

# Proposed usability overhaul to the Form Based Code Village Districts §181-7.1

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The FBCVD was created through an extensive public process and tearing it down and if the town wanted to start completely over, which may not be the case, that should only be done with a similarly intensive and inclusive process.

That said in the years it has been on the books it has been a thorn in the side of the Planning board, land owners, and the planning and code staff. While the intention of the ordinance is clear, the actual language is clunky, contradictory, reliant on very small scale divisions that make the ordinance look arbitrary, and due to all of this it is hard, occasionally impossible to adhere too. Some of these issues can be fixed while retaining the vision, intent, and the majority of the requirements and standards in place.

With that in mind I have prepared a “usability” overhaul that attempts to retain as much of the original language and standards as possible while attempting to make it easier to use. The proposed changes attempt to consolidate similar requirements, remove contradictions, soften language that has proven to be overly restrictive in practice, and provide some consistency.

Most of the changes are completely cosmetic. Moving existing language to a different section to be found more easily, consolidating repeated language, presenting setback requirements in a table rather than a list repeated 11 times (in each street frontage type).

Some changes are minor tweaking of standards to move to more consistency and give small relief to standards that have been repeated problems for applicants.

But there are a few larger changes that I would like to bring to the council’s attention:

- I have added a clause that explicitly allows the planning board to approve waivers of the “building form standards” architectural design provided that the board finds the proposed project still meets the stated intentions of the ordinance. This is not an unusual clause but is a notable change from the very ridged language currently in the ordinance.
- I have changed the provision for a change in use from an existing permitted use to a new, different but allowable use such that the CEO can approve the new use instead of the planning board provided it does not significantly change the approved site/building. Again this is a standard element in many ordinances but represents a loosening of what is now very strict language.

A complete list of proposed changes to date follows. A list of issues that I still need to address is also included on the last page.

## Changes

This is a comprehensive list of all proposed changes to section §181-7.1 to date. Minor copy-editing changes to language to correct typos and readability without any changes to content may not be included.

### 1. Terms defined

- Removed definition “Garden Wall”. Term is never used.
- Removed definition “Infill Development”. Term is never used. Definition is broad to the point of being useless.
- Under “regulating plan” corrected references to appendixes as follows
  - Regulating Plans for the Standish Corner District and the Sebago Lake Village District are included at the end of this chapter as Attachment ~~181b 2~~ 2 (Standish Corner District) and Attachment ~~181e 3~~ 3 (Sebago Lake Village District) and incorporated herein by reference.

### 2. Administrative provisions:

- Cleaned up language in B.1.d to remove potential confusion. All things requiring subdivision review per state law will require it not just ones “noted per FBCVD frontage type).
- Under B.2.a corrected regulating plan references again.
- Extensively revised general building standards and moved them from B.2.f to B.7 as outlined in point D “Building Form Standards” of this memo
- Corrected the error in B.4.b.5 that said “no future TG SCD streets allowed” under the TR description so that it reads “future TR SCD streets allowed”.
- Under B.4.c.6 there is no note (as there is in all other street frontage types) on whether new Lake Access Roads are allowed. Added a note stating that they are allowed.
- Revised process language in B.4.d to reflect that building form and placement standards have moved out of the street frontage types (as outlined in points C and D of this memo.)

### 3. Dimensional Standards:

- All lot size and building placement standards have been removed from the street frontage type sections and consolidated into a dimensional standards section.
- Removed “ancillary building” maximum height. In my mind this undermines the mixed use/growth area goals of the district. If we do retain this it needs to be changed to “accessory” instead of “ancillary”.
- Removed drive width minimums. Maximum widths (large, undesignated curb cuts) are a bigger concern and public safety / emergency access is covered elsewhere.
- SCD:
  - Consolidated side, rear, and side-street **parking** setbacks into one side/rear setback. The difference between these numbers in any given zone was minimal and the side vs side street distinction only added confusion. I have kept the separate side street **structure** setbacks as the building wall is an integral part of the goals of the district and it helps to make sure that the corner lots flow into the side street lots appropriately.
  - Removed confusing front structure setback adjustment language from TC and added a clearer note to **all** SCD street frontage types allowing for an increased maximum setback if it is consistent with neighboring properties.

