

Chapter 280 Zoning

Article XIII Conditional Uses

§ 280-13-5 Standards for conditional use approval.

- A. The Planning Board shall approve a conditional use application, or approve it with conditions, if it makes a positive finding, based on the information presented, that the proposed use, with any conditions attached, meets the following standards:
- (1) The proposed use will not place a burden on municipal services which, due to its location or the characteristics of the site or proposed development, is significantly greater than the burden that would result from similar uses in other situations;
 - (2) The proposed use will not create hazards to vehicular or pedestrian traffic on the roads and sidewalks serving the proposed use as determined by the size and condition of such roads and sidewalks, lighting, drainage, volume and intensity of use by both pedestrians and vehicles, reduction in level of service, need for infrastructure improvements including but not limited to intersection traffic controls, and the visibility afforded to pedestrians and the operators of motor vehicles; [Amended 4-19-2022 by Order No. 22-151-01]
 - (3) The proposed use will not cause water pollution, sedimentation, or erosion, contaminate any water supply or reduce the capacity of the land to hold water so that a dangerous, aesthetically unpleasant, or unhealthy condition may result;
 - (4) The proposed use will not create unhealthful conditions because of smoke, dust, or other airborne contaminants;
 - (5) The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard, or unreasonably restricted access of light and air to neighboring properties;
 - (6) The proposed location for the use has no peculiar physical characteristics due to its size, shape, topography, or soils which will create or aggravate adverse environmental impacts on surrounding properties;
 - (7) The proposed use has no characteristics that are atypical of the general category of use that will depreciate the economic value of surrounding properties; and
 - (8) If located in the Shoreland Overlay Zone, the proposed use will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat; will conserve shoreland vegetation; will conserve visual points of access to waters as viewed from public facilities; will conserve actual points of access to waters; will conserve natural beauty; and will avoid problems associated with floodplain development and use.
 - (9) A proposed ground-mounted commercial solar system or utility solar system in the Rural Residential Zone (RR) shall minimize impacts on prime or unique farmland soils, farmland soils of statewide significance, and active farmland. [Added 4-7-2020 by Order No. 19-772-01]
 - (10) A proposed Utility Solar System in the Residential Development Overlay Zone shall: [Added 5-3-2022 by Order No. 21-494-01]
- (a) Provide an analysis that demonstrates it is not economically feasible to extend a compact pattern of

residential development because of the physical and natural features of the property. The analysis shall review topography and natural features including, but not limited to streams, rivers, ponds, wetlands, flood plains, rock outcrops, steep slopes, soil conditions, and critical habitats on the site within the context of meeting state and local regulations for development, but exclude the cost of extending required public sewer and water services to the property.

- (b) Minimize impacts on existing abutting residential development and/or residential zones.
- (11) A proposed retail use allowed in the Industrial Business (IB) Zone shall provide a traffic impact analysis that assesses development impacts on level of service and safety on the street network and improvements that may be warranted for mitigation of impacts. The traffic impact analysis shall be prepared by a Maine licensed professional engineer and conform with Maine Department of Transportation Rules and Regulations Pertaining to Traffic Movement Permits. [Added 4-19-2022 by Order No. 22-151-01]
- B. Nonprofit service organization. In addition to the requirements of this section and any other applicable section of the City's ordinances, the minimum lot size for this use is ten (10) acres. [Added 3-6-2007; amended 9-20-2022 by Order No. 22-440-01]
- C. Horse shows. In addition to the requirements of this section and any other applicable section of the City's ordinances, the minimum lot size for this use is twenty (20) acres. [Amended 3-6-2007; amended 9-20-2022 by Order No. 22-440-01]
- D. Antiques stores. In addition to the requirements of this section and any other applicable section of the City's ordinances, the following guidelines shall be used in the review of applications: [Added 7-20-2010]
- (1) The limits of outdoor display will be determined by the Planning Board during site plan review such that they are found to be consistent with the character of the neighborhood.
 - (2) No stripping of antiques and/or furniture is permitted on the premises.
 - (3) Signs shall be of residential character on simple posts and/or attached to the building and shall be consistent with the requirements of § 280-14-13. If a sign is illuminated it shall be of low wattage, not create a public hazard or nuisance, and be compatible with the character of the property and the surrounding neighborhood. [Amended 12-19-2017 by Order No. 17-163-01]
 - (4) Exterior lighting shall be of residential style.
 - (5) The business shall be owner-occupied.
 - (6) The building for the proposed antique store shall have been in existence at least ten (10) years as of the date of the application.
 - (7) Any additional conditions determined by the Planning Board at the time of review.
- E. Commercial schools. In addition to the requirements of this section and any other applicable section of the City's ordinances, the following guidelines shall be used in the review of applications for commercial schools:
- (1) All activities shall be conducted within a fully enclosed building.
 - (2) Adequate off-street parking shall be provided, the number of spaces to be based on the maximum capacity as determined by the Fire Chief divided by three (3).

