

**PROPOSED AMENDMENTS TO THE ZONING ORDINANCE
RELATIVE TO SECTION 5.11, GOOD NEIGHBOR AND DESIGN STANDARDS FOR
PROPOSED DEVELOPMENT, June, 2020**

~~Shaded Strike through~~ indicates wording removed

Shaded Underline indicates wording added

Asterisks (* * * *) indicates existing wording omitted before or after

5.11 Reserved (please note: Section 5.11 is proposed to be moved to Section 6.6.4 Site Plan Review)

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6.6.4 Site Plan Review: The site plan review provisions set forth in this Ordinance are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that nonresidential and multifamily construction is designed and developed in a manner which assures that adequate provisions are made for traffic safety and access; emergency access; water supply; sewage disposal; management of stormwater, erosion, and sedimentation; protection of the groundwater; protection of the environment, wildlife habitat, fisheries, and unique natural areas; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

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5.11 6.6.4.7.23 Good Neighbor and Design Standards for Proposed Development: The standards contained in this Section shall apply to all commercial uses in all zoning districts unless otherwise stated.

This section shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit, or provision of law. Where this section imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this section shall control.

~~5.11.1~~ 6.6.4.7.23.1 Exterior Lighting – The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated.

Lighting may be used which serves security, safety, and operational needs, but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways. Lighting fixtures must be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings and so that they do not unnecessarily light the night sky. Direct or indirect illumination must not exceed 0.5 foot candles at the lot line or upon abutting residential properties.

All exterior lighting, except security lighting, must be turned off between 11 p.m. and 6 a.m. unless located on the site of a commercial or industrial use which is open for business during that period. Wiring to light poles and standards must be underground.

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5.11.2 6.6.4.7.23.2 Buffering of Adjacent Uses – The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use, and for the screening of mechanical equipment, service, and storage areas.

Buffering must be designed to provide a year-round visual screen in order to minimize adverse impacts. It may consist of fencing, evergreens, berms, rocks, boulders, mounds, or a combination thereof.

- 1) A development must provide sufficient buffering when topographical or other barriers do not provide reasonable screening, and where there is a need to:
 - a) shield neighboring properties from any adverse external effect of the development, or
 - b) shield the development from the negative impacts of adjacent uses.

The width of the buffer may vary, depending on the treatment of the area. Within densely built-up areas, a buffer with dense plantings, fencing, or changes in grade may be as little as five (5) feet in width. A buffer with moderate levels of planting should be ten (10) feet to fifteen (15) feet in width. In suburban and rural settings, the width of the vegetated buffer should be increased to a minimum of twenty-five (25) feet. Areas adjacent to service, loading, or storage areas should be screened by dense planting, berms, fencing, or a combination thereof with a width of a minimum of five (5) feet.

5.11.3 6.6.4.7.23.3 Noise –

a) Findings and Purpose: It is recognized that people have a right to and should be ensured an environment free from excessive noise that may jeopardize their health, safety, or welfare; or degrade the quality of life. This section is enacted to protect, preserve, and promote the health, safety, welfare, and quality of life through the reduction, control, and prevention of excessive noise.

b) Definitions: The following definitions shall apply in the interpretation and enforcement of this section:

CONSTRUCTION: Any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition for or of public or private rights-of-way, structures, utilities, or similar property.

CONSTRUCTION EQUIPMENT – Any equipment or device operated by fuel or electric power used in construction or demolition work.

DAYTIME HOURS – The hours between 7:00 AM and 10:00 PM, Monday through Saturday, and the hours of 9:00 AM through 10:00 PM on Sundays.

dB(a) – The abbreviation designating both the unit measure sound level, (the decibel) and the mode of measurement that uses the A-weighting of a sound-level meter.

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DECIBEL (dB) – The practical unit of measurement for sound-pressure level. The number of decibels of a measured sound is equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (twenty [20] micropascals); abbreviated dB.

