



Town of Bar Harbor Planning & Code Department

93 Cottage Street • Suite 1 • Bar Harbor • Maine • 04609-1400

Planning Board Workshop

Thursday, November 16, 2023 at 4:00 PM

This meeting will be held **in-person** and via **Zoom**. The in-person option will be in the Council Chambers at 93 Cottage Street, Bar Harbor. Any member of the public can participate via Zoom webinar by clicking on this link:

<https://us02web.zoom.us/j/87818917985?pwd=clUzajJKZDZLZWdqZWkxWCs0V09ydz09>

Zoom Passcode: 685835

Anyone with a disability wishing to attend this meeting and who may have questions about how to do so should contact Tammy DesJardin at 288-3329.

Agenda

- I. Introduction**
- II. Public comment**
- III. Discussion on the draft ELQ Land Use Ordinance Amendment warrant language**
- IV. Discussion on the draft Housing Opportunities (LD2003) Land Use Ordinance Amendment warrant language**
- V. Discussion on the draft Design Review Land Use Ordinance Amendment warrant language**
- VI. Public comment**

For additional information, or if there are any questions about the workshop, please contact Planning Director Michele Gagnon by calling the Planning Department at 288-3329 or by emailing planner@barharbormaine.gov.

Draft Order

of the Bar Harbor Town Council

for the June 11, 2024 Town Meeting

It is hereby ordered that the following article be placed on the town meeting warrant with voting thereon to be held by Australian ballot.

WARRANT ARTICLE

Article **XX** LAND USE ORDINANCE AMENDMENT – Employee living quarters, accessory structure & Employee living quarters, accessory use – Shall an ordinance, dated December 6, 2023, and entitled “An amendment to allow employee living quarters, accessory use and employee living quarters, accessory structure in certain zoning districts” be enacted?

SUMMARY

This amendment would:

- Create a new use called “employee living quarters, accessory use.”
- Allow employee living quarters, accessory use in 13 zoning districts.
- Provide standards for employee living quarters, accessory use including density bonus (lot coverage bonus), parking, and design.
- Amend the definition of family.
- Rename the “employee living quarters” use to “employee living quarters, accessory structure.”

EXPLANATION

The amendment would include the following changes:

- Create a new use called “employee living quarters, accessory use” to accommodate commercial uses without a clear principal commercial structure.
- Allow employee living quarters, accessory structure in 11 zoning districts (add districts) and employee living quarters, accessory use in 13 zoning districts (add districts).
- In three zoning districts (add districts) employee living quarters, accessory use would be allowed a density bonus (lot coverage bonus).
- The following zoning districts (add districts) located outside the downtown area would

be required to provide parking for employee living quarters, accessory use and/or employee living quarters accessory structure.

- Require some visual compatibility standards for employee living quarters, accessory use and employee living quarters, accessory structure.
- Amend the definition of family.

Employee living quarters

An amendment to Articles III and V

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

Article III. Land Use Activities and Standards

§ 125-17 Bar Harbor Gateway.

D. Uses allowed by site plan.

- (1) The following uses shall be permitted by site plan review in any part of this district: bank; bed-and-breakfast I; bed-and-breakfast II; bed-and-breakfast III; bed-and-breakfast IV; bed-and-breakfast V; child-care center; commercial boat yard; commercial fish pier; employee living quarters, accessory structure; ferry terminal; farmers' market; hotel; marina; multifamily dwelling II; motel; nursing or convalescent homes or congregate housing; parking lot; parking deck; parking garage, also subject to Design Review Board certificate of appropriateness; private compulsory school; professional office building; restaurant; retail; road construction; services; shared accommodations (SA-2 and SA-3); take-out restaurant; wind turbines, and wireless communication facilities.

§ 125-19 **Mount Desert Street Corridor District.**

D. Uses allowed by site plan.

- (1) Principal uses allowed by minor site plan approval: wind turbines, offices, all types of schools, bed-and-breakfast I and II.
- (2) Principal uses allowed by major site plan: convalescent home; employee living quarters, **accessory structure**; multifamily dwelling II; shared accommodations (SA-2 and SA-3); theaters.
- (3) Principal uses allowed by conditional use permit: retail; restaurants; bed-and-breakfast III and IV.

§ 125-20 **Village Residential.**

D. Uses allowed by site plan.

- (1) The following uses shall be permitted by site plan review in any part of this district: nursing/convalescent home in a building constructed before June 8, 2010, road construction.
- (2) Uses allowed by conditional use permit:
 - (a) For properties with road frontage on or access to Route 3 or 233: all bed-and-breakfast designations; art gallery; cabins; farmers' market; museum; private school; professional office building; take-out restaurant; undertaking establishment; veterinary clinic or hospital.
 - (b) Employee living quarters, **accessory structure**.

G. Other requirements.

- (1) accessory structures shall be located in the side and rear yard of the property. Employee living quarters, **accessory structure** are exempt from this requirement.

§ 125-21 **Downtown Village I.**

C. Allowed uses:

- (1) Uses allowed by a building permit or a change of use permit with the Code Enforcement Officer: all retail; public information, municipal and government uses; multifamily dwelling I; restaurants and bars; theaters; galleries; services; shared accommodations (SA-1); professional offices; all bed-and-breakfasts; food-processing establishment; theaters; single- and two-family dwelling units; bonus dwelling unit; laundry and dry cleaning; artist studio, eleemosynary institution, place of worship; farmers market; home occupation.
- (2) Uses allowed by site plan review: employee living quarters, **accessory structure**; hotel; motel; conference centers; multifamily dwelling II; all types of child-care facilities, all types of schools; medical and dental clinics; banks; automobile service stations; hospitals; parking lot; parking deck; road construction; automobile sales lot; automobile repair garage; retirement community; shared accommodations (SA-2 and SA-3).

§ 125-21.1 **Downtown Village II.**

C. Allowed uses.

- (1) Uses allowed by a building permit or a change of use permit with the Code Enforcement Officer: all retail, public information; municipal and government uses; restaurants and bars on lots with frontage on Cottage Street, Main Street, Mount Desert Street or West Street; theaters; galleries; artist studios; banks; services; shared accommodations (SA-1); theaters; all bed-and-breakfasts; food-processing establishment; professional office buildings; laundry and dry cleaning; artist studio; farmers market; single-family dwelling; two-family dwelling; bonus dwelling unit; home occupation; multifamily dwelling I.
- (2) Uses allowed by site plan review: employee living quarters, **accessory structure**; hotel, motel; multifamily dwelling II; parking lot; parking deck; all types of child-care facilities; all types of schools; hospitals, medical and dental clinics; automobile service stations; redemption centers; automobile sales lot; automobile repair garage; retirement community; shared accommodations (SA-2 and SA-3); veterinary clinic.

§ 125-23 Emery District.

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Agriculture, commercial

Commercial boatyard

Commercial stable

Employee living quarters, accessory use

Kennel, boarding

Municipal school

Noncommercial kennel

Noncommercial stable

Road construction

Solar photovoltaic system, principal use (SPVS-PU)

Transient accommodations (TA-1)

Wireless communications facility

§ 125-24 Hulls Cove Business.

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Bank

Commercial boatyard

- Commercial fish pier
- Commercial stable
- Employee living quarters, **accessory use**
- Ferry terminal
- Hospital
- Light manufacturing/assembly plant
- Marina
- Multifamily dwelling II
- Municipal school
- Parking lot
- Recreational boating facility
- Research facility
- Research production facility
- Road construction
- Shared accommodations (SA-2)
- Shared accommodations (SA-3)
- Solar photovoltaic system, principal use (SPVS-PU)
- Transient accommodations (TA-1)
- Transient accommodations (TA-2)
- Wireless communications facility

§ 125-26 Hulls Cove Residential Corridor.

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Campground

Cemetery

Employee living quarters, accessory use

Multifamily dwelling II

Place of worship

Road construction

Solar photovoltaic system, principal use (SPVS-PU)

Transient accommodations (TA-1)

Transient accommodations (TA-3)

Transient accommodations (TA-4)

Wireless communications facility

§ 125-27 **Hulls Cove Rural.**

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Agriculture, commercial

Campground

Cemetery

Employee living quarters, accessory use

Mineral extraction

Mineral extraction and processing

Mobile home park

Municipal school

Place of worship

Retirement community

Road construction

Solar photovoltaic system, principal use (SPVS-PU)

Transient accommodations (TA-1)

Wireless communications facility

§ 125-29 Indian Point Rural.

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Agriculture, commercial

Cemetery

Employee living quarters, accessory use

Road construction

Solar photovoltaic system, principal use (SPVS-PU)

Wireless communications facility

§ 125-31 Ireson Hill Corridor.

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

- Bank
- Campground
- Employee living quarters, accessory structure
- Employee living quarters, accessory use
- Mineral extraction
- Mineral extraction and processing
- Multifamily dwelling II
- Municipal school
- Parking lot
- Place of worship
- Road construction
- Solar photovoltaic system, principal use (SPVS-PU)
- Transient accommodations (TA-1)
- Transient accommodations (TA-2)
- Transient accommodations (TA-3)
- Transient accommodations (TA-4)
- Transient accommodations (TA-5)
- Transient accommodations (TA-6)
- Transient accommodations (TA-7)
- Transient accommodations (TA-8)
- Warehousing or storage facility
- Wholesale business establishment
- Wireless communications facility

§ 125-34 McFarland Hill Rural.

D. Activity or structure requires site plan approval. Activity or structure requires approval

through site plan review process before it may be commenced or built:

Agriculture, commercial

Cemetery

Commercial stable

Employee living quarters, accessory use

Eleemosynary, educational or scientific institution

Municipal school

Place of worship

Road construction

Solar photovoltaic system, principal use (SPVS-PU)

Veterinary clinic

Wireless communications facility

§ 125-37 Salisbury Cove Corridor.

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Cemetery

Employee living quarters, accessory use

Kennel, boarding

Multifamily dwelling II

Place of worship

Road construction

Solar photovoltaic system, principal use (SPVS-PU)

Transient accommodations (TA-1)

Transient accommodations (TA-2)

Transient accommodations (TA-3)

Transient accommodations (TA-4)

Transient accommodations (TA-5)

Transient accommodations (TA-6)

Wireless communications facility

§ 125-39 Salisbury Cove Rural.

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Agriculture, commercial

Campground

Cemetery

Commercial boatyard

Commercial stable

Employee living quarters, accessory use

Place of worship

Road construction

Solar photovoltaic system, principal use (SPVS-PU)

Veterinary clinic

Wireless communications facility

§ 125-40 Salisbury Cove Village.

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Eleemosynary, educational or scientific institution

Employee living quarters, **accessory use**

Marina

Place of worship

Road construction

Transient accommodations (TA-1)

Transient accommodations (TA-2)

Transient accommodations (TA-3)

Transient accommodations (TA-4)

Transient accommodations (TA-5)

Transient accommodations (TA-6)

Transient accommodations (TA-7)

Transient accommodations (TA-8)

Wireless communications facility

§ 125-43 Town Hill Business.

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Automobile repair garage

Automobile sales lot
Automobile service station
Bank
Campground
Commercial boatyard
Eleemosynary, educational or scientific institution
Employee living quarters, **accessory structure**
Food processing and freezing (excluding slaughterhouse)
Food processing and freezing
Hospital
Light manufacturing/assembly plant
Mobile home park
Multifamily dwelling II
Municipal school
Newspaper or printing facility
Parking garage and parking lot
Research facility
Research production facility
Road construction
Solar photovoltaic system, principal use (SPVS-PU)
Terminal yard and trucking facility
Transient accommodations (TA-1)
Transient accommodations (TA-2)
Transient accommodations (TA-3)
Transient accommodations (TA-4)
Transient accommodations (TA-5)
Transient accommodations (TA-6)

Transient accommodations (TA-7)

Transient accommodations (TA-8)

Upholstery shop

Warehousing or storage facility

Wholesale business establishment

Wireless communications facility

§ 125-44 Town Hill Residential Corridor.

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Agriculture, commercial

Campground

Cemetery

Employee living quarters, accessory use

Multifamily dwelling II

Municipal school

Municipal facility and grounds

Place of worship

Road construction

Solar photovoltaic system, principal use (SPVS-PU)

Transient accommodations (TA-1)

Transient accommodations (TA-3)

Transient accommodations (TA-4)

Wireless communications facility

§ 125-45 Town Hill Residential.

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Agriculture, commercial

Campground

Cemetery

Commercial stable

Employee living quarters, **accessory use**

Marina

Mobile home park

Municipal facility and grounds

Municipal school

Place of worship

Road construction

Solar photovoltaic system, principal use (SPVS-PU)

Transient accommodations (TA-1)

Wireless communications facility

§ 125-46 Town Hill Rural.

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Agriculture, commercial
Cemetery
Commercial boatyard
Commercial stable
Eleemosynary, educational or scientific institution
Employee living quarters, accessory use
Kennel, boarding
Mineral extraction
Mineral extraction and processing
Municipal school
Place of worship
Road construction
Solar photovoltaic system, principal use (SPVS-PU)
Transient accommodations (TA-1)
Wireless communications facility

§ 125-47 Shoreland General Development I.

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Cocktail lounge
Commercial fish pier
Commercial structure
Employee living quarters, accessory structure
Essential services accessory to a permitted use or structure
Ferry terminal
Gift shops

- Marina
- Multifamily dwelling II
- Municipal facility and grounds
- Recreational boating facility
- Road construction
- Ships chandlery
- Transient accommodations (TA-2)
- Transient accommodations (TA-3)
- Transient accommodations (TA-4)
- Transient accommodations (TA-5)
- Transient accommodations (TA-6)
- Transient accommodations (TA-7)
- Transient accommodations (TA-8)

§ 125-49 Shoreland General Development II (Hulls Cove).

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

- Commercial fish pier
- Commercial structure
- Eleemosynary, educational or scientific institution
- Employee living quarters, **accessory structure**
- Essential services accessory to a permitted use or structure
- Ferry terminal
- Marina
- Multifamily dwelling II

Road construction

§ 125-49.1 Shoreland General Development III.

