

## **ARTICLE 3: PERMIT ADMINISTRATION AND APPROVAL PROCESS**

### **SECTION 3.01 GENERAL**

The responsibility for regulating the use of land and buildings and for approving proposals for development or construction within the City of Bath is divided among the Planning Board, the Zoning Board of Appeals (ZBA), and the CEO. Each of these 3 entities plays a distinct role. The following sections provide a general summary of the roles for the CEO. The roles of the Planning Board and the ZBA are described in Articles 5 and 4, respectively.

### **SECTION 3.02 ROLE OF THE CODES ENFORCEMENT OFFICER**

The CEO is responsible for the day-to-day administration of this Code. The CEO is responsible for seeing that the terms and conditions of the Code are met, that approvals required by the Code are obtained, that any conditions attached to those approvals are carried out, and that this Code is enforced.

The CEO serves as the coordinator of applications that must be heard by the ZBA. In this capacity, the CEO is responsible for processing the applications.

### **SECTION 3.03 APPROVALS REQUIRED**

The following approvals or permits are required by this Code:

- A. A building permit from the CEO is required for the erection, alteration, relocation, or demolition of any building or structure.
- B. A Certificate of Occupancy from the CEO is required prior to the occupancy or change in use of any building, structure, or parcel of land.
- C. A sign permit from the CEO is required for the erection or alteration of any sign.
- D. A variance must be obtained from the ZBA before the development of any property that does not conform to the space and bulk regulations of the zoning district in which the property is located.
- E. Any division of a tract or parcel of land into a subdivision must be approved by the Planning Board.

- F. Site Plan Approval must be obtained from the Planning Board or Staff Review Committee before a building permit is issued for any development requiring Site Plan Approval, according to the Land Use Table (see Section 9.02).
- G. Historic District Approval must be obtained from the Planning Board for any of the following if located within the Historic Overlay District. For projects that require a building permit, Historic District Approval must be obtained prior to the issuance of the building permit.
  - 1. the construction of new buildings;
  - 2. any addition to a building;
  - 3. the addition, change, removal, or covering (other than with paint or stain) of any exterior architectural detail or decorative element of an existing building; or
  - 4. the demolition of any structure.

[amended October 3, 2001]

## **SECTION 3.04 BUILDING PERMITS**

### **A. Permit Required**

A building, structure, or part thereof may not be constructed, structurally altered, enlarged, moved, or demolished until a building permit for any of these actions has been issued by the CEO. The contractor, builder, or developer, as well as the property owner, are responsible for any and all permits. Site Plan Approval, in accordance with the provisions of Article 12, may be required prior to the issuance of a building permit for certain uses.

### **B. Compliance with this Code**

A building permit may not be issued until the proposed construction or alteration complies with the provisions of this Code or with a decision rendered by the ZBA and/or with any approvals of the Planning Board and until all other approvals required under this code are granted.

### **C. Applications for Permits**

All applications for building permits must be submitted in writing to the CEO on forms provided for the purpose. The application must be accompanied by the following information:

- 1. A drawing, drawn to an indicated scale, showing the location and dimensions of all buildings to be erected, the sewage disposal system, access drives and turnarounds, and abutting lot and street lines. The preconstruction drawing must accurately represent the relationship between any proposed building, structure, or addition to an existing building and all property lines to demonstrate compliance with the setback, yard-area, and lot-coverage requirements of this Code. If after

reviewing the information provided or from a site inspection the location of any property line is not obvious to the CEO; or if the CEO cannot confirm from the information provided or from inspecting the site that all setback, yard-area, or lot-coverage requirements are met; or if the setbacks or yard areas of any proposed building or structure are not at least 100 percent greater than required by this Code, the applicant must provide a boundary survey prior to the issuance of a permit.

2. Approval by the Local Plumbing Inspector of any sewage disposal system or public sewer system connection proposal for the building, together with the plans for the system or connection.
3. Information required to determine compliance with the terms and conditions for building and development in flood-hazard areas, as set forth in the City's Flood Damage Prevention Ordinance, if the building is located within a flood-hazard area.
4. Any other information the CEO may require to determine compliance with this Code and/or the building code.

