

CITY OF BATH, MAINE LAND USE CODE

ARTICLE 1: GENERAL PROVISIONS

SECTION 1.01 SHORT TITLE

This ordinance and the accompanying official zoning map(s) are known and may be cited as the "Land Use Code of the City of Bath, Maine." It is referred to herein as "the Code" or "this Code."

SECTION 1.02 AUTHORITY

This Code is prepared pursuant to Maine Revised Statutes Annotated (M.R.S.A.), Title 30-A, Sections 2691, 3001, 4351-4353, 4358, 4403, and 4452; 38 M.R.S.A. Sections 435-449; and any other applicable provisions of the statutes; as well as pursuant to the Comprehensive Plan of the City of Bath.

SECTION 1.03 PURPOSES

The Land Use Code of the City of Bath, Maine, is designed to promote and conserve the health, safety, convenience, and welfare of the inhabitants of the City; to encourage appropriate uses of land throughout the City; to provide for suitable interrelationships between differing land uses; to secure safety from fire, flooding, and other dangers; to provide adequate access to light and air; to provide for adequate sewage disposal, water supply, vehicular and pedestrian access, and public facilities; to avoid undue concentration of population; to prevent overcrowding of the land; to preserve and increase amenities throughout the City; and to carry out the policies contained in the Comprehensive Plan of the City of Bath.

SECTION 1.04 APPLICABILITY OF THE CODE

The use of any land, building, or structure; the division of any tract of land; and the construction or alteration of any building or structure must be in conformance with the standards and procedures set forth in this Code. All uses of land, buildings, or structures; construction or modification of buildings; and divisions of land that do not meet the requirements of this Code are prohibited, except for those lawfully nonconforming uses, buildings, structures or lots provided for in Article 6. [amended August 6, 2003]

SECTION 1.05 CONFLICT WITH OTHER ORDINANCES

Wherever the requirements of this Code are at variance with the requirements of any other lawfully adopted rules, regulations, statutes administered by the City of Bath, or ordinances, the more restrictive or that which imposes the higher standard governs.
[amended October 28, 2009]

SECTION 1.06 SEVERABILITY

In the event that any section, subsection, or portion of this Code is declared by any competent court to be invalid for any reason, such decision does not affect the validity of any other section, subsection, or portion of this Code.

SECTION 1.07 AMENDMENTS

This Code may be amended in accordance with the laws of the State of Maine, the charter and ordinances of the City of Bath, and the following requirements and procedures.

A. Application

An amendment to the district designation established pursuant to this Code or to the text of the Code is initiated by completing and filing a form for such purposes with the Planning Office; City Hall; Bath, Maine, together with an application processing fee in an amount established from time to time by the City Council. If the applicant voluntarily offers, in writing, reasonable conditions or restrictions under contract rezoning, a list of all such proposed conditions or restrictions must be included with the application form. If the applicant voluntarily offers to be bound by an architect's plan in accordance with 30-A M.R.S.A. Section 4352(7), and with Section 1.07, G of this Code, the application must include the Site Plan conditionally approved by the Planning Board and evidence of the posting of a bond equal to 25 percent of the estimated cost of the development.

Application for zoning-map amendments may be made only by the Planning Board, a City Council member, the Planning Director, the City Manager, or the owner or optionholder of the land being proposed for rezoning.

Applications for Land Use Code text amendments may be made by the Planning Board, a City Council member, the Planning Director, the City Manager, or by a resident of the City of Bath.

B. Processing

Upon receipt of a completed application form and the application processing fee, the Planning Director must take all necessary action on the request.

C. City Council Action on Land Use Code Text Amendment Applications from the Public

Within 35 days of receipt of a completed application for a Land Use Code text amendment by the Planning Director, the application will be placed on the agenda of a City Council meeting. The City Council will review the request to determine if it has merit and whether it should be referred to the Planning Board. If the City Council determines by vote that the application has merit, it will be referred to the Planning Board for public hearing. Applications referred to the Planning Board by the City Council will be processed substantially according to Items D through F, following. If the City Council votes that the application lacks merit, it will not be referred to the Planning Board and action on the application will cease.

D. Public Hearing

Prior to the public hearing and in accordance with requirements of this Code and laws of the State of Maine, the Planning Board must give proper notice of the hearing. This notice must include at least the following information:

1. date, time, and place of the hearing
2. a summary or map of the proposed amendment
3. a list of all proposed conditions or restrictions

The hearing notice must be posted in City Hall at least 14 days prior to the public hearing and published in a daily newspaper of general circulation in the City of Bath at least 2 times in advance of the hearing. The date of the first publication must be at least 14 days before the hearing; the date of the second publication must be at least 7 days before the hearing. The notice also must be sent by first-class mail to all persons initiating the proposed amendment and to all persons owning abutting property and/or within 100 feet of the exterior boundaries of the real estate to be affected by the proposed change.

The Planning Office must prepare, keep a copy on file, and file with the City Clerk a written certificate indicating those persons to whom the notice was mailed and at what addresses, when it was mailed, by whom it was mailed, and from what location it was mailed. Notice of any proposed amendment being processed under the contract rezoning provisions of this Code also must comply with the requirements of 30-A M.R.S.A. Section 4352, or successor statutes, as may be amended. For purposes of the notice required herein, the owners of property are considered the owner listed in the Bath Tax Assessor's database. Failure of any person owning property within 100 feet to receive notices provided herein does not necessitate another hearing or invalidate any action by the Planning Board or the City Council.

E. Planning Board Action

The Planning Board must make its recommendations in writing to the City Council within 21 days of the conclusion of any public hearing conducted pursuant to this Code; however, to

constitute the Planning Board's recommendation of approval, a proposed amendment must receive at least 4 affirmative votes from the Planning Board. The 21-day period may be extended for an additional 21 days by vote of the Planning Board. Failure of the Planning Board to issue its recommendation within the 21-day period, or extension thereof, constitutes the Planning Board's recommendation of approval of the proposed amendment.

F. City Council Action After the Planning Board's Recommendation

After receipt of the Planning Board's recommendations, as described previously, the City Council must consider and take all appropriate action on the proposed amendment in accordance with requirements of the Bath City Charter, the Council's Rules of Procedure adopted pursuant thereto, and the laws of the State of Maine.

G. Application for Zoning-map Amendment in Accordance with an Architect's Plan

1. In accordance with 30-A M.R.S.A. Section 4352 (7), an applicant for a zoning-map amendment may volunteer prior to the rezoning to be bound by an architect's development plan if the rezoning occurs.
2. The applicant for a zoning-map amendment must post a performance bond equal to 25 percent of the estimated cost of the development, guaranteeing to the City that if the rezoning occurs, the area will be developed in accordance with the plan that is filed as part of the application for the zoning-map amendment. The estimated cost must be found to be reasonable by the Planning Board. The plan must have received Site Plan Approval, which may be granted by the Planning Board conditioned upon the rezoning.
3. If the applicant fails to begin construction in a substantial manner and in accordance with the architect's development plan within 1 year of the effective date of rezoning, the total amount of the bond will be paid to the City.

* * *