

Town of Brunswick, Maine

Item 12

Back up
materials

Town of Brunswick, Maine

DEPARTMENT OF PLANNING AND DEVELOPMENT

MEMORANDUM

TO: Town Council
Julia Henze, Town Manager

FROM: Julie Erdman, Director of Planning & Development
Jimmy Dealaman, Principal Planner

DATE: February 6, 2026

SUBJECT: Miscellaneous Zoning Text Amendments

I. INTRODUCTION

Starting the new year, staff continue to assemble and draft potential updates to the zoning ordinance. Some of the more immediate and concise amendments staff are recommending include the following topics:

- Minimum Height Requirements (in GM6-7)
- Off-street Parking along Maine Street Frontages in GM6
- Façade Materials Allowed in Village Review Overlay
- Continuance Period for Nonconforming Uses

Staff are forwarding the attached zoning amendments (Attachments 1-4) to the Town Council and are requesting that a public hearing date be scheduled.

II. SUMMARY & BACKGROUND INFORMATION

Minimum Height Requirements in GR-1, GM6, and GM7 (Attachment 1):

Currently, the Growth Mixed Use (GM) 6 and 7 and Growth Residential 1 (GR1) zoning districts require a minimum height of 24¹ feet. Given the varying height of existing structures in the GM7 district and the wide range of uses, staff recommend adding additional flexibility for allowing minimum height to be determined based on average building height, as well as excluding certain structures from factoring into this calculation including: existing buildings, utility substations, accessory² buildings, and similar structures or building components, which could be of a lesser height. Because the GR1 district is immediately adjacent to GM7 at Brunswick Landing, staff recommend applying the same methodology in GR1 for consistency. In all three districts, exemptions are provided to clarify that certain architectural features, such as porches and porticos, are not subject to the minimum height requirement and calculation. In the GM6, the entire building would be required to meet the minimum height, and the language requiring the standard to be met at the front lot line has been removed to clarify that the requirement applies to the entire building.

Off-street Parking along Maine Street Frontages in GM6 (Attachment 2):

Maine Street is a vibrant pedestrian corridor lined with an abundance of commercial uses oriented towards Maine Street. However, there are occasional locations where properties prioritize vehicle access and parking lots are located along Maine Street frontages with buildings set farther back from

¹ The GM6 district requires a minimum height on the front lot line only if development is increasing the floor area by 50 percent.

² Section 1.7.2 defines an Accessory Structure as "A detached subordinate structure located on the same lot as a principal building and used for purposes customarily incidental to those of the principal building or use" (i.e. conducted for the same primary use of the property).

the street. When this happens pedestrian walkability and active street engagement are negatively affected by various factors such as reduced visual interest, increased walking distances to building entrances, and disruption to the established rhythm of the street. While the GM6 zoning district includes a Build-to-Zone dimensional requirement (i.e. a required maximum building setback of 0-5 feet) on development to help improve this condition, future development could still incorporate accessory structured parking along the frontage, resulting in similar impacts to the pedestrian environment. To promote more walkable connections and support commercial-oriented, pedestrian-focused development, staff recommend an ordinance amendment that prohibits off-street parking within 20 feet of the edge of the public right-of-way along Maine Street. This requirement would apply in the GM6 to any development, or reconstruction of principal structure as well as upon redesign or substantial reconstruction of a parking area, to the extent reasonably practical, such as for specific utility or site constraints or loss of required parking spaces. Staff believe 20 feet is a reasonable depth to ensure future development supports pedestrian activity consistent with the character of the district.

At the February 2, Town Council meeting, staff were asked how the proposed zoning amendments would impact parking at the entrance to the Tantine Mall. Figure 1 shows a zoomed in detail of this area. The 20-foot area from the public right-of-way is highlighted yellow which crosses one handicap accessible off-street parking space at 149 Maine Street (Tantine Mall). In the event the mall is reconstructed, parking would be prohibited in this area. However, in the event of a redesign or substantial reconstruction of the parking area, where the affected space is necessary to satisfy the mall's required parking, the review authority (Planning Board or staff) may determine that compliance with the 20-foot parking setback is not reasonably practicable, and the parking may remain.



Figure 1: Detail Map of Approximate 20-Foot Area Along Maine Street Frontage (Highlighted in Yellow)

Facade Materials Allowed in Village Review Overlay (Attachment 3):

The Village Review Overlay design review standards for new construction, additions, and alterations to existing structures prohibit use of cinder block, concrete and concrete block on any portion of a structure that is visible from the building's exterior, except on the building's foundation. Because the Village Review Board (VRB) already reviews projects to ensure they are designed to enhance or

improve the structure's compatibility with nearby contributing resources staff believe this prohibition may unnecessarily limit the use of higher quality concrete-based materials that could be contextually appropriate. Given the VRB retains discretion over the materiality of structures, staff recommend allowing concrete-based products on exterior facades where the Board finds that the material closely resembles wood or stone in appearance thereby providing additional flexibility while providing oversight of the design.

Continuance Period for Nonconforming Uses (Attachment 4):

Outside of the APO, SPO, FPO, and WPO Districts, the Zoning Ordinance does not allow a nonconforming use to be re-established if it has been discontinued for a period of 36 months or more. This also applies to a nonconforming structure, site feature, and a structure housing a nonconforming use if it is destroyed, moved or damaged. This represents a relatively long continuance period compared to other communities, particularly given that many existing nonconforming uses were established under significantly older regulations that reflected different planning objectives and land-use priorities. Staff recommend reducing the discontinuance period from 36 months to 24 months so that nonconforming uses that have been inactive for an extended period are more promptly brought into alignment with current zoning standards and planning priorities.

III. CONSISTENCY WITH COMPREHENSIVE PLAN

In making its recommendation to the Town Council, the Planning Board will provide a recommendation whether the amendments are consistent with the Town's [Comprehensive Plan](#).

Staff have reviewed the proposed amendments and believe they are consistent with the following:

- [Action Strategy A.5](#) promotes using form-based code (FBC) in the growth area to regulate new desired development and [A.6](#) promotes using FBC to redevelop Brunswick Landing into a walkable Town Center, respectively. Minimum height is considered a tool of form-based zoning as it regulates the physical form, scale and relationship of buildings to the street. Prohibiting off-street parking along Maine Street is also form-based because it controls how the buildings actively relate to the public realm create walkable pedestrian-friendly character along the streetscape. The materiality of structures is also a common component of form-based codes as it relates to the physical form and character of the building and interaction with street and context-sensitive development.
- [Action Strategy A.4](#) supports updating the zoning ordinance to bring the code in line with the comprehensive plan. Because zoning amendments must be consistent with the Comprehensive Plan, reducing the continuance period for nonconforming uses will help ensure future development aligns with the current zoning ordinance and, by extension, a code informed by the Town's most recent Comprehensive Plan.

On January 27th the Planning Board unanimously found that the proposed amendments are compatible with the Town's Comprehensive Plan.

IV. REQUESTED ACTION

Staff request that the Town Council vote to adopt Zoning Ordinance Text Amendments proposed related to minimum height requirements (Table 4.2.3), off-street parking along Maine Street frontages in the GM6 district (Sec. 4.9.1.C), façade materials allowed in Village Review Overlay (Sec. 5.2.8.C), and the continuance period for nonconforming uses (Sec. 1.6.3.) and nonconforming structures (Sec. 1.6.4.).