#### **D. Action on Applications**

Within 7 working days of filing an application for a building permit involving a single-family residence, or 15 working days for permits involving other uses, the CEO must approve, deny, or refer such application to the appropriate review authority. The decision of the CEO must be in writing, citing provisions of this Code that apply, and communicated directly to the applicant. One copy of the decision must be maintained by the CEO. If the proposed activity requires Site Plan Review, in accordance with Article 12, the CEO must refer the application to the Planning Director.

#### **E. Sewer Permit Required**

A building permit cannot be issued for any structure or use involving the construction, installation, or alteration of plumbing facilities unless a valid sewer permit has been secured by the applicant.

#### **F. Revision of Proposed Work**

A new or revised building permit is required if any substantial changes are made in the size, use, construction, or structure of the building after issuance of the permit.

## **G. Building Permit Expiration**

A building permit secured under provisions of this Code expires if the work or change is not commenced within 6 months of the date on which the permit was granted, and if the work or change is not substantially completed within 18 months of the date on which the permit was granted. The CEO may grant a single 6-month extension of the commencement or completion dates upon written request showing reasonable cause for the extension and evidence that work has been reasonably pursued.

## **H. Required Records**

Applications for permits with their accompanying plans and building permits must be maintained as a permanent record by the CEO.

### **SECTION 3.05 CERTIFICATE OF OCCUPANCY REQUIRED**

A Certificate of Occupancy must be obtained from the CEO prior to the occupancy or use of any building, structure, or any portion thereof hereinafter erected, structurally altered, or changed in its use or structure, or with regard to the creation or change in use of any parcel of land or portion thereof currently existing or hereinafter created. The Certificate of Occupancy must be endorsed to the effect that the proposed use of the building or land conforms to requirements of this Code. A change of occupancy that maintains the same Land Use Table category does not require a Certificate of Occupancy.

An application for a Certificate of Occupancy must be made to the CEO, which may be made concurrently with the application for a building permit, if one is required. The application must clearly state the intended use of the property.

The CEO may issue the Certificate of Occupancy only after he/she has made a site inspection and has determined that all work has been completed in conformance with this Code, other City ordinances, any approved site plan, any approved subdivision plan, and any conditions of approval imposed on the project. Occupancy of a building or parcel of land without obtaining a Certificate of Occupancy in accordance with this article is a violation of this Code.

The CEO may issue a temporary Certificate of Occupancy for a period of not more than 6 months. A temporary Certificate of Occupancy may be issued only if adequate safeguards are in place to assure the timely completion of the work and the safety of the occupants the public. The CEO may require the posting of a bond or other financial guarantee to assure completion of the project as permitted. This does not allow the CEO to issue temporary Certificates of Occupancy for any project, use, or activity that received Site Plan Approval.

### **SECTION 3.06 ENFORCEMENT**

It is the duty and responsibility of the CEO to enforce the provisions of this Code together with any conditions of approval issued in conjunction with an approval issued under the Code. If the CEO finds that any provision or condition is not being met, then the CEO must notify in writing the person responsible for the violation. If the person responsible is not the owner, then the CEO must also notify in writing the owner of the property upon which the violation has occurred. The notice must specify the nature of the violation and provision of the Code or condition which has resulted in noncompliance, the nature of the action necessary to correct, abate, or mitigate the violation, and a time frame during which the corrective or mitigated action must be completed. If after such notice and expiration of the time frame in the notice, the violation has not been corrected, abated, or mitigated, the CEO must commence appropriate legal action to terminate the violation and recover all appropriate penalties. The written notice, however, does not preclude, nor is it considered a condition precedent, to the City instituting enforcement action for any violation of the provisions or conditions relating to this Code.

The CEO has all powers available to a CEO to effect enforcement of Code provisions under State Law. The CEO specifically has the right to enter property at all reasonable hours and to enter any building with the consent of the owner and/or occupant, and, if necessary, to apply for and receive administrative warrants to conduct inspections. If the condition of the nonconformity is a threat or hazard to the health and safety of the public or the occupants of a building, then the CEO has the authority to close the building or prevent access to the property in order to mitigate any potential injury to occupants or the general public. If the nonconforming condition or use has created or has the potential to create substantial environmental damage, then the CEO has the authority to terminate the activity and bar access to the site. [amended August 6, 2003]

### **SECTION 3.07 PENALTIES**

Any person, firm, or corporation who is responsible for a violation of any of the provisions of this Code or of any conditions of approval for permits issued under this Code, may be penalized in accordance with the provisions of 30-A M.R.S.A. Section 4452. Any fines or penalties resulting from proceedings arising under enforcement actions taken under this Code, together with costs and expenses as allowed under 30-A M.R.S.A. Section 4452(3)(D) must be paid to the City of Bath.