DEMOLITION – Any dismantling, intentional destruction, or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

DOMESTIC POWER EQUIPMENT – Includes, but is not limited to, power saws, drills, grinders, lawn and garden tools, and other domestic power equipment intended for use in residential areas by a homeowner.

EMERGENCY – Any occurrence or set of circumstances, involving actual or imminent physical trauma or property damage, which demands immediate action.

EMERGENCY WORK – Work made necessary to restore property to a safe condition following an emergency, or work required to protect persons or property from exposure to imminent danger.

LOUD AND UNREASONABLE NOISE – Any sound, the intensity of which exceeds the standards set forth in Section ~~5.11.3.c.1~~ **6.6.4.7.23.3.c.1**.

NIGHTTIME HOURS – The hours between 10:00 PM and 7:00 AM, Sunday evening through Saturday morning, except that “night” shall mean the hours between 10:00 PM Saturday and 9:00 AM Sunday.

NOISE LEVEL – The sound-pressure level as measured with a sound-level meter, using the A-weighting network. The level, so read, is designated db(A) or dB(A).

PERSON – Any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency, or political or administrative subdivision of the state, or other legal entity of any kind.

PREMISES – Any building, structure, land, or portion thereof, including any appurtenances; and shall include yards, lots, courts, inner yards, and real properties without buildings or improvements, owned or controlled by a person. The emitter’s premises include contiguous publicly dedicated streets and highway rights-of-way, and all road rights-of-way and water rights-of-way.

PROPERTY LINE – That real or imaginary line along the ground surface and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person, and separates real property from the public right-of-way. In situations involving multiple buildings on the same lot or multiple occupancies within the same building, the lot line shall be deemed to be the exterior wall (including floors and ceilings).

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RESIDENTIAL ZONE – All zoning districts that allow residential uses.

SOUND LEVEL – The sound-pressure level measured in decibels with a sound-level meter set for A-weighting; sound level is expressed in dB(A).

SOUND-LEVEL METER – An instrument for the measurement of sound levels conforming to ANSI Type I or II Standards.

SOUND-PRESSURE LEVEL – The level of a sound measured in dB units with a sound-level meter which has a uniform response over the band of frequencies measured.

c) Noise Levels – It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his/her premises in excess of the noise levels established in this section.

1) Noise level standards – Sound from any source controlled by this section shall not exceed the following limits at the property line of the receiving property:

Sound Pressure Level Limits - dB(a)		
District	Daytime	Nighttime
Commercial	60	50
Residential	50	45

a) Where the emitting and receiving premises are in different zones, the limits governing the stricter zone shall apply to any regulated noise entering that zone.

b) The levels specified may be exceeded by 10 dB(A) for a single period, no longer than fifteen (15) minutes, in any one day.

2) Exclusions: These levels shall not apply to noise emitted by or related to:

a) Natural phenomena:

b) Any bell or chime from any building, clock, school, or church;

c) Any siren, whistle, or bell lawfully used by emergency vehicles, or any other alarm systems used in an emergency situation, provided, however, that burglar alarms not terminating within thirty (30) minutes after being activated shall be unlawful;

d) Warning devices required by OSHA, or other state or federal, safety regulations.

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- 3) Exemptions** – The following shall be exempt from these regulations, subject to special conditions as spelled out:
- a) Noise from domestic power equipment, such as, but not limited to, power saws, sanders, grinders, lawn and garden tools, or similar devices, operated during daytime hours;
 - b) The noises of safety signals, warning devices, emergency pressure-relief valves, any other emergency activity and aircraft;
 - c) Timber harvesting (falling trees and removing logs from the woods), during the hours of 5AM to 9PM.
 - d) Noise generated by construction or demolition equipment which is operated during daytime hours, provided that the operation of construction equipment during nighttime hours shall not exceed the maximum noise levels as specified in paragraph (c.1) above. Emergency construction or repair work by public utilities shall also be exempt;
 - e) Noise created by refuse and solid waste collection, provided that the activity is conducted during daytime hours;
 - f) Noise created by recreational activities which are permitted by law and for which a license or permit has been granted by the Town, including, but not limited to, parades, sporting events, concerts, and fireworks displays;
 - g) Noise created by blasting, other than that conducted in connection with construction activities, shall be exempted; provided that the blasting is conducted between 8:00 AM and 5:00 PM local time, at specified hours previously announced to the local public; or provided that a permit for such blasting has been obtained from the Code Enforcement Officer;
 - h) Existing industrial noise sources which are in operation at the time of enactment of this section shall be permitted a permanent 10 dB(A) noise level allowance in excess of what is permitted.
 - i) Noise created by any agricultural activity.