D. Uses allowed by site plan.

- (1) The following uses shall be permitted by site plan review in any part of this district: bank; bed-and-breakfast I; bed-and-breakfast II; bed-and-breakfast III; bed-and-breakfast IV; bed-and-breakfast V; child-care center; commercial boat yard; commercial fish pier; employee living quarters, **accessory structure**; ferry terminal; farmers' market; hotel; marina; multifamily dwelling II; motel; nursing or convalescent homes or congregate housing; parking lot; parking deck; private compulsory school; professional office building; restaurant; retail; road construction; services; take-out restaurant; wind turbines, and wireless communication facilities.

§ 125-49.3 Shoreland Maritime Activities District.

- D. The following uses shall be permitted by site plan review in any part of this district: employee living quarters, **accessory structure**; functionally water-dependent uses, including permanent piers, wharfs and docks; commercial boat yard; commercial fish pier; passenger terminal; ferry terminal; marina; services.

Article V. Site Plan Review

§125-67 General review standards

- D. Parking requirements. Any activity that can be expected to generate vehicular traffic shall provide for off-street parking in accordance with the following requirements. Parking requirements may be reduced, as determined by the Planning Board, when at least 5% of the

required parking spaces are designated for low-emitting and fuel-efficient vehicles, carpools or vanpools or any combination thereof, and are marked as such. Parking requirements may also be reduced, as determined by the Planning Board, for properties that are located on a regularly scheduled bus route.

- (3) Except as otherwise provided in this chapter, the following minimum off-street parking shall be provided and maintained in the case of new construction, alterations or changes of use which would increase the parking demand according to the standards set forth below, or any increase in the area used which increases the number of persons using the premises. In the event of such construction, alterations, change or increase, the entire premises or use, and not just that portion constructed, altered, changed or increased, shall become subject to the following requirements.

(x) Employee living quarters, accessory structure and employee living quarters, accessory use. ~~shall not be required to provide parking.~~

- [1] Based on maximum occupancy, the minimum parking required shall be 0.5 parking space per occupant in the Emery, Hulls Cove Residential Corridor, Hulls Cove Rural, Indian Point Rural, McFarland Hill Rural, Salisbury Cove Corridor, Salisbury Cove Rural, Salisbury Cove Village, Town Hill Business, Town Hill Residential Corridor, Town Hill Residential, and Town Hill Rural districts.
- [2] No parking is required in the Bar Harbor Gateway, Mount Desert Street Corridor, Village Residential, Downtown Village I, Downtown Village II, Hulls Cove Business, Ireson Hill Corridor, Shoreland General I, Shoreland General II, Shoreland General III, and Shoreland Maritime Activities districts.

§ 125-69 Standards for particular uses, structures, or activities

W. Employee living quarters, accessory structure and employee living quarters, accessory use. All employee living quarters shall meet the following standards:

(1) Employee living quarters, accessory structure.

- (1) (a) Design: When employee living quarters, accessory structure is visible from the street or from an abutting property to the side or rear lot lines that is under different ownership or control, the employee living quarters, accessory structure shall be visually compatible with the principal building(s) and shall provide for rooflines that are similar

in pitch and materials and building materials that are similar in regard to type and color scheme as the principal building(s).

(2) (b) Setback requirements: Employee living quarters, accessory structure shall meet the same setback requirements as principal structures.

(3) (c) Building footprint area. The total building footprint area of the employee living quarters, accessory structure shall not exceed 25% of the total building footprint area of the principal building(s) on the lot, unless otherwise exempt.

[1] Exempt from the building footprint area requirement is employee living quarters, accessory structure located in the Mount Desert Street Corridor, Downtown Village I, or Downtown Village II districts.

(4) (d) Density bonus (increased lot coverage).

(a) [1] An employee living quarters, accessory structure (including its associated accessways and parking areas) may benefit from increased lot coverage not to exceed:

- ~~[1] [a] 63% in the Bar Harbor Gateway district~~
- ~~[2] [b] 44% in the Mount Desert Street Corridor district~~
- ~~[3] [c] 63% with sewers and 31% without sewers in the Village Residential district~~
- ~~[4] 85% in the Hulls Cove Business district~~
- ~~[5] [d] 31% in the Ireson Hill Corridor district~~
- ~~[6] 44% in the Salisbury Cove Village district~~
- ~~[7] [e] 63% in the Town Hill Business district~~
- ~~[8] 19% in the Town Hill Residential district~~

(b) [2] All other (non-employee living quarters, accessory structure, including its associated accessways and parking) uses, activities, and structures, on the lot, shall be subject to the lot coverage requirements of the district it is in, as well as all other requirements of this chapter.

(c) [3] If an employee living quarters, accessory structure (including its associated accessways and parking), increases the lot coverage as allowed under section 125-69 W.(1)(d)(4), it may not be enlarged, expanded, or otherwise provide for any other use, unless the lot coverage is brought into compliance with the requirements of the district it is in.

REASONING

The density bonuses of the added districts would align with the density bonuses of similar districts that currently allow ELQ.

Factors considered: Similar lot coverage maximums and minimum lots coverage percentages.

REASONING

Employee living quarters is already an accessory structure, so by that definition, it could not be larger than the primary building(s) on the lot.

The downtown districts already have certain dimensional standards than can control maximum size.

Some rural commercial uses would have a difficult time meeting the 25% requirement and could make Employee living quarters near impossible to develop.

REASONING

- (5) (e) Change of use. A change of use from employee living quarters, accessory structure to another use shall comply with all requirements of this chapter, including lot coverage requirements.
- (6) (f) Parking benefitting from the density bonus (increased lot coverage) shall be for the exclusive use of the occupants of the employee living quarters, accessory structure.
- (7) (g) Every bedroom in employee living quarters, accessory structure shall contain not less than 70 square feet of habitable floor area for each occupant, excluding enclosed spaces such as closets and bathrooms, and shall not be any less than seven feet in any horizontal dimension.

The density bonuses of the added districts would align with the density bonuses of similar districts that currently allow ELQ.

Factors considered: Similar lot coverage maximums and minimum lots coverage percentages.

(2) Employee living quarters, accessory use.

(a) There shall be a maximum of one employee living quarters, accessory use per principal commercial use.

(b) Design. When employee living quarters, accessory use is visible from the street or from an abutting property to the side or rear lot lines that is under different ownership or control, the employee living quarters, accessory use shall be visually compatible with the building(s) on the same lot and shall include building materials that are similar in regard to type and color scheme as other building(s) on the lot.

(c) Setback requirements. Employee living quarters, accessory use shall meet the same setback requirements as principal structures.

(d) Density bonus (increased lot coverage).

[1] An employee living quarters, accessory use (including its associated accessways and parking areas) may benefit from increased lot coverage not to exceed:

[a] 85% in the Hulls Cove Business district

[b] 31% in the Ireson Hill Corridor district

[c] 44% in the Salisbury Cove Village district

[d] 31% in the Salisbury Cove Corridor district

[e] 19% in the Town Hill Residential Corridor district

[f] 31% in the Hulls Cove Residential Corridor district

[g] 19% in the Town Hill Residential district

[2] All other (non-employee living quarters, accessory use, including its associated accessways and parking) uses, activities, and structures, on the lot, shall be subject to the lot coverage requirements of the district it is in, as well as all other requirements of this chapter.

[3] If an employee living quarters, accessory use (including its associated accessways and parking), increases the lot coverage as allowed under section 125-69 W.(2)(d), it may not be enlarged, expanded, or otherwise provide for any other use, unless the lot coverage is brought into compliance with the requirements of the district it is in.

(e) Change of use. A change of use from employee living quarters, accessory use to another use shall comply with all requirements of this chapter, including lot coverage requirements

(f) Parking benefitting from the density bonus (increased lot coverage) shall be for the exclusive use of the occupants of the employee living quarters, accessory use.

(g) Every bedroom in employee living quarters, accessory use shall contain not less than 70 square feet of habitable floor area for each occupant, excluding enclosed spaces such as closets and bathrooms, and shall not be any less than seven feet in any horizontal dimension.

Article XII. Construction and Definitions

EMPLOYEE LIVING QUARTERS, ACCESSORY STRUCTURE

An accessory structure, attached or detached from the principal structure, consisting of a series of rooms containing beds, where the occupants do not constitute a family or a single housekeeping unit, and the principal structure is a commercial use. It shall be used exclusively for the accommodation of employees, for more than 30 days, that are employed on or off site, as long as the off-site employees are employed by the same company, a parent company, or a subsidiary company that owns the parcel where the principal structure is located. Employee living quarters serving a hospital shall not be subject to the thirty-day minimum requirement. Employee living quarters must serve another use on the lot, meaning it cannot be the only use on the lot.

EMPLOYEE LIVING QUARTERS, ACCESSORY USE

An accessory use, consisting of a series of rooms containing beds, where the occupants do not constitute a family or a single housekeeping unit, and the principal use is a commercial use where there is no clear principal structure. It shall be used exclusively for the accommodation of employees, for more than 30 days, that are employed on or off site, as long as the off-site

employees are employed by the same company, a parent company, or a subsidiary company that owns the parcel where the principal use is located. Employee living quarters must serve another use on the lot, meaning it cannot be the only use on the lot. The maximum occupancy shall be 14 employees.

FAMILY

Two or more persons related by blood, marriage, adoption or guardianship, or not more than five persons not so related, occupying a dwelling unit and living as a single housekeeping unit, such a group to be distinguished from a group occupying a boardinghouse, lodging house, club, fraternity, transient accommodations, short-term rental, employee living quarters, accessory structure, employee living quarters, accessory use, or shared accommodations.

Given under our hands and seal at Bar Harbor this _____ day of _____, 2023:

Municipal Officers of the Town of Bar Harbor

Valerie Peacock, Chair

Gary Friedmann, Vice Chair

Matthew A. Hochman

Joseph Minutolo

Earl Brechlin

Maya Caines

Kyle Shank

Draft Order

of the Bar Harbor Town Council
For the June 11, 2024, Town Meeting

It is hereby ordered that the following article be placed on the town meeting warrant with voting thereon to be held by Australian ballot.

Warrant Article

Article XX LAND USE ORDINANCE AMENDMENT – Increased Housing Opportunity - Shall an ordinance, dated December 6, 2023, and entitled “An amendment to increase housing opportunities, effective July 1, 2024, to comply with P.L. 2021, ch. 672 (LD 2033), codified at 30-A M.R.S. §§ 4364, 4364-A, and 4364-B, allowing three types of housing opportunity: Affordable Housing Development; Multiple Dwelling Units; and Accessory Dwelling Units,” be enacted?

SUMMARY

P.L. 2021, ch. 672 (LD 2003), codified at 30-A M.R.S. § 4364, 4364-A, 4364-B entitled an *Act to Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions* was signed by Governor Mills on April 27, 2022.

LD 2003 is meant to increase housing opportunities statewide by requiring municipalities to remove unnecessary regulatory barriers to housing production.

LD 2003 allows for a density bonus of 2.5 times the base density for affordable housing developments in certain areas. It generally allows between two and four housing units per lot where housing is permitted. It allows accessory dwelling units to be located on the same lot as a single-family home, under certain conditions.

The amendment would delete the “bonus dwelling unit” use because LD 2003 requires the Town of Bar Harbor to allow a comparable but more permissive use, referred to as Accessory Dwelling Units.

The amendment would prohibit dwelling units expressly created under the provisions of LD 2003 to be registered and/or used as short-term rentals with the exception of dwelling units

created under the multiple dwelling unit section which could be used as vacation rental-1. A vacation rental-1 is a short-term rental that takes place at someone's primary residence.

EXPLANATION

This amendment is necessary to comply with the P.L. 2021, ch. 672, codified at 30-A M.R.S. § 4364, 4364-A, 4364-B entitled an *Act to Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions*.

Effective July 1, 2024, the amendment would allow three types of housing opportunities: **Affordable Housing Development** (30-A MRSA §4364); **Multiple Dwelling Units** (30-A MRSA §4364-A); and **Accessory Dwelling Units** (30-A MRSA §4364-B). These housing opportunities supersede some of the requirements and standards of the Land Use Ordinance. This amendment includes its own definition of terms.

The **Density Bonus for Affordable Housing Development** section creates an automatic density bonus of 2.5 times the base density for certain affordable housing developments. To qualify for the bonus, the development must:

- Include a certain number of rent- or sale price-restricted affordable housing units.
- Be in a designated Growth Area.
- Be in an area in which multi-family dwellings are allowed.
- Meet shoreland zoning requirements.
- Meet the state minimum lot size (20,00 square feet) if a subsurface disposal system is used.
- Demonstrate that water and sewer capacity is adequate for the development.
- Provide a minimum of 0.66 parking spaces per dwelling unit in all districts with the exception of the following three districts where no parking is required: Downtown Village 1, Downtown Village 2, and Downtown Village Transitional.

The **Multiple Dwelling Units** section generally allows for two to four dwelling units on parcels where housing is allowed. The additional dwelling unit(s) can be within the existing home, attached to it, or in a new structure. The number of additional dwelling units allowed under this section is dependent on several factors including but not limited to:

- The number of dwelling units already existing on the lot, if any.
- The location of the lot — inside or outside of a designated Growth Area.
- Having adequate water and wastewater capacity.
- Compliance with shoreland zoning requirements.
- Compliance with the dimensional requirements of the Land use Ordinance including the minimum area per family requirements.
- Compliance with easements, covenants, and/or deed restrictions.

The **Accessory Dwelling Units** section allows any lot with a single-family dwelling unit in a district where housing is allowed to have one accessory dwelling unit. The accessory dwelling unit can be within the existing home, attached to it, or in a new structure. It also allows an existing accessory structure to be converted into an accessory dwelling unit.

All accessory dwelling units are exempt from the area per family standard but must comply with all other dimensional standards. For an accessory dwelling unit in an accessory structure, the setback and dimensional requirements for such a structure apply.

Deletion of the Bonus Dwelling Unit use. It would delete the “bonus dwelling unit” use because LD 2003 requires Bar Harbor to allow a comparable but more permissive use, referred to as Accessory Dwelling Units. The bonus dwelling unit use would be deleted from the 13 districts where it is allowed: Village Historic, Village Residential, Downtown Village I, Downtown Village II, Emery District, Hulls Cove Rural, McFarland Hill Residential, McFarland Hill Rural, Schooner Head, Town Hill Rural, Shoreland General Development I, Shoreland General Development II (Hulls Cove), and Shoreland General Development III.

Short-term rentals. No dwelling units expressly permitted under LD2003 and therefore this amendment shall be registered and/or used as vacation rental-1 (VR-1) or as vacation rental-2 (VR-2) with the exception of dwelling units expressly permitted under the Multiple Dwelling Units subsection which may be registered and used as vacation rental-1.

