

Proposal B-1 with PI Bd Clarification Amendments #1-8

Prepared for August 8, 2023 Planning Board Meeting

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Amend Sec. 60-145 and Sec. 60-146 of ARTICLE IV, DISTRICT REGULATIONS, DIVISION 2, *AGRICULTURE AND RESOURCE PROTECTION DISTRICT*, as follows (additions are underlined; deletions are ~~struck out~~):

ARTICLE IV. - DISTRICT REGULATIONS

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*DIVISION 2. AGRICULTURE AND RESOURCE PROTECTION
DISTRICT*

Sec. 60-144. Purpose.

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Sec. 60-145. Use regulations.

- (a) *Permitted uses.* The following uses are permitted:
- (1) One-family detached dwellings, including manufactured housing subject to all the design standards, except the siting requirements of Sec. 60-1010, as set forth in division 6 of article XII of this chapter, on parcels containing no less than ten acres, provided that the dwelling is accessory to farming or agricultural operations, recreational uses or natural resource uses and subject to all of the following restrictions:
 - a. The footprint of residential development associated with the one-family detached dwelling shall comprise no more than 20% of the land coverage or two acres, whichever is less of the lot upon which the dwelling is to be constructed. For purposes of this subsection, "residential development" shall include the following:
 - (i) Residential structures; and
 - (ii) Impervious and non-vegetated areas accessory to the residential use, such as driveways, parking areas, walkways and patios (areas created using waffle pavers and other semi-impervious surfaces shall be considered non-vegetated surfaces, even if the surface is covered by grass or other similar vegetation); and
 - (iii) Areas on, over or beneath the surface of the earth devoted to the transmission of water, electricity, telephone or gas to the residential use by pipes, poles, wires, lines, conduits, cables or other devices; and
 - (iv) Areas on, over or beneath the surface of the earth devoted to the disposal of waste or wastewater generated by the residential use, including, but not limited to, septic tanks, disposal fields, holding tanks, pretreatment filters, and piping; and
 - (v) Structures accessory to the residential use; and
 - (vi) Uses of the land accessory to the residential use, but not accessory to other allowed uses within the zone.

- b. New one-family detached dwellings shall:
- (i) Not be built within the Lake Auburn Watershed Overlay District; and
 - (ii) Provide a farm, agricultural, recreational or natural resource use business or land use plan that has been approved by the Planning and Permitting Director or their designee. The Planning and Permitting Director or their designee must make the following written findings prior to approval of the business plan or land use plan and prior to the issuance of a building permit:
 - a. The business or proposed land use is feasible, and, if implemented will constitute a bona fide farming, agricultural, recreational or natural resource use allowed under either subsection (a) [permitted uses] or subsection (b) [special exception uses] of this Sec. 60-145.
 - b. The parcel can reasonably accommodate an enterprise of the size and scope proposed. Parcel size or other lot limitations often restrict potential uses, and the plan must provide for utilization of the parcel's available potential for a farm, agricultural, recreational or natural resource use.
 - c. The parcel lawfully existed as of October 1, 2017, or meets the dimensional standards of Sec. 60-146, and otherwise meets the requirements of this chapter; and
 - (iii) Avoid being sited on soils of state significance or prime farmland as defined by the United States Department of Agriculture (USDA) unless it can be demonstrated to the Code Enforcement Officer that non-prime farmland is not available within the building envelope, as determined pursuant to Sec. 60-146 of this chapter, on the subject property; and
 - (iv) Avoid being sited on land determined to be essential habitat, as defined by the State of Maine Department of Inland Fisheries and Wildlife unless it can be demonstrated to the Code Enforcement Officer that non-essential habitat is not available within the building envelope, as determined pursuant to Sec. 60-146 of this chapter, on the subject property; and
 - (v) Avoid being sited on wetlands; and
 - (vi) Avoid being sited on slopes greater than 25%; and
 - (vii) Not be sited on any portion of a parcel that is classified as being:
 - a. Currently enrolled in the State of Maine Farmland Tax Program; or
 - b. Currently enrolled in the State of Maine Tree Growth Tax Law Program; or
 - c. Currently enrolled in the State of Maine Open Space Tax Program.
- c. No certificate of occupancy shall be issued for any such residence until satisfactory evidence that the requirement of Sec. 60-145(a)(1)(a) and Sec. 60-145(a)(1)(b)(ii) has been met is presented to the municipal official charged with authority to issue the certificate of occupancy.
- d. In no case shall any residence constructed under the provisions of this section after the effective date of the amended ordinance from which this section is derived continue to be occupied as a residence if the lot upon which the residence is constructed fails to meet the requirements set forth in Sec. 60-145(a)(1)(a) and Sec. 60-145(a)(1)(b)(ii).
- (2) Buildings, equipment and machinery accessory to the principal use including, but not limited to: barns silos, storage buildings and farm automobile garages.
 - (3) Forest products raised for harvest, including, but not limited to, maple sugaring, firewood processing, Christmas tree cultivation, or mushroom cultivation.
 - (4) Field crop farms.
 - (5) Row crop farms.
 - (6) Orchard farms.
 - (7) Truck gardens.
 - (8) Plant and tree nurseries.