### **SECTION 3.08 INFORMAL ADJUSTMENT OF LAND USE CODE VIOLATIONS**

A. In lieu of formal prosecution of a Land Use Code violation by the City of Bath against the owner/occupant of the property, the City may enter into an informal adjustment agreement with the owner/occupant in those cases where such adjustment serves the best interests of the City of Bath and where the Code violation is on the basis of a permit or permission given by the City of Bath in the due course of business, or

represents what may be termed an "honest mistake" by the owner/occupant or contractor, or may represent circumstances beyond the control of the owner/occupant or contractor. The owner/occupant will need to demonstrate that he/she has made a good-faith effort to comply with the Code. The informal adjustment is only appropriate in those cases in which the violation does not create an unsightly condition or involve a structure that is not generally compatible with those in the neighborhood. The term *compatibility* means that the offending structure is not substantially different in style, size, or affect from those in the surrounding area.

- B. Where the violation is of a bulk or space provision of the Land Use Code, the City Manager has the authority to enter into the informal adjustment agreement on behalf of the City. In such cases, the City Council must be informed by receipt of a copy of the agreement. Where the violation is of a use provision of the Land Use Code, the City Council has the authority to enter into an informal adjustment agreement.
- C. The request for informal adjustment must be made by the violator. In the informal adjustment agreement, the violator must admit the violation. The agreement also must contain a description of the nature of the violation, and may contain any of the following:
  - 1. A fine.
  - 2. An agreement to make adjustments, repairs, renovations, or relocation of a structure; any other remedial action; or, if appropriate, no action at all.
  - 3. A statement that the City, in consideration for the informal adjustment agreement, will waive any further prosecution of the violation.
  - 4. A statement that the City will not require a fine or any remedial action.
- D. A copy of the informal adjustment agreement must be filed by the owner/occupant at the Sagadahoc County Registry of Deeds within 30 days of its issuance.
- E. For purposes of administration of this section, the structure or use that forms the basis for the violation will continue to be considered nonconforming and is subject to the provisions for nonconformity as they appear in Article 6 of this Land Use Code.
- F. Any action or failure to act by the City Manager under this section is deemed an administrative act and may be appealed under the provisions of Section 4.13 of this Code, to be handled as an administrative appeal before the Bath ZBA. Any act or failure to act by the City Council pursuant to this section may be appealed in accordance with Rule 80B of the Maine Rules of Civil Procedure by filing the appropriate complaint for relief with the Sagadahoc County Superior Court within 30 days of the notice of the City Council's action or failure to act.

### **SECTION 3.09 COORDINATION OF MULTIPLE APPROVALS**

A project may be required to obtain multiple approvals prior to the issuance of a building permit. In these situations, it is the policy of the City to allow simultaneous processing of some approvals. The following guidelines are to be used in processing applications requiring multiple local approvals:

- A. If Subdivision Approval is required in addition to other approvals, the Subdivision Approval must be obtained prior to or concurrent with Site Plan Approval and Historic District Approval.
- B. Historic District Approval must be obtained prior to or concurrent with Site Plan Approval.
- C. If a variance is required, it must be obtained before approval of a site plan, subdivision, or historic district permit.
- D. A building permit may be issued only after all other necessary approvals are obtained.

### **SECTION 3.10 COORDINATION WITH STATE AND FEDERAL APPROVALS**

In addition to the approvals required under this Code, a property owner or developer may be required to obtain approval from state or federal agencies. It is the policy of the City to coordinate the processing of any application for local approval with any other approval required. When approval of a state or federal agency is required, the City will proceed with its approvals and may issue the appropriate approvals either unconditionally or conditioned on the applicant receiving other necessary approvals.

### **SECTION 3.11 FEES**

The City Council, by Resolution, must annually set the amount of all fees required by this Code. If the City Council fails to set the fees, those established for the prior year continue in effect.

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