

Meeting of November 7, 2016

South Portland City Council
Position Paper of the Interim City Manager

Subject:

ORDINANCE #6-16/17. Amending Chapter 27, "Zoning," regarding Mill Creek zoning amendments. First reading. Passage requires majority vote.

Position:

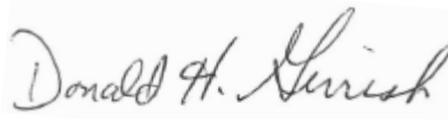
Over the last three months, the Planning Board and the City Council have taken up the topic of amending Chapter 27, Zoning, of the Code of Ordinances regarding several zoning amendments in the Mill Creek area.

The City of South Portland's Comprehensive Plan Implementation Committee (CPIC) requested several amendments, which have been reviewed and are being recommended by the Planning Board. The amendments are part of an implementation program for the previously adopted Mill Creek Master Plan. The zoning map changes will create three new zoning districts: Village Extension District (VE); Broadway Corridor District (BC); and, Mill Creek Core District (MCC). The zoning text amendments are designed to support the new zoning districts by establishing new building height and density standards, lighting standards, and parking standards.

At the City Council workshop meeting on October 12, 2016 the Council proposed additional zoning text amendments which have now been incorporated into the draft amendments. Corporation Counsel Sally Daggett has reviewed those minor amendments and found they are not substantive to warrant new notice and Planning Board review.

Requested Action:

Council passage of first reading of ORDINANCE#6-16/17 and to set November 21, 2016 as the date for public hearing/second reading and action.



Interim City Manager

To: Don Gerrish, Interim City Manager
From: Tex Haeuser, Planning Director
Cc: Joshua Reny, Assistant City Manager and Economic Development Director
Sally Daggett, Esq.
Comprehensive Plan Implementation Committee, Craig Piper, Chairman
Date: November 3, 2016
Re: Proposed Mill Creek Zoning Amendments

Introduction

The proposed Mill Creek amendments are a set of revisions to the Zoning Ordinance that are intended to foster redevelopment in the Mill Creek downtown district of South Portland. Some of the amendments, such as those for off-street parking and for new lighting standards, apply city-wide. In general, the draft amendments closely follow the adopted Master Plan.

Review History

The proposed amendments have had staff and legal review and have been revised and improved over the course of the following public meetings:

07-06-15 City Council adoption of the Mill Creek Master Plan
04-14-16 Public forum led by the Comprehensive Plan Implementation Committee
07-26-16 Planning Board public hearing: 6 – 0 (Boudreau absent) favorable recommendation
10-12-16 City Council workshop

This submission was reviewed under Section 27-115 (g) Changes and amendments in Chapter 27 Zoning and for consistency with the City's Comprehensive Plan and Climate Action Plan.

Public Notice

The proposed text amendments and the existing and proposed zoning maps, as well as other supporting materials, are available on the Mill Creek Zoning Amendments page of the Comprehensive Plan Committee's section of the City's website.

A legal advertisement providing notice of the public hearings appeared in the Portland Press Herald on July 12 and July 19, 2016, and was posted in City Hall. In addition, the proposed amendments and supporting materials were posted on the City's website, and articles about the hearings ran in the July 1 and July 15 Community Newsletters. Written notice was mailed to 284 owners of property in, and within 500 feet of, the proposed new zoning districts.

Changes Made as a Result of the October 12 City Council Workshop

Suggestions or requests made at the City Council workshop, and the staff responses, are included in the following table:

Commenter	Comment	Staff Response	Revision to the Draft Amendments
Susan Henderson	When are elevators required?	The building code does not say when an elevator is required but has standards for elevators when they are used. However, ADA requirements stipulate that buildings with 3 or more separate floors and that are greater than 3,000 sf in size need to have elevators.	None
Susan Henderson	Increase E St front yard setback in order to provide more play area for children	OK	Increased the minimum front setback along E Street (27-834) from 10 to 15 feet.
Councilor Smith	Include parks in zoning	Councilors decided to do separately city-wide.	None
Councilor Smith	Include water transportation in the zoning permitted uses	OK	Added 27-833(c) to the MCC district.
Councilor Smith	Off-street parking space dimensions could be reduced to bike-size for occupants using E-bikes	OK	Added a paragraph to the Parking standards in 27-1556(b)
Councilor Smith	Ensure that potters, coffee roasters, and other similar light manufacturers are allowed by zoning	OK	Added coffee shops and bakeries to the restaurant use in all 3 districts (27-812, 27-822, and 27-832) and added fully enclosed light manufacturing as part of mixed-use buildings in VE (27-813) and BC (27-823). Already allowed in MCC as part of a Planned Development.
Councilor Smith	Allow beehives on green roofs	Would be allowed anyway as an accessory use.	None

Councilor Rose	Make sure the wastewater treatment plan has the necessary capacity for Mill Creek redevelopment	<p>WRP Director: Thanks for contacting me concerning the potential projects in the Mill Creek Master Plan and speaking to the need to consider new sewer discharges from development/redevelopment. The short answer concerning the sewer capacity in this area is that there's plenty of capacity for the growth expected. The recent two phase Knightville separation projects created a large amount of near capacity for the additional flows coming from the eastern side of the city. The other longer term answer for capacity is the tremendous amount of work the city has done in separating the sewers. That work has created capacity the city will be able to build new sewer flow into for a long time. The effort and direction the city has taken historically into removing Combined Sewer Overflow's (CSO's) and by continuing to follow the city's CSO Facilities Plan will continue to improve the collection system by taking out hydraulic choke points, removing more inflow/infiltration, and build in even more capacity into the system. All this while improving Casco Bay and building an enduring legacy of environmental stewardship the city can be very proud of.</p> <p>It's great to see that the effort, resources, and patience the city has demonstrated over these years has put them in a place where the benefits are really paying off.</p> <p>Pat</p>	None
Councilor Rose	Make off-street parking standards flexible enough to be able to give credit for emerging transportation technologies and systems	OK—somewhat similar to one of Councilor Smith's comments.	Added a paragraph to the Parking standards in 27-1556(b). Also, the draft already has a proposal in 27-1556(c)(2) allowing transit and other alternatives to be considered.
Councilor Rose	Make sure renewable energy systems, like 2.5 kW wind fans/turbines are allowed	Existing accessory energy generation standards allow these.	None
Mayor Blake	Prefers to extend drive-through restrictions to all three zones	This was a topic was discussed in depth by the Comp Plan Implementation Committee. Therefore, it would be more appropriate for an amendment to be proposed by a City Councilor than for staff to write it into the draft.	None

Mayor Blake	Setbacks should be from residential homes and not from residential zones	OK	Side and rear yard setbacks in the VE and MCC (27-814 and 27-834) revised to apply both to abutting residential zone lines and existing residential uses.
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Requested Action

Approve for first reading the proposed 10-28-16 version of the proposed Mill Creek Zoning Amendments, and the proposed zoning map amendment, and schedule this item for a second reading public hearing.

Thank you.

Enclosures

1. Mill Creek and Other Amendments--without Benchmarking--Revised 10-28-16--with Sally's edits.
2. Proposed zoning map amendment.



CITY OF SOUTH PORTLAND

THOMAS E. BLAKE
Mayor

DON H. GERRISH
Interim City Manager

SALLY J. DAGGETT
Jensen Baird Gardner & Henry

EMILY F. SCULLY
City Clerk

IN CITY COUNCIL

ORDINANCE #6-16/17

THE COUNCIL of the City of South Portland hereby ordains that Article III of Chapter 27, "Zoning," of the "Code of Ordinances of the City of South Portland, Maine" be and hereby is amended as follows (deletions are ~~struck through~~; additions are underlined):

CHAPTER 27

27 ZONING

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ARTICLE IV. ZONING DISTRICTS

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Sec. 27-401. Establishment of zoning districts.

