleting~~ to read as follows:

~~*Foss Street*, odd numbered side, from Main Street to Bacon Street, two (2) hours, Monday through Saturday between the hours of 8:00 a.m. to 5:00 p.m., excluding Holidays.~~

NOTE: The Policy Committee considered this amendment at their October 12, 2021 meeting and voted unanimously to recommend passage by the City Council.

City Council

Meeting Date: October 19, 2021
Meeting Time: 6:00 p.m.

Agenda Item No: 2021.108
Item Description: Foss Street – No Parking

Submitted by: Roger P. Beaupre, Chief

Supporting Information/Documentation:

Traffic Analysis for Foss Street

Key Terms:

[List key terms with definitions if introducing new topics. "N/A" if not applicable]

Executive Summary:

Foss Street is currently 2 hour parking between Bacon Street and Main Street. You will note in the accompanying Traffic Analysis, the width of Foss Street is 26.5 feet in width, which does not meet the City's existing Standards for allowing parking on one side of the street. Although there is no center line markings, the lane widths are insufficient to accommodate two way traffic and parking on one side. Applying the eleven (11) foot per travel lane Standard, twenty nine and one half feet (29.5) are need to allow parking on one side. The Standard lane width for this Street is set at twelve (12) feet, which would require thirty one and one half (31.5) feet of curb to curb width.

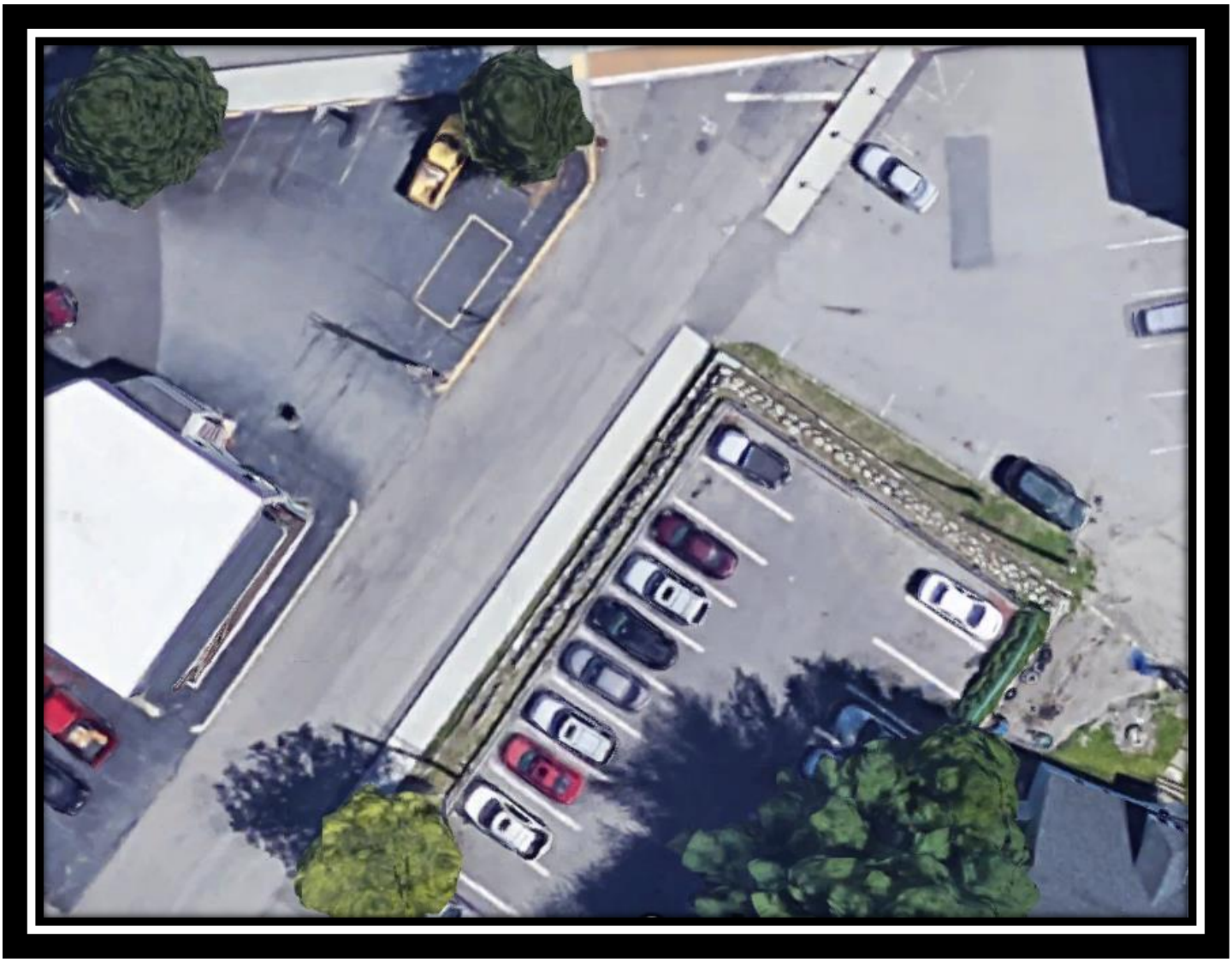
Detailed Review:

Attached Traffic Analysis provides appropriate analysis.

Funding Source:

City Budget

Staff Recommendation:



Foss Street Traffic and Parking Study

08/23/2021

Corporal Matthew D. Baldwin

Biddeford Police Dept.

39 Alfred Street

Biddeford, Maine

OVERVIEW

Upon request, a study was conducted of lower Foss Street to assess on-street parking and potential travel issues. The study was completed in the areas between 5 Foss Street and 25 Foss Street to include the exit of the Foss Street Public Parking lot, now noted as ***Lot P4305***, controlled by Premium Parking. The area of Foss Street between Bacon Street and Main Street is approximately 390 feet long. Foss Street is a non-posted 25 mph zone. On-street parking for this portion of Foss Street was introduced a few years ago and had originally been posted as **No** on-street parking.

This area was analyzed to note ease of travel by exiting and traveling motorists and how parking along the east side of this roadway influences that travel. It has been reported that while vehicles are parked on the east sides of the street, it is difficult for motorists exiting ***Lot P4305*** to see safely in both directions. It has also been suggested that parking along the easterly side of Foss Street does not allow for enough travel area for north and southbound traffic to safely pass at the same time.

The asphalt through this portion of Foss Street remains in good condition. The street has an elevated grade of approximately 5 to 10 degrees in a southerly direction. Foss Street has approximately 175 feet of distance from the easterly entrance of ***Lot P4305*** to the intersection of Main Street. The available parking along the east side of Foss Street, north of the entrance is approximately 84 total feet. This equates to roughly four 20-foot parking spots. At this time, parking is restricted to the east side of the street only. South of ***Lot P4305*** there is approximately 108 feet of allowable on-street parking, or roughly five parking spots.

The average width of Foss Street is approximately 26.5 feet (see image P-6 for specific distances). This distance does not include the sidewalks positioned on both sides of the street.

There are only a few entrances on the east side of Foss Street where on-street parking is affected and or restricted. Dizzy Birds restaurant, located at 65 Main Street has a Foss Street entrance approximately 34 feet from Main Street. ***Lot P4305*** has its entrance, and further south is the private driveway at 25 Foss Street.

Other than traffic flow, the entrances on the west side of Foss Street would not affect parking. Grady's Television has an entrance on the west side of Foss Street, approximately 65 feet from the intersection of Main Street. Continuing south, there is another rear employee parking entrance for 'The Donut Shop' and then two large garage entrances for C&R Enterprises, Inc. There is additionally an entrance to the rear of Pop's tavern on the west side of Foss Street near the Bacon Street intersection.

The total analysis includes the observation of traffic movement, parking utilization, sight distances, photographs and measurements of the Foss Street area. This was completed in order to assess and identify any existing safety deficiencies that could negatively affect or impact this portion of Foss Street.

