

1 **Article II. Definitions**

2 ...

3 **§ 280-2-2. Definitions.**

4 ...

5 **DISABILITY** A physical or mental disability under **5 M.R.S. § 4553-A.**

6 ...

7 **Article III. Administration and Enforcement**

8 ...

9 **§ 280-3-2. Building, sign, or use permits.**

10 ...

11 280-3-2.2 Compliance with this chapter. No building permit for a building, sign, or structure on any lot shall be
12 issued except to the owner of record thereof, or his or her authorized agent, until the proposed construction or
13 alteration of a building or structure shall comply in all respects with the provisions of this chapter or with a decision
14 rendered by the ~~Zoning~~ Board of Appeals, Planning Board, Site Plan Review Committee, and/or others under this
15 chapter. *[Amended 12-19-2017]*

16 ...

17 **§ 280-3-3. Certificates of occupancy.**

18

19 280-3-3.1 After the building, or part thereof, has been completed, altered or enlarged or relocated, the owner or his
20 or her agent shall obtain a certificate of occupancy for the proposed use before the same may be occupied or used.
21 A certificate of occupancy shall be issued by the Code Enforcement Officer only if he or she finds that the project is
22 in compliance with this chapter, with any applicable site plan approval, and any other regulations of the City.

23 ...

24

25 **§ 280-3-4. Fees.**

26 The City Council shall establish by order, after prior notice and public hearing, a fee schedule for all
27 permits, escrow, and construction compliance reviews required by this chapter and for such other ~~zoning~~
28 fees as the City Council deems appropriate in Chapter 120: Fees. Permit, zoning, escrow, and
29 construction compliance fees are intended to help recover costs incurred by the City in public notice,
30 review, administration, and site inspection associated with amendment of the text of this chapter, changes
31 to Zoning Maps, contract zoning, site plan, and other review and permitting of development. Permit fees
32 are deemed to be a cost of review, shall not be waived or contingent on approval, and are nonrefundable.
33 Any balance in an escrow account remaining after the final decision shall be returned to the applicant in a
34 timely fashion.

35 ...

36 **§ 280-3-5. Enforcement.**

37 ...

38 280-3-5.3 The Code Enforcement Officer, in his or her discretion, where a violation of this chapter has been
39 brought to his or her attention, may so advise the party in violation, in writing, and may give such violators
40 permission to continue for a period not exceeding ten (10) days, provided that such violators intend and do appeal
41 to the ~~Zoning~~ Board of Appeals. Failure to perfect or commence such appeal within ten (10) days will then subject
42 the violator to prosecution under this section.

43 ...

44 **§ 280-3-6. Violations and penalties.**

1 Any person, firm, or corporation, being the owner of or having control or use of any building or premises,
2 who or which violates any of the provisions of this chapter shall be fined not less than one-hundred dollars
3 (\$100) nor more than twenty-five-hundred dollars (\$2,500) as provided for by state law. Each day such a
4 violation is permitted to exist after notification shall constitute a separate offense. The penalty for failure to
5 correct a violation after a second written notice by the City shall be in conformance with **Chapter 90.A.**

6 ...

7 **Article IV. Interpretation, Amendments and Legal Provisions**

9 **§ 280-4-1. Public hearings.**

10 Public hearings required for amendment of this chapter, contract zone, conditional use, major site plan, or
11 other request identified in this chapter shall be noticed and conducted in conformance with the following
12 provisions.

13
14 280-4-1.1 Submission requirements. The applicant shall provide an abutters list and mailing envelopes in
15 conformance with this section.

16
17 **280-4-1.1.1** Abutters list. A complete list of abutters within two-hundred-and-fifty (250) feet of the property,
18 including those in neighboring communities, and public drinking water suppliers if the property contains or is
19 within a source water protection area.

20
21 **280-4-1.1.2** Mailing envelopes. A mailing envelope for each abutter identified in § 280-4-1.1. Each mailing
22 envelope shall include a first class stamp, an address for each abutter, and the return address for the City
23 Department which oversees the public hearing process.

24
25 280-4-1.2 Notification of applicant and abutters. Once an application is determined to be complete and, at least ten
26 (10) days prior to the date of its public hearing, the City Department which oversees the public hearing process
27 shall post a notice in City Hall and send written notice to the applicant and abutters by first class mail, as specified
28 in § 280-4-1.1, except that notice for an amendment of this chapter or contract zone shall be posted and written
29 notice sent out at least thirteen (13) days prior to the date of the public hearing. Notice shall contain a brief
30 description of the proposed activity, the name of the applicant, the location of the property that is the subject of the
31 public hearing and the nature of the request, the location where the application is available for inspection,
32 description of how to submit written comments and how the reviewing board or committee shall consider
33 comments, and the date, time, and location at which the application shall be considered. Failure of any abutter to
34 receive a notice of public hearing shall not be grounds for delay of the public hearing, consideration of the
35 application, and approval or denial of the project. In considering the subject of the public hearing, the City
36 Department which oversees the request, shall, without altering the meaning, intent, or substance of the proposal,
37 put it into such language or form as is appropriate to the review and requirements of this chapter.

38
39 280-4-1.3 Advertisement in newspaper and posting. An advertisement for any request which requires a public
40 hearing in this chapter shall be posted in a newspaper of general circulation in the City at least ten (10) days prior
41 to the date of the public hearing, except that a request for amendment of this chapter or contract zone shall be
42 published at least twice, the first advertisement shall be published at least twelve (12) days prior to the date of the
43 public hearing and the second shall be published at least seven (7) days prior to the public hearing.