An amendment to Articles III, V, XII

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125, LAND USE ORDINANCE

Article III. Land use Activities and Standards

§ 125-18 Village Historic.

C. Allowed uses.

- (1) Principal uses allowed by building permit or a change of use permit from the Code Enforcement Officer: home occupation; public or private park with minimal structural development; multifamily dwelling I; vacation rentals; single-family dwelling, two-family dwelling; ~~bonus dwelling unit~~; noncommercial greenhouse, and government facility/use.

F. Other requirements.

- ~~(4) Bonus dwelling units are exempt from the area per family requirement.~~

§ 125-20 Village Residential.

C. Allowed uses.

- (1) Principal uses allowed by building permit or a change of use permit from the Code Enforcement Officer: government facility with road frontage on Route 3 or Eagle Lake Road; home occupation; municipal school; public or private park; single- and two-family dwelling; ~~bonus dwelling unit~~; multifamily dwelling I; roadside stand; vacation rentals.

G. Other requirements.

- ~~(3) Bonus dwelling units are exempt from the area per family requirement.~~

§ 125-21 Downtown Village I.

C. Allowed uses:

- (1) Uses allowed by a building permit or a change of use permit with the Code Enforcement Officer: all retail; public information, municipal and government uses; multifamily dwelling I; restaurants and bars; theaters; galleries; services; shared accommodations (SA-1); professional offices; vacation rentals; all bed-and-breakfasts; food-processing establishment; theaters; single- and two-family dwelling units; ~~bonus dwelling unit~~; laundry and dry cleaning; artist studio, eleemosynary institution, place of worship; farmers market; home occupation.

E. Other requirements.

- ~~(3) Bonus dwelling units are exempt from the area per family requirement.~~

(2) § 125-21.1 Downtown Village II.

C. Allowed uses.

- (1) Uses allowed by a building permit or a change of use permit with the Code Enforcement Officer: all retail, public information; municipal and government uses; restaurants and bars on lots with frontage on Cottage Street, Main Street, Mount Desert Street or West Street; theaters; galleries; artist studios; banks; services; shared accommodations (SA-1); vacation rentals; theaters; all bed-and-breakfasts; food-processing establishment; professional office buildings; laundry and dry cleaning; artist studio; farmers market; single-family dwelling; two-family dwelling; ~~bonus dwelling unit~~; home occupation; multifamily dwelling I.

E. Other requirements.

- ~~(3) Bonus dwelling units are exempt from the area per family requirement.~~

§ 125-23 Emery District.

- E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

- Accessory dwelling
- Agriculture, avocational
- ~~Bonus dwelling unit~~
- Commercial garden, greenhouse or nursery
- Driveway construction
- Filling/earthmoving activity of 10 cubic yards or more
- Home occupation

Kennel
Noncommercial greenhouse
Public or private park with minimal structural development
Roadside stand
Single-family dwelling
Two-family dwelling
Uses or small structures accessory to permitted uses or structures
Vacation rentals

G. Other requirements.

~~(1) Bonus dwelling units are exempt from the area per family requirement.~~

§ 125-27 Hulls Cove Rural.

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling
Agriculture, avocational
~~Bonus dwelling unit~~
Commercial garden, greenhouse or nursery
Commercial stable
Driveway construction
Farmers' market
Filling/earthmoving activity of 10 cubic yards or more
Home occupation
Lumberyard or sawmill
Noncommercial greenhouse
Noncommercial stable
Public or private park with minimal structural development
Roadside stand
Single-family dwelling
Two-family dwelling
Uses or small structures accessory to permitted uses or structures
Vacation rentals
Veterinary clinic

G. Other requirements.

~~(1) Bonus dwelling units are exempt from the area per family requirement.~~

§ 125-33 McFarland Hill Residential.

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

- Accessory dwelling
- Agriculture, avocational
- ~~Bonus dwelling unit~~
- Commercial garden, greenhouse or nursery
- Driveway construction
- Filling/earthmoving activity of 10 cubic yards or more
- Home occupation
- Noncommercial greenhouse
- Noncommercial stable
- Public or private park with minimal structural development
- Roadside stand
- Single-family dwelling
- Two-family dwelling
- Uses or small structures accessory to permitted uses or structures
- Vacation rentals

H. Other requirements.

~~(1) Bonus dwelling units are exempt from the area per family requirement.~~

§ 125-34 McFarland Hill Rural.

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

- Accessory dwelling
- ~~Bonus dwelling unit~~
- Agriculture, avocational
- Commercial garden, greenhouse or nursery
- Driveway construction
- Filling/earthmoving activity of 10 cubic yards or more
- Home occupation
- Kennel
- Noncommercial greenhouse
- Noncommercial stable
- Public or private park with minimal structural development
- Roadside stand

Single-family dwelling
Two-family dwelling
Uses or small structures accessory to permitted uses or structures
Vacation rentals

G. Other requirements.

~~(1) Bonus dwelling units are exempt from the area per family requirement.~~

§ 125-41 Schooner Head.

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling
~~Bonus dwelling unit~~
Driveway construction
Filling/earthmoving activity of 10 cubic yards or more
Noncommercial greenhouse
Public or private park with minimal structural development
Single-family dwelling
Uses or small structures accessory to permitted uses or structures
Uses or structures accessory to permitted uses or structures
Vacation rentals

G. Other requirements.

~~(1) Bonus dwelling units are exempt from the area per family requirement.~~

§ 125-46 Town Hill Rural.

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling
~~Bonus dwelling unit~~
Agriculture, avocational
Commercial garden, greenhouse or nursery
Driveway construction
Farmers' market
Filling/earthmoving activity of 10 cubic yards or more

Home occupation
Kennel
Noncommercial greenhouse
Noncommercial kennel
Noncommercial stable
Private school
Public or private park with minimal structural development
Roadside stand
Single-family dwelling
Two-family dwelling
Uses or small structures accessory to permitted uses or structures
Vacation rentals
Veterinary clinic

H. Other requirements.

~~(1) Bonus dwelling units are exempt from the area per family requirement.~~

§ 125-47 Shoreland General Development I.

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling
~~Bonus dwelling unit, if served by both public water and sewer~~
Driveway construction
Filling/earthmoving activity of 10 cubic yards or more
Multifamily dwelling I
Public or private park with minimal structural development
Single-family dwelling
Two-family dwelling
Uses or small structures accessory to permitted uses or structures
Vacation rentals

G. Other requirements.

~~(1) Bonus dwelling units are exempt from the area per family requirement.~~

§ 125-49 Shoreland General Development II (Hulls Cove).

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling

~~Bonus dwelling unit, if served by both public water and sewer~~

Driveway construction

Filling/earthmoving activity of 10 cubic yards or more

Multifamily dwelling I

Public or private park with minimal structural development

Single-family dwelling

Small, nonresidential facility, without structures, for educational, scientific or nature interpretation purposes

Two-family dwelling

Uses or small structures accessory to permitted uses or structures

Vacation rentals

G. Other requirements.

~~(1) Bonus dwelling units are exempt from the area per family requirement.~~

§ 125-49.1 Shoreland General Development III.

C. Allowed uses.

(1) Principal uses allowed by building permit or a change of use permit from the Code Enforcement Officer: artist studio, child care, family, gallery, government facility, home occupation (NOTE: Home occupations in properties with lot frontage or access on Route 3 shall be required to obtain minor site plan approval.); multifamily dwelling I; municipal facility, municipal school; public or private park with minimal structural development; all vacation rentals; single-family dwelling; and two-family dwelling; ~~and bonus dwelling unit, if served by both public water and sewer.~~

G. Other requirements.

~~(1) Bonus dwelling units are exempt from the area per family requirement.~~

Article V. Site Plan Review

§ 125-69 Standards for particular uses, structures or activities.

Notwithstanding and in addition to any other provision of this chapter, before granting site plan approval for any land use activity described in this section, the Planning Board must find that the proposed plan will comply with such of the following standards as are applicable:

AA. Bonus Dwelling Units

~~The purpose of bonus dwelling units is to assist in increasing the housing supply by allowing and encouraging the most efficient use of existing housing by capitalizing on existing infrastructure such as roads, water, sewer, etc.~~

- ~~(1) There shall be no more than one bonus dwelling unit per lot that is occupied by a single family dwelling.~~
- ~~(2) No bonus dwelling unit shall be used as a short term rental or as a vacation rental.~~
- ~~(3) No bonus dwelling unit shall be sold separately from the single family dwelling when both uses are located on a nonconforming lot of record.~~

BB. INCREASED HOUSING OPPORTUNITIES.

(1) Scope and Applicability.

- (a) The Act. This section, effective July 1, 2024, complies with P.L. 2021, ch. 672, codified at 30-A M.R.S. §§ 4364, 4364-A, and 4364-B entitled an *Act to Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions*, herein referred to as the Act.

(b) Types of housing opportunity.

The Town of Bar Harbor is required to comply with the Act and to allow three types of housing opportunity. These housing opportunities supersede some of the requirements and standards of this ordinance as described in this section including, but not limited to, Article III Land Use Activities and Standards. The three types of housing opportunity are:

- [1] Affordable housing development;
- [2] Multiple dwelling units; and
- [3] Accessory dwelling units.

(c) The provisions of this section do not:

- [1] Exempt development from having to comply with other provisions and requirements of this ordinance including, but not limited to, 125-69 N Subdivision; and Article XII, Construction and Definitions, with the exception of any terms that are specifically defined in subsection (d) Definitions;
- [2] Abrogate or annul the validity or enforceability of any valid and enforceable easement or covenant that imposes greater restrictions, as long as the agreement does not abrogate rights pursuant to the United States Constitution or the Constitution of Maine;
- [3] Exempt development from having to comply with Title 30-A, Chapter 187, subchapter 4: Subdivisions;
- [4] Exempt development from having to comply with the shoreland zoning requirements;
- [5] Abrogate or annul the minimum lot size requirements under Title 12, Chapter 423-A; or
- [6] Exempt development from meeting the requirements and standards of the Land Use Ordinance unless specified otherwise.

(2) Types of Housing Opportunities.

(a) Affordable housing development.

The purpose of this housing opportunity is to provide a density bonus for affordable housing developments, as outlined below.

[1] Permitting Authority. Dwelling units expressly allowed under this subsection must be permitted by site plan review.

[2] Eligibility requirements.

To be eligible for the density bonus and minimum parking requirements, the development shall:

- [a] Be located in a designated Growth Area
- [b] Be served by both public water and sewer;
- [c] Meet the minimum lot size requirements under Title 12, Chapter 423-A;
- [d] Be located in a district regulated by density requirements;
- [e] Be located in a district where multi-family dwellings are allowed;
- [f] Comply with all shoreland zoning requirements;
- [g] Meet the definition of affordable housing development;
- [h] Preserve a minimum of 51% of the units as affordable housing units;
- [i] For rental housing, have occupancy of all the units designated affordable in the development restricted to households at or below 80% of the local area median income, as calculated at the time of initial occupancy;
- [j] For owned housing, have occupancy of all the units designated affordable in the development restricted to households at or below 120% of the local area median income, as calculated at the time of initial occupancy;

[k] Be connected to either public water and wastewater services, or provide proof of adequate and potable private water and wastewater disposal under the Code of Maine Rules;

[l] Execute and record (at the Hancock County Registry of Deeds) a declaration of covenants that: restricts the affordability of the dwelling units to households that meet the above-stated income levels and requirements; imposes a duration of affordability of no less than 30 years after the issuance of the Certificate of Occupancy; and identifies a third-party, acceptable to the Bar Harbor Town Manager, who will be responsible for enforcing the elements of the declaration.

[2] Density Bonus. The development is allowed a dwelling unit density of at least 2.5 times the base density that is otherwise allowed in the underlying district. If fractional results occur when calculating the density bonus, the number of units is rounded down to the nearest whole number.

[3] Parking Requirements. The development shall provide a minimum of 0.66 parking spaces per dwelling unit in all districts with the exception of development in the Downtown Village I, Downtown Village II, and Downton Village Transitional where no parking spaces are required. The number of spaces shall be rounded up to the nearest whole number.

[4] Short-term rentals. None of the dwelling units expressly permitted under this subsection shall be registered and/or used as short-term rentals (vacation rental-1 or vacation rental-2).

(b) Multiple dwelling units.

The purpose of this housing opportunity is to allow multiple dwelling units on lots where residential uses are allowed subject to the following provisions:

[1] Permitting Authority. Dwelling units expressly allowed under this subsection must be permitted by building permit or a change of use permit from the Code Enforcement Officer or by site plan review when subdivision is triggered.

[2] Up to four dwelling units shall be allowed per lot if:

[a] The lot is located in a designated Growth Area;

[b] The minimum lot size requirements under Title 12, Chapter 423-A, are met;

[c] Any private well water service is potable and acceptable for domestic use under the Code of Maine Rules;

[d] The lot is located in a district where residential use, including a conditional use, is allowed;

[e] The lot does not contain an existing dwelling unit; and

[f] It complies with shoreland zoning requirements.

[3] Up to two dwelling units per lot, located within one structure or located in two separate structures, shall be allowed per lot if:

[a] The lot is not located in a designated Growth Area;

[b] The minimum lot size requirements under Title 12, Chapter 423-A, are met;

[c] The lot is located in a district where residential use is allowed; and

[d] The lot does not contain an existing dwelling unit.

[e] It complies with shoreland zoning requirements.

[4] Dwelling unit allowance for lots where one dwelling unit already exist.

If a lot already has one existing dwelling unit, the addition of up to two additional dwelling units shall be allowed. However, if a lot already has two existing dwelling units, no additional dwelling units may be built on the lot unless allowed in the underlying district. The dwelling unit allowance is subject to the following requirements:

[a] The additional dwelling unit(s) may be located within the existing structure; attached to the existing structure; detached from the existing structure; or any combination thereof;

[b] The dwelling units must be connected to adequate water and wastewater;

[c] Any private well water service is potable and acceptable for domestic use under the Code of Maine Rules; and

[d] It complies with shoreland zoning requirements.

[5] Lot not eligible for additional dwelling units.

If more than one dwelling unit has been constructed on a lot as a result of any provision of this section, the lot is not eligible for any additional units or increase in density, except as allowed in the underlying districts.

[6] Minimum Area per Family.