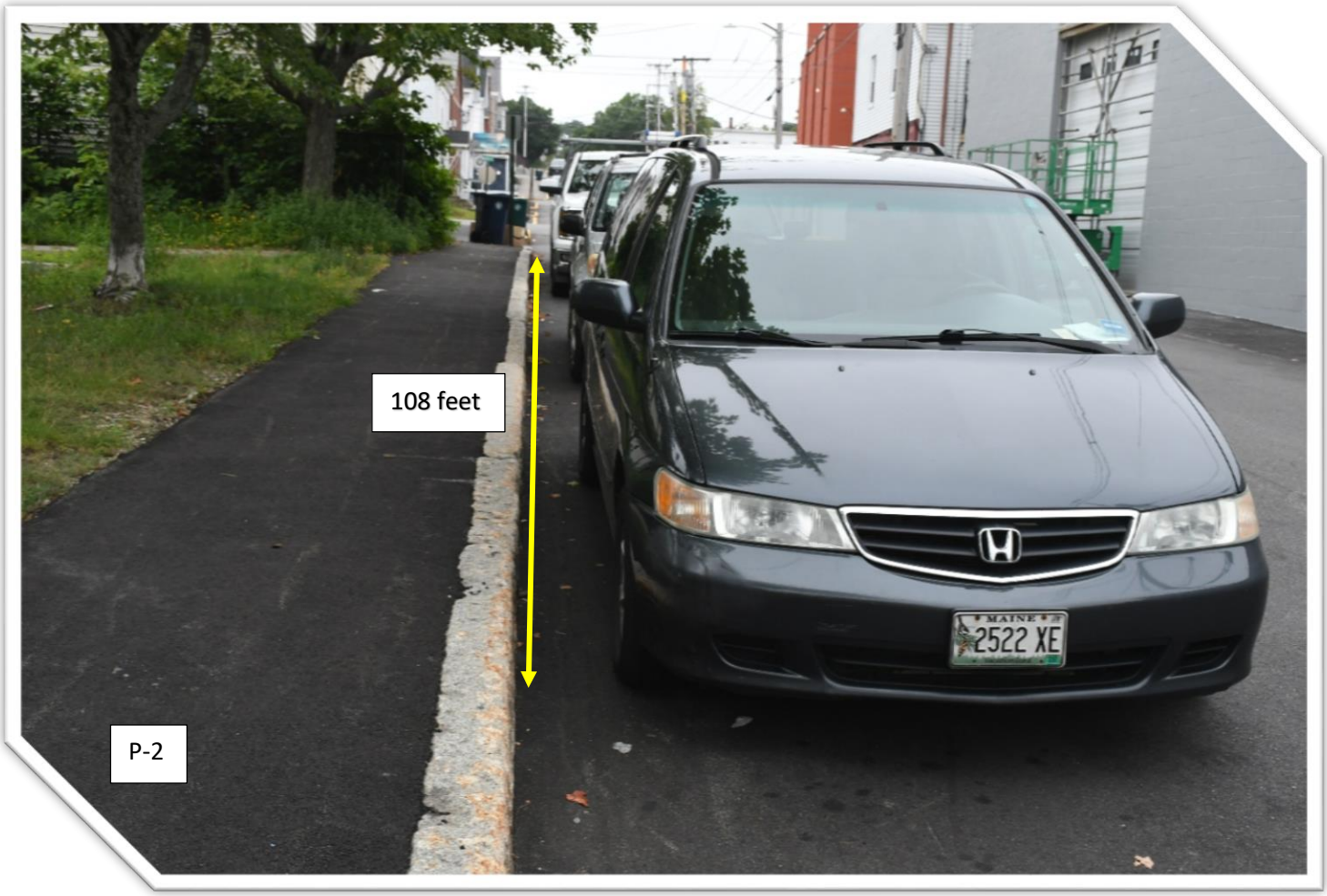
PARKING AND TRAFFIC ANALYSIS:

AVAILABLE ON-STREET PARKING

The Foss Street parking and traffic analysis involved the monitoring of traffic movement, parking practices, and other environmental issues that may have effects on the area. As mentioned above, other than ***Lot P4305***, this portion of Foss Street effects the businesses of 'Grady's Television', 'Dizzy Bird's Chicken' and the employee parking area of the 'The Donut Shop'.

At this time, there are no individually marked or designated parallel parking spots on the east side of Foss Street. The 84 feet of legal parking, north of the **P4305** entrance, could allow for four (4) average 20-foot parking spots. See image P-1 below

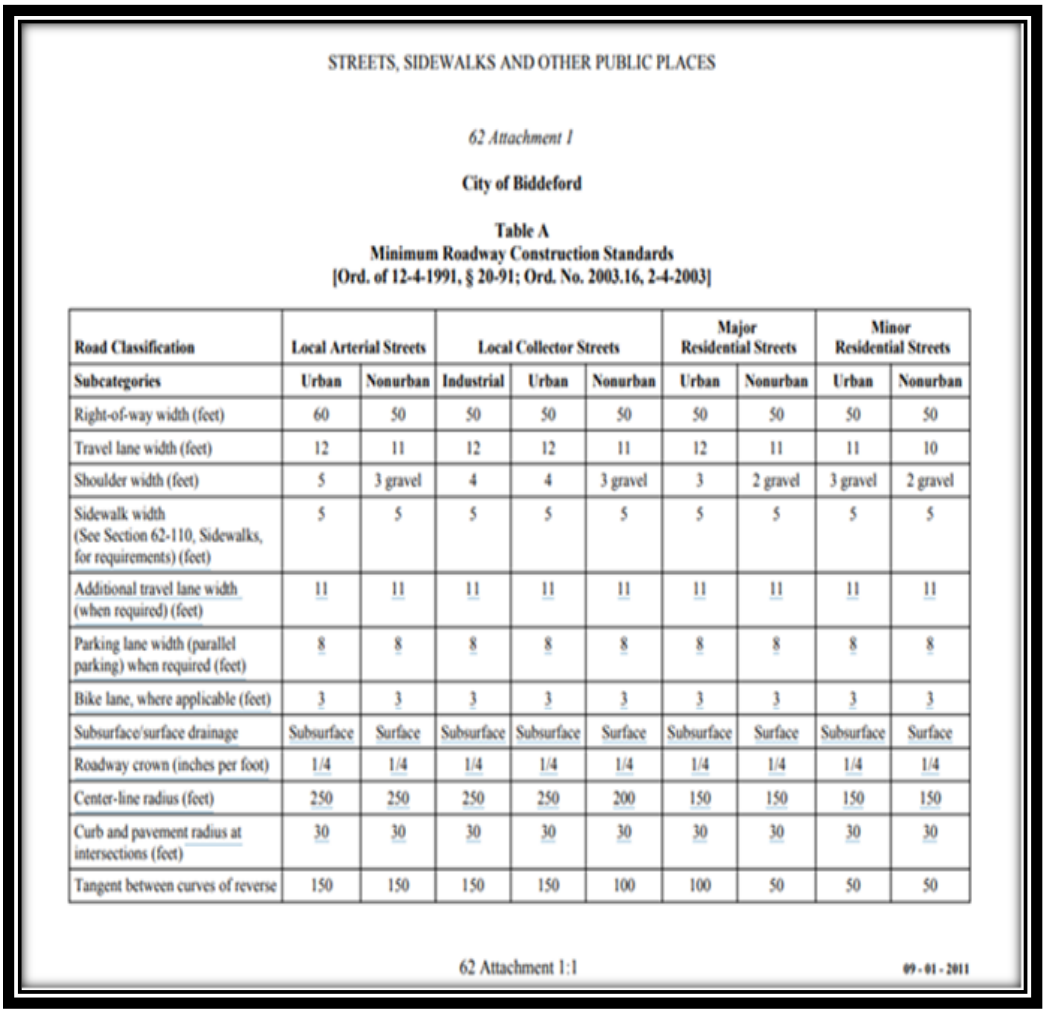
The on-street parking south of the entrance of ***Lot P4305*** allows for approximately 108 feet of on-street parking. The available parking starts 20 feet from the south entrance of ***Lot P4305*** and extends and ends at the driveway between 23 and 25 Foss Street. The 108 available feet allows for approximately five (5) 20-foot additional parking spots, totaling nine (9) legal on-street parking spots if at full capacity. See image P-2.



STREET / LANE WIDTH

Foss Street averages approximately 26.5 feet in width when traveling north of the ***P4305*** entrance and 26 feet when south of the entrance. Squared off granite curbing limits any additional option to yield a vehicle further off either side of the roadway. This width additionally does not take into account the issues with snow and snowbanks during the winter months that will arguably narrow the street further.

Interpreting the various City Ordinances outlining the necessary safe and recommended travel width for individual lane use was complicated. Newer roads appear to require a 13 foot width. Another table suggests a 12 foot width on urban streets for both arterial and collector streets. (See attachment 62 below)



STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

62 Attachment 1

City of Biddeford

Table A
Minimum Roadway Construction Standards
[Ord. of 12-4-1991, § 20-91; Ord. No. 2003.16, 2-4-2003]

Road Classification	Local Arterial Streets		Local Collector Streets			Major Residential Streets		Minor Residential Streets	
Subcategories	Urban	Nonurban	Industrial	Urban	Nonurban	Urban	Nonurban	Urban	Nonurban
Right-of-way width (feet)	60	50	50	50	50	50	50	50	50
Travel lane width (feet)	12	11	12	12	11	12	11	11	10
Shoulder width (feet)	5	3 gravel	4	4	3 gravel	3	2 gravel	3 gravel	2 gravel
Sidewalk width (See Section 62-110, Sidewalks, for requirements) (feet)	5	5	5	5	5	5	5	5	5
Additional travel lane width (when required) (feet)	11	11	11	11	11	11	11	11	11
Parking lane width (parallel parking) when required (feet)	8	8	8	8	8	8	8	8	8
Bike lane, where applicable (feet)	3	3	3	3	3	3	3	3	3
Subsurface/surface drainage	Subsurface	Surface	Subsurface	Subsurface	Surface	Subsurface	Surface	Subsurface	Surface
Roadway crown (inches per foot)	1/4	1/4	1/4	1/4	1/4	1/4	1/4	1/4	1/4
Center-line radius (feet)	250	250	250	250	200	150	150	150	150
Curb and pavement radius at intersections (feet)	30	30	30	30	30	30	30	30	30
Tangent between curves of reverse	150	150	150	150	100	100	50	50	50

62 Attachment 1:1

09 - 01 - 2011

Below, the ordinance mentions the minimum width of a 10 foot travel lane with no curbing. Regardless, the **minimum** width referred to in the City Ordinance, when referring to any travel lane width was at least 10 feet. This is additionally reflected in most State and Federal DOT standards as well. Most State DOT standards operate at an 11 foot minimum width.

Also highlighted below in section **.2** is the provision for parallel parking, which is set at a minimum requirement of 7.5 feet.