- (9) Greenhouses.
 - (10) Handling, storage or processing and sale of forestry products or agricultural products.
 - (11) Livestock operations including poultry farms, cattle farms, dairy farms, stud farms, hog farms, sheep ranches, other animal farms, including farms for raising fur-bearing animals.
 - (12) Wayside stands.
 - (13) Two-family dwellings which are created from the conversion of a one-family dwelling structure which was constructed prior to 1900.
 - (14) Adult use and medical marijuana cultivation, but not retail sales of any kind.
 - (15) Marijuana manufacturing accessory to a licensed cultivation site.
 - (16) Ground-mounted and dual-use solar energy generating systems less than one acre in total land area as defined in Sec. 60-1501.
 - (17) Natural resource uses.
 - (18) Small-scale recreational uses of land designed or intended for public use.
- (b) *Special exception uses.* The following uses are permitted by special exception after approval by the planning board in accordance with the provisions of division 3 of article XVII of this chapter:
- (1) Sawmills and their customary accessory land uses and buildings incidental to the harvesting of forest products, subject to the following conditions:
 - a. Sawmill and accessory activity shall not be detrimental to the neighborhood or the city by reason of special danger of fire or explosion, pollution of rivers or perennial streams or accumulation of refuse.
 - a. Wood processing operation shall be located no closer than 75 feet from any river or perennial stream, 250 feet from any zoning district boundary or residential dwelling and shall be limited to four persons employed.
 - b. Where natural vegetation is removed, it shall be replaced within six months with other vegetation which will be equally effective in retarding erosion and will preserve natural beauty.
 - (2) Veterinary hospitals, where operated by licensed veterinarians, including offices and facilities for temporarily boarding animals.
 - (3) Handling, storage and sale of agricultural services, equipment, and supplies accessory to the farming use.
 - (4) Bona fide residences required for farm labor. Any residence constructed for farm labor shall not be converted to nonfarm residential use except by permission of the planning board based upon a finding that the abandonment or reduction in such use resulted from causes beyond the control of the applicant and not from any intention to circumvent the requirements of this division. The findings and the conditions upon which such altered use may be continued shall be made a part of the permanent records.
 - (5) Non-small scale recreational uses of land intended or designed for public use subject to the following conditions:
 - a. No such recreational use shall be expanded or extended so as to occupy additional land area greater than 20 percent of the original area or one acre, whichever is less; or by the construction of a structure or an addition to an existing structure by more than 900 square feet of additional floor space unless the owner or occupant first obtains approval of the planning board in the manner and upon the same terms as approvals of initial recreational uses.
 - b. Any proposed new or expanded recreational use shall be completed on or before the estimated completion date except that the planning board may grant reasonable extension of time where good cause for the failure to complete is shown.
 - (6) Any legally nonconforming summer camp or cottage may be rebuilt if destroyed by fire or other casualty, subject to the following conditions:
 - a. Such reconstruction shall comply with all ordinances applicable to new construction. Such reconstruction need not, however, comply with zoning provisions which would otherwise be applicable except for the provisions of article XII of this chapter.
 - b. In cases where no minimum setback is established by division 5 of article XII of this chapter

an open yard space of at least ten feet between the building as reconstructed and each of the property lines shall be maintained.