V. ATTACHMENTS

- Attachment 1. Draft Amendments - Minimum Height Requirements (in GM6-7)
- Attachment 2. Draft Amendments - Off-street Parking along Maine Street Frontages in GM6
- Attachment 3. Draft Amendments - Façade Materials Allowed in Village Review Overlay
- Attachment 4. Draft Amendments - Continuance Period for Nonconforming Uses
- Attachment 5. Maine St in GM6 with 20-ft. Buffer from ROW

4.2.3. Growth Area Dimensional and Density Standards

Table 4.2.3: Dimensional and Density Standards for Growth Area Zoning Districts
[Unless separate standards approved in Common Development Plan]

Stand	Current Zone 1997 Zoning District	GR1	GR2 & 10	GR3	GR4	GR5	GR6	GR7	GR8	GR9	GM1	GM2	GM3	GM4 ^[1]	GM5	GM6	GM7	GM8	GM9	GC1	GC2	GC3	GC4	GC5	GA	GO	GN ^[2]
		R-R	R1 & 8	R2	R3, 4, 5, 6	R7	TR1	TR2	TR3 & 4	TR5	MU2	MU3 & 6	MU4 11, 1-4	MU1, CC	HC1 & 2	TC1, 2, 3	R-CMU	MU0Z	CU1 & 3	CU5 & 6	CU4 & 7	CU/TC	CU2	R-AR	I2,13 & R-B-TI	GI	BCN
Lot area, min. ^[22]	n/a for residential uses; 7,000 sq. ft. for non-residential uses												n/a for residential uses; 7,000 sq. ft. for non-residential uses												n/a for residential uses; 7,000 sq. ft. for non-residential uses		
Density, max. (dwelling units per acre of net site area <i>see definition</i>)	8	4	6 ^[3]	6	7	10	5	6	6	6	10	10	15	6	n/a	24	6	12	24 ^[4]	5 ^[5]	24	10	n/a	n/a	n/a	n/a	
Lot width, min. (feet)	40	65	75	75	65	65	65	65	65	60	65	75	60	75	n/a ^[12]	n/a	75	65	65	65	40	65	50	50	n/a	n/a	
Building frontage, min. (% of lot width)																75 ^[6]										n/a	
Building frontage, max. (% of lot width)																100 ^[7]										n/a	
Front setback, min. (feet) ^[8]	0	15	20	20	15	15	20	20	20	20	15	30	0	15	0 ^[12]	0	20	15 ^[19]	15	15	10	15 ^[19]	0	10	0	n/a	
Build-to Zone (feet) ^[8]															[9]	0-5 ^[10]										n/a	
Rear setback, min. (feet)	0	20	20	20	20	15	20	20	20	20	20	30	15	15	0 ^[12]	0	30	15 ^[19]	15 ^[19]	15	10	15 ^[19]	20	20	20	n/a	
Side setback, min. (feet)	0	15	15	15	15	15	15	15	15	15	15	15	0	20	0 ^[12]	0	30	15 ^[19]	15 ^[19]	15	10	15 ^[19]	15	15	10	n/a	
Impervious surface coverage, max. (% of lot area)	45	35	35	35	35	50	35	35	35	75	50	60	80 ^[11]	70	100 ^[12]	100	50	60	50	50	50	50	80	80	10	[2]	
Building height, min. (feet) ^[26]	24 ^[25]															24 ^[13]	24 ^[25]									n/a	
Building height, max. feet ^[14]	50	35	35	35	35	35	35	35	35	40	35	60	60	45	40 ^[15]	50	40	70 ^[20]	45	35	70	55	100	60	35	n/a	
Building footprint per structure, max. (1,000 square feet) ^[24]	20 ^[3]	5	5	5 ^[16], 19]	5 ^[19]	7.5	5	5	5	20	5	30 ^[21]	50 ^[18]	20 ^[23]	n/a ^[12]	n/a	25% of lot size	n/a	8.5	5 ^[17]	n/a	n/a	n/a	n/a	n/a	n/a	

Table 4.2.3: Dimensional and Density Standards for Growth Area Zoning Districts
[Unless separate standards approved in Common Development Plan]

Stand	Current Zone	1997 Zoning District	GR1	GR2 & 10	R-R	R1 & 8	R2	R3	R4	R5	R6	TR1	TR2	GR7	GR8	GR9	GM1	MU2	MU3 & 6	GM2	MU4 1, I-4	GM3	GM4 ^[1]	MU1, CC	HC1 & 2	GM5	TC1, 2, 3	GM6	R-CMU	GM7	MUOZ	GM8	CU1 & 3	GC1	CU5 & 6	GC2	CU4 & 7	GC3	CU/TC	GC4	CU2	GC5	R-AR	GA	I2, I3 & R-B-TI	GI	GO	GN ^[2]
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NOTES:

- [1] All new, enlarged, or redeveloped buildings and additions in the GM4 District subject to Development Review shall also be consistent with the Cook's Corner Design Standards, unless such design standards are waived in accordance with Subsection 5.2.9.0 (Waiver Provisions).
- [2] Area of new disturbance per parcel shall not exceed 1% of total acreage, measured as of the effective date of this Ordinance.
- [3] 1 du per 20,000 sf of net site area for developments using subsurface wastewater disposal systems.
- [4] Except that lands north of Bath Road shall be limited to 8 du/ac.
- [5] Except that parcel between South Street and Longfellow Avenue shall be limited to 10 du/ac.
- [6] Applicable only to the first floor of buildings along Maine Street. Does not apply to buildings on Park Row.
- [7] Does not apply to buildings on Park Row.
- [8] Front setback averaging applies; See Subsection 4.2.5.B(4)
- [9] See Cook's Corner Design Standards for maximum front setbacks applicable along Bath Rd., Gurnet Rd., proposed Perimeter Rd, Thomas Point Rd., and all public and private connector roads.
- [10] Applicable only to the first floor of buildings along Maine Street. For all other buildings in the GM6 District, the build-to zone is determined by the range of front setback of principal buildings on the nearest occupied lots on either side on the same block face. Does not apply to buildings on Park Row.
- [11] Limited to 50% impervious coverage and maximum building footprint of 20,000 sq. ft. north of Route 1.
- [12] Except that parcels fronting onto Park Row front setbacks shall be consistent with the established average front setback (see subsection 4.2.5.B (4)), shall have minimum side and rear setbacks of 15 feet in width; a minimum lot width of 60 feet; a maximum footprint of 7, 500 square feet and a maximum impervious coverage of 45%;
- [13] Expansions that will increase floor area by 50% or more require minimum height to be met for the entire building. Minimum height is triggered if floor area is being increased by 50%, and must be met at front lot line.
- [14] Unless restricted to a lower height by Flight Path Overlay (FO) District regulations (see Subsection 2.3.7).
- [15] Except that lands north of U.S. Highway 1 shall have a maximum building height of 60 ft.
- [16] May be increased to up to 30,000 square feet for a community living facility as defined by 30-A M.R.S. § 4357-A, , as amended, with a Conditional Use Permit approved in accordance with Subsection 5.2.2 (Conditional Permits).
- [17] 10,000 square feet for multifamily dwellings, and 20,000 square feet for the Bowdoin College Edwards Center for Art and Dance building.
- [18] 300,000 square feet if the structure meets one of the conditions listed in SubSection 4.2.5.B(9).
- [19] See Subsection 4.2.5.B(4) for additional setback requirements.
- [20] See Subsection 4.2.5.B.(7) for additional height requirements..
- [21] No building footprint restriction shall apply for properties located south of Route 1, along Cressey Road and Columbus Drive.
- [22] See Subsection 4.2.5.F for minimum dimensional requirements for lots located within the Shoreland Protection Overlay.
- [23] Except that public safety municipal facilities shall have no maximum building footprint per structure.
- [24] Except that public school facilities shall have no maximum building footprint per structure.
- [25] Minimum height shall be determined based on the average height of each building. Utility substations, accessory buildings, and similar structures or building components, where otherwise allowed, and buildings existing prior to January 1, 2026, may be of lesser height and shall be excluded from this calculation.
- [26] Porches, porticos, and similar attached architectural features may be a lesser height and shall be excluded from the height calculation.

Sec. 4.9. Parking and Loading.

4.9.1. Minimum and Maximum Vehicle Parking Requirements.

A. *General Standard.* A development shall provide adequate off-street parking and loading/unloading areas for motor vehicles and bicycles, or shall provide reasonable alternative parking.

B. *Specific Standards.*

(1) *Specific Standards: Minimum Number of Off-Street Vehicle Parking Spaces.* Except as otherwise provided in this Ordinance, new development shall provide the minimum number of off-street vehicle parking spaces in accordance with Table 4.9.1.A, based on the principal use(s) involved and the extent of development.