Biddeford City Ordinance: *Sec. 62-109**Roadway features.***

[Ord. of 12-4-1991, § 20-79; Ord. No. 2003.16, 2-4-2003]

1. *Travel lanes: Lane width for City streets shall not be less than those values shown in Section*

***62-126**, **Table A**. The shoulders must be a minimum of two feet on each side. If a curb or berm is installed, the travel lane shall be a minimum of 13 feet in width.*

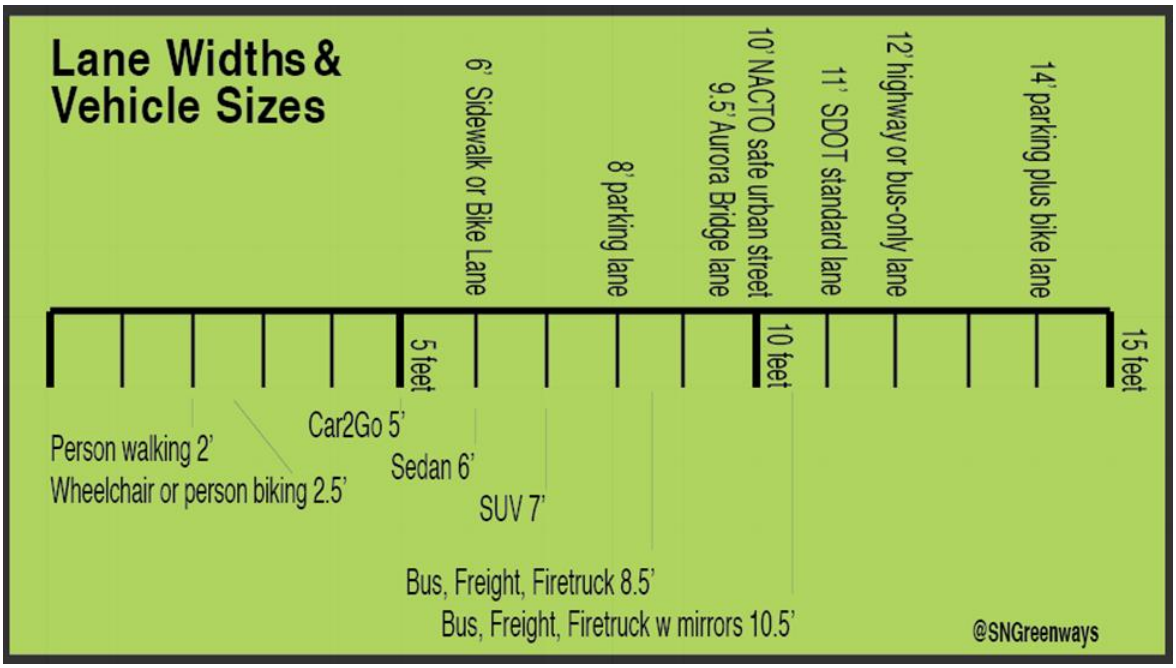
For minor residential streets in the RF Zone, the travel lane width shall be a minimum of 10 feet with two-foot gravel shoulders at each side and no curbing. If curbing is technically necessary, as determined by the engineer, for a RF Zone minor residential street, then the street must comply with the City street standards previously stated.

2. *Parking lanes: When provision is made for parallel parking along the side of any street, the parking lane shall be at least 7 1/2 feet (2.3 m) in width.*

As stated before, this portion of Foss Street averages 26.5 feet at its widest portions and never exceeds the width of 27 feet.

When using the 26.5 foot width and after subtracting the 7.5-foot minimum threshold for parallel parking, it equals a 19 feet width. 19 feet divided by two equals only 9.5 feet for each individual north and south bound travel lane through that area.

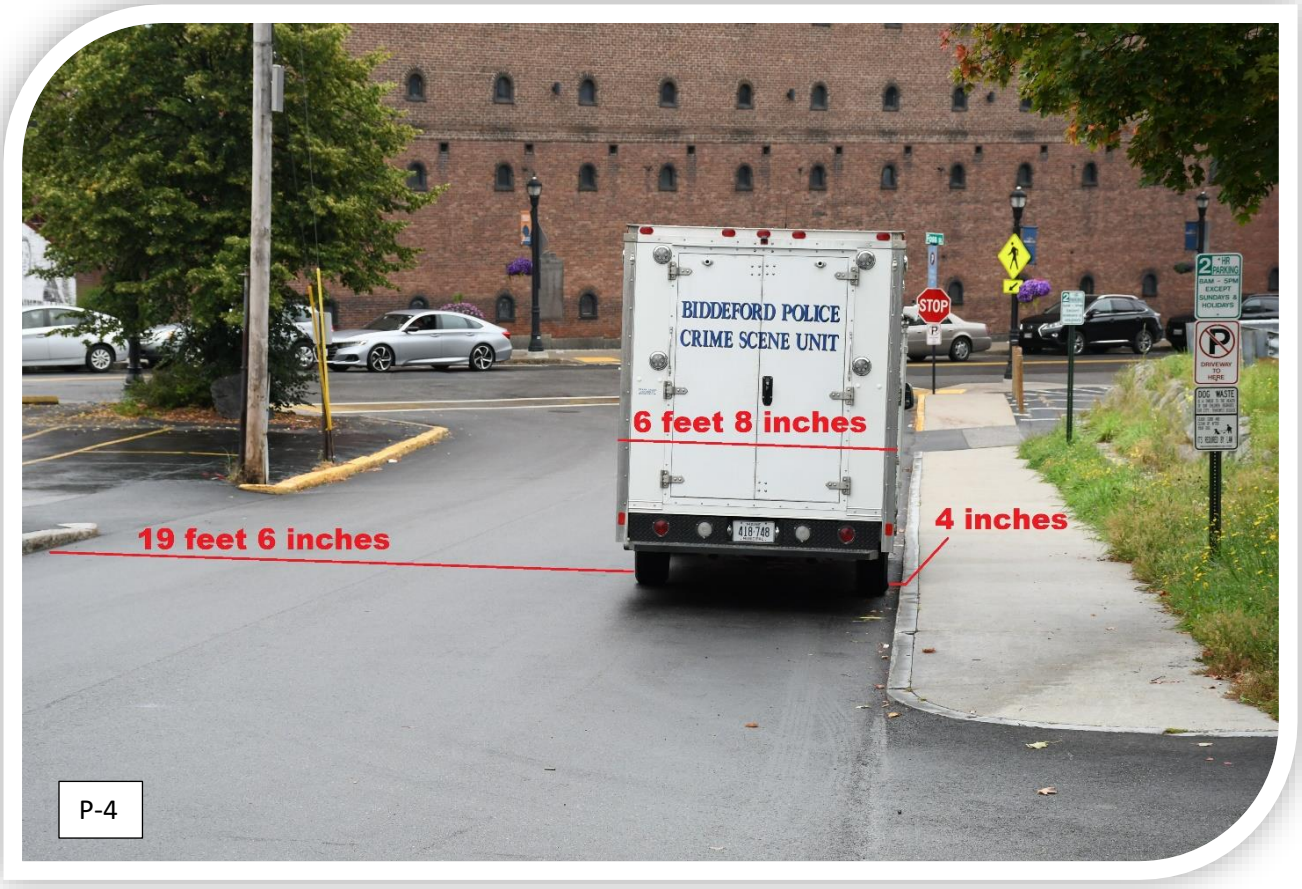
This travel width does not take into account that the average vehicle traveling on the roads today is between 6 and 7.5 feet in width. Commercial vehicles are 8.5 feet in width and Fire and Rescue apparatus can be as wide as 9.5 feet in width and 10.5 if you include the mirrors.



An average full sized truck (6.5 to 7.5 feet wide) parked 1 foot off of the curb will be 7.5 to 8.5 feet into the roadway, thus shrinking the adjacent travel lanes to only 9 feet each, a full foot below the minimum standard set by ordinance and a full 4 feet less set by the ordinance for new construction.

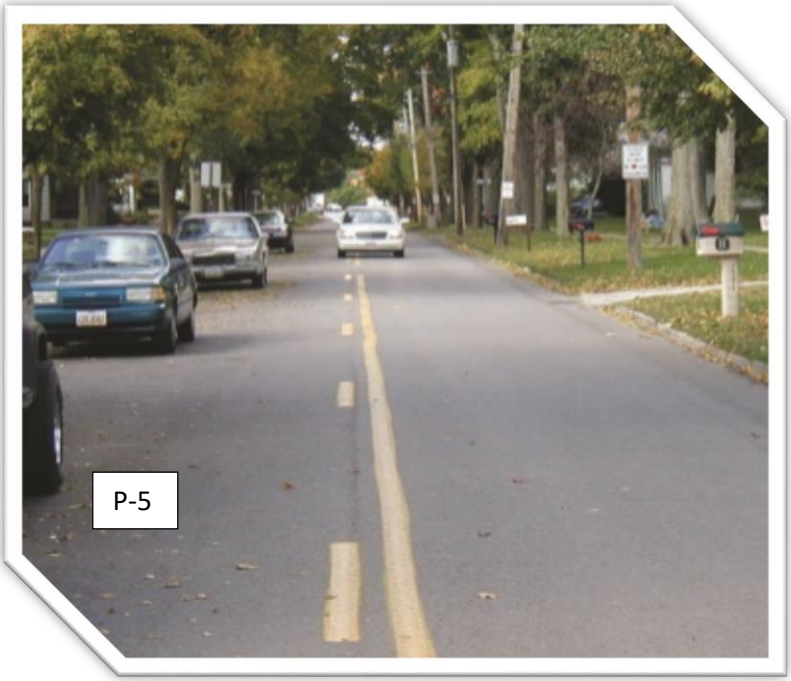
The photo below, (image P-3) shows a Nissan Titan pick-up parked on Foss Street just north of the entrance of ***Lot P4305***. The truck measures approximately 6 feet 3 inches wide and the truck is parked 16 inches from the curb. The remaining total travel way is approximately 18 feet 11 inches or approximately 9.5 feet of available travel for each adjacent lane.

