

Saco Zoning Ordinance Revision (ZOR)
Steering Committee Meeting

April 4, 2019
5:00PM – 7:00PM
City Hall Conference Room
300 Main Street
Saco, ME

AGENDA

1. Introductions (5 min)
2. Recap of February Steering Committee Meeting (10 min)
 - a. Land Use Table
 - b. Reorganization
 - c. Summary of Changes
3. Brief Review of Goals & Objectives (10 min)
4. Proposed Changes to Zoning District Boundaries (30 min)
 - a. Industrial District
 - b. Portland Road
 - c. Downtown
 - d. In-town Residential
5. Review of Uses Associated with Proposed Changes to Zoning District (30 min)
 - a. Industrial District
 - b. Portland Road
 - c. Downtown
 - d. In-town Residential
6. Non-Conforming Uses Section Re-write Draft (20 min)
7. Next Steps (5 min)
8. Adjourn

TO Steering Committee - Saco Zoning Ordinance Revision

FROM Tom Morgan
Liz Durfee

RE Meeting Material for 4/4/19 Steering Committee Meeting

DATE March 29, 2019

Below is a brief summary of the materials attached to the 4/4/19 Steering Committee Meeting Agenda.

I. Summary of Changes to the Zoning Ordinance

The 'summary of changes table' has been updated to reflect the changes to the organization of the sections of the Zoning Ordinance. This is intended to be used as a reference to track how portions of the text have been moved around within the Zoning Ordinance, and in some cases, exported to a freestanding document. These changes are recommendations and may be modified and discussed further with the Steering Committee, staff, and other stakeholders.

II. Goals and Objectives of the Comprehensive Plan

Zoning Ordinances should reflect the goals and objectives of the Comprehensive Plan. Relevant highlights from the 2011 Comprehensive Plan and 2018 Comprehensive Plan Update are included in the meeting packet and will be referenced during the meeting.

III. Non-conforming Uses Section Re-Write Draft

The consultants have prepared a revised version of Zoning Ordinance Article 5 Nonconformance. Attached is a copy of the existing text of Article 5, as well as proposed text the would replace the existing text in its entirety. The purpose of revising this text is to create more straightforward and comprehensible, yet still defensible language.

Summary of Significant Proposed Changes to Organization of the ZO

Section		Action	Location	Next Steps
Article I Purpose		Relocate amendment notes to separate document	Article I; ZO Appendix 2	Summarize and format amendment notes
101	Authority, purpose	Split authority and purpose	Article I(101) Article I(102)	
Article II Title			Article II	
102	Title			
Article III Definitions		Relocate to back of ordinance	Article XV	
301	Interpretation			
302	Definitions			Trim down list of definitions; remove standards from definitions
Article IV District Regulations			Article III	New districts proposed, list of permitted uses to be integrated; import dimensional standards
401	Zoning Maps	Relocate to appendix	ZO Appendix 1	
402	Copies of ZO Map	Omit		
403	Zoning Districts	Move up in article	301	
404	District Boundaries	Minor edits	303	
405	Residential Districts; purposes	Review purpose and integrate dimensional standards into section	304	In progress; dimensional tables and new districts to be defined; Improve purposes
405.1	Mixed-use districts; purposes	“	305	“
406	Business districts; purposes	“	306	“
407	Industrial districts; purposes	“	307	“
408	Conservation district; purpose	“	304	“
409	Natural resources districts, purposes	“	308	“
	Overlay Districts	Add section	309	
410	Permitted and Conditional uses in each district	Consolidate into table of uses	310	Incorporate into table of uses
410.1 – 410.26	[Permitted use by district]	Consolidate into table of uses	310	Incorporate into table of uses
411	Prohibited Industrial Uses	Incorporated into table of uses	310	Incorporate into table of uses
412	Lot and yard requirements	Incorporate into dimensional standards for each district	304-310	Incorporate into table of uses