The minimum area per family requirement of the underlying district applies for dwelling units created pursuant 125-69 BB. (2)(b).

[7] Short-term rentals.

i. Vacation rental-1 (VR-1).

Dwelling units expressly permitted under this subsection may be registered and used as vacation rental-1.

ii. Vacation rental-2 (VR-2).

None of the dwelling units expressly permitted under this subsection shall be registered and/or used as vacation rental-2.

(c) Accessory dwelling units.

The purpose of this housing opportunity is to allow for a secondary dwelling unit on a lot with an existing dwelling unit.

[1] Permitting Authority. Dwelling units expressly allowed under this subsection must be permitted by building permit or a change of use permit from the Code Enforcement Officer or by site plan review when subdivision is triggered.

[2] Requirements.

[a] Accessory dwelling units are allowed in districts where residential uses are allowed.

[b] Accessory dwelling units must be on the same lot as a single-family dwelling unit.

[c] Accessory dwelling units must be located either within an existing dwelling unit; attached to or sharing a wall with the single-family dwelling unit; in a new or existing structure; or within an existing accessory structure.

[d] One accessory dwelling unit is allowed on any lot where a single-family dwelling unit is the principal structure.

[d] If there is more than one dwelling unit on a lot, as a result of the provisions in this subsection or the multiple dwelling units subsection, the lot is not eligible for any additional increases in density, except as allowed in the district.

[e] Accessory dwelling units are allowed on a non-conforming lot if the accessory dwelling unit does not further increase the non-conformity.

[f] Accessory dwelling units must comply with all local dimensional standards with the exception of minimum lot size and minimum area per family standards from which they are exempt.

[g] Accessory dwelling units located within the same structure as a single-family dwelling unit, attached to a single-family dwelling, or in a new structure must meet the same dimensional standards of the single-family dwelling unit.

[h] Accessory dwelling units located in an existing accessory structure must meet the setback requirements for accessory structures.

[i] Accessory dwelling units are not subject to parking requirements.

[j] Accessory dwelling units must be at least 190 square feet in size, unless the Technical Building Code and Standards Board, pursuant to 10 M.R.S. § 9722, adopts a different minimum standard; if so, that standard applies.

[k] Accessory dwelling units must be connected to adequate water and wastewater.

[l] Accessory dwelling units must be served by water that is potable and acceptable for domestic use under the Code of Maine Rules.

[3] Short-term rentals. None of the dwelling units expressly permitted under this subsection shall be registered and/or used as short-term rentals (vacation rental-1 or vacation rental-2).

(3) Definitions.

Article XII applies to this section unless the term is specifically defined below.

ACCESSORY DWELLING UNIT — A self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit located on the same parcel of land. An accessory dwelling unit must be a minimum of 190 square feet.

AFFORDABLE HOUSING DEVELOPMENT

- A. For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the U.S. Department of Housing and Urban Development under the *United States Housing Act of 1937*, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs; and
- B. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the U.S. Department of Housing and Urban Development under the *United States Housing Act of 1937*, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs.
- C. For purposes of this definition, Housing Costs include, but are not limited to:
 - (1) For a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and
 - (2) For an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner's insurance, condominium fees, and homeowners' association fees.

AREA MEDIAN INCOME — The midpoint of a region's income distribution calculated on an annual basis by the U.S. Department of Housing & Urban Development.

ATTACHED — Connected by a shared wall to the principal structure or having physically connected finished spaces.

BASE DENSITY — The maximum number of units allowed on a lot not used for affordable housing based on dimensional requirements in this Land Use Ordinance. This does not include density bonuses, transferable development rights, or other similar means that could increase the density of lots not used for affordable housing.

CENTRALLY MANAGED WATER SYSTEM — A water system that provides water for human consumption through pipes or other constructed conveyances to at least 15 service connections or serves an average of at least 25 people for at least 60 days a year as regulated by 10-144 C.M.R. Ch. 231, *Rules Relating to Drinking Water*. This water system may be privately owned.

CODE OF MAINE RULES — State of Maine regulations.

COMPARABLE SEWER SYSTEM — Any subsurface wastewater disposal system that discharges over 2,000 gallons of wastewater per day as regulated by 10-144 C.M.R. Ch. 241, *Subsurface Wastewater Disposal Rules*.

COMPREHENSIVE PLAN — A document or interrelated documents consistent with 30-A M.R.S. § 4326(1)-(4), including the strategies for an implementation program which are consistent with the goals and guidelines established pursuant to Title 30-A Chapter 187 Subchapter II.

COVENANT — A provision in a deed, or other covenant conveying real property, restricting the use of the land.

DENSITY REQUIREMENTS — The maximum number of dwelling units allowed on a lot, subject to dimensional standards.

DESIGNATED GROWTH AREA — Means an area as defined in 30-A M.R.S. §4349-A (1)(A) or (B). The designated Growth Area includes the area(s) in the adopted Bar Harbor Comprehensive Plan designated as suitable for orderly residential, commercial, or industrial development, or any combination of those types of development, and into which most development projected over 10 years is directed. Designated growth areas may also be referred to as priority development zones or other terms with a similar intent. If the Town does not have an adopted Comprehensive Plan, the designated Growth Area means an area served by a public sewer system that has the capacity for growth-related projects, an area identified on the latest Federal Decennial Census as a census-designated place or a compact area of an urban compact municipality as defined by 23 M.R.S. §754.

DIMENSIONAL REQUIREMENTS — Requirements which govern the size and placement of structures including, but limited not to, the following requirements: building height, lot area, minimum frontage and lot depth.

DUPLEX — A structure containing two dwelling units.

DWELLING UNIT — Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multi-family housing, condominiums, time-share units, and apartments.

EXISTING DWELLING UNIT — A residential unit in existence on a lot at the time of submission of a permit application to build additional units on that lot.

LOT — A single parcel of developed or undeveloped land.

MULTI-FAMILY DWELLING — A structure containing three or more dwelling units.

POTABLE — Safe for drinking as defined by the U.S. Environmental Protection Agency's (EPA) Drinking Water Standards and Health Advisories Table and Maine's interim drinking water standards for six different perfluoroalkyl and polyfluoroalkyl substances (PFAS), *Resolve 2021 Chapter 82, Resolve, To Protect Consumers of Public Drinking Water by Establishing Maximum Contaminant Level for Certain Substances and Contaminants*.

PRINCIPAL STRUCTURE — A structure in which the main or primary use of the structure is conducted. For purposes of this rule, principal structure does not include commercial buildings.

RESIDENTIAL USE — A use permitted to be used for human habitation. Residential uses may include single-family, duplex, triplex, quadplex, and other multi-family housing; condominiums; time-share units; and apartments. The following uses are not included under this definition: (1) Dormitories, Shared-Accommodations 1, 2, and 3, and Employee Living quarters; (2) Congregate Housing; and (3) Campgrounds, campsites, hotels, motels, all beds and breakfast, all transient accommodations, or other types of lodging accommodations.

SETBACK — The minimum horizontal distance from a lot line, shoreline, or road to the nearest part of a structure, or other regulated object or area as defined in local ordinance.

SHORELAND ZONING REQUIREMENTS — Includes shoreland zoning requirements under Title 38 Chapter 3, and the Bar Harbor Land Use Ordinance including but not limited to sections 125-47, 125-48, 125-49, 125-49.1, 125-49.2, 125-49.3, 125-50, and 125-68.

SINGLE-FAMILY DWELLING UNIT — A structure containing one dwelling unit.

STRUCTURE — Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons as defined in 38 M.R.S. §436-A(12).

ZONING ORDINANCE — A type of land use ordinance that divides a municipality into districts and that prescribes and reasonably applies different regulations in each district.

Article XII. Construction and Definitions

§ 125-109 **Definitions.**

The following terms shall have the following meanings:

***§

BONUS DWELLING UNIT

~~A second dwelling unit allowed on the same lot where only one single family dwelling unit exists, either within the same building as the single family dwelling unit or in a detached building. Bonus dwelling units shall comply with the standards in 125-69 AA.~~

Given under our hands and seal at Bar Harbor this _____ day of _____, 2024:

Municipal Officers of the Town of Bar Harbor

Valerie Peacock, Chair

Gary Friedmann, Vice-chair

Matthew A. Hochman

Joseph Minutolo

Kyle Shank

Earl Brechlin

Maya Caines

H:\Planning Board\Amendments\HOUSING\LD 2003\Draft Order_Increased Housing Opportunities_wBDU_woVR_11162023_mgv2.docx

Draft Order

of the Bar Harbor Town Council

for the June 11, 2024 Town Meeting

It is hereby ordered that the following article be placed on the town meeting warrant with voting thereon to be held by Australian ballot.

WARRANT ARTICLE

Article XX LAND USE ORDINANCE AMENDMENT – Design Review – Shall an ordinance, dated XXXXX, and entitled “**An amendment to modify the design review process and standards**” be enacted?

SUMMARY

This amendment would:

- Update some properties names to Appendix A – Historic Properties in Design Review Overlay District
- Amend a definition related to signage review.
- Simplify the review process for signs.
- Adjust the Design Review Overlay district boundaries and area names.
- Minimize redundancy by removing Appendix B – Locally Significant Properties in Design Review Overlay District and all reference to it.
- Allow more time for the Planning and Code Department to review Design Review Board applications.

GENERAL EXPLANATION

This amendment includes the following changes to Article III – Land Use Activities and Standards, Article V – Site Plan Review, Article XII – Construction and Definitions, Article XIII – Design Review, Appendix A – Historic Properties in Design Review Overlay District, & Appendix B – Locally Significant Properties in Design Review Overlay District:

- Update the “Present Name” column for five properties listed on Appendix A – Historic Properties in Design Review Overlay District.
- Alter the boundaries and rename the areas within the Design Review Overlay District described in Article XIII – Design Review. A new map of the overlay district will be

- included in the Land Use Ordinance to visually show and describe the district boundaries.
- Add a new area to the Design Review Overlay District called: Shoreland Maritime Activity Area.
 - Updated Design Review Overlay map.
 - Transfer signage review to the Code Enforcement Officer (CEO) with the exception of internally illuminated signs and signs listed in Appendix A.
 - Remove language from Article III – Land Use Activities and Standards and Article V – Site Plan Review that mentions Appendix B – Locally Significant Properties in Design Review Overlay District or a requirement of Design Review Board approval for signage.
 - Change the design review application deadline from at least seven days prior to the Design Review Board meeting to at least 14 days prior to the meeting.
 - Increase the amount of time for the Planning Department to review design review application for completeness from three days to ten days.

An amendment to the Historic Properties & Signs

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

Article III Land Use Activities and Standards

§ 125-19. Mount Desert Street Corridor District.

F. ~~Other requirements.~~

- (1) ~~Design Review Board approval shall be required for all changes to existing or new facades if the subject property is listed in Appendix A, or B of this chapter. [Also see parking requirements found in § 125-67B(4).]~~
- (2) ~~Design Review Board approval shall be required for all signage as stipulated in § 125-67BB.~~

§ 125-18. Village Historic.

F. Other requirements.

- (1) ~~All new construction and/or changes to facades and signs shall require Design Review Board approval if visible from a public way. Single family homes are exempt from this provision unless otherwise included in Appendix A or B of this chapter.~~

§ 125-21. Downtown Village I.

E. Other requirements.

- (1) ~~All changes to facades and signs require Design Review Board approval.~~

§ 125-21.2. Downtown Village Transitional.

E. Other requirements.

- (1) ~~All changes to facades and signs require Design Review Board approval.~~

Article V Site Plan Review

§ 125-67. General review standards.

BB. Signs and advertising. All site plans shall demonstrate that all signs related to the proposed development will comply with the following standards, to which all signs located within the Town of Bar Harbor are subject, regardless of the need for site plan approval. ~~In addition, activities located within the Design Review Overlay District that require a certificate of appropriateness pursuant to Article XIII, Design Review, are subject to additional requirements set forth in the standards of Article XIII.~~

(3) Prohibitions.

- (i) Internally illuminated signs of Type 2-B, cabinet with light limiting face, 30% (or less) translucent face/70% (or greater) opaque background field, and Type 5-B, push-through lighting, 30% (or less) translucent/70% (or greater) opaque background field, are prohibited in all districts except for lots with frontage on Route 102, Route 3, or Route 233. They are also prohibited on lots with frontage on the section of Route 3 beginning in the north where it crosses over Eddie Brook and ending in the south where it crosses over Cromwell Brook, as shown in Figure 1.

[Updated Image of Figure One]

- (4) Conditional signs. Signs noted below are allowed without a ~~certificate of appropriateness or~~ a building permit and shall not be counted toward allowable square footage for sign area, subject to noted conditions, provided they comply as follows:

(5) General Requirements for all signs.

- (d) Maximum sign area. The aggregate area for signs for any premises shall not exceed two square feet per one foot of road frontage up to 100 square feet. Aggregate sign area may be increased upon review by the ~~Design Review Board~~ Code Enforcement Officer of multitenant sign plans, signage for property with multiple front property lines, and campus sign plans that meet the purpose and intent of the Sign Ordinance.
- (e) Maximum individual sign area. Unless otherwise approved by the ~~Design Review Board~~ Code Enforcement Officer, individual signs shall not

exceed 24 square feet in the Downtown Village I and II and historic districts.

(6) Signs subject to specific standards, ~~the review by the Design Review Board for a certificate of appropriateness~~. All signs listed below mentioned in this section are required to meet the following standards ~~receive a certificate of appropriateness from the Design Review Board~~ prior to receiving a building permit, if they are located within the identified districts or are associated with a conditionally permitted use. Signs located in all other districts shall receive a A building permit from the Code Enforcement Officer is required prior to installing the sign.

(a) Building permits required. All signs except those otherwise exempted are required to obtain a building permit, ~~as well as the certificate of appropriateness~~.