- (3) Signs shall be of residential character on simple posts and shall be consistent with the requirements of § 280-14-13. If a sign is illuminated, it shall be of low wattage, not create a public hazard or nuisance, and be compatible with the character of the property and the surrounding neighborhood. [Amended 12-19-2017 by Order No. 17-163-01]
- (4) Exterior lighting shall be of residential style.
- (5) The activity may be a stand-alone business or as an accessory use to a residence as long as the business is owned by the resident of the residence.
- (6) Review and approval by the Planning Board is required, the classification of the site plan to be determined by the Planning Director based on the size of the structure and requirements of the ordinance.

F. Excavation Contracting Businesses. In addition to the requirements of this section and any other applicable section of the City's ordinances, where allowed as a Conditional Use the following guidelines shall be used in the review of applications for Excavation Contracting Businesses:

- (1) Frontage. Each use will be located with frontage on a numbered highway (i.e. 4, 11A, 99, 109, 202 or 224), including any roadway that becomes designated as a numbered highway or state route following adoption of this ordinance.**
- (2) Minimum Lot Size. The minimum lot size for this use is 5 acres.**
- (3) Minimum Setback. Any parking, staging areas, or garages used for equipment storage shall be located with a minimum setback distance of 100 feet from the property line of a residential use, unless:**
 - (a) The residential use is owned by the Excavation Contracting Business, or**
 - (b) An easement with any residential abutter(s) along property lines where the required setback cannot reasonably be met stating the Excavation Contracting Business is allowed to operate within the required setback is signed and recorded at the York County Registry of Deeds.**
- (4) Buffering. All outdoor staging or parking areas for equipment used by the Excavation Contracting Business is buffered by a vegetated buffer a minimum of fifteen (15) feet high and thirty (30) feet wide, or other buffering and/or fencing options as determined by the Planning Board. The Board may request a larger buffer if necessary for noise remediation.**

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Table of Land Use

Adopted changes are highlighted for clarity.

Chapter 280 Attachment 1A & 1B

Table of Land Use

~~[Repealed and replaced 11/24/2020; Amended 1-19-2021]~~

[Repealed and replaced 01/16/2024]

The following table of land uses identifies which uses of land, buildings, or structures are permitted by right, permitted subject to review, or permitted subject to the issuance of a conditional use permit in the various zones. Uses permitted by right are indicated by a “P” in the appropriate column. Uses permitted only with approval from the appropriate authority are indicated by a “PR” in the appropriate column. Use permitted only with the issuance of a conditional use permit are indicated by a “CU.” A use which is not designated as a use permitted by right, a use permitted only with review, or a use permitted only with a conditional use permit in any zone is deemed to be a prohibited use in that zone.

Uses identified by a numerical code are identified in the North American Industry Classification System, 2002 (NAICS) as defined in Chapter 280.

When a use appears in more than one category of uses, all listed uses are allowed, except when specifically excluded.

Category of Uses			NAICS #	RR	RMU	RD	U	IB	AD	IR
I	Rural Uses									
	A	Principal Uses								
		1 Abattoir		PR	PR			PR		
		2 Agriculture, commercial, including animal husbandry	11	P	P	CU	CU, except for animal husbandry, which is not allowed	P		
		3 Keeping of pigs, chickens, and fowl for commercial purposes		PR	PR			PR		
		4 Processing and/or sale of agricultural products raised on the premises		P	P	PR	P for sale	P		
		5 Aquaculture		P	P		P Indoor operation, CU Outdoor operation	P		
		6 Forest management		P	P	P	CU	P		

