



Workshop

Wednesday, September 10, 2025 at 6:00 pm

Meeting Location

In Person: Council Chambers, Bath City Hall, 55 Front Street

Television: BCTV Channel 14

1. Zoning Code Update

<https://www.bathzoningupdate.com/presentations-reports>

| Agenda published on 09/03/2025 at 12:19 PM

City of Bath Land Use Code

Executive Summary

July 2025 Public Review Draft

Article 1 Title, Purpose, and Applicability

This Article introduces the Land Use Code, speaks to its purpose and intent, and sets rules around its applicability to land within the City. The following key updates have been made:

- The purpose and intent provisions have been simplified and clarified.
 1. The applicability provisions of the Code have been expanded and more clearly explained, including the Code's relationship to private agreements and other ordinances and regulations.
- A series of transition rules have been added, which explain what happens to existing structures, uses, and lots, as well as prior approvals and applications pending when the updated Code—or any later amendment—is adopted.

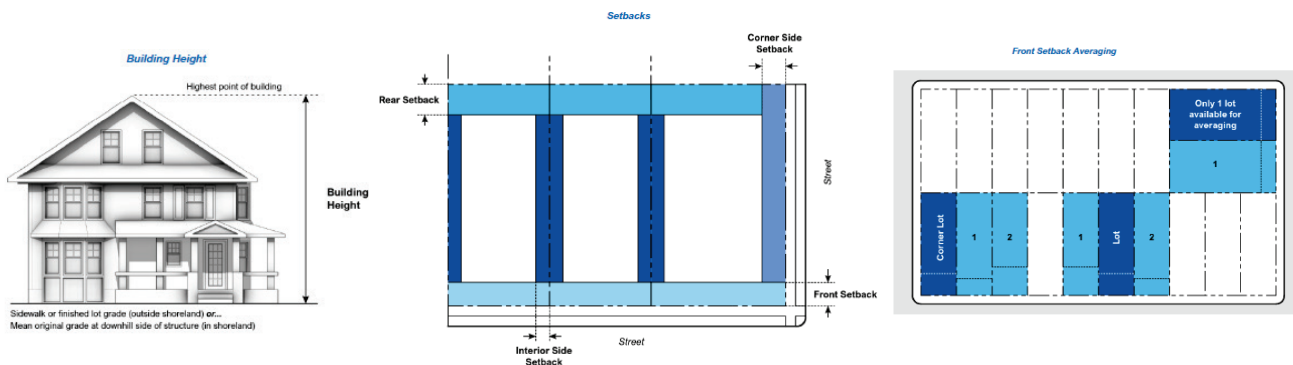
Article 2 Definitions and Measurements

Article 2 contains all of the definitions of general terms found throughout the Code. It also includes clear rules for how various measurements should be calculated, such as building height, building coverage (previously called “lot coverage”), and landscaped open space ratio (a new control within the Code).

All relevant definitions from the current Code have been retained and updated as needed; new definitions have been added to address:

- Modern technologies, such as “Electric Vehicle Charging Stations” and “Electric Vehicle Charging Levels.”
- Contemporary design and environmental features like “Green Roofs,” “Green Walls,” “Hardscape,” and “Landscaped Open Space Ratio.”
- Small-scale development forms like “Cottage Court,” and conservation-focused forms like “Conservation Residential Development.”
- The updated Code's enhanced focus on quality design, through terms like “Blank Wall,” “Articulation,” and “Transparency,” among others.

Rules of measurement have also been simplified and clarified, with numerous illustrations added to ensure understanding and consistency in application of key controls like building height, setbacks, and new provisions like setback averaging.



Article 3 Zoning Districts and Zoning Map

This Article introduces the zoning districts and the Zoning Map as a whole. It includes language standard to land use codes delineating how boundaries are to be interpreted in a variety of cases including lots located within multiple districts or partially within another municipality.

Note that this first public draft of the Land Use Code is not accompanied by an updated Zoning Map. Once feedback is received on the text of the Code, a draft map will be prepared and released for public review. This executive summary includes some discussion of “equivalent districts” in the tables below, which provides a general direction for what an updated map will look like, and how the current districts are anticipated to transition into the updated Code.

Article 4 Residential Zoning Districts

Article 4 contains all of the residential zoning districts within the updated Code. The structure of the residential districts—and their dimensional standards—was evaluated against existing development patterns in various areas of the City, and has been updated to reflect those patterns, minimize nonconformities, and implement the vision of Bath’s Comprehensive Plan. Taken holistically, updates to the residential zoning districts are intended to reflect the existing development patterns that make Bath unique, while allowing for flexibility and creativity in meeting the City’s challenges around housing availability and affordability.

The following table includes a brief description of the residential districts included in the draft Code, and how they correspond to the districts within the City’s current Land Use Code.

Proposed District	Equivalent District (Current Zoning)	Proposed Allowed Dwelling Types	Key Features of Proposed District
R-R Rural Residential	R-3 Low Density Residential	Single-family (detached and attached)	1 acre lot area min.
		Two-family	40 ft. maximum height
R-T Transitional Residential	R-2 Medium Density Residential	Single-family (detached and attached)	Single-family detached & two-family: 6,500sf lot area min.
		Two-family	Single-family attached: 3,250sf/unit lot area min.
		Townhouse (lots served by public sewer only)	Townhouse & multi-family: 1,500sf/unit lot area min.
R-C Central Residential	R-1 High Density Residential	Multi-family (lots served by public sewer only)	40 ft. maximum height
			1 acre min. for lots not served by public sewer
		Single-family (detached and attached)	Single-family detached & two-family: 5,000sf lot area min.
		Two-family	Single-family attached: 2,500sf/unit lot area min.
		Townhouse	Townhouse & multi-family: 1,200sf/unit lot area min.
		Multi-family	45 ft. maximum height



R-UC Urban Core Residential	New district, no current equivalent	Single-family (detached and attached)	Single-family detached & two-family: 3,000sf lot area min.
		Two-family	Single-family attached: 1,500sf/unit lot area min.
		Townhouse	Townhouse & multi-family: 1,000sf/unit lot area min.
		Multi-family	45 ft. maximum height
R-WM Waterfront Medium Density Residential	R-6 Waterfront Medium Density Residential	Single-family (detached and attached)	10,000sf lot area min. 40 ft. maximum height
		Two-family	Generous setbacks (20 ft.)
R-WH Waterfront High Density Residential	R-4 Waterfront High Density Residential	Single-family (detached and attached)	10,000sf lot area min. 40 ft. maximum height
		Two-family	Moderate setbacks (10 ft.)

New “alternative residential development options” have also been added to the Code, to encourage creative development that is responsive to conditions in different areas of the City, prioritizes preservation of natural resources and undeveloped lands, and allows for a variety of densities and site designs within the City’s more urban neighborhoods. These include:

- **Cottage court residential development**, which allows for the creation of small residential dwellings organized around a shared courtyard area maintained in common stewardship by residents. Cottage court developments are also eligible for a “small dwelling unit bonus,” which allows for additional residential structures if all units are constructed at 800 square feet or less in gross floor area.
- **Conservation residential development**, which allows for a reduction of minimum lot area and a 20% density bonus in exchange for the preservation of common open space, enabling the efficient use of land and the preservation of valuable natural resources in the City’s more rural areas.

Finally, current allowances for affordable housing density bonuses and extra dwelling units (per LD2003 provisions) remain in the Code, subject to standards found within Article 9.

Article 5 Mixed-Use and Commercial Zoning Districts

Mixed-use and commercial zoning districts in the Code have been restructured to better reflect their form and function within the city. Standards have been refined to ensure that they reflect the variety of development patterns in these areas, and that they support the goals articulated in Bath’s Comprehensive Plan.

The following table includes a brief summary of the proposed mixed-use and commercial zoning districts.

Proposed District	Equivalent District (Current Zoning)	Description and Key Features
NC Neighborhood Commercial	NC Neighborhood Commercial	Accommodates small-scale, pedestrian-friendly mixed-use environments within walkable distance of established residential neighborhoods. No minimum lot area is required, and heights up to 40 feet are allowed. Interior side setbacks not required unless abutting a residential district.



CC Community Commercial	C-2 Mixed Commercial + Residential	Allows for the mixing of residential dwellings with commercial and service uses, often functioning as a transition between higher-intensity mixed-use areas and established residential neighborhoods. No minimum lot area is required, and heights up to 40 feet are allowed. Interior side and rear setbacks not required unless abutting a residential district.
DB Downtown Bath	C-1 Downtown Commercial	Accommodates the unique blend of retail, business, and tourism activities that make Bath a center of commerce and culture. Standards support year-round mixed-use activity, and allow for a mix of commercial and residential uses. No minimum lot area is required, and heights of up to 75 feet are allowed, subject to additional standards that limit or modify allowed height based upon the design of buildings and the surrounding context. Controls related to FAR (floor area ratio) have been eliminated.
CG Commercial Gateway	C-4 Route 1 Commercial Contract	Responds to the auto-oriented nature of some of Bath's commercial gateways into the City, and emphasizes the City's commitment to improving aesthetics and safety in these areas. Standards allow for a blend of commercial and residential uses, including design considerations to foster a welcoming environment for residents and visitors. A minimum lot area of 12,000 square feet is required, and heights of up to 40 feet are allowed.
MC Marine Commercial	C-5 Marine Business	Provides for medium- to high-intensity marine-related industrial and commercial activities, as well as a limited mix of residential and mixed-use opportunities. A minimum lot area of 10,000 square feet is required, and heights of up to 40 feet are allowed.
CX Commercial Flex	C-3 Business Park	Accommodates a mixture of office, warehousing, technology, and light industrial uses, as well as a variety of commercial and service uses designed to serve nearby workers and residents of neighborhoods within close proximity. A limited range of residential uses are also allowed. Requires a minimum of 10,000 square feet, and allows up to 75 feet in height (or 55 feet in height when within proximity of a residential district).
WMU Waterfront Mixed-Use	R-5 Waterfront Activity	Blends low-intensity, water-dependent commercial uses with residential uses, designed to support activity along portions of the Kennebec shoreline while maintaining the integrity of the surrounding environment.

Design standards have been added to the mixed-use and commercial zoning districts, addressing elements such as façade design, building orientation and entry design, and transparency requirements (addressing windows and doors). Building materials are also addressed within the standards, intended to encourage a high-quality built environment within these areas of the City. Illustrations of select design standards are included as examples on the following page.





Article 6 Industrial Zoning Districts

The Industrial/Shipyards District has been maintained, to accommodate the facilities of the Bath Iron Works and its necessary support facilities. Dimensional standards have been retained from the current Code, and a limited series of additional supportive uses have been added to the district, such as personal services establishments and eating and drinking establishments.

Article 7 Special Purpose and Overlay Zoning Districts

Following the recommendation within the Technical Review and Approaches Report (2024), a number of the current special purpose and overlay districts have been consolidated or eliminated, particularly those with a single purpose such as the M Museum and S School Districts. These uses are accommodated within base zoning districts in the proposed Code, and it is anticipated that existing uses will be addressed through remapping as needed.

The following special purpose and overlay zoning districts are included in the proposed code:

Proposed District	Description and Key Features
HO Historic Overlay	The HO Historic Overlay has been updated and clarified from the current Code, with a series of standards and provisions that address new construction and additions, alterations, demolition or removal, and installation of alternative energy generation devices.
MHP Manufactured Home Park Overlay	Accommodates manufactured home parks within the City, applicable within the R-R Rural Residential District. The MHP District sets standards for both manufactured home parks overall, as well as individual home stands within the larger park.
PO Parks and Open Space	The PO District is intended to preserve and enhance the City's parks, park land, and public open space land to meet the passive and active open space needs of the City. While parks are allowed within every district in the proposed Code, the PO District provides a tool to protect existing significant parks and open space assets—those typically owned by the City or placed in a trust.
SZO Shoreland Zone Overlay	The Shoreland Zone Overlay has been updated and modernized in alignment with State requirements.
TMC Trufant Marsh Contract District	The TMC Trufant Marsh Contract District has been maintained within the proposed Code.
GC Golf Course District	The GC Golf Course District has been maintained within the proposed Code.



Article 8 Uses

The use structure within the proposed Code has been reorganized and modernized. Uses have been clarified, clearly defined, and expanded to include a palette of modern permissions. In addition to the use matrix (§8.2) that establishes the principal, accessory, and temporary uses allowed within each zoning district, Article 8 also includes use standards for certain uses, and definitions of all uses contained within the matrix. An excerpt of the matrix is found below.

● = Permitted Use (May require Site Plan Approval) // ○ = Permitted subject to Site Plan Approval by the Planning Board // Blank = Not Permitted																		
	R-R	R-T	R-C	R-UC	R-WM	R-WH	NC	CC	DB	CG	MC	CX	WMU	I	GC	PO	TMC	Use Standards
Principal Uses																		
Agriculture	●																	§ 8.3.A
Airport	○																	
Amusement Facility - Indoor							●	●	●	●		●						
Amusement Facility - Outdoor										●		●		●				
Animal Care Facility - With Outdoor Area										●				●				§ 8.3.B
Animal Care Facility - Fully Indoors							●	●	●	●		●	●	●				§ 8.3.B
Animal Shelter										○				●				§ 8.3.B
Aquaculture											○	○						§ 8.3.C

- Within the matrix, a “●” indicates that a use is permitted, and may require site plan approval by the Staff Review Committee or Planning Board per the standards of §15.4. A “○” indicates that a use is permitted subject to approval by the Planning Board per the standards of §15.4. A blank cell indicates that the use is not allowed in the corresponding district.
- Each use is clearly defined in §8.6 and —as can be seen in the excerpt above—select uses are subject to use standards referenced within the matrix. If use standards are included, they apply to the use whether subject to site plan review or not unless specifically stated within the standards.
- The following are some examples of new uses that have been added to the Code:
 - To address issues of complete neighborhoods, walkability, and to unlock options for existing commercial structures in residential districts, the “neighborhood commercial establishment” use has been added. This use allows for the creation of a small-scale neighborhood-serving commercial use such as a coffee shop, art gallery, or personal service establishment within an existing nonresidential structure, on the ground floor of a multi-family dwelling, or as a new freestanding structure on corner lots only in residential districts. New structures are subject to a series of additional standards to ensure that they maintain compatibility with the surrounding neighborhood context.
 - A range of social service uses has been added to ensure they are adequately addressed within the Code. These include domestic violence and community shelters, children’s homes, food banks, food pantries, and social service centers, among others.
 - A series of arts and cultural/creative economy uses has been addressed including live/work dwellings, artisan/craft industrial, micro-production of alcohol (microbreweries, etc.), commercial kitchens, specialty food services, and others.
- Accessory and temporary uses have also been updated and expanded. Standards relating to accessory dwelling units (ADU), home occupations, and other accessory uses have been modernized to comply with best practices and State law. Additionally, a full range of temporary uses is now addressed within the Code, including uses such as farmer’s markets, farmstands, mobile food vendors (on private property only), and temporary outdoor entertainment and sales events, among others.



Article 9 General Development Standards

Article 9 consolidates provisions that are applicable to development in general—currently found in multiple locations throughout the Code—into a single Article. Key provisions include the following:

- A series of environmental and health protection standards address erosion and sedimentation control, steep slope development, stormwater management, water quality and supply, refuse and sewage disposal, and hazardous or dangerous materials and waste.
- Housing density allowances are detailed in their own section, including provisions relating to affordable housing density bonuses and extra dwelling unit allowances per State law.
- New standards address residential conversions (conversions of existing residential structures that result in an increase in the number of dwelling units within the structure, not including accessory dwelling units).
- All multi-family, mixed-use, and nonresidential developments are required to provide on-site green space and/or public civic space in accordance with provisions in §9.5. This section contains standards for how much green space and/or civic space must be provided, what qualifies as green space or civic space, and how such space should be designed and maintained.
- Additional standards address pedestrian connectivity and shoreline access requirements, standards related to fences and walls, and a series of exterior lighting controls which have been expanded and clarified from those within the current Code. Nonresidential, mixed-use, and multi-family developments are required to submit a lighting plan as part of site plan review. Single-family, two-family, and townhouse dwellings are exempt from the lighting plan requirement, but must comply with all applicable exterior lighting standards.
- A new table addresses the types of permitted encroachments that are allowed. A permitted encroachment is that part of a structure which is allowed to be built or extended into a required setback. Examples include balconies, bay windows, eaves and cornices, exterior stairwells, and similar features. Individual features are addressed within the table, including which setbacks they are allowed to encroach into, and specific standards as applicable.
- Finally, a series of basic performance standards are contained in §9.11, which address impacts of noise, glare, heat, vibration, dust, odors, and similar conditions. All uses must comply with these standards unless a federal, state, or other local law or regulation establishes a more restrictive standard.

Article 10 Accessory Structures

Article 10 comprehensively addresses accessory structures. A series of general regulations apply to all accessory structures, and specific structures are subject to additional standards to mitigate potential impacts. Structures that are addressed within the Article include:

- | | |
|---------------------------------|---|
| • Amateur (ham) radio equipment | • Free Item Exchange Boxes (Little library, etc.) |
| • Apiaries | • Mechanical Equipment |
| • Carports | • Recreational Equipment |
| • Chicken Coops | • Solar Panels |
| • Donation Boxes | • Swimming Pools |
| • Detached Garages | • Wind Turbines |



Article 11 Off-Street Parking, Loading, and Access

All standards related to off-street parking, loading, and access have been consolidated into Article 11. The Article addresses general requirements for parking facilities, includes all vehicle and bicycle parking provisions, and addresses access control, access drive design, and traffic impacts.

- **A key change within the proposed Land Use Code is the elimination of minimum parking requirements.** Importantly, this does *not* mean that parking will disappear or become prohibited. Instead, it empowers property owners, businesses, and developers to determine for themselves how much parking—if any—is appropriate for their specific site, clientele, or project.

This shift to a market-based approach to parking reflects modern best practices and aligns Bath with forward-thinking communities both regionally and across the country that are advancing goals for housing affordability, sustainability, economic development, and good design. Eliminating minimum parking requirements in the Land Use Code makes sense for a number of reasons:

- **Parking minimums make housing less affordable.** Minimum parking requirements increase construction costs. Each parking space can cost multiple thousands of dollars to build, particularly when structured parking or site constraints are involved. These costs are inevitably passed on to renters, homebuyers, and business owners—whether they actually need the parking or not. By eliminating minimums, the proposed Code removes a barrier to building more affordable housing, including smaller-scale and adaptive reuse projects that fit the community’s needs and character.
- **Parking minimums can suppress economic development and tax revenue.** When parking requirements force developers to overbuild parking, valuable land that could generate tax revenue for the City is instead dedicated to parking that sits mostly or entirely unused. Eliminating parking minimums can allow businesses and developers to make smarter, more efficient land use investments, generating higher property values and a stronger local tax base.
- **Excessive parking harms the environment.** Excess parking creates unnecessary pavement that can worsen the impacts of stormwater runoff, increasing flood risks and contributing to the degradation of surface water resources. It also exacerbates the urban heat island effect—making Bath’s streets and public spaces hotter in the summer and less comfortable for residents and visitors. By letting demand, not mandates, determine parking supply, Bath can mitigate these impacts.
- **Parking minimums can erode neighborhood character and preclude good design.** Too often, parking requirements dictate site design. Businesses and developers may be forced to sacrifice street-facing buildings, additional landscaping, or pedestrian-friendly site elements in an effort to design around Code-required parking spaces. The result is often unattractive, auto-centric development that can undermine the historic charm and walkability that Bath residents value.
- **Minimums rarely solve parking concerns.** Parking shortages are rarely caused by insufficient minimum requirements within a community’s Land Use Code. Instead, they more often reflect the popularity of specific businesses or events. Not every business within a given land use category generates the same demand. For example, not all restaurants draw the same crowds. By moving away from minimums, individual property owners can tailor parking to their real-world needs, rather than a one-size-fits-all requirement.
- **Elimination of minimum parking requirements supports adaptive reuse and small-scale development.** Much of Bath was originally developed with little or no off-street parking. Historically, homes, shops, and other buildings thrived without large parking lots. By eliminating parking minimums, the City can make it easier to reuse historic buildings, redevelop small or irregularly shaped lots, and bring new life to established areas without forcing unnecessary variances or compromising good design to fit required parking spaces.
- **Businesses and developers will still provide parking when it makes sense, which is most of the time.** Removing minimums doesn’t mean parking won’t be built. Developers and businesses want their projects to succeed—they will provide parking where they believe it is essential to attract customers or residents. What changes is that they have the option to right-size the parking they provide to meet actual demand, rather than overbuilding it to meet Code requirements.



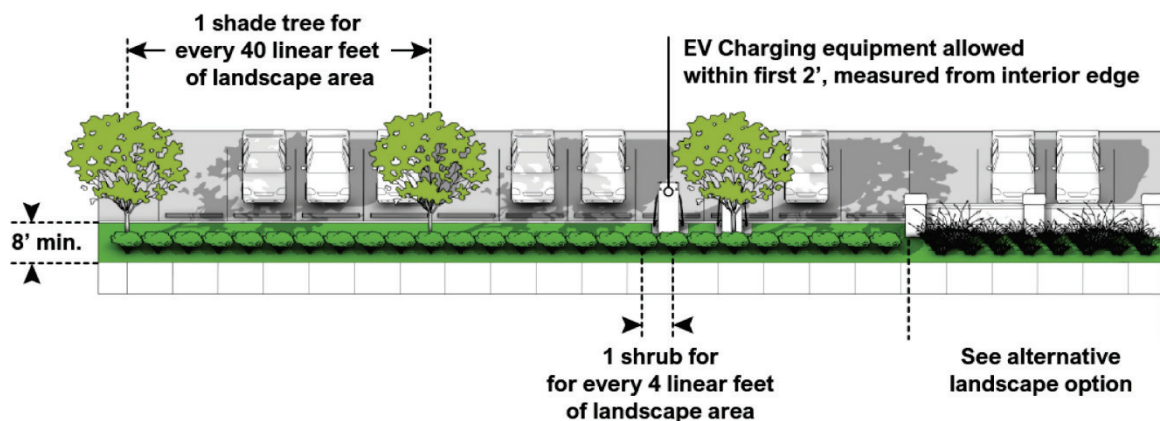
- **Eliminating minimum parking requirements can help to streamline the development process.**
Without minimum parking requirements, fewer projects will require variances or waivers just to proceed. This saves time and money for both applicants and City staff, making it easier to achieve high-quality projects that meet Bath's goals.
- As opposed to requiring minimums within the Code, the proposed Code includes parking maximums. Maximums can often be helpful in preventing the overbuilding of parking spaces, which can contribute to numerous deleterious effects as described above. The maximums proposed within the Code are somewhat generous, seeking to prevent overparking, not the provision of reasonable amounts of parking. Further, should a particular business or developer need to provide parking in excess of the maximums established within the Code, there are numerous options for them to do so described in §11.2.
- Bicycle parking is now required for certain uses, with requirements tailored to established thresholds. For example, some uses require a standard amount of bike parking, such as two spaces at a bed and breakfast. Other uses only require bike parking once a threshold is exceeded, such as for an eating and drinking establishment larger than 5,000 square feet in gross floor area.
- Design of off-street parking facilities is comprehensively addressed in §11.4. Should parking be provided, it is subject to a series of standards regarding surfacing, access and circulation, lighting, and location. Standards included address both the design of surface lots and parking structures.

Article 12 Landscape

All of the landscape requirements within the Land Use Code have been brought together into Article 12 of the proposed Code.

- Standards relating to the selection, installation, and maintenance of required plant material have been created and included within this section. Additionally, new requirements for species diversity will help to ensure the long-term health of required landscape, helping to ensure resilience in the case of pests or disease.
- The comprehensive standards in Article 12 also address:
 - Required perimeter landscape for parking lots
 - Required interior landscape for parking lots
 - Buffer yard requirements, including when, where, and what type of buffer yard is required in specific instances.
 - Root zone protection standards for existing trees to be retained, to ensure that they are not damaged or destroyed during site preparation and construction.

Parking Lot Perimeter Landscape



Article 13 Code Administrators

Article 13 establishes the various individuals and bodies responsible for administering the Land Use Code, detailing the powers and responsibilities of each. The following are included:

- City Council
- Codes Enforcement Officer (CEO)
- Historic District Committee
- Planning Board
- Planning Director
- Staff Review Committee
- Zoning Board of Appeals

For certain bodies, including the Planning Board and Zoning Board of Appeals, Article 13 includes rules for how they are to be composed, as well as standard procedures for how they operate.

Article 14 Zoning Application Procedures

Article 14 clearly lays out the procedures for how various zoning applications are submitted, and what type(s) of notification are required. Each application is listed within a table, detailing whether it must be submitted to the Planning Office or the Codes Enforcement Officer. Further, processes around pre-application conferences, preliminary determinations of completeness, withdrawal of applications, consideration of successive applications, and coordination of multiple approvals are clearly established.

Notably, references to specific fee amounts have been removed from the proposed Code and will be maintained separately, allowing for the City to update and modify such requirements and fee amounts without needing to go through a Code amendment process.

Notice requirements have been simplified and clarified, laid out within §14.2. This section now contains a table indicating what type of notice is required for various applications, with standards established around each type: published, mailed, and posted.

Article 15 Zoning Approvals and Permits

This article contains the procedures and standards for various zoning applications and approvals, including the detailed processes for how they are processed, reviewed, and approved. All approvals and permits have been consolidated into this article and organized into a parallel structure for clarity. Approvals and permits addressed in Article 15 include:

- Zoning text and map amendments (rezonings)
- Contract rezonings (process only, approved contract zones currently found in Article 16 are proposed to be maintained outside of the Land Use Code moving forward)
- Variances
- Site plan review
- Temporary use permits (New)
- Demolition permits (New)
- Zoning interpretations (New)
- Administrative appeals



- Historic District Approval
- Building Permits
- Certificates of Occupancy

Individual approval and permit processes have been refined for clarity and consistency in their application, including updates to thresholds for site plan review by the Staff Review Committee or the Planning Board. Field changes and minor amendments to approved site plans are also addressed within this section. Finally, submission requirements for various applications have been updated and streamlined.

Article 16 Subdivision

Article 16 addresses the procedures and standards for subdivision approval.

- Developmental subdivision has been clearly defined – with review procedures and approval criteria specified – as well as a formalized exemption from the subdivision process (when subject to site plan review) for division of new or existing structures into three or more dwelling units in line with State law.
- Subdivision procedures have been reorganized for clarity, detailing the various steps including pre-application workshop, sketch plan review, and final plan review. Subdivision approval submission requirements have also been reorganized and simplified to correspond with each step of plan review.
- Subdivision performance standards have been audited, simplified, and clarified to ensure that they reference State subdivision standards as well as the general performance standards of the proposed Code contained in Article 9.
- Design and construction requirements related to lot configurations, monumentation, utilities, lot numbering, and others have been maintained. Detailed construction standards contained within the current Code have been removed from the Code, and are proposed to be maintained in a separate “Technical Standards” document as opposed to within the Code. This will allow for easier updating of standards as technology and best practice evolves, without the need to amend the Code.
- A new “public realm” section has been added, describing standards for general right-of-way arrangement in line with the City’s complete streets policy. New construction, reconstruction, and reconfiguration of City rights-of-way is subject to these standards; however, any standard may be modified as needed to suit particular site constraints or other considerations by the City’s Department of Public Works. Standards are also included for bicycle lane design. Standards for a number of right-of-way types are established – designed to address current and potential future needs of the City. These include:
 - Two-lane rural roads (with and without multi-use paths)
 - Alleys
 - Local Streets (Neighborhood two-lane minor, neighborhood two-lane, neighborhood two-lane divided)
 - Collector two-lane (undivided and divided)
 - Collector four-lane (undivided and divided)
 - Arterial four-lane (undivided and divided)

Article 17 Mining Activity

The City’s standards for mining activity have been carried forward and clarified in Article 17. Review standards have been augmented where needed to ensure adequate consideration for the impacts and timing of associated activities, with new standards around noise and vibration – including clear requirements for a pre-blast survey.



Article 18 Floodplain Management

Floodplain management regulations are included in Article 18, and have been updated to align with the State's current model ordinance. Freeboard requirements have been updated to require structures be elevated or floodproofed to a minimum of three feet above base flood elevation.

Article 19 Adult Use and Medical Cannabis

Regulations for adult use and medical cannabis have been maintained in a discrete Article of the proposed Code. No substantive updates have been proposed to the regulation of adult use and medical cannabis; however, terminology has been aligned with updates to the relevant sections of the Maine Revised Statutes.

Article 20 Nonconformities

Nonconformity provisions have been clarified and expanded from the current Code, to address each of the different types of nonconformity that may occur within the City. These include:

- **Nonconforming uses.** Standards address a range of activities related to nonconforming uses including rules around their expansion, change of use, discontinuation or abandonment, and damage and destruction. As within the current Code, if a nonconforming use is discontinued or abandoned for a continuous period of 12 months or longer, the nonconforming status terminates and the use may not continue.
- **Nonconforming structures.** Standards address what is allowed or required in cases of routine maintenance, alteration, change of use, damage or destruction, and relocation of nonconforming structures. A new allowance within this section allows for limited expansion of nonconforming structures as recommended within the Technical Review and Approaches Report; nonconforming walls within a required setback may be extended horizontally or vertically along the same plane as existing perimeter building walls so long as no new nonconformity is created and all other standards of the district are met.
- **Nonconforming lots.** Nonconforming lots may be used for any use allowed within the district, so long as all applicable dimensional and design standards (with the exception of lot area or width rendering the lot nonconforming) are met. Other standards within this section address lot division and consolidation, and lots held in common ownership that have historically been used as a single building site.
- **Nonconforming site elements.** This section addresses what is required for nonconforming site elements – such as lighting or landscape – including when they must be brought into conformance as new development or expansion occurs on a building site.

Article 21 Enforcement

Enforcement provisions are located in Article 21. The Codes Enforcement Officer has the authority to ensure compliance with the Code and any related conditions of approval. When violations occur, the Officer provides notice, sets a deadline for correction, and may pursue legal action if needed. The Officer also has the power to take immediate action to protect public health, safety, or the environment. Penalties for violations are handled in accordance with state law, with fines paid to the City.





City of Bath, Maine

Land Use Code

Public Review Draft

June 2025



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1 Title, Purpose, and Applicability

- 1.1 Title
- 1.2 Authority
- 1.3 Purpose and Intent
- 1.4 Applicability
- 1.5 Transition Rules
- 1.6 Current Versions and Citations
- 1.7 Severability

1.1 Title

This ordinance, which incorporates the Official Zoning Map is known, cited, and referred to as the “Land Use Code of the City of Bath, Maine.” It is referred to herein as “the Code,” or “this Code.”

1.2 Authority

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

1.3 Purpose and Intent

The intent of this Code is to establish land use regulations to serve the City of Bath. The purpose of this Code is to:

- A. Promote and conserve the health, safety, convenience, and welfare of the inhabitants of the City.
- B. Promote orderly development in accordance with the Comprehensive Plan of the City of Bath and other City Council adopted development-related policies.
- C. Divide the City into zoning districts, according to use of land and structures, bulk of structures, intensity of the use of the lot, or other classification, as deemed best suited to carry out the purposes of this Code and other City Council adopted development-related policies.

1.4 Applicability

A. Territorial Application

This Code applies to all land, uses, and structures within the established limits of the City of Bath.

B. General Application

In their interpretation and application, the provisions of this Code are held to be the minimum requirements for the promotion and protection of public health, safety, and welfare.

C. Required Conformance

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 20.

D. Relation to Private Agreements

This Code does not nullify any private agreement or covenant. However, where this Code is more restrictive than a private agreement, covenant, or deed restriction, this Code controls. Those charged with administration and enforcement of this Code do not enforce any private agreement, covenant, or deed restriction.



E. Relation to Other Ordinances and Regulations

Unless otherwise specifically provided, this Code controls over less restrictive ordinances, regulations, or statutes. More restrictive ordinances, regulations, and statutes control over the provisions of this Code. To the extent that there is a conflict between laws or regulations, public safety shall take precedence.

F. Illustrations and Graphics

Any illustrations, graphics, or other visual aids contained in this Code are intended to assist the reader in understanding and applying the Code. In the case of an inconsistency between the text of the Code and any associated illustration, graphic, or other visual aid, the text shall control unless specifically stated otherwise.

1.5

Transition Rules

A. Violations Continue

Any violations of the prior Land Use Code shall continue to be a violation of this Code and are subject to the enforcement provisions of Article 21, unless the use, development, construction, or other activity is now in compliance with the standards and regulations of this Code.

B. Unlawful Uses, Structures, or Lots

Any use of land, structure, or lot unlawfully existing prior to the effective date of this Code or any subsequent amendment of this Code remains unlawful.

C. Existing Uses

Table 1-1: Use Transitions describes how existing uses shall be allowed if a use permission has changed.

Table 1-1: Use Transitions		
Previous Use Category	New Use Category	Functional Change
Permitted use	Permitted use	Remains a permitted use, but is subject to any use standards required by this Code.
Not allowed	Permitted use	Becomes a permitted use, subject to any use standards required by this Code
Permitted use	Not allowed	Prohibited in the zoning district; existing use becomes a legal nonconforming use
Not allowed	Not allowed	Legal nonconforming uses existing as of the effective date of this Code remain legal nonconforming uses, unless such use has been rendered conforming by this Code.

D. Structures Rendered Nonconforming

If a structure existing on the effective date of this Code was a conforming structure before the effective date of this Code, but such structure does not meet all standards set forth in this Code in the zoning district in which it is located, such structure is deemed a nonconforming structure and is controlled by the provisions of Article 20.

E. Lots Rendered Nonconforming

If a lot existing on the effective date of this Code was a conforming lot before the effective date of this Code, but such lot does not meet all standards set forth in this Code in the zoning district in which it is located, such lot is deemed a nonconforming lot and is controlled by the provisions of Article 20.

F. Previously Issued Building Permits



If a building permit for a structure was lawfully issued prior to the effective date of this Code, the structure may be completed in accordance with the plans on the basis of which the building permit was issued and may, upon completion, be occupied for the use originally intended.

G. Previously Approved Variances

All variance approvals granted prior to the effective date of this Code remain in full force and effect. The recipient of the variance may proceed to develop the property in accordance with the approved plans and all applicable conditions. Variances that have been approved but not acted upon are subject to the expiration provisions of this Code for variances in §15.3.

H. Previously Approved Contract Rezoning

As of the effective date of this Code, all previously approved contract rezonings remain in effect and are subject to all plans, regulations, and/or conditions of their approval. Any changes to a previously approved contract rezoning, shall be controlled by the provisions of §15.2.

I. Pending Applications

1. Any complete application that has been submitted or accepted for approval, but where no final action has been taken by the appropriate decision-making body prior to the effective date of this Code, is reviewed in accordance with the provisions of the Code in effect on the date the application received a preliminary determination of completeness by the City.
2. If an applicant fails to comply with any applicable period for submittal or other procedural requirements, such pending application automatically expires and all subsequent applications shall be subject to the requirements of this Code.
3. Any re-application for an expired approval shall meet the standards in effect at the time of re-application.
4. Any applicant with a pending application may waive review available under the previous Code through a written letter to the Codes Enforcement Official and request review under this Code.

1.6

Current Versions and Citations

- A. All references to other regulations, documents, maps, or manuals in this Code refer to the most current version and citation for those regulations, documents, maps, or manuals, unless expressly indicated otherwise.
 - B. If the referenced regulations or documents have been repealed and not replaced by other regulations or manuals, Code requirements for compliance are no longer in effect.
 - C. Whenever a provision of this Code refers to any other part of the City Code or to any other law, the reference applies to any subsequent amendment of that law.
-

1.7

Severability

In the event that any section, subsection, paragraph, clause, sentence, or provision of this Code is declared by any court of competent jurisdiction to be invalid, such judgment does not affect, impair, invalidate, or nullify the remainder of this Code. The effect of any such judgment is confined to the section, subsection, paragraph, clause, sentence, or provision immediately involved in the proceeding in which judgment or decree was rendered.



2 Definitions and Measurements

- 2.1 Rules of Interpretation
- 2.2 General Abbreviations
- 2.3 General Definitions
- 2.4 Rules of Measurement

2.1 Rules of Interpretation

The terms within the text of this Code are interpreted in accordance with the following rules of construction:

- A. The singular number includes the plural, and the plural the singular.
- B. The present tense includes the past and future tenses, and the future tense includes the present.
- C. The word “lot” includes the words “parcel,” and “plot.”
- D. The terms “must,” “shall,” and “will” are mandatory; the word “may” is permissive.
- E. The terms “must not,” “shall not,” “cannot,” and “may not” are prohibiting.
- F. Whenever a defined word or term appears in the text of this Code, its meaning must be construed as set forth in the definition. Words not defined in this Code must be interpreted in accordance with the definitions considered normal dictionary usage.
- G. To the extent that a conflict exists between the text of this Code and any image, chart, or table, the text of this Code shall control.