Table 4.9.1.A: Minimum Number of Off-Street Vehicle Parking Spaces				
Principal Use	Minimum Number of Vehicle Parking Spaces ^{1,2,3,4}			
<i>Residential Uses</i>				
<i>Household Living</i>				
Dwelling, 1- or 2-family (includes all mobile homes; excludes accessory dwelling units)	2 or more bedrooms	2 per du		
	1 bedroom or studio	1 per du		
Dwelling, multifamily	2 or more bedrooms	2 per du		
	1 bedroom or studio	1 per du		
<i>Group Living</i>				
Assisted/Congregate Living Facility	1 per 3 beds			
Boarding house	1 per guest room			
Nursing home	1 per 5 beds			
Residence hall	1 per 3 beds			
<i>Public, Institutional, and Civic Uses</i>				
<i>Community, Cultural, and Educational Uses</i>				
Club or lodge	1 per 120 sf of assembly space			
College	1 per 900 sf of academic space			
Community center	1 per 300 sf			
Day care facility, small	1 per 325 sf of licensed primary indoor space			
Day care facility, large				
Hospital	1 per 3 inpatient beds			
Library, museum, or art gallery	1 per 500 sf			
Municipal facility	1 per 400 sf of office space + 1 per 600 sf of maintenance, distribution, or storage space			
Park or conservation area	See Section 4.9.1.E			
Religious institution	1 per 5 persons of maximum occupancy capacity in assembly space			
School	High school	1 per classroom + 1 per 10 students		
	Middle or elementary school	1 per classroom + 10 visitor spaces		
<i>Communication Uses</i>				
Small-scale telecommunication tower	n/a			
Telecommunication tower	1 space			

<i>Commercial Uses</i>	
<i>Agriculture, Aquaculture, and Animal Care Uses</i>	
Aquaculture	See Section 4.9.1.E
Equestrian facility	1 per 5 stalls
Farm	n/a
Kennel	1 per 300 sf used for boarding
Plant nursery	1 per 1,000 sf of display area
Veterinary office	1 per 500 sf
<i>Food, Beverage, and Entertainment</i>	
Adult entertainment establishment	1 per 300 sf
Golf course	1 per 300 sf of indoor area + 1 per golf course hole
Recreation facility, as a principal use	See Section 4.9.1.E
Restaurant or dining facility	1 per 4 persons of maximum occupancy capacity of customer service area(s)
Theater	1 per 4 persons of maximum occupancy capacity of assembly space
<i>Lodging</i>	
Campground	1 per campsite + 1 space
Hotel	1 per guest room + 1 per 800 sf of assembly space
<i>Retail Sales and Services</i>	
Farmer's Market	1 per 400 sf of stall and vehicle space, and customer circulation area
Financial Institution	1 per 300 sf
Neighborhood store	1 per 300 sf
Office	1 per 400 sf
Office, Medical	1 per 200 sf
Retail, Class I	1 per 300 sf
Retail, Class II	1 per 300 sf
Service business, Class I	1 per 300 sf
Service business, Class II	1 per 300 sf
Studio	1 per 300 sf
<i>Transportation and Vehicle-Related Uses</i>	
Aviation operations	See Section 4.9.1.E
Aviation-related business	See Section 4.9.1.E
Bus or rail station	1 per 400 sf of passenger waiting area
Car wash	1 per 500 sf
Marina or boat storage	0.5 per boat slip or mooring
Parking facility, as a principal use	n/a
Ultra-light airpark	See Section 4.9.1.E
Vehicle fueling station	n/a
Vehicle sales, rental, or storage	1 per 400 sf of indoor sales display area and office space
Vehicle service or repair	1 per 500 sf
<i>Industrial Uses</i>	
Contractor's space	1 per 200 sf of office space
Industry, Artisan	1 per 600 sf
Industry, Class I	1 per 1,000 sf

Industry, Class II	1 per 1,000 sf
Junkyard or automobile graveyard	1 per 1,000 sf of storage area
Marine activity	See Section 4.9.1.E
Mineral extraction	See Section 4.9.1.E
Recycling collection facility, as a principal use	3 per station
Renewable energy generating facility, as a principal use	See Section 4.9.1.E
Utility facility, major	See Section 4.9.1.E
Utility facility, minor	n/a
Warehousing and storage	1 per 2,500 sf

NOTES:

1. When computation of the number of required parking spaces results in a fraction, the result shall be rounded upward to the next highest whole number.
2. Except as otherwise provided in this section, where the minimum off-street parking space requirement is based on square feet of floor area, all computations shall be based on gross floor area.
3. Except as otherwise provided in this section, where the minimum off-street parking space requirement is based on the maximum occupancy capacity, all computations shall be based on the occupant load of the building or facility as established in accordance with the Brunswick Building Code.
4. Except as otherwise provided in this section, where the minimum off-street parking space requirement is based on the number of employees, students, or residents, all computations shall be based on the largest number of persons working on any single shift (for employees), or the maximum enrollment (for students), or the fire-rated capacity (for residents), as appropriate.

C. *Exemptions-Special Provisions in the Growth Mixed-Use 6 (GM6) District.*

(1) Off-street vehicle parking spaces are not required for a use in the GM6 District that:

- (1i) Is located on a lot less than 10,000 square feet in size; or
- (2ii) Is housed in an existing building with less than 10,000 square feet of gross floor area.

(2) There shall be no off-street vehicle parking located within 20 feet of the edge of the public right-of-way of Maine Street. Compliance with this provision shall be required notwithstanding any nonconforming status of a structure or use, and shall be implemented upon any reconstruction of the principal structure. Compliance shall also be required upon redesign or substantial reconstruction of the parking area, to the extent reasonably practical (e.g. utility or site constraints or loss of required parking spaces).

D. *Applicability to Existing Development Use Changes and Expansions.*

- (1) A change in the use of an existing development shall be accompanied by the provision of any additional off-street vehicle parking needed to make up the difference between the minimum number of spaces required by this Section for the existing use and the minimum number of spaces required by this Section for the new use.
- (2) If an existing structure or use is expanded in terms of the size unit used in this Section to determine the minimum number of off-street vehicle parking spaces required for the applicable use (e.g., dwelling units, floor area, seating capacity), such expansion shall be accompanied by the provision of any additional off-street vehicle parking needed to make up the difference between the minimum number

of spaces required by this section for the existing development and the minimum number of spaces required by this section for the expanded development.

- E. *Uses with Variable Parking Demands.* Some uses have widely variable parking demand characteristics that make it difficult to establish a single appropriate minimum off-street vehicle parking standard. On receiving an application proposing such a use (as designated by reference to this Subsection in Table 4.9.1.A), the Director, in consultation with the Code Enforcement Officer, is authorized to apply a minimum requirement for a listed use deemed most similar to the proposed use, establish the minimum requirement by reference to a standard parking standards resource, or establish the minimum requirement based on a parking demand study prepared by the applicant using data from the Institute of Traffic Engineers (ITE) or other acceptable source.
- F. *Requirements for Developments with Multiple Uses.* Developments containing more than one (1) principal use shall provide vehicle parking spaces in an amount equal to the total of the requirements applied to all individual principal uses. This does not limit the opportunity to reduce the resulting minimum requirement through approval of an alternative parking plan justifying shared parking (see Subsection 4.9.4.A (Shared Parking)).
- G. *Maximum Number of Off-Street Vehicle Parking Spaces.* For Retail Class II uses with more than 50,000 square feet of gross floor area, the number of off-street vehicle parking spaces shall not exceed 125 percent of the minimum number of spaces required by this Section unless the additional spaces are located within a parking structure or are allowed through approval of an alternative parking plan pursuant to Subsection 4.9.4.C (Provision over the Maximum Allowed).
- H. *Accessible Parking Spaces.* Within each off-street vehicle parking area, a portion of the total number of parking spaces shall be spaces specially designated, located, and reserved for use by persons with physical disabilities ("accessible parking spaces") in accordance with the standards of the Americans with Disabilities Act.

4.9.2. *Minimum Bicycle Parking Requirements.*

- A. All parking areas containing ten (10) or more vehicle parking spaces shall provide bicycle parking facilities (e.g., bike racks/lockers) to accommodate the parking of at least two (2) bicycles for every ten (10) vehicle parking spaces required, provided that no more than 20 bicycle parking spaces shall be required in any one (1) parking lot.
- B. Any bicycle parking facilities shall be located in a well-lit location that is conveniently accessible to a primary entrance(s) to the development's principal buildings, does not interfere with pedestrian traffic, and is protected from conflicts with vehicular traffic.