44
45 280-4-1.4 Hearing procedure.

46
47 **280-4-1.4.1** Any persons may appear in person or by agent or attorney at the hearing. Hearings shall not be
48 continued to other times except for good cause.

49
50 **280-4-1.4.2** The board or committee conducting the public hearing may ask staff to attend and/or present plans,
51 photographs, or other materials it deems appropriate for an understanding of the subject of the public hearing.

1
2 **280-4-1.4.3** Persons wishing to share complex data, reports, or arguments are encourage to submit the
3 information in writing seven (7) days in advance of the hearing.

4
5 **280-4-1.4.4** Individuals and organizations with comparable positions in support or opposition are encouraged to
6 be brief and not provide duplicative comments.

7
8 **280-4-1.4.5** Anyone wishing to present testimony before the board or committee shall provide his/her name and
9 address. Representatives of organizations including, but not limited to, City Committees and Homeowner's
10 Associations, shall state for the record at the outset of his/her presentation whether the organization has
11 authorized the substance of what is being presented.

12
13 **280-4-1.4.6** To maintain orderly procedure, anyone wishing to present testimony shall be allowed to proceed
14 without interruption. Following testimony, members of the board or committee shall have the opportunity to raise
15 questions.

16
17 **280-4-1.4.7** The hearing shall be closed after all parties have been heard. If additional time is needed, the
18 hearing may be continued to a later date. All participants shall be notified of the date, time, and place of the
19 continued hearing.

20
21 **280-4-1.4.8** Once the public hearing is closed, all further comment by the public and/or the applicant shall only
22 be allowed through the Chair. The Chair may limit further input from the public and/or the applicant to allow the
23 board or committee adequate time for deliberation on the application.

24
25 **280-4-1.4.9** In the case of extenuating circumstances, the board or committee may waive any of the above
26 rules by unanimous vote of those in attendance upon good cause shown.

27 **§ 280-4-21. Administrative appeals.**

28 Any person who believes that the Code Enforcement Officer has made an error in the interpretation or
29 application of the provisions of this chapter may appeal such determination to the ~~Zoning~~ Board of Appeals
30 as an administrative appeal under the provisions of ~~§§ 10-4.A~~. If the ~~Zoning~~ Board of Appeals finds that
31 the Code Enforcement Officer erred in his/her ~~or her~~ interpretation of this chapter, it shall modify or reverse
32 the action accordingly.

33 34 **§ 280-4-32. Amendments.**

35 Amendments of this chapter may be initiated by the City Council, the Planning Board, an individual or
36 corporation or other entity having control of the property that is the subject of the request, or by petition by
37 five percent (5%) or more of the registered voters of the City as provided for by the City Charter.

38
39 280-4-32.1 Fee.

40
41 **280-4-32.1.1** Any request for amendments ~~to~~ of the text of this chapter or for changes in zone boundaries or
42 other revision to the Zoning Maps initiated by the City Council or Planning Board or by petition by five percent
43 (5%) or more of the registered voters of the City in ~~conformance~~ accordance with the City Charter shall not be
44 required to pay a fee.

45
46 **280-4-32.1.2** ~~All~~ Any other requests for a zoning amendment shall be accompanied by a filing fee established by
47 the City Council and administered in conformance with **§§ 280-3-4**.

48
49 280-4-32.2 Required information. All proposals for an amendments or map changes shall be accompanied by the
50 following information:
51

1 **280-4-~~32.2.1~~** Address or exact location of the request, the exact location and dimensions of any changed
2 district boundaries, and a location map that shows the relationship of the location to the surrounding area. Any
3 proposed map changes shall be shown on the appropriate Assessor's tax map and shall indicate tax map and lot
4 numbers.

5
6 **280-4-~~32.2.2~~** Name, address, and phone number of property owner.

7
8 **280-4-~~32.3~~** Name, address, and phone number of applicant.

9
10 **280-4-~~32.4~~** Statement regarding existing and proposed land use.

11
12 **280-4-~~32.5~~** Existing and proposed zoning classification or ordinance language.

13
14 **280-4-~~32.6~~** Statement regarding the way in which the proposed amendment or change complies with or
15 promotes the City's Comprehensive Plan.

16
17 **280-4-~~32.7~~** Documentation of right, title, or interest.

18
19 **280-4-~~32.8~~** Documentation of financial ability to carry out the purpose of the amendment or change, if any.

20
21 ~~280-4-32.3 Notification of abutters, advertising in newspaper, and posting affected parties. A public hearing shall be~~
22 ~~held on all requests for amendment of this chapter in conformance with § 280-4-1, shall be accompanied by a filing~~
23 ~~fee established by the City Council and administered in conformance with § 280-3-4. The applicant shall provide, at~~
24 ~~the time of filing of the initial request, a list of property owners and their addresses within five hundred (500) feet of~~
25 ~~the affected lots or parcels, together with addressed and first class stamped envelopes with the City Planning~~
26 ~~Department return address. Failure of any property owner to receive a notice of public hearing shall not necessitate~~
27 ~~another public hearing. In considering the proposed amendment or change, the Planning Board may, without~~
28 ~~altering the meaning, intent, or substance of the proposal, put it into such language or form as is appropriate to the~~
29 ~~format of this chapter.~~