2.2 General Abbreviations

The following abbreviations may be used within this Code:

- A. “GFA” is an abbreviation for “gross floor area.”
- B. “ft.” is an abbreviation for “feet.”
- C. “max.” is an abbreviation for “maximum.”
- D. “min.” is an abbreviation for “minimum.”
- E. “N/A” is an abbreviation for “not applicable.”
- F. “sf” is an abbreviation for “square feet.”
- G. “SF-D” is an abbreviation for “single-family detached.”
- H. “SF-A” is an abbreviation for “single-family attached.”
- I. “2F” is an abbreviation for “two-family.”
- J. “TH” is an abbreviation for “townhouse.”
- K. “MF” is an abbreviation for “multi-family.”

2.3 General Definitions

100-year flood. See **Base Flood**.

Abut. To physically touch or border on, or to share a common lot line but not overlap.

Access. A way or means of approach to provide vehicular or pedestrian physical entrance to a property.



Accessibility Ramp. A ramp or similar structure that provides wheelchair or similar access to a structure.

Accessory Dwelling Unit. A dwelling unit subordinate in size to the principal residential structure(s) on a lot and located either within the principal residential structure(s) or in a detached accessory structure on the same lot or parcel as the primary structure, that provides basic facilities for living, sleeping, cooking, and sanitation.

Accessory Use. A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

Addition. A structure added to the original structure at some time after the completion of the original or an extension or increase in floor area or height of a building or structure.

Adjacent Grade (Within the Floodplain). For purposes of calculating floor elevation in areas of special flood hazard, the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Adjacent. A lot or parcel of land that shares all or part of a common lot line with another lot or parcel of land.

Aisle. The traveled way by which cars enter and depart parking spaces. Also called a travel aisle.

Alley. A service roadway providing a secondary means of access to abutting property and not intended for general traffic circulation.

Alteration. Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors, windows, or means of ingress or egress; or any enlargement to or diminution of a building or structure, whether horizontally or vertically; or the moving of a building or structure from one location to another.

Amateur (ham) Radio Equipment. An amateur (ham) radio station licensed by the Federal Communications Commission (FCC), including equipment such as, but not limited to, a tower or building-mounted structure supporting a radiating antenna platform and other equipment.

Ancillary. In regard to principal uses, a structure or use that provides support and is integral to the operation of a principal use.

Apiary. A structure for the keeping of honeybees.

Appurtenance. The visible, functional, or ornamental objects accessory to, and part of, buildings or structures.

Architectural Feature. A part or projection that contributes to the aesthetics of a structure, exclusive of signs, that is not necessary for the structural integrity of the structure or to make the structure habitable.

Area of Shallow Flooding. A designated AO and AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard. The land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in §18.1 of this Ordinance.

Articulation. For structures, a change in the depth of the building plane, roofline, or height.

Awning. A roof-like cover projecting from the wall of a building for the purpose of shielding a doorway or window from the elements.

Balcony. A roofed or unroofed platform that projects from the exterior wall of a structure above the ground floor, which is exposed to the open air, has direct access to the interior of the building, and is not supported by posts or columns extending to the ground.

Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year, commonly called the "100-year flood."

Basement. Any area of the building having its floor subgrade (below ground level) on all sides.



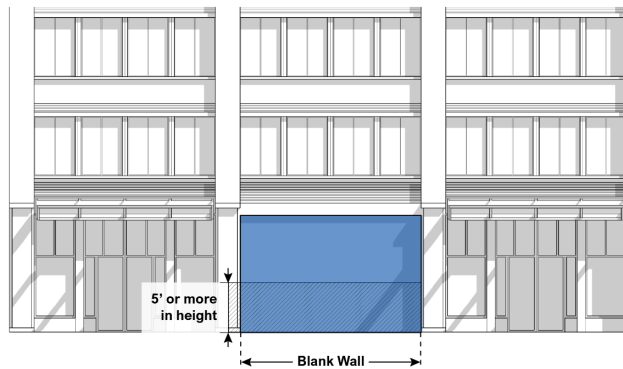
Bay Window. A window that projects outward from the structure, which does not rest on the building foundation or on the ground.

Berm. An earthen mound designed to provide visual interest on a site, fully or partially screen undesirable views, reduce noise, or fulfill similar purposes.

Bike Facility. Improvements to accommodate bicyclists, including bike parking facilities, bike lanes, and facilities for bicyclists such as repair stations and shower facilities.

Blank Wall. The horizontal linear dimension of contiguous building wall that does not contain fenestration, doors, or decorative elements such as banding, medallions, artwork such as murals and mosaics, change in wall plane of at least three inches, or other architectural or material embellishment. Any wall less than five feet in height is not considered to be a blank wall.

Blank Wall



Block. Defined in Section 2.4.

Blockface. Defined in Section 2.4.

Breakaway Wall. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Buffer Yard. An area of land within a property or site, generally adjacent to and parallel with a property line, to allow adequate screening of view, noise, and/or activity taking place within the property or site from adversely affecting an adjoining property, site, or the public right-of-way.

Buildable Area. The portion of a lot, excluding required setbacks, where a structure or building improvements may be erected.

Building. Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind and intended for use in one place.

Building Coverage. Defined in Section 2.4.

Building Envelope. The three-dimensional space within which a structure is permitted to be built on a lot and which is defined by regulations governing building setbacks, maximum height, and bulk, by other regulations, and/or by any combination thereof.

Building Footprint. The area encompassed by a building's outer wall at ground level.

Building Height. Defined in Section 2.4.



Building Line. A line measured at the building wall of a structure between parallel lot lines. For the purposes of establishing a building line, the building wall does not include permitted encroachments of architectural features, such as bay windows, eaves, and steps and stoops.

Building Line



Canopy. A canopy is a roof-like cover designed for protection from the weather or as a decorative embellishment affixed to a building or freestanding, with supports that extend to the ground.

Carport. A roofed structure providing space for the parking of motor vehicles and enclosed on not more than three sides.

Certificate of Compliance. For floodplain management purposes: a document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of Article 18 of this Code.

Chicken Coop. A structure where hens are kept.

Chimney. A vertical shaft of reinforced concrete, masonry or other approved material enclosing one or more flues, for the purpose of removing products of combustion from solid, liquid, or gaseous fuel.

Co-Location. Placement of equipment from more than one service or service provider on a single tower or site.

Coastal AE Zone. The portion of the Coastal High Hazard Area with wave heights between 1.5 feet and 3.0 feet and bounded by a line labeled the "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM). VE Zone floodplain construction standards are applied to development, new construction, and substantial improvements in the Coastal AE Zone.

Coastal High Hazard Area. An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal High Hazard Areas are designated as Zone VE and Zone AE bounded by a line labeled "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM).

Containment Wall. A wall surrounding all sides of an above ground tank to contain any spills or leaks.

Confined Animal Feeding Operation. A facility where animals are stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and where crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. CAFOs typically include structures or areas used for housing, feeding, or waste management of livestock or poultry at high densities.

Conservation Residential Development. A residential development that allows for a reduction in required minimum lot area in exchange for the permanent preservation of common open space, promoting the efficient use of land and the preservation of Bath's natural resources and rural character.

Cottage Court Development. A residential development consisting of a cluster of small homes, designed as a cohesive community around a shared common area.



Deck. A roofless outdoor platform built as an above ground platform that projects from the wall of a structure or is freestanding, and connected by structural supports at grade or by the structure.

Disruption of shoreline integrity. The alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

Dock. Any structure, whether permanent or temporary, that acts as a landing place for watercraft, including any combination of piers, docks, or floats.

Driveway. A private roadway providing access to a street or highway.

Dwelling Unit. One or more habitable rooms which are occupied, or which are intended or designed to be occupied as a residence by one household, with facilities for living, sleeping, sanitation, and cooking.

Dwelling. A structure, or portion thereof, designed exclusively for human habitation.

Easement. A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.

Eave. The projecting lower edges of a roof overhanging the wall of a structure.

Egress. A place or means of exiting a property.

Electric Vehicle Charging Station.

Electric Vehicle Charging Levels. The standardized indicators of electrical voltage at which an electric vehicle's battery is recharged. Charging levels are:

1. **Level 1.** Provides charging through a 120 volt (V), alternating current (AC) plug, at rates of at least 1.4 kW.
2. **Level 2.** Provides charging through a 208-240V, AC plug, at rates between 1.66 kWh and 19.2 kW.
3. **Level 3.** Provides charging through a direct-current (DC) plug capable of minimum charging rates of at least 27 kW.

Elevation Certificate. An official form (FEMA Form FF-206-FY-22-152, as amended) that is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program.

Encroachment. The extension or placement of any structure, or a component of such, into a required setback or right-of-way.

Endwall. The wall of the end unit of a townhouse development that is not attached to another dwelling unit or party wall.

Enlargement. An increase in the size of an existing structure or use, including the physical size of the property, building, parking, and other improvements.

Erect. To build, construct, attach, hang, place, suspend, or affix.

EV charging station (EVCS). Equipment to be installed at a parking space that transfers electric energy (by conductive or inductive means) to a battery or other energy storage device in a plug-in electric vehicle. Where included, EV charging stations are considered a component of a parking space.

EV-capable parking space. A parking space that is either served by a conduit installed so that it may be connected to an electrical panel in the future, or constructed in a way that any conduit installed to the space in the future requires no additional ground disturbance.

EV-installed parking space. An EV-ready parking space that is connected to a fully-operational EV charging station with the capacity of Level 2 charging or greater.

Exterior Lighting. The illumination of an outside area or object by any man-made device that produces light by any means.



Exterior Stairwell. One or more flights of stairs, and the necessary landings and platforms connecting them, to form a continuous passage from the entryway of a floor or level to another in a structure located on the exterior of a principal building.

Exterior Wall. Any wall that defines the exterior boundaries of a building or structure.

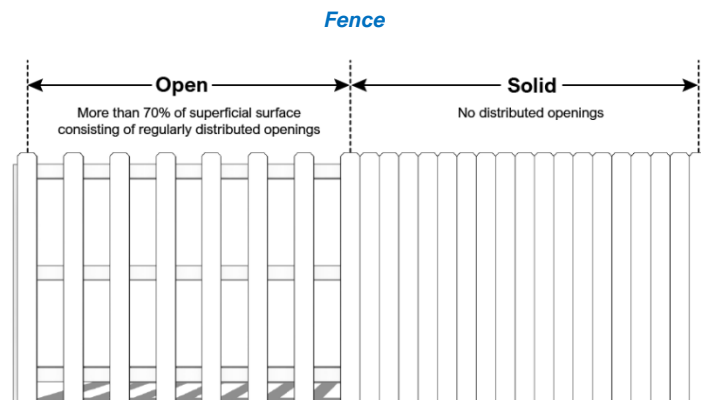
External Illumination. Illumination by an artificial source of light not internal to the sign face.

Façade. An exterior building wall, from grade to the top of the parapet or eaves. A facade incorporates the full width of a building elevation, including any projections or recesses occurring across an elevation. The front building facade is the principal elevation of a building and contains the building's main entrance, the rear facade is the building's rear exterior wall, and the side facades are a building's side exterior walls.

Family. One or more persons related by blood, marriage, or civil union, including adopted children. Family is also defined as a group of persons not related by blood, marriage, or civil union, not to exceed eight persons, occupying premises and living as a single housekeeping unit, as distinguished from a group occupying a rooming house, hotel, or similar group living arrangement. A family may include those persons employed by said family for assistance in house upkeep, childcare, and similar services.

Fence. An artificially constructed barrier of any permitted material or combination of materials erected to enclose, screen, or separate areas.

1. **Fence - Open.** A fence that has, over its entirety, more than 70% of the superficial surface consisting of regularly distributed openings.
2. **Fence - Solid.** A fence that has, over its entirety, no distributed openings. A shadowbox design fence is considered a solid fence. A chain link fence with slats is not considered a solid fence.



Fenestration. Windows and other openings on a building facade.

Filling. Depositing or dumping any matter on or into the ground or water.

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.
3. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined above.



Flood Elevation Study. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM). - an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study. See Flood Elevation Study.

Floodplain or Flood-prone Area. Any land area susceptible to being inundated by water from any source (see Flood or Flooding).

Floodplain Management. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and contents.

Floodway. See Regulatory Floodway.

Floodway Encroachment Lines. The lines marking the limits of floodways on federal, state, and local floodplain maps.

Foot-Candle. A unit of measure of illuminance equal to one lumen of light spread over an area of one square foot.

Free Item Exchange Box. An outdoor accessory structure maintained by a property owner on private property where legal items such as books, recorded performing arts and media, puzzles, games, and the like, are kept for public and/or exchanges with no fees, sales, or other compensation and are publicly accessible.

Freeboard. A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Frontage. The boundary line of a lot between a building and the right-of-way or the pavement of a sidewalk.

Functionally Dependent Use (Within the Floodplain). A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Garage. An accessory building or portion of a principal building intended for storage of motor vehicles of the occupants of the premises.

Gazebo. A freestanding outdoor accessory structure designed for recreational use and not for habitation.

Glare. The effect produced by light from a luminaire with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Grading. Any stripping, cutting, filling, or stockpiling of earth or land, including the land in its cut or filled condition, to create new grades.

Green Roof. A building roof partially or completely covered with vegetation and a growing medium, planted over a waterproofing membrane. It may also include additional layers such as a root barrier and drainage and irrigation systems.

Green Wall. A vertical structure partially or completely covered with vegetation, which may include soil or another growing medium, irrigation systems, and support structures.



Gross Floor Area (GFA). Defined in Section 2.4.

Hardscape. Nonliving components of a landscape design, such as walls, sculpture, paved walkways, patios, stone and gravel areas, benches, fountains, and similar hard-surface areas and objects.

Hedge. A row of bushes or small trees planted close together, especially when demarcating a boundary or forming a barrier.

Historic and Archeological Resources. Any area, site, or building listed on the National Register of Historic Places or identified in the Comprehensive Plan as an archeological or historic resource.

Historic District Committee. A committee comprised of the Planning Director, and 2 Planning Board members designated annually by the Chair of the Planning Board.

Infrastructure. Facilities and services needed to sustain land use activities.

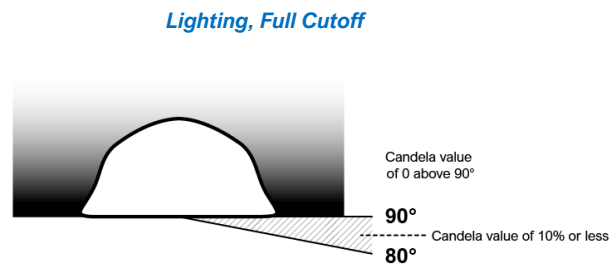
Ingress. A place or means of gaining access or entry into a property.

Landscaped Open Space Ratio. Defined in Section 2.4

Light Pole. Pole on which a luminaire is mounted.

Light Trespass. The shining of light produced by a luminaire (light fixture) beyond the boundaries of the property on which it is located.

Lighting, Full Cutoff. A light distribution where the candela value is zero at or above horizontal (90° above nadir) and does not exceed 10% at or above a vertical angle of 80° above nadir.



Limit of Moderate Wave Action (LiMWA). The landward limit of the 1.5 foot breaking wave within a Coastal AE Zone. These areas are bounded by a line labeled “Limit of Moderate Wave Action” (LiMWA) on a Flood Insurance Rate Map (FIRM). The LiMWA line delineates that portion of the Special Flood Hazard Area (SFHA) landward of a VE zone in which the principal sources of flooding are astronomical high tides, storm surges, or tsunamis, not riverine sources. These areas may be subject to 25 wave effects, velocity flows, erosion, scour, or combinations of these forces. The floodplain development and construction standards for VE Zones will be applied in the Coastal AE Zone.

Locally Established Datum. An elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lot Area. Defined in Section 2.4.

Lot Line, Corner. Defined in Section 2.4.

Lot Line, Front. Defined in Section 2.4.

Lot Line, Interior. Defined in Section 2.4.

Lot Line, Rear. Defined in Section 2.4.

Lot Line. Defined in Section 2.4.

Lot Width. Defined in Section 2.4.



Lot, Corner. Defined in Section 2.4.

Lot, Double-Frontage. Defined in Section 2.4.

Lot, Interior. Defined in Section 2.4.

Lot. Defined in Section 2.4.

Lowest Floor (Within the Floodplain). The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.N. of this Ordinance

Luminaire. A complete lighting unit consisting of a light source, pole, and all mounting brackets, if appropriate, and all necessary mechanical, electrical, and decorative parts.

Manufactured Home Stand. That part of a manufactured home park that has been reserved for the placement of one manufactured home.

Mean Sea Level. For the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor Revisions. A minor revision to a site plan is one that is limited in scope and effect so as not to represent a material change in the original approved plan. It is anticipated that such revisions will result from such factors as adjustments to meet on-site conditions, more efficient methods of accomplishing necessary on-site infrastructure, corrections of mistakes on the approved plan, amendments to meet Code requirements, and the like.

National Geodetic Vertical Datum (NGVD). The national vertical datum, a standard established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD is based upon mean sea level in 1929 and has been called "1929 Mean Sea Level" (MSL).

NEPA Review. A review required as part of the National Environmental Policy Act (NEPA) by multiple local, state and federal agencies to determine if a proposed Wireless Communication Facility will negatively impact certain environmental, historic or Native American resources.

North American Vertical Datum (NAVD). - The national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon the vertical data used by other North American countries 26 such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound and subsidence, and the increasing use of satellite technology.

Off-Street Parking. The storage space for an automobile on premises other than streets or rights-of-way.

Outlot. An area of land set aside within a retail center for a separate principal building that shares a circulation system and may share common parking with the larger retail center development but is separated from the principal building or buildings, typically located along the property line.

Owner. An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land, such as the owner of the title or a mortgage whose interest is shown of record in the mortgage and conveyance records, a person shown as owner in the records of the tax assessor of the county in which the property is situated, or the agent of any such person and those in possession of a dwelling, dwelling unit, or premises.

Parapet. The extension of a false front or wall above a roofline.

Parking Facility. A parking lot and/or parking structure. Parking facility does not include parking spaces and parking pads for individual dwelling units for single-family detached, single-family attached, two-family, or townhouse dwellings.

Parking Lot. An open, hard-surfaced area, excluding a street or public way, used for the storage of operable vehicles, whether for compensation or at no charge.



Parking Structure. A structure used for the parking or storage of operable vehicles, whether for compensation or at no charge.

Party Wall. A common wall from the foundation and extending continuously through all stories to or above the roof that separates one building from another, but in joint use by each building.

Patio. A hard surface designed and intended for recreational use by people and not used as a parking space.

Pedestrian Facilities. Sidewalks, shared use paths, and similar facilities intended for pedestrian mobility.

Pergola. An open structure, which may be either freestanding or attached to a structure, that forms a partially shaded pedestrian walkway, passageway, or sitting area, and is constructed of a semi-open roof and vertical posts that support cross-beams and a sturdy open lattice. It may also be used as an extension of a building entryway.

Pervious Paving. A range of sustainable materials and techniques for permeable paving that allow the movement of water through the surface. Gravel and loose rock are not considered pervious paving.

Planning Board. The Planning Board of the City of Bath.

Planning Director. That person hired by the City of Bath with the job description of Planning and Development Director.

Porch. An architectural feature that projects from the exterior wall of a structure, has direct access to the street level of the building, and is covered by a roof or eaves.

1. **Porch – Unenclosed.** A porch that is open on all sides, with the exception of the side attached to the principal building.
2. **Porch – Enclosed.** A porch enclosed by walls, screens, lattice or other material. A screened-in porch is an enclosed porch.

Principal Building. A non-accessory structure in which a principal use of the lot on which it is located is conducted.

Principal Use. The main use of land or structures as distinguished from an accessory use.

Public Realm. Areas of land within the public right-of-way that are publicly owned, maintained, or accessible, including but not limited to streets, sidewalks, alleys, medians, planting strips, and publicly accessible spaces such as plazas and squares. In the City of Bath, the public realm provides essential connections between neighborhoods, the waterfront, and civic destinations, and reflects the city's compact, walkable layout.

Reconstructed parking structures or lots. Complete repaving of an existing parking structure or lot (or portion of), with full depth reclamation or full depth reconstruction of the existing parking structure or lot.

Recreational Vehicle. A vehicle which is:

1. Built on a single chassis.
2. 400 square feet or less when measured at the largest horizontal projection, not including slide-outs.
3. designed to be self-propelled or permanently towable by a motor vehicle.
4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recycling Containers. A container for the collection of recyclables.

Refuse Container. An exterior waste container designed to be mechanically lifted by and emptied into or carted away by a collection vehicle.

Regulatory Floodway. The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. When not designated on the community's Flood Insurance Rate Map, the regulatory floodway is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.



Relocation. The removal of a building or other structure to a new location, whether to a different lot or to another location on the same lot.

Right-of-Way. A strip of land dedicated for use as a public way. In addition to the roadway, it typically incorporates the curbs, tree lawn, sidewalks, and shoulders.

Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Roofline. The top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys or minor projections.

Setback, Corner Side. Defined in Section 2.4.

Setback, Front. Defined in Section 2.4.

Setback, Interior Side. Defined in Section 2.4.

Setback, Rear. Defined in Section 2.4.

Setback, Waterbody. Defined in Section 2.4.

Setback. Defined in Section 2.4.

Setback (within shoreland zone). The nearest horizontal distance from the normal high- water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space, or other regulated object or area.

Shed. An accessory structure, often purchased pre-built or as a kit in pre-fabricated sections, that is not designed to be served by heat or plumbing and does not need to be placed on a permanent foundation. A shed is typically intended to store lawn, garden, or recreational equipment.

Shore frontage. The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Shoreline. The normal high-water line, or upland edge of a freshwater or coastal wetland.

Sign. A lettered, numbered, symbolic, pictorial, or illuminated visual display designed to identify, announce, direct, or inform that is visible from a public right of way or public place and directs attention to a product, service, place, activity, person, institution, business, or solicitation.

Sleeping Unit. A bedroom contained within a Supportive Housing facility with sleeping beds for of a maximum of two occupants.

Solar Panel. A photovoltaic device capable of collecting and converting solar energy into electricity.

Special Flood Hazard Area. See Area of Special Flood Hazard.

Stacking Space. A space specifically designed and designated as a waiting area for vehicles patronizing a drive-through facility or service bay.

Staff Review Committee. A committee composed of the Police Chief, the Fire Chief, the Public Works Director, the CEO, and the Planning Director, or their designees, and chaired by the Planning Director.

Standpipe. A rigid vertical or horizontal pipe to which fire hoses can be connected, which may be building, ground, or roof mounted.

Stoop. An exterior floor typically, constructed of stone, concrete, and/or masonry, with a finished floor elevation higher than the adjacent ground level, often with steps leading up to it, and utilized primarily as an access platform to a structure. A stoop may be roofed and designed with railings, but cannot be enclosed.

Street Bottle-neck. That segment of a dead-end street system, which must serve as both ingress and egress.

Street System, Dead-end. A street, or a system of connected streets, whether existing or proposed, which has only one connection with either a continuing street or loop street.



Street, Continuing. A street having two ends; each end connecting with a different continuing street or loop street.

Street, Loop. A street that has two ends, each end connecting with the same continuing street or loop street. The two connections must be at least 500 feet apart. If the connections are less than 500 feet apart the street is considered a dead-end street system.

Street. A public or private right-of-way that affords a primary means of vehicular access to abutting property, but does not include alleys or driveways.

Structure. Anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures both temporarily and permanently located.

Temporary Use. A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

Transparency. Defined in Section 2.4.

Unified Control. The combination of two or more tracts of land wherein each owner has agreed that their tract of land will be developed under the same development approvals.

Use. The purpose or activity for which the land or structure is designed, arranged, or intended, or for which it is occupied or maintained.

Vehicle, Junk. Any rusted, wrecked, damaged, dismantled, or partially dismantled, inoperative, or abandoned motor vehicle in such a condition that it is economically infeasible to restore the vehicle to an operating condition.

Water-Dependent Use. A use that, due to its nature, must be located on submerged lands, or requires direct access to coastal or inland waters and cannot be sited elsewhere. Inside the Shoreland Zone Overlay, this includes but is not limited to commercial and recreational fishing and boating facilities, finfish and shellfish processing and storage, retail and wholesale fish facilities, dock and port facilities, boat building facilities, shipyards, marinas, basins, channels, navigational aids, shoreline structures necessary for erosion control purposes, industrial uses that depend upon water-based transportation or require large amounts of water for cooling or processing and cannot be reasonably located or operated at an inland site, and uses with a primary purpose of providing public access to coastal or inland waters. Recreational boat storage buildings are not considered water-dependent uses.

Yard, Corner Side. Defined in Section 2.4.

Yard, Front. Defined in Section 2.4.

Yard, Interior Side. Defined in Section 2.4.

Yard, Rear. Defined in Section 2.4.

Yard. Defined in Section 2.4.

Zoning Lot. A lot or combination of lots within a single block, which is designated by its owner or developer to be used, developed, or built upon as a unit. A zoning lot may coincide with a lot of record or may comprise of one or more lots of record.

2.4

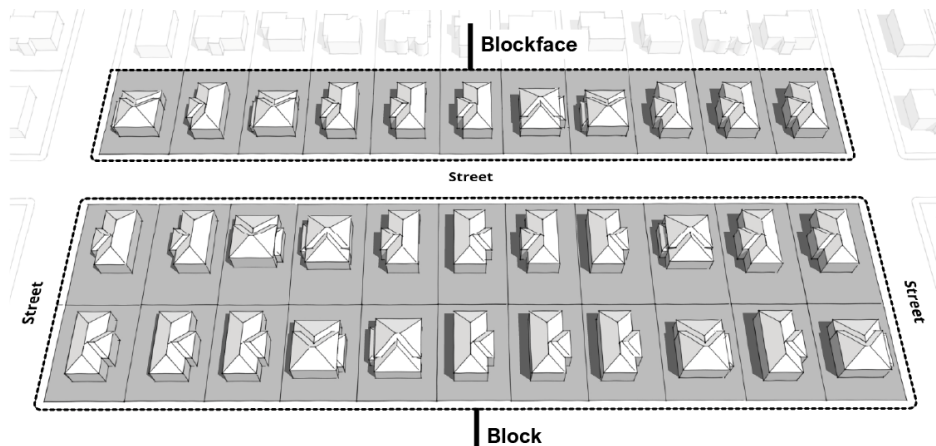
Rules of Measurement

This section provides the rules of measurement for the dimensional standards and locational characteristics within the Code.

A. Block and Blockface

1. A block is a tract of land bounded by streets, or a combination of streets and railroad rights-of-way or municipal boundary lines.
2. Blockface is measured as that portion of a block or tract of land facing the same side of a single street and lying between the closest intersecting streets.



Block and Blockface**B. Building Coverage**

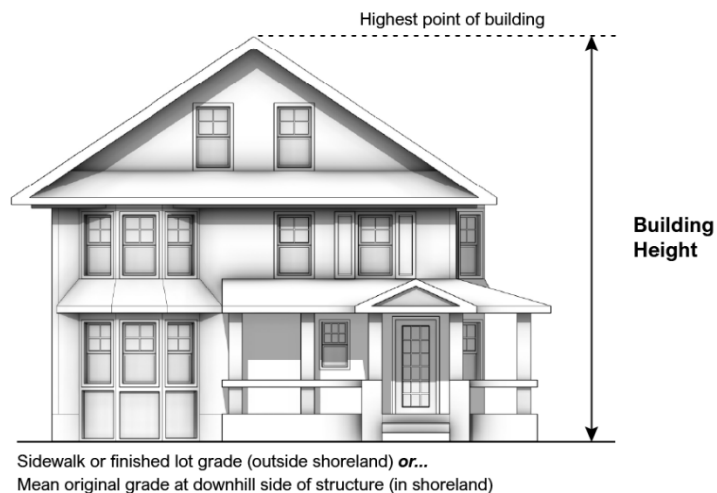
That portion of the lot that is covered by principal buildings and accessory structures. Building coverage is measured from all overhangs and above ground projections such as eaves, cornices, bay windows, and balconies, and all ground level projections such as window wells, escape wells, porches, and decks.

1. In the Shoreland Zone

In the Shoreland Zone, building coverage includes all portions of the lot that covered by principal buildings, accessory structures, parking lots, and all non-vegetated surfaces.

C. Building Height

1. Unless located in the Shoreland Zone, building height is the vertical distance from the sidewalk grade or finished lot grade adjacent to the building, whichever is higher, to the highest point of the building.
2. In the Shoreland Zone, building height is the vertical distance from the mean original grade (prior to construction) at the downhill side of the structure, and the highest point of the structure.

Building Height

3. The following structures or parts thereof are exempt from maximum height limitations, unless otherwise limited by any height restriction imposed by any airport authority, or other similar federal, state, or local authority.
 - a. Public utility poles, towers, and wires. Public utilities do not include wireless telecommunications, solar panels, and wind turbines unless operated by a government agency.
 - b. Water tanks and standpipes.
 - c. Building appurtenances such as chimneys, parapet walls, skylights, steeples, flagpoles, smokestacks, cooling towers, elevator bulkheads, fire towers, monuments, water towers, stacks, stage towers, or scenery lofts, tanks, ornamental towers and spires, rooftop accessory structures, recreational facilities, necessary mechanical appurtenances, or penthouses to house mechanical appurtenances.

D. Gross Floor Area

The gross floor area (GFA) of a structure is the sum of the gross horizontal areas of all floors of the structure as measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings.

E. Landscaped Open Space Ratio

The landscaped open space ratio is the proportion of lot area covered by landscaped open space, calculated by dividing the total landscaped open space area by the lot area. For the purposes of this measurement, landscaped open space does not include green roofs or structured or engineered surfaces.

F. Lot Area

The total area within the boundaries of a lot, excluding any street right-of-way, usually defined in square footage or acreage.

G. Lot Types

This Code contains standards addressing the following lot configurations:

1. Interior Lot

An interior lot is a lot other than a corner lot or a double-frontage lot, bounded by two interior side lot lines.

2. Corner Lot

A corner lot is situated at the junction of, and abutting, two or more intersecting streets.

3. Double-frontage Lot

A double-frontage lot is a lot that fronts upon two parallel streets, or that fronts upon two streets that do not intersect at the boundaries of the lot. A double-frontage lot is also called a through lot.

4. Flag Lot

A lot arranged so that the main building site area (the “flag”) is set back from the street upon which it fronts, and that includes an access strip (the “pole”) connecting the main building site to the street.

H. Lot Line

A line of record that divides one lot from another lot, or from a public or private street or any other public or private space. Lot lines include the following:

1. Corner Side Lot Line

On a corner lot, the corner side lot line is perpendicular or approximately perpendicular to the front lot line and is the longer street abutting lot line of a corner lot.



2. Front Lot Line

A front lot line is the lot line separating a lot from a street right-of-way. The front lot line of a corner lot is the shortest street lot line of a corner lot abutting a street. On a double-frontage lot, both lot lines that abut a street are considered front lot lines.

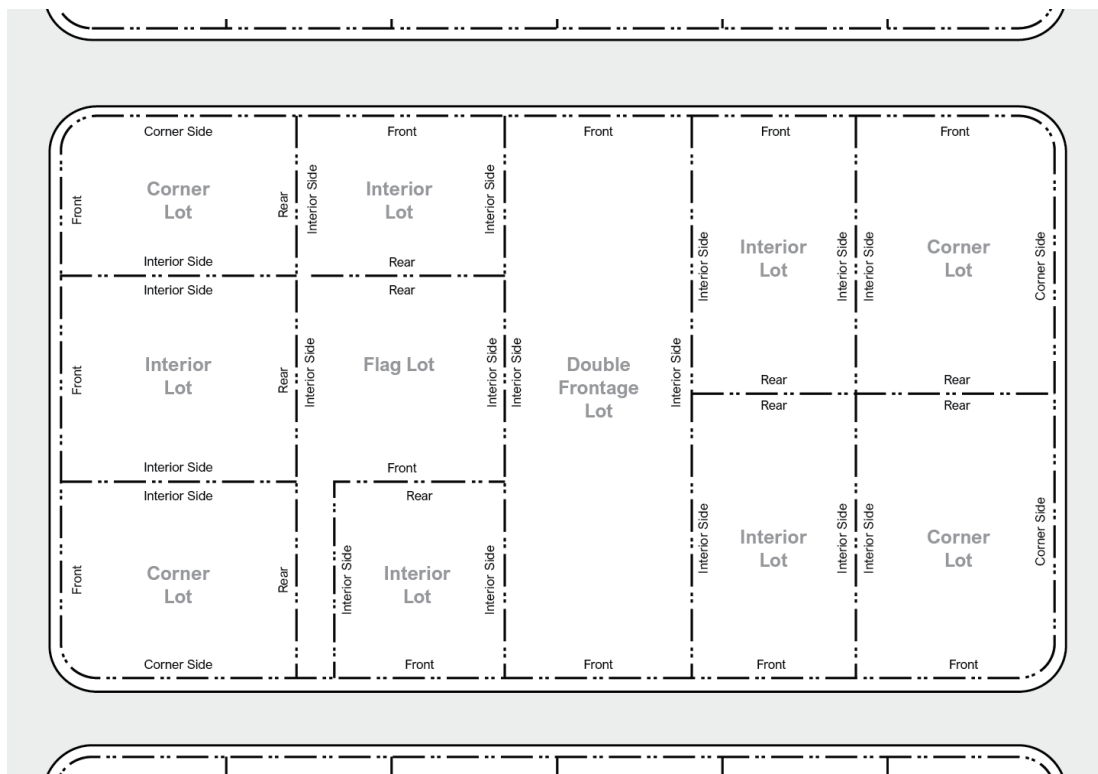
3. Interior Side Lot Line

On an interior lot, the interior side lot line is perpendicular or approximately perpendicular to the front lot line and abuts an adjacent lot.

4. Rear Lot Line

A rear lot line is the lot line opposite and most distant from the front lot line. In the case of triangular or similar irregularly shaped lots, the rear lot line is a calculated line of ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line

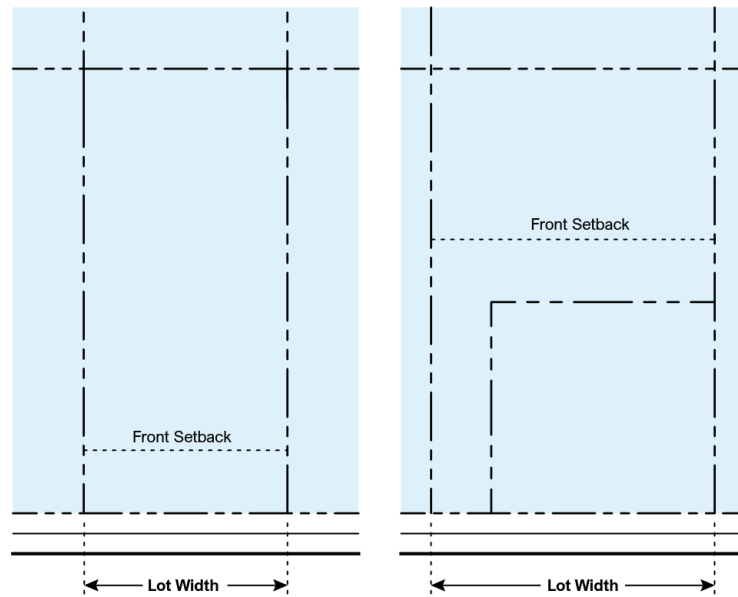
Lot Types and Lot Lines



I. Lot Width

Lot width is the horizontal distance between the side lot lines measured at right angles to its depth along a straight line parallel to the required minimum front setback. For flag lots, lot width is measured at the required front setback as defined within this section.



Lot Width**J. Lot**

A lot is the basic development unit for determination of lot area, depth, and other dimensional regulations; or a parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or recorded map and which is recognized as a separate legal entity for purposes of transfer of title or a zoning lot as defined or specified in this Code.

K. Transparency

Transparency is the required amount of window area as a percentage of the specified facade area. Doors are included in ground floor transparency when such doors are designed with glass or other transparent materials. Garage entrances are not included in ground floor transparency.

1. Visible Light Reflectance (VLR): The amount of visible light that is reflected out by a glazing system. A high VLR percentage blocks more daylight from passing through the window.
2. Visible Light Transmission (VLT): The amount of light (daylight) that travels through a glazing system. A high VLT percentage allows more daylight to pass through.
3. To qualify as transparent for the calculation, glazing must have a minimum of 40% VLT and no more than 15% VLR.
4. The following do not meet the ground floor or upper floor transparency requirements and do not count in meeting the standard:
 - a. Windows with shadowboxes on the interior.
 - b. Glass block.
 - c. Printed window film, regardless of whether it allows views into or out of the building.