In the next photo below, (image P-4) it shows the Biddeford Police Crime Van parked on Foss Street in the same location. This truck measures approximately 6 feet 8 inches wide (without the mirrors) and the truck is parked only 4 inches from the curb. This leaves approximately 19 feet 6 inches of available travel in the adjacent lanes (9.75 feet per lane).



P-4

Another lane-width consideration is that there is currently no centerline or double centerline painted on Foss Street. The addition of a line (or lines) down the center of the street, assuming that the travel way would remain "to one side" of the painted line, would shrink the travel way even further. A common longitudinal painted roadway stripe is 4 inches wide. Two parallel longitudinal (double) stripes would equal an additional 1 foot of roadway space. See image P-5 for a reference of potential paint stripe width.



P-5

The image below, (P-6) notes the widths of Foss Street along the stretch of the current legal on-street parking. As seen, no distances exceed 27.5 feet, which would allow for a 7.5-foot parking spot and 2 additional 10 foot travel ways.

Biddeford City Ordinance: Sec. 42-7 General parking prohibitions.

[Ord. of 12-15-1998(2)]

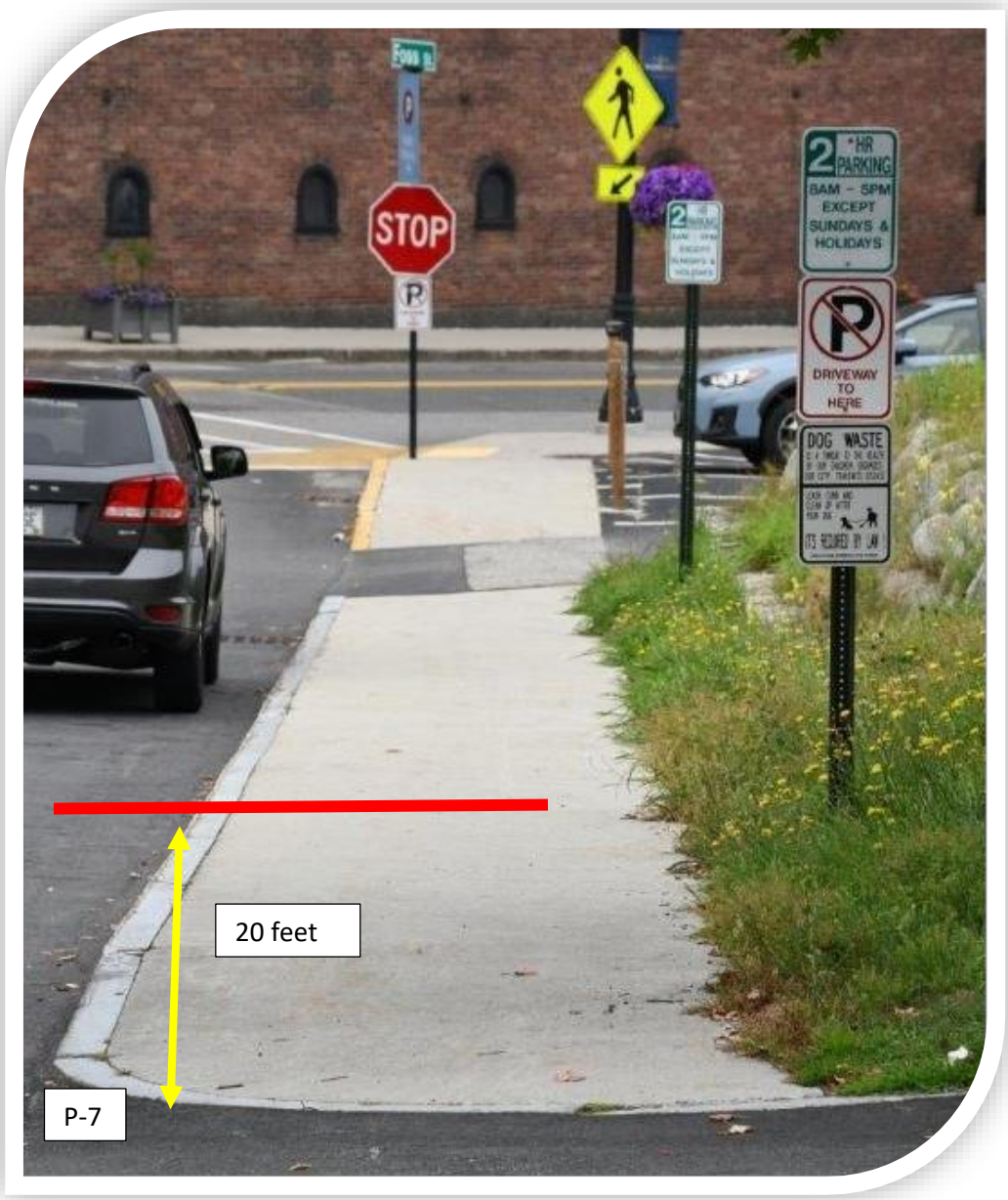
Except in cases of emergency, no vehicle shall be parked at any of the following places:

1. At white, black or other colored lines, as designated on curb.
2. Within 10 feet of a hydrant or fireplug.
3. Within 20 feet of a crosswalk. [Amended 9-15-2015 by Ord. No. 2015.59]
4. Within 20 feet of an intersection of streets.
5. In front of a private driveway.
6. Upon a sidewalk or other pedestrian way.

As mentioned earlier, the lower east portion of Foss Street from Bacon Street to Main Street has only 3 driveways or entrances affecting where on-street parking is currently allowed. The most northerly entrance is the entrance to Dizzy Birds. The 2nd entrance is to ***Lot P4305***. The 3rd is a private driveway between 23 and 25 Foss Street.

North of the Dizzy Bird entrance is a painted yellow curb due to it being within 20 feet of the intersection. South of that entrance are no restrictions. The non-restricted portion is included in the 84 feet of total available on-street parking. To note further restrictions, there are signs on either side of ***Lot P4305*** that restrict parking within 20 feet of either side of the entrance.

The image below (P-7) depicts the parking and signage north of the ***Lot P4305.***



South of the 25 Foss Street private driveway is a painted yellow curb due to one fire-hydrant and its proximity to the Bacon Street intersection. North of the driveway are no further restrictions. This area starts the 108 feet of available on-street parking along this portion of Foss Street. (See image P-8 below)

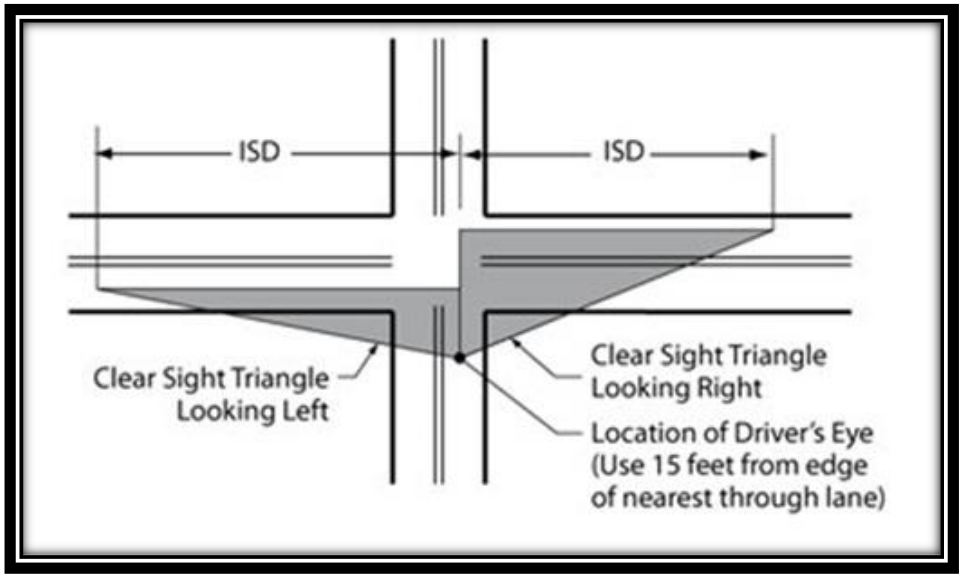
SIGHT DISTANCES

Insufficient sight distance can be a contributing factor in intersection traffic crashes. Intersection sight distance is the distance a motorist can see approaching vehicles before their line of sight is blocked by an obstruction near the intersection. The driver of a vehicle approaching or departing from a stopped position at an intersection should have an unobstructed view of the intersection, including any traffic control devices, and sufficient lengths along the intersecting roadway to permit the driver to anticipate and avoid potential collisions. Examples of obstructions can include trees, parked vehicles, utility poles, or buildings. In addition, the horizontal and vertical alignment of the roadway approaching the intersection can reduce the sight triangle of vehicles navigating the intersection.

It is important for approaching motorists on the major road to see side intersection vehicles, and for motorists exiting on to a travel way to see approaching vehicles before entering onto the road. Poor sight distance can lead to rear-end crashes on the approaches and to angle crashes within the intersection because motorists may be unable to see and react to approaching vehicles.

The area needed for provision of this unobstructed view is called the Clear Sight Triangle (see Figure 1).

Figure 1. Sight Distance Triangles for 4-Leg Stop-controlled Intersections



The Intersection Sight Distance (ISD) is measured along the major road beginning at a point that coincides with the location of the minor road vehicle. Table 3 provides the recommended values for ISD, based on the following assumptions:

- Stop control of the minor road approaches;
- Using driver eye and object heights associated with passenger cars;
- Both minor and major roads are considered at level grade;
- Considers a left-turn from the minor road as the worst-case scenario (i.e., requiring the most sight distance); and
- The major road is an undivided, two-way, two-lane roadway with no turn lanes.