To implement the provisions of this Chapter, the City of South Portland is hereby divided into the following classes of districts:

Residential Districts:

- Rural Residential District RF.
- Residential District AA.
- Residential District A.
- Residential District G.
- Village Residential District VR.
- Transitional Residential District RT.

~~Mixed Use/Commercial Districts:~~ **Mixed Use/Commercial Districts:**

- Limited Business District LB.
- Village Commercial District VC.

District One
CLAUDE V. Z. MORGAN

District Two
PATRICIA A. SMITH

District Three
EBEN C. ROSE

District Four
LINDA C. COHEN

District Five
BRAD FOX

At Large
MAXINE R. BEECHER

At Large
THOMAS E. BLAKE

Village Commercial – Willard District VCW.
Spring Point District SP.
Suburban Commercial District CS.
General Commercial District CG.
Professional Office District PO.
Transitional Central and Regional Commercial District CCRT.
Central and Regional Commercial District CCR.
Commercial District C.
[Main Street Community Commercial District MSCC](#)
[Village Extension District VE](#)
[Broadway Corridor District BC](#)
[Mill Creek Core District MCC](#)

Industrial Districts:

Light Industrial District IL.
Shipyards District S
Industrial District I.
Nonresidential Industrial District INR.

Residential Conditional/Contract Zones

Conditional Residential Use District A-1.
Conditional Shipyards District S-1.
Conditional Residential Use District G-1.
Contract Residential District G-2.
Conditional Residential and Limited Commercial Use District G-3.

Mixed-Use, Commercial, Industrial Conditional/Contract Districts

Conditional Armory Zone CAZ.
Conditional Clark's Pond Central and Regional Commercial District CPCCR.
Conditional Non-Residential Industrial Municipal Solid Waste Transfer District
INR-MSW-1.

Shoreland Overlay Districts

Shoreland Area

- Shoreland Resource Protection Overlay Subdistrict SRP
- Stream Protection Overlay Subdistrict 1 SP-1.
- Stream Protection Overlay Subdistrict 2 SP-2.
- Stream Protection Overlay Subdistrict 3 SP-3.

2. Add new definition for Live/Work Unit as follows:

Live/Work Unit. A single unit (such as a studio, loft, or one-bedroom) consisting of both a residential space and a commercial/office component, with internal access between the residential and commercial/office spaces. The residential and commercial/office space must be occupied by the same tenant and shall be the primary residence of the tenant. Additionally, no portion of the live/work unit may be rented or sold separately.

3. Add new sections 27-811 to 27-818 to establish a new Village Extension District to read as follows:

VILLAGE EXTENSION DISTRICT VE

Sec. 27-811. Purpose (VE).

To provide a higher density, pedestrian-focused neighborhood with a mix of commercial and residential uses within the City of South Portland that, in combination with the Mill Creek Core District and the Knightville Village Commercial and Residential Districts, provides an area with a distinct identity as a green and livable place that offers a wide range of housing, employment, retail, service, institutional, public transportation, and recreation opportunities within walking distance.

Sec. 27-812. Permitted uses (VE).

(a) Residential uses

1. Dwellings on the upper floors of a mixed-use building.
2. Dwellings on the first floor of a mixed-use building provided that no dwelling unit or portion thereof, except for a live/work unit, is located in the part of the building that is adjacent to the front property line or to a property line abutting Ocean Street, Cottage Road, E Street, or Broadway.
3. Live/work units including, but not limited to, artists' residences with studio space.
4. Congregate care facilities, assisted living facilities, nursing homes, and similar facilities for the housing and care of senior citizens or people with disabilities.
5. Congregate housing individual unit ownership facilities.

6. Community homes.

(b) Accommodation services:

1. Bed & breakfast inns.

(c) Commercial uses:

1. Medical, business, and professional offices.
2. Retail stores and service establishments, provided that such facilities may not be open to the public between the hours of 12:00 midnight and 6:00 a.m. This use does not include outdoor sales and service, gasoline filling stations, junkyards, salvage operations, warehouse discount stores, pawn shops, alternative financial establishments, or any provisions for drive-up or drive-through services.
3. Personal and business services.
4. Restaurants and other places for the serving of food or beverages including coffee shops and bakeries, provided that such facilities may not be open between the hours of 1:00 a.m. and 6:00 a.m. and do not include any provisions for drive-up or drive-through services.

(d) Public assembly, institutional, or community facilities:

1. Religious institutions, including related religious facilities such as parish houses and educational buildings.
2. Museums and art galleries.
3. Funeral homes, not including crematories.
4. Public and private educational facilities, including child, adult, or combined day care centers.
5. Municipal buildings and uses.
6. Charitable and philanthropic organizations.

(e) Utility and related facilities:

1. Municipal uses, including pumping stations.

(f) Other uses:

1. Accessory uses, including, but not limited to, accessory energy generation facilities.
2. Multiple/mixed uses involving a combination of two or more permitted uses.
3. Studios for artists and craftspeople.

Sec. 27-813. Special exceptions (VE).

(a) Commercial:

1. Outdoor sales, display and services, other than accessory uses as defined in Sec. 27-201, subject, in addition to other ordinance requirements, to the following terms and conditions:
 - (i) The Planning Board may limit the percentage of area coverage;
 - (ii) The Planning Board may restrict the outdoor sales, display, and services to a specific portion of the lot in question;
 - (iii) The Planning Board may limit the time and/or number of units involved in such outdoor sales, display or service.

(b) Public assembly, institutional, or community facilities:

1. Recreational or community activity facilities, whether operated on a for-profit or not-for-profit basis.
2. Theaters not exceeding twelve thousand (12,000) square feet in total building floor area.

(c) Transportation-related facilities:

1. Surface parking lots.
2. Multi-storied parking structures.

(d) Utility and related facilities:

1. Public utility facilities, including substations.
2. Radio, television, or wireless antennas, provided that telecommunication towers are not permitted.

(e) Other uses:

1. Fully enclosed facilities for light manufacturing or assembly activities only as part of a mixed-use building.

Sec. 27-814. Space and bulk regulations (VE).

Maximum residential density: None.

Minimum building height for buildings constructed after August 1, 2016:

The greater of thirty (30) feet or three (3) habitable stories, except twenty (20) feet or two (2) habitable stories for a building on a lot with frontage on Broadway.

Maximum building height:

The lesser of sixty (60) feet or five (5) habitable stories, not including floors devoted primarily to parking, except forty-five (45) feet or four (4) habitable stories for a building on a lot with frontage on Broadway. Notwithstanding this limit, the portion of any building located within fifty (50) feet of the E Street property line shall be limited to a maximum of the lesser of (i) forty (40) feet or (ii) three (3) habitable stories, not including floors devoted primarily to parking.

Minimum front yard setback:

None, except fifteen (15) feet from a property line abutting Broadway.

Maximum front yard setback:

Ten (10) feet, except twenty (20) feet from a property line abutting Broadway. In all cases, up to forty percent (40%) of the width of the front façade of the building may be set back further than the maximum setback (i.e., further away from the front property line) if the space between the front wall of this portion of the building and the front property line is used as pedestrian space or for customer related outdoor service activities such as seating for a restaurant.

Minimum side yard setbacks:

None, except fifteen (15) feet where the side yard abuts a residential zoning district or a

property in exclusive use for residential purposes as of the date of adoption of the Village Extension District.

Minimum rear yard setbacks:

None, except the greater of fifteen (15) feet or fifty percent (50%) of the building height where the rear yard abuts a residential zoning district or a property in exclusive use for residential purposes as of the date of adoption of the Village Extension District.

Minimum lot area:

None.

Minimum street frontage:

None.