4.9.3. *Design, Construction and Maintenance of Parking Areas.*

A. *Location and Configuration.*

- (1) Each parking area shall be designed with adequate access, turning radii and snow storage areas. Minimum dimensional standards shall apply as follows in Table 4.9.3:

Table 4.9.3: Minimum Parking Space Dimensional Standards

Parking Angle (degree)	Stall Width (feet/inches)	Skew Width (feet/inches)	Stall Depth (feet/inches)	Aisle Width (feet/inches)
90	9'0"	0"	18'	24'0"
60	8'6"	10'5"	19'0"	16'0" (1-way)
45	8'6"	12'9"	17'5"	12'0" (1-way)
30	8'6"	17'0"	17'5"	12'0"

- (2) No parking area may be constructed within a required setback.
- (3) Where practicable, in the GM6 District and Village Review Overlay Zone, off-street parking shall be located to the rear of the development's principal building and shall be accessed from a secondary street.
- (4) In all Growth Mixed-Use (GM) and Growth College (GC) zoning districts, a maximum of one (1) row of off-street parking may be located in front of the principal building being served (but not within the required front yard).
- (5) Parking lots shall be designed and landscaped to avoid long, uninterrupted rows of parked vehicles. Surface parking lots containing more than 30 spaces shall be broken into separate parking areas by the use of landscaped islands, pedestrian and bicycle areas, or buildings.
- (6) The Review Authority may waive the requirements of this Subsection where a primary structure already exists on the parcel and there is no other alternative for siting parking, or where compliance would be impractical.

B. *Landscaping.* The following landscaping standards shall apply to all surface parking areas other than those for single and two-family dwellings on a single lot.

- (1) *Perimeter Landscaping.*
 - a. Where a parking lot is within 50 feet of and visible from a street, other development (except another parking lot), or vacant property, perimeter landscaping shall be provided and maintained within a strip of land between the parking lot and the adjacent street right-of-way or easement or property line except where such strip is crossed by an authorized vehicular, bicycle, or pedestrian accessway, or utility easement.
 - b. The perimeter landscaping strip shall be at least the minimum width necessary to adequately accommodate the proposed plantings and other screening material and avoid damage to such materials by parked vehicles.
 - c. Perimeter landscaping shall consist of any combination of trees, evergreen shrubs, berms, walls, and fences that form a continuous solid/completely opaque screen not to exceed four (4) feet in height along the perimeter of the parking lot that is designed to screen the headlights of vehicles in the parking lot yet allow security surveillance of the parking lot from the adjacent street.
- (2) *Interior Landscaping.*
 - a. Parking lots containing more than 30 parking spaces shall provide and maintain landscaped islands:
 - i. At the end of every row of parking spaces;
 - ii. Along a long row of parking, spaced no more than 20 parking spaces apart; and
 - iii. Between at least every three (3) parallel parking bays.
 - b. Islands shall be at least the minimum width necessary to adequately accommodate the proposed plantings and any proposed walkway through it and avoid damage to landscaping by parked vehicles.
 - c. Each landscaped island shall include at least one (1) shade tree, provided that understory trees may be substituted for canopy trees in areas beneath overhead utility lines.

C. *Surfacing, Drainage, Lighting.*

- (1) Parking areas shall be constructed with a suitably durable surface that minimizes dust and is appropriate for the use of the land, with adequate drainage.
- (2) Surfacing, grading and drainage shall facilitate groundwater recharge by minimizing impermeable pavement and run-off. Oil traps may be required for larger paved parking lots.
- (3) Parking areas shall be lighted in a manner that does not result in direct lighting to or glare to abutting residential properties or cause a traffic hazard due to glare.

D. *Modification/Waiver of Design Requirements.* The Review Authority may waive or modify the design and construction standards in this subsection on finding that the total number of parking spaces required for the use cannot be accommodated in accordance with the standards, that the site layout prevents compliance with the standards, or that existing development on the site has been determined by the Code Enforcement Officer to be nonconforming with the standards.

E. *Maintenance.* All parking lot areas shall be maintained pursuant to Section 4.15 (Maintenance).

4.9.4. *Parking Alternatives.*

The Review Authority may approve alternatives to complying with the requirements in Subsection 4.9.1 in accordance with the following standards.

- A. *Shared Parking.*
 - (1) The Review Authority may allow use of a common parking facility to meet the minimum parking requirements for multiple uses or uses on multiple lots on finding that the uses generate parking demands during different times, or have characteristics making it likely that a significant portion of people will use the same parking space to access the other uses sharing the parking facility.
 - (2) Shared parking spaces shall be located within 1000 feet walking distance of the primary pedestrian entrance to all uses.
 - (3) The Review Authority may require cross easements or other legally enforceable documents that ensure the participating uses or property owners the right to joint use of the parking facility as long as the shared spaces are needed to comply with this Ordinance. If the shared parking becomes unavailable to a participating use, the uses shall provide alternative means of meeting off-street parking requirements.
- B. *Off-Site and Satellite Parking.*
 - (1) The Review Authority may allow use of a parking facility located on one (1) lot to meet the minimum parking requirements for a use located on a separate lot.
 - (2) The Review Authority may require legally enforceable documents that ensure that the served use has the right to use the off-site or satellite parking facility as long as the spaces are needed to comply with this Ordinance. If the off-site or satellite parking facility becomes unavailable to the served use, the use shall provide alternative means of meeting off-street parking requirements.
- C. *Provision over the Maximum Allowed.* The Review Authority may allow the maximum parking requirement applicable to a development in accordance with Subsection 4.9.1.G to be exceeded on finding that the additional spaces are justified by a parking demand study demonstrating that they are necessary to adequately serve a development.
- D. *Parking Requirement Reductions.* The Review Authority may allow additional reductions of the minimum vehicle parking requirements in Subsection 4.9.1. To support a request for an additional reduction, the Review Authority may require a parking demand study showing reduced transportation and vehicle parking demand due to the location, characteristics, or committed operations of the

particular use (e.g., type of development, proximity to transit, employee carpool/vanpool program, off-peak work schedules).

4.9.5. Minimum Off-Street Loading Requirements.

A. Minimum Number of Off-Street Loading Spaces.

(1) *General Standard.* New development involving the routine vehicular delivery or shipping of goods, supplies, or equipment to or from the development site shall provide a sufficient number of off-street loading spaces to accommodate the delivery and shipping operations of the development's uses in a safe and convenient manner.

(2) *Specific Standards.*

- Table 4.9.5.A(2) below sets forth the minimum number of off-street loading spaces that presumptively satisfies the loading space needs of medium-sized and large-sized delivery/shipping trucks based on the principal use and size of the development. It is assumed that the needs of small delivery/shipping trucks can be met through the temporary use of vehicle parking spaces or accessways, without impeding use of adjacent driveways or fire lanes.
- The Review Authority may require a higher or lower number of off-street loading spaces based on a finding that the characteristics of the particular development warrant such an increase or decrease, and that the general standard in Subsection (1) above is met.

Table 4.9.5.A(2):
Minimum Number of Off-Street Loading Spaces

Gross Floor Area (GFA)	Medium-Sized Truck	Large-Sized Truck
<i>Public, Civic, and Institutional Uses and Office Uses¹</i>		
Up to 10,000 sf	0	0
10,001 to 50,000 sf	1	0
Over 50,000 sf ²	2	0
<i>Commercial Uses Other than Office Uses¹</i>		
Up to 20,000 sf	0	1
20,001 to 50,000 sf	1	1
50,001 to 100,000 sf	1	2
100,001 to 200,000 sf	2	2
Over 200,000 ²	3	2
<i>Industrial Uses</i>		
Up to 5,000 sf	0	0
5,001 to 10,000 sf	1	0
10,001 to 50,000 sf	0	1
50,001 to 100,000 sf	0	2
Over 100,000 sf ²	0	3

NOTES:

1. For mixed-use developments, gross floor area devoted to residential uses is excluded.
2. Additional spaces may be required based on development-specific assessment relative to size.

B. *Exemptions in Growth Mixed-Use District 6 (GM6).* Off-street loading spaces are not required for a nonresidential use in the GM6 District that:

- (1) Is located on a lot less than 10,000 square feet in size; or
- (2) Is housed in an existing building with less than 10,000 square feet of gross floor area.

C. *Applicability to Existing Development Expansions.* If the gross floor area of an existing structure is expanded, such expansion shall be accompanied by the provision of any additional off-street loading needed to make up the difference between the minimum number of spaces required by this section for the existing development and the minimum number of spaces required by this Section for the expanded development.