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Category of Uses			NAICS #	RR	RMU	RD	U	IB	AD	IR
	7	Lumberyard, including the milling and distribution of wood products and the wholesale and retail sales of building materials			PR		CU	PR		PR
	8	Commercial processing of wood, including cutting, sawing, splitting, and chipping		PR	PR			PR		PR
	9	Timber harvesting		P						
	10	Kennel		PR	PR			PR		
	11	Mineral exploration		P	P			PR		
	12	Mineral extraction		PR	PR			PR		
	13	Road and driveway construction		P	P	P	P	P	P	P
	14	Reuse of existing agricultural buildings		PR	PR	CU		PR		
Agriculture, Forestry, Fishing and Hunting			11				All CU, except P when proposed use meets ^a below	P 1112, 1114, 1119, 115	P 1114, 111998	
II	Residential Uses									
	A	Principal Uses								
	1	Single-family detached dwelling		P	P	P	P			
	2	Two (2) family dwelling				P	P			
	3	Multifamily dwelling				P	P			
	4	Multifamily dwelling above the ground floor of mixed use development								P
	5	Multifamily dwelling on the ground floor of mixed use development								CU
	6	Mobile home park with access from a collector or arterial			PR					
	7	Expansion of existing mobile home park			PR					
	8	Convalescent, rest, or nursing home					P except CU for 62322			p ^b
	9	Residential care or congregate care facility					P except CU for 62322			p ^b
	10	Expansion of existing residential care or congregate care facility		PR	PR		P except CU for 62322			p ^b

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Category of Uses			NAICS #	RR	RMU	RD	U	IB	AD	IR
B	Uses Accessory To Any Residential Use									
	1	Home occupation		P	P	P	P	P		P
	2	Medical marijuana home occupation		P	P	P	P	P		P
	3	Medical marijuana home production		P	P	P	P	P		P
	4	Residential solar system		P	P	P	P	P		P
C	Uses Accessory To Single Family Residential Use									
	1	Accessory Dwelling Unit		P	P	P	P			
	2	Excavating and general contractor and owner-operated trucking operation on lots of greater than five (5) acres		PR	PR			PR		PR
	3	Family child care and/or adult day services for fewer than nine (9) clients		P	P	P	P			
	4	Renting of rooms and furnishing of board		P	P	P	P			
III	Institutional Uses									
A	Principal Uses									
	1	Adult day service center with thirteen (13) or more clients	624110			CU	P	PR		p ^b
	2	Cemetery	812220	PR	PR	PR				
	3	Child care center or nursery school with thirteen (13) or fewer children	624110	PR	PR	PR	P	PR		p ^b
	4	Child care center or nursery school with thirteen (13) or more children	624110	CU	CU	CU	P	PR		p ^b
	5	Church, including accessory residential use	813110	PR	PR	PR				p ^b
	6	Horse show	7113	CU	CU					
	7	Hospital	622110							
	8	Library	519120	PR	PR		P			p ^b
	9	Municipal use		PR	PR	PR				PR
	10	Museum	712110	PR	PR		P			p ^b
	11	Nonprofit club and lodge				PR				CU
	12	Nonprofit service organization		CU	CU	CU	P			CU

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Category of Uses			NAICS #	RR	RMU	RD	U	IB	AD	IR
	13	School and college, private				PR	P			p ^b
	14	School and college, public				PR	P			p ^b
IV	Recreation Uses									
	A	Principal Uses								
	1	Amusement	7131				P	PR		P
	2	Archery range	713990	PR	PR					
	3	Campground	721211	PR	PR					
	4	Firearms range, fully enclosed		CU	CU					
	5	Firearms range, open								
	6	Golf course	713910	PR	PR	PR				
	7	Government and nonprofit park and outdoor recreation		PR	PR	PR	PR	PR	PR	PR
	8	Horse ring, indoor	115210	PR	PR					
	9	Recreation, for-profit, nonmotorized outdoor recreation		PR	PR	PR				
	10	Recreation, fully enclosed place of recreation	713940				P	PR		p ^b
Arts, Entertainment, and Recreation			71				All P	All P	All P	
V	Utility Uses									
	A	Principal Uses								
	1	Communication tower, alternative		PR	PR		CU, except P when proposed use meets ^a below	PR		PR
	2	Essential service		P	P	P	P	P	P	P
	3	Public utility		PR	PR	PR	PR	PR	PR	PR
	4	Solar energy system, commercial		P	P	P	Roof-mounted is P	P	P	P
	5	Solar energy system, ground-mounted		CU			CU			CU
	6	Solar energy system, utility		CU	P		Roof-mounted is P	P	P	P
	7	Transmitter tower within designated transmitter tower overlay zone		CU				CU		