L. Yards and Setbacks**1. General Definitions**

- a. A yard is the area between the building line of a principal building and the lot line.



- b. A setback is the required minimum distance a principal building must be located from a lot line, which is unoccupied and unobstructed by any projections of a principal building with the exception of permitted encroachments allowed by this Code.
- c. A setback may be equal to or less than a yard.
- d. A setback is located along the applicable lot line for the minimum depth specified by the zoning district in which such lot is located.

2. Front Yard and Front Setback

The front yard and front setback extend the full width of the lot between side lot lines measured perpendicular to the front lot line.

a. Front Yard

A front yard is the area located between a principal building line and the front lot line.

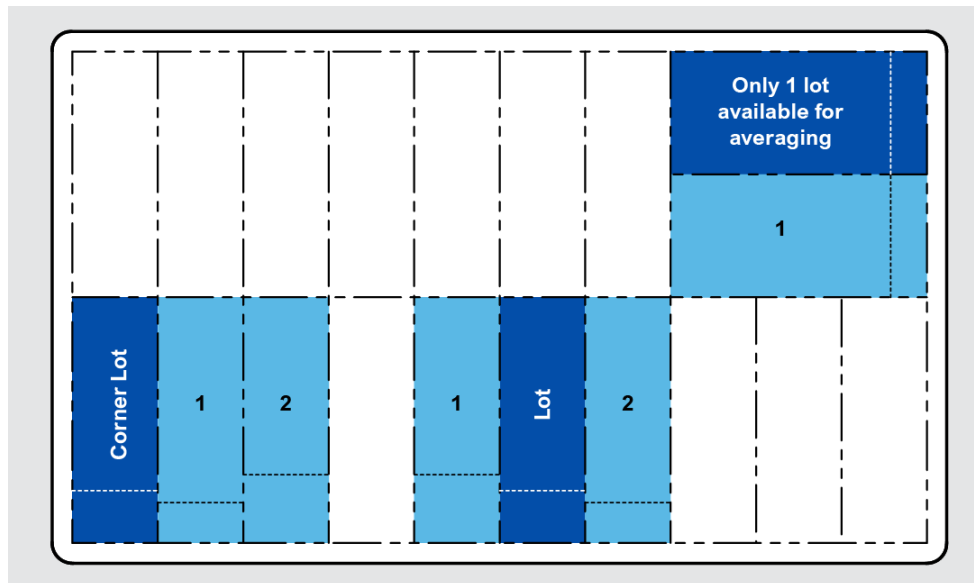
b. Front Setback

A front setback is the required minimum distance per the zoning district that a principal building must be located from the front lot line.

c. Front Setback Averaging

Where front setback averaging is permitted, the average front setback of the adjacent lots on either side of a lot are used to establish the required front setback. Averaging is based on the two adjacent lots on either side or, in the case of a corner lot, the next two adjacent lots. In the case of a lot configuration where only one lot is available for averaging, the average front setback is equal to that of the adjacent lot.

Front Setback Averaging



- d. For flag lots, the front yard and front setback are measured from the rear lot line of the lot that separates the flag portion of the lot from the street.



3. Interior Side Yard and Interior Side Setback

The interior side yard and interior side setback extend along the interior side lot line between the front and rear yard or setback, measured perpendicular to the interior side lot line.

a. Interior Side Yard

An interior side yard is the area located between a principal building line and the interior side lot line.

b. Interior Side Setback

An interior side setback is the required minimum distance per the zoning district that a principal building must be located from the interior side lot line.

- c. For townhouse developments, the interior side yard and interior side setback are only applicable to end units of the overall townhouse building.
- d. For single-family attached dwellings, the interior side yard and interior side setback are only applicable to the side of the dwelling that is not part of the vertical party wall.

4. Corner Side Yard and Corner Side Setback

The corner side yard and corner side setback extend along the corner side lot line between the front yard or front setback and the rear lot line, measured perpendicular to the corner side lot line.

a. Corner Side Yard

A corner side yard is the area located between a principal building line and the corner side lot line.

b. Corner Side Setback

A corner side setback is the required minimum distance per the zoning district that a principal building must be located from the corner side lot line.

5. Rear Yard and Rear Setback

The rear yard and rear setback extend between interior side lot lines, measured perpendicular to the rear lot line.

a. Rear Yard

A rear yard is the area located between a principal building line and the rear lot line.

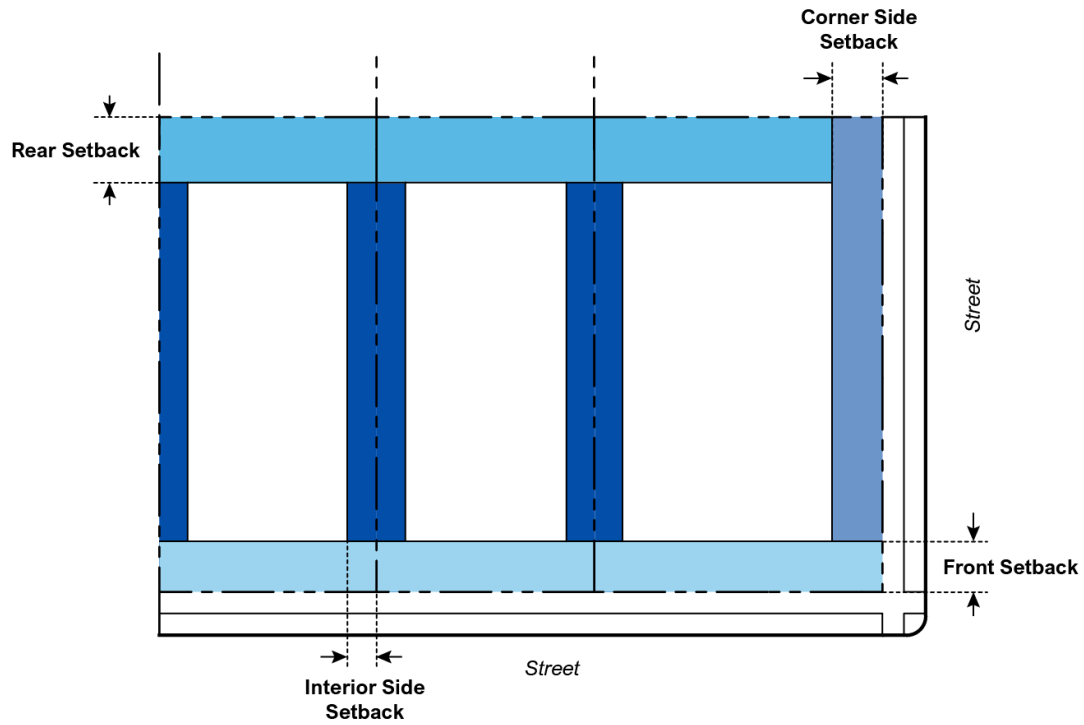
b. Rear Setback

A rear setback is the required minimum distance per the zoning district that a principal building must be located from the rear lot line.

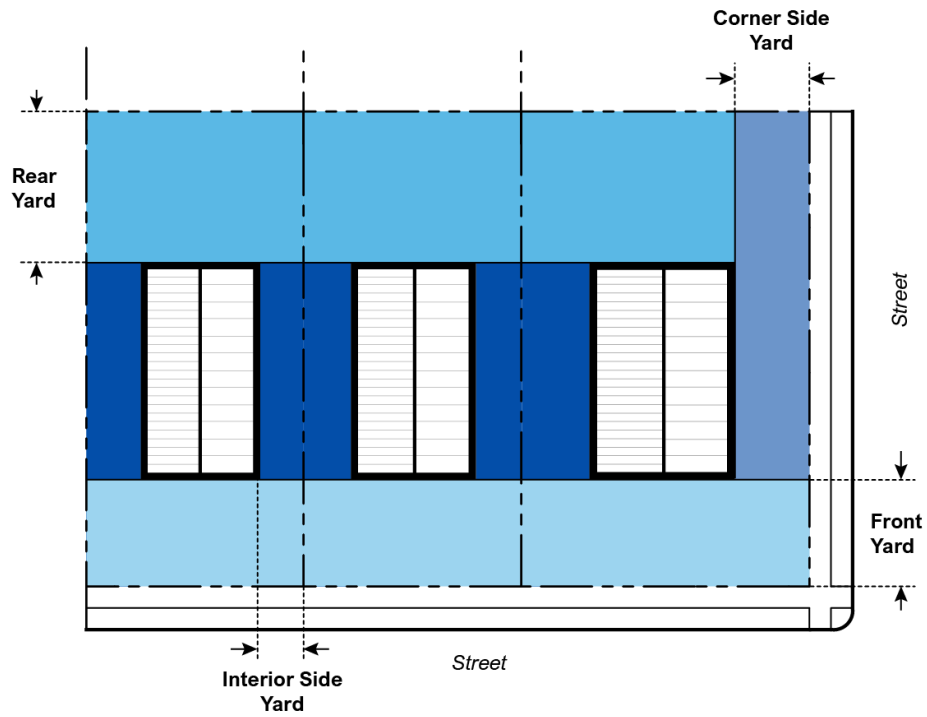
- c. In the case of a corner lot, the following apply:
 - i. A rear yard is the area located between a principal building line and the rear lot line.
 - ii. A rear setback extends between the interior side lot line and the required corner side setback, measured perpendicular to the rear lot line.



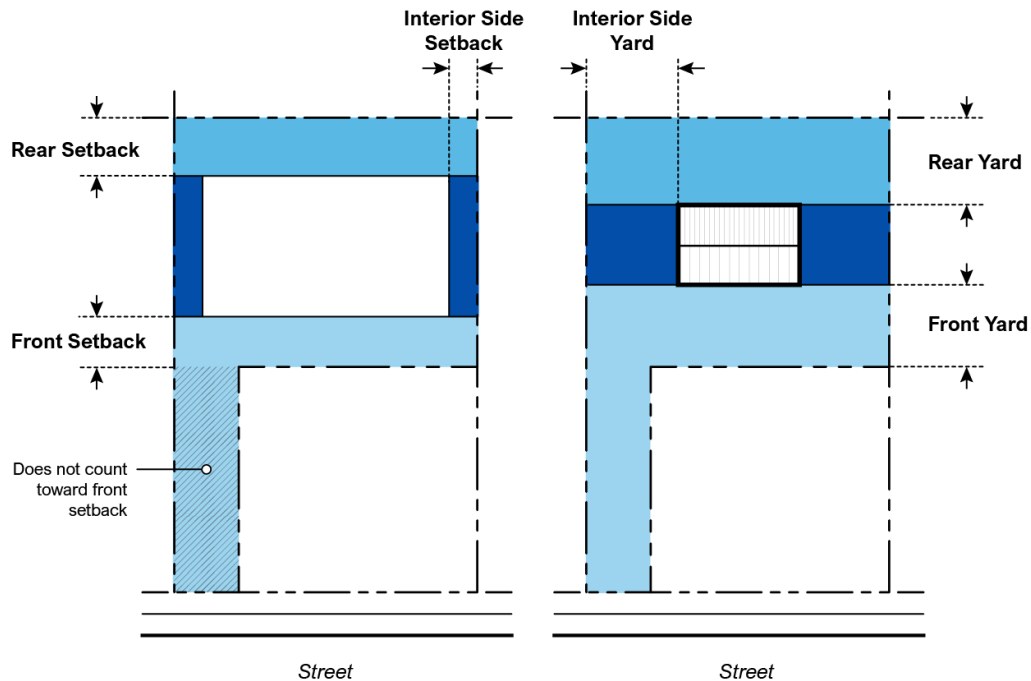
Setbacks



Yards



Setbacks and Yards – Flag Lots



6. Yard and Setback Requirements for Double-Frontage Lots

For double-frontage lots, both setbacks abutting a street must meet the required front setback of the zoning district. On double-frontage lots, one of the yards is considered a front yard, and one is considered a rear yard for the purposes of applying the accessory structure regulations of this Code.



3 Zoning Districts & Zoning Map

- 3.1 Zoning Districts
- 3.2 Zoning Map
- 3.3 Location of Documents
- 3.4 Land Within Rights-of-Way
- 3.5 Lots Located in Multiple Districts or Municipalities

3.1 Zoning Districts

In order to carry out the purpose and intent of this Code, the City is divided into zoning districts, also called “zones,” or “districts.” These zoning districts are as follows:

A. Residential Districts

- R-R** Rural Residential District
- R-T** Transitional Residential District
- R-C** Central Residential District
- R-UC** Urban Core Residential District
- R-WM** Waterfront Medium Density Residential District
- R-WH** Waterfront High Density Residential District

B. Commercial Mixed-Use Districts

- NC** Neighborhood Commercial District
- CC** Community Commercial District
- DB** Downtown Bath District
- CG** Commercial Gateway District
- MC** Marine Commercial District
- CX** Commercial Flex District
- WMU** Waterfront Mixed-Use District

C. Industrial Districts

- I** Industrial/Shipyard District

D. Special Purpose & Overlay Districts

- HO** Historic Overlay District
- MHP** Manufactured Home Park District
- PO** Parks and Open Space District
- SZO** Shoreland Zone Overlay District
- TMC** Trufant Marsh Contract District
- GC** Golf Course District

3.2 Zoning Map

A. Establishment of the Official Zoning Map

The location and boundaries of the zoning districts established by this Code are shown and maintained on the “Zoning Map of the City of Bath.” Such zoning map, as may be amended from time to time, together with all notations, references, and other explanatory matter thereon, is hereby incorporated into this Code.

B. Interpretation of Boundary Lines

1. Where a district boundary is shown as located within a street, highway, or alley right-of-way, railroad or utility line right-of-way, easement, navigable or non-navigable waterway, or other planimetric feature, it shall



be considered to be in the center of such right-of-way, easement, waterway, or other planimetric feature. If the actual location of such right-of-way, easement, waterway, or planimetric feature varies from the location as shown on the zoning map, the actual location shall control.

2. Where a district boundary is shown as being along a shoreline and is not otherwise fixed, the boundary shall follow such shoreline and – in the event of natural change to the shoreline – shall be construed as moving with the actual shoreline.
3. Where a district boundary line is shown to approximately coincide with a lot line or municipal boundary, such lot line or municipal boundary shall control. If a lot line moves due to a land transfer, the district boundary shall not move.
4. Where a district boundary is indicated as being located a specific distance from a street, highway, or alley right-of-way, railroad or utility line right-of-way, easement, navigable or non-navigable waterway, or other planimetric feature, such distance shall control.
5. Boundaries indicated as being parallel to or extensions of features indicated above are so construed.
6. Where none of the above methods are sufficient to resolve a boundary location, the ZBA must interpret the district boundary.
7. Where parcels under the ownership of one entity are divided by zoning district boundaries in such a manner as to apparently bisect principal-use structures, the use provisions of the less restrictive district shall apply to the whole structure.

3.3 Location of Documents

This Code, together with the zoning map, is located in the City Clerk's office and is the final authority as to the current status of the land and water areas, buildings, and other structures in the City. The zoning map and amendments thereto must be signed and attested to by the City Clerk.

3.4 Land Within Rights-of-Way

For purposes of calculating lot area and for meeting applicable space and bulk regulations, land within the right-of-way of a street, or land that is within a City street whose title has been acquired by prescriptive use by the public, is not considered as part of a lot, even though title to such land may be included in the deed of an abutter. Land within the boundaries of a public street right-of-way is not subject to the regulations of this Code.

3.5 Lots Located in Multiple Districts or Municipalities

A. Lots Located in Multiple Districts

When a lot is divided by a zoning district boundary, notwithstanding the boundaries of overlay districts, the use regulations and the district dimensional regulations that are applicable to the larger portion of the lot may also be deemed to govern the smaller portion of the lot to a distance of up to 50 feet beyond the zoning district boundary.

B. Lots Partially Within Another Municipality

When a lot is situated such that a portion is located within the City of Bath and a portion is located in another municipality, the provisions of this Code apply to that portion of the lot located in Bath in the same manner as if the entire lot were located in Bath. The entire lot is measured to determine the lot's size. Space and bulk regulations do not apply to the municipal boundary if it is not a lot boundary.



4 Residential Zoning Districts

- 4.1 Purpose Statements
- 4.2 Uses
- 4.3 Dimensional Standards
- 4.4 Alternative Residential Development Options
- 4.5 General Standards of Applicability

4.1 Purpose Statements

A. R-R Rural Residential District

The R-R Rural Residential District is intended to accommodate those areas within the City of Bath that exhibit a predominantly rural development pattern, characterized by residential uses on large lots. The R-R District also accommodates land uses consistent with rural living in Bath, including agricultural and forestry related activities. Limited additional nonresidential uses that are compatible with the character of the district may also be permitted.

B. R-T Transitional Residential District

The R-T Transitional Residential District is intended to accommodate residential areas within the City that serve as a transition between the predominantly rural areas of the community, and those areas exhibiting a denser, more urban residential development pattern. The R-T District dimensional standards are bifurcated to accommodate both areas of the city that are served by public sewer, and those that are not. Limited additional nonresidential uses that are compatible with the character of the district may also be permitted.

C. R-C Central Residential District

The R-C Central Residential District accommodates those areas of residential development close to Bath's core that exhibit a dense development pattern predominantly characterized by relatively small lots and high levels of lot coverage. The R-C District contains dimensional standards that acknowledge the development pattern close to Bath's core, and allows for compact development that fosters cohesive neighborhoods within proximity to services and amenities. Limited additional nonresidential uses that are compatible with the character of the district may also be permitted.

D. R-UC Urban Core Residential District

The R-UC Urban Core Residential District is intended to accommodate those residential areas in Bath's urban core that exhibit a dense development pattern of relatively small lots and high levels of lot coverage. The R-UC district standards allow for continuation of this dense, walkable development pattern within proximity to services and amenities. Limited additional nonresidential uses that are compatible with the character of the district may also be permitted.

E. R-WM Waterfront Medium Density Residential District

The R-WM Waterfront Medium Density Residential District accommodates areas of residential development at moderate density along the Kennebec River in Bath. Standards are intended to accommodate the existing development pattern within these areas, while ensuring that the integrity of the natural environment is maintained and the physical capacity of the land is acknowledged. Limited additional nonresidential uses that are compatible with the character of the district may also be permitted.

F. R-WH Waterfront High Density Residential District

The R-WH Waterfront High Density Residential District is intended to accommodate areas of relatively dense residential development located along the Kennebec River in the City of Bath. Standards are intended to allow for residential development in a manner consistent with the existing development pattern in these areas, while ensuring the integrity and quality of the natural environment is maintained. Limited additional nonresidential uses that are compatible with the character of the district may also be permitted.



4.2 Uses

Article 8 contains all use permissions and associated standards for the residential zoning districts.

4.3 Dimensional Standards

- A. All lots not served by a public sewer system must be a minimum of 20,000 square feet in lot area. If the minimum lot area requirement for a district in Table 4-1 is greater than 20,000 square feet, such requirement controls.
- B. All lots not served by a public sewer system must maintain a minimum width of 125 feet. If the minimum lot width requirement for a district in Table 4-1 is greater than 125 feet, such requirement controls.
- C. Table 4-1: Residential Districts Dimensional Standards contains the dimensional standards applicable to each of the residential zoning districts. These regulations apply to all uses within each district unless a different standard is listed for a specific use.

Table 4-1: Residential Districts Dimensional Standards

	R-R	R-T <i>Public Sewer</i>	R-T <i>No Public Sewer</i>	R-C	R-UC	R-WM	R-WH
Lot							
Lot Area (Min.)	1 acre	6,500sf SF-A: 3,250sf/unit TH, MF: 1,500sf/unit	1 acre	5,000sf SF-A: 2,500sf/unit TH, MF: 1,200sf/unit	3,000sf SF-A: 1,500sf/unit TH, MF: 1,000sf/unit	10,000sf	10,000sf
Lot Width (Min.)	200 ft.	50 ft. SF-A: 25 ft./unit TH: 15 ft./unit	200 ft.	50 ft. SF-A: 25 ft./unit TH: 15 ft./unit	30 ft. SF-A: 20 ft./unit TH: 15 ft./unit	80 ft.	80 ft.
Setbacks							
Front Setback (Min.)	25 ft.	10 ft.	20 ft.	Average of adjacent front yards -5 ft.	Average of adjacent front yards -5 ft.	20 ft.	10 ft.
Interior Side Setback (Min.)	25 ft.	10 ft.	20 ft.	5 ft.	5 ft.	20 ft.	10 ft.
Corner Side Setback (Min.)	25 ft.	10 ft.	20 ft.	8 ft.	5 ft.	20 ft.	10 ft.
Rear Setback (Min.)	25 ft.	15 ft.	20 ft.	10 ft.	10 ft.	20 ft.	10 ft.



Table 4-1: Residential Districts Dimensional Standards

	R-R	R-T <i>Public Sewer</i>	R-T <i>No Public Sewer</i>	R-C	R-UC	R-WM	R-WH
Building Height							
Building Height (Max.)	40 ft.	40 ft.	40 ft.	45 ft.	45 ft.	40 ft.	40 ft.
Coverage							
Building Coverage (Max.)	20%	40%	20%	50%	60%	40%	40%
Landscaped Open Space Ratio (Min.)	70%	50%	70%	40%	30%	50%	50%

4.4 Alternative Residential Development Options

Alternative residential development options are available within certain zoning districts as indicated in the sections below. These options are intended to encourage creative residential development in the rural areas of the City that prioritizes preservation of natural resources and undeveloped lands, and to allow for a variety of densities and innovative site designs in the City's urban neighborhoods. Alternative residential development options may not be combined.

A. Conservation Residential Development

1. A conservation residential development allows for a reduction in required minimum lot area in exchange for the preservation of common open space, enabling the efficient use of land and the preservation of Bath's valuable natural resources and rural character.
2. Conservation residential development is allowed in the R-R District, and within areas of the R-T District not served by public sewer. A conservation residential development requires a minimum of five acres in total development area.
3. Conservation residential developments must be designed in a manner that prioritizes the preservation of natural resources on a development site, including streams, wetlands, mature trees, and critical areas of wildlife habitat. Development must minimize impacts on the natural environment through careful design and layout of buildings, streets, and other infrastructure. Buffer zones should be used to protect and connect existing high-value natural resource areas on a development site.

4. Density Allowance

- a. The maximum number of lots permitted within a conservation residential development is determined by calculating the total acreage of the site, divided by the applicable minimum residential lot area requirement of the underlying zoning district.
- b. Conservation residential development is eligible for a 20% additional density bonus, calculated by determining the maximum number of lots, and multiplying that number by 1.2. Such density bonus may only be granted if the following conditions are met:
 - i. Required common open space within the conservation residential development must be open for general public use, not just for homeowners within the subdivision.
 - ii. Access to required common open space must be provided from an existing or proposed public street, or from an abutting property that is public, permanent open space or recreation land. In



lieu of this requirement, access may be formalized in easement language if access is to be provided over any private way within a conservation residential development. Such access easements must be recorded prior to the issuance of building permits.

- iii. The lots conform to the State of Maine Minimum Lot Size requirements at Title 12, §4807-A

5. Development Standards

- a. All lots within a conservation residential development must front onto a street, private drive, or common open space within the development.
- b. All lots within a conservation residential development are subject to the dimensional standards of the underlying zoning district, with the following exceptions:
 - i. Minimum lot area and lot width requirements may be reduced by no more than 50%.
 - ii. Minimum setbacks may be reduced by no more than 50%, unless otherwise specified below. This does not apply within the Shoreland Zone.
 - iii. Where a lot within a conservation residential development abuts adjacent property not within the development, minimum side and rear setbacks are required in accordance with the dimensional standards of the underlying zoning district.
 - iv. Where a lot within a conservation residential development abuts an existing street at the perimeter of the development, minimum setbacks and minimum lot widths are required in accordance with the dimensional standards of the underlying zoning district, as applicable.
- c. Utilities must be installed underground to the extent possible. Transformer boxes, pumping stations, and meters must be located so as to not be unsightly or hazardous to the public.

6. Common Open Space

- a. In addition to any open space otherwise required by this code, a minimum of 40% of the total site area of a conservation residential development must be maintained as common open space.
- b. Streams, wetlands, floodplains, vernal pools, and areas of a site with slopes of 25% or more must be included within the common open space.
- c. Where a conservation residential development abuts a body of water, a usable portion of the shoreline, including access to the shoreline, must be included in the common open space.
- d. Additional priority areas of the site to be considered for inclusion within the common open space include the following:
 - i. Areas that are adjacent to existing preserved open space.
 - ii. Scenic resources or areas that maintain the rural character of roadsides in the City of Bath.
 - iii. Ecological infrastructure, including critical habitat areas, aquifer recharge areas, or areas that provide for the movement of wildlife or natural resources within and across the development site, such as wildlife travel corridors, shorelands, river or stream corridors, or recreational trail corridors.
 - iv. Archeological or historic sites, landmarks, and cemeteries.
- e. No more than 50% of the required common open space may be covered by water.
- f. Common open space must be designed as follows:
 - i. Common open space must maintain a minimum width of at least 30 feet in any direction.
 - ii. Common open space may either be improved for recreational purposes or left in its natural state. If improved for recreational purposes, a maximum of 10% of the common open space may consist of impervious surfaces.



- iii. Structures located within any common open space must be accessory to any recreational use of the space.
- g. Common open space associated with a conservation residential development may not be sold and has no future development rights.
- h. Common open space may be conveyed as follows:
 - i. Dedicated to the City of Bath for acceptance.
 - ii. Dedicated to a charitable trust or nonprofit corporation whose mission includes preservation of the property's natural, scenic, or open space values, the availability of the land for agricultural or forestry purposes, or the provision of recreational or open space use opportunities within the community.
 - iii. Conveyed to one or more homeowner's associations, in which case the developer must maintain control of such land and be responsible for its maintenance until development sufficient to support such an association has occurred. Such determination is made by the Planning Board upon request of the homeowners' association or the developer.

B. Cottage Court Development

1. A cottage court development allows for the creation of small residential lots in a manner that prioritizes the design and layout of the site, including a shared courtyard, as a cohesive whole maintained in shared stewardship by the residents.
2. Cottage court development is allowed in the R-C and R-T districts when served by public sewer.
3. A cottage court development may be designed as dwellings on individual lots, or as multiple dwellings on a single lot in common ownership.
4. **Use Limitations**
 - a. Only single-family detached, single-family attached, and two-family dwellings are allowed within a cottage court development. Buildings including common facilities for use by the residents, such as but not limited to communal kitchens, common rooms, and laundry facilities, are also allowed.
 - b. Accessory dwelling units are not allowed within cottage court developments.
5. **Development Standards**
 - a. Cottage court developments must contain a minimum of four residential structures, and may contain no more than 12 residential structures. If multiple cottage court developments are occurring on adjacent development sites, the maximum number of residential structures within all development sites is 24.
 - b. Dimensional standards of the underlying zoning district apply, with the following exceptions:
 - i. The minimum lot area required for a cottage court development is calculated as 50% of the cumulative lot area required for all proposed dwellings under the underlying zoning district.

Editor's Note: Example Calculation

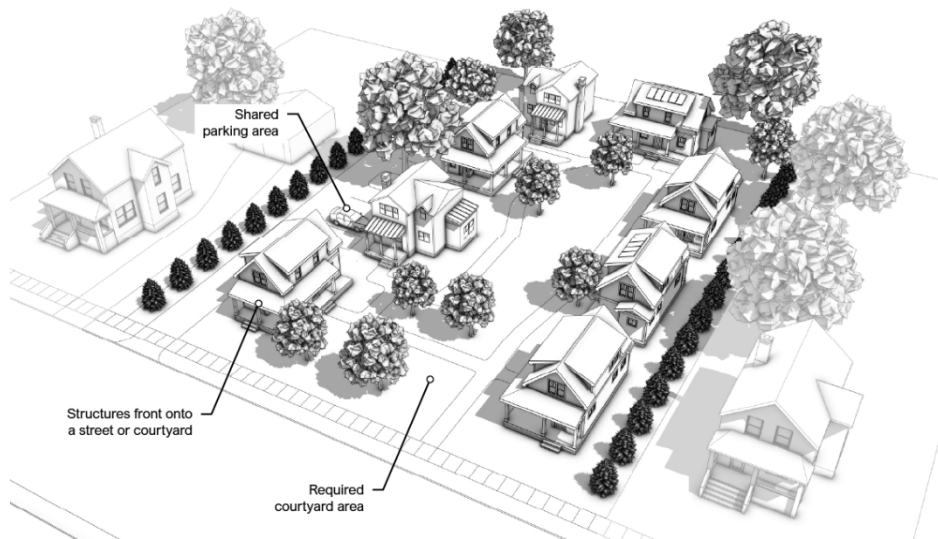
A cottage court development with two single-family dwellings and two two-family dwellings. Per the district dimensional standards (R-C), each dwelling would require 5,000 square feet of lot area. $5,000 \times 4 = 20,000$ square feet. At a 50% reduction, this means 10,000sf total ($20,000sf \times 0.5$) is required for the four dwelling types in this example, which would be a total of six dwelling units.

- ii. Individual lots within a cottage court development are exempt from the standards of the underlying zoning district with respect to lot area, lot width, setbacks, building coverage, and landscaped open space ratio. However, such standards – not including minimum lot area – apply to the cottage court development as a whole.
- c. Residential structures within a cottage court development must front onto a street or courtyard.



- d. Required courtyard area within a cottage court development must meet the following standards:
 - i. Courtyard area must be provided at a ratio of 300 square feet per dwelling unit, or 3,000 square feet in total, whichever is greater.
 - ii. The courtyard must be centrally located, contiguous, maintain a minimum dimension of 30 feet in width, and front onto a public street.
 - iii. A maximum of 30% of the required courtyard area may comprise hardscaping or impervious surfaces.
- e. Off-street parking may be provided on individual lots or building sites for each structure, or in a shared parking area designed to serve multiple residential structures. Such shared parking areas may contain no more than ten spaces each, and must be screened from abutting lots that are not within the cottage court development. Parking for a cottage court development may not be located between any principal structure and the street, or within the required courtyard.
- f. Utilities must be installed underground to the extent possible. Transformer boxes, pumping stations, and meters must be located so as to not be unsightly or hazardous to the public.

Cottage Court



6. Small Dwelling Unit Bonus

- a. Cottage court developments are eligible for a density bonus in exchange for construction of small dwelling units as described within this section.
- b. To be eligible for the bonus, all dwelling units constructed as part of the cottage court development, including those achieved through the bonus provisions, must be no more than 800 square feet in gross floor area. Such units may not be subsequently expanded or altered to exceed 800 square feet.
- c. **Bonus provisions**
 - i. The total number of residential structures allowed within the cottage court development may be increased by 35%, not to exceed three additional structures.
 - ii. Residential structures achieved through the small dwelling unit bonus are not included in the calculation of minimum total lot area required for the cottage court development, and do not count toward the maximum number of structures in the development.



4.5 General Standards of Applicability

A. General Development Standards

See Articles 9 and 10 for general development standards and requirements, such as exterior lighting, accessory structures, and permitted encroachments.

B. Off-street Parking and Loading

See Article 11 for off-street parking and loading standards and requirements.

C. Landscape

See Article 12 for landscape, buffering, and screening standards and requirements.



5 Mixed-Use and Commercial Zoning Districts

- 5.1 Purpose Statements
- 5.2 Uses
- 5.3 Dimensional Standards
- 5.4 Design Standards
- 5.5 General Standards of Applicability

5.1

Purpose Statements

A. NC Neighborhood Commercial District

The NC Neighborhood Commercial District is intended to accommodate small scale, pedestrian-friendly mixed-use environments, allowing nearby residents to meet their daily needs within comfortable walking distance of established neighborhoods. Low intensity mixed-use is encouraged within the NC District, with dwellings permitted above the ground floor, and alongside the limited commercial uses allowed within the district.

B. CC Community Commercial District

The CC Community Commercial District provides for a mixture of residential dwellings at moderate density with commercial and service uses, often functioning as a transition between more intensely developed mixed-use and commercial areas of the City and established residential neighborhoods. District standards encourage both vertical and horizontal mixed-use, and contain contextual controls to ensure adequate transitions are established and maintained.

C. DB Downtown Bath District

The DB Downtown Bath District accommodates a dynamic blend of retail, business, and tourism activities, serving as the center of commerce and culture for Bath and the greater Bath region. District standards are oriented toward supporting a year-round vibrant mixed-use environment, including a mixture of commercial and residential opportunity reflective of the historic character of the city.

D. CG Commercial Gateway District

The CG Commercial Gateway District is intended to accommodate the more auto-oriented gateways leading into the City, emphasizing Bath's commitment to improved aesthetics and safety in these areas. District standards encourage a blend of commercial and residential opportunities in suitable locations, supporting the City's economic vitality and fostering the creation of a welcoming environment for both residents and visitors to the community.

E. MC Marine Commercial District

The MC Marine Commercial District provides for an environment of medium- to high-intensity marine-related industrial and commercial activities that are inherently water-related or water-dependent. Additional supportive uses that are compatible with the character of these areas may also be permitted.

F. CX Commercial Flex District

The CX Commercial Flex District is intended to accommodate a mixture of office, warehousing, technology, and light industrial uses, as well as a variety of commercial and service uses designed to serve both workers within the area as well as residents of nearby neighborhoods. Residential uses may also be permitted in the CX District, both above the ground floor in mixed-use development, and in multi-family dwellings.

G. WMU Waterfront Mixed-Use

The WMU Waterfront Mixed-Use District accommodates a blend of low-intensity, water-dependent commercial operations with residential opportunity at moderate density. The district is designed to create opportunities to activate portions of the Kennebec shoreline, while maintaining the integrity of this important environmental resource.



5.2 Uses

Article 8 contains all use permissions and associated standards for the mixed-use and commercial zoning districts.

5.3 Dimensional Standards

Table 5-1: Mixed-Use and Commercial Districts Dimensional Standards contains the dimensional standards applicable to each of the mixed-use and commercial zoning districts.

Table 5-1: Mixed-Use and Commercial Districts Dimensional Standards							
	NC	CC	DB	CG	MC	CX	WMU
Lot							
Lot Area (Min.)	--	--	--	12,000sf	10,000sf	10,000sf	6,000sf
Lot Width (Min.)	--	--	--	100 ft.	60 ft.	60 ft.	60 ft.
Setbacks							
Front Setback (Min.)	None, unless average of adjacent lots is 10 ft. or more, then 10 ft.	None, unless average of adjacent lots is 10 ft. or more, then 10 ft.	--	30 ft.	10 ft.	20 ft.	15 ft.
Interior Side Setback (Min.)	None, unless abutting a residential district, then 10 ft.	None, unless abutting a residential district, then 10 ft.	--	10 ft., unless abutting a residential district, then 30 ft.	10 ft., unless abutting a residential district, then 20 ft.	None, unless abutting a residential district, then 20 ft.	15 ft.
Corner Side Setback (Min.)	10 ft.	--	--	30 ft.	10 ft.	20 ft.	15 ft.
Rear Setback (Min.)	10 ft.	None, unless abutting a residential district, then 15 ft.	--	20 ft., unless abutting a residential district, then 30 ft.	20 ft.	None, unless abutting a residential district, then 20 ft.	15 ft.
Building Height							
Building Height (Max.)	40 ft.	40 ft.	55 ft.; up to 75 ft. allowed with 10 ft. additional stepback ¹ When within 30 ft. of a residential zoning district: 55 ft. ² East of Commercial St., south of Oak St. (extending to the Kennebec	40 ft.	40 ft.	75 ft. When within 30 ft. of a residential zoning district: 55 ft. ²	45 ft.



Table 5-1: Mixed-Use and Commercial Districts Dimensional Standards

	NC	CC	DB	CG	MC	CX	WMU
			River), and north of Route 1: 35 ft.				
Coverage							
Building Coverage (Max.)	60%	60%	--	--	--	--	40%

¹ Required setback must be provided along all street frontages.

² Maximum building height within 30 feet of a residential zoning district is limited to 55 feet. This limitation applies only to that portion of a structure within the 30 foot distance. Where a right-of-way is present, including alleys, this limitation does not apply.

5.4 Design Standards

A. Applicability

The following design standards apply to nonresidential, mixed-use, and multi-family development in the mixed-use and commercial districts. The standards apply to new construction and to any additions to a structure existing as of the effective date of this Code that exceed 30% of the existing structure's square footage.

B. Mixed-Use and Commercial Districts Design Standards

Table 5-2: Mixed-Use and Commercial Districts Design Standards establishes the design standards for nonresidential, mixed-use, and multi-family development in the mixed-use and commercial zoning districts. Within the table, a "•" indicates that the standard is applicable in the district indicated. The absence of a "•" indicates that the standard does not apply to the district.