30
31 ~~280-4-2.4 Public hearing required. No proposed amendments to the text of this chapter or proposed changes in the~~
32 ~~zone boundary lines or other proposed changes to the Zoning Map shall be referred to the City Council until the~~
33 ~~Planning Board has held a public hearing on the proposal, notice of which shall be given at least twelve (12) days~~
34 ~~prior to such hearing in a newspaper of general circulation in the City.~~

35
36 ~~280-43-2.54 Planning Board recommendation. The Planning Board, within Within thirty (30) days following the date~~
37 ~~of the public hearing, the Planning Board shall send a written report of by majority vote report in writing its findings~~
38 ~~and recommendation to the City Council, which shall conduct its own public hearing, with notice as provided in the~~
39 ~~City Charter. A representative of the Planning Board shall attend such public hearing.~~

40
41 **§ 280-4-~~43~~. Relation to other ordinances.**

42 This chapter shall not repeal any other ordinance relating to the use of land or buildings; however,
43 ~~provided that~~ where this chapter imposes greater restrictions, it shall control.

44
45 **§ 280-4-~~54~~ Severability.**

46 If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid
47 or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate,
48 distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

49 *[Added 7-19-2016]*

50 ...

51 **Article VI. Zoning Board of Appeals**[Reserved]

1
2 **~~§ 280-6-1. Creation and purpose.~~**

3 Pursuant to ~~30-A M.R.S. § 2691~~, there is hereby created a Zoning Board of Appeals for the City to hear
4 appeals from any action or failure to act of the Code Enforcement Officer in conjunction with the
5 interpretation or enforcement of this chapter.

6
7 **~~§ 280-6-2. Membership; terms of office; qualifications; vacancies; removal.~~**

8
9 ~~280-6-2.1 The Zoning Board of Appeals shall consist of seven (7) members who shall be appointed by the City~~
10 ~~Council and who shall serve without pay and who shall be representatives of the City at large. Each member shall~~
11 ~~be appointed for a term of three (3) years. Members appointed shall be residents of the City. A City Councilor or~~
12 ~~his/her spouse may not be a member of the Zoning Board of Appeals.~~

13
14 ~~280-6-2.2 A vacancy may occur by reason of resignation, death, giving up residency or failure to attend at least~~
15 ~~seventy-five percent (75%) of all meetings during the previous twelve (12) months. The Chair of the Zoning Board~~
16 ~~of Appeals shall immediately notify the City Council in writing of any vacancy when it occurs.~~

17
18 ~~280-6-2.3 Members may be removed for cause by the City Council after presentation of written charges and public~~
19 ~~hearing.~~

20
21 **~~§ 280-6-3. Officers; meetings; records; quorum; rules of procedure.~~**

22 The operation of the Zoning Board of Appeals shall be governed by the following:

23
24 ~~280-6-3.1 Officers. The Zoning Board of Appeals shall elect a Chair and such other officers as it chooses from its~~
25 ~~own membership.~~

26
27 ~~280-6-3.2 Meetings.~~

28
29 **~~280-6-3.2.1~~** Meetings of the Zoning Board of Appeals shall be held at least twice each month for the purpose of
30 hearing all appeals in order for hearing on said days as provided in ~~§§ 280-8-2~~. The Zoning Board of Appeals
31 may cancel one (1) or more of the required meetings if there are no applications for its consideration. All
32 meetings of the Zoning Board of Appeals will be open to the public.

33
34 **~~280-6-3.2.2~~** The Chair shall also call meetings of the Zoning Board of Appeals when requested to do so by a
35 majority of the members or by the City Council.

36
37 ~~280-6-3.3 Records. The Code Enforcement Officer shall maintain a permanent record of all Zoning Board of~~
38 ~~Appeals meetings and all of its correspondence. The Code Enforcement Officer shall be responsible for~~
39 ~~maintaining those records which are required as part of the various proceedings which may be brought before the~~
40 ~~Zoning Board of Appeals, such as, but not limited to, the vote of each member upon each question. All records to~~
41 ~~be maintained or prepared by the Code Enforcement Officer are deemed public, shall be filed in the Municipal~~
42 ~~Clerk's office and may be inspected at reasonable times.~~

43
44 ~~280-6-3.4 Quorum. A quorum of the Zoning Board of Appeals necessary to conduct an official meeting shall consist~~
45 ~~of at least four (4) members.~~

46
47 ~~280-6-3.5 Conflict of interest. Prior to consideration of an application, any member who believes~~
48 ~~he or her may have a conflict of interest relative to the item shall advise the Chair of the potential conflict and the~~
49 ~~reasons therefor. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a~~
50 ~~member from voting thereon shall be decided by a majority vote of the members, except the member who is being~~
51 ~~challenged.~~

~~280-6-3.6 Evidence. The Zoning Board of Appeals may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party has the right to present the party's case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct any cross-examination that is required for a full and true disclosure of the facts.~~

~~280-6-3.7 Public record of deliberations. The transcript or tape recording of testimony, if such a transcript or tape recording has been prepared by the Zoning Board of Appeals, and the exhibits, together with all papers and requests filed in the proceeding, constitute the public record. All decisions become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis for the findings and conclusions, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial of relief. Notice of any decision shall be mailed or otherwise delivered to the petitioner, the petitioner's representative or agent, the Planning Board, Planning Department, and the City Council within seven (7) days of the Zoning Board of Appeal's decision.~~

~~280-6-3.8 Reconsideration of Zoning Board of Appeals actions. The Zoning Board of Appeals may reconsider any decision reached under this section within thirty (30) days of its prior decision. A vote to reconsider and the action taken on that reconsideration shall occur and be completed within thirty (30) days of the date of the vote on the original decision. The Zoning Board of Appeals may conduct additional hearings and receive additional evidence and testimony as provided in this section.~~