Speed (mph) *	Stopping Sight Distance (ft.)	Design Intersection Sight Distance (ft.)
25	155	280
30	200	335
35	250	390
40	305	445
45	360	500
50	425	555
55	495	610
60	570	665
65	645	720

Source: A Policy on Geometric Design of Highway and Streets, 5th Edition, American Association of State Highway and Transportation Officials (AASHTO), 2004.

Biddeford City Ordinance Sec. 62-114 **Sight distance.**

[Ord. No. 2003.16, 2-4-2003]

Sight distance is the length of approaching roadway, which is visible to the driver.

Stopping sight distance in the sum of the distance traveled during driver perception/reaction time (2 1/2 seconds) and the distance traveled while braking to a stop. The measurement is from the driver's eye 3 1/2 feet above the pavement to a six-inch height of object.

Table 62-114-1 lists the design guidelines for stopping sight distances at various speeds. The Table is based on 10 feet of sight distance for every mile per hour. In no case shall the minimum sight distances be less than the MDOT Highway Design Guide requirements.

Table 62-114-1

Stopping Sight Distance

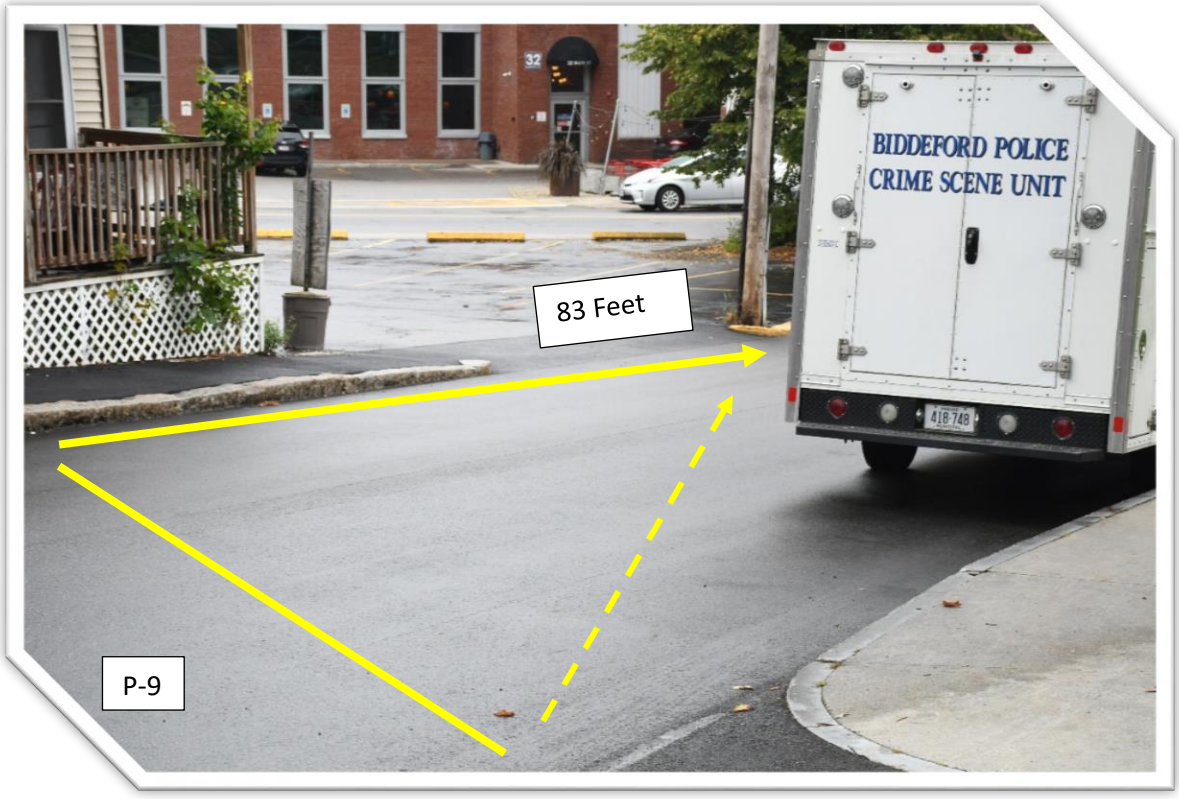
Design Speed (miles per hour)	**Sight Distance (feet)**
15	150
25	250
30	300
35	350
40	400
45	450
50	500
55	550

Intersections at grade sight distance: *Any intersection street or road shall be so designed in profile and grading to provide minimum sight distances measured in each direction. The height of eye of the driver is 3 1/2 feet and the height of object (an approaching car) is 4 1/4 feet. This section is based on Chapter 8 of the Maine DOT Highway Design Guide. Refer to the most recent version of this manual for sight distance requirements for various intersections.*

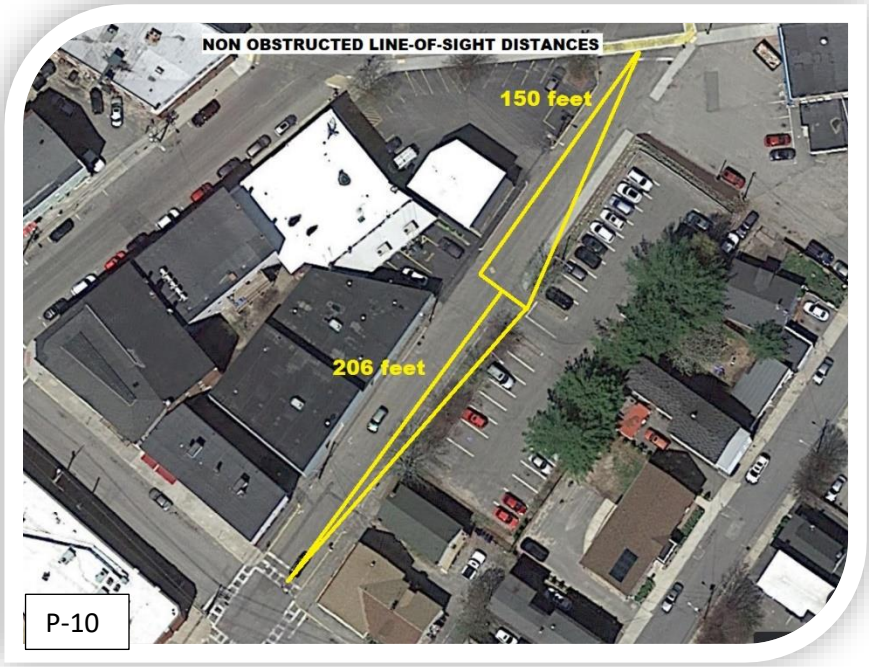
When reviewing the Line of Sight distances for exiting ***Lot P4305***, I first examined the northbound portion of on-street parking.

The image below (P-9) displays the Biddeford Police Department Crime-Van legally parked on Foss Street just north of the ***P4305*** entrance. The photograph is taken from the perspective of a motorist exiting ***Lot P4305*** and preparing to turn (in either direction).

If the operator is looking northbound towards Main Street, the line of site projects roughly to the northern edge of Grady's rear parking lot entrance. It should be added that this perspective is well within the recommended 15 feet to the nearest "through lane" as displayed above in Figure 1. It is however a more realistic position of an exiting motorist. This line of sight distance was determined to be approximately 83 feet.