d) Inspections/Interference with Authorized Personnel:

- 1) For the purpose of determining compliance with the provisions of this section, the Code Enforcement Officer is authorized to arrange for an individual trained and certified to make inspections of all noise sources, to take measurements and make tests whenever necessary to determine the quantity and character of the noise.

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2) No person shall hinder, obstruct, delay, resist, prevent in any way, or interfere or attempt to interfere with any authorized person while in the performance of his/her duties under this section.

e) Manner of Enforcement

1) The Code Enforcement Officer is directed to enforce the provisions of this section.

2) No person shall interfere with, oppose, or resist any authorized person charged with the enforcement of this section while such person is engaged in the performance of his duty.

3) Violations of this section shall be prosecuted in the same manner as other misdemeanor violations, provided, however, that in the event of an initial violation of the provisions of this section, a written notice shall be given the alleged violator, which specifies the time by which the condition shall be corrected or an application for a variance shall be received by the Code Enforcement Officer. No complaint or further action shall be taken in the event the cause of the violation has been removed, or the condition abated or fully corrected within the time period specified in the written notice.

4) In the event the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required herein shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at his/her last known address, or at the place where the violation occurred, in which event the specified time period for abating the violation or applying for a variance shall commence at the date of the day following the mailing of such notice. Subsequent violations of the same offense shall result in the immediate filing of a misdemeanor complaint.

f. Violations and Penalties: Any person in violation of any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay for the hiring of an individual trained and certified to make inspections of all noise sources, to take measurements and make tests whenever necessary to determine the quantity and character of the noise, and additionally, shall be fined in an amount not to exceed \$100. Each day such violation continues after the time for correction of the violation has been given in an order, shall constitute a continuing violation and the amount of the fine shall be doubled for each day said violation continues, said fine not to exceed \$400 per day.

5.11.4 6.6.4.7.23.4 Storage of Materials – Exposed non-residential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, automobile parts, metals, or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses, and users of public streets.

All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard

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which abuts a residential or institutional use or public street, it must be screened by fencing or landscaping.

Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.

5.11.5 6.6.4.7.23.5 Landscaping – Landscaping must be provided as part of a site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties.

Landscaping may include plant materials such as trees, shrubs, groundcovers, perennials, and annuals; and other materials such as rocks, water, sculpture, art, walls, fences, paving materials, and street furniture.

5.11.6 6.6.4.7.23.6 Building Placement – The site design should avoid creating a building surrounded by a parking lot. In urban, built-up areas and in villages, buildings should be placed close to the street in conformance with existing adjacent setbacks. Parking should be to the side, or preferably in the back.

In rural uncongested areas, buildings should be set well back from the road so as to conform with the rural character of the area. If the parking is in front, a generous landscaped buffer between road and parking lot is to be provided. Unused areas should be kept natural as field, forest, wetland, etc. Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks. Tree planting should be used to provide shade and break up the scale of the site. Parking areas should be separated from the building by a minimum of five (5) to ten (10) feet. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

5.11.7 6.6.4.7.23.7 Building Illumination – Building facades may be illuminated with soft lighting of low intensity that does not draw inordinate attention to the building. The light source for the building façade illumination must be concealed.