[1] — ~~All signs listed below are required to meet the specific standards in section § 125-67 BB (6) receive a certificate of appropriateness from the Design Review Board prior to receiving a building permit if they are located within the following districts or are associated with a conditionally permitted use.~~

~~[a] Village Historic.~~

~~[b] Bar Harbor Gateway.~~

~~[c] (Reserved)~~

~~[d] Downtown Village I and II Districts.~~

~~[e] Educational Institutional.~~

~~[f] Lots with road frontage on Routes 102 and 3.~~

~~[g] Marine Research.~~

~~[h] Scientific Research.~~

~~[i] Shoreland General Development I and II.~~

~~[j] Town Hill Business.~~

~~[k] Town Hill Residential Corridor.~~

~~[2] Signs in other districts shall receive a building permit from the Code Enforcement Office prior to erecting the sign.~~

~~[3] All signs shall be reviewed to determine compliance with the purpose and intent of this subsection.~~

- (b) Wall signs, window signs, door signs, freestanding signs and roof signs.
- (c) Indoor neon signs visible from the street. Allowed neon signs shall be for the purpose of displaying whether the business is open or the general type of merchandise available for purchase. Neon signs are part of the calculation for allowed signage and shall not exceed two square feet in total.
- (d) Banners and signs for Chamber of Commerce events, drives and large gatherings, previous Merchant's Flag Program, sales flyers totaling more than two square feet per tenant and other advertisements not otherwise regulated. ~~The Design Review Board Code Enforcement Officer~~ shall review the location, color, and size, compatibility of design, quantity, and length of time for display. Such displays shall not visually impede upon existing commercial signs, nor block public views in public parks.
- (e) Off-premises signs. Off-premises signs, excluding official business directional signs as defined in 23 M.R.S.A. § 1903, may be constructed, erected or maintained only in accordance with the following:

[1] Location of establishment.

[a] Any commercial establishment having frontage on the Old Bar Harbor Road, Sand Point Road, Norway Drive, or the Hadley Point Road shall be permitted to have up to four off-premises signs.

[b] Any commercial establishment not having frontage which is contiguous to the main entrance on Maine State Route 102 or 233 or on Eden, Mount Desert, Main, Cottage, or West Street shall be permitted to have up to two off-premises signs.

[c] Any commercial establishment having contiguous frontage on Maine State Route 102 or 233 or on Eden, Mount Desert, Main, Cottage or West Street shall not have off premises signs.

[2] Off-premises signs shall be directional only in nature.

[3] The maximum area of any off-premises sign shall be limited dependent upon its location according to the following:

Location of Off-Premises Sign

**Permitted Area
(square feet)**

In the area bounded by and including the Atlantic Ocean, Eden Street and Mount Desert Street and the imaginary extension thereof shoreward	2
On roads with speed limits less than 30 miles per hour	4
On roads with speed limits of 30 to 49 miles per hour	8
On roads with speed limits greater than 49 miles per hour	12

- (f) Property owners of multi-tenant buildings shall submit an overall signage plan for their property. No individual sign shall be approved on a multi-tenant building unless a signage plan has been submitted and approved by the Design Review Board. The signage plan need not show the specific message content for any individual sign contained therein. In addition to Table 2⁽⁵⁾ the signage plan shall show:
- [1] Allowable square footage for each unit;
 - [2] Any restrictions on signage as may be imposed by the landowner.
- [5] *Editor's Note: Table 2 is included at the end of this chapter.*
- (g) Sandwich signs or boards.
- (h) Taxi or tour stand signs.
- (i) Activity/program signboard: chalkboard, tack board, grease board or wood panel.
- (j) Other portable signs not otherwise listed unless specifically prohibited.
- (k) Campus signage. In the Educational Instituteion, Marine Research and Scientific Research Districts, a campus sign plan shall be submitted to the ~~Design Review Board~~ Code Enforcement Officer. This plan shall show the entire campus site plan, outlining the location and design specification for entry point signs, internal building signs, directional signs and any other pertinent signage. The ~~Board's~~ review will be to determine adequate locations, ease and safety for finding parking and buildings, and cohesiveness of the overall theme.
- (l) Awning or canopy:
- [1] Lettering or graphics no more than 12 inches in height permitted on the valance;
 - [2] Lettering and graphics on an awning or canopy or attached valance are considered signage and must comply with the requirements of this chapter.
 - [3] There shall be eight feet of clearance from the bottom of the valance to the ground.

- (m) Kiosks for the purpose of visitor way-finding and general information sponsored and maintained by either the Town of Bar Harbor or a private nonprofit agency.
- (n) Internally illuminated signs: opaque background only and allowable only on Routes 102 and Route 3 outside of the Downtown Village Districts and historic districts.
- (o) Exemptions. The following activities are not subject to a building permit: design review:

~~{1} Replacement of one conforming non internally illuminated sign, provided that the replacement sign is equal to or less than the square footage of the existing conforming sign it will replace. The sign may be altered in any code compliant manner, except that it may not be relocated or enlarged. [Amended 11-2-2021]~~

~~{2} A tenant occupying a space with an Design Review Board approved tenant signage plan may replace signage at any time, provided that the new signage will comply with the approved tenant signage plan for the building.~~

~~[3 1] Installation of one twenty-four inch-by thirty-six inch sandwich board sign, provided that it is not located in a public way and is taken inside at the close of business each night.~~

~~[4 2] Installation of lighting for signage, provided that such lighting complies with § 125- 67Z.~~

Article XII Construction and Definitions

§ 125-109 Definitions.

The following terms shall have the following meanings:

MULTI-TENANT SIGNAGE PLAN

A plan approved by a building the property owner which outlines design guidelines for multi-tenant signage. Such a plan may include, but is not limited to the following elements: size limitations and locations of signage. The multi-tenant signage plan shall be submitted to reviewed by the Design Review Board, and upon approval by the Board the building owner shall be issued a certificate of appropriateness certifying the approval of the plan.

Article XIII Design Review

§ 125-110 Purpose of design review.

The purpose of design review is to provide for the regulation of building and site design within designated areas of the Town of Bar Harbor as proposed in the Town's adopted Comprehensive Plan in order to promote the following goals:

- A. The education, economics, and the general welfare of the Town, its residents, and guests;
- B. The protection and preservation of buildings, places, and things of aesthetic, historic, cultural, or of architectural value;
- C. The continued maintenance and improvement of existing structures in a timely and responsible manner;
- D. The fostering of a positive and identifiable image to encourage continued private and public interest, investment, and development within the designated area;
- E. The construction and maintenance of aesthetically pleasing structures using materials compatible with those materials and buildings that exist in their immediate area; and
- F. The ability of the Design Review Board to carry out its task in a timely and fair manner with the best interests of the Town, its residents, property owners, and consumers in mind using the regulations, definitions, and standards of this article.

§ 125-111 Design Review Board.

- A. ~~Creation and~~ Composition. There is hereby created a Design Review Board which shall consist of seven members appointed by the Town Council, who shall be residents of the Town of Bar Harbor, interested in the preservation and development of the Community.

- B. ~~Reserved. Transition. Upon adoption of this article, the former Board of Review shall become the Design Review Board, the members of the Board of Review shall become the members of the Design Review Board with the same terms of service, the Design Review Board shall assume all of the functions previously performed by the Board of Review, and the two additional members shall be appointed by the Town Council. The Design Review Board may be referred to as the "Review Board" or "Board."~~
- C. Jurisdiction. The Review Board's jurisdiction shall be limited to the Design Review Overlay District identified in § 125-112A. The Review Board shall be concerned with those elements of development, redevelopment, rehabilitation and/or preservation that affect the visual quality of the district. ~~The Design Review Overlay District In Downtown Village Districts, this review~~ includes views from public streets and parking lots, as well as the view from the waterfront. ~~In the Town Hill Business District, all sides of the building and the overall property development are subject to review.~~ The Board shall not consider the interior floor plan layout of buildings as part of its review. [Amended 11-3-2009; 6-8-2010]
- D. Term of office. The term of office shall be for three years.
- E. Members serve without pay. Members of the Board shall serve without pay but shall be reimbursed for any and all authorized expenses incurred personally in carrying out the purposes of this article.
- F. Organization. The Board shall elect from its membership a Chair and a Vice Chair who shall serve for terms of one year and who shall be eligible for re-election. The Chair shall preside over the Board and have the right to vote. In an absence or disability of the Chair, the Vice Chair shall perform the duties of the Chair.
- G. Staff assistance. The Code Enforcement Officer and ~~Town Planner~~ Planning Department staff shall provide such technical, administrative, and clerical assistance ~~as required by~~ to the Board, ~~subject to the approval of the Town Manager.~~
- H. Professional assistance. The Board, subject to the Town Council's consent, shall have the right to retain and pay for the services and expenses of professional help needed in carrying out the purpose of this article. If the review of an application requires outside professional assistance, the Board may require the payment of a technical assistance fee in accordance with § 125-65D to defray the Town's costs in obtaining such assistance.
- I. Meetings. The Board shall hold regular meetings, at least monthly, to review applications for certificates of appropriateness. All meetings of the Board shall be recorded.

§ 125-112 Applicability of design review.

A. Design Review Overlay Districts. [**Amended 11-4-2003; 11-2-2004; 6-9-2009; 11-3-2009**]

- (1) The provisions of this article shall apply only within the geographic limits of the following Design Review Overlay District, hereinafter called the "district."
- (2) Boundaries of the Design Review Overlay District. The district as depicted in a map titled "Design Review Overlay District of the Town of Bar Harbor, Maine" shall include the following: ~~neighborhood districts as shown on the Official Neighborhood Districts Map of Bar Harbor: the Downtown Village I District; Downtown Village II District; the Shoreland General Development I District; Shoreland General Development II District; the Village Historic District; and the Town Hill Business District. The district is depicted on the map titled "Design Review Overlay District of the Town of Bar Harbor, Maine." The district also includes all bed and breakfast uses, all shared accommodations uses, and individual properties with the following uses, regardless of their district location: TA-1, TA-3, TA-4, and TA-6. The district also includes properties listed in Appendix A and/or Appendix B of this chapter.~~ [**Amended 6-8-2010; 6-14-2016; 7-14-2020**]

(a) Bar Harbor Village Area.

[1] All properties with road frontage on State Highway 3 from Harbor Lane to Cromwell Harbor Road (includes parts of Eden and Main streets and all of Mount Desert Street.

[2] All properties with road frontage on West Street from Eden Street to, and including, the pier.

[3] All properties with road frontage on Bridge Street from West Street to the shore.

[4] All properties with road frontage on Cottage Street from Eden Street to Main Street.

[5] All properties with road frontage on Main Street from the pier to Cromwell Harbor Road.

[6] All properties with road frontage on Rodick Street and Rodick Place.

[7] All properties with road frontage on Firefly Lane.

[8] All properties with road frontage on The Field.

[9] All properties abutting the Shore Path from the pier to Wayman Lane.

(b) Town Hill Village Area.

[1] All properties with road frontage on State Highway 102 from the southern end of Right of Way Road to Pats Way.

(c) Shoreland Maritime Activity Area.

(d) Hulls Cove Village Area.

[1] All properties with road frontage on State Highway 3 from Visitor Center Road to the southern end of Sand Point Road.

(e) All properties and signs listed in Appendix A of this Chapter.

- (3) The district also includes the districts and area included in the Sign Ordinance, § 125-67BB. The district also includes the following uses regardless of their geographic location and therefore these may not be depicted on the map titled “Design Review Overlay District of the Town of Bar Harbor, Maine.”

(a) All internally illuminated signs and all signs listed in Appendix A.

(b) All bed-and-breakfast uses.

(c) All shared accommodation uses.

- B. Activities subject to design review. Any of the following activities shall be undertaken within the designated district only after a certificate of appropriateness has been issued by the Code Enforcement Officer of the Town of Bar Harbor after review and approval by the Design Review Board: [Amended 11-4-2003; 5-3-2004; 11-2-2004]

- (1) The demolition, in whole or in part, of a building or structure classified as historic as denoted in Appendix A ~~and/or B~~ or is a bed-and-breakfast ~~I, II or IV TA 1, 3, 4 or 6, respectively.~~ **[Amended 6-8-2010]**
- (2) The moving or relocation of a building, sign or structure classified as historic as denoted in Appendix A ~~and/or B~~ or is a bed-and-breakfast ~~use I, II or IV TA 1, 3, 4 or 6, respectively.~~ **[Amended 6-8-2010]**
- (3) Any material change, other than routine maintenance and repair and minor renovations as outlined in Subsection C, in the exterior appearance of an existing building, sign, fence, or structure classified as historic as denoted in Appendix A ~~and/or B~~ or is a bed-and-breakfast ~~use, TA 1, 3, 4 or 6, respectively,~~ including additions, reconstruction, alterations, or maintenance involving a change in the exterior color or materials. **[Amended 6-8-2010]**

- (4) Any new construction of a principal or accessory building or structure, except for lots with the principal use of a single- or two-family dwelling;
- (5) Any material change, other than routine maintenance and repair and minor renovations as outlined in Subsection C, in the exterior appearance of an existing nonhistoric building or structure, except for lots with the principal use of a single- or two-family dwelling, such as additions, reconstruction, alterations, or maintenance involving a change in the exterior color, if the change is subject to view from a public street;
- (6) Any change in existing fences and/or retaining, ornamental or other freestanding walls or the construction of new fences and/or freestanding walls on a parcel, except for lots with the principal use of a single or two-family dwelling, if the wall or fence is located along a public street right-of-way;
- (7) The erection of a new internally illuminated sign, the relocation of an existing internally illuminated sign, ~~approval of a signage plan and its specific content as per § 125-67BB(3)(c),~~ or the modification of an existing internally illuminated sign which changes the size, color, lighting, or graphic design of the sign, ~~except for lots with the principal use of a single or two family dwelling.~~
- (8) The seasonal closure of a business involving the placement of window coverings or other activities which alter the exterior appearance of the property and can be seen from a public street. (Note: The certificate of appropriateness obtained initially shall remain in effect as long as the closure treatment remains unchanged.)