D. *Design and Use of Off-Street Loading Areas.*

- (1) Each loading space shall be of sufficient size to accommodate the types of vehicles likely to use it.
 - a. The minimum loading space that presumptively satisfies loading space needs of a medium-size truck is at least 12 feet wide and 35 feet long, and has at least 13 feet of vertical clearance.
 - b. The minimum loading space that presumptively satisfies loading space needs of a large-size truck is at least 12 feet wide and 75 feet long, and has at least 14 feet of vertical clearance.
 - c. The Review Authority may require larger or smaller loading spaces on finding that the characteristics of the particular development warrant the variation, and the general standard in Subsection (1) above is met.
- (2) Where practicable, off-street loading areas shall be located to the rear of the principal building(s) it serves.
- (3) Loading areas shall be located and designed so vehicles can maneuver safely and conveniently to the loading space(s) and complete loading/unloading without interfering with vehicular, bicycle, or pedestrian traffic or use on streets, bike lanes, crosswalks, and parking areas.
- (4) Off-street loading areas shall be located and designed to screen and otherwise mitigate their potential adverse visual and noise impacts on adjacent streets and properties by any combination of buildings, walls or fences, or dense continuous hedge.

Sec. 5.2. Specific Procedures.

5.2.8. Village Review Overlay Design Review.

C. Review Standards.

(1) General Standard.

- a. All Certificates of Appropriateness for new construction, additions, alterations, relocations or demolition shall be in accordance with applicable requirements of this Ordinance.
- b. In meeting the standards of this Ordinance the applicant and Village Review Board in its review shall be informed by guidance from the U.S. Secretary of Interior's Standards for Rehabilitating Historic Buildings and the Village Review Zone Design Guidelines.

(2) New Construction and Additions and Alterations to Existing Structures.

- a. In approving applications for a Certificate of Appropriateness for new construction or additions or alterations to contributing resources, the Review Authority shall make findings that the following standards have been satisfied:
 - i. Any additions or alterations shall be designed in a manner to minimize the overall effect on the historic integrity of the contributing resource.
 - ii. Alterations shall remain visually compatible with the existing streetscape.
 - iii. Concealing of distinctive historic or architectural character-defining features is prohibited. If needed, the applicant may replace any significant features with in-kind replacement and/or accurate reproductions.
 - iv. New construction or additions shall be visually compatible with existing mass, scale and materials of the surrounding contributing resources.
 - v. When constructing additions, the applicant shall maintain the structural integrity of existing structures.
- b. In approving applications for a Certificate of Appropriateness for new construction of, or additions to commercial, multifamily, and other non-residential structures, the Review Authority shall make findings that the following additional standards have been satisfied:
 - i. Where practicable, new off-street parking shall be located to the rear of the principal building and shall be accessed from a secondary street. In cases where off-street parking currently exists in a front or side yard, the parking area shall be screened from the public right-of-way with landscaping or fencing.
 - ii. Site plans shall identify pedestrian ways and connections from parking areas to public rights-of-way.
 - iii. All dumpsters and mechanical equipment shall be located no less than 25 feet away from a public right-of-way, unless required by a public utility, and shall be screened from public view.
 - iv. Roof-top-mounted heating, ventilation, air conditioning and energy producing equipment shall be screened from the view of any public right-of-way or incorporated into the structural design to the extent that either method does not impede functionality. Parapets, projecting cornices, awnings or decorative roof hangs are encouraged. Flat roofs without cornices are prohibited.

- v. ~~A concrete product may be used on the exterior of a building if the Board finds the product resembles wood or stone to a high degree. The use of cinder block, concrete and concrete block is prohibited on any portion of a structure that is visible from the building's exterior, with the exception of use in the building's foundation.~~
- vi. The use of vinyl, aluminum or other non-wood siding is permitted as illustrated in the Village Review Board Design Guidelines. Asphalt and asbestos siding are prohibited.
- vii. Buildings with advertising icon images built into their design ("trademark buildings") are prohibited.
- viii. No building on Maine Street shall have a horizontal expanse of more than 40 feet without a pedestrian entry.
- ix. No building on Maine Street shall have more than 15 feet horizontally of windowless wall.
- x. All new buildings and additions on Maine Street shall be built to the front property line. This may be waived if at least 60 percent of the building's front façade is on the property line, and the area in front of the setback is developed as a pedestrian space.
- xi. If more than 50 percent new floor area is added to a structure located on Maine Street, the addition shall be at least two (2) stories high and/or not less than 20 feet tall at the front property line.
- xii. The first floor façade of any portion of a building that is visible from Maine Street shall include a minimum of 50 percent glass. Upper floors shall have a higher percentage of solid wall, between 15 percent and 40 percent glass.
- c. Proposed additions or alterations to noncontributing resources shall be designed to enhance or improve the structure's compatibility with nearby contributing resources as compared to the existing noncontributing resource.

(3) *Signs.* Signs shall comply with Section 4.13 (Signs) with consideration given to the Village Review Zone Design Guidelines.

(4) *Demolition and Relocation.*

- a. Demolition or partial demolition or relocation of a contributing or, if visible from a public right-of-way, a noncontributing resource, excluding incidental or noncontributing accessory buildings and structures not visible from the public right-of-way, located on the same property, shall be prohibited unless the proposed replacement structure or reuse of the property is deemed to be as appropriate and compatible with the existing streetscape and surrounding contributing resources and the application satisfies at least one (1) of the following criteria:
 - i. The structure poses an imminent threat to public health or safety. An application must be accompanied by a report from a qualified structural engineer for review by the Code Enforcement Officer and photographs depicting the current condition of the building.
 - ii. The condition of the structure is such that it cannot be adapted for any other permitted use, whether by the current owner or by a purchaser, resulting in a reasonable economic return, regardless of whether that return represents the most profitable return possible, provided that the applicant can document he/she has not contributed significantly to the deterioration of the structure. An opinion shall be provided from an architect, licensed engineer, developer, real estate consultant or appraiser or from a professional experienced in historic rehabilitation, as to the economic feasibility for restoration, renovation, or rehabilitation of the contributing resource versus demolition or relocation of same.

- b. Demolition, partial demolition or relocation of a noncontributing resource visible from a public right-of-way, shall be approved by the Village Review Board if it is determined that the proposed replacement structure or reuse of the property is deemed more appropriate and compatible with the surrounding contributing resources than the resource proposed for demolition.
- D. *Expiration of Certificate of Appropriateness.* If two (2) years after issuance of a Certificate of Appropriateness, the approved work is not found to be complete by the Code Enforcement Officer, the approval shall lapse. The applicant may, at any time before the date of approval expiration, make a written request to the Village Review Board for an approval time extension. This request shall explain the reasons why the improvements have not been completed and indicate how the applicant expects to complete the project if the Board grants an extension. The Board may consider any changes to this Ordinance or any other new information relevant to the application when considering an extension request.

Sec. 1.6. Nonconformities.

1.6.1. General.

- A. *Nonconforming Defined.* As used in this Section, the term "nonconforming" refers to a lot, use, structure, site feature, or sign which is allowed solely because it was in lawful existence at the time of the effective date of this Ordinance or when a subsequent Ordinance amendment takes effect.
- B. *Transfer of Ownership.* Nonconforming structures, lots, and uses may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming structure or lot, subject to the provisions of this Ordinance.
- C. *Repair and Maintenance.* This Ordinance allows the normal upkeep and maintenance of nonconforming uses and structures, including repairs or renovations that do not involve expansion of the nonconforming use or structure, and such other changes in a nonconforming use or structure as federal, state, or local building and safety codes may require.

1.6.2. Nonconforming Lots.

- A. *Definition of a Single Nonconforming Lot.* A single nonconforming lot is a nonconforming lot of record as of the effective date of this Ordinance or amendment thereto in separate ownership and not contiguous with any other lot in the same ownership. For purposes of the Shoreland Protection Overlay (SPO) District, a single nonconforming lot is a single lot of record established on or before June 6, 1994.
- B. *Development and Use of Single Nonconforming Lots Outside of a Subdivision.*
 - (1) *Undeveloped.*
 - a. *Outside Shoreland Protection Overlay (SPO) District.* May be used as allowed by Chapter 3 (Property Use Standards) or Subsection 1.6.3 (Nonconforming Uses) if either:
 - i. The lot area is at least 3,000 square feet, and it complies with Chapter 4 Subsections 4.2.3 or 4.2.4 as applicable (Dimensional and Density Standards); or
 - ii. The lot area is smaller than 3,000 square feet, or lot width is less than 65 feet, setbacks are no less than 90%, and impervious surface coverage is no more than 110% of Chapter 4 dimensional and density standards.
 - b. *Within SPO.* May be built upon without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setbacks or other requirements not involving lot area, lot width and shore frontage shall be obtained by action of the Zoning Board of Appeals.
 - (2) *Developed.*
 - a. *Outside SPO.* A nonconforming lot containing a legally existing structure may be used as if it were a conforming lot provided that any change or expansion of the use or structure shall comply with all applicable dimensional and density standards of the district in which it is located and shall not increase any nonconformity.
 - b. *Within SPO.* A single nonconforming lot containing a legally existing structure may be used as if it were a conforming lot provided that any change or expansion of the use or structure shall comply with all applicable zoning district dimensional and density standards, as well as all applicable regulations found in Subsection 1.6.4 of this Ordinance, and shall not increase any nonconformity.
- C. *Development and Use of Single Nonconforming Lot Within Subdivision.*

(1) *Undeveloped.*

- a. *Outside and Within SPO.* A single nonconforming lot may be used as allowed by Chapter 3 or Subsection 1.6.3 if:
 - i. The lot is in separate ownership and not contiguous with other lots in same ownership;
 - ii. And:
 - (A) If lot area is less than 20,000 square feet, it complies with the remaining Chapter 4 standards; or
 - (B) If lot area is less than 20,000 square feet or lot width is less than 100 feet, setbacks are no less than 90% and impervious surface coverage is no more than 110% of Chapter 4 Subsection 4.2.3 and 4.2.4.