Section		Action	Location	Next Steps
413	Historic Preservation	Omit / Relocate	Historic Preservation	Review and update as necessary
414	Multiple dwellings and/or uses on one lot		311	
415	Coordination of permitting and reviews within the Saco River Overlay District		312	Evaluate moving to another section
416	Additional requirements for a master planned development	Omit / Relocate	Site Plan Review	Incorporated into Site Plan Review
Article V Nonconformance		Revise article	Article IV	Committee review
501	Purpose	Omit	Omit	
502	Nonconforming Lots		403	
503	Nonconforming Uses		401	
504	Nonconforming Structures		402	
505	Transfer of ownership	Omit	Omit	
Article VI Clustered Residential Development			Article V	
601	Purpose		501	
602	Performance Standards		502	
603	Reserved		Omit	
604	Common Open Space		503	
605	Landscaping and buffer yards		504	
606	Site Considerations, approval criteria		505	
607	Submission Requirements and other Standards		506	
608	Procedures		507	Compare with subdivision regs
609	Preliminary cluster residential development review		508	Compare with subdivision regs
610	Subdivision review and final clustered residential development review		509	Compare with subdivision regs
611	Appeals	Omit	Omit	
Article VII Standards of Performance		Performance standards, good neighbor, NR standards kept in separate articles	Article VII -alphabetized	Review relevancy and clarity of standards, consider adding section for solar
General				
701	Agriculture	Combine ag, farm stands, ag buildings into one section	702	
702	Earth removal	Separate procedures and standards, move exemptions after applicability and standards	705	

Section		Action	Location	Next Steps
703	Campgrounds	Separate procedures and standards	704	
704	Mobile home parks		711	
705	Siting of Manufactured housing units		719	
706	Planned developments		714	
707	Signs		718	
708	Off-street parking	Moved on-street parking alternative into this section	713	
709	Traffic and Highway Access		724	
710	Water recreation and storage facilities		726	
711	Home Occupation		708	
712	Used merchandise sales		727	
713	Offices in residential districts		712	
714	Airports	Omit / Relocate	Site Plan	
715	Soil suitability for land uses and roads		721	
716	Bed-and-breakfasts in historic districts		703	
717	Adult businesses		701	
718	Service station pump island canopies for existing stations		717	Review location
719	Special standards for the B-7 Limited Business/Residential District	Relocate portions (D) to Site Plan, move to good neighbor	Portions in Site Plan; Article VI Section 611	
720	Special Standards for self-storage facilities		722	
721	Home-based retail use in residential districts	Group with Home Occupations	707	
722	Golf Courses	Relocate portions to Site Plan	Portions in Site Plan; 706	
723	Seasonal rental of dwelling units	Incorporate into table of uses	716	Incorporate into table of uses
724	Private Roads	Consider exporting to subdivision	715	Engage DPW; consider exporting to subdivision
725	Standards for farm stands	Merge with agriculture	702	
726	Standards for the reuse of existing agricultural buildings	Merge with agriculture	702	
727	Standards for an accessory apartment in a single-family dwelling		723	
728	Wireless telecommunications facilities/towers and antennas		728	Review and integrate into Site Plan Review
729	Design Standards	Omit / Relocate	Site Plan Review	

Section	Action	Location	Next Steps
730	Small wind energy systems	720	
731	Marinas	Reorganize procedures and standards	709
732	Standards for high-voltage transmission lines		725
733	Special provisions for the B-3 District, outside of the Historic Preservation District	Relocate to Good Neighbor; move (B)2 to site plan	Article VI Section 610
734	Medical marijuana		710
Article VIIA Natural Resources Districts/Shoreland Performance Standards			Article VI, Section 603, -alphabetized
General			
7A01	Purposes		801
7A02	Applicability, map, when effective		802
7A03	Land Use Standards		803
7A04	Principal and accessory structures		804
7A05	Piers, docks, wharves, and other marine structures extending over or below the normal high-water line of a water body		805
7A06	Campgrounds		806
7A07	Parking areas		807
7A08	Roads, driveways, and drainage systems		808
7A09	Mineral exploration and extraction		809
7A10	Agriculture		810
7A11	Reserved		Omit
7A12	Clearing or removal of vegetation for activities other than timber harvesting		811
7A13	Hazard trees, storm-damaged trees, and dead tree removal		812
7A14	Exemptions to clearing and vegetation removal requirements		813
7A15	Revegetation requirements		814
7A16	Erosion and sedimentation control	Consolidate stormwater and erosion and sediment control	815
7A17	Septic waste disposal		816
7A18	Soils		817
7A19	Water Quality		818
7A29	Archaeological sites		819