C. Activities not subject to design review. The following activities are not subject to design review:

- (1) The construction of a new principal or accessory building or structure or the modification of an existing nonhistoric building or structure used entirely for single- or two-family dwelling occupancy. **[Amended 5-3-2004]**
- (2) The erection or modification of signs, freestanding walls, fences, landscaping or similar activities at a property used entirely for single- or two-family dwelling occupancy. **[Amended 5-3-2004]**
- (3) Temporary or emergency activities intended to protect a property from damage as a result of a natural event, such as a storm, or to secure a property from further damage following a storm, fire, or similar event. All permanent improvements or repairs shall be subject to design review.
- (4) Routine maintenance or repair where no change is made to the exterior appearance of the structure or grounds. The following list illustrates the types of work that a property owner may undertake without a certificate of appropriateness:

- (a) Repainting using the existing colors.
 - (b) Replacement of window glass.
 - (c) Caulking and weatherstripping.
 - (d) Installation or removal of window air conditioners.
 - (e) Installation or changes of mechanical equipment, such as heating and air-conditioning units, television antennas/satellite dishes, and garbage containers, as long as it is completely screened from view by landscaping or fencing.
 - (f) Repair of roofing materials as long as the material is of a similar color, texture and general appearance.
 - (g) Replacement of missing or deteriorated siding, gutters, trim, porch flooring, steps, etc., using replacement materials that match the original and that do not damage or eliminate architectural features.
 - (h) Repair or replacement of masonry foundations where the original foundation material is retained or where any new material matches the original in color, material, and appearance [including the installation of metal foundation vents (side and rear only) and the replacement of access doors which cannot be seen from the street].
 - (i) Repointing and other masonry repairs where the color and composition of the mortar, brick or stone match the original.
 - (j) Replacement of storm windows or doors provided that the trim color is white or compliments the building's trim color.
 - (k) Installing house numbers and mailboxes.
- (5) Minor renovations that do not include any changes in the exterior appearance of the building, such as:
- (a) Replacing old windows with new windows of the same size and material.
 - (b) Replacing old siding with new siding of the same material and color.
 - (c) Replacing old roofing with new roofing with the same color and style.
- (6) Renovation or new construction which is limited to the following types of improvements:

- (a) Exterior building facade paint color selected from the Design Review Board approved color chart(s). The color chart(s) can be obtained from the Planning Department and may be updated from time to time pursuant to Design Review Board approval. Colors not listed on the color chart(s) require a certificate of appropriateness from the Design Review Board.
- (b) (Reserved)
- (c) (Reserved)
- (d) (Reserved)
- (e) Installation of roof-mounted solar collection panels and appurtenant equipment.
- (f) Retractable awnings made of fabric material. Fabric may be striped or solid in color, and must be listed on the approved color chart for awnings in order to be eligible for an exemption. Lettering or wording shall not be printed on the awning unless otherwise approved through the issuance of a certificate of appropriateness.
- (g) Installation of lighting for signage, provided such lighting complies with § 125-67Z.

(7) The change of use of an existing building with no changes to the exterior.

D. Classification of buildings, signs, and structures. Within the district, all buildings and structures shall be divided into two classes, historic and nonhistoric. **[Amended 11-4-2003]**

- (1) Historic buildings and structures. For the purposes of this article, buildings and structures possessing identified historic or architectural merit of a degree warranting their preservation shall be classified as historic.
 - (a) Those buildings or structures which meet one or more of the following criteria shall be considered as historic, noting that they may not all meet state or federal criteria for official designation as historic properties:
 - [1] Buildings or structures at which events occur or have occurred that contribute to, are identified with, or significantly represent or exemplify the broad cultural, political, economic, military, social, or sociological history of Bar Harbor and/or the nation. These include sites and buildings at which the public may gain insight or see examples of particular items or patterns relevant to North American heritage.
 - [2] Buildings or structures importantly associated with historical personages.

- [3] Buildings or structures importantly associated with historic examples of a great idea or ideal.
 - [4] Buildings or structures or structural remains embodying examples of architectural types of specimens valuable for study of a period, style, or method of building construction, of community organization and living, or a single site representing the work of a master builder, designer, architect, or landscape architect.
 - [5] Buildings or structures contributing to the visual continuity and aesthetic value of the district.
 - [6] Buildings or structures currently on, or eligible for, the National Register of Historic Places or listing as a National Historic Landmark.
- (b) A list of the properties meeting one or more of these criteria is contained in Appendixes A ~~and B~~. The Board shall annually review both the criteria and the properties included on the list and shall make recommendations to the Town Meeting for modifications to the criteria and additions to, or deletions from, the list as it deems necessary to accomplish the objectives of these design review provisions.
 - (c) The owner of any property within the district may submit a written request to the Board asking for a review of the historic or architectural merit of his/her property and consideration of its inclusion on or deletion from the list. In such cases, the Board shall review the property for conformance with the criteria and recommend adding or deleting the property as appropriate to the Town Meeting.
- (2) Nonhistoric buildings and structures. All buildings and structures not classified as historic based upon the criteria of Subsection D(1) and included on the list of historic properties shall be classified as nonhistoric.

§ 125-113 Application and review procedures.

A. Preapplication procedures.

- (1) Prior to making application for a certificate of appropriateness, an applicant ~~shall~~ should familiarize ~~herself/himself themselves~~ with the requirements and procedures of this section and obtain a copy of the procedures, standards, Design Review

Handbook, and application form from the Planning Department. Applicants are welcome to observe a meeting of the Design Review Board to familiarize themselves with the Board's procedures.

- (2) Applicants are encouraged to meet informally with ~~the Town Planner or Code Enforcement Officer~~ Planning Department staff to discuss their project prior to preparing and submitting an application or making any binding arrangements for the proposed improvements.
 - (3) All preapplication activities shall be informational in nature, and any discussions during these activities shall in no way be construed to be a decision or to bind future actions of the Board. No preapplication discussions shall cause an application to be considered to be a pending application or proceeding under 1 M.R.S.A. § 302.
- B. Application submission and review procedures. The applicant shall prepare and submit an application for a certificate of appropriateness together with supporting documentation that meets the requirements set forth below, provided that all time limits provided in this section may be extended by the mutual agreement of the applicant and the Board. The submission shall be processed as follows:
- (1) The application shall be submitted to the Planning Department at least ~~seven~~ fourteen days prior to the meeting of the Design Review Board at which the application will be considered.
 - (2) Upon receipt of an application, the Planning Department shall give the applicant a dated receipt and review the submission for completeness within ~~three~~ ten days.
 - (3) If the Planning Department finds that the application is complete, that all required information has been submitted, the Planning Department shall place the application on the agenda for the next scheduled meeting of the Board.
 - (4) If the Planning Department finds the application to be incomplete, it shall return it to the applicant with a written indication of the additional information and/or revisions needed and shall inform the applicant that the application will not be processed until a complete application is submitted. If an application is returned to the applicant on the basis that it is incomplete, the applicant may appeal this decision, in writing, to the Design Review Board and the Board shall consider the completeness of the application at its next meeting. If the Board finds that the application is complete, it shall continue with the review of the application.
 - (5) The Board shall consider an application at its next scheduled meeting after it is determined to be complete. The applicant and/or his/her representative(s) shall attend the meeting and shall explain the proposed activities to the Board and answer any questions about the application. The burden is on the applicant to demonstrate that the application meets the requirements of § 125-114. The applicant and/or his/her

representative(s) may present any information to the Board that he/she feels will demonstrate compliance with the standards.

- (6) The Board shall act to approve, approve with conditions, or deny an application within 30 days of its initial consideration. The Board may extend this period to 45 days for projects involving the construction of a new building or an addition to an existing building. If the Board fails to act within the period provided the application shall be deemed to have been denied.
- (7) The Board may impose conditions on the approval but only those that are necessary to assure compliance with the standards of approval. In making its decision, the Board shall make written findings of fact establishing that the proposal does or does not meet the standards. Following its action, the Board shall notify the Code Enforcement Officer of its decision and instruct the Code Enforcement Officer as to whether a certificate of appropriateness shall be issued.

C. Coordination with site plan review.

- (1) The design review and site plan review requirements deal with different aspects of a project. Some of the activities subject to design review may also require that the applicant obtain site plan approval from the Planning Board. These include the construction of a new building, projects involving the expansion or renovation of an existing building, and situations in which the use of the building is being changed.
- (2) Prior to preparing an application for a certificate of appropriateness, the applicant should review this chapter and/or meet with the Town Planner to determine if site plan approval is required in addition to design review. If site plan review is also required, the applicant may submit concurrent applications to the two Boards and may request that the two applications be reviewed concurrently.
- (3) The application for design review must be consistent with the activities and design submitted as part of the site plan review application. If either Board's review and approval of the plan results in revisions or conditions which affect aspects of the project subject to the other Board's review, both the applications must be modified accordingly. Projects subject to both design review and site plan review must comply with both approvals and any conditions imposed as part of the approvals.

D. Process for the demolition of a historic building. This Subsection **D** establishes two processes for the demolition of a building or structure classified as historic. The first allows for immediate demolition with the issuance of a certificate of appropriateness, while the second allows for delayed demolition if a certificate of appropriateness is not issued.

- (1) Immediate demolition.
 - (a) If the owner of a building or structure classified as historic seeks to

demolish the building or structure in whole or in part, the Review Board may approve the issuance of a certificate of appropriateness for the demolition if the property owner shows that the application meets the standards of § 125-114F E(2).

- (b) If a certificate of appropriateness is approved, the applicant may immediately apply to the Code Enforcement Officer for a demolition permit. If the Board fails to approve the issuance of a certificate of appropriateness permitting the demolition, the applicant may proceed under the delayed demolition procedures.

(2) Delayed demolition.

- (a) If the Board fails to issue a certificate of appropriateness, the owner of a building or structure classified as historic may apply for a permit to demolish the building in accordance with the following procedures. The building may be demolished; provided, however, that before a demolition permit is issued, four months' notice of the proposed demolition shall be given.
- (b) The objective of this provision is to further the purposes of this article by preserving historic buildings which are important to the education, culture, traditions, and the economic values of the Town and to afford the Town, interested persons, historic societies or organizations the opportunity to acquire or to arrange for the preservation of such buildings.
- (c) The Board may at any time during such stay approve a certificate of appropriateness in accordance with § 125-114F E(2) in which event a demolition permit shall be issued without further delay.
- (d) Public notice of the pending demolition shall be provided as follows:
 - [1] Notice of the proposed demolition shall be posted on the premises of the building or structure proposed for demolition in a location clearly visible from the street, shall be mailed to the Maine State Historic Preservation Office, and shall be delivered to the Bar Harbor Historical Society.
 - [2] Notice shall be published in a newspaper of general local circulation at least three times prior to demolition, the final notice of which shall be not less than 15 days prior to the date of the permit, and the first notice of which shall be published no more than 15 days after the application for a permit to demolish is filed.

E. Submission requirements.

- (1) The activities covered by design review vary widely in their scope and complexity and, hence, in the type and amount of information needed by the Design Review Board to determine if the proposed activities are consistent with the standards of this section.
- (2) In all cases, the burden is on the applicant to provide the Board with adequate information to determine the appropriateness of the project.
- (3) To aid the applicant in preparing his/her application, the minimum submission requirements shown in the following table have been established. Applicants should submit additional information if they feel that is necessary or helpful in demonstrating that the proposed activities are consistent with the standards.
- (4) The following exhibits shall be submitted as part of an application for a certificate of appropriateness. Projects involving more than one activity must submit the exhibits required for each of the proposed activities. For example, a project involving the painting of an existing building and the installation of a new sign is required to submit the exhibits required for both aspects of the project.

§ 125-114 Design review standards.

- A. In reviewing an application for a certificate of appropriateness, the Design Review Board shall approve the issuance of a certificate if it finds the application and proposed activities are consistent with the following standards, or that they will be consistent as a result of conditions of approval imposed on the application.
 - (1) The standards are broken down into five categories:
 - (a) Standards relating to visual compatibility;
 - (b) Standards for materials and design details for structural projects;
 - (c) Standards for materials and design details for accessory projects;
 - (d) Standards for signs; and
 - (e) Standards for historic buildings.
 - (2) In reviewing applications, the Board shall consider the appropriate sections of each of these categories and shall find the project in conformance with all relevant

provisions before approving the issuance of a certificate of appropriateness.

- (3) ~~Appendix B contains a list of locally significant buildings within the district that reflect the type of design that these standards are intended to foster. These buildings should be viewed as the standard of design against which proposed projects are judged. The intention of providing this list is not that new proposals should seek to replicate the specific design of one of these buildings but rather to provide examples of the overall level of design that is deemed to be appropriate within the district. In addition, pictorial examples of acceptable treatments of various features are provided for many of the standards in the Design Review Handbook, which can be provided by the Planning Department.~~

B. Standards relating to visual compatibility. The following standards for visual compatibility shall apply to all activities subject to a certificate of appropriateness within the Design Review Overlay District. These standards are intended to guide the design, construction, and maintenance of buildings, improvements, signs, and other visual features within the district to assure that they complement the visual character of the district and to serve as a foundation for the review of an application for a certificate of appropriateness. These standards are intended to be general statements of design principles to which activities within the district are required to conform.

- (1) Building height. The height of new buildings and additions or modifications to existing buildings shall be visually compatible with adjacent buildings as seen from public streets. Where an established pattern of building heights exists, the height or apparent height of new, expanded, or modified buildings as seen from the public street shall maintain a complementary pattern.

[\[Image\]](#)

- (2) Building scale and design.
 - (a) The size of a building and the building mass in relationship to the site and surrounding features shall visually complement the buildings, squares, and places to which it is visually related.
 - (b) Where there is an established pattern of building size or scale as viewed from a public street, new buildings or modifications to existing buildings shall be designed to maintain the existing pattern. If there is an established pattern of buildings with narrow facades on the street, a new building shall maintain this visual pattern by limiting the size of the street facade or by designing the facade to appear as a number of narrow facades or through other approaches.
 - (c) The design of buildings shall visually complement the district. The design of buildings shall also conform to the following standards:

- [1] The facade facing the street shall be treated as a front facade. The facade shall incorporate pedestrian-scale design features such as doors and windows to create a character that complements the district. Windows or architectural treatments designed to simulate windows shall comprise no less than 20% of the exterior wall surface. The facade shall be designed to avoid large areas of blank wall space.
- [2] Ground floor facades facing a public street must incorporate arcades, display windows, awnings, or other features to add visual interest to the building.
- [3] Buildings used for retail or other public uses shall be designed to have clearly defined entrances that are visually compatible with the visual character of the district.
- [4] Roofs shall be designed to complement visually the overall visual character of the district. A new building shall have a roofline that is similar to adjacent buildings if there is an established pattern of rooflines. If there is not an established pattern, new buildings shall have pitched or gabled roofs to the extent practical. If a pitched roof is not practical, false fronts or other design elements shall be used to create the appearance of a pitched roof. Accessory buildings, canopies, and other structures shall have rooflines that are visually compatible with the roofline of the principal building.
- [5] The treatment of accessory buildings and structures shall be compatible with the principal building and shall use similar materials, details, and level of trim.
- [6] New buildings with more than 5,000 square feet of first floor area shall be designed so that the building scale is visually compatible with the character of the district. The overall mass of the building shall be visually broken into smaller elements through the physical layout of the building and/or the design of the facades.