(2) *Developed.*

- a. *Outside and Within the SPO.* A nonconforming lot containing a legally existing structure or use may be used as if it were a conforming lot provided that any change or expansion of the use or structure shall comply with all applicable dimensional and density standards contained in Subsections 1.6.4, 4.2.3 and 4.2.4 and shall not increase any nonconformity with respect to lot area, lot width, or impervious surface ratio.

D. *Development and Use of a Single Nonconforming Developed Lot with Two (2) or more Principal Uses or Structures.*

- (1) *Outside or Within SPO.* If two (2) or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance or subsequent amendment, each may be sold on a separate lot provided that the lot area complies with the minimum requirements of the State of Maine Subsurface Wastewater Disposal Rules (in those areas not served by public sewer) and the State Minimum Lot Size Law (12 M.R.S.A. §§ 4807-A—4807-D, as amended). When such lots are divided, each lot thus created must be as conforming as practicable to the dimensional requirements in Subsection 4.2.3 or 4.2.4.

E. *Development and Use of Contiguous Nonconforming Lots in Common Ownership.*

- (1) *Both Lots Undeveloped, Within SPO.* If two (2) or more contiguous undeveloped lots are in common ownership of record at the effective date of this Ordinance or subsequent amendment and, if any of these lots do not individually meet the dimensional standards of this Ordinance the lots shall be combined to the extent necessary to meet the applicable dimensional standards of this Ordinance. The provision shall not apply to two (2) or more contiguous lots that are held in common ownership on June 6, 1994 and recorded separately in the Cumberland County Registry of Deeds, and where at least one (1) of the lots is nonconforming, if the nonconforming lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and
 - a. Each lot contains at least 20,000 square feet of lot area; or
 - b. Any lots that do not meet the lot width and lot area requirements of the base zoning district (and any overlay districts) are reconfigured or combined so that each new lot contains at least 20,000 square feet in lot area.
- (2) *Both Lots Undeveloped, Outside SPO.* If two (2) or more contiguous undeveloped lots are in common ownership of record and, if any of these lots do not individually meet the dimensional standards of this Ordinance, the lots shall be combined to the extent necessary to meet the applicable dimensional standards of this Ordinance. The provision shall not apply to two (2) or more contiguous lots that are held in common ownership and recorded separately in the Cumberland County Registry of Deeds, and where at least one (1) of the lots is nonconforming, if the nonconforming lot is served by a public sewer

or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- a. Each lot contains at least 20,000 square feet of lot area; or
- b. Any lots that do not meet the lot width and lot area requirements of the base zoning district (and any overlay districts) are reconfigured or combined so that each new lot contains at least 20,000 square feet in lot area.

(3) *Both Lots Developed, Outside or Within SPO.* If two (2) or more contiguous lots or parcels are in single or joint ownership of record at the effective date of this Ordinance or subsequent amendment, if all or part of the lots do not meet the dimensional and density requirements of this Ordinance, and if a principal use or structure exists on each lot, the nonconforming lots may be conveyed separately or together, provided that the lots are served by public sewer or the State Minimum Lot Size Law (12 M.R.S.A. § 4807-A—4807-D, as amended) is met.

(4) *One or More Lots Developed with Principal Structure or Use, and One (1) or More Lots Undeveloped.*

- a. *Within SPO.* If two (2) or more contiguous lots are in common ownership of record at the effective date of the Ordinance and if any of these lots contain no principal structure and do not individually meet the dimensional and density standards of this Ordinance, the lots shall be combined to the extent necessary to meet the said standards. This provision shall not apply to two (2) or more contiguous lots in common ownership on June 6, 1994 and recorded separately in the Cumberland County Registry of Deeds, and where at least one (1) of the lots is nonconforming, if the nonconforming lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and
 - i. Each lot contains at least 20,000 square feet of lot area; or
 - ii. Any lots that do not meet the lot width and lot area requirements of the base zoning district and any overlay districts are reconfigured or combined so that each new lot contains at least 20,000 square feet of lot area.
- b. *Outside SPO.* If two (2) or more contiguous lots are in common ownership of record and if any of these lots contain no principal structure and do not individually meet the dimensional and density standards of this Ordinance, the lots shall be combined to the extent necessary to meet the said standards. This provision shall not apply to two (2) or more contiguous lots in common ownership and recorded separately in the Cumberland County Registry of Deeds, and where at least one (1) of the lots is nonconforming, if the nonconforming lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and
 - i. Each lot contains at least 20,000 square feet of lot area; or
 - ii. Any lots that do not meet the lot width and lot area requirements of the base zoning district and any overlay districts are reconfigured or combined so that each new lot contains at least 20,000 square feet of lot area.

F. *Development and Use of Contiguous Lots in Common Ownership, only One Lot Nonconforming.*

(1) *Conforming Lot Developed, Nonconforming Lot Undeveloped.*

- a. *Within SPO.* A single, undeveloped, nonconforming lot which does not individually meet the dimensional and density standards of this Ordinance and is contiguous with a developed conforming lot held in common ownership on the effective date of this Ordinance shall be combined with the developed lot. This provision shall not apply if the contiguous lots are held in

common ownership on June 6, 1994 and are recorded separately in the Cumberland County Registry of Deeds, and where the single, unimproved, nonconforming lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and contains at least 20,000 square feet of lot area.

b. *Outside SPO.* A single, undeveloped, nonconforming lot which does not individually meet the dimensional and density standards of this Ordinance and is contiguous with a developed conforming lot held in common ownership shall be combined with the developed lot.

(2) *Nonconforming Lot Developed, Conforming Lot Undeveloped.*

- a. *Within SPO.* A single, developed, nonconforming lot which does not individually meet the dimensional requirements of this Ordinance on which a principal use or structure exists and is contiguous with an undeveloped conforming lot held in common ownership on the effective date of this Ordinance and is recorded separately in the Cumberland County Registry of Deeds, may continue to be used as if it were a conforming lot, but may not be sold separately. Any change or expansion of the existing use or structure shall comply with all applicable dimensional and density standards of the base or overlay district.
- b. *Outside SPO.* A single, developed, nonconforming lot which does not individually meet the dimensional requirements of this Ordinance on which a principal use or structure exists and is contiguous with an undeveloped conforming lot held in common ownership on the effective date of this Ordinance or subsequent amendment, and is recorded separately in the Cumberland County Registry of Deeds, may continue to be used as if it were a conforming lot, and may be sold separately, provided that any change or expansion of the existing use or structure shall comply with all applicable dimensional and density standards of the base or overlay district, except lot width or area.

1.6.3. Nonconforming Uses.

The following standards apply both within and outside the SPO District, unless otherwise specified below.