~~280-6-3.9 Appeal of Zoning Board of Appeals actions. Any party may take an appeal, within forty five (45) days of the date of the vote on the original decision, to Superior Court from any order, relief or denial in accordance with the Maine Rules of Civil Procedure, Rule 80B. This time period may be extended by the Court upon motion for good cause shown. The hearing before the Superior Court shall be without a jury.~~

~~§ 280-6-4. Powers and duties.~~

~~Appeals shall lie from the decision of the Code Enforcement Officer to the Zoning Board of Appeals and from the Zoning Board of Appeals to the Superior Court according to the provisions of Maine law. The Zoning Board of Appeals shall have only the powers and duties listed below, except when this chapter provides jurisdiction to hear other matters:~~

~~280-6-4.1 Administrative appeals. The Zoning Board of Appeals is authorized to hear and decide where it is alleged there is an error in any order, requirement, decision or determination made by the Code Enforcement Officer in the enforcement of this chapter. The action of the Code Enforcement Officer may be modified or reversed by the Zoning Board of Appeals by concurring vote of a majority of the members present and voting.~~

~~280-6-4.2 Dimensional variance.~~

~~**280-6-4.2.1** The Zoning Board of Appeals is authorized to hear and decide, in accordance with the criteria of **Article VIII**, upon appeal, in specific cases where a relaxation of the terms of this chapter would not be contrary to the public interest and owing to conditions peculiar to the property which are not the result of the actions of the applicant.~~

~~**280-6-4.2.2** As used in this chapter, a dimensional variance is authorized only for height, area, size of structure or size of yards or open spaces.~~

~~280-6-4.3 Use variance appeals. The Zoning Board of Appeals is authorized to hear and decide, upon appeal, in specific cases where a relaxation of the terms of this chapter would not be contrary to the public interest and where, owing to conditions peculiar to the property which are not the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting a variance. The crucial points of variance are undue hardship and unique physical circumstances applying to the property. A variance is not justified unless both elements are present in the case.~~

~~280-6-4.4 Shoreland zoning appeals. The Zoning Board of Appeals is authorized to hear and decide appeals relating to the administration and enforcement of Chapter 270: Shoreland Zoning.~~

Article VII. Nonconformance

§ 280-7-4. Nonconforming lots.

280-7-4.1 A nonconforming lot of record as of the effective date of this chapter or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership and that all provisions of this chapter, except lot size and frontage, can be met. Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Zoning Board of Appeals.

§ 280-7-2. Nonconforming structures.

280-7-2.2 Relocation.

280-7-2.2.1 A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent, as determined by the Code Enforcement Officer~~Planning Board~~ in conformance with the purposes of this chapter, and provided that, if the use is not connected to the public sewerage system, the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law and the State of Maine Subsurface Wastewater Disposal Rules or that a new system can be installed in compliance with the law and said rules. The Code Enforcement Officer shall notify abutters of the request for a building permit in compliance with § 280-4-1.2. The Code Enforcement Officer shall determine whether the application is in compliance with § 280-7-2.2.2 and, if she/he determines that there are no unresolved issues raised by abutters within ten (10) days of when notice of the application is sent, shall grant the permit. The Code Enforcement Officer may ask the Planning Board to review the request and make the determination if there are unresolved issues raised by abutters or if she/he finds that the scale or complexity of the proposal warrants review by the Board or other elements of the proposal require review by the Board. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

280-7-2.2.2 In determining whether the building relocation meets the setback to the greatest practical extent, the Code Enforcement Officer or Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system, if any, and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

280-7-2.3 Reconstruction or replacement.

280-7-2.3.1 Any nonconforming structure which is located less than the required setback from the property line and which is removed or damaged or destroyed may be reconstructed or replaced provided that a permit is obtained within one (1) year of the date of said damage, destruction, or removal and provided that such reconstruction or replacement is in compliance with the setback requirement to the greatest practical extent as determined by the Code Enforcement Officer~~Planning Board~~ in accordance with the purposes of this chapter. The Code Enforcement Officer shall notify abutters of the request for a building permit in compliance with § 280-4-1.2. The Code Enforcement Officer shall determine whether the application is in compliance with § 280-7-2.3.2 and, if she/he determines that there are no unresolved issues raised within ten (10) days of when notice of the application is sent, shall grant the permit. The Code Enforcement Officer may ask the Planning Board to review the request and make the determination if there are unresolved issues raised by abutters of if she/he finds that

1 the scale or complexity of the proposal warrants review by the Board or other elements of the proposal require
2 review by the Board. In no case shall a structure be reconstructed or replaced so as to increase its
3 nonconformity.

4 ...
5 **Article VIII. Variances and Appeals**

6
7 **§ 280-8-1. Standards for granting dimensional ~~and use~~ variances.**

8
9 280-8-1.1 A variance shall be granted only for a use allowed in a particular zone. A dimensional variance is
10 authorized only for height, building size, lot area, setback, or open space.