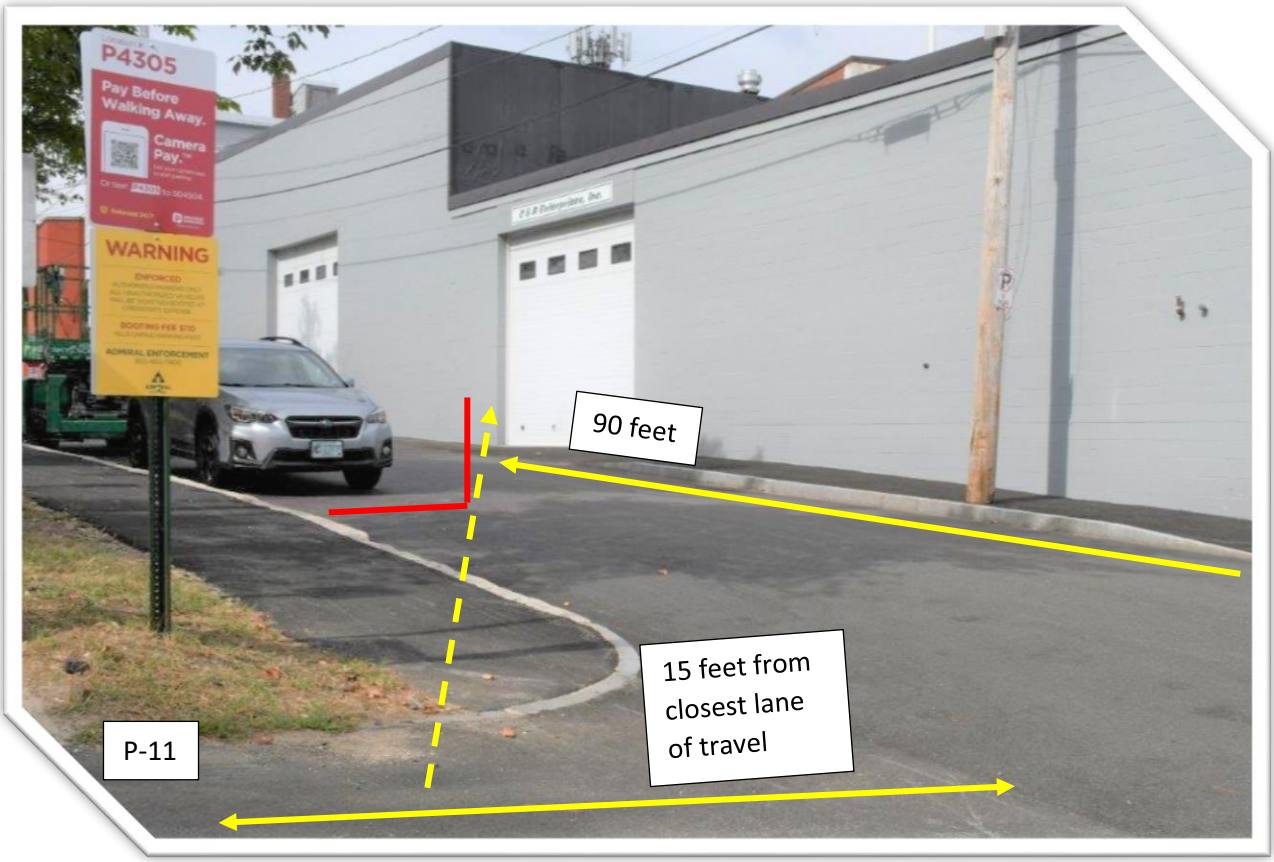


In both of the Line of Sight tables listed above, the recommended line of sight for a 25 mph zone is 280 feet in the State standards and 250 feet in the City of Biddeford standard. For a 15 mph zone, the Biddeford standard recommends 150 feet (50 feet for every 5 mph.)



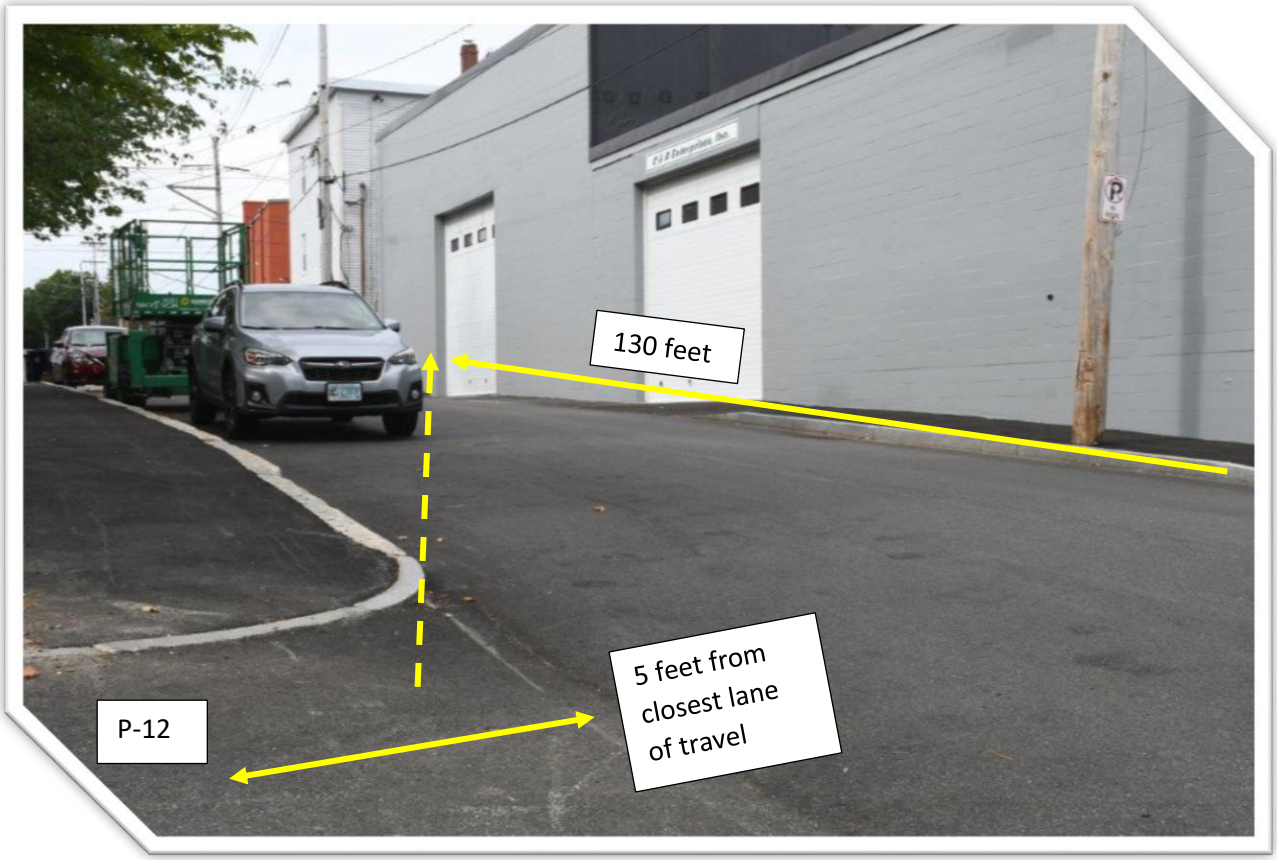
The total unobstructed sight distance all the way to Main Street is only 150 total feet. The total distance looking southbound towards Bacon Street is only 206 feet. (Image P-10) Both distances are considerably lower than the suggested thresholds.

The images below represent the line of sight for an exiting motorist who is looking southbound towards Bacon Street. The first image, (P-11), represents the view from a motorist who is 15 feet removed from the lane of travel as suggested by Figure 1 above. The silver Subaru sedan parked against the curb on the left is ***not*** pulled up as far as it could be. This adds some distance to the line of sight. A more realistic line of site would be closer to the south most edge of the 1st garage door owned by C&R Enterprises, Inc., as noted in the image below (P-11). This distance is approximately 90 feet.



If the motorist were to pull closer towards the lane of travel, which is a more likely circumstance, the line of sight would improve. The below image (P-12) represents a motorist's view stopped only 5 feet from the lane of travel. The line of sight now extends to the south edge of the 2nd garage door belonging to C&R Enterprises, Inc.

This line of sight distance is now measured at approximately 130 feet. To summarize, if the operator stops their vehicle 5 feet from the closest lane of travel, and vehicles are parked legally at the closest spots allowed along the Foss Street curbing, the line of site looking northbound would be approximately 83 feet and the line of sight looking southbound would be approximately 130 feet.



FOSS STREET CRASHES

There were no known or recorded crashes through this short stretch of Foss Street since 2019.

SUMMARY

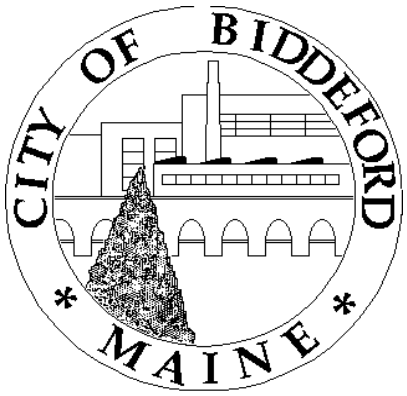
This concludes the requested study of the on-street parking along Foss Street in the areas between 5 and 25 Foss Street. The study includes the potential effects of travel lane width for this area as it relates to vehicles operating north and south adjacent to on-street parked vehicles. It additionally includes the potential effects of a limited line of sight perception for motorists exiting ***Lot P4305***. This author draws no conclusions from the information collected and presented for this study.

City of Biddeford

2021.109 IN BOARD OF CITY COUNCIL..OCTOBER 19, 2021

BE IT ORDERED, that the City Council of the City of Biddeford does hereby approve a "blanket letter of approval" for the renewals of State Beano/Bingo applications and State Game of Chance applications for all applicable local organizations, to cover the calendar year of 2022.

NOTE: This Blanket Letter of Approval eliminates the need to obtain Councilors' signatures each time an application is filed with the City Clerk. However, the City Council still needs to consider and approve each application.



October 2021

Dept. of Public Safety, Gaming & Weapons Section
164 State House Station
Augusta, ME 04333-0164

To Whom It May Concern:

The Municipal Officers of the City of Biddeford, at their Council meeting of October 19, 2021 granted a "blanket letter of approval" for any and all renewals of Beano/Bingo applications and Game of Chance applications for all applicable organizations in Biddeford. This "blanket letter of approval" will cover the calendar year of 2022.

Municipal Officers
City of Biddeford

_____ _____

_____ _____

_____ _____

_____ _____

_____

*ATTEST BY:*_____
CARMEN J. MORRIS, CITY CLERK

City of Biddeford

2021.110 **IN BOARD OF CITY COUNCIL..OCTOBER 19, 2021**

BE IT ORDERED, that the City Council of the City of Biddeford does hereby approve the extension of the City Manager Employment Contract with James Bennett until July 31, 2024.

EMPLOYMENT AGREEMENT

THIS AGREEMENT originally made as of this 30th day of June 2015, and last ~~amended on August 16, 2016, July 18, 2017, July 17, 2018, July 2, 2019, September 1, 2020 and further~~ amended on ~~September 1, 2020~~October 19, 2021 by and between **JAMES A. BENNETT** (hereinafter ***Bennett***) and the **CITY OF BIDDEFORD**, Maine, a body politic and corporate located in York County, Maine (hereinafter ***City***).