Section		Action	Location	Next Steps
Article VIII Good Neighbor Performance Standards		alphabetize, add applicability	Article VI, Section 601	
801	Noise		605	
802	Dust, fumes, vapors, and gases		602	
803	Odors		606	
804	Exterior lighting		604	
805	Stormwater runoff	Make a separate section	608	
806	Erosion Control	Consolidate with stormwater	608	
807	Screening		607	
808	Explosive materials		603	
809	Water quality		609	
Article IX Conditional Uses and Variances		Procedures in Site Plan; Appeals to Article X	Article X	
901	Conditional uses	Relocate Procedures to Site Plan; Relocate appeals to Article X	1101	
902	Variances	Relocate to ZBA section	Article XI, Section 1104	
Article X Board of Appeals			Article X	
1001	Organization	Relocate rules of procedure out of ZO	BoA Rules of Procedure, 1101	Consider relocating Section 1101(B)
1002	Terms of office, vacancies		1102	
1003	Powers and duties		1103	Clarify language
1004	Procedures		1105	
1005	Appeals		1106	
1006	Reapplication		1107	
Article XI Site Plan Review		Relocated out of ZO	Site Plan Review	Review and revise
General				
1101	Purpose			
1102	Applicability			
1103	Administration	Rename "Procedures"		
1104	Submission requirements			
1105	Waiver of submission requirements			
1106	Approval criteria			
1107	Conditions of approval			
1108	Endorsement of plan			
1109	Changes in plan			
1110	Financial guarantees			
1111	Time limits on site plan approvals			
1112	As-built plans	Integrate with plan submission requirements		
1113	Penalties	Rename "Revocation"		
1114	Appeals			

Section		Action	Location	Next Steps
Article XII Enforcement			Article XII	Omit/relocate building standards
1201	Administrative official	Omit if covered in separate chapter	1201	
1202	Duties		1202	
1203	Permits required		1203	Consider removing from ZO
1204	Enforcement of shoreland development provisions		1204	
Article XIII Legal Provisions			Article XIII	
general				
1301	Conflict with other provisions		1301	
1302	Severability		1302	
1303	Violations and penalties		1303	
1304	Actions and proceedings		1304	
Article XIV Amendments			Article XIV	
1401	General procedure		1401	
1402	Amendments to shoreland development provisions		1402	
1403	Petition requirements		1403	
1404	Repetitive petitions		1404	
1405	Contract Zoning		1405	
Article XV Effective Date		Merge with amendments	Article XIV	
1501	When effective		1406	
Article XVI Impact Fees		Move up in ZO	Article IX	Reference other impact fees (sewer, CSO)
1601	General provisions for impact fees		901	
1602	Recreational facilities and open space impact fee		902	
1603	Fire Department/emergency medical services impact fee		903	
			904	Reference other impact fees (sewer, CSO)

Comp Plan Excerpts for Meeting on April 4

Goals, Objectives, Policies & Recommendations

Downtown

Maintain and enhance the vitality of Downtown and expand its role as a commercial, office, retail, educational and cultural, residential, and service center. - 2018 p.35

Recognize that zoning can hamper or aid efforts to maintain or enhance a vital and active downtown; consideration should be given to the uses that are most desirable for the downtown, existing pattern of the 19th C buildings, setbacks, and building heights, parking, design review, and a pedestrian friendly environment. - 2018 p.37

Actively promote greater in-fill and mixed-use development in the downtown urban core to enhance pedestrian friendliness and walkability of downtown. - 2018 p.38

Encourage higher densities in the downtown area through support of smaller unit sizes or by moving toward no density requirements at all. - 2018 p.167

Encourage more mixed-use development downtown with retail/commercial on the ground floor and residential units above. - 2018 p.169

Consider eliminating or reducing the impact fee program in the downtown to encourage more development. - 2018 p.169