Minimum utilization of primary frontage:

A building or buildings shall fill at least eighty percent (80%) of the primary street frontage except along a property line abutting Broadway. The Planning Board may reduce this requirement if the width of the primary frontage would prohibit vehicular access to the lot without the necessity of a variance from the Board of Appeals.

Maximum lot coverage:

Eighty (80) percent.

Sec. 27-815. Design standards (VE).

All building construction or remodeling projects within the Village Extension zoning district must comply with the Design Standards for Commercial and Neighborhood Activity Centers (Secs. 27-1572 through 27-1575).

Sec. 27-816. Off-street parking (VE).

Off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter. No off-street parking including aisles providing direct access to parking spaces shall be located between the front property line of the lot and the front wall of the building extending the full width of the lot.

Sec. 27-817. Signs (VE).

Signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-818. Site plan review (VE).

Any use allowed in this District involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV; provided, that this section shall not apply to single-family detached dwellings or their accessory buildings. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries.

In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last two (2) years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use, or a nonconforming use.

4. Add new sections 27-821 to 27-829 to establish a new Broadway Corridor District to read as follows:

BROADWAY CORRIDOR DISTRICT BC

Sec. 27-821. Purpose (BC).

To accommodate a wide-range of uses while continuing to allow for auto-focused uses in a form that creates a transition to the more pedestrian focused, higher density development in the adjacent Mill Creek Core District.

Sec. 27-822. Permitted uses (BC).

(a) Residential uses

1. Live/work units including, but not limited to, artists' residences with studio space.

(b) Accommodation services:

1. Bed & breakfast inns.

(c) Commercial uses:

1. Medical, business, and professional offices.

2. Retail stores and service establishments, provided that such facilities may not be open to the public between the hours of 12:00 midnight and 6:00 a.m. Provisions for drive-up or drive-through services are permitted in conjunction with a retail or service establishment only if the maximum number of transactions during the AM Peak Hour or PM Peak Hour is less than twenty (20). This use does not include outdoor sales and service, gasoline filling stations, junkyards, salvage operations, warehouse discount stores, pawn shops, and alternative financial establishments.
3. Personal and business services.
4. Restaurants and other places for the serving of food or beverages including coffee shops and bakeries, provided that such facilities may not be open between the hours of 1:00 a.m. and 6:00 a.m. Provisions for drive-up or drive-through services are permitted in conjunction with a restaurant only if the maximum number of transactions during the AM Peak Hour or PM Peak Hour is less than twenty (20).

(d) Public assembly, institutional, or community facilities:

1. Religious institutions, including related religious facilities such as parish houses and educational buildings.
2. Museums and art galleries.
3. Funeral homes, not including crematories.
4. Public and private educational facilities, including child, adult, or combined day care centers.
5. Municipal buildings and uses.
6. Charitable and philanthropic organizations.

(e) Utility and related facilities:

1. Municipal uses, including pumping stations.

(f) Other uses:

1. Accessory uses, including, but not limited to, accessory energy generation facilities.
2. Multiple/mixed uses involving a combination of two or more permitted uses.
3. Studios for artists and craftspeople.

Sec. 27-823. Special exceptions (BC).

(a) Commercial:

1. Outdoor sales, display and services, other than accessory uses as defined in Sec. 27-201, subject, in addition to other ordinance requirements, to the following terms and conditions:
 - (i) The Planning Board may limit the percentage of area coverage;
 - (ii) The Planning Board may restrict the outdoor sales, display, and services to a specific portion of the lot in question;
 - (iii) The Planning Board may limit the time and/or number of units involved in such outdoor sales, display or service.

(b) Public assembly, institutional, or community facilities:

1. Recreational or community activity facilities, whether operated on a for-profit or not-for-profit basis.
2. Theaters not exceeding twenty thousand (20,000) square feet in total building floor area.

(c) Transportation-related facilities:

1. Surface parking lots.
2. Multi-storied parking structures.

(d) Utility and related facilities:

1. Public utility facilities, including substations.
2. Radio, television, or wireless antennas, provided that telecommunication towers are not permitted.

(e) Other uses:

1. Fully enclosed facilities for light manufacturing or assembly activities only as part of a mixed-use building.

Sec. 27-824. Space and bulk regulations (BC).

<u>Maximum residential density:</u>	<u>None.</u>
<u>Minimum building height for buildings constructed after August 1, 2016:</u>	<u>The greater of twenty (20) feet or two (2) habitable stories.</u>
<u>Maximum building height:</u>	<u>The lesser of fifty (50) feet or four (4) habitable stories, not including floors devoted primarily to parking.</u>
<u>Minimum front yard setback:</u>	<u>Ten (10) feet.</u>
<u>Maximum front yard setback:</u>	<u>Twenty (20) feet, except that up to forty percent (40%) of the width of the front façade of the building may be set back further than the maximum setback (i.e., further away from the front property line) if the space between the front wall of this portion of the building and the front property line is used as pedestrian space or for customer related outdoor service activities such as seating for a restaurant.</u>
<u>Minimum side yard setbacks:</u>	<u>None except fifteen (15) feet where the side yard abuts a residential zoning district.</u>
<u>Minimum rear yard setbacks:</u>	<u>None, except the greater of fifteen (15) feet or fifty percent (50%) of the building height where the rear yard abuts a residential zoning district.</u>
<u>Minimum lot area</u>	<u>None.</u>
<u>Minimum street frontage:</u>	<u>None.</u>
<u>Maximum lot coverage:</u>	<u>Eighty (80) percent.</u>

Sec. 27-825. Design standards (BC).

All building construction or remodeling projects within the Broadway Corridor zoning district must comply with the Design Standards for Commercial and Neighborhood Activity Centers (Secs. 27-1572 through 27-1575).

Sec. 27-826. Additional development standards (BC).

(a) Any drive-through service facility in the Broadway Corridor District must comply with the following additional standards:

1. Any point of customer service for the facility must be located on a side of the building that does not face a public street; and
2. The access lane(s) or exit lane(s) for the drive-through service facility must not pass between the front of the building and the front property line.

(b) The portion of the lot between the front wall of the building and the front property line shall be maintained as a landscaped area and/or as pedestrian space.

(c) A pedestrian connection shall be provided from the public sidewalk to the main customer or public entrance to the building.

(d) Where feasible, vehicular entrances from public streets shall be designed to provide access to more than one building.

(e) Where feasible, provisions shall be made to interconnect parking lots serving adjacent lots or buildings.

Sec. 27-827. Off-street parking (BC).

Off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter. No off-street parking including aisles providing direct access to parking spaces shall be located between the front property line of the lot and the front wall of the building extending the full width of the lot.

Sec. 27-828. Signs (BC).

Signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-829. Site plan review (BC).

Any use allowed in this District involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV; provided, that this section shall not apply to single-family detached dwellings or their accessory buildings. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic

generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries.

In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last two (2) years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use, or a nonconforming use.

5. Add new sections 27-831 to 27-839 to establish a new Mill Creek Core District to read as follows:

MILL CREEK CORE DISTRICT MCC

Sec. 27-831. Purpose (MCC).

To allow for and encourage the development of mixed-use, multistory buildings as Mill Creek evolves into a pedestrian focused, higher density more downtown-like area.

Sec. 27-832. Permitted uses (MCC).

(a) Residential uses

1. Attached single-family dwellings (townhouses), two-family dwellings, and multifamily dwellings only on lots for which E Street provides the closest street frontage.
2. Dwellings on the upper floors of a mixed-use building.
3. Dwellings on the first floor of a mixed-use building provided that no dwelling unit or portion thereof, except for a live/work unit, is located in the part of the building that is adjacent to the property line of the street where the primary building entrance is located.
4. Live/work units including, but not limited to, artists' residences with studio space.
5. Congregate care facilities, assisted living facilities, nursing homes, and similar facilities for the housing and care of senior citizens or people with disabilities.
6. Congregate housing individual unit ownership facilities.