- (7) Rifle, pistol, skeet or trap shooting ranges, public or private.
- (8) Cemeteries, subject to the following conditions:
 - a. At least 20 acres in area
 - b. Not located in any environmental overlay district or over any known aquifer.
 - c. At least 10 acres if designated a conservation cemetery.
- (9) Municipal sanitary landfills, subject to the following conditions:
 - a. Not located in any environmental overlay district or over any known aquifer.
 - b. Provisions shall be made to avoid surface water and groundwater pollution.
 - c. Provisions shall be made for frequent covering of deposited wastes with earth to counteract vermin, insects, odors, and windblown debris.
- (10) Radio, radar, television and radio telephone transmitting or broadcasting towers, but not studios or offices for such transmitting or broadcasting, provided that:
 - a. Every such tower shall be installed in a location and manner that ensures its safe operation and the safety of the surrounding residents, building occupants, land uses and properties.
 - b. In no case shall such tower be located less than one and one-half times its height from the nearest property line.
- (11) Wholesale nurseries, subject to the following conditions:
 - a. At least one-half of the area of the lot (up to a maximum of three acres) is in active nursery production in a husband type manner.
 - b. The plants and trees propagated, grown and nurtured in the nursery are used as the primary products by the owner/operator of the landscape service.
- (12) Processing and storage of compost and bulking agents from the municipal wastewater sewerage sludge facilities provided that:
 - a. All compost and amendments are to be stored undercover or screened from the public way and abutting property as determined by the planning board.
 - b. All federal, state and local ordinances and laws relating to the processing and storage of waste are complied with.
 - c. An end-use plan must be filed as part of the planning board process.
- (13) Licensed hospice care facility provided that it shall be licensed by the state as a Medicare certificate hospice.
- (14) Slaughterhouse, stockyard, abattoir, dressing plant in compliance with state and federal regulations subject to the following conditions:
 - a. The facility shall not be located within the Lake Auburn Watershed Overlay District, the watershed of Taylor Pond, the shoreland overlay district or the floodplain overlay district.
 - b. The proposed use shall not occupy more than 10,000 square feet of building area.
 - c. The number of employees shall be limited to not more than 15.
 - d. Accessory retail sales shall be limited to 10 percent of building area or 1,000 square feet, whichever is smaller.
 - e. Hours of operation shall limited to between 6:00 a.m. and 8:00 p.m.
- (15) Compost operations, excluding municipal and industrial waste, to process products such as manure, bedding, animal mortalities, waste feed, produce, forestry by-products, leaves and yard trimmings in compliance with state and federal regulations, subject to the following conditions:
 - a. All compost sites shall be evaluated for suitability by a properly qualified professional, including benchmark water testing prior to approval.
 - b. Provisions shall be made to avoid surface and groundwater pollution.
 - c. Provisions shall be made to counteract vermin, insects and odors.
 - d. Must comply with all applicable state department of environmental protection and state department of agriculture rules and regulations and best management practices.
 - e. Shall not be located within the Lake Auburn Watershed Overlay District.

department of inland fisheries and wildlife, an IF&W recommendation shall be secured before a planning board ruling.

4. A vegetative cover plan is provided that demonstrates, where feasible, the replanting of forested areas disturbed during construction and preservation of prime soils throughout the life of the project.
- g. *Prime soils.* All solar energy generating systems proposed in the agriculture and resource protection district shall include a soil analysis. Such analysis shall demonstrate if the site proposed for development contains prime farmland as defined by the United States Department of Agriculture (USDA). Least productive agricultural soils shall be considered first for development unless it can be demonstrated to the planning board that:
 1. Non-prime farmland is not reasonably available on the subject property.
- h. All applications for solar energy generating systems in the agriculture and resource protection district shall be subject to the following provisions:
 1. Siting of the overall facility and individual panels shall keep with the existing contours of the land;
 2. Only pile driven, or ballast block footing shall be used so as to minimize the disturbance of soils during installation;
 3. To the extent possible, infrastructure shall not be located on steep slopes; and
 4. A plan for topsoil maintenance shall be provided at the time of application to the planning board.
- i. All operations and maintenance plans shall also include:
 1. A plan prioritizing the ability to co-mingle agricultural and energy generation land uses including but not limited to: apiaries, grazing or handpicked crops.
 2. A plan that provides habitat for native plants and animals and native pollinators.

Sec. 60-146. Dimensional regulations.

All structures in this district, except as noted shall be subject to the following dimensional regulations:

- (1) *Minimum lot area, width and depth.* No lot shall be created after October 1, 2017 containing less than ten acres, exclusive of any bodies of water having a surface area of one-fourth of an acre or more and measuring less than 250 feet in width at the street frontage along a publicly accepted street, and 200 feet in depth. No building shall be erected on a lot containing less than ten acres, except as allowed in this section, exclusive of any bodies of water having a surface area of one-fourth of an acre or more, and measuring not less than 250 feet in width at the street frontage, and 200 feet in depth.
 - a. A building may be erected on a lot containing not less than 50,000 square feet and possessing the required minimum frontage width provided it is contiguous with other lots or parcels of land in the same ownership containing an aggregate of not less than ten acres; notwithstanding the separation of the said other lots or parcels of land by a road, stream, private right-of-way or other natural boundary from the lot on which the building is to be constructed. This section shall not be construed to prevent the construction of nonresidential accessory farm buildings on any such lot.
 - b. On legally existing nonconforming undersized lots, the keeping of horses, mules, cows, goats, sheep, hogs, and similar sized animals for domestic use of the residents of the lot is permitted provided that the land area required per animal unit conforms to the definition of farm, livestock contained in Sec. 60-2.
 - c. A dwelling may be constructed on lots lawfully existing as of October 1, 2017 and containing less than ten acres, only if approved pursuant to Sec. 60-145(a)(1).
- (2) *Density.* The density of dwelling units shall not exceed an average of one dwelling per ten acres, unless approved pursuant to subsection (1)(c) above.
- (3) *Yard requirements.*
 - a. *Rear.* There shall be behind every building a rear yard having a minimum depth of 25 feet.

- (16) Adaptive reuse of structures of community significance.
- (17) Assembly, sale, research and development, distribution, instruction, training, demonstration or maintenance of recreational or agricultural equipment, including buildings as accessory structures used in the assembly, sale, distribution, instruction, training, demonstration, or maintenance of recreational or agricultural equipment, subject to the following conditions:
 - a. The proposed use is accessory, complementary, or otherwise related to a recreational or agricultural use;
 - b. The recreational or agricultural use has been in existence for at least five years prior to the date of the application for the special exception; and
 - c. The recreational or agricultural use is located on the parcel for which the special exception is
- (18) [RESERVED]
- (19) Ground-mounted and dual-use solar energy generating systems greater than one acre in total land area as defined in Sec. 60-1501, subject to the following conditions:
 - a. Must comply with the provisions of article XVIII under this chapter;
 - b. Setbacks, including appurtenant structures and parking areas, shall be subject to the following yard requirements:
 - 1. *Rear.* There shall be behind every structure associated with a solar energy generating system a rear yard having a minimum depth of 25 feet.
 - 2. *Side.* There shall be a minimum distance of 15 feet between any structure associated with a solar energy generating system and the side property line.
 - 3. *Front.* There shall be in front of every structure associated with a solar energy generating system a front yard having a minimum depth of 25 feet or 25 percent of the average depth of the lot whichever is less.
 - c. Lot coverage shall not exceed 30 percent, as defined under Sec. 60-1506(a)(2).
 - d. *Total land area.* Once one percent of the agriculture and resource protection district has been developed into solar energy generating systems, the planning board must find that any additional proposed solar energy generating systems will not materially alter the stability of the overall land use pattern of the agriculture and resource protection district. In making this determination, the planning board shall consider the overall effect of existing and potential solar energy generating systems and if it will be more difficult for existing farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights, or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the surrounding area. The planning board shall request an assessment of the proposed project based on ~~this~~ subsection 60-145(b)(19)(d) by the agriculture committee and, if located in the resource protection district, the conservation commission and carefully consider their recommendations.
 - e. All applications shall consider the location of existing grid infrastructure and plan to limit the need to extend the amenities for optimal efficiency.
 - f. If a solar energy generating system is proposed on forestland in the agriculture and resource protection district, on a parcel adjacent to prime farmland or land currently used for farming, clearing of forestland or the use of prime farmland may be permitted under the following conditions:
 - 1. The presence of the solar energy generating system will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property or abutting properties.
 - 2. At the time of decommissioning of any solar energy generating system approved by the planning board, the current sitting planning board shall review the site and proposed decommissioning plan for the conversion of the parcel into prime farmland or forestland, as applicable under the current ordinance standards.
 - 3. A survey of critical wildlife habitat is provided at the time of application, if a project is located in an area determined to be essential habitat, as defined by the state

- b. *Side.* There shall be a minimum distance of 15 feet between any building and the side property line.
 - c. *Front.* There shall be in front of every building a front yard having a minimum depth of 25 feet or 25 percent of the average depth of the lot, whichever is less, and having a maximum depth of 30% of the average depth of the lot or 400 feet, whichever is less.
- (4) *Height.* The height of all dwelling structures shall be limited to two and one-half stories or 35 feet in height. Accessory buildings and structures may have a maximum height of 65 feet from grade, provided that the front yard, rear yard and each of the side yards shall be increased by one foot for each foot in height in excess of 35 feet.
 - (5) *Off-street parking.* Off-street parking spaces shall be provided in accordance with the requirements for specific uses as set forth in article V of this chapter.