Begin by reducing the number of zoning districts within the downtown area and change the names of the remaining zoning districts in order to start a transition from traditional to FBC zoning. - 2018 p.170

Attracting these households into Downtown Saco will be important for the vitality of the City. - 2011 p.3-1

Saco's downtown is a major economic asset for the region. The City should continue its efforts to strengthen it. - 2011 p.3-2

Maintain the vitality of Downtown Saco and expand its role as a commercial, office, retail, educational and cultural, residential, and service center. - 2011, p. 5-2

Portland Road

Assure adequate supply of land in appropriate locations that are zoned to accommodate future growth in manufacturing, distribution, research, and similar high quality economic activities; discourage use of these areas for commercial activities, restrict housing except in areas designated for mixed-use development in the future land use plan. - 2018 p.36

Reserve northern end of the Rt 1 corridor from the Cascades area to the City line for commercial, office, and light industrial development in a high-quality mixed-use environment. - 2018 p.40

Identify and maintain a Growth Area that is roughly equivalent to the area of the City services by public water and sewer. - 2018 p.133

Saco residents need streets that are safe and inviting for everyone, complete streets. - 2018 p.130

The area of the City on both sides of Route One north of Cascade/Flag Pond Roads offers the potential to develop new higher density mixed-use neighborhoods that include both nonresidential and a limited amount of residential use. - 2011 p.6-5

The continued expansion of the Park North and Cascade Falls developments together with the potential for development on the west side of Route One will likely require the development of an interconnected internal road network in the area bounded by the Old Orchard Beach town line, the Scarborough town line, the Maine Turnpike, and the I-195 Spur. This network will need to provide access to the potential development sites while allowing traffic access to the arterial network. - 2011 p.3-9

Housing

Grow population to 25,000 by 2025. - 2018 p.4

Attract new residents of all ages and backgrounds. - 2018 p.4

Ensure all are welcome regardless of socioeconomic background. - 2018 p.4

Smaller household sizes coupled with a growing population have created more demand for housing and for different types of housing. - 2018 p.34

Allow micro-apartments and tiny houses where appropriate. - 2018 p.133

Provide for the construction of a wide range of housing at a variety of densities and types to assure that a diversity of people can continue to live in Saco. - 2018 p.134

Through the City's land use regulations, including the use of contract zoning and TIF, allow new multi-family housing to be constructed in a number of areas of the City at relatively high densities. - 2018 p.146

Discourage suburban sprawl and impacts on existing transportation network. - 2018 p.65

Fostering housing with a range of prices is an important challenge for the City. - 2011 p.3-1

The number of younger households with children is decreasing. Maintaining a balanced population will be important to fostering a diverse population and vital community. - 2011 p.3-2

Despite lower prices, first-time homebuyers still have a hard time buying in Saco, whether they are looking to buy a new or existing home. Affordable purchase options in Saco are limited. - 2011 p.3-10

The housing needs of aging baby boomers are changing, with many looking to downsize. This may create continuing demand for condominium and similar smaller units. - 2011 p.3-10

The City should allow residential development at higher densities in those areas where water (and sewer) service is available than in those areas where service is not available. - 2011 p.5-12

Assure that as new housing is built in the City, there continues to be a supply of affordable housing available to meet the needs of lower and moderate income households. - 2011 p.5-19

Guide growth, especially residential growth, away from those areas of the City in which it is difficult or more costly to provide municipal services. - 2011 p.5-21

Encourage a pattern of land use that can be served efficiently and that does not impose an undue burden on the Town's financial resources. - 2011 p.6-1

Non-Residential Land Uses

Grow our commercial and industrial tax base and shift more of the community's operating costs away from residential taxpayers. - 2018 p.33

Ensure businesses of all sizes and types have access to infrastructure and utility resources. - 2018 p.35

Consider ways to ensure that certain existing, currently non-conforming, neighborhood markets can remain in their established residential neighborhoods while protecting the neighborhoods from other commercial uses that are incompatible. - 2018 p.134

Accommodate growth of commercial and industrial activities in designated growth areas where public services and facilities are or can be provided. - 2018 p.167