[\[Image\]](#)

- (3) Proportionality of the front or street facade.
 - (a) The ratio of the width of the front or street facade to the building height shall complement the visual character of the district.
 - (b) Where an established pattern of facade proportion exists, new or modified buildings shall maintain the established pattern. If there is a pattern of tall, narrow buildings, a new building that is wider than it is tall is inappropriate unless the facade is broken into segments that maintain

the established proportions.

[\[Image\]](#)

- (4) Proportionality of windows.
 - (a) The ratio of the width of windows to the height of the windows shall complement the visual character of the district.
 - (b) Modifications to existing buildings shall maintain the existing proportionality. The modification of the facade of existing buildings to change or eliminate windows shall be done in a manner that maintains the established relationship of windows to wall. The "bricking up" of windows is discouraged unless the relationship can be maintained in other ways.
 - (c) Where an established pattern of window proportions exists among a group of buildings or along a block face, new or modified buildings shall maintain the established pattern.
[\[Image\]](#)
- (5) Building spacing. In the ~~Downtown-Bar Harbor~~ Village Area Districts, where an established pattern exists with respect to the placement of buildings on the lot vis-a-vis the lot lines, new or modified buildings shall reflect the established pattern to the extent allowed by the setback provisions of the district in which they are located. In an area where the existing buildings all extend the full width of the lot, constructing a new building so that it is set back from the lot line is not consistent with this guideline unless the setback is required to meet zoning requirements. **[Amended 11-3-2009; 6-8-2010]**
[\[Image\]](#)
- (6) Relationship of the building to the street.
 - (a) The relationship of a new or modified building or structure with the street shall visually complement neighboring buildings, the overall character of the district, and other buildings to which it is visually related to the extent permitted by the setback requirements of the district in which it is located.
 - (b) Where there is an established front setback pattern, new buildings or structures shall be located to maintain the established pattern if permitted by the zoning requirements. If an established pattern does not exist, new buildings shall be located in a manner that is compatible with the overall character of the district. New or reconstructed buildings shall be located on the lot so that the building is set back from the street no more than the average of the setbacks for buildings in similar locations in the district.

- (c) For buildings on corner lots, the setback relationship on both streets shall be maintained through the placement of buildings and other site features.
[\[Image\]](#)

(7) Pedestrian relationships and facilities.

- (a) Where sidewalks exist in front of the parcel, the site shall be designed to provide for pedestrian access to the front entrance of the building without the need to cross parking areas or access drives.
- (b) The walkway to the front entrance shall be constructed with materials which contrast with the paving of the vehicular areas, that provide a safe and inviting access to the building, and that are visually compatible with other pedestrian facilities in the neighborhood.
- (c) If a sidewalk along the street is interrupted or crossed by a proposed driveway, access road, or other vehicular facility, the sidewalk material must be maintained across the driveway or another visually compatible method used to clearly delineate the sidewalk from the drive.

[\[Image\]](#)

[\[Image\]](#)

(8) Motor vehicle facilities and services. The location and design of facilities for motor vehicles, including parking lots, driveways, access roads, drive-through facilities, and service and fueling areas, shall visually complement the overall character of the district. The design of the site shall also conform to the following standards:

- (a) Vehicular facilities shall not be located between the front of the building and the street.
- (b) Access drives, driveways, and entrances or exits to drive-through services shall not pass between the building and the sidewalk where a sidewalk exists.
- (c) Parking lots shall be located to the side or rear of the building.
- (d) Overhead doors and service areas shall be located on the side or rear of the building and must be screened from view from a public street.
- (e) Drive-through services shall be designed to keep vehicular activity to the

side and/or rear of the building and shall prevent the queuing of vehicles between the front of the building and the street or in other areas where it is visually incompatible.

- (9) Multiple buildings on a lot in the Town Hill Village Area Business District. In the Town Hill Village Area Business District, the layout of buildings on a lot shall reflect the layout of other lots in the district with multiple buildings. The arrangement of the buildings should be visually compatible with the street and with the buildings on the lot. **[Added 11-3-2009]**
- (10) Viewshed in Town Hill Village Area Business District. Building height and placement are subject to further review in the Town Hill Village Area Business District to determine any visual impacts to retain the vista along Route 102 from the Crooked Road intersection to the Pine Heath Road intersection. **[Added 11-3-2009]**

C. Standards for materials and design details for structural projects. The following standards are intended to assure that proposals conform to the quality of design that has historically been associated with buildings within the district. The structural standards have been designed to promote compatibility with Bar Harbor's historic character and its scenic location. Certain types of design are inappropriate within the designated Design Review Overlay Districts since they will not meet these standards and thus do not enhance the existing visual character or preserve Bar Harbor's uniqueness. **[Amended 11-3-2009]**

- (1) Construction standards. With the advent of many new exterior materials, the standards are not intended to prohibit the use of all new materials. Therefore, any quality material that simulates traditional features will be evaluated on a case-by-case basis. The following standards apply to the construction of new buildings, additions to existing buildings, reconstruction, and major renovations:

(a) Siding material.

[1] Siding is applied as the exposed surface on the outside walls of buildings to provide a barrier against the penetration and infiltration of weather and at the same time enhance the visual and architectural quality of the structure in keeping with other buildings in the district. The selected siding should be visually compatible with other exterior finishes on the building and with those buildings to which it is visually related.

[2] The siding used on the building should be a material that is in common use within the overlay district. The following are appropriate siding materials:

[a] Clapboards/shiplap.

[b] Shingles/shakes.

- [c] Stucco/concrete. Stucco with wood trim interruption (English Tudor) is acceptable. Concrete block and poured or precast concrete are acceptable for foundation and fire walls but are generally not appropriate for wall surfaces that can be seen from a public street. Masonry products designed to replicate other appropriate materials are acceptable siding.
 - [d] Brick.
 - [e] Stone.
 - [f] Vinyl/metal siding. Vinyl or metal siding designed to replicate traditional siding material is appropriate but flat or corrugated metal or plastic panels are inappropriate as siding within the district.
 - [g] In the Town Hill Village Area Business District, barn board, and board and batten.
- [3] Unfinished plywood or composite flat sheet products ~~such as T-111~~ are not appropriate siding materials, except for areas that cannot be seen from a public street.
- (b) Exterior finishes. The exterior finish of a structure represents the final completion stage. Although this stage is one of the simplest to alter, it is one of the most visible aspects of a building, therefore great care must be taken in the selection of the exterior finish for any structure. The following standards shall be used for determining acceptable finish choices:
- [1] The colors shall be based upon the architectural style of the structure as well as the period in which it was built;
 - [2] The selected colors shall reflect hues and shades which were available in the era and style depicted;
 - [3] The paint colors shall be harmonious to and blend in with the immediately adjacent structures in the area.
- (c) Windows.
- [1] Windows are glassed openings in the exterior walls of buildings to admit light and air, allow for viewing, permit merchandise display, and to enhance the architectural beauty of the structure. The windows in a building shall be visually compatible. Almost any style is appropriate as long as the size is proportional to the building and maintains the

architectural continuity of the building.

- [2] Materials are appropriate if they simulate traditional materials or are visually compatible with other components of the building.

(d) Doors and doorways (in the ~~Downtown~~ Bar Harbor Village Area Districts-only). [**Amended 6-8-2010**]

- [1] Doors are a means of safe and orderly entrance to and egress from buildings. As the entrance to the building, the front or main door is often the focal point of the principal facade. Therefore, care must be taken in designing the doorway and selecting a door that is visually compatible with the structure.

[2] Doors and doorways shall conform to the following standards:

- [a] Major store entrance doors shall be recessed from the property line so as not to interfere with pedestrian traffic when they are opened.
- [b] Front doors shall have transoms above to the full height of store windows if this is consistent with the established pattern of other entrance doors.

(e) Roofing.

- [1] Roofing is intended to protect the horizontal portions of a building from the penetration and infiltration of weather while maintaining the architectural integrity of the structure. The roofing material and color, if visible from a public street, shall be selected to be visually compatible with the style of the building and the other exterior finishes and colors.

[2] In the ~~Downtown~~ Bar Harbor Village Area Districts, brightly colored metal, plastic or fiberglass roofing is visually incompatible with the character of the district and therefore inappropriate. [**Amended 6-8-2010**]

[3] Other materials are appropriate if it is demonstrated that they are visually compatible with the overall building and its environs.

[4] In the ~~Downtown~~ Bar Harbor Village Area Districts, appropriate roof colors include neutral shades such as earth tones, greys, and black. Bright or primary colors are not appropriate. [**Amended 6-8-2010**]

(f) Trim.

- [1] Trim is the molded and projecting woodwork or stonework which frames a building and its changes in direction in an aesthetically pleasing or bold fashion. The trim shall be visually compatible with the style of the building and the other exterior finishes.
 - [2] The following materials are appropriate for use as trim: wood, stone, brick, vinyl, and metal.
 - [3] Other materials are appropriate if it is demonstrated that they are visually compatible with the overall building.
 - [4] Trim materials may be mixed and matched as long as the style and color of the trim are consistent and visually compatible with the other elements of the building.
- (g) Entrances.
- [1] In the ~~Downtown~~ Bar Harbor Village Area Districts, an entrance is much more than a doorway. It is a means of getting from the street to the front door and may include changes in grade, protection from the elements, and/or a degree of landscaping and lighting. The entrance to the building shall be visually compatible with the overall building treatment and should be the focal point of the facade. The entrance shall be designed and placed to have both a visual and functional relationship to the street and sidewalk. **[Amended 6-8-2010]**
 - [2] The following are appropriate design treatments for entrances: porticos, porches, decks, steps/ramps, and canopies/awnings. Awnings and canopies must be attached to the structure and shall function as an extension of the building. Freestanding accessory structures such as tents or canopies at the front of the building are incompatible with the existing visual character of the district and shall not be allowed. Standards for awnings and canopies are in a later section.
 - [3] The following are appropriate materials for use in entrances: wood, vinyl, tile, stucco, stone, brick, concrete, canvas, fiberglass, and metal.
 - [4] Other materials are appropriate if it is demonstrated that they are visually compatible with the overall building.
- (2) Relocation/demolition standards. The demolition or relocation of the building should occur in a timely manner. After the relocation or demolition has occurred, the lot must be cleared, graded, and replanted within 30 days of the completion of the work and maintained until the lot is reused.

(3) Standards for seasonal closures.

- (a) The Town of Bar Harbor discourages the seasonal boarding up of businesses. No matter how much effort is put into making these closures look attractive, they give the Town the appearance of being shut down, which is detrimental not only to those businesses that remain open and to potential customers, but also to local citizens and guests who view them during the off-season. The Board strongly discourages the placement of closure treatments involving the covering of display windows before January 1.
- (b) Provisions for the seasonal closure of a business shall:
 - [1] Be visually compatible with the building.
 - [2] Be architecturally similar to the building materials, design, and color.
 - [3] Fit appropriately in the space being enclosed.
 - [4] Be safely and securely attached.
 - [5] Have a neat and clean appearance.
- (c) The most appropriate approach to the seasonal closure of a business is for signs and window displays to remain in place. Where this is not possible or desirable, other appropriate approaches include leaving display spaces and windows empty, installing storm doors and windows, and installing wood panels or shutters over openings.
- (d) Closure provisions that cover windows or display spaces with materials such as bed sheets, paper, tarps, cardboard, or bubble wrap or soaped or painted glass are inappropriate.
- (e) Signs shall be left in place or removed. The covering or wrapping of signs with tarp or other plastic materials is not appropriate. The use of a canvas cloth covering the sign, and bearing the name of the business, is encouraged.

D. Standards for materials and design details for accessory projects. The following standards apply to projects that do not involve the actual structure of the building but significantly impact upon the visual environment and the compatibility of the building with the character of district. Separate standards are provided for awnings, canopies, and umbrellas, outdoor displays, lighting, and landscaping. The accessory standards have been designed to promote compatibility with the district's historic character and its scenic location.

- (1) Standards for awnings, canopies, and umbrellas. The objective of the Town is to encourage property owners and businesses to make permanent improvements to the property in the district. Therefore, the use of temporary structures is discouraged. At the same time, the Board recognizes that awnings, canopies, and umbrellas can provide cover, add color, provide shade, and serve as a transition between the storefront and the upper facade in the case of awnings and canopies.
 - (a) General standards.
 - [1] Rigid or fixed awnings, sunscreens, umbrellas, or permanent canopies are not appropriate on any portion of the premises or building unless the proposed awning, sunscreen, umbrella, or permanent canopy is visually compatible with the building and its surrounding area considering the following:
 - [a] Its compatibility with the topography of the area.
 - [b] That it is customary and incidental to the activity being housed in the building or appropriate for that location due to unique circumstances.
 - [c] Its compatibility with similar elements of adjacent properties.
 - [d] That it is designed so that it will not cover unique or architecturally significant building features.
 - (b) Location and size of awnings and canopies.
 - [1] Awnings shall extend at least the full width of existing window and door frames on the first floor.
 - [2] Awnings on upper-floor windows shall be installed over individual windows and shall complement the window design, building architecture, and color.
 - [3] Canopies or awnings shall be attached to the building and not extend more than 12 feet from the wall (toward the street) to which they are attached. In the case where an awning follows another existing wall of the building at right angles (such as an L or a U), it may extend out to the point where it is parallel with the portion of the building closest to the street.
 - [4] Freestanding canopies or tents are inappropriate for ongoing use. Tents are appropriate for use for periods of not more than 72 hours with prior approval of the Code Enforcement Officer and shall only be used for

appropriate outdoor functions, such as art shows, festivals, fairs, weddings, and similar events.

[5] A street level awning shall be at least 18 inches behind the curb.

(c) Awning design.

[1] Awning construction and materials offer different patterns and shapes. There are three basic shapes: 1/4 barrel, shed, and domes.

[2] The design review standards are not intended to restrict the shape of awnings; however, the design shall be visually compatible with and maintain the character of the building. Side panels on awnings are discouraged but are permitted if they are graphically treated so as to make the panel compatible with the overall design of the building.

(d) Awning color. The color of the material, and any graphics, stripping, or pattern, shall be compatible with the building architecture, materials, and color.

(e) Awning materials.