- A. *Continuance.* A nonconforming use may be continued even though it does not conform to the use standards for the base zoning district (and any overlay district) in which it is located. A nonconforming use that is discontinued, whether or not there was an intent to abandon, for ~~36-24~~ consecutive months or more outside the APO, SPO, FPO, and WPO Districts, or for 12 consecutive months or more within the APO, SPO, FPO, or WPO Districts, may not be re-established except in compliance with the current standards of this Ordinance.
- B. *Change in Use.* A nonconforming use may be replaced by another use not allowed in the base zoning district (or any overlay district) if the Staff Review Committee determines that the new use will have no greater adverse impact on the water body, tributary stream wetland, aquifer, or on adjacent properties and resources, than the existing use. To show that no greater adverse impact will occur, the Change of Use application shall include written documentation assessing the probable effects on public health and safety, traffic, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, scenic features, as delineated in the 2002 Brunswick Parks, Recreation and Open Space Plan, as amended, flood plain management, archaeological and historic resources, commercial fishing and marine activities, and other functionally water-dependent uses.
- C. *Expansion of Use.*
 - (1) *Outside SPO.* A nonconforming use may be expanded throughout the existing structure housing the use. A nonconforming use may also be expanded throughout any expansion of the existing structure allowed by this Ordinance. Any additional expansion of area occupied by the use,

whether from expansion of the structure or extension of the use to additional land area, shall be limited to 1,000 square feet over a five-year period; provided that further additional expansion of a nonconforming use may be allowed through approval of a Special Permit in accordance with Subsection 5.2.3.C.

- (2) *Within SPO.* Expansions of nonconforming uses are prohibited, except that nonconforming residential uses may, after obtaining a permit from the Code Enforcement Officer, be expanded within existing residential structures or within expansions of such structures as allowed in Subsection 1.6.4.B(2).
- D. *Reconstruction of Structure with a Nonconforming Use.* If a structure housing a nonconforming use is destroyed, removed or damaged by any cause, the nonconforming use may be re-established in the structure if it is restored or reconstructed provided that a Building Permit for the restoration or reconstruction is obtained within ~~two (2)three (3)~~ years after the date of destruction, removal or damage, if the property is located outside the APO, SPO, FPO or WPO Districts; or within one (1) year of the date of destruction, removal or damage, if the property is located within the APO, SPO, FPO or WPO Districts.

1.6.4. Nonconforming Structures.

- A. *Continuance.* Both in and outside the SPO District, a nonconforming structure may be continued with the use established as of the effective date of this Ordinance, and may continue to be used for any use permitted within a base district or overlay district in which the property is located, or by Subsection 1.6.3 (Nonconforming Uses), even though the structure or its use does not conform to the requirements of this Ordinance.
- B. *Expansion.*
 - (1) *Outside SPO District.* A nonconforming structure may be expanded if the expansion area complies with the standards of this Ordinance and the expansion does not increase the structure's nonconformity or create any other nonconformity, with the exception of the following:
 - a. Where the structure is nonconforming because it extends into a minimum required setback, it may be expanded further within the minimum required setback as long as it does not extend beyond the setback established by the existing nonconforming structure.
 - b. Where a structure, located within a Growth Area Zoning District, is nonconforming because it exceeds the allowable maximum building footprint, the structure or its replacement may be expanded by Special Permit (Subsection 5.2.4), such that the expansion does not create any other nonconformity.
 - (2) *Within SPO District.*
 - a. All new principal and accessory structures, excluding functionally water-dependent uses, shall comply with the water body, tributary stream or wetland setback requirements set forth in Subsection 2.3.3.C(1)a. A nonconforming structure may be added to or expanded after obtaining a permit from the same Review Authority as that for a new structure, if such addition or expansion does not increase the structure's nonconformity and is in accordance with Subsections 1.6.4.B(2)b and c below.
 - b. Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion does not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure located closer to the normal high-water line of the water body, tributary stream or upland edge of a wetland than the principal structure is prohibited,

even if the expansion does not increase nonconformity with the water body, tributary stream or wetland setback requirements.

- c. Notwithstanding Subsection 1.6.4.B(2)b, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as the expansion complies with all other standards of this Ordinance and the expansion is not prohibited by Subsection 1.6.4.B(2)a.
 - i. The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30 percent larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
- d. All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as the expansion complies with all other requirements of this Ordinance and the expansion is not prohibited by Subsection 1.6.4.B(2)a. or b.
 - i. For structures located less than 125 feet from a river freshwater wetland, or coastal wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30 percent larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not exceed 20 feet, or the height of the existing structure, whichever is greater.
 - ii. For structures located within the Shoreland Protection Overlay - Stream Protection Sub-District (SPO-SP) or less than 75 feet from the normal high-water line of a tributary stream - the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30 percent larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not exceed 20 feet, or the height of the existing structure, whichever is greater.
 - iii. In addition to the limitations as set forth in Subsection 1.6.4.B(2)d for structures that are legally nonconforming due to their location within the Shoreland Protection Overlay - Resource Protection Sub-District (SPO-RP) or when located less than the required structure setback from a water body or wetland, the maximum combined total footprint for all structures shall not be expanded to a size greater than 1,500 square feet or 30 percent larger than the footprint that existed at the time the Shoreland Protection Overlay - Resource Protection Sub-district (SPO-RP) or its equivalent was established on the lot, whichever is greater. The maximum height of any structure shall not exceed 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits contained in Subsections 1.6.4.B(2)c.i. and 1.6.4.B(2)d.i.
- e. An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the Cumberland County Registry of Deeds, within 90 days of approval. The recorded plan shall show the existing and proposed footprint of the nonconforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the SPO, and if applicable, SPO Sub-District areas and evidence of the approval of the Review Authority. A copy of the recorded plan shall be provided to the Town of Brunswick Department of Planning and Development by the applicant.

C. *Restoration, Reconstruction or Replacement.*

- (1) *Outside SPO District.* Any nonconforming structure that is destroyed, removed or damaged by any cause may be restored or reconstructed to its pre-destruction, pre-removal or pre-damage condition, or replaced with a structure comparable to the destroyed, removed or damaged structure, provided that a Building Permit for the restoration, reconstruction, or replacement is obtained within two (2) ~~three (3)~~ years after the date of destruction, removal or damage; and no existing nonconformity is increased and no new nonconformity is created. Any restoration, reconstruction, or replacement of a nonconforming structure authorized by a Building Permit obtained after two (2)~~three (3)~~ years shall comply with the current requirements of this Ordinance.
- (2) *Within SPO District.*
 - a. *Less than 50 Percent Damage.*
 - i. Any nonconforming structure, located within the required setback of a water body, tributary stream or wetland, that is removed, destroyed or damaged by any cause, by 50% or less of the structure's pre-destruction, pre-removal or pre-damage market value may be restored or reconstructed to its pre-destruction, pre-removal or pre-damage condition, provided that the structure is restored, reconstructed, or replaced in the same location and a Building Permit is obtained from the Code Enforcement Officer within one (1) year of such removal, destruction or damage. This subsection shall not apply to normal maintenance and repair to the structure.
 - b. *More than 50% Damage.*
 - i. Any nonconforming structure located within the required setback from a water body, tributary stream or wetland, that is removed, damaged or destroyed by any cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a Building Permit is obtained within 18 months of the date of said damage, destruction or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback standards to the greatest extent practicable as determined by the Code Enforcement Officer in accordance with Subsection 1.6.6. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity. This subsection shall not apply to normal maintenance and repair to the structure.
 - ii. If the reconstructed or replacement structure is located within the required setback of a water body, tributary stream or wetland, it shall not be any larger than the original structure, except as allowed pursuant to Subsection 1.6.4.B(2), as determined by the nonconforming footprint of the reconstructed or replacement structure in its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for the new structure.
 - iii. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Subsection 1.6.7.
 - iv. In determining whether the building reconstruction or replacement meets the setback to the greatest extent practicable, the Code Enforcement Officer shall consider, in addition to the criteria contained in Subsection 1.6.4.E(2), the physical condition and type of foundation present, if any.
- D. *Relocation to a Different Parcel, Outside or Within SPO District.* A nonconforming structure may be relocated to a different parcel provided it complies with the dimensional and density standards of the base zoning district (and any applicable overlay district) in which it is relocated. If the relocation of a nonconforming structure requires removal of vegetation within the required SPO minimum structure setback area from a

water body, tributary stream or wetland, such vegetation shall be replaced within the setback area in accordance with Subsection 1.6.7. Where feasible, when a nonconforming structure in the setback area is relocated, the original location of the structure shall be replanted with vegetation consisting of native grasses, shrubs, trees, or a combination thereof.