(b) Accommodation services:

1. Bed & breakfast inns.
2. Hotels.

(c) Commercial uses:

1. Medical, business, and professional offices.

2. Retail stores and service establishments, provided that such facilities may not be open to the public between the hours of 12:00 midnight and 6:00 a.m. Provisions for drive-up or drive-through services are permitted in conjunction with a retail or service establishment only as part of a Planned Development approved under the standards of Sec. 27-834. This use does not include outdoor sales and service, gasoline filling stations, junkyards, salvage operations, warehouse discount stores, pawn shops, and alternative financial establishments.
3. Personal and business services.
4. Restaurants and other places for the serving of food or beverages including coffee shops and bakeries, provided that such facilities may not be open between the hours of 1:00 a.m. and 6:00 a.m. Provisions for drive-up or drive-through services are permitted in conjunction with a retail or service establishment only as part of a Planned Development approved under the standards of Sec. 27-834.

(d) Public assembly, institutional, or community facilities:

1. Religious institutions, including related religious facilities such as parish houses and educational buildings.
2. Museums and art galleries but only as part of a Planned Development approved under the standards of Sec. 27-834.
3. Funeral homes, not including crematories.
4. Public and private educational facilities, including child, adult, or combined day care centers.
5. Municipal buildings and uses.
6. Charitable and philanthropic organizations.

(e) Utility and related facilities:

1. Municipal uses, including pumping stations.

(f) Other uses:

1. Accessory uses, including, but not limited to, accessory energy generation facilities.
2. Multiple/mixed uses involving a combination of two or more permitted uses.
3. Studios for artists and craftspeople.

4. Fully enclosed facilities for light manufacturing or assembly activities only as part of a Planned Development approved under the standards of Sec. 27-834.

Sec. 27-833. Special exceptions (MCC).

(a) Commercial:

1. Outdoor sales, display and services, other than accessory uses as defined in Sec. 27-201, subject, in addition to other ordinance requirements, to the following terms and conditions:
 - (i) The Planning Board may limit the percentage of area coverage;
 - (ii) The Planning Board may restrict the outdoor sales, display, and services to a specific portion of the lot in question;
 - (iii) The Planning Board may limit the time and/or number of units involved in such outdoor sales, display or service.
2. Retail stores and service establishments that are open to the public between the hours of 12:00 a.m. and 6:00 a.m. but only as part of a Planned Development.
3. Restaurants that are open to the public between the hours of 1:00 a.m. and 6:00 a.m. but only as part of a Planned Development.

(b) Public assembly, institutional, or community facilities:

1. Recreational, entertainment or community activity facilities, whether operated on a for-profit or not-for-profit basis.
2. Theaters not exceeding twenty thousand (20,000) square feet in total building floor area.

(c) Transportation-related facilities:

1. Surface parking lots.
2. Multi-storied parking structures.
3. Facilities for water transportation.

(d) Utility and related facilities:

1. Public utility facilities, including substations.

2. Radio, television, or wireless antennas, provided that telecommunication towers are not permitted.

Sec. 27-834. Space and bulk regulations (MCC).

A property in the MCC District shall conform to the Basic Standards of (a). The Basic Standards of (a) apply to all developments including projects regulated under the Planned Development Standards of (c). The Basic Development Standards of (b) shall also apply unless the property owner voluntarily elects to be regulated under the Planned Development provisions of (c) rather than the Basic Development Standards of (b).

(a) Basic Standards

The following standards apply to all development and use of property within the MCC District:

Minimum lot area None.

Minimum street frontage: None.

Minimum front yard setback: None except fifteen (15) feet from a property line abutting E Street.

Minimum side yard setbacks: None, except fifteen (15) feet where the side yard abuts a residential zoning district or a property in exclusive use for residential purposes as of the date of adoption of the Mill Creek Core District.

Minimum rear yard setbacks: None, except the greater of fifteen (15) feet or fifty percent (50%) of the building height where the rear yard abuts a residential zoning district or a property in exclusive use for residential purposes as of the date of adoption of the Mill Creek Core District.

Maximum building height: The lesser of seventy-five (75) feet or five (5) habitable stories, not including floors devoted primarily to parking. Notwithstanding this limit, the portion of any building located within fifty (50) feet of the E Street property line shall be limited to a maximum of the lesser of (i) forty

(40) feet or (ii) three (3) habitable stories, not including floors devoted primarily to parking.

Maximum residential density: None.

(b) Basic Development Standards

The following additional standards apply to all development and use of property within the MCC District unless the property owner voluntarily elects to be regulated under the Planned Development provisions of subsection (c) rather than the Basic Development Standards of this subsection:

Minimum utilization of primary frontage:

A building or buildings shall fill at least sixty percent (60%) of the primary street frontage. The Planning Board may reduce this requirement if the width of the primary frontage would prohibit vehicular access to the lot without the necessity of a variance from the Board of Appeals.

Maximum front yard setback:

Fifteen (15) feet, except that up to forty percent (40%) of the width of the front façade of the building may be set back further than the maximum setback (i.e., further away from the front property line) if the space between the front wall of this portion of the building and the front property line is used as pedestrian space or for customer related outdoor service activities such as seating for a restaurant. Where there is a permanent easement in existence as of August 1, 2016 that prevents a building from being located close to a street, the maximum setback shall be measured from the edge of the easement area.

Minimum building height for buildings constructed after August 1, 2016:

The greater of thirty (30) feet or three (3) habitable stories, except the greater of twenty (20) feet or two (2) habitable stories for the portion of any building located within seventy-five (75) feet of the E Street property line.

Maximum lot coverage: Eighty (80) percent.

(c) Planned Development

Recognizing that the evolution of Mill Creek into a pedestrian focused, higher density more downtown-like area will require collaboration between the City and property owners and developers, a property owner or developer may voluntarily elect to develop under the provisions of this subsection rather than the standards of subsection (b), Basic Development Standards, if the project involves the construction of a new building, the expansion of an existing building, or the renovation of at least fifty percent (50%) of the floor area of an existing building. A property owner who elects to develop under the Planned Development provisions may also request modifications to the standards of Sec. 27-835, Sec. 27-836, and Sec. 27-837 as part of the Master Development Plan. To utilize the provisions of this subsection, the property owner or developer must prepare a Master Development Plan that details the development proposal and demonstrates to the Planning Board that the proposal will be consistent with the City's vision and objectives for Mill Creek as set out in the Mill Creek Master Plan adopted by the City Council on August 6, 2015.

The proposed Master Development Plan must include, at a minimum, the following information:

1. A site plan and building plans providing the information required by the Site Plan Review requirements of Sec. 27-1424 and the Design Standards for Commercial and Neighborhood Activity Centers (Secs. 27-1572 through 27-1575).

2. A narrative and illustrations demonstrating how the Master Development Plan will be consistent with the City's vision for Mill Creek, and each of the following objectives, contained in the Mill Creek Master Plan:

(a) Make Mill Creek more of a pedestrian focused neighborhood by enhancing the ability of residents, shoppers, visitors, and employees to easily and safely move around the neighborhood on foot while improving the ability of people who live outside of Mill Creek to easily and safely walk and bike to the neighborhood.

(b) Establish Mill Creek as a distinct and special place with a clear identity, attractive gateways, and a high-quality visual environment so Mill Creek becomes a destination and a place where people want to spend time and live.

(c) Make Mill Creek "greener" in both a physical and environmental sense with more green spaces, trees, landscaping and flowers, better connections between parks, and upgraded environmental conditions such as green, energy efficient buildings and improved stormwater management.