Increasing the number and quality of jobs remains an on-going issue for the community. - 2011 p.5-2

The City should continue to be selective in pursuing growth opportunities. It should emphasize the quality of the companies, the quality of the buildings and especially the quality of the jobs in encouraging growth. - 2011 p.3-2

Article V
Nonconformance

§ 230-501 **Purpose.**

The purpose of this article is to regulate nonconforming lots, uses, and structures, as defined in this chapter, such that they can be reasonably developed, maintained or repaired, or changed to other less nonconforming or to conforming uses. When nonconforming uses fall into disuse, the intent of the article is not to allow them to be reestablished after a twelve-month period of dormancy.

§ 230-502 **Nonconforming lots.**

A. Vacant lots.

- (1) A nonconforming lot of record may be built upon, provided that such lot shall be in separate ownership and not contiguous with any other lot in the same ownership, except as provided in Subsection A(2) and (3) below. **[Amended 2-24-2014]**
- (2) If two or more vacant, contiguous lots or parcels are in single or joint ownership of record at the time of adoption or amendment of this chapter, if these lots do not individually meet the dimensional requirements of this chapter or subsequent amendment, the lots shall be combined to the extent necessary to meet the dimensional standards, except where the contiguous lots front onto different streets or where the lots were legally created and recorded as part of an approved subdivision after March 22, 1972, the date of adoption of Saco's subdivision standards.
- (3) If two contiguous lots or parcels are in common ownership of record at the time of the adoption of this chapter, January 3, 1985, and either lot does not individually meet the dimensional requirements of this chapter, and provided that one lot is vacant or contains no principal structure and the other lot has a principal structure, the lots shall be combined into one lot of record. This shall apply to lots or parcels within all zoning districts in the City of Saco. This shall not apply to contiguous lots with frontage on different streets, or to lots legally created and recorded as part of an approved subdivision after March 22, 1972, the date of adoption of Saco's subdivision standards. **[Amended 2-24-2014]**
- (4) In the Shoreland Zone, two or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on or before the effective date of the shoreland provisions in this chapter shall be considered one lot. **[Amended 2-24-2014]**

B. Built lots.

- (1) A structure built on a lot prior to enactment of this chapter, which lot does not conform to lot area or lot frontage, may be repaired, maintained or improved, and may be enlarged in conformity with all dimensional requirements of this chapter, except lot area or lot frontage. If the proposed enlargement of the structure(s) cannot meet the dimensional requirements of this chapter, a variance shall be required from the Board of Appeals.
- (2) If two or more contiguous lots or parcels are in single or joint ownership of record at the

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time of adoption or amendment of this chapter, if all or part of the lots do not meet the dimensional requirements of this chapter, and if a principal use exists on each lot, the nonconforming lots may be conveyed separately or together, provided all state law and local ordinance requirements are complied with.

§ 230-503 **Nonconforming uses.**

- A. Continuance. The use of land, building or structure, lawful at the time of adoption of this chapter, may continue although such use does not conform to the provisions of this chapter.
- B. Resumption.
 - (1) Whenever a nonconforming use is superseded by a permitted use of a structure, or structure and land in combination, such structure or combination of land and structure shall thereafter conform to the provisions of this chapter, and the nonconforming use may not thereafter be resumed.
 - (2) This provision shall not apply to the resumption of a use of a residential structure, provided that the structure has been used or maintained for residential purposes during the preceding five-year period. **[Amended 4-21-1992]**
- C. Discontinuance. A nonconforming use which is discontinued for a period of 12 months may not be resumed. The uses of the land, building or structure shall thereafter conform to the provisions of this chapter.
- D. Change of nonconforming use. With the permission of the Planning Board, an existing nonconforming use may be changed to another nonconforming use, provided that the proposed use is equally or more appropriate within the zoning district. The Planning Board shall make this determination after making a finding that the proposed use will be an improvement over the prior use based on the conditional use standards, § **230-901D** and **E**, in shoreland areas. The Planning Board review and decision shall be governed by this section and by § **230-901**. **[Amended 11-6-1989]**
- E. Expansion of use.
 - (1) A nonconforming use, including a nonconforming outdoor use of land, shall not be extended or expanded in area or function; provided, however that a nonconforming use may be extended throughout any part of a building or structure that was lawfully and manifestly designed or arranged for such use as of the effective date of this chapter.
 - (2) Expansions of nonconforming uses are prohibited, except that nonconforming residential uses in the Resource Protection District may be expanded under the provisions of § 230-504A(3)(e). **[Amended 5-12-2014]**
- F. Earth removal. In the case of earth removal operations, the removal of earth may not be extended as a nonconforming use beyond the setback lines required in this chapter of the specific lot or parcel of land upon which such removal operations are in progress at the time at which such use has become nonconforming without securing a variance from the Board of Appeals. Adjacent parcels in the same or different ownerships shall not be eligible for