11
12 280-8-1.2 Undue hardship variance. In accordance with 30-A M.R.S. § 4353, ~~except as provided in 30-A M.R.S. §~~
13 ~~4353(4-A) or §§ 280-8-1.2, the~~ The Zoning Board of Appeals may grant a dimensional ~~or use~~ variance only when
14 strict application of this chapter to the applicant and the applicant's property would cause undue hardship. The term
15 undue hardship as used in this subsection means:

16
17 **280-8-1.21.1** The land in question cannot yield a reasonable return unless a variance is granted;

18
19 **280-8-1.21.2** The need for a variance is due to the unique circumstances of the property and not to the general
20 condition in the neighborhood;

21
22 **280-8-1.21.3** The granting of a variance will not alter the essential character of the locality; and

23
24 **280-8-1.21.4** The hardship is not the result of action taken by the applicant or a prior owner.

25
26 280-8-1.32 Practical difficulty variance. The ~~Zoning~~ Board of Appeals may grant a variance from the ~~lot area and~~
27 ~~setback~~ dimensional standards of this chapter when strict application of this chapter to the applicant~~petitioner~~ and
28 the applicant's~~petitioner's~~ property would cause a practical difficulty and when certain conditions set forth in this
29 subsection exist.

30
31 **280-8-1.32.1** As used in this subsection, practical difficulty means that the strict application of this chapter to the
32 property precludes the ability of the applicant~~petitioner~~ to pursue a use allowed~~permitted~~ in the zoning district in
33 which the property is located and results in significant economic injury to the applicant~~petitioner~~.

34
35 **280-8-1.32.2** To approve a practical difficulty~~dimensional~~ variance as permitted in this subsection, the ~~Zoning~~
36 Board of Appeals shall find that the following conditions exist:

37
38 280-8.1.32.2.1 The need for the variance is due to the unique circumstances of the property and not to the
39 general condition of the neighborhood;

40
41 280-8.1.32.2.2 The granting of the variance will not produce an undesirable change in the character of the
42 neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;

43
44 280-8.1.32.2.3 The practical difficulty is not the result of action taken by the applicant~~petitioner~~ or a prior
45 owner;

46
47 280-8.1.32.2.4 No other feasible alternative to a variance is available to the applicant~~petitioner~~;

48
49 280-8.1.32.2.5 The granting of the variance will not unreasonably adversely affect the natural environment;
50 and

1 280-8.1.3~~2.6~~ The property is not located in whole or in part within the shoreland areas as described in **38**
2 **M.R.S. § 435.**
3

4 280-8-1.4 Setback variance for a single family dwelling which is the primary residence of the applicant. The Board of
5 Appeals may grant a setback variance for a single family dwelling only when strict application of this chapter would
6 cause undue hardship to the applicant and the applicant’s property.

7 280-8.1.4.1 As used in this subsection, undue hardship means:

8 280-8.1.4.1.1 The need for the variance is due to the unique circumstances of the property and not to the
9 general condition of the neighborhood;

10 280-8.1.4.1.2 The granting of the variance will not alter the essential character of the locality;

11 280-8.1.4.1.3 The hardship is not the result of action taken by the applicant or a prior owner;

12 280-8.1.4.1.4 The granting of the variance will not substantially reduce or impair the use of abutting property;
13 and

14 280-8.1.4.2 That the granting of a variance is based upon demonstrated need, not convenience, and no other
15 feasible alternative is available.

16 280-8.1.4.3 A setback variance shall not be granted if it would cause the area of the dwelling to exceed the
17 maximum permissible lot coverage.

18
19 280-8-1.5 Disability variance for vehicle storage. The Board of Appeals may grant a variance to an owner who
20 resides in the dwelling and is a person with a permanent disability for the construction of a place of storage and
21 parking for her/his personal use of a noncommercial vehicle. The width and length of the structure shall not be larger
22 than two (2) times that of the vehicle. The applicant shall submit plans for the proposed structure with the request for
23 a variance.

24 280-8.1.5.1 The applicant shall prove by a preponderance of the evidence that the disability is permanent. All
25 medical records and other documents submitted to demonstrate a permanent disability shall be confidential.

26 280-8.1.5.2 The applicant shall demonstrate that the noncommercial vehicle is owned by the applicant, weighs
27 no more than six-thousand (6,000) pounds in conformance with **29-A M.R.S. § 101.42**, and bears a disability
28 registration in conformance with **29-A M.R.S. § 521**.

29 280-8.1.5.3 The Board of Appeals may impose conditions on the disability variance for vehicle storage.

30
31 280-8-1.6 Disability permit for access to a dwelling. As authorized by **30-A M.R.S §4353 (4-A)**, the Code Enforcement
32 Officer is authorized to issue a permit to an owner of a dwelling for the purpose of making a dwelling accessible to a
33 person with a disability who resides in or regularly uses the dwelling. If the permit includes a variance, the permit is
34 deemed to include that variance, solely for the installation of equipment or construction of structures necessary for
35 access to or egress from the dwelling for the person with a disability, including ramps and associated railings, walls,
36 or roof systems necessary for the safety or effectiveness of the ramps. The Code Enforcement Officer may ask the
37 Board of Appeals to review the request if there are unresolved issues raised by abutters or if she/he finds that the
38 scale or complexity of the proposal warrants review by the Board or other elements of review require review by the
39 Board. All medical records submitted to the Code Enforcement Officer and any other documents submitted for the
40 purpose of describing or verifying a person’s disability are confidential. The Code Enforcement Officer may ask the
41 Board of Appeals may impose conditions on the disability permit for access to a dwelling, including limiting the permit
42 to the duration of the disability or to the time that the person with the disability lives in the dwelling.

43
44 **§ 280-8-2. Appeal procedure.**

45
46 280-8-2.1 Filing of appeal.