I. WHEREAS,

A. ***City***, acting through its City Council (hereinafter Council), desires to appoint and thereafter employ ***Bennett*** as its City Manager, in accordance with the provisions of the Biddeford City Charter (Charter);

B. ***Bennett*** desires to be so appointed and employed;

C. It is the desire of the ***City*** and ***James A. Bennett*** to specify the terms and conditions of his employment and tenure as City Manager;

D. The Parties have reached an agreement with respect to the same which they wish reduced to a writing.

II. NOW, THEREFORE, for consideration paid, each to the other, including without limitation the mutual covenants and undertakings more fully hereinafter expressed, the parties do hereby agree as follows:

A. **Appointment and Duties:** By official action, the Council has appointed ***Bennett*** as City Manager, to perform those duties imposed upon the City Manager under the terms of the City's Charter, Revised Code of Ordinances, and such other action as may lawfully be promulgated by Council.

B. **Tenure:**

(1) **Initial and Extended Term:** The ***City*** acting through its City Council, initially appointed ***Bennett*** as its City Manager on June 30, 2015, for a term of three years, commencing August 17, 2015 and ending the last day of August 2018 (the "Initial Term"). On August 16, 2016, the City, acting through its City Council, amended the term of this Employment Agreement to end on the last day of August 2019. On July 18, 2017, the

City, acting through its City Council, amended the term of this Employment Agreement to end on the last day of July 2020. On July 17, 2018, the City, acting through its City Council, amended the term of this Employment Agreement to end on the last day of July 2021. On July 2, 2019, the City, acting through its City Council, amended the term of this Employment Agreement to end on the last day of July 2022. ~~.~~ On September 1, 2020, the City, acting through its City Council, amended the term of this Employment Agreement to end on the last day of July 2023. On October 19, 2021, the City, acting through its City Council, amended the term of this Employment Agreement to end on the last day of July 2024.

(2) **Continuation of Previous Agreement:** Insofar as it relates to compensation and terms of employment, this Agreement shall remain in effect for a period of (3) years, unless otherwise terminated pursuant to the terms herein. The term of this Agreement as amended shall be for a period of three (3) years, beginning August~~July~~ 1, 202~~0~~1, and ending on the last day of July 202~~3~~4.

(3) **Biannual Renewal and Extension.** Prior to the end of the second year of the term of this Agreement and any extensions hereof, the Council shall act to renew and extend this Agreement for an additional two years. For the avoidance of doubt, during the term of this Agreement as extended, on or before July 31, 202~~2~~3, the Council shall vote to extend the Agreement for an additional two years to July 31, 202~~4~~5. Likewise, during any extension terms of this Agreement, Council shall vote by July 31 of the second year of the extended term (and before the final year of the Agreement) to extend the Agreement for an additional two years. Should Council fail to so extend this Agreement, ***Bennett*** may presume that Council does not intend to renew or extend said Employment Agreement and ***Bennett*** shall be free, within the remaining time of the Agreement, to pursue alternate employment to take effect at a time of ***Bennett*'s** convenience after July 31, 202~~2~~3; provided, however, that if

Bennett intends to or does obtain other employment, ***Bennett*** must give the ***City*** not less than thirty (30) days written notice prior to the date ***Bennett*** resigns as City Manager. ***Bennett*** shall be entitled to severance pay from the date ***Bennett*** resigns. Said severance shall be equal to (1/2) of the amount due in the event that the Council elected to terminate this Agreement without cause.

(4) **Council's Right of Termination without Cause.** Council shall have the right to terminate the Agreement without cause. In the event of such termination, City Manager shall be paid an aggregate lump-sum payment equal to six (6) months aggregate salary. Said aggregate lump-sum payment shall increase by one (1) month for each year of service, or part thereof, up to a maximum of twelve (12) months. Payment shall be made in full at time of termination if so desired by ***Bennett*** or on any other schedule he elects. At the same time, ***Bennett*** shall be compensated for any vacation accrued to date of termination, calculated at the rate of pay in effect upon termination. In addition, ***City*** will pay ***Bennett*** any accrued and unpaid retirement benefits to time of termination; and shall provide health insurance coverage for a period of six (6) months from date of termination plus one (1) month for each year of service, or part thereof, for a maximum of twelve (12) months. ***Bennett*** shall also be entitled to all other economic benefits due under this Agreement for the severance period.

(5) **Council's Right of Termination for Cause.** Council shall have the right to terminate this Agreement for cause as provided in the Charter or state and federal law. In the event ***Bennett's*** employment is terminated for cause, the ***City*****'s** only obligation to ***Bennett*** is to pay all compensation and benefits accrued, but unpaid, at the time of termination.

(6) **Manager Incapacity.** Should ***Bennett*** be disabled or otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health (verified by his attending physician) for a period of (6) six months, beyond any accrued leave, the Council shall have the right

to terminate this Agreement and the ***City's*** only obligation to ***Bennett*** is to pay all compensation and benefits accrued, but unpaid, at the time of termination.

(7) **City Manager Resignation:** ***Bennett*** shall have the right to resign, upon a thirty (30) day written notice. Upon said resignation, the ***City's*** only obligation to ***Bennett*** is to pay all compensation and benefits accrued, but unpaid, as of the effective date of the resignation.

C. **Compensation.** Commencing August~~July~~ 1, ~~2019~~2021, ***City*** shall pay ***Bennett*** an annual salary of one hundred thirty ~~two thousand two hundred forty eight and 58/100~~ seven thousand five hundred dollars ($~~132,248.58~~137,500.00) per year. (The term year as used in this Agreement shall mean from August~~July~~ 1, 202~~0~~1 through July 31, 202~~3~~2.) The ***City*** may adjust the annual salary upward or provide a bonus at its sole discretion as a performance adjustment. ***Bennett's*** salary ~~in the second year of the Agreement shall be adjusted by an amount mutually agreeable by the parties~~ effective August~~July~~ 1, 2022 shall be one hundred forty two thousand five hundred dollars ($142,500.00). ~~.~~ ***Bennett's*** salary effective August~~July~~ 1, 2023 shall be one hundred forty seven thousand five hundred dollars ($147,500.00).

D. **Retirement.** Beginning August 1, 2021, t~~T~~he ***City*** shall provide ***Bennett*** with an amount up to fifteen ~~twelve~~ percent (15~~2~~%) of his gross base salary to be allocated at ***Bennett's*** sole discretion between the ICMA Retirement Corporation and the MePERS retirement program. ~~Effective July 1, 2021, said amount shall be equal to fifteen (15%) of his gross salary.~~

E. **Health Insurance Coverage.** Consistent with ***City*** policy, ***City*** shall provide health insurance coverage to ***Bennett*** and his family, life insurance and income protection, as provided to other non-union employees of the ***City***, effective the date of this agreement.

F. **Professional Development.** The ***City*** shall pay for ***Bennett's*** professional dues for his continued professional growth and for the good for the ***City*** in the International City/County Management Association (ICMA), the Alliance for Innovation and Maine Town and City Management Association (MTCMA). ***City*** supports and encourages ***Bennett's*** involvement with leadership roles in such organizations. The

City may also pay for any other dues, memberships and subscriptions in other professional organizations or local service or civic organizations, subject to approval by the City Council.

City recognizes the importance of on-going professional development for ***Bennett*** and his requirement to meet or exceed at least forty (40) hours of significant professional development to continue his ICMA Credentialed Manager status and his MTCMA Certified Manager status; which, at the time of this contract, provides a discount for the ***City*** on their public officials liability insurance when purchased through the MMA Risk Pool. To that end, the ***City*** agrees to budget and pay for the travel and subsistence expenses for professional and official travel, meetings and occasions adequate to meet these obligations. At a minimum, the ***City*** shall pay for ***Bennett's*** attendance to The Maine Municipal Association Annual Convention, ICMA Northeast Regional Meeting, the New England Management Institute, programs offered by the Alliance for Innovation and the ICMA Annual Conference. Subject to the limitation of the available funding, the ***City*** may pay for other national, regional, state or local professional development activity. ***Bennett*** shall be encouraged to attend higher level of intense executive trainings of his choosing, subject to approval by the City Council. Examples of such training are the Harvard JFK School of Government, ICMA's Senior Executive Institute, and other similar programs. The costs shall be paid for by the ***City***.

G. **Vacation, Holidays, Sick Leave, and Other Benefits.** ***Bennett*** shall accrue twenty five (25~~0~~) days of vacation per year, with such accumulation of vacation time occurring annually on his anniversary date. The use of extended vacation time (one week or greater) accrued must be approved by the Mayor, and such approval will not be unreasonably withheld except for legitimate business needs. ~~In the third year of the initial term of this Agreement, effective August 17, 2017, the vacation will increase to twenty (25) days per year.~~ Carrying over vacation time from one year to the next is discouraged. However, ***Bennett*** shall be allowed to carry over ~~no more than ten (10) days from one year to the next, provided that said amount shall be used within sixty (60) days of the effective date of the carryover.~~vacation

time at his sole discretion subject, however, to the understanding that the City shall not pay out any more than ten additional days beyond his annual allocation, regardless of the amount of time that has been carried over.— ***Bennett*** shall be entitled to all other benefits afforded non-union employees, consistent with the personnel policy, that are not otherwise covered by this Agreement.

~~On the first day of employment, ***Bennett*** shall be credited with twenty (20) days of earned vacation time.~~

H. **Automobile Allowance.** The ***City*** shall provide a monthly stipend for five hundred dollars ($500.00) for use of his personal vehicle. Said amount shall be adjusted whenever the applicable IRS allowable rate changes, by the percentage changed (both positive and negative), effective the next month after the change. Payment shall be made during the first pay period of each month.