[1] The most common awning materials are canvas, vinyl, vinyl-coated canvas, and canvas-like synthetic materials. Glossy finish vinyl is not appropriate. Synthetic canvas is available in acrylics, polyesters, nylons, and other man-made materials. Any of these materials are appropriate.

[2] Metal awnings and glass canopies detract from the historic character of the community and are not appropriate.

(f) Awning lighting. Lighting shall conform to the requirements in § 125-67Z, Lighting Ordinance. [Amended 6-9-2009]

(2) (Reserved)

(3) Landscaping standards. The landscaping standards are intended to maintain and enrich the character and beauty of the Town through the regulation of landscaping which provides aesthetically pleasing scenery, shelter and food for wildlife, natural boundaries and buffers for people, and the control of erosion. The landscaping in conjunction with the construction of a new building or an addition to existing buildings, or major landscaping projects that significantly alter the exterior appearance of a building that is used in whole or in part for nonresidential purposes, is subject to approval by the Design Review Board.

(a) Materials.

[1] Materials and types of vegetation for landscaping are too numerous to list and most are acceptable; however, the material chosen shall be visually compatible with the building.

[2] The use of invasive species as listed by the University of Maine Cooperative Extension is discouraged. **[Added 11-3-2009]**

- (b) Design. The design of the landscape should enhance the appearance of the building as well as the grounds. Landscaping shall not block unique architectural features of the building or appear disproportional to the lot and building size.
- (c) Town Hill Village Area ~~Business District~~ plantings shall include street tree plantings. Parking areas shall be screened from Route 102. Shrubs and other materials shall enhance the buildings. All other requirements in § 125-67H shall be followed. **[Added 11-3-2009]**

E. Standards for historic buildings. The standards, as applicable in the opinion of the Design Review Board, outlined in the United States Secretary of the Interior's Standards for the Treatment of Historic Properties, as most recently updated, shall apply to all preservation measures, demolition, relocation and renovations of buildings and structures classified as historic in accordance with § 125-112D(1). Additionally, the following standards apply: **[Amended 11-2-2004]**

- (1) Preservation of an historic building. A building or structure classified as historic, or any part or appurtenance, including but not limited to stone walls, fences, light fixtures, steps, paving, and signs, shall only be moved, reconstructed, altered, or maintained in a manner which will preserve the historic and architectural character of the building, structure or appurtenance. Provisions for handicapped access as required by state and federal law shall be provided in a manner which preserves the historic and architectural character of the building or structure.
- (2) Demolition of an historic building. The Design Review Board shall approve the issuance of a certificate of appropriateness for the demolition of an historic building only if the property owner shows that the preservation of the building is not consistent with the purposes of this article, that the building cannot be preserved because of the structural condition of the building, or the cost of renovations makes its retention infeasible.
- (3) Relocation of an historic building. The Design Review Board shall approve the issuance of a certificate of appropriateness for the relocation of an historic building to another site only if it is shown that the preservation on its existing site is not consistent with the purposes of this article, that the building cannot be preserved because of the structural condition of the building, or the cost of renovations makes the retention infeasible.

- (4) Renovation or expansion of an historic building.
- (a) The design review requirements are intended to preserve and protect, improve, and enhance the historic or architecturally worthy buildings, structures, sites, monuments, streetscapes, squares and neighborhoods of the district. Those buildings classified as historic possess identified historic or architectural merit of a degree warranting their preservation. Any building designated as historic shall retain all of its original features to the maximum extent feasible. Modifications or additions shall maintain the architectural style and treatment of the original building.
- (b) The following standards shall apply to the renovation or expansion of an historic building:
- [1] All materials shall match the original materials in texture, dimension, color, location, and design.
- [2] Existing features such as porches, steps, handrails, balusters, cornices, columns, lintels, windows, fixtures, hardware, doors, and roofs shall be retained.
- [3] The design of any modification of or addition to the existing building shall maintain the architectural style of the existing building and shall conform to the existing treatment with respect to trim and exterior finishes.
- [4] Handicapped access shall be located and constructed so as not to obscure character-defining features of the entranceway or porch.
- [5] Porches and steps shall not be enclosed in a manner that destroys their intended appearance.
- [6] The selected paint colors shall be consistent with Subsection C(1)(b).

F. Other standards. [Added 11-3-2009]

- (1) ~~Reserved. Town Hill Business District.~~
- (a) ~~A visual impact assessment shall be submitted to the Board to review the impacts from the development on the viewshed from Route 102 in a southwesterly direction.~~
- (b) ~~Building placement.~~

~~{1} Multiple buildings on a lot shall be arranged such that the smallest portion of a building, or the smallest building as proposed, shall be along the street.~~

~~{2} A principal building on a lot shall be arranged such that the narrowest width of the building faces the street.~~

Attachment 4 – Appendix A – Historic Properties in the Design Review Overlay District

Tax Map/ Lot #	Historic Name	Address	Present Name	Date Built	Significance
103-012-000	Villa Mary (<u>home only</u>)	77 Eden Street	Villa Mary	1879-80	National Register property
103-015-000	Bagatelle (<u>home, guest house, & carriage house only</u>)	75 Eden Street	Bagatelle	1883, <u>1904</u>	National Register property
103-016-000	Fenwold	6 Harbor Lane	Fenwold	1891	National Register property
<u>103-051-000</u>	<u>The Farm House (home and tool shed, caretaker's house, & garage only)</u>	<u>15 Highbrook Road</u>	<u>Main House</u>	<u>c. 1920, 1929</u>	<u>National Register property</u>
104-002-000	The Breezes	125 West Street	The Breezes	1896	National Register property
104-003-000	Greenlawn	123 West Street	Greenlawn	1887	National Register property
104-004-000	Saltair	121 West Street	Saltair	1887	National Register property
104-005-000	The Tides	119 West Street	The Tides	1887	National Register property
104-007-000	The Sunset	115 West Street	The Sunset	1911	National Register property
104-009-000	The Bar Harbor Club	111 West Street	The Bar Harbor Club	1929-30	National Register property
104-009-000	Guelph	111 West Street	Rosebriar	c. 1875	National Register property

104-032-000	Blanchfield House	37 Eden Street	Blanchfield House	c. 1865	Architectural/ historical
104-033-000		41 Eden Street	Caruso Residence	c. 1890	Architectural/ historical
104-037-000	The Crossways	4 Holland Avenue	The Crossways	1901	National Register property
104-038-000	Westfield	120 West Street	Westfield	1901	National Register property
104-039-000	Maisonette	118 West Street	Maisonette	1886	National Register property
104-040-000	Chantier	116 West Street	Chantier	1887	National Register property
104-041-000	The Kedge	112 West Street	The Kedge	c. 1870	National Register property
104-058-000	Bar Harbor High School	93 Cottage Street	Bar Harbor Municipal Building	1907-08	Architectural/ historical
104-061-000	Robert Hodgkins residence	69 Cottage Street	Cottage on Cottage		Architectural
104-068-000	Petunia Cottage	110 West Street	Petunia Cottage	1877	National Register property
104-069-000	Foster Cottage	108 West Street	Foster Cottage	1878	National Register property
104-070-000	Boscobel	106 West Street	Sand Bar Cottage	1887	National Register property
104-092-000	Dr. Norton's Office	67 Cottage Street	MDI Dental Arts		Architectural
104-097-000	Thankful Cottage	1 Billings Avenue	Thankful Cottage	c. 1850	Architectural
104-112-000	U.S. Post Office	55 Cottage Street	U.S. Post Office	1909	National Register property
104-121-000		17 Main Street	Galyn's	c. 1892	Architectural
104-137-000		23 Cottage Street	Cadillac North Face	c. 1900	Possible National Register district
104-139-000		29 Cottage Street	Cadillac AG	c. 1910	Possible National Register district
104-140-000	Criterion Theatre	35 Cottage Street	Criterion Theatre	1932	National Register property
104-141-000	Odd Fellows Hall	39 Cottage Street	Odd Fellows Hall	c. 1937	Local landmark
104-157-000	Haraden residence	130 Cottage Street	2 Cats	c. 1884	Architectural
104-237-000		73 Mt. Desert Street	Primrose Inn	c. 1878	Architectural
104-238-000	Ash Cottage	69 Mt. Desert Street	Mira Monte Inn	1864	Architectural

104-244-000	H.A. Brown Furniture	74 Cottage Street	Salon NaturELLES Brasserie Le Brun		Architectural
104-254-000	Christian Science Church	57 Mt. Desert Street	White Columns Inn	1937	Architectural/ historical
104-255-000	Stonethrow	67 Mt. Desert Street	Stonethrow	c. 1860	Architectural
104-268-000	American Legion Hall	70 Cottage Street	American Legion Hall	c. 1928	Architectural/ historical
104-297-000		47 Mt. Desert Street	Thornhedge Inn	1900	Architectural
104-317-000		39 High Street	Stratford House Inn	1900	Architectural
104-318-000	St. Saviour's Church and Rectory	41 Mt. Desert Street	St. Saviour's Church and Rectory	1877-1938	National Register property
104-326-000	Central House	60 Cottage Street	Central House	1887	Architectural/ historical
104-342-000	Bar Harbor Congregational Church	29 Mt. Desert Street	Bar Harbor Congregational Church	1951	Architectural/ historical
104-355-000		46 Cottage Street	Rosalie's	c. 1900	Architectural
104-372-000		14 Cottage Street	Pink Pastry Shop	c. 1889	Possible National Register district
104-373-000		8 Cottage Street	Merchant & Frye		Architectural
104-383-000	Emery Block Building	103 Main Street	Bar Harbor Savings & Loan Assn.	c. 1900	Architectural
104-386-000	Lyford Woodard Building	109 Main Street	Bar Harbor Law Offices	c. 1887	Architectural/ historical
104-387-000	F.H. Moses Florist Shop	113 Main Street	Sand Beach Surf Co.	1904	Architectural
104-392-000	Bar Harbor Police Station	38 Rodick Street	Coston & Mclsaac	c. 1900	Architectural/ historical
104-401-000	Comfort Station	Firefly Lane	Information Building		Architectural/ historical
104-401-000	Bar Harbor Fire Station	Firefly Lane	Bar Harbor Fire Station	1911	Architectural/ historical
104-403-000	Village Green (bandstand, clock, fountain)	Main and Mt. Desert	Village Green	various	Local landmark
104-413-000		74 Mt. Desert Street	Holbrook House Inn	c. 1876	Architectural
104-419-000	Holy Redeemer Roman Catholic Church	56 Mt. Desert Street	Holy Redeemer Roman Catholic Church	1907	Architectural/ historical

104-432-000	Y.W.C.A.	36 Mt. Desert Street	Y.W.C.A.	1913	Local landmark
104-433-000	Jesup Memorial Library	34 Mt. Desert Street	Jesup Memorial Library	1911	Architectural/ historical National Register property
104-450-000	YMCA	26 Mt. Desert Street	Abbe Museum	1899	Local landmark-National Register property
104-481-001	McKay Cottages	227 Main Street	McKay's Restaurant		Architectural
104-492-000		194 Main Street	Ivy Manor		Architectural
104-493-000		166 Main Street	Window Panes		Architectural
104-497-000	Butterfields	154 Main Street	Sailor & Hook		Architectural/ historical
104-504-000	Pine and Palm (original facade only)	134 Main Street	Acadia Corporation	c. 1883	Architectural/ historical
104-507-000	Sproul's Cafe	128 Main Street	Ward Building	1880	National Register property
104-509-000	Bee's Candy	116 Main Street	Hemporium	c. 1880	Architectural/ historical
104-510-000	Caleb's	112 Main Street	The Barnacle	c. 1900	Architectural
104-512-000	First National Bank (original building only)	102 Main Street	First National Bank		Architectural/ historical
104-519-000	Grant Building	80 Main Street	<u>Dali's Jewelry</u> <u>The Beehive</u> <u>General Store</u>	1897	Architectural/ historical
104-523-000	The Mount Desert Reading Room (original reading room only)	8 Newport Drive	Bar Harbor Inn	1887	Architectural/ historical
104-525-000	Morrison Building	62 Main Street	The Stadium	1897	Architectural/ historical
104-528-000	Sherman's Bookstore	56 Main Street	Sherman's Bookstore		Architectural
104-530-000	Agamont Park fountain	3 Newport Drive	Agamont Park fountain		Local landmark
104-531-000	Bar Harbor Banking & Trust	82 Main Street	Bar Harbor Banking & Trust	1887	Architectural/ historical
105-001-000	Bass Cottage	14 The Field	Bass Cottage Inn	1885	Possible National Register district
105-002-000	Ullikana	16 The Field	Ullikana	1885	Possible National Register district
107 219-000	Bangor Hydro Building	18 Edgewood Street	Bangor Hydro Building		Architectural/ historical
108-005-000	Edgar Morang Residence	278 Main Street	Project Social	1924	Architectural

108-068-000	Bar Harbor Water Co.	337 Main Street	Anchor Space	1895	Architectural
Signs					
104-125-000	Geddy's Pub Moose	19 Main Street	Geddy's Pub Moose		Local landmark
104-140-000	Criterion Theatre marquee	35 Cottage Street	Criterion Theatre marquee	1932	National Register property
104-384-000	West End Drug stained glass	105 Main Street	West End Drug stained glass		Architectural/ historical
104-512-000	First National Bank clock sign	102 Main Street	First National Bank clock sign		Architectural/ historical
104-531-000	Bar Harbor Banking & Trust awning sign	82 Main Street	Bar Harbor Bank & Trust awning sign	1887	Architectural/ historical

Appendix B
Locally Significant Properties in
Design Review Overlay District

Map/Lot Number	Address Common Name
104-521-000	66 Main Street Ben & Bill's Chocolate Emporium
104-402-000	119 Main Street Rupimimi's (Old Mary Jane Building)
102-004-000	1 West Street Harbor Place
104-131-000	53 Main Street Bayside Landing/Testa's

~~104-024-000~~ ~~124 Cottage Street~~
~~Porcupine Grill~~

~~103-051-000~~ ~~15 Highbrook Road~~

Given under our hands and seal at Bar Harbor this _____ day of _____, 2023:

Municipal Officers of the Town of Bar Harbor

Valerie Peacock, Chair

Gary Friedmann, Vice Chair

Matthew A. Hochman

Joseph Minutolo

Kyle Shank

Maya Caines

Earl Brechlin