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280-8.2.1.1 The applicant shall file his/her appeal with the Code Enforcement Officer, shall specify the grounds for the appeal and/or for the variance, and shall submit a filing fee established by the City Council in conformance with § 280-3-4. Upon receipt of the application, the Code Enforcement Officer shall notify the Chair of the Board of Appeals.

280-8.2.1.2 For an administrative appeal, In all cases, a person aggrieved by a decision of the Code Enforcement Officer shall commence his/-or-her appeal within thirty (30) days after a decision is made by the Code Enforcement Officer. The appeal shall be filed with the Zoning Board of Appeals on forms approved by the Zoning Board of Appeals, and the aggrieved person shall specifically set forth on the form the grounds for the appeal on the approved form.

280-8.2.2 Notification of applicant. Within seven (7) days of its decision, the Board of Appeals shall notify the applicant, Planning Board, Code Enforcement Officer, and City Council of the Board's decision in writing of its decision and the basis for it.

280-8.2.3 Public hearing. Hearing and notification of abutters, conduct, and action. Within thirty (30) days of an applicant filing of an appeal, the Board of Appeals shall provide notice, conduct a public hearing, and take action in conformance with Chapter 10. §5.

~~**280-8-2.2.1** In the case of appeals involving space and bulk regulations, uses, shoreland zoning, or administrative interpretation, the Zoning Board of Appeals shall notify, by mail, the applicant and the owners of property abutting the property for which an appeal is taken, at least ten (10) days in advance of the hearing, of the nature of the appeal and of the time and place for the public hearing thereon.~~

~~**280-8-2.2.2** The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Zoning Board of Appeals.~~

~~**280-8-2.2.3** Following the filing of an appeal, the Zoning Board of Appeals shall hold a public hearing on the appeal within thirty (30) days. The Zoning Board of Appeals shall notify the applicant, at least ten (10) days in advance, of the time and place of the hearing and shall publish notice of the hearing at least ten (10) days in advance in a newspaper of general circulation in the area.~~

~~280-8-2.3 Hearing procedures.~~

~~**280-8-2.3.1** At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.~~

~~**280-8-2.3.2** The Zoning Board of Appeals may request the Code Enforcement Officer or his or her designated assistant to attend hearings and/or present to the Zoning Board of Appeals all plans, photographs, or other materials the Zoning Board of Appeals deems appropriate for an understanding of the appeal.~~

~~**280-8-2.3.3** The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chair.~~

~~280-8-2.4 Zoning Board of Appeals action.~~

~~**280-8-2.4.1** Within seven (7) days of the public hearing, the Zoning Board of Appeals shall reach a decision on an appeal and shall inform, in writing, the appellant, the Planning Board, and the City Council of its decision and the reasons therefor.~~

~~**280-8-2.4.2** Upon notification of the granting of an appeal by the Zoning Board of Appeals, the Code Enforcement Officer shall immediately issue a building permit in accordance with the conditions of approval.~~

1 ~~280-8-2.45~~ Time limit for action by the applicant completion. A variance under the provision of this chapter ~~secured~~
2 ~~by a vote of the Zoning Board of Appeals~~ shall expire if the work or change is not substantially completed within
3 eighteen (18) months of the date on which the variance appeal is granted, ~~or another date established unless such~~
4 ~~time limit is extended by vote of the Zoning Board of Appeals in response to a written request of the applicant.~~
5

6 **§ 280-8-3. Recording of variances.**

7 If the ~~Zoning~~ Board of Appeals grants a variance under this article, the Code Enforcement Officer shall
8 prepare a certificate indicating the name of the current property owner, ~~identifying the property~~ referenced
9 ~~in by reference to the last recorded deed in its chain of title,~~ and ~~indicating the fact that a variance, including~~
10 any conditions ~~on the variance, has been granted,~~ and the date of the granting ~~shall be prepared in~~
11 recordable form. The applicant shall record this certificate ~~This certificate shall be recorded by the applicant~~
12 in the York County Registry of Deeds and provide the Code Enforcement Officer with a copy of the
13 recorded variance, with the book and page number from the Registry of Deeds, within ninety (90) days of
14 the date of the final written approval of the variance or the variance is void. The variance is not valid until
15 recorded as provided in this section. For the purpose of this section, the date of the final written approval
16 shall be the date stated on the written approval.

17 ...

18 **§ 280-10-4. Contract zoning.**

19 ...

20 280-10-4.5 Public hearing.

21

22 **280-10-4.5.1** The Planning Board shall notice and conduct a public hearing in conformance with § 280-4-1 prior
23 to any property being rezoned under this section. ~~Notice of this hearing shall be posted in the City Clerk's office at~~
24 ~~least thirteen (13) days prior to each public hearing and shall be published in a newspaper of general circulation~~
25 ~~within the City at least two (2) times, the date of the first publication to be at least (twelve) 12 days prior to the~~
26 ~~hearing.~~

27

28 **280-10-4.5.2** ~~Notice shall also be sent to the owner or owners of the property to be rezoned and to the owners~~
29 ~~of all property abutting the property to be rezoned and to the owners of all property located within five hundred~~
30 ~~(500) feet of the property to be rezoned at their last known addresses. Notice shall also be sent to a public~~
31 ~~drinking water supplier if the area to be rezoned is within its source water protection area. This notice shall~~
32 ~~contain a copy of the proposed conditions and restrictions, with a map indicating the property to be rezoned.~~

33 ...