(d) Increase the diversity and intensity of uses and activities in Mill Creek so that, over time, it becomes a true mixed-use downtown neighborhood with a variety of both commercial and residential uses with a focus on encouraging the development of multi-story, mixed-use buildings within a more pedestrian focused, urban environment.

(e) Create a transition between Mill Creek and Knightville to protect Knightville's residential neighborhood (the letter streets) from the potential impacts of redevelopment of Mill Creek.

(f) Minimize the potential impacts of increased flooding from storms and sea level rise on Mill Creek so that it can remain a viable and attractive area in which people want to live, visit, and invest.

The Planning Board shall review the proposed Master Development Plan to determine if it is consistent with the City's vision for Mill Creek contained in the Mill Creek Master Plan and the six objectives set out above. If the Board determines that the proposed development plan is consistent with the vision and objectives, the project may be developed in accordance with the Master Development Plan. Any proposed changes to the project in the future will be required to conform to the Master Development Plan. If the Planning Board determines that the Master Development Plan is not consistent with the vision and objectives, the Basic Development Standards of subsection (b), together with the other applicable provisions of this district and Chapter 27, shall apply to the use and development of the property.

Sec. 27-835. Design standards (MCC).

All building construction or remodeling projects within the Mill Creek Core zoning district must comply with the Design Standards for Commercial and Neighborhood Activity Centers (Secs. 27-1572 through 27-1575), unless the project is approved as a Planned Development, in which case the provisions of the approved Master Development Plan shall apply.

Sec. 27-836. Additional development standards (MCC).

The following shall apply unless alternative provisions are specifically approved as part of a Master Development Plan for a Planned Development:

(a) Any drive-through service facility in the Mill Creek Core District must comply with the following additional standards:

1. Any point of customer service for the facility must be located on a side of the building that does not face a public street, and

2. The access lane(s) or exit lane(s) for the drive-through service facility must not pass between the front of the building and the front property line.

(b) The portion of the lot between the front wall of the building and the front property line shall be maintained as a landscaped area and/or as pedestrian space. Where a permanent easement exists that prevents the building from being located close to the street, the Planning Board may allow alternative use of the space including the space within the easement area.

(c) A pedestrian connection shall be provided from the public sidewalk to the main customer or public entrance to the building.

(d) Any nonresidential use or activity that is located on a lot that has its principal street frontage on E Street between Q Street and D Street or that has its principal building entrance from E Street within this area shall be subject to the following limitations:

(1) All nonresidential activity shall be limited to the hours between 7:00 a.m. and 9:00 p.m.

(2) Routine deliveries shall be limited to two-axle delivery vehicles such as step vans and box trucks.

Sec. 27-837. Off-street parking (MCC).

Off-street parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter. No off-street parking including aisles providing direct access to parking spaces shall be located between the front property line of the lot and the front wall of the building extending the full width of the lot unless specifically approved as part of a Master Development Plan for a Planned Development.

Sec. 27-838. Signs (MCC).

Signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-839. Site plan review (MCC).

Any use allowed in this District involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV; provided, that this section shall not apply to single-family detached dwellings or their accessory buildings. For purposes of this section, "new construction" means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A "use" shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries.

In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last two (2) years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer's office), whether such use was as a permitted use, special exception use, or a nonconforming use.

6. Amend the Official Zoning Map to show the new Village Extension, Broadway Corridor, and Mill Creek Core Districts.

7. Amend 27-1556 Off-street parking regulations to read as follows:

Sec. 27-1556. Off-street parking regulations.

(a) Off-street parking, either by means of open-air spaces, or by garage space, in addition to being a permitted use, shall be considered as an accessory use when required or provided to serve conforming uses located in any district. ~~The size of up to thirty-three (33) percent of the required off-street parking spaces for non-residential uses may be reduced from 9' X 18' for 90-degree parking to 8' X 16', provided that the smaller spaces will be reserved exclusively for employee parking and will be designated for "compact car" parking by appropriate signage.~~

~~The size of a required off-street parking space to serve a single-family detached dwelling or two-family dwelling or for 90-degree parking for other residential uses may be reduced from 9' X 18' to 8' X 16', provided that the use of the parking space is restricted to a designated dwelling unit. This size reduction does not apply to common parking areas or lots in which each space is not assigned to a specific dwelling unit or to guest parking.~~

(b) Minimum parking dimensions.

<u>Parking Angle</u>	<u>Stall Width</u>	<u>Stall Depth</u> to Curb	<u>Aisle Width</u>	
			<u>1 Way</u>	<u>2 Way</u>
90°	9'	18'	24'	24'
60°	9'	21'	16'	n/a
45°	9'	19.5'	12'	n/a
90° handicap accessible	8'beside 5'aisle	18'	24'	24'
Parallel	8'	22' Parallel to Curb		n/a n/a

The required stall depth to curb is the distance from the curb face to the back of the stall assuming that the bumper of a parked car does not extend beyond the curb face. In restricted locations, it can be assumed that the car will move forward until its tire contacts the curb. In these cases, the distance can be reduced by 1.8 feet for 45° parking and 2.2 feet for 60° parking.

The size of up to thirty-three (33) percent of the required off-street parking spaces for non-residential uses may be reduced from 9' X 18' for 90 degree parking to 8' X 16', provided that the smaller spaces will be reserved exclusively for employee parking and will be designated for "compact car" parking by appropriate signage.

When a property in a nonresidential use or a mixed use zoning district is required to provide more than forty (40) parking spaces, the property owner may meet up to two and a half

percent (2.5%) of the required parking spaces (or one space per forty required spaces) with designated motorcycle, scooter, e-bike, or bicycle parking spaces. Any parking spaces for such alternative modes of transportation must be appropriately signed and must meet the following minimum size:

(1) Motorcycle – four (4) feet by eight (8) feet.

(2) Scooter – three (3) feet by five (5) feet.

(3) E-Bike or Bicycle – two (2) feet by five (5) feet or space on a bike rack or other facility for locking up the bike.

The size of a required off-street parking space to serve a single-family detached dwelling or two-family dwelling or for 90 degree parking for other residential uses may be reduced from 9' X 18' to 8' X 16', provided that the use of the parking space is restricted to a designated dwelling unit. This size reduction does not apply to common parking areas or lots in which each space is not assigned to a specific dwelling unit or to guest parking.

- ~~(cb) The Planning Board may reduce the number of off-street parking spaces required to be provided for any use by up to twenty-five percent (25%) as part of a Post-Construction Stormwater Management Plan if the applicant demonstrates that the parking proposed to be provided is adequate for the use based upon national parking demand studies such as Parking Demand published by the Institute of Traffic Engineers or by data on actual parking demand for similar uses in similar situations and/or consideration of the availability of transit service or other alternative transportation that reduces the demand for on-site parking. The following minimum off-street parking requirements shall be provided and maintained in case of new construction, alterations and changes of use; except that, in the Main Street Community Commercial zoning district and in the District One/Knightville Design Review District section of the Village Commercial zoning district, the minimum number of required off-street parking spaces for office retail, service, and restaurant uses —~~Sec. 27-1556(b)(4)a., b., and c., Sec. 27-1556(b)(5) and Sec. 27-1556(b)(6)~~— shall be 50% of the amount otherwise indicated. In addition, the Planning Board may reduce the required off-street parking as provided in (1) or (2) below:~~

(1) The Planning Board may reduce the number of off-street parking spaces required to be provided for any use by up to twenty-five percent (25%) as part of a Post-Construction Stormwater Management Plan if the applicant demonstrates that the parking proposed to be provided is adequate for the use based upon national parking demand studies such as Parking Demand published by the Institute of Traffic Engineers or by data on actual parking demand for similar uses in similar situations and/or consideration of the availability of transit service or other alternative transportation that reduces the demand for on-site parking.