Table 5-1: Mixed-Use and Commercial Districts Design Standards

	NC	CC	DB	CG	MC	CX	WMU
Façade Design							
Building façades that abut a public right-of-way or the Kennebec shorefront, not including alleys, must not contain blank wall areas that exceed the dimensions indicated within this table, measured per story parallel to the street.	30 ft.	30 ft.	20 ft.	40 ft.	40 ft.	60 ft.	30 ft.
Building façades that are longer than 60 linear feet, and that abut a public right-of-way or the Kennebec shorefront, not including alleys, must be broken into smaller sections through the use of changes in wall planes, materials, architectural elements, and similar features.	•	•	•	•		•	•
Building materials and visual elements used on the primary building frontage must continue on all building façades that are visible from a public right-of-way.	•	•	•				•



Table 5-1: Mixed-Use and Commercial Districts Design Standards

	NC	CC	DB	CG	MC	CX	WMU
--	----	----	----	----	----	----	-----

Façade Design**Transparency**

	NC	CC	DB	CG	MC	CX	WMU
Nonresidential and Mixed-Use Development, Ground Floor Requirement: The ground floor of any façade facing a public right-of-way, the Kennebec shorefront, or a public open space must maintain a minimum transparency as indicated to the right, measured between two and eight feet above grade.	40%	40%	60%	40%	20%	40%	40%
Nonresidential and Mixed-Use Development, Upper Story Requirement: The upper stories of any façade facing a public right-of-way, the Kennebec shorefront, or a public open space must maintain a minimum transparency as indicated to the right, measured as a percentage of the total wall area of the upper stories	20%	20%	20%	None	None	20%	20%
Multi-Family Development, Façade Requirement: Any façade facing a public right-of-way, the Kennebec shorefront, or a public open space must maintain a minimum transparency as indicated to the right, measured as a percentage of the total façade.	25%	25%	25%	25%	N/A	25%	25%



Table 5-1: Mixed-Use and Commercial Districts Design Standards

	NC	CC	DB	CG	MC	CX	WMU
<i>Transparency</i>							
Nonresidential & mixed-use upper story transparency must meet the standards of Table 5-1, measured as a percentage of total wall area of the upper stories							
Nonresidential & mixed-use ground floor transparency must meet the standards of Table 5-1, measured between two and eight feet							

Entry Design

	NC	CC	DB	CG	MC	CX	WMU
A minimum of one prominent entrance, clearly demarcated from the remainder of the façade must be provided on the façade facing the street. In the case of a building on a corner lot, only one prominent entrance is required, and may be located on either façade or at the corner of the building. For multi-tenant developments (such as large shopping centers or strip retail centers) a prominent entrance is required for each individual nonresidential tenant space facing the street.	●	●	●	●	●	●	●

Entry Design**Commercial Site Design**

	NC	CC	DB	CG	MC	CX	WMU
Sites must be designed to ensure safe pedestrian access from the public right-of-way, and safe pedestrian circulation within the interior of any development. Techniques to achieve this may include seeking shared vehicle access with	●	●	●	●	●	●	●



Table 5-1: Mixed-Use and Commercial Districts Design Standards

	NC	CC	DB	CG	MC	CX	WMU
adjoining commercial uses where feasible to minimize curb cuts and enhance pedestrian and vehicular circulation, minimizing cross traffic conflicts within parking areas, and locating vehicular access points to the site as far as possible from street intersections.							
A unified and visually harmonious character must be achieved by using consistent hardscape elements (such as paving materials, lighting, and site furnishings) and coordinated landscape treatments throughout the site. Hardscape and landscape features must be designed to ensure compatibility in materials, colors, styles, and placement to reinforce a cohesive character and sense of place.		●		●	●	●	●

C. Building Materials

The following building materials are prohibited as primary building materials on any façade of a nonresidential, mixed-use, or multi-family structure that faces a street, the Kennebec shorefront, or a residential use. Such materials may be used as decorative or accent materials for up to a total of 25% of the façade, or as part of the exterior construction that does not constitute a surface finish material.

1. Plain concrete block
2. Mirrored glass
3. Exposed aggregate (rough finish) concrete wall panels
4. Exterior insulating finish systems (EIFS) installed lower than eight feet above grade
5. Wood structural panel sheathing (e.g. plywood, OSB, particleboard, etc.)
6. Plastic, not including light transmitting plastic
7. Vinyl
8. Metal panels, unless they meet the following:
 - a. Metal panels (flat, textured, corrugated, batten, box rib, etc.) whether standalone, composite, or part of a layered or insulated panel, shall be permitted provided they are part of a complete, manufacturer warrantied cladding system, including integral anchorage to structural supports. Steel panels shall be minimum US Standard 26 gauge. Metal panels that meet this requirement are permitted as surface finish material without limitation.

5.5 General Standards of Applicability

A. General Development Standards

See Articles 9 and 10 for general development standards and requirements, such as exterior lighting, accessory structures, and permitted encroachments.

B. Off-street Parking and Loading

See Article 11 for off-street parking and loading standards and requirements.

C. Landscape

See Article 12 for landscape, buffering, and screening standards and requirements.



6 Industrial Zoning Districts

- 6.1 Purpose Statements
- 6.2 Uses
- 6.3 Dimensional Standards
- 6.4 General Standards of Applicability

6.1 Purpose Statements

A. I Industrial/Shipyard District

The I Industrial/Shipyard District accommodates the main facilities of the Bath Iron Works (BIW) and its necessary support facilities. District standards are designed to meet the needs of modern industrial development, while ensuring that impacts on surrounding residential and commercial uses are minimized. Limited commercial and service uses may be allowed within the I district, to meet the daily needs of both BIW workers, and residents of the nearby neighborhoods.

6.2 Uses

Article 8 contains all use permissions and associated standards for the industrial zoning districts.

6.3 Dimensional Standards

Table 6-1: Industrial Districts Dimensional Standards contains the dimensional standards applicable to each of the industrial districts.

Table 6-1: Industrial Districts Dimensional Standards	
I	
Lot	
Lot Area (Min.)	--
Lot Width (Min.)	--
Setbacks	
Front Setback (Min.)	50 ft.
Interior Side Setback (Min.)	25 ft.
Corner Side Setback (Min.)	25 ft.
Rear Setback (Min.)	25 ft.
Building Height	
Building Height (Max.)	75 ft.
Coverage	
Building Coverage (Max.)	75%



6.4 General Standards of Applicability

A. General Development Standards

See Articles 9 and 10 for general development standards and requirements, such as exterior lighting, accessory structures, and permitted encroachments.

B. Off-street Parking and Loading

See Article 11 for off-street parking and loading standards and requirements.

C. Landscape

See Article 12 for landscape, buffering, and screening standards and requirements.



7 Special Purpose Districts

- 7.1 HO Historic Overlay District
- 7.2 MHP Manufactured Home Park Overlay District
- 7.3 PO Parks and Open Space District
- 7.4 SZO Shoreland Zone Overlay District
- 7.5 TMC Trufant Marsh Contract District
- 7.6 GC Golf Course District

7.1 HO Historic Overlay District

A. Purpose

The Historic Overlay District establishes review procedures for certain activities within this historic part of the city. Its purpose is to prevent detrimental alterations to buildings and structures of historic or architectural value, to preserve the unique essential character of Bath's historic neighborhoods, and to ensure that new construction and development in areas of architectural or historical significance is designed and built in a manner compatible with the historic character of the area.

It is not the intent of this ordinance to hinder architectural innovation and improvement, to unduly restrict use of a property, nor to encourage the misrepresentation of new construction to appear historic. The provisions herein are intended to ensure that new construction and alterations complement, and do not detract from, properties related to periods of historic significance as recognized in the National Register of Historic Places.

B. Uses

Uses allowed within the HO Historic Overlay District are those of the underlying zoning district.

C. Dimensional Standards

Dimensional standards of the HO Historic Overlay District are those of the underlying zoning district.

D. Approval Required

1. Historic District Approval is required for the following activities, when located within the Historic District Overlay. For projects that require a building permit, Historic District Approval must be obtained prior to the issuance of a building permit.
 - a. New construction or additions to existing buildings.
 - b. Addition, removal, alteration, or covering of any exterior architectural detail or decorative element of an existing building, including surface treatments such as paint, stain, or any other functional equivalent.
 - c. Demolition of any building.
2. No building permit may be issued until the plans and related documents have been reviewed and approved by the Historic District Approval Authority in accordance with the procedures and standards of this Section.
3. All construction must be carried out in compliance with the plans and other documents approved under this Section. Any substantial revision of the approved plan may occur only with the approval of the Historic District Approval Authority.
4. Buildings or structures deemed unsafe by the Code Enforcement Officer may be demolished without approval from the Historic District Approval Authority.
5. Ordinary maintenance and repair shall not require Historic District Approval. Ordinary maintenance and repair includes any work, the sole purpose and effect of which is to prevent or correct deterioration, decay, or damage, including repair of damage caused by fire or other disaster, and which does not result in a change to the historic appearance and materials, or alter the character defining features of the building or structure. Ordinary maintenance and repair may include in-kind, spot replacement of masonry units that



are damaged or broken, and repairs to windows, entrances, doors, porches, siding, trim, roof surfaces, and other architectural elements that do not involve a change in their location, design, dimensions, or materials.

E. Submission Requirements

When a property owner or their authorized agent makes a formal application for Historic District Review, such application must contain, at minimum, the following information and exhibits:

1. A complete application for Historic District Review, signed by the applicant.
2. Three paper copies and one digital copy of plans or sketches of the construction or building improvements, including elevation drawings of any impacted façade. The digital submittal must be in PDF format, and must be provided on a USB drive.
3. For any alterations to existing materials or proposed use of new materials, the applicant must supply cut-sheets, product information, or material samples included as attachments to the application or incorporated into plans or drawings.
4. Photographs or sketches of the existing structure.
5. Other information and documentation as may be required by the Planning Board, including historical or architectural documentation pertaining to any structure included in the application.
6. The Historic District Approval Authority may waive any of these requirements upon written request from the applicant when it is determined that the scale of the project is of such limited size, or the project is of a nature which renders such information unnecessary.

F. Historic District Approval Authority

1. The Historic District Approval Authority shall be the Historic District Committee, except that the Planning Board shall be the Historic District Approval Authority where any of the following apply:
 - a. The Project also requires site plan approval per Section 15.4.
 - b. The construction, addition, removal, or change being applied for is deemed by any member of the Historic District Committee to have a significant impact to a historic structure or a significant impact on the Historic Overlay District. Projects that have a significant impact include, but are not limited to:
 - i. The construction of a new building, not including accessory structures of less than 100 square feet.
 - ii. Building additions of more than 200 square feet.
 - iii. Demolition of all or a portion of any building that is older than 25 years.
 - iv. Proposed alterations that would be visible from a public right-of-way.
2. An approval by the Historic District Committee must be unanimous. Any member of the Committee may require that the application be placed on the next available agenda for Planning Board Review.
3. Decisions of the Historic District Committee may be appealed to the Planning Board by either the applicant, or any person owning property within 200 feet of the applicant's property by filing a written notice with the Planning Director within the time allowed for appeals of building permits.
4. If the decision of the Historic District Committee is not unanimous, or if the decision of the Historic District Committee is appealed to the Planning Board within the required time, the application will be placed on the next available agenda for Planning Board review. Processing, notification, and review procedures for historic district reviews by the Planning Board shall follow the requirements for site plan review.

G. Approval Criteria

1. General Standards



An application for Historic District Approval must consider the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 C.F.R., Part 68, 1995, as amended) and the following standards as applicable:

- a. Consistency with the additional criteria of this Section, as applicable, and with the purposes of this Code.
- b. The proposed construction, addition, removal, or change would not, as determined by the standards of Sections 7.1.G.2-5, adversely affect the character and appearance of the Historic Overlay District, the relationships among structures, or the appearance between structures and public ways in the district.
- c. The proposed construction, addition, removal, or change would not, as determined by the standards of Sections 7.1.G.2-5, adversely affect the exterior architectural features and setting of the structure and its historical and architectural interest.

2. New Construction and Additions

The standards below are not intended to discourage contemporary architectural expression or to encourage only new construction that emulates or copies existing buildings of historic or architectural interest based upon their period or specific architectural style. Rather, the standards seek to preserve the integrity and authenticity of the Historic Overlay District, to ensure compatibility of new structures, and to encourage a diversity of architecture that acknowledges and complements the existing historic character of Bath.

- a. New construction or additions must be generally of such form, proportion, mass, configuration, building material, texture, color, and location on the lot so as to maintain compatibility with other buildings in the Historic Overlay District, and with streets and open spaces to which they are visually related.
- b. If historic architectural styles are to be used in the construction of a new building or addition, recreation of one style, compatible with the historic character of Bath, is preferable to an amalgam of varied architectural styles.
- c. The construction of a new building or addition must be visually related to the surrounding area, as determined by the following standards:
 - i. New buildings and additions, as applicable, must maintain compatibility with the existing streetscape within the Historic Overlay District in terms of building orientation, entry location, and ground floor transparency.
 - ii. New additions to existing buildings must be clearly distinguishable and must not falsely appear to be an original part of an existing historic structure.
 - iii. Height of new construction or additions must be visually compatible with adjacent structures, and must align with the City's Comprehensive Plan or supporting documents pertinent to the Plan.
 - iv. The width of a proposed structure or addition must maintain visual compatibility and proportionality with the ratio of height to width exhibited by adjacent structures within the Historic Overlay District.
 - v. The relationship of the width of windows to the height of windows on the façade of a proposed structure or addition must be visually compatible with adjacent structures and, in the case of additions, with the existing building.
 - vi. The relationship of solids to voids on the front façade of a proposed structure or addition must maintain visual compatibility with adjacent structures.
 - vii. The relationship of a proposed structure or addition to any open space which it abuts must maintain visual compatibility with the relationship of adjacent buildings to such open spaces.
 - viii. Roof forms of proposed structures or additions must maintain visual compatibility with adjacent structures.



- ix. Materials and textures used by proposed structures or additions must be visually compatible with the predominant materials and textures used in adjacent structures.

3. Alterations to Existing Structures

- a. Proposed alterations pertaining to existing structures within the Historic Overlay District, with the exception of the demolition or removal of such structures, must meet one of the following criteria.
 - i. Such activities preserve or enhance the historical or architectural value and character of the structure.
 - ii. Such activities seek to return the structure, or that portion addressed by the application, to a known or reasonably conceived state of appearance consistent with the historical or architectural character of the structure. Modifications to structures within the Historic Overlay District that lack supporting documentation of verifiable architectural or verifiable historical authenticity, or are otherwise not in character with the Historic Overlay District must be evaluated based upon whether such modifications make the structure more compatible.
- b. In determining whether a proposed alteration will preserve, restore, or enhance the authenticity of an existing structure, the following standards must, when feasible, be considered.
 - i. Existing materials, if original to the structure, should be maintained and repaired, rather than replaced.
 - ii. Removal or covering of historic materials, distinctive architectural features, or examples of skilled craftsmanship should be avoided.
 - iii. Architectural details of the original structure should be retained to the extent possible. Such features include cornices and cornice brackets; window trim; porch elements including posts, balustrades, and spindles; and doors and windows with respect to their sizes and design qualities.
 - iv. Structures and sites in the Historic Overlay District are recognized as products of their own time. Alterations that have no historic basis or derive from inauthentic historical sources are discouraged.
 - v. If an element must be replaced rather than maintained or repaired, a copy of the original element is preferable to a similar or conjectural replacement. If a copy cannot reasonably be obtained, similar or conjectural replacements are preferred to none at all.
 - vi. In the event replacement of original materials is necessary, new materials should match the material being replaced in terms of design, color, texture and other defining visual qualities. Repair or replacement of missing architectural features should be based upon accurate duplications of features substantiated by historic, physical or pictorial evidence to the extent possible, rather than conjectural designs or the availability of different architectural elements from other buildings.
 - vii. Original cladding and roofing materials should be maintained or repaired to the extent possible. If replacement is needed, it should be of the same material and size. If the same material is not reasonably available, a substitute material should be of the same color, shape, size and texture. Substitute material may also be considered by the Historic District Approval Authority if it provides significant benefits to sustainability, durability, or resilience, but must still be of the same color, shape, size, and texture.
 - viii. Storm windows and doors must be as unobtrusive as possible. Any storm windows or doors must be approved by the Historic District Approval Authority.
 - ix. Surface cleaning of original materials must be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that may damage historic materials are prohibited.

4. Demolition or Removal of Structures



- a. The Historic District Approval Authority must approve or deny an application for demolition or removal of structures within the Historic District Overlay. When reviewing applications for demolition of structures, the following criteria must be considered:
 - i. The historic, architectural, and cultural significance of the structure.
 - ii. The potential for the structure to be used for those purposes currently allowed within the zoning district.
 - iii. The importance of the structure to the City, and the extent to which its historical, architectural, or cultural value is such that its removal would represent a detriment to the public interest.
 - iv. The extent to which the structure is of such age, unusual or uncommon design, craftsmanship, texture, or material that it cannot reasonably be reproduced.
 - v. The extent to which retention or rehabilitation of the structure would promote the general welfare through maintaining or increasing real estate values within the Historic Overlay District, generating new business and creating new jobs, attracting visitors and new residents to Bath, or encouraging study and interest in the history of the City and region.
 - vi. The probable impact of demolition or removal upon the overall character of the Historic Overlay District.
- b. Regarding an application to move any structure from the Historic Overlay District to an alternate location, whether inside or outside of the Historic Overlay District, the following criteria must be considered.
 - i. The historic or architectural loss to the site/original location, or to the Historic Overlay District overall if proposed to relocate outside of the district.
 - ii. The application's demonstration of compelling reasons for not retaining the structure at its present location.
 - iii. The probability that significant damage will occur if the structure remains at its present site.
- c. If the Codes Enforcement Officer determines that a structure is in danger of imminent collapse, or represents an immediate danger to public safety, they may order the structure to be demolished immediately. In such cases, Historic District Approval is not required, however the CEO must issue a report to the Historic District Approval Authority stating the reasons for the order, including photo documentation of all exterior elevations of the structure(s).
- d. Where the provisions of this ordinance conflict with those of §15.6, the most stringent restrictions shall control. The Historic District Review Authority may deny approval of a proposed demolition indefinitely, enforceable by penalties as stipulated in Section 7.1.H.3.

5. Installation of Alternative Energy Generation Devices

- a. Permanently installed HVAC equipment, solar panels, and other associated structures may be utilized within the Historic Overlay District subject to the standards of Article 10, so long as they are not visible from a public way, or if they are incorporated into the structure design of, or attached to, the building. Such equipment must be screened using vegetation or suitable elements of a permanent nature such as fences or walls. Where such screening is not feasible, the equipment shall be located to minimize its visibility.
- b. Solar panels, solar tiles or shingles, and other alternative energy generation devices must be installed in a manner that does not damage the historic materials of the structure and is completely reversible. When possible, alternative energy generation devices should be located on non-historic buildings or on building additions.

H. Administration

- 1. Historic District Approval is void one year from the date of the Review Authority approval unless a building permit for the project has been issued by the CEO. If the Historic District Approval is contingent upon a



rezoning by the City Council, the one-year period begins 21 days following final City Council approval of such rezoning. Prior to expiration of the Historic District Approval, the applicant may request an extension of up to 6 months from the Review Authority. Historic District Approval remains valid if a building permit has been issued for the project prior to the expiration date. Expiration of the building permit prior to completion of the project renders the Historic District Approval null and void. Failure to comply with conditions placed on Historic District Approval or to comply with any other permitting process, renders the approval null and void, unless an extension is granted by the Review Authority.

2. Records of the actions of the Historic District Committee must be maintained in the Planning Office.
3. Violations of this ordinance and failure to obtain approval for applicable activities will be subject to enforcement and penalties in accordance with Article 21, Sections 2 and 3 of the Land Use Code, up to the maximum applicable fines and removal of all violating structures or elements thereof.

7.2 MHP Manufactured Home Park Overlay District

A. Purpose

The MHP Manufactured Home Park Overlay District is intended to accommodate manufactured home parks.

B. Applicability

The MHP Manufactured Home Park Overlay District can be applied over land within the R-R Rural Residential District.

C. Uses

1. Manufactured home parks are allowed in the MHP Overlay District, subject to the standards of this Section.
2. All uses allowed in the underlying zoning district are allowed in the MHP Overlay District, subject to any standards contained in Article 8.

D. Manufactured Home Park Standards

1. Table 7-1: MHP Overlay District Dimensional Standards contains the dimensional standards applicable to the Manufactured Home Park Overlay District.

Table 7-1: MHP Overlay District Dimensional Standards	
MHP	
Area	
District Area (Min.)	2 acres
District Lot Width (Min.)	250 ft.
Perimeter Setbacks	
Front Perimeter Setback (Min.)	30 ft.
Interior Side Perimeter Setback (Min.)	30 ft.
Corner Side Perimeter Setback (Min.)	30 ft.
Rear Perimeter Setback (Min.)	30 ft.
Waterbody Perimeter Setback (Min.)	150 ft.



2. A minimum of 10% of the total area of a manufactured home park must be devoted to recreational facilities for use by the residents of the park. Examples of recreational facilities include community buildings, gardens, outdoor play areas, swimming pools, and ball courts.
3. A manufactured home park must construct internal access drives of 20 feet or greater in width. Internal access drives and circulation patterns must be adequate to handle the traffic anticipated to be generated by the manufactured home park.

4. Sidewalks/Walkways

The manufactured home park must contain pedestrian walkways that link all units and all services and recreation facilities. Such walkways must be adequately surfaced and lit. A portion of the road surface may be reserved for walkways provided the roadway width is increased accordingly. Walkways must be a minimum width of 3 feet.

5. Lighting

Outdoor lighting must be provided to adequately illuminate internal streets and pedestrian walkways. Lights must be sized and directed to avoid adverse impact on adjacent properties.

6. Storage

At least 300 cubic feet of enclosed tenant storage facilities must be conveniently provided on or near each manufactured home stand for the storage of materials and equipment.

E. Manufactured Home Stand Standards

1. Table 7-2: Manufactured Home Stand Dimensional Standards establishes the dimensional standards for manufactured home stands within a manufactured home park in the MHP Overlay District.

Table 7-2: Manufactured Home Stand Dimensional Standards	
Manufactured Home Stand	
Area and Height	
Stand Area (Min.)	20,000sf if served by individual subsurface wastewater disposal system
	12,000sf if served by a central, on-site subsurface wastewater disposal system
	2,000sf if served by public sewer
Stand Width (Min.)	35 ft.
Manufactured Home Height (Max.)	24 ft.
Separation Between Manufactured Homes (Min.)	20 ft., measured from the outermost portion of the eaves on all sides of each manufactured home
Setbacks	
Front Setback (Min.) <i>Measured from edge of internal access drive</i>	20 ft.

2. Only one manufactured home is permitted per stand.
3. All manufactured home stands must front on an internal access drive.
4. A sidewalk is required connecting either the driveway or a detached garage or carport to a door or attached porch of the home.

F. Manufactured Home Standards



Manufactured homes within the MHP Overlay District are subject to the standards of Section 8.3 for manufactured home dwellings.

7.3 PO Parks and Open Space District

A. Purpose

The PO Parks and Open Space District is intended to create, preserve, and enhance parks, park land, and public open space land to meet the passive and active park and recreational needs of the City. The PO District provides for both improved and unimproved park and recreation lands in Bath. Park facilities allowed in the PO District may include, but are not limited to, structures or other active, play-oriented facilities such as playgrounds, recreational fields, ball-fields, sport courts, dog parks, and associated accessory facilities such as recreation and community centers, park administrative offices, and restroom facilities.

B. Uses

Article 8 contains all use permissions and associated standards for the PO Parks and Open Space District.

C. Dimensional Standards

Table 7-3: PO District Dimensional Standards contains the dimensional standards applicable to the Parks and Open Space District.

Table 7-3: PO District Dimensional Standards	
PO	
Lot	
Lot Area (Min.)	None
Lot Width (Min.)	None
Setbacks	
Front Setback (Min.)	20 ft.
Interior Side Setback (Min.)	20 ft., unless abutting a residential district, then 40 ft.
Corner Side Setback (Min.)	20 ft.
Rear Setback (Min.)	20 ft., unless abutting a residential district, then 40 ft.
Waterbody Setback (Min.) <i>Does not apply to water-dependent uses</i>	150 ft.
Building Height	
Building Height (Max.)	35 ft.
Coverage	
Building Coverage (Max.)	30%

D. General Standards of Applicability

1. General Development Standards



See Articles 9 and 10 for general development standards and requirements, such as exterior lighting, accessory structures, and permitted encroachments.

2. Off-Street Parking and Loading

See Article 11 for off-street parking and loading standards and requirements.

3. Landscape

See Article 12 for landscape, buffering, and screening standards and requirements.

7.4

SZO Shoreland Zone Overlay District

A. Purpose

The purpose of the SZO Shoreland Zone Overlay District is to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater coastal wetlands; to control building sites, placement of structures, and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; and to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

B. Applicability

SZO District boundaries are delineated on the Bath Zoning Map. The SZO District applies to all lands within 250 feet, horizontal distance, of the following:

1. The normal high-water line of any great pond or river.
2. The upland edge of a coastal wetland, including all areas affected by tidal action.
3. The upland edge of a freshwater wetland.

C. Subdistricts Established

The SZO District includes the following subdistricts.

1. SZO-SP Stream Protection Subdistrict

The SZO Stream Protection Subdistrict (SZO-SP) includes all land areas within 75 feet, horizontal distance, of the edge of a stream, exclusive of those areas within 250 feet, horizontal distance, of the normal high-water line of a great pond or river, or upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within 250 feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the Shoreland District associated with that water body or wetland.

2. SZO-RP Resource Protection Subdistrict

The SZO Resource Protection Subdistrict (SZO-RP) includes the following areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This subdistrict shall include the following areas when they occur within the limits of the SZO, exclusive of the SZO-SP, except that areas which are currently developed and areas which meet the criteria for the SZO Commercial Fisheries/Maritime Activities subdistrict need not be included within the SZO-RP sub-district.

- a. Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100-year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- b. Areas of two (2) or more contiguous acres with sustained slopes of 20% or greater.



- c. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
- d. Areas within 250 feet, horizontal distance, of the upland edge of freshwater and/or coastal wetlands, which are rated “moderate” or “high” value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W).
- e. Areas within 250 feet, horizontal distance, of the upland edge of freshwater and/or coastal wetlands, which are rated “rare” value for endangered plants as indicated by Maine Natural Areas Program.

3. SZO-CF Commercial Fisheries/Maritime Activities Subdistrict

The SZO Commercial Fisheries/Maritime Activities Sub-District (SZO-CF) includes underlying districts R-WH (Waterfront High Density Residential), WMU (Waterfront Mixed-Use), DB (Downtown Bath), MC (Marine Commercial), and I (Industrial/Shipyard) Districts. These are areas where existing predominant pattern of development is consistent with the allowed uses for this sub-district as indicated in this Ordinance, taking into consideration such factors as:

- a. Shelter from prevailing winds and waves.
- b. Slope of the land within 250 feet, horizontal distance, of the shoreline.
- c. Depth of the water within 150 feet, horizontal distance, of the shoreline.
- d. Available support facilities including utilities and transportation facilities.
- e. Compatibility with adjacent upland uses.

D. Additional Requirements for the SZO District

The following requirements shall apply to all development within the SZO District.

1. Setbacks of Structures from Water Bodies and Wetlands

- a. All new principal and accessory structures, excluding functionally water-dependent uses, shall be located outside of any SZO Resource Protection Subdistrict (SZO-RP) and SZO Stream Protection Subdistrict (SZO-SP) unless a variance is granted by the Zoning Board of Appeals.
- b. There shall be no minimum setback for new principal and accessory structures located in the SZO Commercial Fisheries/Maritime Activities Subdistrict (SZO-CF).
- c. To help with preserving the quality of Merrymeeting Bay, all new principal and accessory structures outside the SZO-RP, SZO-SP, and SZO-CF shall be set back a minimum horizontal distance of at least:
 - i. 75 feet from the edge of a stream or tributary stream.
 - ii. 75 feet from the upland edge of a coastal or freshwater wetland.
 - iii. 150 feet from the normal high-water line of Great Ponds, rivers that flow to Great Ponds, saltwater bodies, or the upland edge of a coastal wetland, if located east of Thorne Head.
 - iv. 250 feet from the normal high-water line of Great Ponds, rivers that flow to Great Ponds, saltwater bodies, or the upland edge of a coastal wetland, if located west of Thorne Head.
- d. Where a setback of 150 feet or 250 feet is required per the standards of item c above, such setback may be reduced if the municipal review authority approves a waterfront setback reduction plan in accordance with Section 7.4.F.6.
- e. Notwithstanding the requirements of this Section, stairways or similar structures may be permitted with a building permit approved by the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils, provided that such structure is limited to a maximum of four feet in width, does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Maine Department of Environmental Protection pursuant to the



Natural Resources Protection Act, 38 M.R.S. §480-C, as amended), and the applicant demonstrates that no reasonable alternative for access exists on the property.

2. Prohibited Locations of New Structures Within the SZO District

- a. No new principal or accessory structure, except structures requiring direct access to the water as an operational necessity (including, but not limited to, piers, docks, and retaining walls, but excluding recreational boat storage buildings), shall be located within any of the following areas:
 - i. Floodplains adjacent to tidal waters, rivers, and artificially formed great ponds along rivers, as defined by the 100-year floodplain designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps Flood Boundary and Floodway Maps or the flood of record.
 - ii. Areas of two or more contiguous acres with sustained slopes of 20 percent or greater.
 - iii. Areas of two or more contiguous acres of wetlands that are not part of a freshwater or coastal wetland and are not surficially connected to a river, tidal waters, or stream during the period of normal high water.
 - iv. Land along rivers subject to severe bank erosion, undercutting, or river bed movement and lands adjacent to tidal waters that are subject to severe erosion or mass movement, such as steep coastal bluffs.

E. SZO Permit Requirements and Exceptions

Development and other land use activity within the Shoreland Zone Overlay may be permitted in accordance with this Section.

1. Agriculture

- a. All spreading of manure must be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A sections 4201-4209).
- b. Storage or stockpiling of manure shall be set back a minimum horizontal distance of 75 feet from the normal high-water line of a stream or tributary stream, or 150 feet from the normal high-water line of Great Ponds, rivers that flow to Great Ponds, saltwater bodies, or the upland edge of a coastal wetland.
- c. All manure storage areas within the Shoreland Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- d. Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area within the Shoreland Zone are required to file a Conservation Plan with the Planning Board. Non-conformance with the provisions of said plan is considered a violation of this Ordinance. Assistance in preparing a soil and water conservation plan may be available through the Androscoggin Valley Soil and Water Conservation District Office.
- e. Newly established fields that require tilling of soil shall not be permitted within 75 feet, horizontal distance, from any river or coastal wetlands; nor within 25 feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on May 16, 2001, and not in conformance with this provision may be maintained.
- f. Newly established livestock grazing areas may not be permitted within 75 feet, horizontal distance, of any river or coastal wetlands, nor; within 25 feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with these setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the City of Bath Planning Department.

2. Aquaculture



Aquaculture land use activities extending over or below the normal high-water line or within the wetland located in the SZO-SP and the SZO-RP District shall require Planning Board approval in accordance with permit standards in Section 7.4.F.

3. Timber Harvesting

Timber harvesting in the SZO District is subject to and shall comply with the Maine Forest Service's Statewide Standards for Timber Harvesting Activities in Shoreland Areas (04-058 C.M.R. Ch.21) and the Maine Bureau of Forestry's Forest Regeneration and Clearcutting Standards (01-669 C.M.R. Ch.20).

4. Clearing or Removal of Vegetation for Activities Other than Timber Harvesting

- a. In SZO-RP, the cutting or removal of vegetation is limited to that which is necessary for uses expressly authorized in that subdistrict.
- b. Except in SZO-RP, and except to allow for the development of permitted uses, within a strip of land extending 75 feet, horizontal distance, inland from the normal high-water line of any river, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation must be preserved as follows:
 - i. There may be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
 - ii. Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of this requirement a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 points per 25-foot by 50-foot rectangular area as determined by the following rating system and criteria (a) through (e) below.

Diameter of Tree at 4.5 feet above ground level (inches)	Points
2 to < 4 inches	1
4 to < 8 inches	2
8 to < 12 inches	4
12 inches or greater	8

- (a) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer.
- (b) Each successive plot must be adjacent to, but may not overlap a previous plot.
- (c) Any plot not containing the required points may have no vegetation removed except as otherwise allowed by this Code.
- (d) Any plot containing the required points may have vegetations removed down to the minimum points required or as otherwise allowed by this Code.
- (e) Where conditions permit, no more than 50 percent of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

5. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

Hazard trees in the Shoreland Protection Overlay may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:



- a. Within the buffer strip as described within Section 7.4.E.4.b. if the removal of a hazard tree results in a cleared opening in the tree canopy greater than 250 square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two inches in diameter, measured at four and one half feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four feet in height, and be no less than two inches in diameter. Stumps may not be removed.
- b. Outside of the buffer strip as described within Section 7.4.E.4.b., when the removal of hazard trees exceeds 40 percent of the volume of trees four inches or more in diameter, measured at four and one half feet above ground level in any ten year period, and/or results in cleared openings exceeding 25 percent of the lot area within the Shoreland Protection Overlay, or 10,000 square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two inches in diameter, measured at four and one half feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two inches in diameter, measured at four and one half feet above the ground level.
- c. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.
- d. The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the Shoreland Protection Overlay.
- e. The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight inches in diameter measured at four and one half feet above the ground level.
- f. Storm-damaged trees in the Shoreland Protection Overlay may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
 - i. Within the buffer strip as described within Section 7.4.E.4.b., when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than 250 square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
 - (f) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
 - (g) Stumps from the storm-damaged trees may not be removed;
 - (h) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third of the tree; and
 - g. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every 80 square feet of lost canopy. Outside of the Shoreland Protection Overlay buffer strip as described within Section 1.2 if the removal of storm damaged trees exceeds 40 percent of the volume of trees four inches or more in diameter, measured at four and one half feet above the ground level in any ten year period, or results, in the aggregate, in cleared openings exceeding 25 percent of the lot area within the Shoreland Protection Overlay or 10,000 square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

6. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards of Section 7.4.E.5 above, provided that all other applicable requirements are complied with, and the removal of vegetation is limited to that which is necessary.



- a. The removal of vegetation that occurs at least once every two years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two years, reverts back to primarily woody vegetation, the requirements of Section 7.4.E.5 shall apply.
- b. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of Section 7.4.D are not applicable.
- c. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility.
- d. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of Section 7.4.E.1 are complied with;
- e. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site within the SZO that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S. Section 343-E, as amended, and that is located along:
 - i. A coastal wetland.
 - ii. A river that does not flow to a great pond classified as GA.
- f. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
 - i. If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least 25 feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel.
 - ii. Removal of vegetation within 25 feet, horizontal distance, from the shoreline occurs via hand tools.
 - iii. If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.
 - iv. The removal of vegetation is associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

7. Erosion and Sedimentation Control

- a. Activities requiring Development Review that involve filling, grading, excavation or other similar activities resulting in unstabilized soil conditions shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the Review Authority for approval and shall include, where applicable, provisions for:
 - i. Mulching and revegetation of disturbed soil;
 - ii. Temporary runoff control features such as hay bales, silt fencing, or diversion ditches; and
 - iii. Permanent stabilization such as retaining walls or rip rap.
- b. To create the least potential for erosion, development shall be designed to fit with the site topography and soils. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- c. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.



- d. Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked by use of riprap, sod, seed, mulch, or other effective measures. In all cases, permanent stabilization shall occur within nine months of the initial date of exposure. In addition:
 - i. Where mulch is used, it shall be applied at a rate of at least one bale per 500 square feet and shall be maintained until a catch of vegetation is established.
 - ii. Anchoring the mulch with netting, peg and twine, or other suitable method may be required to maintain the mulch cover.
 - iii. Additional measures shall be taken where necessary to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- e. Natural and artificial drainage ways and drainage outlets shall be protected from erosion caused by water flow. Drainage ways shall be designed and constructed to carry water from a 25-year storm or greater, and shall be stabilized with vegetation or rip-rap.
- f. When an excavation contractor will perform an activity that requires or results in more than one cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

8. Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section 7.4.E.4, to address the removal of non-native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements:

- a. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- b. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
- c. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
- d. Revegetation activities must meet the following requirements for trees and saplings:
 - i. All trees and saplings removed must be replaced with native noninvasive species.
 - ii. Replacement vegetation must at a minimum consist of saplings.
 - iii. If more than three trees or saplings are planted, then at least three different species shall be used.
 - iv. No one species shall make up 50 percent or more of the number of trees and saplings planted.