34 **280-10-4.7.1** Where site plan or subdivision review is required for the use proposed in the rezoning request, the
35 Planning Board may conduct the site plan or subdivision review concurrent ~~concurrently~~ with its review of the
36 request for rezoning, and the public hearing required by **§§ 280-10-4.5** may be conducted simultaneously with a
37 public hearing conducted as part of site plan or subdivision review. If the Planning Board determines that the
38 proposed development meets such land use approval standards, the Planning Board shall grant preliminary,
39 provisional approval to the plans, subject to enactment of the contract zoning amendment by the City Council.
40 The Planning Board shall also advise the applicant of any changes or revisions to the proposed contract zoning
41 agreement necessary to conform to the Planning Board's preliminary approval of the plan.

42 ...

43 **§ 280-11-4. Single-Family Residential Zone (SFR).**

44 ...

45 **280-11-4.6.1** Space and bulk standards.

46

47 280-11-4.6.1.1 Maximum net residential density.

48

49 280-11-4.6.1.1.1 Basic: *four (4) dwelling units per net acre.*

50

1 280-11-4.6.1.1.2 With development review in conformance with §280-11-4.6.2: up to six (6) dwelling
2 units per net acre.

3
4 280-11-4.6.1.2 Minimum lot size.

5
6 280-11-4.6.1.2.1 Basic: ten-thousand (10,000) square feet.

7
8 280-11-4.6.1.2.2 With development review in conformance with §280-11-4.6.2: not less than six-
9 thousand-five-hundred (6,500) square feet.

10 ...

11
12 280-11-4.6.1.3 Minimum street frontage.

13
14 280-11-4.6.1.3.1 Basic: seventy-five (75) feet.

15
16 280-11-4.6.1.3.2 With development review in conformance with §280-11-4.6.2: sixty-five (65) feet.

17 ...

18
19 **280-11-4.6.2** Development standards. In addition to the space and bulk standards set forth in **§§ 280-11-4.6.1**,
20 the following standards shall apply as indicated:

21
22 280-11-4.6.2.1 Development review. The Code Enforcement Officer shall notify abutters of a request for a
23 building permit that seeks to apply the residential density, minimum lot size, and minimum street frontage
24 allowed in § 280-11-4.6.1 in compliance with § 280-4-1.2. The Code Enforcement Officer shall grant the
25 building permit if she/he determines that the applicant has demonstrated conformance with the following
26 standards and that there are no unresolved issues raised within ten (10) days of when notice of the
27 application is sent. The Code Enforcement Officer may ask the Planning Board to review the request if there
28 are unresolved issues raised by abutters or if she/he finds that the scale or complexity of the proposal
29 warrants review by the Board or other elements of the proposal otherwise requires review by the Board.

30
31 280-11-4.6.2.1.1 *If the average net residential density of abutting residential lots is greater than four (4)*
32 *units per acre, the maximum net residential density of the subject parcel shall be the average of the*
33 *abutting properties to a maximum of six (6) units per net acre, provided that the project receives site*
34 *plan approval and the Planning Board finds that it conforms to the following standards:*

35
36 280-11-4.6.2.1.1.1 The size of the proposed building is comparable to the size of residential structures on
37 abutting lots; and

38
39 280-11-4.6.2.1.1.2 The building's placement on the lot with respect to front and side lot lines is similar to the
40 pattern of existing developed lots.

41
42 280-11-4.6.2.1.2 *In addition, the minimum lot size may be reduced to the average of abutting*
43 *residential lots but not less than six-thousand-five-hundred (6,500) square feet, and the minimum*
44 *street frontage may be reduced to not less than sixty-five (65) feet.*

45
46 280-11-4.6.2.2 Use of front yard. Parking of motor vehicles in the area between the front property line and
47 the wall of the building or structure closest to the street and running the full width of the property shall be
48 allowed only on driveways. No other parking of vehicles shall be permitted in this area.

49
50 280-11-4.6.2.3 Reduced side and rear setbacks for accessory structures. The required side and rear setback
51 for accessory buildings and structures may be reduced to not less than two (2) feet subject to the following:

- 1
- 2 280-11-4.6.2.3.1 *The relationship of the structure to the side and/or rear lot line shall conform to the*
- 3 *established pattern on abutting residential lots;*
- 4
- 5 280-11-4.6.2.3.2 *The accessory structure shall be located at least ten (10) feet from any other structure*
- 6 *on the same or an abutting lot;*
- 7
- 8 280-11-4.6.2.3.3 *The owners of the abutting lots adjacent to the encroachment approves of the reduced*
- 9 *setback in writing, and*
- 10
- 11 280-11-4.6.2.3.4 *The Fire Department approves of the reduced setback in writing.*

12 ...

13 **§ 280-13-3. Administrative procedures.**

14 ...

15 280-13-3.5 Within forty-five (45) days of the application being determined to be complete, the Planning

16 Board application shall notice and conduct a public hearing in conformance with § 280-4-1 prior to be considered by

17 the Planning Board.

18

19 ~~280-13-3.6 The Planning Department shall notify property owners of abutting parcels within two hundred fifty (250)~~

20 ~~feet of the subject parcel in writing of the receipt of the application and the time, date, and place of the Planning~~

21 ~~Board meeting at which the application will be considered. This written notice shall be mailed by first class mail at~~

22 ~~least seven (7) days prior to the Planning Board meeting.~~

23

24 ~~280-13-3.7 Prior to taking action on a conditional use application, the Planning Board shall hold a public hearing on~~

25 ~~it.~~

26

27 ~~280-13-3.8 The Planning Department shall advertise the public hearing in a newspaper of local circulation in the~~

28 ~~City at least ten (10) days prior to the meeting at which the application is considered.~~

29

30 280-13-3.69 Within thirty (30) days of the initial consideration of the application by the Planning Board, the Planning

31 Board shall act to approve, approve with conditions, or deny the application. The period for consideration of the

32 application may be extended by mutual agreement of the applicant and Planning Board.