I. **Residency.** ~~As a condition of employment, ***Bennett*** shall~~ may establish his residency ~~within~~ outside of the City of Biddeford city limits so long as it is within a reasonable commuting distance identified as forty-five minutes to City Hall. ~~within six (6) months of his first day of employment and shall maintain his principle residence within the corporate boundaries of Biddeford throughout this Agreement. Failure to maintain his residence in Biddeford shall constitute just cause for dismissal under the terms of this Agreement and the Charter.~~

J. **Fidelity Bond.** ***City*** shall bear the full cost of the Fidelity Bond required of ***Bennett*** under the terms of the Charter and Ordinances. In the event that ***Bennett*** shall become ineligible for continued bonding, such ineligibility shall constitute just cause for dismissal under the terms of this Agreement and the Charter.

K. **No Reduction in Benefits.** ***City*** shall not, at any time during the term of this Agreement, reduce the salary, compensation or other financial benefits of ***Bennett*** except in the event of an across-the-board reduction of all salaried employees of ***City***. In such event, ***Bennett's*** salary, compensation and other benefits shall be reduced by the same percentage as all salaried employees of the ***City***.

L. **Indemnification.** The ***City*** shall defend, save harmless, and indemnify ***Bennett*** against any tort, professional liability claim or demand or other legal action, whether or not it appears to have merit, arising out of an alleged act or omission occurring in the performance of ***Bennett***'s duties as Manager, except as prohibited by law. ***City*** will either litigate or compromise and settle any such claim or suit and pay the amount of any judgment or settlement rendered thereon, whether levied against the ***City*** or ***Bennett*** personally. Said indemnification shall extend beyond termination of employment, and the otherwise expiration of this Agreement, to provide full and complete protection to ***Bennett***, by the City of Biddeford, as described herein, for any acts undertaken or committed in ***Bennett***'s capacity as Manager, regardless of whether the notice or filing of such a claim or lawsuit occurs during or after ***Bennett***'s employment with ***City***.

M. **Conflict of Interest Prohibition**. It is further understood and agreed that because of the duties of the City Manager within and on behalf of the City of Biddeford and its citizenry, ***Bennett*** shall not, during the term of this Agreement, individually, as a partner, joint venturer, officer or shareholder, invest or participate in any business venture conducting business in the corporate limits of Biddeford, except for stock ownership in any company whose capital stock is publicly held and regularly traded, without the prior approval of the Council. For and during the term of this Agreement, ***Bennett*** further agrees, except for a personal residence or residential property acquired or held for future use as his personal residence, not to invest in any other real estate or real property improvements within the corporate limits of Biddeford, without the prior consent of the Council.

N. **Ethical Commitments:** ***Bennett*** will at all times uphold the tenets of the ICMA Code of Ethics, a copy of which is attached hereto and incorporated herein. Specifically, ***Bennett*** shall not endorse candidates, make financial contributions, sign or circulate petitions, or participate in fund- raising activities for individuals seeking or holding elected office, nor seek or accept any personal enrichment or profit derived from confidential information.

City shall support ***Bennett*** in keeping these commitments by refraining from any order, direction or request that would require ***Bennett*** to violate the ICMA

Code of Ethics. Specifically, neither the governing body nor any individual member thereof shall request ***Bennett*** to endorse any candidate, make any financial contribution, sign or circulate any petition, or participate in any fund-raising activity for individuals seeking or holding elected office, nor to handle any matter of personnel on a basis other than fairness, impartiality and merit.

O. **Notices.** Notices, pursuant to the Agreement, shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

(1) **City**: City of Biddeford

Attention: Mayor
City Hall
205 Main Street
Biddeford, ME 04005

With a copy to

City Clerk
City of Biddeford City Hall
205 Main Street
Biddeford, ME 04005

Bennett:

James A. Bennett
9 Sky Oaks Dr.
Biddeford, Maine 04005
or the current address on file

Alternatively, notices given pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice in the State of Maine. Notice shall be deemed given as of the date of personal service or as of the date of deposit in the United States Postal Service.

P. **General Expenses.** ***City*** recognizes that certain expenses of a non-personal and job-related nature will be incurred by ***Bennett***, and hereby agrees to reimburse or to pay such general expenses, and the finance director, after receipt of, review of, and approval of appropriate expenses or petty cash vouchers, receipts, statements, or personal affidavits, is hereby authorized to disburse such moneys. In addition, a monthly stipend of three hundred fifty dollars ($350.00) shall be paid ***Bennett*** for the cost of such items as monthly home internet service for access to C***ity*** computer

systems after hours, a personally owned and paid for hand held smartphone (which he is required to have), other unreimbursed expenses occurred for professional development activities and attendance at 'official' events (such as retirement parties, gatherings and other similar events). No vouchers documenting these expenses shall be required by the ***City***; however, ***Bennett*** reserves the right to turn in documentation for IRS purposes. In the event such expenses exceed the allowance, ***Bennett*** at his sole discretion may apply those additional expenses against the allowance allowed in Section II.H (Automobile Allowance) of this Agreement. Said amount shall be paid during the first pay period each month.

Q. **Annual~~Action Plan and~~ Evaluation~~s~~.** ~~Acting jointly and within the first sixty (60) days following the initial commencement date of this Agreement (August 17, 2015), ***Bennett*** and Council shall jointly establish an action plan consisting of goals and performance criteria.~~ ***Bennett*** shall ~~be evaluated by Council six (6) months following the completion of the action plan, and thereafter, shall~~ receive annual performance reviews by the City Council.

R. **Outside Employment.** ***Bennett*** agrees to remain in the exclusive employment of the City of Biddeford for the term of this Agreement. The term "exclusive employment", however, shall not be construed to preclude the Manager from occasional teaching, writing or speaking engagements on personal time off, even if outside the City of Biddeford, Maine, provided that no such activity presents a conflict of interest with the ***City*** or detracts from the Manager's ability to execute the duties of City Manager.

In addition, he shall be allowed to offer his services in a paid teaching role or as a consultant so long as such services are not considered inconsistent with his primary responsibility to serve as Biddeford's City Manager. ***Bennett*** agrees to not accept any consultant work that would be, or appears to be, contrary to the best interest of the ***City*** or in direct competition with the ***City***. ***Bennett*** will notify the Mayor and Council President of all proposed consultant engagements in writing, and upon receipts of which, any concerns about those proposed engagements must be objected to in writing with seven (7) days. If said concern is raised, ***Bennett*** may

appeal to the City Council for final determination. This provision is subject to satisfactory job performance review by the City Council.

S. **Technology:** Recognizing the importance of constant communication and maximum productivity, ***City*** shall provide ***Bennett***, a laptop computer, software, and/or tablet computer for business and personal use required for ***Bennett*** to perform his duties and to maintain communication with ***City***'s staff and officials as well as other individuals who are doing business with ***City***. At ***Bennett***'s discretion, during his tenure, said equipment can be turned in after three years to be replaced by the ***City.*** Upon termination of ***Bennett***'s employment, the equipment described herein shall become the property of ***Bennett***, however all intellectual property belonging to the ***City*** shall be returned to the ***City***.

~~T. **Transition Costs:** ***City*** shall provide ***Bennett*** six thousand ($6,000.00) of reimbursement funding to assist with his transition from his home in Presque Isle to Biddeford. Said funds may be used to cover temporary housing costs until his home sells in Presque Isle, towards closing costs for purchase of a residence in Biddeford, and other similar costs. All costs must occur within one year of the Agreement. Any unused funds shall be retained by the City. Eligible costs shall include rent or lease payments for his primary residence in Biddeford, real estate agent's fees, other closing costs that are directly associated with either selling his existing home or buying or construction his new home and/or title insurance. In addition, available funds may be used for up to three discount points towards the purchase or construction of a new home. Said funds shall be paid within fourteen (14) days of submittal.~~

~~Should ***Bennett*** resign his position voluntarily within three years of his initial hiring, all said funds paid under this section shall be repaid within thirty days of his effective date of his resignation. Said resignation must be truly voluntary and without any pressure or interference from the Mayor or any member of the City Council. If the said resignation occurs within the fourth year of ***Bennett's*** employment, he shall be responsible to repay forty percent (40%) of the costs and if said resignation occurs~~

~~during the fifth year he shall be responsible to repay twenty percent (20%) of the costs.~~

~~U.~~T. **Miscellaneous.**

(1) This Agreement, supplementing the provisions of the Charter, constitutes the entire agreement between the parties and there are no other promises, covenants or undertakings between the parties with respect to the subject matter of this Agreement which do not appear on the face hereof.

(2) This Agreement may be amended only by a mutual written agreement authorized by Council and executed by the ***City*** and ***Bennett***.

(3) If any of the provisions or portions thereof contained in this Agreement is held to be unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable and shall not be affected by such determination and shall remain in full force and effect.

(4) **Hours of Work.** Both parties recognize that the City Manager job requires that ***Bennett*** work many hours outside the normal working hours of City Hall. It is understood that ***Bennett*** must dedicate many hours beyond the normal forty (40) hour work week in order to provide excellent leadership in performing the job. It is further understood that in some ways the job requirement represents a twenty-four (24) hour commitment, day in and day out. Hence, ***City*** recognizes that ***Bennett*** may take compensating time off during the normal work hours as he deems appropriate provided that he notify the Mayor before taking such time off. ***Bennett*** recognizes that such compensating time has no economic value.

In Witness Whereof, the **City of Biddeford** has caused this Agreement to be signed and sealed, in duplicate originals, by its Mayor, on the day and year first above written.

Witness: **CITY OF BIDDEFORD**

_____ _____

Alan Casavant, Mayor

Signed and executed by **James A. Bennett**, in duplicate originals, on the day and year first above written.

Witness:

_____ _____

James A. Bennett