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Category of Uses				NAICS #	RR	RMU	RD	U	IB	AD	IR
	8	Wind generator		221119	CU	CU			CU		
Utilities				22				All CU, except P when proposed use meets ^a below Roof-mounted commercial and utility solar systems are P	All P	All P, not including 2211, except 221119, which is P	
VI	Commercial and Industrial Uses										
	A	Principal Use									
	1	Antique store			CU	CU		P			P
	2	Contractor		2361		PR					PR, except not allowed on first floor of mixed use building
	3	Drinking place		722410				P			p ^b
	4	Eating place						P			p ^b
	5	Eating place, drive-through						CU			
	6	Eating place, takeout		722211				P			p ^b
*	7	*Excavating and general contractor		238910	*CU	*CU		CU, except when proposed use meets ^a below	All P	All P but 2211, except 221119 which is P	PR, except not allowed on first floor of mixed use development
	8	Financial institution						P			p ^b
	9	Financial institution with a drive-through						CU			
	10	Funeral home		812210				P, except for crematories			
	11	Health service facility						P	P	P	P
	12	Hotel or motel		7211				P	P	P	p ^b
	13	Inn or bed-and-breakfast		7211	PR	PR	PR	P	P	P	p ^b

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Category of Uses			NAICS #	RR	RMU	RD	U	IB	AD	IR
	14	Manufacturing, light on first floor of mixed use development								CU, except P when < 5,000 sf & retail sales of items manufactured on the premises
	15	Manufacturing, light	332431				CU, except when proposed use meets ^a below			PR
	16	Marina	713930	PR	PR		P			
	17	Marine sales and service		PR	PR					PR
	18	Marijuana production facility			P			P	P	
	19	Motor vehicle repair facility					CU, except when proposed use meets ^a below	P		
	20	Motor vehicle sales and service					P	P		
	21	Motor vehicle service						P		
	22	Motor vehicle service, repair, or sales facility, small-scale		CU	PR		CU, except when proposed use meets ^a below	All P	All P but 2211, which is not allowed except for 221119 which is P	
	23	Office, business on first floor of mixed use development					P			PR
	24	Office, business				CU	P			p ^b
	25	Office, mental health practitioner					P	P	P	P
	26	Office, professional on first floor of mixed use development								PR
	27	Office, professional				CU	P			p ^b

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Category of Uses				RR	RMU	RD	U	IB	AD	IR
	28	Parking, commercial facility	238990			PR	CU for freestanding businesses not associated with another use or structures			PR
	29	Petroleum product storage						CU		
	30	Power sport vehicle sales and service			PR		CU, except when proposed use meets ^a below	P	All P but 2211, except 221119 which is P	
	31	Repair service not involving motor vehicles	8112		PR		CU except when proposed use meets ^a below			p ^b
	32	Research and development facility	541710				P	P	P	CU
	33	Retail store					P			p ^b
	34	Retail store, limited			PR	PR				p ^b
	35	School, commercial					P			p ^b
	36	Service, business, on the ground floor of mixed use development								P ^b , up to 5,000 sf
	37	Service, business	561439			CU	P			p ^b
	38	Service, personal				CU	P			p ^b
	39	Storage of unregistered cars, junk cars, or junked car parts, unenclosed		CU	CU					
	40	Studio of artisan		PR	PR		P			p ^b
	41	Testing facility	3345				CU, except when proposed use meets ^a below	PR		PR