E. *Relocation on Same Parcel.*

- (1) *Outside SPO District.* A nonconforming structure may be relocated within the same parcel provided it complies, to the greatest extent practicable, with the dimensional requirements of the base zoning district (and any applicable overlay district) in which it is relocated. In determining whether the relocated structure complies, to the greatest extent practicable, with such standards, the Code Enforcement Officer shall consider the size of the parcel, the slope of the land and potential for soil erosion, the location of other structures on the parcel and on adjoining properties, and the location of any easements, septic systems and wells on the parcel.
- (2) *Within SPO District.*
 - a. A nonconforming structure may be relocated within the boundaries of the parcel on which it is located, provided that the site of relocation conforms to all setback requirements, to the greatest extent practicable, as determined by the Code Enforcement Officer and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and Rules. In no case shall a structure be relocated so that it is more nonconforming.
 - b. In determining whether the building relocation meets the setback to the greatest extent practicable, the Code Enforcement Officer shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties; the location of any easements, septic systems, and wells; other on-site soils suitable for septic systems; and the type and amount of vegetation to be removed to accomplish the relocation. It is the responsibility of the applicant to provide this information to the Code Enforcement Officer.
 - c. When it is necessary to remove vegetation within the water body or wetland required setback area in order to relocate a structure, the Code Enforcement Officer shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Subsection 2.3.3.C(11). Replanting shall be completed in accordance with Subsection 1.6.7.
 - d. Where feasible, when a structure is relocated, its original location shall be replanted with native vegetation consisting of native grasses, shrubs, trees, or a combination thereof.

F. *Foundations.*

[(1)] *Within SPO District.* Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming structure, the structure and new foundation shall be placed such that the required setback is met to the greatest extent practicable as determined by the Code Enforcement Officer, based on criteria specified in Subsection 1.6.4.E(2) (Relocation on Same Parcel).

1.6.5. Nonconforming Site Features.

The following standards apply both within and outside the SPO District.

- A. *Continuance.* A nonconforming site feature may be continued even though it does not conform to the standards of this Ordinance.
- B. *Expansion or Modification.* A nonconforming site feature may be expanded or modified if the expansion area or modification complies with the requirements of this Ordinance and the expansion or

modification does not extend the site feature's nonconformity or create a new nonconformity. In the APO, SPO, FPO, and WPO Districts, the expansion or modification must also comply with the minimum setback from a water body or wetland required by Subsection 2.3.3.C(1) (Setbacks of Structures from Water Bodies and Wetlands) to the greatest extent practicable.

C. *Restoration, Reconstruction, or Replacement.* Any benign (not affecting health or safety) nonconforming site feature that is destroyed or damaged by any cause may be restored or reconstructed to its pre-destruction, pre-removal or pre-damage condition, or replaced with a site feature comparable to the destroyed, removed or damaged site feature, provided that no existing nonconformity is increased and no new nonconformity is created, and provided that a permit for the restoration, reconstruction, or replacement site feature is obtained within ~~two (2)three (3)~~ years after the date of destruction, removal or damage, if the property is located outside the APO, SPO, FPO and WPO Districts; or within one (1) year after the date of destruction, removal or damage, if the property is located within the APO, SPO, FPO and WPO Districts. Any restoration, reconstruction, or replacement of the site feature approved after ~~two (2)three (3)~~ years outside the APO, SPO, FPO and WPO Districts; or after one (1) year within the APO, SPO, FPO and WPO Districts, shall comply with all requirements of this Ordinance. Within the APO, SPO, FPO and WPO Districts, the restoration, reconstruction, or replacement shall comply with the minimum setback from a water body or wetland required by Subsection 2.3.3.C(1) (Setbacks of Structures from Water Bodies and Wetlands) to the greatest extent practicable.

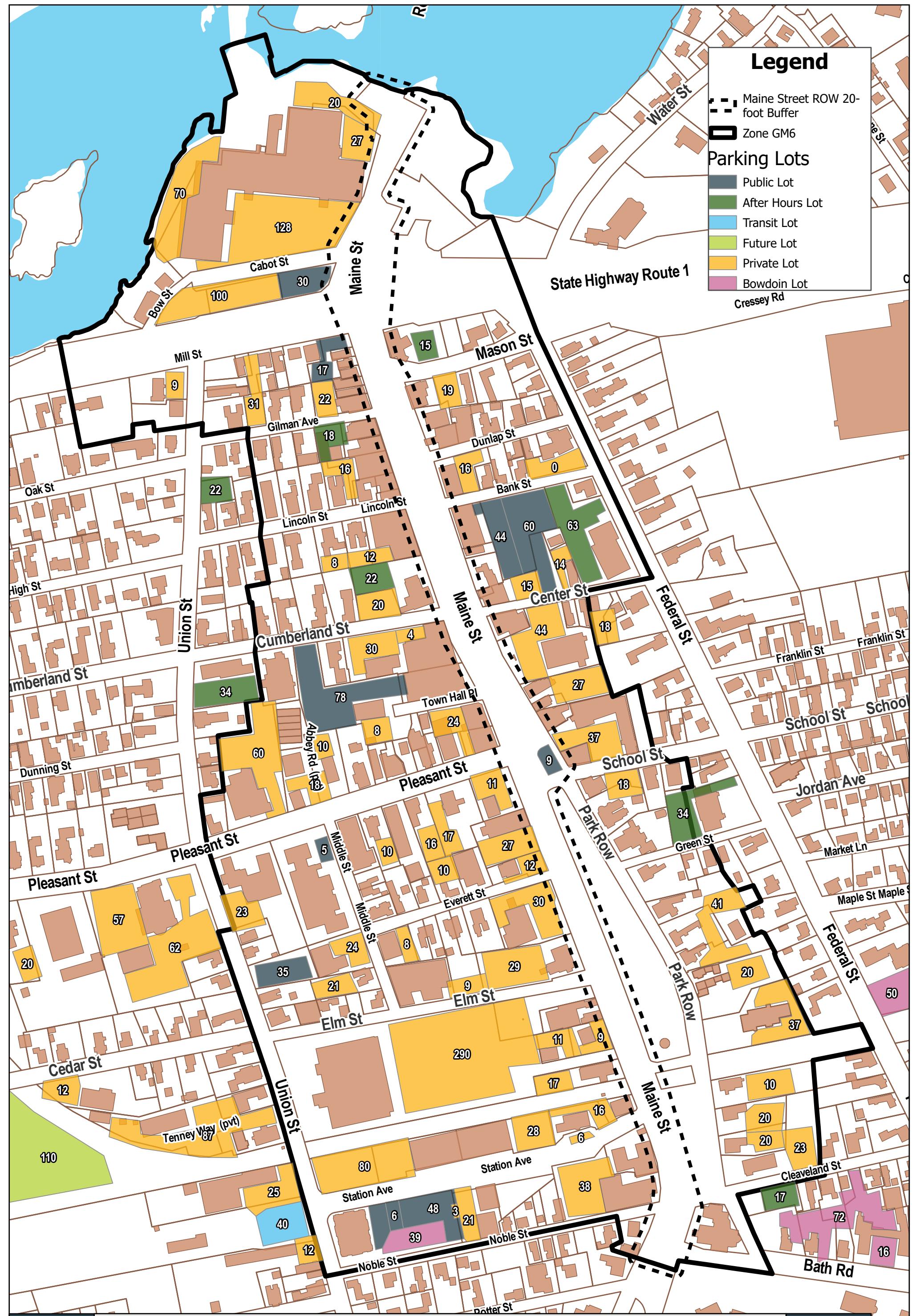
1.6.6. Determination of Compliance to the Greatest Extent Practicable.

In determining whether an expanded, restored, reconstructed, replacement, or relocated nonconforming structure or site feature complies with setback requirements to the greatest extent practicable, the Review Authority shall consider the area of the parcel, the parcel's topography and potential for soil erosion, the location of other structures on the parcel and on adjoining properties; the location of any easements, septic systems or wells; soils suitable for septic systems on the parcel, and the type and amount of vegetation to be removed to accomplish the expansion.

1.6.7. Standards for Replacement of Removed Vegetation.

Where replacement of removed vegetation is required by a provision in this Subsection 1.6.7, the vegetation shall be replaced within the setback area in accordance with the following standards:

- A. Removed trees shall be replaced with at least one (1) native tree, at least three (3) feet in height, for every tree removed.
 - (1) If more than five (5) trees are planted, no one (1) species of tree shall make up more than 50 percent of the number of trees planted.
 - (2) Replaced trees must be planted no further from the water body or wetland than the trees that were removed.
- B. Other woody and herbaceous vegetation and ground cover that are removed or destroyed shall be re-established in an area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed. The replacement vegetation and/or ground cover shall consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.



MAINE ST ROW WITH 20-FOOT BUFFER

ZONE GM6, WITH PARKING LOT INVENTORY ALSO SHOWN

TOWN OF BRUNSWICK, MAINE