Building entrances may be illuminated using recessed lighting in overhangs and soffits, or by use of spotlighting focused on the building entrances with the light source concealed (e.g., in landscaped areas). Direct lighting of limited exterior building areas is permitted, when necessary for security purposes.

5.11.8 6.6.4.7.23.8 Building Entrances – The main entrance to a building should be oriented to the street, unless the parking layout or the grouping of the buildings justifies another approach; and should be clearly identified as such through building and site design, landscaping, and/or signage.

At building entrance areas and drop-off areas, site furnishings such as benches and sitting walls and, if appropriate, bicycle racks shall be encouraged. Additional plantings may be desirable at these points to identify the building entrance, and to complement the pedestrian activity at this point.

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5.11.9 6.6.4.7.23.9 **Setback and Alignment of Buildings** – Where there is a reasonably uniform relationship between the front walls of buildings and the street, new buildings must be placed on a lot in conformance with the established relationship. For buildings on corner lots, the setback relationship of both streets should be maintained. The creation of “empty corners” should be avoided, through the placement of the building and other site features.

5.11.10 6.6.4.7.23.10 **Sidewalks** – Where an existing or planned public sidewalk is interrupted by a proposed project driveway, the sidewalk material must continue to be maintained across the driveway, or the driveway must be painted to distinguish it as a sidewalk. Further, if street trees exist on the adjacent property, street trees must be planted, in a like manner, on the new site. In village situations, a widening of the sidewalk onto private property to encourage window shopping and an improved streetscape should be encouraged. Benches, sculpture, planters, and other street furniture should be encouraged.

5.11.11 6.6.4.7.23.11 **Location of Off-Street Parking** – In suburban and rural areas, smaller uses that may need public visibility from the street should be sited as close to the street as possible. In this case, no more than one row of parking shall be allowed between the building and the street, with the balance of the parking located at the side and/or rear of the building. Larger scale uses, and uses which do not require visibility from the road, may be located further from the road with a landscaped buffer between the building and the street.

5.11.12 6.6.4.7.23.12 **Landscaped Roadside Buffers** – Whenever the area between the street and the front of the building is used for parking or vehicle movement, a vegetated buffer strip must be established along the edge of the road right-of-way. This buffer strip must soften the appearance of the site from the road and must create defined points of access to and egress from the site. The width of the buffer strip must increase with the setback of the building as follows:

Building Setback	Buffer Width
< 50 feet	10 feet
50 to 74 feet	15 feet
75 to 99 feet	20 feet
100 feet or more	25 feet

Where the buffer cannot be achieved, a low wall, fence, or hedge may be used to create the buffer.

5.11.13 6.6.4.7.23.13 **Landscaping of Parking Lots** – Landscaping around and within parking lots shades hot surfaces and visually “softens” the hard surface look of parking areas. Parking areas must be designed and landscaped to create a pedestrian-friendly environment. A landscaped border must be created around parking lots. Any parking lot containing ten (10) or more parking spaces must include one (1) or more landscaped islands within the interior of the lot. There must be at least one (1) island for every twenty (20) spaces. Landscaping must screen the parking area from adjacent residential uses, and from the street.

5.11.14 6.6.4.7.23.14 **Building Orientation** – New buildings within a built-up area should be compatible with the neighborhood; such that they reflect the overall building bulk, square footage,

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dimensions, placement of the building on the lot, and rhythm of buildings and spaces along the street edge; and minimize the visual impact on the neighborhood. The visual impact of a building shall be measured by the relationship to other buildings on the lot, design of the front of the building, and the rhythm of buildings and open spaces along the street.

5.11.15 6.6.4.7.23.15 Building Scale – When large new buildings or structures are proposed in built-up areas where their scale (size) and other features may be significantly different from that which already exists in the immediate neighborhood, care must be taken to design the new building or structure so that it is compatible with its neighbors. This may include making the building appear small, using traditional materials, styles and/or proportions.