“For properties where adjacent buildings are set back more than the maximum allowed front setback, the front setback may be set to align with the front building face of the lease non-conforming, immediately adjacent property or double the maximum setback in that zone, whichever is less.”

- Removed “finish ground floor level”: I honestly cannot figure out what possible purpose this could serve. I’ve never seen a regulation of this outside of flood zones.
- SCD TA:
  - Front Build to line (15’ for a 4 rod road and 31.5’ for a 8 rod road) has been changed to a build to area (consistent with the other street frontage types in the SCD) with a minimum setback of 15’ and a maximum of 30’. This has been made to be consistent across right of way widths instead of the current separate standards for 4 and 8 rod roads.
- SCD TC:
  - Made the rear structure setback a flat 10’ to be consistent with the other SC Street frontage types. It currently is 10’ if the adjacent lot is in residential use or 5’ if it is not in a residential use.
- SCD TG:
  - Added 20’ minimum front parking setback to be consistent with the TC, TM, and TA frontage types
  - Removed 1 curb cut per 200ft restriction. This is the only street frontage in the FBCVDs with frontage based curb cut restriction. Other restrictions in this section and in our street standards cover this.
- SLD
  - Reworded maximum front structure setback adjustment language in SLVC and SLVF to be consistent with SCD frontage types. The major change from the existing language is it removes the requirement that the property be a “redevelopment” to use the adjustment.
  - As with the SCD consolidated side, rear, and side-street parking setbacks into one side/rear setback. SCD requires 15’ setback off residential lots while SLD requires 15’ setback off residential *and* mixed use. I have removed the mixed use requirement from the SLD to be consistent and to meet the towns density goals.
  - Front parking setbacks are measured from the front of the building rather than the front property line, requiring parking to be setback from 0-10’ more than the building. I have consolidated this “Parking may not be closer to the front property line than the front of the primary structure.” in all frontage types.
  - Added footnote allowing driveway parking within front setback for residential uses (similar to that in the SCD R frontage type).
- SLD F
  - Removed Maximum side street setback. It is the only street frontage type in the FBCVDs with this requirement and sets the minimum setback off the side street the same as the maximum front setback that the side street would have. It seems odd but if the goal is to stablish strong corners of each block than it does effectively require buildings in this zone to be located on the corner of corner lots.

#### 4. Building Form Standards

- Consolidated all street frontage type building form standards with the general standards of §181-7.1 B.2.f.1 “Building form standards, general standards”
- Moved these consolidated standards out of the more process focused B.2 now named “Overall standards” into the more appropriate B.7 renamed from “general notes” to general standards”
- Added an ability for the planning board to waive the building form standards if the intentions of the district are met.
- Made the following changes to building form standards:
  - Windows and door to façade ratio:
    - SCD and SLVD blank wall languages simplified and made consistent but no substantive change from existing rules.
    - Fenestration: Consolidated to a blanket 30%-90%. This is a compromise to remove various conflicting and overlapping numbers that exist in different places. It effectively allows for less fenestration in the SCD, allows more fenestration on upper floors in the SCD, and raises the required minimum slightly in the SLD. Also removes the minimum 70% fenestration on first floor retail.
  - Doors/entries: reworded point (a) but requirement remains effectively the same. Conflicting language between general standards and SLVG standards might mean this street frontage was not previously held to the every 50’ requirement. Moved the service entrance requirements from the “notes” section of each street frontage type to a new point (b) in this section. Added simplified version of language from SCD TG frontage allowing overhead doors existing prior to the ordinance to be retained. This makes this provision explicitly consistent across frontages. It also softens the current requirements by removing the requirement that existing overhead doors would need to be removed in a remodel or change of use.
  - Windows and doors: retained existing language. Conflicting language between general standards and SCTA might mean that this street frontage was not previously held to the door material requirements.

## 5. Required parking spaces

- SCD
  - Removed the “uses less than 3,000sqft (2 story)” which was listed under the “ground floor” section. It is not clear to me what this means. Is it a use with less than 3,000sqft of floor area that is split across two floors? Is it a use with less than 3,000sqft on the ground level of a 2 story building? I also don’t understand why either of these would mean that the use doesn’t require off street parking at all.
  - Town Gateway: changed from reference to non-existent standards be the same as other SCD street frontage types.
    - Removed language requiring churches to use on street or shared parking
  - Town Residential: changed non-residential use requirements to be the same as other street frontages.
    - Removed language requiring churches to use on street parking.
- SLV
  - Residential connector, residential and Lake access zones: changed non-residential use requirements to be the same as other street frontages.