- v. If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures.
- vi. A survival rate of at least 80 percent of planted trees or saplings is required for a minimum five years period.
- e. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three feet in height:
 - i. All woody vegetation and vegetation under three feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three feet in height as applicable.
 - ii. Woody vegetation and vegetation under three feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater.
 - iii. If more than three woody vegetation plants are to be planted, then at least three different species shall be planted.
 - iv. No one species shall make up 50 percent or more of the number of planted woody vegetation plants.
 - v. Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five years.
- f. Revegetation activities must meet the following requirements for ground vegetation and groundcover:
 - i. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide or the effective infiltration of stormwater.
 - ii. Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater.
 - iii. Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this Section for a minimum of five years.

9. Mineral Exploration Extraction

- a. All mineral exploration and extraction within the SZO District shall be subject to the following requirements in addition to the supplemental use standards applicable to mineral extraction in Article 17 (Mining Activity). The Review Authority may impose such necessary conditions to a Site Plan Approval to minimize adverse impacts associated with mineral extraction operations on surrounding uses and resources.
- b. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods that create minimal disturbance of less than 100 square feet of ground surface. A Permit from the Code Enforcement Officer shall be required for mineral exploration that exceeds the above limitation.
- c. All excavations, including test pits and holes, shall be immediately capped, filled, or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety.
- d. No new gravel pits may be developed within the SZO District unless it can be demonstrated that no reasonable alternative exists outside the zone. When gravel pits must be located within the zone, they shall be set back as far as practicable, and, at a minimum, in conformance with the setback standards of 7.4.E.9.e below.



- e. Any extraction operation, including drainage and runoff control features, shall be set back a minimum horizontal distance of:
 - i. 75 feet from the edge of a stream or tributary stream.
 - ii. 75 feet from the upland edge of a coastal or freshwater wetland.
 - iii. 150 feet from the normal high-water line of Great Ponds, rivers that flow to Great Ponds, saltwater bodies, or the upland edge of a coastal wetland, if located east of Thorne Head.
 - iv. 250 feet from the normal high-water line of Great Ponds, rivers that flow to Great Ponds, saltwater bodies, or the upland edge of a coastal wetland, if located west of Thorne Head.
- f. Gravel pits shall be screened from a stream, tributary stream, river, tidal waters, or wetland by vegetation.
- g. Extraction operations shall be set back a minimum horizontal distance of 75 feet from any property line without written permission of the owner of the adjacent property.
- h. Extraction operations at an extraction site shall be deemed complete when less than 100 cubic yards of materials are removed in any consecutive 12-month period. Within 12 months after that time, ground levels and grades shall be established in accordance with the following:
 - i. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on site. Only materials generated on-site may be buried or covered on-site.
 - ii. The final graded slope shall be 2.5:1 (horizontal to vertical) or flatter.
 - iii. Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with native vegetation. Additional topsoil or loam shall be obtained from off-site sources, if necessary, to complete the stabilization project.

10. Structures and Other Activities Extending Over or Below a Water Body or Within a Wetland or Shoreline Stabilization Area

The following requirements apply to piers, docks, wharves, bridges, and other structures and activities extending over or below the normal high-water line of a water body, or within a wetland or shoreline stabilization area. New permanent structures, and expansions thereof, projecting into or over water bodies require a permit from the Maine Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S., § 480-C, as amended. Permits may also be required from the U.S. Army Corps of Engineers if located in navigable waters.

- a. No more than one pier, dock, wharf, or similar structure extending over or located below the normal high-water line of a water body, or within a wetland or shoreline stabilization area is permitted on a single lot; except on single lots having a lot width of at least twice the minimum requirement of the base zoning district, and shore frontage of at least 400 feet for residential, public or private recreation uses, and 600 feet for commercial uses, a second structure may be permitted and may remain as long as the lot is not further divided.
- b. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- c. The location shall not interfere with existing developed or natural beach areas.
- d. The structure or activity shall be located so as to minimize adverse effects on fisheries as determined by the Harbor Master or designee.
- e. The structure shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock, or wharf shall not be wider than six feet for noncommercial uses.
- f. No new structure shall be built on or abutting a pier, wharf, dock, or other structure extending beyond the normal high-water line of a water body or within a wetland or shoreline stabilization area unless the



structure requires direct access to the water body or wetland or shoreline stabilization area as an operational necessity.

- g. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Code Enforcement Officer that a temporary pier or dock is not feasible, and a permit has been obtained from the Maine Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S., §480-C, as amended.
- h. Except in the underlying DB, MC, and I Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland may not exceed 20 feet in height above the pier, wharf, dock or other structure.
- i. No existing structures built on, over or abutting a pier, dock, wharf, or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any sub-district.
- j. Vegetation may be removed in excess of the standards in Section 7.4.E.5 of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.
 - i. When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.
 - ii. Revegetation must occur in accordance with Section 7.4.E.8.

11. Roads and Driveways

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts, and other related features.

- a. Unless the Review Authority determines that no reasonable alternative exists, roads and driveways shall be set back a minimum horizontal distance of:
 - i. 25 feet if located in the SZO-CF.
 - ii. 75 feet from the edge of a stream or tributary stream.
 - iii. 75 feet from the upland edge of a coastal or freshwater wetland.
 - iv. 150 feet from the normal high-water line of Great Ponds, rivers that flow to Great Ponds, saltwater bodies, or the upland edge of a coastal wetland, if located east of Thorne Head.
 - v. 250 feet from the normal high-water line of Great Ponds, rivers that flow to Great Ponds, saltwater bodies, or the upland edge of a coastal wetland, if located west of Thorne Head.
- b. On determining that no reasonable alternative exists to compliance with a minimum road/driveway setback requirement above, the Review Authority may reduce the minimum setback to no less than 50 feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.
- c. On slopes of greater than 20 percent, the minimum road/driveway setbacks required in subsection a above shall be increased by ten feet for each five percent increase in slope above 20 percent.
- d. The minimum road/driveway setbacks required in item a above do not apply to approaches to water crossings to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the



setback area shall comply fully with the requirements of Subsection a above except for that portion of the road or driveway necessary for direct access to the structure.

- e. Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream or wetland.
- f. New roads and driveways are prohibited in the areas described in Section 7.4.D.2 (Prohibited Locations of New Structures), except that the Review Authority may grant a permit to construct a road or driveway to provide access to permitted uses within those areas on finding that no reasonable alternative route or location is available outside of those areas in which case the road and/or driveway shall be set back as far as practicable from the water body, tributary stream or upland edge of a wetland.
- g. Road and driveway grades shall be no greater than ten percent except for driveway segments of less than 200 feet.
- h. Road and driveway banks shall be no steeper than a slope of 2:1 horizontal to vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 7.4.E.7 (Erosion and Sedimentation Control).
- i. To prevent road and driveway surface drainage from directly entering a water body, tributary stream or wetland, roads and driveways shall be designed, constructed, and maintained to empty onto a buffer strip along a stream, tributary stream, river, tidal waters, or wetlands.
 - i. The minimum horizontal width of a buffer strip along the normal high water line of a stream or tributary stream shall be 25 feet.
 - ii. The minimum width of a buffer strip along the normal high water line of a river or tidal waters, or upland edge of a coastal or freshwater wetland, shall equal 50 feet plus two times the average slope between the outflow point of the ditch or culvert and the river, tidal waters, or wetlands.
- j. Surface drainage directed to a buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- k. Ditch relief (cross drainage) culverts, drainage dips, and water turnouts shall be installed in a manner effective in directing drainage onto buffer strips before the flow gains sufficient volume or head to erode the road, driveway or ditch. To accomplish this, the following shall apply:
 - i. Ditch relief culverts, drainage dips, and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the table below.

Grade	Spacing
0 – 2%	250 feet
3 – 5%	200 – 135 feet
6 – 10%	100 – 80 feet
11 – 15%	80 – 60 feet
16 – 20%	60 – 45 feet
21% +	40 feet

- ii. Drainage dips may be used in place of ditch relief culverts only where the grade is ten percent or less.



- iii. On sections having slopes greater than ten percent, ditch relief culverts shall be placed at approximately a 30 degree angle downslope from a line perpendicular to the centerline of the road or driveway.
- iv. Ditch relief shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.
- I. Ditches, culverts, bridges, dips, water turnouts, and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to ensure effective functioning.

12. Campgrounds

Campgrounds shall conform to the minimum requirements imposed under State licensing and permitting procedures, and the following:

- a. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum horizontal distance as follows:
 - i. 75 feet from the edge of a stream or tributary stream.
 - ii. 75 feet from the upland edge of a coastal or freshwater wetland.
 - iii. 150 feet from the normal high-water line of Great Ponds, rivers that flow to Great Ponds, saltwater bodies, or the upland edge of a coastal wetland, if located east of Thorne Head.
 - iv. 250 feet from the normal high-water line of Great Ponds, rivers that flow to Great Ponds, saltwater bodies, or the upland edge of a coastal wetland, if located west of Thorne Head.
- b. Campgrounds shall contain a minimum of 5,000 square feet of land for each campsite. Land containing roads and driveways, lands supporting wetland vegetation, and land below the normal high water line of a water body shall not be included in calculating land per campsite.

13. Individual Private Campsites

Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- a. One campsite per lot existing on the effective date of this Ordinance, or 30,000 square feet of lot area within the SZO District, whichever is less, may be permitted.
- b. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back a minimum horizontal distance of:
 - i. 75 feet from the edge of a stream or tributary stream.
 - ii. 75 feet from the upland edge of a coastal or freshwater wetland.
 - iii. 150 feet from the normal high-water line of Great Ponds, rivers that flow to Great Ponds, saltwater bodies, or the upland edge of a coastal wetland, if located east of Thorne Head.
 - iv. 250 feet from the normal high-water line of Great Ponds, rivers that flow to Great Ponds, saltwater bodies, or the upland edge of a coastal wetland, if located west of Thorne Head.
- c. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
- d. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicles shall not be located on any type of permanent foundation and no structure(s) except canopies shall be attached to the recreation vehicle.
- e. The clearing of vegetation for the siting of the recreational vehicle, tent, or similar shelter shall be limited to an area of 1,000 square feet.



- f. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- g. No recreational vehicles, tent, or similar shelter shall be placed on-site for more than 120 days per year.

14. Sanitary Standards

As well as meeting all requirements of the State of Maine Subsurface Wastewater Disposal Rules, all on-site septic systems located within the SZO District shall meet the following additional standards:

- a. All parts of all types of subsurface wastewater disposal systems shall be set back a minimum horizontal distance of:
 - i. 75 feet from the edge of a stream or tributary stream.
 - ii. 75 feet from the upland edge of a coastal or freshwater wetland.
 - iii. 150 feet from the normal high-water line of Great Ponds, rivers that flow to Great Ponds, saltwater bodies, or the upland edge of a coastal wetland, if located east of Thorne Head.
 - iv. 250 feet from the normal high-water line of Great Ponds, rivers that flow to Great Ponds, saltwater bodies, or the upland edge of a coastal wetland, if located west of Thorne Head.
- b. No clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions shall occur within a minimum horizontal distance of:
 - i. 75 feet from the edge of a stream or tributary stream.
 - ii. 75 feet from the upland edge of a coastal or freshwater wetland.
 - iii. 150 feet from the normal high-water line of Great Ponds, rivers that flow to Great Ponds, saltwater bodies, or the upland edge of a coastal wetland, if located east of Thorne Head.
 - iv. 250 feet from the normal high-water line of Great Ponds, rivers that flow to Great Ponds, saltwater bodies, or the upland edge of a coastal wetland, if located west of Thorne Head.
- c. A holding tank is not allowed for a first-time residential use.
- d. The Local Plumbing Inspector may consider and grant a request to reduce this setback for a replacement subsurface wastewater disposal system if a report prepared by a soils scientist or site evaluator registered in the State of Maine is submitted and accepted, and the report states that:
 - i. The existing system is failing.
 - ii. No suitable location exists outside the setback.
 - iii. The proposed location meets the required setbacks to the greatest extent practicable.
- e. Setbacks for new subsurface wastewater disposal facilities cannot be reduced by variance.

15. Overboard Discharge Systems

Overboard discharge from a sewage disposal system, in which sewage (chlorinated or otherwise) flows into a protected resource, is prohibited. Systems licensed prior to June 6, 1994, may continue as long as they are in compliance with all appropriate State laws and do not involve expansion of the existing system.

16. Water Quality

No activity shall deposit on or into the ground, or discharge to the waters of the State, any pollutant that, by itself, or in combination with other activities or substances, will impair designated uses or the water classification of the water body or wetland.



- a. A person or activity may not locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface water or groundwater so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant, or aquatic life.
- b. All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials must meet the standards of the MEDEP and the State Fire Marshall's Office.

17. Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

18. Historic and Archeological Resources

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

19. Parking Areas

- a. Parking areas shall meet the minimum water body and wetland setback requirements for principal and accessory structures in Subsection 7.4.D.1 (Setbacks of Structures from Water Bodies and Wetlands), except that in the MC and I Districts, parking areas must be set back at least 25 feet from the shoreline.
- b. On finding that no reasonable alternative to compliance with a required minimum setback exists, the Review Authority may reduce the minimum setback for parking areas serving a public or private boat launching facility to no less than 50 feet from the normal high water line of a stream, tributary stream, river, or tidal waters, and the upland edge of a coastal or freshwater wetland.
- c. Parking areas shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland, and where feasible, to retain all runoff on-site.
- d. Parking areas shall conform to the design standards in Article 11. In addition, parking spaces for vehicles with boat trailers shall be at least 40 feet in length.

20. Stormwater Runoff

- a. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
- b. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.
- c. Direct discharge of stormwater into any water body shall be avoided.

21. Essential Services



- a. Where feasible, the installation of essential services shall be limited to existing public rights-of-way and existing service corridors.
- b. The installation of essential services, other than roadside distribution lines, is not allowed in a Resource Protection (SZO-RP) or a Stream Protection (SZO-SP) Subdistrict, except to provide services to a permitted use within said District, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including, but not limited to, visual impacts.
- c. Damaged or destroyed utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a Shoreland Zone Permit.

22. Minor Utilities

- a. Where feasible, the installation of minor utilities shall be limited to existing public rights-of-way and existing service corridors.
- b. The installation of minor utilities other than road-side distribution lines is not allowed in the SZO District except to provide services to a permitted use within the District, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- c. Damaged or destroyed public utility transmission and distribution lines, towers, and related equipment may be replaced or reconstructed without a Shoreland Zone Permit.

23. Public Utility Service

No utility of any kind may install services to any new structure located in the Shoreland Zone unless written authorization attesting to the validity and currency of all local permits required under this Section, or any previous Section, has been issued by the Code Enforcement Officer, or other written arrangements have been made between the municipal officials and the utility.

24. Retaining Walls

- a. Retaining walls that are not necessary for erosion control must meet the building setback requirements of the zoning district, except for low retaining walls and associated fill, provided all of the following conditions are met:
 - i. The total height of the wall is no more than 24 inches.
 - ii. The site has been previously altered and an effective vegetated buffer does not exist.
 - iii. The wall is a minimum of 25 feet from the normal high-water line of a waterbody.
 - iv. The site where the retaining wall will be built is legally existing lawn, or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings.
 - v. The wall is located outside of the 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record.
 - vi. The area uphill of the wall is re-vegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks.
 - vii. A vegetated buffer area is established within 25 feet of the normal high-water line of a water body when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (a) The buffer must be a minimum of 15 feet in width, measured perpendicularly to the normal high-water line or upland edge of a wetland, and must include shrubs and other woody and



herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch.

- (b) Plantings must be in quantities sufficient to mitigate erosion and provide for effective infiltration of stormwater runoff.
- (c) Only native species may be used to establish the buffer area.
- (d) A footpath of no more than six feet in width may traverse the buffer, provided that a cleared line of sight through the buffer strip is not created.

F. Shoreland Zone Administration

1. Permit Required

- a. All development or other land use activity within the Shoreland Zone Overlay District shall require a Shoreland Zoning Permit from the applicable Review Authority. This permit shall be in addition to any other permit or plan approvals which may be required by this Ordinance. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance. In accordance with 38 M.R.S §439-A(10) Shoreland Zoning Overlay permit applicants must provide preconstruction photographs with their application and, no later than 20 days after completion of the development, postconstruction photographs of the Shoreline vegetation and development site.
- b. A permit is not required for the replacement of an existing road culvert as long as:
 - i. The replacement culvert is no more than 25% longer than the culvert being replaced.
 - ii. The replacement culvert is no longer than 75 feet.
 - iii. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the waterstone.
- c. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
- d. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

2. Permit Review Criteria

- a. After the submission of a complete application to the Planning Board, Staff Review Committee, or Code Enforcement Officer, the Review Authority shall take action on an application based on the following review criteria:
 - i. The development or other land use activity will maintain safe and healthful conditions.
 - ii. The development or other land use activity will not result in water pollution, erosion, or sedimentation to surface waters.
 - iii. The development or other land use activity will adequately provide for the disposal of all wastewater.
 - iv. The development or other land use activity will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat.
 - v. The development or other land use activity will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters.
 - vi. The development or other land use activity will protect archaeological and historic resources as designated in the Comprehensive Plan.



- vii. The development or other land use activity will not adversely affect existing commercial fishing or maritime activities in the SZO Commercial Maritime/Fisheries District.
- viii. The development or other land use activity will avoid problems associated with floodplain development and use.
- ix. The development or other land use activity is in conformance with the provisions of this Ordinance.
- b. If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the City of Bath.

3. Application Fees

All applications shall be accompanied by an application fee paid to the City of Bath.

4. Procedure

- a. Projects requiring approval from the Code Enforcement Officer, Staff Review Committee, or Planning Board shall be subject to the following provisions:
 - i. Every applicant for approval shall submit a written application, including a scaled site plan, on a form provided by the Code Enforcement Officer
 - ii. All applications shall be signed by the owner or individual who can show evidence of right, title, or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
 - iii. All applications shall be dated, and the Code Enforcement Officer shall note upon each application the date and time of its receipt.
 - iv. If the property is not served by the City of Bath sewer system, the applicant shall submit a valid septic system permit or a completed application for a septic system permit, including the site evaluation approved by the plumbing inspector, whenever the nature of the proposed structure would require the installation of a subsurface disposal system.
 - v. Within thirty-five days of the date of receiving a written application, the Code Enforcement Officer shall notify the applicant in writing either that the application is complete or, if the application is incomplete, that additional material is needed to make the application complete. The application shall either be approved, approved with conditions, or denied in writing within thirty-five days of receiving a completed application, or within thirty-five days of the public hearing, if one is held.
 - vi. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.
 - vii. All applicants receiving approval for projects located in the Shoreland Zone Overlay District must provide the Code Enforcement Officer with pre-construction photographs and, no later than twenty days after completion of the development, post-construction photographs of the shoreline vegetation and development site.
- b. If a permit is either denied or approved with conditions, the reasons and conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate this Ordinance or any regulation or any State law in which the municipality is responsible for enforcing.
- c. Permits granted under this section may be subject to reasonable conditions to ensure conformity with the purpose and provisions of this Ordinance.
- d. Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one



year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

5. Special Exceptions for Development within the Resource Protection Subdistrict (SZO-RP)

In addition to the criteria specified in Section 7.4.F.2 above, excepting structure setback requirements, the Planning Board may approve a permit for a single-family residential structure in a Resource Protection Sub District provided that the applicant demonstrates that all of the following conditions are met:

- a. There is no location on the property, other than a location within the Resource Protection Subdistrict, where the structure can be built.
- b. The lot on which the structure is proposed is undeveloped and was established and recorded in the Sagadahoc County Registry of Deeds.
- c. All proposed buildings, sewage disposal systems and other improvements are:
 - i. Located on natural ground slopes of less than 20%; and
 - ii. Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with the City of Bath's floodplain ordinance. If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be $\frac{1}{2}$ the width of the 100-year floodplain.
- d. The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- e. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands.

6. Waterfront Setback Reduction Plan

The Waterfront Setback Reduction Plan permits underlying uses while protecting fragile shoreline ecological systems that, if developed, would adversely affect water quality, wildlife and aquatic habitat and biotic systems, or ecological relationships.

a. Applicability

- i. With respect to new developments, the Staff Review Committee has the authority to reduce the Setback requirements in Section 7.4.D.1 regarding waterbody setbacks, but to not less than 75 feet east of Thorne Head, or 150 feet west of Thorne Head. The Staff Review Committee will determine whether a reduction is appropriate in accordance with the following criteria. The burden of proof is with the party requesting the reduction. Adequate information must be provided that will allow the Staff Review Committee to offer findings of fact supporting the conclusion that all applicable criteria have been met.
- ii. The Staff Review Committee may waive the necessity for any of the Minimal Submission Requirements provided the applicant requests the waiver, in writing, and the Staff Review Committee finds that the criteria in item b below have been met. This Section shall not be applicable to proposed uses in the SZO-RP, which require approval under Section 7.4.F.5.

b. Criteria



- i. The proposed development will not adversely impact the natural features of the landscape, and does not occur within or cause harm to any land that is not suitable for development.
- ii. The proposed development will not adversely affect any water body or its shoreline when the property is located in part or in whole in the water body's watershed. The proposed development will not adversely affect the water quality of Merrymeeting Bay, the Kennebec River, or their tributaries.
- iii. The proposed development activity will not occur within a floodplain.
- iv. The proposed development will satisfy the recommended stormwater quality standards described in Stormwater Management for Maine: Best Management Practices, published by the MEDEP (November 1995), as amended.
- v. The proposed development will not alone or in conjunction with existing activities adversely affect the quality or quantity of groundwater.
- vi. The proposed development will be constructed in accordance with Best Management Practices and will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy situation results.
- vii. The proposed development either will be served by municipal sewer or, where on-site disposal is proposed, designed and constructed in accordance with all applicable local, state, and federal requirements.
- viii. The proposed development will not have an adverse effect on the scenic or natural beauty of the area, historic sites, significant wildlife habitat identified by the MEDEP or the City of Bath, or rare and irreplaceable natural areas.

c. Submission Requirements

Where a reduction in required setback is requested, the minimum submission requirements are as follows:

- i. A map of slopes greater than 25 percent, wetlands, water courses and water bodies, and significant wildlife habitats; a plan to protect these features.
- ii. Plans or reports prepared by qualified individuals indicating that:
 - (a) The proposed development is not located within an area that may affect any historic or prehistoric site, as indicated within the City's Comprehensive Plan. If located within such an area, a report from the Maine Historic Preservation Commission must be submitted indicating that the development will not adversely impact any historic or prehistoric site.
 - (b) Within the Shoreland Zone, there will be no cutting of vegetation for any purpose other than the principal and accessory structures, driveways, and sewage-disposal areas, or for safety purposes.
 - (c) The proposed development will not adversely affect any waterbody or groundwater resource. Documentation may include but is not limited to reports from a hydrogeologist, the Maine Department of Environmental Protection, or the Maine Department of Marine Resources, as required by the Staff Review Committee.
- iii. A statement from a licensed surveyor or other qualified professional indicating that the development will not occur in a flood-hazard area.
- iv. A statement by a registered professional civil engineer ensuring that the development will be built in accordance with the most up to date version of the Stormwater Management for Maine: Best Management Practices.
- v. An erosion and sedimentation control plan developed by a registered professional civil engineer in accordance with the Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices, published by the Cumberland County Soil and Water Conservation District and the MEDEP (March 1991), as amended.



- vi. Connection to the municipal sewage system or an on-site subsurface wastewater disposal system approved by the Local Plumbing Inspector.
- vii. All proposed restrictions placed on the land to protect important wildlife habitat identified by the MDIFW or rare or irreplaceable habitat identified by the Maine Natural Areas Program must be reviewed by either MDIFW or the Maine Natural Areas Program, with their comments presented in writing to the Staff Review Committee.

7.5

TMC Trufant Marsh Contract District

A. Purpose

The TMC Trufant Marsh Contract District is intended to address uncertainties related to any expansion of BIW and the potential need to use the Trufant Marsh for additional space. Resource Protection is the designation of this district until any rezoning by the City Council. This rezoning process will allow open dialogue among the City, neighbors, and BIW on what might happen to Trufant Marsh in the future. If rezoned from the Resource Protection District, this district will allow only water-dependent uses for an expansion of industrial uses on the adjacent property.

B. Uses

Article 8 contains all use permissions and associated standards. Prior to any rezoning, uses allowed are as indicated for the Trufant Marsh District. Following any rezoning, uses allowed are as indicated for the I Industrial/Shipyard District.

C. Dimensional Standards

Prior to any rezoning, the dimensional standards of the Resource Protection District apply. Following any rezoning, the dimensional standards of the contract apply.

D. General Standards of Applicability

1. General Development Standards

See Articles 9 and 10 for general development standards and requirements, such as exterior lighting, accessory structures, and permitted encroachments.

2. Off-Street Parking and Loading

See Article 11 for off-street parking and loading standards and requirements.

3. Landscape

See Article 12 for landscape, buffering, and screening standards and requirements.

7.6

GC Golf Course District

A. Purpose

The GC Golf Course District accommodates the operations of the Bath Country Club Golf Course. Standards are intended to create compatibility between the golf course and the surrounding residential neighborhoods, while allowing for the reasonable expansion and accommodation of facilities on the golf course property.

B. Uses

Article 8 contains all use permissions and associated standards for the GC Golf Course District.

C. Dimensional Standards

Table 7-4: GC District Dimensional Standards contains the dimensional standards applicable to the Golf Course District.



Table 7-4: GC District Dimensional Standards	
GC	
Lot	
Lot Area (Min.)	60,000sf
Lot Width (Min.)	200 ft.
Setbacks	
Front Setback (Min.)	35 ft.
Interior Side Setback (Min.)	25 ft.
Corner Side Setback (Min.)	35 ft.
Rear Setback (Min.)	25 ft.
Waterbody Setback (Min.) <i>Does not apply to water-dependent uses</i>	75 ft.
Building Height	
Building Height (Max.)	40 ft.
Coverage	
Building Coverage (Max.)	20%

D. General Standards of Applicability

1. General Development Standards

See Articles 9 and 10 for general development standards and requirements, such as exterior lighting, accessory structures, and permitted encroachments.

2. Off-Street Parking and Loading

See Article 11 for off-street parking and loading standards and requirements.

3. Landscape

See Article 12 for landscape, buffering, and screening standards and requirements.



8 Uses

- 8.1 General Use Regulations
- 8.2 Use Matrix
- 8.3 Principal Use Standards
- 8.4 Accessory Use Standards
- 8.5 Temporary Use Standards
- 8.6 Use Definitions

8.1 General Use Regulations

- A. No structure or parcel of land may be used or occupied unless allowed as a permitted or conditional use within the zoning district.
- B. All uses must comply with applicable federal and state requirements, and any additional federal, state, or local ordinances.
- C. Any use that is not included in the use matrix, or is not interpreted as part of a listed use is prohibited in all districts, with the following exceptions:
 - 1. Adult Business Establishments, which are controlled separately within Chapter 5, §5-96 of the Bath City Ordinances.
 - 2. Manufactured home parks, which are allowed within the Manufactured Home Park Overlay per §7.2.
- D. A lot may contain more than one principal use, provided that each principal use is allowed in the district.
- E. Each principal use must be approved separately.
- F. Certain uses are defined as inclusive of ancillary uses that provide necessary support or are functionally integrated into the principal use.
- G. All uses must comply with the use standards of § 8.3 for principal uses, § 8.4 for accessory uses, and § 8.5 for temporary uses as applicable.

8.2 Use Matrix

- A. Table 8-1: Use Matrix establishes the principal, accessory, and temporary uses allowed within each zoning district.
- B. Within the table, permissions are indicated as follows:
 - 3. "●" indicates that the use is permitted by-right within the zoning district.
 - 4. "◐" indicates that the use permitted by-right within the zoning district, subject to site plan approval by the Planning Board.
 - 5. If a cell is blank, the use is not allowed within the zoning district.
- C. All uses within Table 8-1 are defined in § 8.6. Definitions of general terms are found in Article 2.



Table 8-1: Use Matrix

● = Permitted Use (May require Site Plan Approval) // ○ = Permitted subject to Site Plan Approval by the Planning Board // Blank = Not Permitted																		
	R-R	R-T	R-C	R-UC	R-WM	R-WH	NC	CC	DB	CG	MC	CX	WMU	I	GC	PO	TMC	Use Standards
Principal Uses																		
Agriculture	●																	§ 8.3.A
Airport	○																	
Amusement Facility - Indoor							●	●	●	●		●						
Amusement Facility - Outdoor										●		●		●				
Animal Care Facility - With Outdoor Area										●				●				§ 8.3.B
Animal Care Facility - Fully Indoors							●	●	●	●		●	●	●				§ 8.3.B
Animal Shelter										○				●				§ 8.3.B
Aquaculture											○	○						§ 8.3.C
Art Gallery							●	●	●	●		●	●					
Arts and Fitness Studio							●	●	●	●		●	●					
Banquet Hall							●	●	●	●		●	●					§ 8.3.D
Bed and Breakfast	●	●	●	●	●	●	●	●	●				○					§ 8.3.E
Body Art Studio								●	●	●		●	●					
Broadcasting Facility - With Antennae									●	●		●		●				
Broadcasting Facility - No Antennae									●	●		●		●				
Campground/RV Park	●																	§ 8.3.F
Cannabis Cultivation Facility	○																	Article 19
Cannabis Manufacturing and Testing										○		○						Article 19
Cannabis Retail Store								○	○	○		○						Article 19
Medical Cannabis Dispensary, Medical Cannabis Storefront								●	●	●		●						Article 19
Car Wash										●				●				§ 8.3.H
Care Home	●	●	●	●	●	●	●	●	●	●			●					§ 8.3.I
Cemetery	○	○						○								○		
Children's Home			●	●			●	●	●	●		●	●					
Commercial Kitchen								●	○	●		●						
Community Center	●	●	●	●	●	●	●	●	●	●		●	●					
Community Garden	●	●	●	●	●	●	●	●	●	●	●	●	●			●		§ 8.3.J
Cultural Facility							●	●	●	●		●	●					
Day Care Center							○	●	●	●		●	●	●				§ 8.3.K
Day Care Home	●	●	●	●	●	●	●											§ 8.3.K
Drug Treatment Clinic										○								§ 8.3.L

● = Permitted Use (May require Site Plan Approval) // ○ = Permitted subject to Site Plan Approval by the Planning Board // Blank = Not Permitted																			
	R-R	R-T	R-C	R-UC	R-WM	R-WH	NC	CC	DB	CG	MC	CX	WMU	I	GC	PO	TMC	Use Standards	
Dwellings																			
Dwelling - Above the Ground Floor							●	●	●	●	●	●	●						
Dwelling - Live/Work							○	○	●	●		●	●					§ 8.3.M	
Dwelling - Multi-Family		●	●	●			●	●	●	●		●	●					§ 8.3.N	
Dwelling - Single-Family	●	●	●	●	●	●	●	●	●				●						
Dwelling – Single-Family Attached	●	●	●	●	●	●	●	●	●				●						
Dwelling – Townhouse		●	●	●			●	●					●					§ 8.3.O	
Dwelling - Two-Family	●	●	●	●	●	●	●	●	●				●						
Eating and Drinking Establishment							○	●	●	●	●	●	●	●	●				
Educational Facility - College/University		●	●	●			●	●	●	●		●							
Educational Facility - Primary or Secondary		●	●	●			●	●	●	●		●							
Educational Facility - Vocational								●	●	●	●	●							
Financial Institution							○	●	●	●	●	●	●	●					
Financial Service, Alternative (AFS)										●								§ 8.3.P	
Food Bank												●		●					
Food Pantry								●		●		●							
Freight Terminal												●		●					
Fueling Station								○		○								§ 8.3.Q	
Funeral Home								○		●		○							
Golf Course	○	○	○	○	○	○	○	○	○	○	○				○				
Government Office/Facility							●	●	●	●	●	●	●	●					
Halfway House								○		○		○						§ 8.3.R	
Heavy Retail, Rental, and Service										●	●	●		●					
Hospital																			
Hotel								●	●	●		●	●		○				
Individual Private Campsite	●																	§ 8.3.S	
Industrial – Artisan/Craft								●	○	●		●		●				§ 8.3.T	
Industrial – Light									○	●	●	●		●				§ 8.3.U	
Industrial – General														●					
Industrial Design								●	●	●		●	●	●					
In-Home Lodging	●	●	●	●	●	●	●	●	●	●			●						
Kennel	○									○									
Live Entertainment - Ancillary								●	●	●	●	●	●						
Live Performance Venue								○	○	●		●							

● = Permitted Use (May require Site Plan Approval) // ○ = Permitted subject to Site Plan Approval by the Planning Board // Blank = Not Permitted																			
	R-R	R-T	R-C	R-UC	R-WM	R-WH	NC	CC	DB	CG	MC	CX	WMU	I	GC	PO	TMC	Use Standards	
Lodge/Meeting Hall			○				○	○	●	●		●		●				§ 8.3.V	
Long-Term Care Facility		○	○					●	●	●								§ 8.3.W	
Manufactured Home – Dwelling	●	●	●	●	●	●	●	●	●				●					§ 8.3.X	
Marina									●		●		●					§ 8.3.Y	
Medical/Dental Office/Clinic							○	●	●	●		●	●						
Micro-Production of Alcohol								○	○	●		●	●					§ 8.3.Z	
Mineral Extraction	○																		
Neighborhood Commercial Establishment		○○	○○	○○	○○	○○												§ 8.3.AA	
Office							●	●	●	●	●	●	●	●					
Park	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●		
Parking Lot (Principal Use)								○				○		○					
Parking Structure (Principal Use)								○	○			○		○					
Passenger Terminal									●	●	●	●		●					
Personal Service Establishment							●	●	●	●	●	●	●	●					
Piers, Docks, and Other Marine Structures	○	○	○	○	○	○	○	○	○	○	○	○	○	○		○		§ 8.3.BB	
Place of Worship	●	●	●	●	●	●	●	●	●	●		●							
Private Recreation Club	○	○	○	○	○	○	○	○	○	○	○				○			§ 8.3.CC	
Private Social Club								●	○	●		●							
Public Safety Facility	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●		
Public Works Facility										●		●		●					
Research and Development											●	●		●					
Residential Substance Abuse Treatment Facility								●		●		●						§ 8.3.DD	
Retail Goods Establishment							○	●	●	●		●	●					§ 8.3.EE	
Rooming House	○○	●	●	●	○○	○○	●	●					●					§ 8.3.FF	
Sawmill	●																		
Self-Storage Facility: Fully Enclosed										●				●				§ 8.3.GG	
Self-Storage Facility: Outdoor										●				●				§ 8.3.GG	
Shelter, Community										●		●		●				§ 8.3.HH	
Shelter, Domestic Violence	●	●	●	●	●	●	●	●	●	●		●	●						
Short-Term Rental	●	●	●	●	●	●	●	●	●	●		●	●					§ 8.3.II	
Social Service Center			○				○	○	○	●		●							
Solar Energy Generation Facility, Small-Scale	○	○						○		○		○		○				§ 8.3.JJ	
Solar Energy Generation Facility, Large-Scale	○									○		○		○					
Solar Energy Generation Facility, Utility-Scale	○													○					

● = Permitted Use (May require Site Plan Approval) // ⓘ = Permitted subject to Site Plan Approval by the Planning Board // Blank = Not Permitted																		
	R-R	R-T	R-C	R-UC	R-WM	R-WH	NC	CC	DB	CG	MC	CX	WMU	I	GC	PO	TMC	Use Standards
Specialty Food Service							ⓘ	●	●	●		●	●					
Supportive Housing			ⓘⓘ	ⓘⓘ				ⓘ		ⓘ		ⓘ						§ 8.3.KK
Timber Harvesting	●	●																§ 8.3.LL
Utility (Principal Use)	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	§ 8.3.MM
Vehicle Operation Facility										●				●				
Vehicle Sales and/or Rental										●								
Vehicle Repair/Service: Major										ⓘ	ⓘ			●				§ 8.3.NN
Vehicle Repair/Service: Minor										●	●	●		●				§ 8.3.NN
Warehouse														●				
Wholesale and Distribution										●		●		●				
Wind Energy Generation System														ⓘ				§ 8.3.OO
Wireless Telecommunications	ⓘ	ⓘ	ⓘ	ⓘ	ⓘ	ⓘ	ⓘ	ⓘ	ⓘ	ⓘ	ⓘ	ⓘ	ⓘ	ⓘ	ⓘ	ⓘ		§ 8.3.PP
Accessory Uses																		
Accessory Dwelling Unit (ADU)	●	●	●	●	●	●	●	●	●				●					§ 8.4.A
Drive-Through Facility									ⓘ	ⓘ		ⓘ						§ 8.4.B
Home Occupation	●	●	●	●	●	●	●	●	●	●	●	●	●					§ 8.4.C
Outdoor Sales and Display							ⓘ	●		●		●						§ 8.4.D
Outdoor Storage										ⓘ				●				§ 8.4.E
Outdoor Seating/Activity Area							ⓘ	●	●	●	●	●	●		●			§ 8.4.F
Temporary Uses																		
Farmer's Market	●	●	●	●	●	●	●	●	●	●	●	●	●		●	●		§ 8.5.B
Farmstand	●	●								●								§ 8.5.C
Garage/Yard Sale	●	●	●	●	●	●									●			§ 8.5.D
Mobile Food Vendor							●	●	●	●	●	●	●		●	●		§ 8.5.E
Real Estate Project Sales Office/Model Unit	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●		§ 8.5.F
Temporary Contractor Office/Yard	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●		§ 8.5.G
Temporary Off-Site Parking	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●		§ 8.5.H
Temporary Outdoor Entertainment and/or Sales Event	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●		§ 8.5.I

8.3 Principal Use Standards

A. Agriculture

1. The keeping of animals is allowed without Planning Board approval on lots of at least two acres. All pens, stables, and other shelters for animals must meet the required front setback of the zoning district in which they are located, and must be set back a minimum of 100 feet from any other lot line.
2. Manure may not be stored within 100 feet of the normal high watermark of any water body, watercourse, or potable water supply without Planning Board approval.
3. The Planning Board may issue a permit for the keeping of animals to applicants who cannot feasibly, or who choose to not meet the standards of items a and b above if the following standards are met:
 - i. All pens, stables, barns, and other shelters for animals are set back a minimum of 100 feet from the nearest neighboring dwelling.
 - ii. All manure is stored in a covered structure, constructed according to plans approved by the Androscoggin Valley Soil and Water Conservation District, and located a minimum of 100 feet from the nearest neighboring dwelling, the nearest potable water supply, and/or the normal high watermark of any water body or watercourse.
 - iii. All feed and/or grain is stored in rodent-proof containers.
 - iv. All paddocks, pastures, or other similar areas are fenced adequately to contain all animals.
 - v. The Planning board may limit the number of species of animals to be kept as part of an agricultural use. In determining such limits, the Planning Board must consider the size and layout of the subject lot and adjacent lots, the amount of waste produced by the animals, the presence of vegetative screening and buffers, and the potential for noise, odor, and rodent issues.
4. Confined animal feeding operations (CAFO) are not allowed as a component of any agricultural use.
5. Agriculture within the Shoreland Zone is subject to the additional standards of § 7.4.E.1.