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exemption under the nonconforming use provisions unless earth removal operations have been in progress prior to the enactment of these provisions.

§ 230-504 **Nonconforming structures.**

A. Maintenance and enlargement. [**Amended 5-21-2012**]

- (1) A structure in existence as of the effective date of this chapter which does not meet the lot and yard requirements in § **230-412** may be repaired, maintained and improved. It may be enlarged and/or accessory structures may be added to the site without a variance, provided that the enlargement or accessory structure itself meets the setback and height requirements of the district in which it is located and that the enlargement or accessory structure in combination with the existing structure does not exceed the prescribed maximum lot coverage. Vertical enlargements of single-family or two-family dwellings that are nonconforming with regard to setbacks may be permitted if each of the following is met:
 - (a) The proposed use of the enlarged space is habitable residential space. No enlargements are permitted to expand space for a use that is nonconforming in the district.
 - (b) The closest point of the new construction shall be no nearer to the property line than the closest point on the existing building upon which the vertical enlargement is proposed.
 - (c) Enlargements constructed under these provisions shall not increase the height of the vertical face of the building more than 10 feet vertically within the setback. The height of the new eaves within the setback shall not exceed 22 feet, when measured from original grade to the new eaves. Mansard and gambrel roofs, or similar roofs, and full dormers, or roof pitches greater than 12/12 are not permitted above the new eaves. Two single-window dormers above the new eaves are permitted, but each may not exceed four feet in width.
 - (d) The nonconforming portion of the existing structure on which the addition is built is no closer than six feet from the side or rear property line upon which it encroaches. If the building code requires the new construction to be fire-rated, the existing first-floor construction in the setback shall be reconstructed to the same fire-rated standard.
 - (e) The closest point of the nonconforming portion of the existing structure on which the addition is built is no closer than 15 feet to the front property line.
 - (f) All other relevant standards of this chapter not related to setbacks are met.
 - (g) The standards of the Floodplain Development Ordinance, Chapter **106**, must be met.
- (2) The following activities shall not constitute an enlargement or creation of a nonconforming structure, and may encroach into front, side or rear yard setbacks, without the need for a variance from the Board of Appeals, if any of the following conditions are present:
 - (a) The addition of an open patio with no structure elevated above ground level, and the addition is outside of the Mandatory Shoreland Zone;
 - (b) The addition of steps from the first floor to the ground level in any zone;

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- (c) The placing of a foundation below a nonconforming structure in any zone.
- (3) Further limitations in Shoreland Zones. Except as otherwise provided in this article, a nonconforming condition shall not be permitted to become more nonconforming. Further limitations and exceptions in the Shoreland Zones: [**Amended 6-29-2009; 2-24-2014; 5-12-2014**]
 - (a) After January 1, 1989, if any portion of a structure is less than the required setback from a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of § **230-504B** and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989, had been expanded by 30% in floor area and volume since that date.
 - (b) Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in § **230-504E**. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with this section, and the foundation does not cause the structure to be elevated by more than three additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first-floor sill), it shall not be considered to be an expansion of the structure.
 - (c) No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.
 - (d) A nonconforming structure in the RP Zone may be added to or expanded as measured in floor area or volume by up to 30% upon issuance of a permit from the Code Enforcement Office, if such addition or expansion does not increase the nonconformity of the structure and is in accordance with Subsection **A(3)(a)** through **(c)** above. [**Amended 5-12-2014**]
- B. Reconstruction. [**Amended 10-24-2016**]
 - (1) Any nonconforming building or structure which is removed, damaged or destroyed, regardless of the 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 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 all dimensional requirements of this chapter to the greatest extent practical as determined by the Planning Board in accordance with the purposes of this chapter. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.
 - (2) If the reconstructed or replacement structure is less than the required setback, it shall not be any larger than the original structure, except as allowed pursuant to Subsection **A(3)** above, as determined by the nonconforming floor area and volume of the reconstructed or replaced