## 6. Supplemental Planning board review (§181-7.1 B.5 and 6)

- Removed all reference to “shared parking”. Ordinance committee had previously questioned feasibility and liability issues. “Shared parking” is not defined and it is not clear what this would entail. Shared with who? Neighboring lots? between uses on a lot? Every interpretation has implementation issues.
  - Replaced the shared parking requirement under review of additional spaces above that required in the SCD TC, TA, and TM frontages (§181-7.1 B.5.b) and SLV C, F, and G (§181-7.1 B.6.a) with a requirement that the proposed use’s need for additional spaces be justified to and approved by the planning board.
- Reworded all mentions of a “shared” driveway to be a single driveway. The existing phrasing is unclear and seems to imply shared among multiple uses on a lot rather than with adjacent lots? If that is the case the rewording avoids overlap with the related defined “joint access (or shared access)”. If the intention was that it *should* overlap and that the “shared driveway” is shared between adjacent lots then I have concerns with the limitations that imposes in this section.
- Reworded requirements to close curb cuts for clarity and added a provision where the PB can approve a second curb cut if needed for public safety.

## 7. Individual Street Frontage type sub-sections

- “mixed use” formerly subsection (c) of most frontage types (now subsection (a) of relevant frontage types). This has been removed where all uses are allowed on all floors. This is inherent and does not need to be said again. Where residential uses are not allowed on the ground floor I streamlined language to: “For structures or additions to structures created after June 7, 2011(SC) / August 12, 2014 (SLV), residential uses are prohibited on the ground floor.”
- Notes pertaining to loading docks, overhead doors, and primary entrances moved from being a note under building placement to being under “doors/entries” within the general standards “building form standards”
- Note about maximum footprint in the center and main frontages moved to new (b) subsection.
- For clarity, consistency and simplicity of enforcement edited the nonconforming language if each street frontage type so that it reads as follows:

Uses not listed are not permitted. Nonconforming uses and structures existing as of the date of adoption of the Standish Corner District are subject to standards of Article V (Nonconforming Uses) ...
- Consolidated driveway language into one point (c). Soften language on corner driveways to allow access from the primary SCD street *if shared with a non-corner lot*.
- Changed point [e] of the CEO approval provision (g.2) from “That are eligible for a permit by the Code Enforcement Officer per SCD street frontage type.” to “That are allowed uses in the applicable SCD street frontage type.” As discussed with the Ordinance committee.
- Consolidated lot width into section (now (e)) with block width. Removed “Intersection” point as it was a best confusingly reductive and redundant to the detailed lay out explanation in §181-7.1 B.3 and 4.

### Issues still to be addressed:

- Need to clean up use lists to show recent changes and address some inconsistencies / confusing elements (see housing uses below)
- RBL and RBZ: used interchangeably and inconsistently and not in a way that is intuitive, I see why but it adds confusion and could be cleaner.
- Remove SLV RC and make it the same as SLV R? See if there are any differences, initial look is minimal.
- Would like a better way to say: “minimum SCD street frontage required build-to-line” possibly “Required Build to Line Percentage”?
- FBCVD Housing uses:
  - Are confusing in their overlap with 181 definitions.
  - Single family home definition. This definition makes a first floor apartment, duplexes, town houses, any first floor residential a single family home. Needs to be tightened up.
  - listed as “Dwelling, Standish Corner District, X” but defined as “Dwelling, X, Form Based Code Village District”
  - “Dwelling, Standish Corner District, two units.” Is not a defined term but is listed in the SCD TC, TM, and TA frontage type use lists. While “Dwelling, Standish Corner District, multiple-family” is defined and that definition is “... more than one family” so includes two units.
  - Village housing only is allowed in the FBCVDs but its standards are in §181-28.1. Because of the language in §181-7.1 B.1 that gives this section priority over all other sections (except shoreland) the standards in §181-28.1 are hard to apply. (there are similar conflicts with elderly housing)
- SCD TR: Currently requires garages, both detached and attached to be set back at least five feet from the front plane of the house. I understand the why but it is, arguably, a building standard and the ordinance in all other instances exempts residential uses from these standards.