(2) The Planning Board may reduce the minimum number of required off-street parking spaces for office, retail, service, and restaurant uses by up to 50% of the amount otherwise required for uses in the Village Extension District and the Mill Creek Core District if the applicant demonstrates that the reduced parking

proposed to be provided is adequate for the use based upon national parking demand studies such as Parking Demand published by the Institute of Traffic Engineers or by data on actual parking demand for similar uses in similar situations and/or consideration of the availability of transit service or other alternative transportation that reduces the demand for on-site parking.

Required minimum off-street parking

- (~~43~~) For residential structures:
- a. Single-family detached: Two (2) parking spaces.
 - b. Single-family attached: One and one-half (1 1/2) parking spaces.
 - c. Multifamily (non-elderly): One and one-half (1 1/2) parking spaces per dwelling unit for units with more than one bedroom or more than eight hundred (800) square feet of floor area.
 - d. Multifamily (non-elderly): One (1) parking space per dwelling unit for units with one bedroom or units with more than four hundred (400) square feet of floor area but less than eight hundred (800) square feet of floor area.
 - e. Multifamily (non-elderly): Three quarters or seventy-five percent (75%) of a parking space per dwelling unit for units that do not have a separate bedroom or units with less than four hundred (400) square feet of floor area.
 - f. Multifamily (elderly): one-half parking spaces per dwelling unit.
- (~~34~~) For tourist homes, motels, and inns, one parking space for each guest or sleeping room or suite, one additional space for the owner or manager and one additional space for each fifty (50) square feet of public assembly.
- (~~35~~) For hotels, one parking space for each two (2) guests or sleeping rooms, or suites, plus one additional space for each fifty (50) square feet of public assembly. For extended stay hotels, one parking space for each guest room.
- (~~46~~) For general retail:
- a. Personal services: Five (5) spaces per one thousand (1,000) square feet floor area.
 - b. General retail: Five (5) spaces per one thousand (1,000) square feet floor area (see Note 1).
 - c. Furniture/appliance/catalogue showrooms: Two and one-half (2 1/2) spaces per one thousand (1,000) square feet floor area.

- d. Shopping centers: Five (5) spaces per one thousand (1,000) square feet gross leasable floor area (see Note 1) (which gross leasable floor area shall be defined as excluding seventy-five (75) percent of the mall/concourse area or those portions of the mall concourse area not used for business purposes, whichever is smaller, and also excluding service corridors, utility rooms, mechanical rooms, non-selling mezzanine areas and loading docks); provided, however, in shopping centers which are required to have over one hundred (100) parking spaces, the Planning Board may permit a certain number of them, not to exceed one-third of the total required, to be designated for small or compact cars and to permit the parking stalls for such to be reduced to eight (8) feet by sixteen (16) feet.

Note 1: The Planning Board may reduce the number of parking spaces required to be provided for general retail uses to not less than four (4) spaces per one thousand (1,000) feet of floor area and for shopping centers to not less than four (4) spaces per one thousand (1,000) square feet of gross leasable area if the applicant demonstrates that the parking proposed to be provided is adequate for the use based upon national parking demand studies such as Parking Demand published by the Institute of Traffic Engineers or by data on actual parking demand for similar uses in similar situations and/or consideration of the availability of transit service or other alternative transportation that reduces the demand for on-site parking.

- (~~57~~) For office, professional or public buildings, having a floor area of over two thousand (2,000) square feet, one off-street parking space for each three hundred and fifty (350) square feet of floor area exclusive of areas used for storage.
- (~~68~~) For restaurants, tearooms, lunch counters or the like, one parking space for each three (3) employees, plus one additional space for each four (4) patrons accommodated at tables or counters; provided, however, lounges or lounge areas within restaurants must have one additional parking space per one hundred (100) square feet of lounge area.
- (~~79~~) For industrial uses, parking facilities on the basis of one parking space per four hundred (400) square feet of floor area, exclusive of storage space and other space not used for office, research, development or productive purposes, but in no case less than one space for each two (2) employees. The requirement based upon square footage of floor area may be reduced if it can be clearly shown that the type of use does not justify the requirement. Such reduction may not be below the requirement of one space for each two (2) employees.
- (~~810~~) For auditoriums, stadiums, sports arenas or similar uses, one parking space for each six (6) seats plus one additional space for each two (2) employees thereof. Where individual seats are not provided, each twenty (20) inches of benches or other similar seating, or eight (8) square feet of seating or standing space shall be considered as one seat for the purpose of determining requirements thereof.

- (~~9~~11) For theaters, one parking space for each six (6) seats plus one space for each two (2) employees.
- (~~40~~12) For schools, one parking space for each two (2) employees including teachers and administrators plus sufficient off-street space for the safe and convenient loading and unloading of students, plus one space for each ten (10) persons seated in public assembly rooms.
- (~~44~~13) For airports, railroad passenger stations, bus depots, or other passenger terminal facilities, parking space adequate for employees, for the loading and unloading of passengers and for spectators, visitors and others.
- (~~42~~14) For hospitals, sanitariums, assisted living facilities, and nursing or convalescent homes, one parking space for each four (4) patient beds (excluding bassinets) plus one space for each staff or visiting doctor and one space for each three employees including nurses. Loading and unloading space for hospital ambulances and similar vehicles shall not be included in the spaces required herein.
- (~~43~~15) For medical or dental clinics, two (2) parking spaces per doctor engaged at the clinic, plus one additional space for every two (2) employees. For medical marijuana dispensaries, five (5) spaces per one thousand (1,000) square feet total floor area, plus one additional space for every two (2) employees.
- (~~44~~16) For mortuaries or funeral homes, one parking space for each hearse or service vehicle, one space for each family or individual resident on the premises, plus additional spaces equal in number to one space for each one hundred (100) square feet of public area within the building.
- (~~45~~17) For welfare institutions such as asylums, homes for aged, orphanages, etc., one parking space for each staff or visiting doctor, one additional space for each two (2) employees, plus one space for each ten (10) residents.
- (~~46~~18) For community centers, libraries, museums, civic clubs and similar uses, one parking space for every two (2) employees plus one space for each one hundred fifty (150) square feet of public area in the building.
- (~~47~~19) For dance halls, one space for each one hundred (100) square feet of dance floor area plus one space for each two (2) employees.
- (~~48~~20) For bowling alleys, three (3) parking spaces for each alley, plus one space for each two (2) employees.
- (~~49~~21) For convention halls, gymnasiums, parks, racetracks, skating rinks and similar uses, parking spaces equal in number to at least one space for each two (2) employees and one space for each six (6) seats or other unit of capacity.