B. Animal Care Facility and Animal Shelter

1. All overnight boarding facilities must be located indoors.
2. Any exterior exercise areas must be located to the side or rear of the building. An open or solid fence a minimum of six feet in height is required for all exterior exercise areas.
3. Animal quarters and exterior exercise areas must be maintained in a clean, dry, and sanitary condition.

C. Aquaculture

Aquaculture within the Shoreland Zone is subject to the standards of § 7.4.E.2.

D. Banquet Hall

A fee for general admission, or any other payment at the door required for entry by the general public is prohibited. This does not include fundraisers or events for bona fide non-profit organizations, places of worship, or educational facilities.

E. Bed and Breakfast

1. A bed and breakfast must be operated entirely within a single-family dwelling, or an accessory structure existing as of the effective date of this Code. Where a bed and breakfast is permitted in a mixed-use or commercial zoning district, it may only be operated within a single-family dwelling existing as of the effective date of this Code.
2. A bed and breakfast must be occupied as a principle place of residence by the property owner or a resident manager of the business.



3. A bed and breakfast is limited to a maximum of 10 guestrooms.
4. The exterior of a bed and breakfast must maintain its original residential appearance. No parking is permitted in the front yard.
5. Cooking equipment, except for microwaves, coffee-makers, and refrigerators, is prohibited in individual guestrooms.
6. Retail sales are prohibited, with the exception of accessory retail of related items which may include souvenirs, postcards, snack items, toiletries, and other customary sundries.
7. All dining facilities are limited to use by overnight guests of the establishment. A bed and breakfast may not include an eating and drinking establishment unless such an establishment is permitted as a principal use within the zoning district. Bed and breakfasts that include eating and drinking establishments are subject to site plan approval by the Planning Board.

F. Campground/Recreational Vehicle (RV) Park

1. The minimum area for a campground or RV park is three acres.
2. Campgrounds or RV parks shall provide a common recreational area consisting of a minimum of 100 square feet per campsite or recreational vehicle parking site.
3. Management headquarters, recreational facilities, coin operated laundry facilities, cabins for staff, and other uses and structures customarily associated with the operation of a campground are permitted.
4. All storage of equipment must be within enclosed structures.
5. Long-term occupancy is prohibited at any campground. Use of tents or recreational vehicles as a principal residence is prohibited. This excludes any permanent structures erected for an on-site caretaker or manager, which may be a year-round residency.
6. Individual campsites or recreational vehicle parking sites shall be set back a minimum of 100 feet from all lot lines, and a minimum of 75 feet from the normal high waterline of any water body.
7. Campgrounds in the Shoreland Zone are subject to the additional standards of § 7.4.E.12.

G. Cannabis-Related Uses

Standards for all cannabis-related uses are contained in Article 19.

H. Car Wash

1. A car wash must construct a solid fence or wall a minimum of six feet in height along any interior side or rear lot line abutting a residential district or publicly accessible open space.
2. Lots containing car washes must be graded to ensure that runoff does not drain onto adjoining property.

I. Care Home

1. A care home with fewer than 9 residents is considered a single-family dwelling.
2. All care homes must be licensed.

J. Community Garden

1. Community gardens are limited to the cultivation of herbs, fruits, flowers, or vegetables, including the cultivation and tillage of soil and the production, cultivation, growing, and harvesting of any lawful agricultural, floricultural, or horticultural commodity. A community garden may also include gathering spaces for active or passive recreation.
2. The keeping of livestock, chickens or other poultry, apiaries, and any aquaculture is prohibited as a component of a community garden.



3. Accessory structures including but not limited to high tunnels/hoop-houses, cold frames, and similar structures are permitted to extend the growing season. This also includes sheds, gazebos, and pergolas. All accessory structures must meet applicable setback requirements.

K. Day Care Center and Day Care Home

1. Each day care center and day care home must have a state license and/or registration.
2. The exterior of a day care home must maintain its original residential appearance. No visitor/client parking may be located in the front yard.
3. All outdoor play areas must be screened and buffered from surrounding residences to minimize visual and noise impacts on adjacent properties.
4. A day care center must provide a pickup/drop off area. When a day care center is part of a multi-tenant development, the pickup/drop off area must not interfere with vehicle circulation in the surface parking lot, including blocking of the drive aisle.

L. Drug Treatment Clinic

Drug treatment clinics must be located a minimum of 1,000 feet from any residential district or residential use.

M. Dwelling – Live/Work

1. Live/work dwellings are subject to the standards for the individual uses contained within this Code.
2. In the DB District, any area used for commercial space in a live/work dwelling may not be converted to residential living space if the commercial component is no longer operating.

N. Dwelling – Multi-Family

1. In the R-T District, multi-family dwellings are allowed only on lots served by public sewer.
2. Building façades that face a street, the Kennebec shorefront, or another residential use must be articulated through the use of architectural elements, projections, or recesses that visually break up blank wall areas and add visual interest. Two or more of the following forms of building articulation must be incorporated:
 - a. Modulation of the building façade through the use of projections, recesses, overhangs, awnings, canopies, cornices, bays, or similar features. To meet this standard, building projections and recesses must be a minimum of two feet in depth and four feet in width.
 - b. Provision of balconies, bay windows, porches, patios, terraces, or a visually prominent ground-level entrance.
 - c. Changes in color, texture, or material. Such changes must occur at inside corners, and must not occur on a flat wall plane or an outside corner.
 - d. Provision of lighting fixtures or other building ornamentation including but not limited to trellises, green walls, murals, or other artwork.
3. A minimum transparency requirement of 20% applies to all façades that face a street, the Kennebec shorefront, or another residential use. This transparency requirement is calculated as a percentage of the total building façade.
4. The following building materials are prohibited as primary building materials on any façade of a multi-family structure that faces a street, the Kennebec shorefront, or another residential use. Such materials may be used as decorative or accent materials for up to a total of 25% of the façade, or as part of the exterior construction that does not constitute a surface finish material.
 - a. Plain concrete block
 - b. Mirrored glass
 - c. Exposed aggregate (rough finish) concrete wall panels



- d. Exterior insulating finish systems (EIFS) installed lower than eight feet above grade
- e. Wood structural panel sheathing (e.g. plywood, OSB, particleboard, etc.)
- f. Plastic, not including light transmitting plastic
- g. Vinyl
- h. Metal panels, unless they meet the following:
 - i. Metal panels (flat, textured, corrugated, batten, box rib, etc.) whether standalone, composite, or part of a layered or insulated panel, shall be permitted provided they are part of a complete, manufacturer warranted cladding system, including integral anchorage to structural supports. Steel panels shall be minimum US Standard 26 gauge. Metal panels that meet this requirement are permitted as surface finish material without limitation.

O. Dwelling – Townhouse

1. In the R-T District, townhouse dwellings are allowed only on lots served by public sewer.
2. Townhouse building façades that face a street, the Kennebec shorefront, or another residential use must be articulated through the use of architectural elements, projections, or recesses that visually break up blank wall areas and add visual interest.
3. A minimum transparency requirement of 10% applies to all townhouse façades that face a street, the Kennebec shorefront, or another residential use. This transparency requirement is calculated as a percentage of the total building façade.
4. A minimum separation of 15 feet is required between all townhouse buildings within a single development. However, in cases where the front or rear wall of a building faces the front or rear wall of another building, a minimum separation of 30 feet is required. Driveways and parking areas may be located within this minimum separation area.
5. The following building materials are prohibited as primary building materials on any façade of a townhouse structure that faces a street, the Kennebec shorefront, or another residential use. Such materials may be used as decorative or accent materials for up to a total of 25% of the façade, or as part of the exterior construction that does not constitute a surface finish material.
 - a. Plain concrete block
 - b. Mirrored glass
 - c. Exposed aggregate (rough finish) concrete wall panels
 - d. Exterior insulating finish systems (EIFS) installed lower than eight feet above grade
 - e. Wood structural panel sheathing (e.g. plywood, OSB, particleboard, etc.)
 - f. Plastic, not including light transmitting plastic
 - g. Vinyl
 - h. Metal panels, unless they meet the following:
 - i. Metal panels (flat, textured, corrugated, batten, box rib, etc.) whether standalone, composite, or part of a layered or insulated panel, shall be permitted provided they are part of a complete, manufacturer warranted cladding system, including integral anchorage to structural supports. Steel panels shall be minimum US Standard 26 gauge. Metal panels that meet this requirement are permitted as surface finish material without limitation.

P. Financial Institution, Alternative

1. No alternative financial institution may be located within 1,000 feet of any other existing alternative financial institution, as measured along street lines to the respective edge of the subject property lines.



2. Any alternative financial institutions existing as of the effective date of this Code that do not meet the spacing requirement are deemed conforming. This applies only to such uses that are allowed within the district. If an alternative financial institution is no longer allowed within a district as of the effective date of this Code, it is a nonconforming use.

Q. Fueling Station

1. All structures, pump islands, EV charging infrastructure, compressed air connections, and other similar equipment must be set back a minimum of 15 feet from any interior side or rear lot line, and a minimum of 10 feet from any front or corner side lot line.
2. Freestanding canopies must be set back a minimum of 10 feet from any front or corner side lot line, and a minimum of 20 feet from any interior side or rear lot line.
3. Retail goods establishments and car washes, limited to one bay, are permitted as ancillary uses in association with the principal use of a fueling station. Where included as a component of a fueling station, a car wash must meet the standards included in 8.3.F.
4. Addition of a car wash or retail goods establishment as an ancillary use to any existing fueling station is subject to site plan review by the Planning Board.

R. Halfway House

1. Halfway houses are limited to no more than 8 residents.
2. All halfway houses must identify a manager to act as a 24-hour contact. The manager contact information must be printed and posted in a manner so as to be conspicuous and legible from the exterior of each building to a person at the front entrance of the building. Such posting must contain the property address, the name of the manager, and the telephone contact number of the manager.

S. Individual Private Campsite

Individual Private Campsites in the Shoreland Zone are subject to the standards of § 7.4.E.13.

T. Industrial – Artisan/Craft

1. In the CC and DB Districts, artisan/craft industrial uses are limited to a maximum of 10,000 square feet in gross floor area. This limitation does not apply to artisan/craft industrial uses in any other district.
2. Outside storage or display is prohibited. All business, servicing, processing, and storage operations must be located and conducted entirely within an enclosed structure. This does not apply to artisan/craft industrial uses in the I District.

U. Industrial – Light

1. Light industrial uses in the DB District are subject to the following standards:
 - a. Light industrial uses in the DB District are allowed only in buildings which existed as of July 19, 2000.
 - b. If located on the ground floor, a minimum of 30 percent of the gross floor area of the use must be used for walk-in retail sales of products.
 - c. Notwithstanding item a above, a light industrial use is allowed without an area for retail sales if located on the ground floor of a mixed use building and occupying no more than 50% of the gross floor area of the ground floor. Such uses may only occupy a portion of the building that faces a street, City-owned parking lot, or the Kennebec shorefront as necessary for safe ingress and egress.
 - d. Light industrial uses must be physically separated from those portions of a shared building not in light industrial use.

V. Lodge/Meeting Hall

1. A maximum of 30% of the gross floor area of a lodge/meeting hall may be used as office space.



2. Lodges/meeting halls are permitted to serve meals and alcohol on the premises for members and their guests only, or for lessees when leased or used as reception facilities. A lodge/meeting hall may only be leased or used for reception facilities in the DB, CG, and CX Districts.
3. Sleeping facilities are prohibited.
4. Lodges/meeting halls leased or used as reception facilities may not charge an admission fee to the general public for entrance, with the exception of fundraisers or events for bona fide non-profit organizations, places of worship, educational facilities, or similar uses.

W. Long-Term Care Facility

1. Long-term care facilities must meet all standards for multi-family dwellings in the district in which they are located, including the standards within §8.3.M above.
2. When long-term care facilities are located above the ground floor, such developments are subject to all applicable standards for mixed-use development in the district in which they are located.

X. Manufactured Home – Dwelling

1. A manufactured home that is not located within a manufactured home park must meet all applicable standards for a single-family dwelling within the district.
2. Manufactured homes must comply with all federal, state, and local regulations.
3. Manufactured homes must be placed on a permanent foundation, frost wall, grade beam, or floating slab, and must have all wheels, axles, transporting lights, and towing apparatus removed.
4. The area beneath a home must be fully enclosed with durable skirting within 60 days of placement. Such skirting must be a product designed and sold for use as skirting, or as approved by the Codes Enforcement Officer.
5. The manufactured home must have a 3:12 or steeper pitched roof of durable material such as asphalt or fiberglass composite shingles. Alternative materials may be approved by the Codes Enforcement Officer.
6. Manufactured homes must be clad in exterior siding that is residential in appearance.
7. A manufactured home that does not meet these standards cannot be replaced by another unit that does not meet these standards.

Y. Marina

Marinas may include caretaker's residences, docks, fueling and supply facilities, launching and storage facilities, boat servicing facilities, parking areas, maintenance areas, boat lifts, boat charter services, eating and drinking establishments, and incidental retail sales associated with the principal use.

Z. Micro-Production of Alcohol

1. Alcohol production operations must occur entirely within an enclosed structure.
2. Establishments must include a restaurant, bar, and/or tasting room within the same building. The minimum size of such restaurant, bar, and/or tasting room must be 20% of the total square footage of the use or 1,500 square feet, whichever is less.
3. Establishments may include retail areas for the purchase of beverages manufactured on-site, and other related items.

AA. Neighborhood Commercial Establishment

1. Neighborhood commercial establishments are allowed as follows:
 - a. Within existing structures that are nonresidential in their original construction or current use as of the effective date of this Code.
 - b. On the ground floor of multi-family dwellings.



- c. As new freestanding structures, subject to site plan review by the Planning Board and the following standards:
 - i. New neighborhood commercial establishments must be located on a corner lot.
 - ii. New neighborhood commercial establishments are limited to a maximum gross square footage of 5,000 square feet.
 - iii. In the R-C, and R-UC Districts, neighborhood commercial establishments are not subject to the minimum front setback requirements for the district but must meet a minimum front setback of five feet.
 - iv. In the R-C and R-UC Districts, neighborhood commercial establishments are not subject to the building coverage and landscaped open space ratio requirements of the district. Rather, a building coverage maximum of 75%, and a landscaped open space ratio of 20% shall apply.
 - v. All other district dimensional standards continue to apply, unless specifically modified within this section.
- 2. The following uses are permitted within a neighborhood commercial establishment:
 - a. Animal care facilities – fully indoors
 - b. Art galleries
 - c. Art or fitness studios
 - d. Day care centers
 - e. Eating and drinking establishments
 - f. Medical/dental offices/clinics
 - g. Offices
 - h. Personal service establishments
 - i. Retail goods establishments; sale of alcohol is prohibited
 - j. Specialty food service establishments
- 3. Accessory drive-through facilities are prohibited.
- 4. Outdoor seating and activity areas, and outdoor sales and display are permitted as an accessory use to a neighborhood commercial establishment. Outdoor storage is prohibited.
- 5. Outdoor entertainment, as an accessory use, is prohibited as part of a neighborhood commercial establishment in the R-T, R-WM, and R-WH Districts.

BB. Piers, Docks, and Other Marine Structures

Piers, Docks, and Other Marine Structures are subject to the standards of § 7.4.E.10.

CC. Private Recreation Club

- 1. Any outdoor recreational facilities located within a private recreation club must be set back a minimum of 50 feet from any lot line, measured from the edge of any active-use or recreational component and the nearest lot line.
- 2. Outdoor recreational facilities located within a private recreation club are limited to hours of operation from 7:00am to 7:00pm.

DD. Residential Substance Abuse Treatment Facility

- 1. Residential substance abuse treatment facilities must meet all standards for multi-family dwellings in the district in which they are located.



2. When residential substance abuse treatment facilities are located on or above the ground floor of a mixed-use development, such developments are subject to all applicable standards for mixed-use development in the district in which they are located.

EE. Retail Goods Establishment

Retail goods establishments located in the CC, NC, and WMU Districts are limited to a maximum gross floor area of 5,000 square feet.

FF. Rooming House

1. Rooming houses are divided into two intensities as follows:
 - a. Small rooming houses include those with 4 to 6 tenants, and the owner/occupant of the rooming house.
 - b. Large rooming houses include 7 or more tenants, and the owner/occupant of the rooming house.
2. Large rooming houses are subject to site plan review by the Planning Board in the R-R, R-WM, and R-WH Districts.
3. Rental leases must be a minimum of 30 consecutive days in length.
4. Separate private entrances for tenants are not permitted.
5. Signs are not permitted.

GG. Self-Storage Facility – Fully Enclosed or Outdoor

1. No storage unit may be used for residential occupancy or the conduct of business operations.
2. No plumbing connections are permitted in self-storage units.
3. The following are prohibited within self-storage facilities:
 - a. Storage of flammable or hazardous chemicals or explosives.
 - b. Commercial, wholesale, retail, or garage sales. This does not include auctions of units in arrears by the facility, which are permitted.
 - c. Service, repair, or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment.
 - d. The operation of any power tools or equipment.
 - e. Any use that is noxious or offensive due to production of odor, dust, noise, fumes, or vibration.
4. Enclosed self storage facilities are subject to the following additional standards:
 - a. All self-storage activities must be contained within a single building and conducted exclusively indoors.
 - b. Individual storage units may be accessed from inside the building only. Enclosed self-storage facilities in more than one building are considered outdoor self-storage facilities.
 - c. No storage units located on the first floor may be located within the first 20 feet of a façade facing a street. No storage units located on the first floor may be visible from a public right-of-way, the Kennebec shorefront, or a residential district.
 - d. Access to any loading areas must be located to the side or rear of the building.
5. Outdoor self-storage facilities are subject to the following additional standards:
 - a. Outdoor self-storage facilities must be oriented so that storage unit access doors do not face a public right-of-way, the Kennebec shorefront, or a residential district.



- b. Outdoor self-storage facilities are allowed to include an area for storage of recreational vehicles. Storage areas for recreational vehicles must be located in the rear yard.
- c. No storage of recreational vehicles is allowed within ten feet of any rear lot line or interior side lot line that abuts a residential district. No storage of recreational vehicles is allowed within 25 feet of any front or corner side lot line.
- d. Any proposed outdoor storage areas must be shown on a site plan for the facility. In no case may parking areas or driveways be used for storage.

HH. Shelter, Community

1. Community shelters must be licensed and follow all regulations established by the State of Maine.
2. On-site management is required. A management and operations plan must be submitted, and must include the following:
 - a. Description of principle and accessory uses on the site.
 - b. The size of the facility (maximum number of beds or persons to be served by the facility)
 - c. Designation of a manager who will serve as a 24-hour point of contact for the public and the City, and the name and contact information of such person.
 - d. Operation of the use, number and professional qualifications of staff, management of volunteers, and policy for client conduct.
 - e. A security plan to ensure the safety of staff and clients. The security plan must be reviewed and found adequate by the Chief of Police.
3. An indoor waiting area for intake into the shelter is required. No queuing may occur outside the facility. Any outside areas designated for smoking must not be visible from the street, the Kennebec shoreline, or a residential district.
4. Outdoor facilities that are visible from the street, or that share a lot line with a residential or mixed-use development are limited to the hours between 7:00am and 7:00pm.

II. Short-Term Rental

1. No alteration may be made on either the interior or exterior, which changes the character and appearance of the residential premises.
2. Signs are prohibited.
3. Overnight occupancy of recreational vehicles, camper trailers, and tents at the property is not allowed. Outdoor sleeping is prohibited.
4. Only rooms originally designed as bedrooms may be used for sleeping within the rental.

Editor's Note:

Work related to short-term rental regulation is ongoing and subject to change.

JJ. Solar Energy Generation Facility

1. Installation of all solar energy generation facilities, expansion of any existing solar energy generation facility, or installation of any associated facilities is subject to the standards of this section. Prior to any installation or expansion, facilities must obtain site plan approval, all appropriate Code permits, and any other necessary City or State approvals.
2. Any physical modification of an existing permitted solar energy generation facility that alters the size, type, or location of the system and/or any associated equipment is subject to the standards of this section. In-kind replacement, and nonstructural maintenance and repair of a solar energy generation facility shall not require site plan approval, but shall require a building permit.



3. In addition to the submission requirements for Site Plan Review in §15.4, the following plans and supporting materials are required as part of an application for a solar energy generation facility:
 - a. An operations, maintenance, and decommissioning plan, providing:
 - i. Descriptions of the regular operation and maintenance of the facility, including the frequency and scope of regular inspections.
 - ii. A vegetation management plan, approved by the Bath Fire Chief and Planning Office, or their designee. The plan must indicate that vegetation growth will be maintained under and around the installation at levels needed to reduce the risk of ignition from the electrical system while minimizing mowing to the extent practicable. Native, pollinator friendly seed mixtures shall be used. Herbicide and pesticide application is prohibited.
 - iii. The timeline and process of decommissioning the system.
 - iv. An engineer's estimate for the cost of decommissioning the system.
 - b. Solar energy generation facility specifications, including manufacturer, model, and facility size.
 - c. Certification that layout, design, and installation of the system conform to and comply with all applicable industry standards such as the National Electrical Code (NEC/NFPA-70), the American National Standards Institute (ANSI), the Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), the Institute of Electric and Electronic Engineers (IEEE), the Solar Rating and Certification Corporation (SRCC), the Electrical Testing Laboratory (ETL), and other similar certifying organization, the Maine Uniform Building and Energy Code (MUBEC), fire and life-safety codes (NFPA 1 and NFPA 101), and any other standards applicable to solar energy generation facilities.
 - d. Certification that the project complies with the utility notification requirements contained in Maine law and accompanying regulations through the Maine Public Utility Commission, unless the applicant intends, and so states in the application, that the system will not be connected to the electric grid.
 - e. An emergency action plan approved by the Bath Fire Chief or their designee.
 - f. The following additional submission requirements apply to applications for large-scale and utility-scale solar energy generation facilities:
 - i. Written documentation from the Maine Historic Preservation Commission (MHPC) regarding any known or likely historic, prehistoric, or archeological resources located in or on the subject property.
 - ii. Written documentation from the Maine Natural Areas Program (MNAP) regarding the presence of rare or exemplary natural communities located on the subject property, including any critically imperiled (S1) or imperiled (S2) natural communities or plant species.
 - iii. Written documentation from the Maine Department of Inland Fisheries and Wildlife (MDIFW) regarding known locations of rare, endangered, threatened, and special concern species; essential and significant wildlife habitats (including waterfowl and wading bird habitats, deer wintering areas, and significant vernal pools); and significant fisheries habitats (including Atlantic salmon spawning, limited spawning, and rearing habitats) on the subject property.
 - iv. For large-scale solar energy generation facilities that trigger review by the Maine Department of Environmental Protection (MDEP) pursuant to the Site Location of Development Act (Site Law), 38 M.R.S.A. §§ 481-490, a copy of the Site Law application submitted to MDEP and any permits granted by the MDEP at the time of submission of the application to the City.
 - v. Assessment of any visual impacts of the proposed development.

4. Dimensional Standards

- a. Ground mounted solar energy generation facilities are limited to 25 feet in height, measured from grade at the base of the structure to the highest point of any panel or structure.



- b. Solar energy generation facilities are subject to the setback standards of the zoning district in which they are located, except that setbacks do not apply to internal property lines within a solar energy generation facility located on contiguous lots under common control of the developer by virtue of ownership, lease, or easement.

5. Performance Standards

- a. Solar energy generation facilities must be sited to minimize or negate any solar glare onto nearby properties or roadways, without unduly affecting the functionality or efficiency of the solar energy generation facility.
- b. Preference shall be given to locating a solar energy generation system on previously developed, degraded, or marginally productive portions of the subject property. If the project is to be located over land identified in the Comprehensive Plan as Prime Agricultural Soil, Farmland of Statewide Importance, or Farmland Soils of Local Importance, the plan shall minimize soil disturbance in the installation of the solar energy system with the goal of preserving future agricultural uses and shall include habitat for native plants and pollinators or incorporate a dual-use agricultural operation. No topsoil or prime agricultural soil shall be removed from the site for the installation of the system, except as necessary to comply with this section or any other applicable laws.
- c. When a proposed development is visible from a public street, road, water body, or facility, the plan must incorporate a buffer that provides year-round screening to minimize the visual impact of the development. The buffer must be a minimum of 10 feet in width. If less than 25 feet in width, the buffer must be composed of a minimum of 75% evergreen trees and/or shrubs, which must be a minimum of 4 feet high and average of at least 6 feet high at planting, with at least two rows of planting at off-set spacing to fill in the gaps between plants in a single row. If the vegetated screen is at least 25 feet wide, it may be a mix of evergreen and deciduous trees and/or shrubs. Larger trees may be required for screening of larger projects with structures that differ significantly from those on adjacent properties, or that produce significant visual impacts.
- d. Utilities must be installed underground in order to minimize the visual impact of the solar energy generation system. Electrical transformers and other components directly related to utility interconnection may be aboveground if required by the utility provider. Aboveground utility connections may be approved by the Planning Board if they will not have an undue adverse impact due to the setting of the solar energy generation system, or if there are natural or physical constraints to the site that require aboveground utilities.
- e. Site lighting shall be limited to that required for safety and operational purposes.
- f. If the facility is fenced, such fencing shall be elevated a minimum of six inches to allow for the passage of small terrestrial animals.
- g. Solar energy generation facilities must maintain a clear area of at least 12 feet around the perimeter of the facility.

6. Abandonment, Decommissioning, and Surety

a. Removal Required

At such time that the solar energy generation system has reached the end of its useful life, or has been abandoned as described within this section, it must be removed. The owner or operator must physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator must notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning must consist of the following:

- i. Physical removal of all solar energy generation systems, structures, equipment, security barriers and transmission lines from the site.
- ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- iii. Stabilization or re-vegetation of the site as necessary to minimize erosion.



b. Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar energy generation system shall be considered abandoned when it fails to operate for more than one year without the written consent of the Site Plan Review Authority. If the owner or operator of the solar energy system fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the City of Bath retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned or decommissioned installation.

c. Surety

For a large-scale or utility-scale solar energy generation facility, the applicant must provide financial assurance for the decommissioning costs in the form of a performance bond, surety bond, “evergreen” letter of credit, or other means acceptable to the City, for the total cost of decommissioning. The applicant must have the financial assurance mechanism in place prior to construction. The applicant shall, upon request of the City, update the estimated costs of decommissioning. Every five years after the start of construction, updated proof of acceptable financial assurance must be submitted to the City for review.

KK. Supportive Housing

1. Supportive housing facilities with less than four sleeping units are not subject to site plan review by the Planning Board, unless located in the CC, CG, or CX Districts. All other supportive housing facilities are subject to site plan review by the Planning Board.
2. Supportive housing facilities are subject to the standards for multi-family dwellings in the district in which they are located.
3. A supportive housing facility must be owned and operated by a non-profit corporation registered with the State of Maine.
4. Supportive housing facilities may include ancillary uses such as offices for staff who periodically visit the facility to serve the needs of the residents.
5. Residents of a supportive housing facility may not have overnight guests.
6. Residents of a supportive housing facility must be 18 years of age or older upon the date of initial occupancy, and a maximum of 24 years of age during the period of occupancy.
7. Supportive housing facilities must provide a management and operations plan, which must include the following:
 - a. Description of principle and accessory uses on the site.
 - b. The size of the facility (maximum number of beds or persons to be served by the facility)
 - c. Designation of a manager who will serve as a 24-hour point of contact for the public and the City, and the name and contact information of such person.
 - d. Operation of the use, number and professional qualifications of staff, management of volunteers, and policy for resident conduct.
 - e. A security plan to ensure the safety of staff and residents. The security plan must be reviewed and found adequate by the Chief of Police.
8. A supportive housing facility must consist of the following:
 - a. Sleeping units, each with sleeping beds for a maximum of two occupants.
 - b. A kitchenette for shared use by occupants.
 - c. Toilet facilities and shower facilities for shared use by occupants.
 - d. A lounge for shared use by occupants.



LL. Timber Harvesting

Timber Harvesting in the Shoreland Zone is subject to the standards of § 7.4.E.3.

MM. Utility (Principal Use)

1. Minimum building height regulations established by the district do not apply to utility buildings.
2. Building design standards continue to apply, unless it can be shown that incorporation of specific elements will impact operations and/or create a public safety issue. The Planning Director will approve exceptions to design standards.
3. Utility equipment must be set back a minimum of 20 feet from any lot line.

NN. Vehicle Repair Service, Major or Minor

1. All vehicle repair service establishments must be set back a minimum of 15 feet from any interior side or rear lot line.
2. Repair of vehicles may not occur outdoors. Storage of all merchandise, auto parts, and supplies must be located within an enclosed structure.
3. Vehicles may not be stored outdoors on the site for longer than 15 days once repairs are completed. Only vehicles that have completed service, or are being stored while undergoing service, may be stored outdoors.
4. When a vehicle repair service establishment shares a lot line with a residential district, a solid fence or wall a minimum of six feet and a maximum of eight feet in height is required along such lot line. One shrub, a minimum of three feet in height at maturity, is required every three linear feet, and must be installed on the side of the fence facing the interior of the lot.
5. The sale of new or used vehicles is prohibited, unless allowed as a separate principal use within the district.
6. No motor vehicles may be stored, and no repair work may be conducted in the public right-of-way.

OO. Wind Energy Generation System

1. The design of the wind energy generation system must conform to applicable industry standards as such standards exist as of the date construction is commenced. The facility owner or operator must submit certificates of design compliance obtained by the equipment manufacturers, such as Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or similar certifying organizations.
2. Wind turbines must comply with the following design standards:
 - a. Wind turbines must be a non-obtrusive and non-reflective color.
 - b. Wind turbines must not display advertising, except for reasonable identification of the turbine manufacturer, or the facility owner and operator.
 - c. Wind turbines must not be artificially lit, except to the extent required by the Federal Aviation Administration or other applicable regulatory authorities.
 - d. On-site transmission and power lines between wind turbines must, to the maximum extent practicable, be placed underground, reach the property line, and be located and constructed in such a way as to minimize disruption to the property's primary purpose as well as to facilitate the interconnection of other commercial wind power generating facilities.
 - e. Non-essential appurtenances are prohibited to be affixed to any wind turbine, including, but not limited to, cellular or radio antennae.
3. The applicant must commission and submit at the time of permit application a wildlife assessment (impact study), conducted by a qualified wildlife expert, indicating possible risks to local wildlife, habitat, and migratory birds.



4. Wind turbines must not be climbable up to a height of at least 15 feet above ground surface. All access doors to wind turbines and electrical equipment must be locked or fenced, as appropriate, to prevent entry by non-authorized individuals.
5. Wind turbines must be set back from any existing principal building on the lot and adjacent lots, measured at the nearest external wall or walls, and within the buildable area of any adjacent undeveloped lot, no less than the turbine height. The setback distance is measured from the nearest point on the outside edge of a tower to the nearest point on the foundation of the building.
6. Operation and maintenance building(s) and substations must be located in accordance with zoning district setback requirements. All structures, except for wind turbines, must comply with the height regulations of the zoning district.
7. All wind turbines must be set back from the nearest public right-of-way a distance of 110% of the turbine height, as measured from the right-of-way line to the nearest point on the outside edge of a tower.
8. The facility owner or operator must comply with all applicable codes regulating sound generation. A predictive sound study of turbine noise must accompany the application to verify that all code requirements can be met for dBA sound levels. In the event that any sound levels from a wind turbine are found to be in excess of permissible levels per the City Code, the facility owner or operator must take necessary measures to bring sound levels down to an acceptable level.
9. A shadow flicker study is required and must be submitted with the application. Projects must mitigate shadow flicker on existing structures and shadow flicker must not fall within the buildable area of an adjacent lot, as defined by current setback requirements.
10. The facility owner and operator must, at their sole expense, complete decommissioning of the wind energy system, or individual wind turbines, once the use of the wind energy system or any individual wind turbines are discontinued. The wind energy system or turbine must be deemed to be at the end of its useful life if it is abandoned or inoperable for a period of time in excess of 180 days. Decommissioning includes:
 - a. Removal of all wind turbines and related aboveground equipment and structures.
 - b. Disturbed earth shall be graded and reseeded, unless the CEO approves a written request by the property owner that internal roads or other site improvements are not to be restored.

PP. Wireless Telecommunications Facilities

1. Application Requirements

All applications to erect, construct, or modify any part of a wireless telecommunications system require site plan review by the Planning Board and must include the following items:

- a. A site plan showing:
 - i. The location, size, screening, and design of all structures, including fences.
 - ii. The location and size of all outdoor equipment.
 - iii. Elevations showing antenna height.
 - iv. If the site plan is for a new wireless telecommunications facility, a landscape plan showing all screening.
 - v. If the site plan is for a new wireless telecommunications tower, indication of the fall zone as a shaded circle.
- b. A maintenance plan and any applicable maintenance agreement designed to ensure long-term, continuous maintenance, such as maintenance of landscape, keeping the area free from debris and litter, and immediate removal of any graffiti.
- c. A disclosure of what is proposed, demonstrating the need for the wireless telecommunications system in the proposed location. This is not required for co-location or stealth design antennas.



- d. The reason or purpose for the placement, construction, or modification in the proposed location with specific reference to the provider's coverage, capacity, and/or quality needs, goals, and objectives. This is not required if the proposal is does not involve the erection of a new tower.
- e. The service area of the proposed wireless telecommunications system.
- f. If the proposal is for a new telecommunications tower, then a map showing collocation opportunities within the City and within areas surrounding the borders of the City must be provided and justification for why collocation is not feasible in order to demonstrate the need for a new tower.
- g. If the proposal is for a new telecommunications tower, certification by a licensed and registered professional engineer regarding the manner in which the proposed structure will fail. The certification may be utilized, along with other criteria such as applicable regulations for the district in question, in determining if additional setback should be required for the structure and other facilities.

2. Tower and Facility Building Setbacks

- a. All wireless telecommunications towers must be set back from any existing principal building on the lot and adjacent lots, measured at the nearest external wall or walls, and within the buildable area of any adjacent undeveloped lot as defined by current setback requirements, no less than the tower height. The setback distance is measured from the nearest point on the outside edge of a tower to the nearest point on the foundation of the building.
- b. All wireless telecommunications facility buildings are subject to the minimum setback requirements of the district.