5.11.16 6.6.4.7.23.16 Design of Drive-Through Facilities – Any use that provides drive-through service must be located and designed to minimize the impact on neighboring properties and traffic circulation. No drive-through facility shall be located in the area of the site adjacent to a residential use or residential zone. Communication systems must not be audible on adjacent properties in residential use. Vehicular access to the drive-through shall be through a separate lane that prevents vehicle queuing normal parking areas. Adequate queuing space must be provided to prevent any vehicles from having to wait on a public street, within the entry from the street, or within designated parking areas. The drive-through must not interfere with any sidewalk or bicycle path.

5.11.17 6.6.4.7.23.17 View Protection – When a proposed development is located within the viewshed of a view, as identified in the comprehensive plan, from a public street or facility, the development must be designed to minimize the encroachment of all buildings, structures, landscaping, and other site features on the identified view.

5.11.18 6.6.4.7.23.18 Ridgeline Protection – When a proposed development is located on a hillside that is visible from a public street, road, water body or facility, the development must be designed so that buildings, structures and other improvements do not extend above the existing ridgeline or alter the ridge profile significantly when viewed from the public streets, roads, water bodies, or facilities. This provision may be waived for communication towers, spotting towers, and similar facilities that must be located above the ridgeline for operational reasons.

5.11.19 6.6.4.7.23.19 Hillside Development – When a proposed development is located on a hillside that is visible from a public street, road, water body, or facility, the development must be designed so that it fits harmoniously into the visual environment when viewed by the public from public areas. In predominantly natural environments, site clearing must be minimized and vegetation must be retained or provided to minimize the visual intrusion of the development. In developed environments, the appearance of the new development, when viewed by the public from public areas, must be compatible with the existing visual character in terms of scale, massing, and height to the maximum extent reasonable.

5.11.20 6.6.4.7.23.20 Shoreland Development – When a proposed development is immediately visible from a great pond, river, or stream the development must be designed so that it fits harmoniously into the visual environment when viewed from the water body. In predominately natural environments, site clearing must be minimized, natural vegetation must be maintained adjacent to the shoreline to soften the appearance of the development, and vegetation must be

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retained or provided to minimize the visual intrusion of the development. In developed shoreland environments, the appearance of the new development when viewed from the water must be compatible with the existing visual character in terms of scale, massing, and height to the maximum extent possible. Storage and service areas must be screened or landscaped to minimize their visual impact.

5.11.21 6.6.4.7.23.21 Odor – All site plans shall demonstrate that the proposed development will not result in undue air pollution, and that it will comply with the following standards:

a) No emission of dust, ash, smoke, or other particulate matter, or gases and chemicals, shall be allowed which can cause damage to human or animal health, safety, vegetation, or property, by reason of concentration or toxicity, which can cause soiling beyond the property boundaries, or which fails to meet or cannot meet the standards set by the Maine Department of Environmental Protection Agency.

b) No person, wherever located, shall cause or allow the emission of odorous air contaminants from any source, such as to result in detectable odors, which are measured in excess of the following limits at the lot line of the source:

1) For the purposes of this regulation, two odor measurements shall be made within a period of one (1) hour, these measurements being separated by at least fifteen (15) minutes.

2) An odor or odors beyond a lot line constitutes a nuisance if it unreasonably interferes with the enjoyment of life or use of property. Based on the following nuisance levels, the Code Enforcement Officer shall exclude or restrict uses that produce or emit an odor beyond a lot line that is above a Level 2.

ODOR LEVELS

Level 1: An odor that would ordinarily not be noticed by the average person but could be detected by the experienced inspector or hyper-sensitive individual.

Level 2: An odor so weak that the average person might detect it if attention was called to it but would not otherwise attract attention.

Level 3: An odor of moderate intensity that would be readily detected and would be regarded with disfavor.

Level 4: An odor that would force itself upon the attention of the average person and that would make the air very unpleasant.

Level 5: An odor of such intensity that the air would be absolutely unfit to breathe.

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