- (2022) For any and all uses or structures not specifically provided for in the foregoing enumeration, it shall be the burden of the applicant to demonstrate to the Code Enforcement Officer, or to the Planning Board if Planning Board approval is otherwise required, that the applicant can provide such parking as shall be necessary to eliminate the necessity for parking on public streets, unless otherwise indicated.
- (de) Required off-street parking in all districts shall be located on the same lot as the principal building or use except that the Board of Appeals or the Planning Board for projects that require Planning Board review may authorize residential off-street parking to be located within ~~three one thousand five~~ hundred (1,500~~300~~) feet of the lot on which the principal residential uses is located, measured along lines of public access, where it cannot reasonably be provided on the same lot. Such parking areas shall be held under the same ownership or lease as the residential uses served and evidence of such control or lease shall be required. In cases in which off-street parking is provided upon leased land, the Building Inspector shall not issue a certificate of use and occupancy for such premises valid for a period longer than the duration of such lease.
- (ed) Required off-street parking in all business and industrial zones shall be located on the same lot with the principal building or use, or within one thousand five hundred (1,500) feet measured along lines of public access, except that where off-street parking cannot be provided within these limits, the Board of Appeals or the Planning Board for projects that require Planning Board review may permit such off-street parking to be located a reasonable distance from the principal building or use, measured along lines of public access, if the premises to be used for parking are held under the same ownership or lease. Evidence of such control or lease shall be required and such lots shall be located within business or industrial districts.
- (fe) Required off-street parking in all business and industrial zones may be substituted by municipal parking facilities, including public parking lots and garages and also on-street public parking spaces. Such substitution shall be shown to be representative of the off-street parking turnover or requirements of the particular business or industry in question and shall take into consideration the needs of other businesses with similar demands upon such public space. No such public parking spaces shall be considered as a substitute unless located within five hundred (500) feet of the principal building as measured along lines of public access. ~~(Reserved for older built-up areas)~~
- (gf) Where off-street parking for more than six (6) vehicles is required or provided on a lot in a residence zone and vehicles are to be or may be parked within the area otherwise required to be kept open and unoccupied for front, side and rear yards in the zone in which such parking is located, the following requirements shall be met:
- (1) A continuous guard curb, rectangular in cross section, at least six (6) inches in height and permanently anchored, shall be provided and maintained at least five (5) feet from the street or lot line between such off-street parking and that part of the street or lot line involved ~~or a continuous bumper guard of adequate strength, the top of which shall be at least twenty (20) inches in height, shall be provided and maintained between such off-street parking and that part of the street or lot line involved so that bumpers of vehicles cannot project beyond its face toward the street or line involved, either above or below the impact surface.~~

- (2) Where such off-street parking shall about a lot in residential use or an unoccupied lot which is located in a residence zone, appropriate landscaping or other buffering a chain link, picket or sapling fence, not less than forty-eight (48) inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved.
- (hg) Where off-street parking for more than six (6) vehicles is required or provided on a lot in any business zone, the following requirements shall be met:
- (1) Where vehicles are to be or may be parked within ten (10) feet of any street line, a continuous guard curb, rectangular in cross section, at least six (6) inches in height and permanently anchored, shall be provided and maintained at least five (5) feet from the street line between such off-street parking and that part of the street line involved or a continuous bumper guard of adequate strength, the top of which shall be at least twenty (20) inches in height, shall be provided and maintained between such off-street parking and that part of the street or lot line involved so that bumpers of vehicles cannot project beyond its face toward the street or line involved, either above or below the impact surface.
- (2) Where such off-street parking shall about a lot in a residence zone or a lot in residential use, appropriate landscaping or other buffering a chain link, picket or sapling fence, not less than forty-eight (48) inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved.
- (ih) Where off-street parking for more than six (6) vehicles is required or provided, the following construction requirements shall apply:
- (1) Appropriate driveways from streets or alleys, as well as maneuvering areas, shall be provided. Location and width of approaches over public sidewalks shall be approved by the Municipal Engineer. When access to parking areas is available from more than one street, ingress and egress to and from the lot shall have the approval of the Planning Board.
- (2) The surface of driveways, maneuvering areas and parking areas shall be uniformly graded with a subgrade consisting of gravel or equivalent materials at least six (6) inches in depth, well compacted and with a wearing surface equivalent in qualities of compaction and durability to fine gravel.
- (3) A system of surface drainage shall be provided in such a way that the water runoff shall not be detrimental to the public health, safety, and welfare.
- (4) Where artificial lighting is provided, it shall be shaded or screened so that no light source shall be visible from outside the area and its access driveways.
- (ij) The Board of Appeals may, in specific cases of hardship, reduce the requirements for off-street parking where it is clearly demonstrated that such reduction will not detract from neighborhood values, inconvenience the public, or increase congestion in the streets.

(kj) The Board of Appeals, or the Planning Board for projects that require Planning Board review, may approve the joint use of a parking facility by two (2) or more principal buildings or uses where it is clearly demonstrated that said parking facility will substantially meet the intent of the requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments.

(lk) The following landscaping requirements shall apply:

- (1) Where an off-street parking lot is required under the terms of this Chapter to contain more than twenty (20) but fewer than one hundred twenty-five (125) parking spaces, five (5) percent of the total parking area, including maneuvering areas but not including access roads which are not a part of the parking area itself, shall be landscaped and maintained with trees, shrubs, and other natural vegetation, in a manner approved by the Planning Board.
- (2) Where an off-street parking lot is required under the terms of this Chapter to contain one hundred twenty-five (125) or more parking spaces, five (5) percent of the total parking area, including maneuvering areas but not including access roads which are not a part of the parking area itself, shall be landscaped and maintained with trees, shrubs, and other natural vegetation, according to a plan prepared by a Maine licensed landscape architect and approved by the Planning Board.
- (3) Where an off-street parking lot is required under the terms of this Chapter to contain more than twenty (20) parking spaces, a landscaped strip at least six (6) feet wide shall be provided wherever said parking lot abuts a public way, in addition to any landscaped area required under paragraphs (1) and (2) above.
- (4) To insure that landscape materials do not constitute a driving hazard, a "sight triangle" shall be required at all street intersections or intersections of driveways with streets, as follows:
 - a. At intersections of driveways with streets, the sight triangle shall be formed by the intersection of each side of the driveway and the street's right-of-way line, with two (2) sides of each triangle being ten (10) feet in length from the point of intersection and the third line connecting the ends of the two (2) other sides.
 - b. At street intersections, the sight triangle shall be formed by the intersection of two (2) or more street rights-of-way, with two (2) sides of the triangle being thirty (30) feet in length along the abutting right-of-way lines, measured from their point of intersection, and the third side being a line connecting the ends of the other two (2) lines.

Within these sight triangles, no landscape materials, except grass or groundcover, shall be permitted.

- (5) The Planning Board may permit a portion of the parking area and maneuvering areas required under the terms of this Chapter, but in no event to exceed fifty (50) percent of said requirement, to be dedicated as "Reserved for Parking" but in fact to remain in its natural state until such time, if ever, as the Planning Board determines that existing

traffic problems, congestion or public safety require said reserved area to be developed for parking. For the purposes of complying with the landscaping requirements of paragraphs (1) and (2) above, the five (5) percent landscaping requirement for parking areas shall apply only to such parking area as has been in fact developed pursuant to directions of the Planning Board.

8. Amend Sec. 27-1567. Applicability in the Design Standards for Village Downtowns to read:

Sec. 27-1567. Applicability.

Except as otherwise indicated, the design standards apply to all building construction or remodeling projects requiring Planning Board or site plan approval within the following Design Review District(s). Where such a project is associated with an existing building, such as an addition or partial remodeling, the design standards in this Article apply only to the new construction or the part of the building being remodeled.

A. District One: Knightville

1. Location: Lots with frontage on Ocean Street north of ~~Market Street/Hinckley E~~ Street ~~and lots with frontage on Cottage Road north of Thomas Street~~. In addition, lots in the Village Commercial VC zoning district with frontage on Waterman Drive.

9. Amend the title ~~Design Standards for Neighborhood Activity Centers~~ to be Design Standards for Commercial and Neighborhood Activity Centers

10. Amend Sec. 27-1573 Applicability under the renamed Standards for Commercial and Neighborhood Activity Centers to read:

Sec. 27-1573. Applicability.

These design standards apply to all building construction or remodeling projects affecting the exterior of buildings within the following zoning districts that require a special exception, site plan, or subdivision approval and/or a non-single family dwelling unit building permit:

- The Village Commercial–Willard VCW Zoning District
- The Main Street Community Commercial MSCC Zoning District
- The Village Extension VE Zoning District
- The Broadway Corridor BC Zoning District

In addition, all building construction or remodeling projects affecting the exterior of buildings in the Mill Creek Core (MCC) Zoning District that require a special exception, site plan, or subdivision approval and/or a non-single family dwelling unit building permit that are not being done under the Planned Development requirements are subject to these design standards. While projects in the MCC District that are done under the Planned Development requirements are not subject to the provisions, it is required that these provisions be incorporated into the Master Development Plan for the Planned Development as appropriate.