3. Height

The maximum height of a wireless telecommunications tower is the minimum needed to function satisfactorily. The application for approval of a wireless telecommunications tower must demonstrate the minimum height needed for the tower to function, which will be reviewed and approved as part of site plan review.

4. Lighting and Marking

Wireless telecommunications systems must not be lit or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).

5. Stealth Design for Wireless Telecommunications Antennas

Wireless telecommunications antennas are subject to site plan review by the Planning Board in all districts, unless they are stealth design in which case they may be reviewed by the Staff Review Committee. Stealth design for wireless antennas is encouraged and is considered a permitted use in all districts, subject to site plan review and approval. All applications for wireless telecommunications antennas must include all information required by this section. In addition to the standards of this section for wireless telecommunications antennas, stealth design must comply with the following regulations:

- a. To qualify as a stealth design, wireless telecommunications antennas must be enclosed, camouflaged, screened, obscured, or otherwise not readily apparent to a casual observer.
- b. Wireless telecommunication antennas must be mounted at least 30 feet above grade, as measured from grade to the base of the antenna, in addition to meeting the other requirements of this section.
- c. Antennas must be located on or in structures already permitted within zoning districts, such as water towers, clock towers, streetlights, penthouses, parapet walls (must be behind the parapet wall), and steeples, and must be designed to blend in with the structure.
- d. Antennas that co-locate on existing wireless telecommunications towers are also considered stealth design. However, such antennas cannot increase the overall height of the existing wireless tower.
- e. No antenna may increase the overall height of any structure on which it is mounted by more than 15 feet.

6. Specific Standards for Wireless Telecommunications Facility Buildings



- a. Buildings, cabinets, or shelters may house only equipment and supplies for operation of the wireless telecommunication tower. Any equipment not used in direct support of such operation must not be stored on the site.
- b. Commercial advertising is prohibited. Only signs that is part of the equipment as manufactured or warning signage is permitted.

7. Specific Standards for Wireless Telecommunications Towers

- a. The use of guyed towers is prohibited. Towers must be monopoles, meaning self-supporting with no wires, cables, or beams.
- b. Wireless telecommunications towers must be designed to accommodate other telecommunications providers. The area surrounding a tower must be of a sufficient size to accommodate accompanying wireless telecommunications facilities for other telecommunications providers.
- c. Unless otherwise required by the Federal Communications Commission, the Federal Aviation Administration or the City, towers must have a galvanized silver or gray finish.

8.4 Accessory Use Standards

A. Accessory Dwelling Unit (ADU)

1. In General

- a. Accessory dwelling units (ADU) require a permit from the Codes Enforcement Officer. If the creation of an ADU creates a subdivision, the project will require subdivision approval before a building permit can be issued.
- b. One accessory dwelling unit (ADU) is permitted on any lawfully conforming or nonconforming lot with a single-family or two-family dwelling. An ADU is exempt from building coverage and minimum lot area requirements unless located in the Shoreland Zone, in which case such requirements continue to apply.
- c. ADUs are permitted within an existing conforming or nonconforming principal building, as additions sharing a common wall with a principal building, or as detached accessory structures. However, the addition of an ADU may not increase the degree of nonconformity of an existing nonconforming structure.
- d. ADUs constructed as additions to a principal building must meet the setback requirements for principal buildings within the district. Detached ADUs shall not be subject to side and rear setbacks for principal buildings or accessory structures, but shall maintain a minimum interior side setback of five feet, and a minimum rear setback of 10 feet.
- e. Detached ADUs may not be located between any principal building and a front lot line.
- f. The height of a detached ADU may not exceed the height of the primary structure, unless constructed as a vertical addition to an existing garage, in which case the height of the structure is limited to 25 feet or the height of the principal structure, whichever is greater.
- g. ADUs are limited to a maximum gross floor area of 800 square feet or 80% of the size of the principal dwelling unit, whichever is less.
- h. No parking is required for an accessory dwelling unit.
- i. No accessory dwelling unit may be used as a short-term rental.
- j. Accessory dwelling units must meet the water and sewer requirements applicable to all development. For accessory dwelling units that are served by a well, the water must be document to be potable, and acceptable for domestic use, either before or after being put through a water treatment system, prior to the unit being occupied.



B. Drive-Through Facility

1. All drive-through facilities must provide a minimum of four stacking spaces per lane or bay, unless additional stacking spaces are specifically required by this Code. Further, additional internal queuing and stacking spaces and other access points to prevent disruption of traffic flow on adjacent streets may be required.
2. Stacking spaces provided for drive-through uses must be:
 - a. A minimum of nine feet in width, as measured from the outermost point of any service window or bay entrance, to the edge of the driveway, and 18 feet in length. In the case of a recessed service window, the measurement is taken from the building wall.
 - b. Stacking spaces must begin behind the vehicle parked at a final point of service exiting the drive through aisle, such as a service window or car wash bay (this does not include a drive-through sign). Spaces must be placed in a single line behind each lane or bay.
3. The minimum width for a drive through lane is ten feet.
4. All drive-through lanes must be located and designed to ensure that they do not adversely affect traffic circulation on adjoining streets. Drive-through lanes on corner lots must not route exiting traffic into adjacent residential neighborhoods.
5. Drive-through facilities require a solid fence or wall a minimum of six feet in height along the interior side and rear lot lines when such lot lines abut a residential district, NC, or WMU District. One shrub, a minimum of three feet in height at maturity is required every three linear feet along such fence or wall, placed inside the fence toward the interior of the lot.
6. All drive-through facilities, including but not limited to drive-through signs, stacking lanes, trash receptacles, audio equipment, drive up windows, and other objects associated with the drive-through facility, must be located to the side or rear of the building. Drive-through windows and lanes may not be placed between the street and the associated building.

C. Home Occupation

1. Home occupations are permitted in a dwelling unit as an accessory use provided that the use is clearly incidental and secondary to the primary use of the dwelling for residential purposes and does not change the residential character of the dwelling unit or adversely affect the surrounding residential district.
2. A home occupation may be conducted within the principal structure or within a detached accessory structure.
3. No alteration of any structure may be made that changes the residential character of that dwelling. Displays or activities that indicate from the exterior that a structure is being used, in part, for any purpose other than that of a residence or an accessory structure are prohibited.
4. No commodities can be sold or services rendered that require receipt or delivery of merchandise, goods, or equipment other than by a passenger motor vehicle or by parcel or letter carrier mail services using vehicles typically employed in residential deliveries.
5. The home occupation and all related activity, including storage, equipment, and display, must be conducted completely within the principal building or accessory structure.
6. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restricted materials may be used or stored on-site. There must be no perceptible noise, odor, smoke, electrical interference, vibration, or other nuisance emanating from the structure where the home occupation is located in excess of that normally associated with residential use.
7. The use or storage of tractor trailers, semi-trucks, or heavy equipment, such as construction equipment used in a commercial business, is prohibited.



8. The home occupation may not create greater vehicular or pedestrian traffic than is average for a residential area. The home occupation and any related activity must not create any traffic hazards or nuisances in public rights-of-way.
9. Only one non-illuminated, affixed wall sign no more than one square foot in area is permitted in association with the home occupation.
10. Repair and service of any vehicles, boats, equipment, any type of heavy machinery, or any type of engine is prohibited. Small electronic repair, such as computers, is allowed.
11. Rental services, where any materials for rent are stored on-site and customers visit the residence to pick-up and return the product, are prohibited
12. Dispatching services, where workers report to the home for dispatching, are prohibited.
13. Day Care Homes are not a home occupation and are regulated separately by this Code as a principal use.

D. Outdoor Sales and Display

The regulations of this section apply to outdoor sales and display located entirely on the same lot and accessory to the principal use of the site.

1. Accessory outdoor sales and display of merchandise must be merchandise that is customarily sold on the premises.
2. All outdoor display of merchandise must be located adjacent to the storefront. Merchandise may not be placed in drive aisles, loading areas, or fire lanes.
3. No display may be placed within five feet of either side of an entry or exit door, or within 20 feet directly in front of an entry or exit door.
4. A minimum clear width for pedestrian traffic of five feet must be maintained along any pedestrian pathway within the lot.

E. Outdoor Storage (Accessory)

The regulations of this section apply only to outdoor storage located entirely on the lot and accessory to the principal use of the site. Outdoor storage as a principal use of the site is regulated as a principal use (outdoor storage yard).

1. Outdoor storage of material and equipment must be associated directly with and accessory to the on-site principal business use, such as input materials, equipment, inventory, or outgoing products.
2. Outdoor storage areas require a solid fence or wall a minimum of six feet in height along the interior side and rear lot lines. One shrub, a minimum of three feet in height at maturity, is required every three linear feet, placed inside the fence toward the interior of the lot. This does not apply in the industrial districts unless such lot lines abut a residential district.
3. No outdoor storage is permitted in any public right-of-way or located so as to obstruct pedestrian movement, vehicular traffic, or corner clearances.
4. Outdoor storage is prohibited in any required setback. Outdoor storage areas are not permitted between a building and a street.

F. Outdoor Seating/Activity Area

This section regulates outdoor seating/activity areas that occur on private property only.

1. If food and/or beverages are to be consumed in an outdoor seating/activity area at any time between the hours of 11:00pm and 7:00am, such area must be separated by a distance of at least 100 feet from the nearest lot line of any property within a residential zoning district, measured from the closest edge of the outdoor seating/activity area to the nearest lot line of property within a residential zoning district.



8.5 Temporary Use Standards

Temporary uses are required to comply with the standards of this section, in addition to all other regulations of this Code, and any licensing requirements contained elsewhere in the City Code. These regulations apply to temporary uses located on private property. A temporary use permit is required for any use listed, unless the standards specifically exempt the use from requiring a permit. Temporary uses do not require any parking unless specifically cited in the temporary use standards, or stipulated as a condition of permit approval.

A. Temporary Uses and Events in General

1. Defined

A temporary use is a use that is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time and does not involve the construction or alteration of any permanent structure. This section addresses temporary uses located on private property only.

2. Authorization and Permit

- a. Temporary uses and events are allowed per the permissions of Table 8-1 pursuant to a permit that may be issued upon written application to the Codes Enforcement Officer.
- b. Each temporary use on a site requires a separate temporary use permit.
- c. The CEO or other review authority as indicated within the standards will not approve or issue any permit for a temporary use or event, nor will any such permit remain valid unless the applicant satisfies the following conditions throughout the term of the permit:
 - i. The temporary use does not cause or threaten to cause an on-site or off-site danger to the public health, safety, and welfare.
 - ii. The use maintains compliance with all applicable provisions of City ordinances.
 - iii. The temporary use does not conflict with another previously authorized temporary use.
 - iv. The temporary use has obtained approval from the applicable City departments regarding plans for structures, and plans for vehicular and pedestrian access in connection with the temporary use or event.
 - v. The temporary use maintains compliance with all applicable public health regulations.
 - vi. The temporary use maintains compliance with any conditions established by the CEO or other review authority which are necessary to protect the public health, safety, and general welfare and the objectives and policies of this Ordinance.

3. Violations

Any violations of terms and/or conditions as established by these standards and/or the temporary use permit that are not corrected within 24 hours will result in the immediate revocation of the temporary use permit.

4. Expiration

The temporary use permit is valid only for the time period granted as part of the approval.

B. Farmer's Market

1. The timeframe of a farmers' market, including number of days per week and overall duration of the event, will be determined and approved as part of the temporary use permit. A temporary use permit for a farmers' market can be issued on a yearly basis, which allows for a schedule of days per week and number of weeks per year.
2. In any residential district, farmer's markets may only be authorized when sponsored by and for the benefit of not-for-profit, charitable, or governmental entities that are allowed within the district in which such property is located the farmer's market is held on property owned or controlled by such entities.



3. A management plan is required as part of the temporary use permit application. The management plan must demonstrate the following:
 - a. The on-site presence of a representative of the farmers' market during hours of operation who directs the operations of vendors participating in the market.
 - b. An established set of operating rules addressing the governance structure of the market, hours of operation, and maintenance when open to the public.
 - c. A general site plan, including vendor stalls, parking areas, and visitor facilities including any seating areas and restrooms, and all ingress and egress points to the site.
 - d. A lighting plan describing all temporary lighting to be installed.
 - e. Provision for waste diversion, management, and/or removal.
 - f. The days and hours needed to carry out internal operations, including vendor set-up and take-down times.

C. Farmstand

1. A farmstand for the sale of food or non-food crops grown or produced only on the premises is permitted per Table 8-1, and is exempt from temporary use permit requirements.
2. Farmstands must be less than 200 square feet in area.
3. A farmstand may be located in a required front setback, but must be set back a minimum of 15 feet from a street right-of-way.

D. Garage and Yard Sales

1. A garage or yard sale is permitted as a temporary use on residential property, and is exempt from temporary use permit requirements.
2. Sales may be held on a property only if the owner or occupant of that property is selling items in the garage or yard sale.
3. Garage and yard sales are limited to no more than two events per calendar year, for periods not to exceed three days.

E. Mobile Food Vendor

These standards apply to individual mobile food vendors, such as food trucks and trailers, that are located on private property as a temporary use. These standards do not apply to mobile food vendors that provide catering services as a component of an event, including at private residences.

1. The timeframe of a temporary mobile vendor use, including number of days per week and overall duration of the event, will be determined and approved as part of the temporary use permit. Daily operations of mobile food vendors are limited to the hours between 6:00am and 11:00pm.
2. The temporary use permit will be evaluated on the basis of the adequacy of the parcel size, pedestrian safety and traffic access, and the absence of undue adverse impact, including noise, on other properties.
3. In any residential district, mobile food vendors may only be authorized when sponsored by and for the benefit of not-for-profit, charitable, or governmental entities that are allowed within the district in which such property is located and the mobile food vendors are parked on property owned or controlled by such entities.
4. If the mobile food vendor operator is not the owner of the site where the truck or trailer will be located, written permission from the property owner must be submitted as part of the temporary use permit application.
5. A permanent water or wastewater connection is prohibited.



6. Electrical service may be provided only by temporary service or other connection provided by an electric utility, or an on-board generator.
7. No lighting is permitted, except for localized lighting that illuminates the area in front of and around the mobile food vendor, and for the purpose of food preparation and menu illumination.
8. Drive-through service is prohibited.
9. A minimum of one refuse receptacle and one recycling receptacle must be placed in a location that does not impede pedestrian or vehicular traffic. Trash and recycling receptacles must be removed from the premises with the mobile food vending unit.
10. All equipment needed to prepare and serve food must be contained within the mobile food vending unit. All furniture, umbrellas, generators, and other objects or structures outside of the mobile food vending unit must be removed from the premises with the mobile food vending unit. No appurtenances related to the mobile food vending unit may be left at the property once the unit closes. Such objects or structures must not obstruct vehicular or pedestrian access.
11. The permit holder is responsible for the following:
 - a. Maintaining proper licensure with the Maine Department of Motor Vehicles and the Maine Department of Health and Human Services.
 - b. Maintaining a valid mobile vending license issued by the City of Bath
 - c. Keeping the area clear of litter and debris at all times.

F. Real Estate Project Sales Office/Model Unit

1. A real estate sales office/model unit(s) is allowed for a residential development, and is exempt from temporary use permit requirements.
2. No real estate sales office/model unit(s) may be located in a manufactured home or off-site.
3. The real estate sales office must be removed and/or closed within 30 days after the sale or rental of the last unit of the development. The model unit(s) must be closed within 30 days after the sale or rental of the last unit of the development.
4. All activities conducted within real estate sales office/model unit(s) must be directly related to the sale of properties within the development. Use of the premises as a general office for operation of any firm is prohibited.
5. These standards do not apply to permanent leasing offices.

G. Temporary Contractor's Office and Contractor's Yard

1. A temporary contractor's office is allowed incidental to an approved, permitted construction project, and is exempt from temporary use permit requirements.
2. The temporary contractor's office must be removed within 30 days of completion of the construction project.
3. A contractor's yard is permitted on-site, and may only be used during the duration of the construction project. No sleeping or cooking accommodation is allowed.

H. Temporary Off-Site Parking

1. Applications for the use of temporary off-site parking shall be reviewed and approved by the Bath City Council.
2. Any site to be used for temporary off-site parking must provide safe and clearly marked access points, with adequate internal circulation to prevent hazards to pedestrians, vehicles, and adjacent properties.



3. The surface of temporary off-site parking areas may not be paved or otherwise permanently improved. All temporary off-site parking areas must be stabilized to minimize dust, erosion, and impacts to adjacent properties, such as through the use of compacted gravel. Other suitable materials may be approved by the review authority.
4. Any lighting associated with the temporary off-site parking must be directed downward and away from adjacent properties to avoid glare.
5. The use shall not create significant adverse impacts related to traffic, noise, light, or dust. The review authority may require temporary fencing, landscaping, or other buffering to mitigate any potential impacts.
6. Sites must be maintained in a clean and orderly condition, free of debris and litter.
7. Upon termination of the temporary off-site parking use, the site shall be restored to its prior condition or as otherwise specified as part of the approval.

I. Temporary Outdoor Entertainment and/or Sales Event

1. The timeframe of a temporary entertainment and/or sales event, including number of days per week and overall duration of the event, will be determined and approved as part of the temporary use permit. The temporary use permit may be issued on a yearly basis.
2. Temporary entertainment and/or sales events in the residential districts are restricted to those events associated with and conducted by an institutional/commercial use within the district, such as a place of worship, commercial business, or educational facility, and must take place entirely on the lot containing the use.
3. A management plan is required and must be approved as part of the temporary use permit application. The management plan must include the following:
 - a. An estimate of the daily number of attendees.
 - b. General layout of performance or sales areas, visitor facilities, such as any seating areas and restrooms, parking areas, and all ingress and egress points to the site.
 - c. An established set of operating rules addressing the governance structure of the event, hours of operation, maintenance, and security requirements.
 - d. The on-site presence of a manager during the event.
 - e. Provision for waste diversion, management, and/or removal.
 - f. The days and hours of operation, including set-up and take-down times.
 - g. A description of crowd control and security measures as applicable.
 - h. A lighting plan describing all temporary lighting to be installed.
4. Any temporary structures must be removed within five days following the conclusion of the event.

8.6

Use Definitions

Accessory Dwelling Unit (ADU). An additional dwelling unit associated with and incidental to a principal dwelling on the same lot.

1. **Attached Accessory Dwelling Unit.** An additional subordinate dwelling unit located on the same lot as a principal dwelling unit, which is joined to another dwelling at one or more sides by a wall and contained entirely within the footprint of the principal dwelling unit. Examples include converted living space, attached garages, basements, or attics, additions, or a combination thereof.



2. **Detached Accessory Dwelling Unit.** An additional subordinate dwelling unit located on the same lot as a principal dwelling unit as a stand-alone, separate structure. This can include an existing garage or other accessory structure detached from the principal dwelling unit that is legally converted (fully or partially) to an accessory dwelling unit.

Adult Business Establishment. See Chapter 5, §5-96 of the Bath City Ordinances.

Agriculture. Land and associated structures used to grow crops and/or raise livestock for sale, personal food production, donation, and/or educational purposes. The agriculture use includes single-family and two-family dwellings, and any additional dwellings that are accessory to the principal use of agriculture. Agriculture also includes the use of farmstands for the sale of crops grown on the premises.

Airport. Facilities for the takeoff and landing of aircraft, including airplanes, helicopters, and ultralight aircraft. Airports also include but are not limited to runways, aircraft storage buildings, cargo storage buildings, helicopter pads, air traffic control facilities, informational facilities and devices, terminal buildings, and airport auxiliary facilities including fueling, fences, lighting, antennae systems, driveways, and access roads. Airport includes aircraft maintenance facilities, aviation instruction facilities, and heliports when part of a larger airport facility. Airport also includes facilities for the aid and comfort of the traveling public.

Alternative Correctional Facility. A monitored housing facility for adults or minors that is required by the courts or otherwise available as an alternative to incarceration.

Amusement Facility – Indoor. A facility for participatory and spectator uses conducted within an enclosed building, including but not limited to movie theaters, bowling alleys, tumbling-trampolining-gymnastics centers, skating or roller rinks, escape room/physical adventure game facilities, and pool halls. Indoor amusement facilities do not include live performance venues. An indoor amusement facility may include ancillary uses including but not limited to concession stands, eating and drinking establishments, and retail sales.

Amusement Facility – Outdoor. A facility for participatory and spectator uses conducted outdoors or within partially enclosed structures such as outdoor sports stadiums, batting cages, and miniature golf courses. An outdoor amusement facility may include ancillary uses including but not limited to concession stands, eating and drinking establishments, and retail sales.

Animal Care Facility. An establishment that provides care for domestic animals, including veterinary offices for the treatment of animals, where animals may be boarded during their convalescence, pet grooming establishments, animal training centers and clubs, and pet boarding facilities, where animals are boarded during the day and/or for short-term stays.

Animal Shelter. A facility used for the housing, care, and adoption of stray, abandoned, or surrendered animals.

Aquaculture. The controlled cultivation and rearing of aquatic animals or plants, encompassing activities such as fish farming, shellfish cultivation, seaweed production, and the operation of hatcheries or nurseries.

Art Gallery. An establishment that exhibits, sells, and/or loans works of art including paintings, sculpture, photographs, and other visual or mixed media. Art gallery does not include a cultural facility such as a library or museum, which may also display paintings, sculpture, photographs, and other visual or mixed media.

Arts and Fitness Studio. An establishment offering instruction, practice, or study of an art or fitness activity, such as dance, martial arts, photography, music, painting, gymnastics, pilates, or yoga. This includes private studios for individual or small group instruction. Arts and fitness studios do not include health clubs, which are considered personal service establishments.

Banquet Hall. A facility that provides hosting and rental services of a banquet hall or similar space for private events including but not limited to wedding receptions, holiday parties, and fundraisers. Food and beverages may be prepared and served on-site or by a caterer to invited guests during intermittent dates and hours of operation. Live entertainment may be provided as an ancillary use during events. A banquet hall does not operate as a regular eating and drinking establishment with set hours of operation.

Bed and Breakfast. A single-family dwelling where a resident/owner provides overnight accommodation for a fee and may provide meals for guests.



Body Art Studio. An establishment that offers services for tattooing, body piercing, and/or non-medical body modification. Body art studio does not include establishments that offer only ear piercing as an ancillary service.

Broadcasting Facility. A facility engaged in the production, transmission, or relay of radio and television signals, including studios and associated equipment. Antennae for signal broadcasting may or may not be present on-site.

Campground/RV Park. Land used for transient occupancy, where a fee is charged for the temporary placement of tents and recreational vehicles (RVs), such as camp trailers, travel trailers, motor homes, or similar movable sleeping quarters.

Cannabis, Cultivation Facility. See Article 19.

Cannabis, Manufacturing and Testing. See Article 19.

Cannabis, Retail Store. See Article 19.

Cannabis, Medical Cannabis Dispensary and Medical Cannabis Storefront. See Article 19.

Car Wash. An establishment providing vehicle and light-duty equipment washing services, whether automated, manual, or self-service. Car wash facilities may be located within an enclosed structure, open bay, or similar configuration.

Care Home. A licensed, certified, or accredited residence that operates as a single household for 9 or more unrelated individuals with functional disabilities. Residents share responsibilities, meals, recreation, social activities, and other aspects of daily living.

Cemetery. Land and structures used or intended to be used for the interring of human or animal remains. Cemeteries may include structures for performing religious ceremonies related to the entombment of the deceased, mortuaries, including the sale of items related to the internment of remains, and related accessory structures, such as sheds for the storage of maintenance equipment. Cemeteries may also include crematoriums and embalming facilities.

Children's Home. An institutional residential facility that provides housing and care to minors who are wards of the state or who otherwise require out-of-home placement. This includes institutions that are located in one or more buildings on contiguous property with one administrative body.

Commercial Kitchen. A licensed commercial kitchen facility where multiple individuals or businesses rent space and equipment on a scheduled basis to prepare value-added food products or meals for sale or distribution. Fees are typically based on usage time (daily, weekly, monthly, etc.).

Community Center. A facility open to the public and operated on a not-for-profit basis, offering a variety of educational programs, recreational activities, social gatherings, and community services.

Community Garden. Non-commercial use of land where fruits, flowers, vegetables, or ornamental plants are cultivated by multiple individuals or groups, typically for personal consumption, educational purposes, or community benefit.

Cultural Facility. A facility open to the public that provides access to exhibits, activities, and resources related to art, history, science, or other aspects of culture. Examples include museums, cultural or historical centers, libraries, and non-commercial art galleries. A cultural facility may include ancillary uses such as retail sales of related items, performance spaces and auditoriums, and eating and drinking establishments.

Day Care Center. A facility where, for a portion of a 24-hour day, care and supervision is provided in a protective setting for children, the elderly, and/or functionally-impaired adults who are not related to the owner or operator of the facility.

Day Care Home. A residential dwelling where, for a portion of a 24-hour day, care and supervision is provided in a protective setting for children, the elderly, and/or functionally-impaired adults who are not related to the owner or operator, and who do not reside in the home.

Drive-Through Facility. A designated area of a business establishment where customers conduct transactions, place orders, or receive services without leaving their vehicles. Drive-through facilities typically include service windows, kiosks, speaker systems, and designated traffic lanes for queuing and service.



Drug Treatment Clinic. A state-licensed facility authorized to administer medications like methadone or buprenorphine (Suboxone) for the treatment of opioid or other substance use disorders, including medication-assisted treatment (MAT), maintenance, and detoxification.

Dwelling - Above the Ground Floor. Dwelling units located above ground-floor nonresidential uses, or located behind ground-floor nonresidential uses. In the case of dwelling units located behind ground-floor nonresidential uses, the residential uses cannot be located along the street frontage.

Dwelling – Live/Work. A structure that combines a dwelling unit with a commercial use permitted in the zoning district that is used by one or more of the residents. A live/work dwelling may also include the combination of a dwelling unit with arts-related activities, such as painting, photography, sculpture, music, and film, used by one or more of the residents.

Dwelling - Multi-Family. A structure containing three or more dwelling units, each with independent living facilities, such as kitchens and bathrooms. These units share common walls and may be accessed through one or more shared entryways. Ground-floor units may have individual, private entrances.

Dwelling - Single-Family Detached. A structure containing one dwelling unit on a single lot.

Dwelling – Single-Family Attached. A dwelling unit attached to one other dwelling unit, each on their own lot, each of which is separated from the other by a vertical party wall and designed so that each dwelling has a separate exterior entrance to the dwelling unit.

Dwelling – Townhouse. Three or more attached dwelling units, the interior of which is configured in a manner such that dwelling units are attached horizontally, and share one or more vertical party walls. Each dwelling unit in a townhouse is located on a separate lot with a separate exterior entrance.

Dwelling - Two-Family. A structure containing two dwelling units on a single lot.

Eating and Drinking Establishment. An establishment where food and/or drinks are prepared and provided to the public for on-premises consumption by seated patrons, carry-out, and/or delivery service. Restaurants and bars are considered eating and drinking establishments.

Educational Facility - College/University. A facility for post-secondary higher education that grants associate, bachelor, master, and doctoral degrees, including graduate and professional schools. Educational facilities – university or college include ancillary uses such as dormitories, cafeterias, eating and drinking establishments, retail sales, indoor or outdoor recreational facilities, and similar uses.

Educational Facility - Primary or Secondary. A public, private, or parochial facility that offers instruction at the elementary, junior high, and/or high school levels. A pre-school may also be included as part of a primary school.

Educational Facility – Vocational. A facility that offers instruction in industrial, clerical, computer, managerial, automotive, repair (electrical, plumbing, carpentry, etc.), or commercial skills, or a business conducted as a commercial enterprise, such as a school for general educational development or driving school. Educational facility - vocational also applies to privately operated schools that do not offer a complete educational curriculum. This does not include primary or secondary educational facilities.

Farmer's Market. A temporary or recurring market where one or more local farmers or vendors gather to sell a variety of fresh produce, locally produced farm and food products, and value-added products directly to consumers. This can include fruits, vegetables, meats, dairy products, baked goods, flowers, and other artisanal goods. Farmer's markets may also offer prepared foods, crafts, and live entertainment.

Farmstand. A temporary structure used for the sale of food or non-food crops grown on the premises.

Financial Institution. A bank, savings and loan, credit union, or mortgage office. Financial institution also includes currency exchanges

Financial Service, Alternative (AFS). A financial service provided outside a traditional banking institution. An alternative financial institution includes pawn shops, payday loans, tax refund anticipation loans, car title loans, and cash for gold establishments.

Food Bank. A non-profit or governmental organization that collects and distributes food to hunger relief organizations. Food is not distributed directly to individuals from a food bank.



Food Pantry. A non-profit or governmental organization that receives, buys, stores, and distributes food directly to those in need at no cost. Food pantries may also prepare meals to be served at no cost to those who receive them. A food pantry may be an independent establishment or may operate as an ancillary use of a place of worship, social service center, and/or homeless shelter.

Freight Terminal. A processing node for freight, such as a trucking terminal

Fueling Station. A facility designed for the storage and dispensing of motor vehicle fuels, primarily gasoline and diesel through fixed equipment directly into the fuel tanks of vehicles, or providing services specific to charging electric vehicles. Fueling stations may also offer additional services such as ancillary retail.

Funeral Home. A facility that provides services related to the care and disposition of the deceased, including preparation of the body for burial or cremation, embalming, cosmetology, and dressing. Funeral homes may also offer space for visitations, memorial services, and funerals, which may include chapels and viewing rooms. A funeral home may have an on-site crematorium.

Garage/Yard Sale. The temporary sale of used personal property conducted from a residential property, typically in a garage, yard, or other outdoor area. Such sales are conducted by the property owner or resident.

Golf Course. An area of land designed with at least nine holes for playing a game of golf, improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse, restrooms, snack bar, and pro shop as ancillary uses. A driving range may also be included as a component of a golf course. A private recreation club may include a golf course as part of the principal use.

Government Office/Facility. Offices owned, operated, or occupied by a governmental agency to provide a governmental service to the public, such as City offices, courthouses, and post offices. Government offices do not include public safety or public works facilities

Halfway House. A residential facility for individuals who have been institutionalized for criminal conduct and who either require a group setting to facilitate transition back into the community, or have been ordered to such facilities as a condition of parole or probation.

Heavy Retail, Rental, and Service. Retail, rental, and/or service establishments of a heavier and larger-scale commercial character typically requiring permanent outdoor service or storage areas and/or partially enclosed structures. Examples of heavy retail, rental, and service establishments include large-scale home improvement centers that may have outdoor storage, display, and rental components, recreational vehicle dealerships, boat sales, rental, and service, truck rental establishments, and sales, rental, and repair of heavy equipment. Wholesale establishments that sell to the general public, including those establishments where membership is required, are considered heavy retail, rental, and service establishments.

Home Occupation. A business or commercial activity conducted by a resident for economic gain, operated as an accessory use within the resident's dwelling and subordinate to the primary residential use of the property.

Hospital. A facility providing primary health services and medical or surgical care to people, primarily in-patient, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities, dormitories, or educational facilities, and ancillary uses including but not limited to cafeterias, eating and drinking establishments, retail sales, and similar uses.

Hotel. A commercial establishment providing temporary sleeping accommodation for a fee. Hotels customarily offer a range of services, including room reservations, housekeeping, laundry, and on-site reception and management. Related ancillary uses may include amenities such as meeting rooms, eating and drinking establishments, and recreational facilities for guests.

Individual Private Campsite. A designated area of land, not associated with a campground or RV park, developed for the exclusive and repeated use of a single group of up to 10 individuals for camping purposes. This area may include site improvements such as gravel pads for tents or RVs, parking areas, fireplaces, and wooden tent platforms.

Industrial – Artisan/Craft. The creation of handcrafted or artisanal goods through small-scale industrial processes, such as metalworking, glassblowing, furniture making, and small-scale food production (preparation, processing, canning, packaging). Micro-production of alcohol and specialty food production are regulated separately from artisan/craft industrial. An artisan/craft industrial use may include retail sales of products created on-site.



Industrial – General. The manufacture, fabrication, processing, reduction, and/or destruction of any article, substance, or commodity, or any other treatment thereof in such a manner as to change the form, character, and/or appearance. General industrial uses may also include incidental storage, sales, and distribution of products created on-site. General industrial uses may produce noise, vibrations, illumination, or particulate that is perceptible to adjacent land users, and may contain significant areas of outdoor storage.

Industrial – Light. Research and development activities, and the manufacture, fabrication, processing, reduction, and/or destruction of any article, substance, or commodity, or any other treatment thereof in such a manner as to change the form, character, and/or appearance, where such activities are conducted wholly within an enclosed building. A light industrial use may also include a showroom, sales of products related to the items manufactured or stored on-site, and/or ancillary outdoor storage.

Industrial Design. An establishment for the research, design, and brand development of products for future production. Industrial design integrates the creative fields of art, science, and/or engineering to determine and define a product's form and features in advance of the physical act of making a product. An industrial design establishment may create prototypes but may not mass manufacture products from the premises.

In-Home Lodging. Up to three private bedrooms rented for a minimum of a 30-day consecutive lease within a single-family detached or attached, two-family, or townhouse dwelling in which the owner resides, without dedicated cooking facilities for the lodger(s). Access to the home's kitchen may be granted or restricted depending on the agreement between the homeowner and lodger(s).

Kennel. A facility for the breeding and raising of domestic animals for sale.

Live Entertainment – Ancillary. A live performance by one or more individuals including but not limited to musical acts (including DJs), theatrical plays, stand-up comedy, and similar acts, included as part of the operation of an eating and drinking establishment, amusement facility, or similar use. As an ancillary use, the principal use operating on the site is open to the public during hours when no performance is scheduled. Ancillary live entertainment is approved separately as a principal use. Ancillary live entertainment does not include:

1. Any sexually oriented business.
2. Live performance venue.
3. Periodic performances or entertainment at educational facilities, places of worship, cultural facilities, reception facilities, and performances at weddings and similar events.
4. Incidental entertainment, which is defined as background music provided at an eating and drinking establishment.

Live Performance Venue. A establishment specifically designed and equipped for the presentation of scheduled live entertainment events, such as musical performances (including DJs), theatrical plays, stand-up comedy, and similar acts. Tickets are typically required for admission and can be purchased in advance or at the venue on the day of the performance. A live performance venue is open to the public only during scheduled performances, but may include classrooms for instruction or other similar uses when the venue is not in use for performances. A live performance venue may include concession stands, including alcohol sales, only when open to the public for live entertainment events. A live performance venue does not include any sexually-oriented business.

Lodge/Meeting Hall. A facility operated by an organization or association for a common purpose including but not limited to a meeting hall for a fraternal or social organization or a union hall, but not including clubs organized primarily for-profit or to render a service which is customarily carried on as a business.

Long-Term Care Facility. A nursing home, residential care facility, assisted living facility, post-acute head injury retraining and residential care facility, or any other facility which provides long-term medical or non-medical care. Long-term care facility includes continuum of care facilities, but does not include correctional facilities, hospitals, hotels, or rooming houses.

Manufactured Home – Dwelling. A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. For the purposes of this Code, a manufactured home – dwelling shall be further defined as follows:



1. A manufactured home – dwelling is a dwelling unit constructed after June 15, 1976, commonly called a “newer mobile home,” that the manufacturer certifies is constructed in compliance with the U.S. Department of Housing and Urban Development (HUD) standards, meaning a structure, transportable in one or more sections, which, in the traveling mode, is 14 body feet or more in width and 750 or more square feet in area, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, including the plumbing, heating, air conditioning, and electrical systems contained therein. The term includes any structure that meets all the requirements of this paragraph except the size requirements, and with respect to which the manufacturer voluntarily files a certification required by the HUD Secretary and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.
2. Those units commonly called “modular homes” that the manufacturer certifies are constructed in compliance with Title 10 M.R.S., chapter 951, and rules adopted under that chapter, shall not be considered manufactured homes for the purposes of this Code, but shall be considered single-family homes built using modular construction.
 - a. **Modular Construction.** A method of construction for residential dwellings. Modular homes are built in one or more transportable sections, not constructed on a permanent chassis, and are designed to be used as dwellings on foundations when connected to required utilities including plumbing, heating, air conditioning, and electrical systems. Modular construction and modular homes must meet all local and state residential building code requirements.
3. Those units commonly called “older mobile homes,” constructed before June 15, 1976, shall not be considered manufactured homes for the purposes of this Code. Such units may not be used for any use, except as a temporary construction office.

Manufactured Home Park. A site under single control or unified ownership that has been planned and improved for the placement of manufactured homes on individual stands for residential use.

1. **Manufactured Home Stand.** A designated area within a manufactured home park reserved for the placement of a manufactured home.

Marina. A facility with navigable water access that offers docking, storage, and various services for boats and their occupants. Services may include the provision of slips, moorings, or other designated spaces for temporary or long-term boat storage, as well as minor repairs and maintenance while in the water, fueling, pump-out, and haul-out services. Marinas may include retail of marine supplies, boating equipment, and accessories, as well as eating and drinking establishments, and entertainment as ancillary uses. A yacht club is considered a marina.