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Category of Uses			NAICS #	RR	RMU	RD	U	IB	AD	IR
	42	Tradesman, on the ground floor of mixed use development								CU
	43	Tradesman		PR	PR	PR	P			p ^b
	44	Trucking and distribution facility					P	P	P	PR
	45	Veterinary clinic/grooming	541940 /8129	PR	PR		P for grooming/CU for clinics, except when proposed use meets ^a below			P for grooming
	46	Warehousing and storage on first floor of mixed use development								CU
	47	Warehousing and storage	493110							p ^b
	48	Warehousing, mini storage on first floor of mixed use development								CU
	49	Warehouse, mini storage			PR		CU, except when proposed use meets ^a below	P		CU
	50	Wholesale sale on first floor of mixed use development								CU
	51	Wholesale sale	423110							p ^b
Construction			23				All CU except P when proposed use meets ^a below	All P	P 2362, 2382, 2383	
Manufacturing			31-33				All CU, except when proposed use meets ^a below	P 3111-3115, 3117-3159, 321-3219, 3222, 323, 3254, 3256, 326, 327, 332, 337, 339	P 3111-3115, 3117-3119, 312-316 (not including 3161), 321-322 (not including 321114), 323,	

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Category of Uses		NAICS #	RR	RMU	RD	U	IB	AD	IR
								325411, 326, 332, 334, 337, 339	
Wholesale Trade		42					All P	All P	
Retail Trade		44-45				All P	P 441-446, 448-454	P 442-446, 448, 451-454 (not including 45431)	
Transportation and Warehousing		48-49				P 485, 4862, 491-492/CU 484, 4862, 487, 493, except P when proposed use meets ^a below	P 482-493	P 481, 484, 485, 4871, 4879, 4881, 4884, 4885, 4899	
Information		51				All P	All P	All P	
Finance and Insurance		52				All P	All P	All P	
Real Estate and Rental and Leasing		53				All P	All P	All P	
Professional, Scientific, and Technical Services		54				All P	All P	All P	
Management of Companies and Enterprises		55				All P	All P	All P	
Administrative and Support and Waste Management and Remediation Services		56				All P (except for 562, which is not allowed)	All P	All P	
Educational Services		61				All P	All P (except for 6111)	All P (except for 6111)	
Health Care and Social Assistance		62				All P, except 62322 is prohibited and nonprofit medical marijuana dispensary is not allowed	All P, except marijuana dispensary is not allowed	All P, except nonprofit medical marijuana dispensary is not allowed	
Accommodation and Food Services		72				All P	All P	All P	
Other Services (except Administration)		81				All P	All P	All P	
Public Administration		92				All P, except for 92214 for long	All P	All P	

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Category of Uses		NAICS #	RR	RMU	RD	U	IB	AD	IR
						term incarceration			
B	Accessory Uses								
	1	Cafeteria and food service not open to the public				P			p ^b
	2	Drive-through service in conjunction with an allowed principal use				CU			
	3	Gasoline sale, accessory to a retail use		PR		PR			
	4	Offices associated with an allowed use	P	P	P	P	P	P	P
	5	Outdoor display of aboveground swimming pools, sheds, gazebos and fences in conjunction with an allowed principal use				PR			
	6	Outdoor display of retail goods during business hours in conjunction with an allowed retail use				P			PR
	7	Outdoor eating place chairs, tables or umbrellas to serve patrons in an adjacent eating place				P			p ^b
	8	Outside storage of materials, equipment and products in conjunction with an allowed principal use	P	P		PR			PR
	9	Retail sales of items manufactured on the premises			P	P			p ^b
VII	Accessory Uses								
	1	Accessory building and structure	P	P	P	P	P	P	P
	2	Off-street parking accessory to a permitted use	P	P	P	P	P	P	P

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Category of Uses			NAICS #	RR	RMU	RD	U	IB	AD	IR
	3	Off-street parking accessory to a use permitted with review or a conditional use		PR	PR	PR	PR	PR	PR	p ^b
	4	Sign		P	P	P	P	P	P	P
	5	Yard sale		P	P	P	P	P	P	P

^a Change in use within an existing developed site shall be permitted if it:

- expands the existing structure no more than a five-hundred square foot,
- expands impervious cover no more than five-hundred (500) square feet,
- expands parking by no more than five (5) spaces,
- does not appreciably increase traffic to and from the site,
- screens service vehicles from view from a public right-of-way or adjacent properties, and
- provides new or expanded planting of street trees along street frontages.

^b The Directors of the Planning & Development or Code Enforcement may ask the Planning Board to review the request if she/he finds that the scale, complexity, or other elements of the proposal warrants review by the Board.