Where such a project is associated with an existing building, such as an addition or partial remodeling, these design standards apply only to the new construction or the part of the building being remodeled, except that modifications to the existing structure are required as necessary to achieve a harmonious integration of design with the new construction in terms of building materials, exterior colors, and architectural features. The old and new elements do not have to be the same but must be combined in a way that supports a unified design for the building as a whole.

11. Amend Subsection (a) in Sec. 27-1574 Process for Review/Application Materials under the renamed Standards for Commercial and Neighborhood Activity Centers to read:

Sec. 27-1574. Process for Review/Application Materials.

- (a) No application for a non-single family dwelling unit building permit, special exception, site plan, or subdivision approval within ~~the Village Commercial Willard VCW~~ a zoning district where these standards apply shall be finally approved until the applicant has received a positive finding, to be documented in the form of a Design Standard Certificate, from the Planning Board or Code Enforcement Officer, as applicable, that the project complies with these design standards.

12. Amend the introductory sentence in Sec. 27-1575 Review Standards under the renamed Standards for Commercial and Neighborhood Activity Centers to read:

Sec. 27-1575. Review Standards.

Construction activities ~~in~~ subject to the Commercial and Neighborhood Activity Center design requirements shall meet the following design standards:

13. Create a new Sec. 27-1576 Review Standards for Midrise Buildings under the renamed Standards for Commercial and Neighborhood Activity Centers to read:

Sec. 27-1576. Review Standards for Midrise Buildings.

In addition to the standards of Sec. 27-1575, construction activities involving midrise buildings with four (4) or more habitable stories shall conform to the following design standards:

- (a) Mid-rise buildings can appear more solid than transparent due to structural requirements, cost factors, and the need for privacy in certain portions of the building. The massing and façades should strike a balance between solid and transparent treatment. The material and detailing choices shall support the overall style being proposed. Highly reflective or very dark glass curtain wall systems or fenestration are not permitted.

- (b) The massing and design of mid-rise buildings shall be sensitive to the scale of nearby buildings and carefully address the transition to lower height structures that may exist or be anticipated on the same block or on adjacent blocks.
- (c) Mixed-use buildings should differentiate architecturally between their ground-floor activities and the uses on upper floors. For example, fenestration and exterior materials could be different for a ground-floor retail use than for hotel, residential or office uses above.
- (d) Projects shall integrate transit amenities such as bus shelters and seating as appropriate.
- (e) The exterior of buildings shall incorporate a base, middle, and cap described as follows:

 - (1) The base portion of the exterior shall include an entryway with transparent windows and a molding or reveal placed between the first and second stories or over the second story. The molding or reveal shall have a depth of at least 2 inches and a height of at least 4 inches.
 - (2) The middle portion of the exterior may include windows and/or balconies. Balconies shall be transparent and composed of either metal railing or glass guardrail systems.
 - (3) The cap shall include the area from the top floor to the roof of the building and shall include a cornice or roof overhang.
- (f) Sec. 27-1575(d)(3) notwithstanding, acceptable materials include architectural concrete or precast concrete panels, stone, curtain wall and heavy gauge metal panel, and brick. Concrete masonry units shall have a ground face and be burnished and/or honed so that the aggregate is visible.
- (g) All street-level retail uses with sidewalk frontage shall be provided with an individual entrance and direct pedestrian access to the sidewalk in addition to any other pedestrian access that may be provided.

14. Create a new Sec. 27-1590 Exterior Lighting that reads:

EXTERIOR LIGHTING

Sec. 27-1590. General Standards for Exterior Lighting

- (a) Effective August 1, 2016, all new or revised outdoor lighting that are part of projects requiring Planning Board approval must be designed to provide only the minimum

lighting necessary to ensure adequate vision, safety, and comfort and may not cause glare beyond the limits of the property boundaries including the street rights-of-way.

(b)Lighting fixtures mounted on masts or poles must be full cut-off fixtures except for period or historical fixtures meeting the provisions of subsection (g).

(c)Flood lighting or other directional lighting may be used for supplemental illumination of sales or storage areas provided that the flood lights are installed no higher than fifteen (15) feet above ground level, are aimed to avoid the source of the light being seen from adjacent streets or properties, and meet the illumination standards of this section. The Code Enforcement Officer or his/her designee has the right to inspect the completed lighting installation and, if flood lights are used, to require that the flood lights be re-aimed or fitted with face louvers if necessary to control direct brightness or glare.

(d)Except for ornamental lighting fixtures that utilize lamps with initial lumen ratings of 8,500 lumens or less, wall mounted building lights must include full face shielding consisting of either a solid panel or full face louvers. Exposed lamps, reflectors or refractors may not be visible from any part of the fixture except the bottom, light emitting surface.

(e)Lighting fixtures located on or within canopies must be full cut-off luminaires or be mounted so that the luminaire or lens, whichever is lower, does not project below the bottom of the canopy surface. The lighting installed beneath the canopy must be pointed downward and be substantially confined to the ground surface directly under the canopy. The level of lighting beyond the perimeter of the canopy must be consistent with the standards for parking areas. The sides and top of the canopy shall not be illuminated.

(f)Lighting fixtures must be mounted at the lowest level that allows reasonable compliance with IESNA recommended practices and the provisions of this section. The maximum light fixture height shall be twenty-four (24) feet in the MCC and VE Districts.

(g)Period or historical fixtures that do not meet the requirements of this section may be used as an alternative to cutoff fixtures provided the maximum initial lumens generated by each fixture does not exceed 2,000. The maximum initial lumens for metal halide lamps may be increased to 8,500 if the lamp is internally recessed within the fixture or is shielded by internal louvers or refractors. The mounting height of period or historical fixtures may not exceed twelve (12) feet above the adjacent ground.

(h)Parking lot or other freestanding site lighting in the MCC District or VE District shall be visually compatible with the City's standard street lighting fixture for the Mill Creek and Knightville neighborhoods.

(i) An average to minimum illumination uniformity ratio of 6:1 or better must be maintained for parking lots and pedestrian areas. In other areas, the uniformity ration must be consistent with IESNA recommended practices and be compatible with the overall lighting of the project and be specifically approved by the Planning Board.

(j) Average lighting levels must not exceed the following standards. For areas not listed, the Planning Board shall determine the appropriate standard based on IESNA recommended practices:

<u>Location</u>	<u>Footcandles</u>
<u>At building entries</u>	<u>5.0</u>
<u>At loading areas for a commercial or industrial use</u>	<u>10.0</u>
<u>In parking areas for a multifamily residential use</u>	<u>3.0</u>
<u>In parking areas for a nonresidential use</u>	<u>5.0</u>
<u>Along sidewalks and other pedestrian facilities and areas</u>	<u>3.0</u>
<u>Under service station canopies</u>	<u>10.0</u>
<u>In general storage areas for commercial and industrial uses</u>	<u>8.0</u>
<u>In vehicle sales and display areas</u>	<u>10.0</u>

(k) Lighting in all parking areas and along sidewalks and other pedestrian walkways must meet or exceed the following minimum color rendering index:

<u>District</u>	<u>Minimum CRI</u>
<u>Residential and Conditional/Contract Residential Districts</u>	<u>60</u>
<u>Mixed-Use and Conditional/Contract Mixed Use Districts including LB, VC, VCW, SP, PO, MSCC, VE, BC, and MCC</u>	<u>60</u>
<u>Commercial and Conditional/Contract Commercial Districts including CS, CG, CCRT, CCR, and C</u>	<u>20</u>
<u>Industrial and Conditional/Contract Industrial Districts</u>	<u>20</u>

Fiscal Note: Less than \$1000

November 7, 2016