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structure at its new location. If the total floor area and volume 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 a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with § **230-504E**.

- (3) Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction or removal.
- C. Reconstruction in floodplains. Any building in existence prior to January 1, 2012, which is located in an area of special flood hazard and which is thereafter substantially improved, as defined in Chapter **106** of the Saco City Code, may be elevated pursuant to the standards of Chapter **106**, and may be allowed to exceed the height limits of this chapter without need for a variance from the Board of Appeals, as long as all of the following standards are met: **[Amended 5-21-2012]**
- (1) If the building, prior to reconstruction, had a height of 30 feet or greater, as defined by this chapter, the overall height of the reconstructed building may exceed the required height in the zone in which it is located without the need for a variance, but by no more than the distance that the lowest floor (including basement) is raised above its original elevation during reconstruction.
 - (2) If the building, prior to reconstruction, had a height of less than 30 feet, as defined by this chapter, the building shall not be allowed to be reconstructed higher than the maximum height requirement, unless a variance is applied for and granted by the Board of Appeals.
 - (3) Any reconstructed building shall meet all of the requirements of the Department of Environmental Protection Sand Dune Act and Regulations, if it is located in a designated dune area.
- D. Off-street parking and loading spaces.
- (1) A building or structure which is nonconforming as to the requirements for off-street parking space shall not be enlarged or altered to create additional dwelling units, seats, or accommodations unless off-street parking is provided for such enlargement or alteration itself sufficient to satisfy the requirement of this chapter.
 - (2) A building which is nonconforming as to the requirements for off-street loading space shall not be enlarged or added to unless off-street space is provided sufficient to satisfy the requirements of this chapter for the addition or enlargement.
- E. Relocation.

Existing Article V

- (1) A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, 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 said rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.
- (2) In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board 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 the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:
 - (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.
 - (b) Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be reestablished. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.
 - (c) Where feasible, when a structure is relocated on a parcel, the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof. **[Amended 4-21-1992]**

§ 230-505 **Transfer of ownership.**

Ownership of lots and structures which remain lawful but became nonconforming by the adoption or amendment of this chapter 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 chapter.

Article 5 - Nonconforming Property

§ 501 Nonconforming Uses

Expansion: Nonconforming uses shall not be enlarged, expanded, extended, or changed to another nonconforming use.

Cessation: If a nonconforming use ceases for a period of one year, all subsequent uses shall conform to the terms of the Zoning Ordinance.

Restoration: Nothing in this chapter shall prevent the restoration (within one year) of a nonconforming use.

§ 502 Nonconforming Structures

Expansion: The footprint of a nonconforming structure shall not be expanded in a manner that reduces conformity with setback and lot coverage requirements. Upper stories shall observe the setbacks established by this footprint.

Replacement: A nonconforming structure may be replaced with a new structure on the same footprint as the old one, providing that:

- a) The structure's width, length, floor area, and height do not exceed that of the structure that is to be replaced, and
- b) The replacement is completed within one year.

§ 503 Nonconforming Lots of Record

Buildable Lots: A nonconforming lot may be built upon provided that such lot is not contiguous with any other lot in the same ownership.

Merger Requirements for two or more contiguous lots in the same ownership as of January 3, 1985:

- a) A vacant lot shall be combined with adjoining nonconforming lot(s) to the extent necessary to meet the ordinance's dimensional standards.
- b) If one lot includes a principal structure, and an adjoining nonconforming lot is vacant, the lots shall be merged.
- c) If each lot includes a principal structure, the lots shall be considered separate lots.