33 ...

34 **Article XV. Performance Standards^[1]**

35 *[1] Note: Performance Standards apply to activities which do not require Site Plan, Subdivision, or Planning Board approval.*

36 ...

37 **§ 280-15-5. Manufactured housing.**

38 ...

39 280-15-5.2 Newer mobile homes. Newer mobile homes shall be treated as single-family homes allowable in the

40 Rural Residential, Rural Mixed Use, and Residential Development Zones but may not be located on a lot or parcel

41 of land which fronts on Route 109, 202, 99, 11A, 224 or 4.

42 ...

43

44 **280-15-5.4.1** Any manufactured home or factory-built home that is included within the term all other mobile

45 homes, regardless of its date of manufacture, that is legally sited within the City as of August 4, 1988, may be

46 relocated to another lot or parcel of land within the City where newer mobile homes are allowed under **§§ 280-15-**

47 **5.2** so long as it complies with all design criteria applicable to newer mobile homes, including but not limited to a

48 pitched, shingled roof, exterior siding which is residential in appearance and located on a permanent foundation;

1 provided, however, that the ~~Zoning~~ Board of Appeals may, upon written request by the owner of said home, grant
2 a waiver from said design standards upon the owner's showing of economic circumstances that would cause
3 compliance with said design standards to have the practical effect of preventing said home's relocation within the
4 City; and

5 ...

6 **Article XVI. Site Plan Review**

7 **§ 280-16-6 Scheduling, submission, fee, and review procedures**

8 ...

9 *280-16-4.2* Minor development. Any project which requires site plan approval and is not classified as a major
10 development shall be a minor development:

11
12 **280-16-4.2.1** Minor development. Any project which requires site plan approval and is not classified as a major
13 development shall be a minor development in one of the following five (5) categories:

14
15 **280-16-4.2.2** ~~Developmental review~~

16
17 **280-16-4.2.3** Uses designated as permitted with site plan review in the **Table of Land Uses**.

18
19 **280-16-4.2.34** Private way.

20
21 **280-16-4.2.45** Staff review.

22 ...

23
24 *280-16-6.4* Notice to abutters and public hearing.

25
26 **280-16-6.4.1** Once an application is determined to be complete ~~and at least seven (7) days prior to the date of~~
27 ~~its scheduled review~~, the Planning Director shall provide written notice and conduct a public hearing in
28 conformance with § 280-4-1 ~~to all abutters within two hundred fifty (250) feet of the property boundaries,~~
29 ~~including those in neighboring towns, if applicable, that an application has been filed. This notice shall contain a~~
30 ~~brief description of the proposed activity, the name of the applicant, the location where the application is available~~
31 ~~for inspection, how written comments on the application may be submitted and will be considered by the~~
32 ~~reviewing committee, and the date, time, and location at which the application will be considered. Failure of any~~
33 ~~abutter to receive such notice shall not be grounds for delay of consideration of the application and approval or~~
34 ~~denial of the project.~~

35
36 **280-16-6.4.2** No notification of abutters is required for a minor ~~an~~ amendment of a previously reviewed and
37 permitted site plan which is classified for staff review under this article.

38
39 *280-16-6.5* Planning Board action ~~Public hearing~~.

40
41 **280-16-6.5.1** A public hearing shall be held by the Planning Board on a major site plan application prior to its
42 taking action in conformance with § 280-4-1. ~~The Planning Department shall publish notice of the public hearing~~
43 ~~in a newspaper having general distribution in the City at least seven (7) days prior to the hearing.~~

44
45 **280-16-6.5.2** Following the public hearing, the Planning Board shall consider the application and its
46 conformance with site plan approval criteria and standards. Within sixty (60) days of the close of the public
47 hearing, the Planning Board shall complete its review of and take action on the application. The Planning Board
48 may extend this review period with the consent of the applicant.

49 ...

50 *280-16-6.9* Review procedures.

51 ...

1 **280-16-6.9.1** The Planning Director ~~shall~~will schedule review by the Site Plan Review Committee and the
2 Planning Board and provide appropriate notice of public hearing as required in this chapter and in conformance
3 with § 280-4-1.

4 ...

5

6 **§ 280-16-7 Approval criteria and standards.**

7 ...

8

9 ~~280-16-7.21~~ Supplemental criteria and standards for developmental review.

10

11 ~~**280-16-7.21.1**~~ If the average net residential density of abutting residential lots is greater than four (4) units per
12 acre, the maximum net residential density of the subject parcel shall be the average of the abutting properties to
13 a maximum of six (6) units per net acre, provided that the project receives site plan approval and the Planning
14 Board finds that it conforms to the following standards:

15

16 ~~280-16-7.21.1.1~~ The size of the proposed building is comparable to the size of residential structures on
17 abutting lots; and

18 ~~280-16-7.21.1.2~~ The building's placement on the lot with respect to front and side lot lines is similar to the
19 pattern of existing developed lots.

20

21 ~~**280-16-7.21.2**~~ In addition, the minimum lot size may be reduced to the average of abutting residential lots but to
22 not less than six thousand five hundred (6,500) square feet, and the minimum street frontage may be reduced to
23 not less than sixty five (65) feet.