Medical/Dental Office/Clinic. A facility where one or more licensed healthcare professionals, such as physicians, dentists, chiropractors, psychiatrists, physiotherapists, or other practitioners of the healing arts, provide examination and treatment services to patients on an outpatient basis. Medical/Dental Office/Clinic includes alternative medicine clinics offering therapies like acupuncture and holistic treatments, as well as physical therapy offices for rehabilitation.

Micro-Production of Alcohol. A facility for the production and packaging of alcoholic beverages, such as beer, wine, spirits, cider, and mead, for distribution and consumption on-premises. Facilities include a restaurant, bar and/or tasting room and may include retail areas for the purchase beverages manufactured on-site and related items.

Mineral Extraction. The extraction of borrow, topsoil, clay, rock, sand, or gravel, and the processing of such materials. The following activities are specifically exempt from this definition and are not considered to be mineral extraction:

1. Topsoil operations in which no more than 100 cubic yards of topsoil are removed per year, where the removal is accomplished with a vehicle having a capacity of 10 cubic yards or less, and the owner/operator provides a rehabilitation plan to return the topsoil to its original state.
2. Removal of materials when necessary and incidental to the construction or alteration of a building, road, or parking area on the same site as that from which the materials are removed.
3. Activity involved in the removal of metallic minerals or metallic mineral deposits that is not considered a mining activity and is not permitted where mineral extraction is permitted under the terms and conditions of this Code.



Mobile Food Vendor. A motor vehicle or food trailer towed by another vehicle, designed and equipped to sell food and/or beverages directly to consumers. It does not include wholesale food distributors. The vendor physically reports to and operates from an off-site kitchen for servicing, restocking, and maintenance each operating day.

Neighborhood Commercial Establishment. Select commercial uses located within a residential neighborhood to serve the needs of surrounding residents.

Office. An establishment that engages in the processing, manipulation, or application of business information or professional expertise. Such an office may or may not offer services to the public. An office is not materially involved in fabricating, assembling, or warehousing of physical products for the retail or wholesale market, nor engaged in the repair of products or retail services. An office does not include financial institution or industrial design.

Outdoor Sales and Display. Part of a lot used for outdoor sales and/or display of goods accessory to the principal use.

Outdoor Seating/Activity Area. An accessory use located outside of a principal building, providing space for seating, food and/or beverage consumption, and/or participatory activities such as trivia or games. This includes, but is not limited to, patios, decks, and rooftops.

Outdoor Storage (Accessory). The storage of materials, supplies, equipment, vehicles, and similar items outdoors, accessory to and used by the principal use of the lot.

Outdoor Storage Yard. The storage of material outdoors as a principal use of land for more than 24 hours. Salvage yards and junk yards are not considered outdoor storage yards and are prohibited.

Park. A public or private area of land designed and equipped for recreational activities, offering a range of amenities for residents and visitors. This includes, but is not limited to, playgrounds, ballfields, athletic fields, basketball courts, tennis courts, dog parks, skateboard parks, passive recreation areas, trails, golf courses/driving ranges, and gymnasiums. Parks may also include non-commercial indoor recreation facilities, amphitheaters, and ancillary uses such as eating and drinking establishments, retail establishments, and temporary outdoor events like festivals and performances.

Parking Lot (Principal Use). An open, hard-surfaced area, excluding a street or public way, used for the storage of operable vehicles, whether for compensation or at no charge.

Parking Structure (Principal Use). A structure used for the parking or storage of operable vehicles, whether for compensation or at no charge.

Passenger Terminal. A facility designed for the arrival and departure of passengers traveling by various modes of transportation. Passenger terminals may include amenities like ticketing counters, waiting areas, and baggage handling.

Personal Service Establishment. An establishment that provides frequent or recurrent services of a personal nature to individuals. Uses may include but are not limited to beauty shops, barbershops, tanning salons, electronics repair shops, nail salons, laundromats, health clubs, dry cleaners, and tailors.

Place of Worship. A facility where individuals regularly assemble for religious purposes and related social events, and which may include group housing for individuals under religious vows or orders. Places of worship may include additional uses such as day care centers, meeting rooms, food preparation and dining areas, auditoriums, dormitories, and/or classrooms for religious instruction.

Private Recreation Club. An establishment open to members, their families, and invited guests organized and operated for social and recreation purposes and which may include recreation facilities, both indoor and outdoor. Ancillary elements such as restaurants and bars, meeting rooms, and/or similar uses may be included. Examples of a private recreation club include a country club, swim club, tennis club, or YMCA. Commercial fitness centers, and athletic facilities and fields affiliated with educational institutions (public and private), are not considered private recreation clubs.

Private Social Club. An establishment, owned or operated by a corporation, association, or group of private individuals, open to members, their families, and invited guests organized and operated for pursuit of a common interest, occupation, or activity, and which may include restaurants and bars, meeting rooms, and/or similar uses.



Public Safety Facility. A facility operated by and for the use of public safety agencies such as the fire department, emergency medical services, and the police department including the dispatch, storage, and maintenance of police and fire vehicles. Public safety facilities include shelter and training facilities for canine and equine units of public safety agencies.

Public Works Facility. A facility operated by the municipal public works departments to provide municipal services, including dispatch, storage, and maintenance of municipal vehicles.

Real Estate Project Sales Office/Model Unit. A residential unit, commercial space, or standalone structure within a development that is temporarily used as a sales or leasing office. This use includes model units used for display purposes.

Research and Development. A facility where research and development is conducted in industries that include but are not limited to biotechnology, pharmaceuticals, medical instrumentation or supplies, communication, and information technology, electronics and instrumentation, and computer hardware and software. A research and development establishment may create prototypes of products but may not manufacture products for direct sale and distribution from the premises.

Residential Substance Abuse Treatment Facility. A licensed care facility that provides 24-hour medical, non-medical, and/or therapeutic care of individuals seeking rehabilitation from a substance abuse disorder. Such facilities include medical detoxification.

Retail Goods Establishment. An establishment that provides physical goods, products, or merchandise directly to the consumer, where such goods are typically available for immediate purchase and removal from the premises by the purchaser. A retail goods establishment does not include specialty food service.

Rooming House. Four or more private bedrooms rented for a minimum of a 30-day consecutive lease within a single-family home in which the owner resides, with a common kitchen and common areas shared between the permanent resident/property owner and tenants.

Sawmill. An industrial facility where logs are processed into lumber or other wood products. This includes activities such as debarking, sawing, edging, trimming, sorting, and stacking. Sawmills may also include kilns for drying lumber and planing mills for further processing.

Self-Storage Facility: Fully Enclosed. A facility for the storage of personal property where individual renters control and access individual storage spaces located within a single fully enclosed building that is climate controlled. Ancillary retail sales of related items, such as moving supplies, and facility offices may also be included.

Self-Storage Facility: Outdoor. A facility for the storage of personal property where individual renters control and access individual storage spaces and where each storage unit has individual access from the outdoors in one or more buildings. This includes multi-building self-storage fully enclosed uses. Ancillary retail sales of related items, such as moving supplies, and facility offices may also be included.

Shelter, Community. A licensed facility providing temporary housing and supportive services to individuals or families experiencing homelessness, crisis, or displacement. Services may include meals, laundry, counseling, case management, and assistance accessing permanent housing.

Shelter, Domestic Violence. A licensed facility that provides temporary shelter, protection, and support for those escaping domestic violence and intimate partner violence, including victims of human trafficking. A domestic violence shelter also accommodates the minor children of such individuals. The facility may also offer a variety of services to help individuals and their children including counseling and legal guidance.

Short-Term Rental. The rental of a whole dwelling unit to guests for periods of less than 30 consecutive days, where the property owner or leaseholder does not reside within the dwelling unit. Any multi-family dwelling or mixed-use development where 50% or more of the dwelling units are short-term rentals is considered a hotel.

Social Service Center. An establishment that provides assistance to those recovering from chemical or alcohol dependency, survivors of abuse seeking support, those transitioning from homelessness or prior incarceration, and those with health and disability concerns. It does not include in-patient, overnight, or living quarters for recipients of the service or for the staff. Such service does not include medical examinations or procedures, or medical detoxification, dispensing of drugs or medications, or other treatments normally conducted in a medical office.



Solar Energy Generation Facility. A complete design or assembly consisting of a solar energy collector and other components for the transformation, processing, storage, transmission, and/or distribution of photovoltaic solar energy. Within this Code, solar energy generation systems are further defined as follows:

1. **Solar Energy Generation Facility, Small-Scale.** A solar energy generation facility that is intended to convert solar energy into electricity for an established on-site use, and which has a project area of more than 750 square feet, but less than one acre.
2. **Solar Energy Generation Facility, Large-Scale.** A solar energy generation facility that is intended to convert solar energy into electricity for either on-site or off-site use, and which has a project area of at least one acre, but less than five acres.
3. **Solar Energy Generation Facility, Utility-Scale.** A solar energy generation facility that is intended to convert solar energy into electricity for commercial sale for off-site use, or which occupies an area of five acres or more.
4. **Solar Energy Generation Facility, Project Area.** All land area associated with a solar energy generation facility, including area for construction of the facility, containing access roads, internal roads, all components of the solar energy generation facility such as panels, inverters, battery storage and other components, electrical and communications infrastructure, structures, parking, security fencing, and vegetation clearing, including shade management areas.

Specialty Food Service. Specialty food service is an establishment where food products are prepared, processed, canned, and/or packaged and all processing is completely enclosed on-site and there are no outside impacts. Such business specializes in the sale of specific food products made on-site, such as a coffee roaster, nut roaster, and cheesemaker, and may offer areas for retail sales and/or eating and drinking areas that serve the products processed on-site. Catering businesses are considered a specialty food service. Specialty food service does not include bakeries, even if products are prepared on-site.

Supportive Housing. Housing that facilitates the movement of a target population to permanent housing within a period not to exceed 24 months following initial occupancy, and that is linked to on-site or off-site services that assist the supportive housing occupant in retaining other long-term housing, improving their health status, and maximizing their ability to live and, when possible, work in the community. Supportive Housing shall include spaces in a building where group sleeping accommodations are provided in one room, or in a series of closely associated rooms, for persons not members of the same family group, under joint occupancy and single management.

Temporary Contractor Office/Yard. A temporary, portable, or modular structure utilized as a watchman's quarters, construction office, or equipment shed during the construction of a new development. This may include a temporary contractor's yard where materials and equipment are stored in conjunction with a construction project.

Temporary Off-Site Parking. A temporary parking area intended to provide vehicle parking for a limited period of time on vacant or unimproved land.

Temporary Outdoor Entertainment and/or Sales Event. One or a combination of the following events:

1. **Temporary Outdoor Entertainment Event.** A temporary entertainment event, such as the performance of live music, revue, or play within an outdoor space. Temporary outdoor entertainment event includes festivals, carnivals/circuses, temporary worship services, and others.
2. **Temporary Sales Event.** A temporary sales event where goods are sold, such as consignment auctions, arts and crafts fairs, flea markets, temporary vehicle sales, and holiday sales, such as firework stands, Christmas tree lots, and pumpkin sales lots. This temporary use category does not include garage/yard sales.

Timber Harvesting. The cutting and removal of trees from their growing site and the attendant operation of cutting and skidding machinery, but not the construction or creation of roads. Timber-harvesting does not include the clearing of land for approved construction.

Utility (Principal Use). Any facility, infrastructure, and/or equipment used for the generation, transmission, storage, or distribution of electric energy, natural or manufactured gas, water, stormwater, cable television, internet, telephone services, or wastewater, between the point of generation and the end user. A utility does not include wireless telecommunications towers, antennas and/or facilities, satellite dish antennas, waste management facilities, recycling



collection facilities, or radio, television, or microwave transmission or relay towers. Utility also includes utility operation facilities where all activity occurs indoors.

Vehicle Operation Facility. A facility for the dispatch, storage, and maintenance of emergency medical care vehicles, taxicabs and similar vehicles for hire, school buses, utility vehicles, and similar vehicles. Vehicle operation facility does not include a public works or public safety facility.

Vehicle Repair/Service: Major. A business that provides major reconditioning of worn or damaged motor vehicles, motorcycles, all-terrain vehicles (ATV), recreational vehicles and trailers, towing and collision service, including body, frame, or fender straightening or repair, painting of motor vehicles, interior (e.g., upholstery, dashboard, etc.) reconstruction and/or repairs, and restoration services. A major vehicle repair business may also include services considered minor vehicle repair.

Vehicle Repair/Service: Minor. A business that provides minor repairs to motor vehicles and motorcycles, including repair or replacement of cooling, electrical, fuel and exhaust systems, oil changes, brake adjustments, tire replacement, wheel servicing, alignment, and balancing, realignment, repair and replacement of shock absorbers, and replacement or adjustment of mufflers and tail pipes, hoses, belts, light bulbs, fuses, windshield wipers/wiper blades, grease retainers, and wheel bearings, and similar minor repairs.

Vehicle Sales and/or Rental. An establishment that sells, leases, or rents new or used automobiles, vans, motorcycles, and/or all-terrain vehicles (ATV) vehicles, or other similar motorized transportation vehicles. Such use may maintain an inventory of the vehicles for sale or lease outdoors either on-site or at a nearby location and may provide on-site facilities for the repair and service of the vehicles sold, leased, or rented by the dealership. Vehicle sales and/or rental does not include truck, trailer, boat, or heavy equipment sales, which are considered heavy retail, rental, and service.

Warehouse. An enclosed facility for the storage and distribution of manufactured products or raw materials, supplies, and/or equipment.

Wholesale and Distribution. A business where goods are sold or consolidated to either retailers, or to industrial, commercial, institutional, or other professional business users, or to other wholesalers and related subordinated services for redistribution to other end users. Wholesale establishments that sell to the general public are considered heavy retail, rental, and service establishments.

Wind Energy System. A system of components which converts the kinetic energy of the wind into electrical or mechanical power and which comprises all necessary components, including energy storage, power conditioning, control systems, transmission systems (where appropriate) and structural support systems.

Wireless Telecommunications. Towers, antennas, and facilities used to transmit and receive signals that facilitate wireless telecommunications. The following definitions describe the wireless telecommunications infrastructure described within the general definition for wireless telecommunications:

1. **Wireless Antenna.** A specific device, the surface of which is used to transmit and/or receive signals transmitted to or from other antennas. This does not include satellite dish antennae.
2. **Wireless Facility Building.** A structure used to house and protect the equipment necessary for processing telecommunications signals, which may include air conditioning equipment and emergency generators. Facility also includes any necessary equipment that facilitates wireless transmission.
3. **Wireless Tower.** A structure designed and constructed to support one or more wireless telecommunications antennae and including all appurtenant devices attached to it.



9 General Development Standards

- 9.1 General On-Site Development Standards
- 9.2 Environmental and Health Protection Standards
- 9.3 Housing Density Allowances
- 9.4 Residential Conversion Standards
- 9.5 On-Site Green Space and Civic Space Requirements
- 9.6 Pedestrian Connectivity and Shoreline Access
- 9.7 Fences and Walls
- 9.8 Exterior Lighting
- 9.9 Historic or Archeological Resources
- 9.10 Permitted Encroachments
- 9.11 Performance Standards

9.1 General On-Site Development Standards

A. Multiple Principal Buildings on a Lot

Multiple principal buildings are allowed on one lot, provided that all buildings must comply with the standards of the zoning district in which the lot is located.

B. Interpretation of Irregular Lot Setbacks

The location of required setbacks on non-rectangular or otherwise irregularly shaped lots will be determined by the Codes Enforcement Officer. Determination shall be based on the spirit and intent of this Code to achieve an appropriate spacing and location of buildings on individual lots.

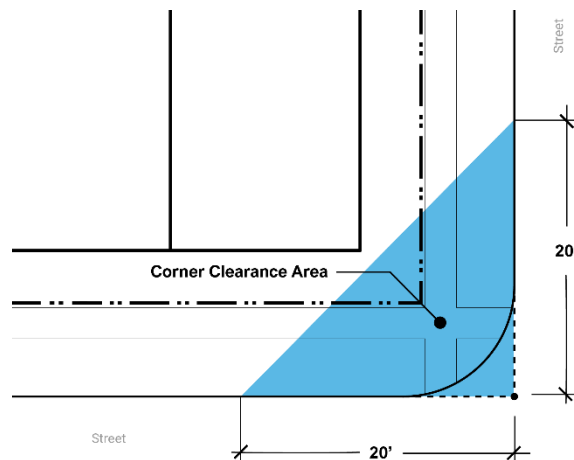
C. Structures Prohibited in Utility Easements

Permanent structures, including buildings, retaining walls, decks, and accessory structures, are prohibited within utility easements unless otherwise approved by the authorizing agency. If any structures are located within a utility easement and repair or replacement of the utility is necessary, the City or utility shall not be responsible for the replacement or repair of any structures that may be damaged.

D. Corner Clearances

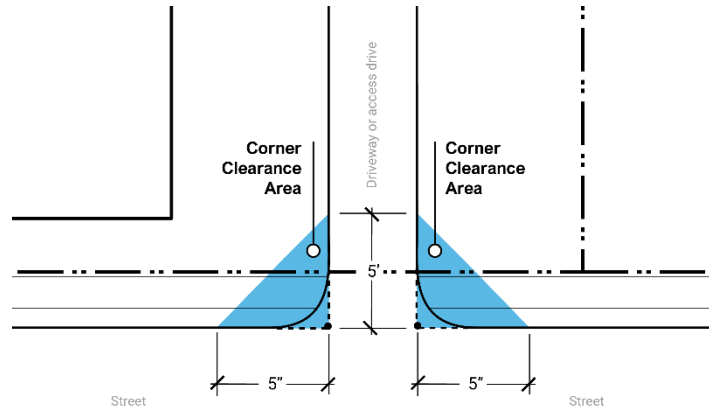
1. On a corner lot, no building, structure, fence, sign, hedge, or shrubbery may be erected, constructed, installed, maintained, or grown in such a manner that impedes vision between a height of three feet and ten feet above the street surface in the area bounded by the intersecting street lines and a line joining them at points that lie 20 feet from the point of intersection, measured at the edge of pavement.

Corner Clearance – Street Intersection



2. No building, structure, fence, sign, hedge, or shrubbery may be erected, constructed, installed, maintained, or grown in such a manner that impedes vision between a height of three feet and ten feet above the street surface within a corner clearance area bounded by an intersecting street and a driveway or access drive, and a line joining them at points that lie five feet from the point of intersection, measured at the edge of pavement.

Corner Clearance – Driveway or Access Drive



E. Setbacks from Future Streets

1. In cases where the City or State has identified the need for a new road to serve existing or future vehicular movement and the location of the proposed right-of-way has been established and can be located on the ground, no development that may encroach on the proposed right-of-way will be permitted unless one of the following conditions is met:
 - a. The development is set back from the proposed right-of-way as if it were an established public street.
 - b. The City or State is offered the opportunity to purchase the right-of-way and declines. In such cases, the City or State must be provided with a minimum of 60 days to accept or reject the offer to purchase. If the City or State does not agree to purchase the land, the development may be located within the proposed right-of-way.
2. Nothing in this section shall be interpreted to diminish the power of the City or State to exercise its right of eminent domain.

9.2

Environmental and Health Protection Standards

The following environmental and health protection standards are designed to safeguard the community's natural resources, protect public health, and promote sustainable development practices in the City of Bath. Development activities are subject to these standards, as well as the standards set forth in the State of Maine Department of Environmental Protection Best Practices Manuals for Stormwater and Erosion and Sediment Control, as amended. In the case of any conflict between the standards below and standards within the Maine DEP BMP manuals, the stricter standard shall control.

A. Erosion and Sedimentation Control

1. No person may perform any act or use any land in a manner that would cause substantial or avoidable erosion or create a public nuisance.
2. All activities that require a permit and involve filling, grading, excavation, or other similar activities that result in unstable soil conditions require a written soil erosion and sedimentation control plan. The plan must be consistent with the Maine Erosion and Sediment Control BMPs Manual for Designers and Engineers, produced by the Maine Department of Environmental Protection, as amended, and include provisions for the following, where applicable:



- a. Temporary runoff control features such as hay bales, silt fencing, or diversion ditches.
 - b. Revegetation of disturbed soil.
 - c. Permanent stabilization structures such as retaining walls or riprap.
3. To minimize the potential for erosion, development must be designed to fit with the topography and soils of the site.
 - a. Areas of steep slopes where high cuts and fills may be necessary should be avoided to the extent practicable.
 - b. Natural contours should be followed as closely as possible except where site conditions require, and no alternative sites are possible.
 - c. Filling, excavation, and earth moving activity must be kept to a minimum.
 - d. Parking lots on sloped areas should be terraced to avoid undue cuts and fills, and the need for retaining walls.
 - e. Natural vegetation should be preserved and protected wherever possible.
4. Topsoil must not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations, or as required by the Maine Department of Environmental Protection.
5. Erosion and sedimentation measures must be in operation during all stages of the activity. The amount of exposed soil at every phase of construction must be minimized to reduce the potential for erosion.
6. Any exposed ground area must be temporarily or permanently stabilized within one week from the time it was actively worked by use of riprap, sod, seed, mulch, or other effective measures. In all cases, permanent stabilization must occur within nine months of the initial date of exposure. In addition, the following apply:
 - a. Where mulch is used, it must be applied at a rate of one bale per 500 square feet and must be maintained until a catch vegetation is established.
 - b. Anchoring the mulch with netting, peg and twine, or another suitable method may be required to maintain the mulch cover.
 - c. Additional measures may be taken where necessary to avoid siltation into any water body, including the use of staked hay bales and/or a silt fence.
7. Natural and manmade drainageways and drainage outlets must be protected from erosion caused by water flowing through them. Drainageways must be designed and constructed to carry water from a 25-year storm or greater, and must be stabilized with vegetation or lined with riprap.
8. All work shall be designed and completed in accordance with Maine Erosion and Sediment Control Practices Field Guide for Contractors, produced by the Maine Department of Environmental Protection, as amended.
9. Sites disturbing one acre or more must additionally comply with erosion and sedimentation requirements of Maine DEP Chapter 500 rules, where applicable.

B. Steep Slope Development

Steep slopes constitute significant natural features within the City of Bath. The following standards are intended to minimize disturbance of significant steep slopes, thereby reducing the potential for harmful consequences including increased erosion, flood hazards, and property damage due to extensive slippage and subsidence of soils.

1. These regulations apply to new development on a lot as of the effective date of this Code.
2. These regulations apply to all lots within the City that exhibit slopes over 15% for a minimum of 2,000 square feet of contiguous sloped area, verified by the City's Geographic Information Systems map contour layer, State of Maine contour data, or a field topographic survey.



3. Steep slopes are defined as follows:
 - a. Steep slope: 15% to 25%
 - b. Very steep slope: More than 25% to 35%
 - c. Prohibitively steep slope: More than 35%
4. Disturbance of steep slope areas is limited to the following:
 - a. No more than 30% of the steep slope areas on a lot may be disturbed, developed, cleared, graded, regraded, or stripped of vegetation.
 - b. No more than 10% of the very steep slope areas on a lot may be disturbed, developed, cleared, graded, regraded, or stripped of vegetation.
 - c. No part of the prohibitively steep slope areas on a lot may be disturbed, developed, cleared, graded, regraded, or stripped of vegetation.
5. Earth moving activities and vegetation removal must be conducted only to the extent necessary to accommodate proposed uses and structure, and must be conducted in accordance with the erosion and sedimentation control measures of §9.2.A of this Code.

C. Stormwater Management

Adequate provisions must be made for the collection, infiltration, and—if necessary—disposal of all stormwater that runs off of driveways, parking areas, roofs, and other surfaces through a stormwater management system and maintenance plan that is designed to address stormwater without causing damage to streets, adjacent properties, downstream properties, soils, and vegetation.

1. **Plan Required**
 - a. When required by this Article, the Code Enforcement Officer, Staff Review Committee, or the Planning Board, a stormwater management plan must be submitted. Stormwater management plans must be designed utilizing the most recent approved version of the Maine Department of Environmental Protection Best Practices Manuals for Stormwater, and Erosion and Sediment Control.
 - b. For projects subject to site plan or subdivision approval, the stormwater management plan must be approved by a licensed professional in the field, to prevent adverse impacts on abutting or downstream properties, and the City's stormwater or sanitary sewer system.
2. Where possible, existing natural runoff control features, such as berms, swales, terraces, and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwater. Areas of connected or contiguous impervious surfaces should be minimized so as to take full advantage of existing natural runoff control features.
3. Stormwater management systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.
4. Applicants must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, or that the applicant will be responsible for improvements that are needed to provide the required increase in capacity and/or mitigation.
5. All natural drainageways must be preserved at their natural gradients and may not be filled or converted to a closed system unless approved as part of site plan review. Natural and man-made drainageways and drainage outlets must be protected from erosion from water flowing through them. Drainageways must be designed and constructed in order to carry water from a twenty-five year storm or greater, and must be stabilized with vegetation or lined with riprap.
6. The design of the stormwater management system must account for any upstream runoff that must pass over or through the site to be developed, and must provide for such movement.
7. Biological and chemical properties of the receiving waters may not be degraded by stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways



and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required.

8. Stormwater management systems must be maintained as necessary to ensure proper functioning.
9. Sites disturbing one acre or more must additionally comply with Maine DEP Chapter 500 rules, where applicable.

D. Water Quality Protection

1. No person or activity shall release, or allow the release of any substance—liquid, gas, or solid—that could contaminate surface water or groundwater, or otherwise cause a nuisance such as floating or submerged debris, oil or scum, color, odor, taste, or unsightliness. This includes substances that are treated, untreated, inadequately treated, or otherwise harmful due to their nature, quantity, toxicity, or temperature.
2. Storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials must meet the standards of the MEDEP and the State Fire Marshall's Office.
3. No activity may deposit on or into the ground, or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, may impair designated uses or the water classification of the water body.

E. Adequate Water Supply

An adequate water supply must be available for any use of property within the City.

F. Refuse Disposal

Owners or occupants must provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. The review authority may require applicants to specify the amount and exact nature of all industrial or chemical wastes to be generated by a proposed operation. Additionally, the review authority may require the applicant to institute a waste diversion and/or recycling plan.

1. The provisions below do not apply to standard personal refuse and recycling bins, approximately 96 gallons or less in size.
 - a. Refuse and recycling containers are prohibited in front and corner side yards.
 - b. All refuse and recycling containers must be fully enclosed on three sides by a solid fence, wall, or wall extension of the principal building a minimum of six feet in height. A wall extension must be constructed as an integral part of the buildings architectural design.
 - c. Enclosures must be gated, and such gates must be solid. This requirement does not apply to refuse or recycling containers located adjacent to an alley.

G. Sewage Disposal

Any building or structure that generates sewage waste must be connected to an approved sewage disposal system in accordance with provisions of the Maine State Plumbing Code. The applicant must pay any applicable impact fee required by the City's Sewer Ordinance.

1. Public System

- a. A site or subdivision, except in the R-R District, GC District, or if located within the area designated in the Comprehensive Plan for no future public sewerage service, must be connected to the public sewerage system.
- b. When a site or subdivision is proposed to be served by the public sewerage system, the complete collection system, including manholes and pump stations, must be installed at the expense of the applicant.
- c. The Public Works Director must certify that providing service to the site or subdivision is within the capacity of the system's existing collection and treatment system during regular operating conditions, or improvements planned to be completed, prior to the construction of the site or subdivision.



- d. The Public Works Director must review and approve the construction drawings for the sewerage system, including the size and location of laterals, collectors, manholes, and pumps.
- e. When a site or subdivision is proposed to be served by the public sewerage system, and when any portion of the public sewerage system that would serve the site or subdivision has combined sewer overflows, the applicant must pay the impact fee as required by the City's Sewer Ordinance.

2. Private System

- a. When a site or subdivision is not proposed to be serviced by the public sewerage system, sewage disposal must be by private subsurface wastewater disposal systems or a private treatment facility with surface discharge.
- b. The applicant must submit evidence of site suitability and a plan for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator, in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

H. Hazardous or Dangerous Materials and Waste

- 1. The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special, or radioactive must comply with the standards of such agency.
- 2. All materials must be stored in a manner and location consistent with the applicable rules and regulations of the Maine Department of Public Safety and any other appropriate federal, state, and local regulations.
- 3. All solid waste must be disposed of at a licensed disposal facility with adequate capacity to accept such waste.
- 4. Hazardous matter may not be discharged into or upon any surface water or groundwater, or into or upon any land or into the ambient air unless licensed or authorized under State or Federal law.

9.3

Housing Density Allowances

Notwithstanding other provisions of this Code, the following allowances apply to certain housing projects.

A. Affordable Housing Density Bonus

1. Density Bonus

In any zoning district that allows multi-family dwellings or dwellings above the ground floor, an affordable housing density bonus is allowed as follows:

- a. An affordable housing development may have a unit density of 2.5 times the density that is otherwise allowed within the district.
- b. The development must be served by a public, special district, or other centrally managed water system and a public, special district or other comparable sewer system.
- c. The development must comply with minimum lot size requirements in accordance with Title 12, chapter 423-A of the Maine Revised Statutes, as applicable.

2. Long-Term Affordability

- a. Before approving an affordable housing development, the City shall require that the owner of the affordable housing development have executed a restrictive covenant, recorded in the appropriate registry of deeds, for the benefit of and enforceable by a party acceptable to the City, to ensure that for at least 30 years after completion of construction:
 - i. For rental housing, occupancy of all the units designated affordable in the development must remain limited to households at or below 80% of the local area median income at the time of initial occupancy.



- ii. For owned housing, occupancy of all the units designated affordable in the development must remain limited to households at or below 120% of the local area median income at the time of initial occupancy.

3. Shoreland and Floodplain Zoning Requirements

An affordable housing development must comply with all floodplain zoning requirements, as well as shoreland zoning requirements established by the Department of Environmental Protection under Title 38, Chapter 3 of the Maine Revised Statutes and municipal shoreland zoning ordinances.

4. Subdivision Requirements

The section may not be construed to exempt a subdivider from the requirements for division of a tract or parcel of land in accordance with State subdivision law.

B. Extra Dwelling Units Allowance

1. On a property in any zoning district that allows housing and does not contain an existing dwelling unit on it, up to two dwelling units can be added to the property, except as follows:
 - a. Up to four dwelling units can be added to a property that does not contain an existing dwelling in the R-UC, R-C, R-T, R-WM, R-WH, DB, and CC zones or if the property is served by public, special district, or other centrally managed water system and public, special district, or other comparable sewer system.
2. Up to two dwelling units can be added to a property that has one dwelling unit on it. One of the new units can be within or attached to the original dwelling unit, and one of the new units can be detached from the original dwelling unit.
3. If more than one dwelling unit has been constructed on a lot as a result of the allowance under this section or as an accessory dwelling unit, the lot is not eligible for any additional increases in density not otherwise allowed by this Code.
4. If a dwelling unit that was in existence after July 1, 2023 is demolished, resulting in a vacant lot, the lot is eligible to be developed per this section of the Code.
5. Dwelling units created under this section must meet the water and sewer requirements applicable to all development, including 12 M.R.S. § 423-A (the minimum lot size law).
6. The setback requirements for dwelling units created under this section are the same as for single-family dwellings.
7. For dwelling units created under this section that are served by a well, the water must be documented to be potable, and acceptable for domestic use, either before or after being put through a water treatment system, prior to the unit being occupied.
8. A housing structure developed under this section must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and municipal shoreland zoning ordinances.
9. This section may not be construed to interfere with, abrogate, or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction, or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, provided that the agreement does not abrogate rights under the United States Constitution or the Constitution of the State of Maine.



9.4 Residential Conversion Standards

A. Purpose and Applicability

The intent of this section is to establish standards to mitigate potential impacts caused by the increase in number of dwelling units within an existing structure. The standards of this section apply to all conversions of existing residential structures that result in an increase in the number of dwelling units within the structure. These standards do not apply to accessory dwelling units.

B. Standards

1. Residential conversions are allowed only if the resulting dwelling type, following conversion, is allowed within the zoning district and meets all minimum lot area requirements of the district.
2. Exterior stairways or fire escapes above the ground floor may be constructed as part of the conversion of an existing structure, provided that no exterior stairways shall be visible from a public right-of-way.
3. Any new off-street parking provided as part of a residential conversion must be located to the side or rear of the structure.

9.5 On-Site Green Space and Civic Space Requirements

A. Applicability

1. All multi-family, mixed-use, and nonresidential developments are required to provide on-site green space and civic space in accordance with this section, unless they meet any of the following conditions:
 - a. Multi-family and mixed-use developments with fewer than eight dwelling units.
 - b. Nonresidential development of less than 20,000 square feet in gross floor area.
 - c. Development of any type in the I or PO Districts.
 - d. Development of a light industrial or general industrial use in any zoning district.
 - e. Development occurring within one-quarter mile of existing publicly accessible green space and/or civic space that meets the requirements of this section.
2. A change of use from nonresidential to a residential use, including mixed-use development, is required to provide on-site green space and civic space in accordance with this section, unless any of the following conditions apply:
 - a. A change of use results in fewer than eight dwelling units.
 - b. A change of use where the original nonresidential development is less than 20,000 square feet in gross floor area.
 - c. A change of use in the I or PO Districts.
 - d. A change of use occurring within one-quarter mile of existing publicly accessible green space and/or civic space that meets the requirements of this section.

B. Minimum On-Site Green Space and Civic Space

On-site green space and civic space is required in accordance with the following standards:

1. Multi-family dwelling development and mixed-use development must provide a minimum of 100 square feet of on-site green space and/or civic space per dwelling unit.
2. Nonresidential development must provide the equivalent of 10% of the lot area in on-site green space and/or civic space.



3. The total area of required on-site green space and civic space may be reduced by 50% if all required area is provided as publicly accessible green space and/or civic space.
4. In lieu of providing required on-site green space and civic space, the applicant may request that the Planning Board allow for a fee-in-lieu. If allowed, such funds will be dedicated to the City of Bath for the purpose of enhancing or developing public green space and civic space within the City. The amount and method of calculating such fee shall be as determined by the City.
5. The minimum on-site green space and civic space requirements of this section may be met by any combination of green space, civic space, and fee-in-lieu payment.

C. Design of On-Site Green Space and Civic Space

1. Green space and civic space must meet the design requirements of Table 9-1: On-Site Green Space and Civic Space Design, as applicable.
2. The types of green space and civic space are defined as follows:

a. Green Space

An area of open space consisting of grass, trees, or other vegetation, or consisting of designed hardscape treatments with areas of vegetation, set apart for recreational or aesthetic purposes.

i. Green Space, Common

Green space maintained for the shared use of the residents and/or tenants, including visitors, of the development.

ii. Green Space, Private

Green space reserved for the sole use of the resident or tenant of the associated dwelling unit or tenant space.

iii. Green Space, Public.

Green space maintained for the use of the general public. Public green space includes, but is not limited to parks, plazas, and public seating areas.

b. Civic Space

An area of public open space that includes places for gathering—both indoors and outdoors—seating areas, and other elements that encourage congregation and public use. Civic space may also include circulation elements, such as passages through buildings and similar features.

Table 9-1: On-Site Green Space and Civic Space Design • = Applicable Standard		Green Space			Civic Space
		Public	Common	Private	
Green space designed for outdoor living, recreation, and/or landscaping, including areas located on the ground and areas on decks, balconies, galleries, porches, or roofs as applicable.		•	•	•	
Green space may be located on decks, balconies, galleries, porches, or roofs.			•	•	
Green space area must be contiguous.		•	•		
Space located on the ground level must have a minimum dimension of at least 15 feet on each side.		•	•	•	•



Table 9-1: On-Site Green Space and Civic Space Design • = Applicable Standard	Green Space			Civic Space
	Public	Common	Private	
The surface area of space cannot exceed 18 inches above or below the adjacent sidewalk level.	•			•
Green space located on an attached structural element, such as a balcony, gallery, or roof, must have a minimum dimension of at least six feet on each side.		•	•	
When located at ground level, the required green space area must be substantially covered with grass, live groundcover, shrubs, plants, and trees.	•	•	•	
Seating areas and patios, and fountains, public art, and other points of visual interest may be integrated into the green space or civic space design.	•	•		•
Circulation within the public green space or civic space must be designed to follow the desire lines of its users, connecting pedestrians to rights-of-way that abut the open space, entrances to adjacent buildings, and any design features, such as seating areas. Areas used for circulation, such as paths, are included as part of the total area.	•			•
Usable outdoor amenities, such as grills, pools, tennis courts, or playgrounds, are permitted as part of the required area.		•		
An indoor or outdoor community space available for the use of the public without charge, such as public meeting rooms, performance spaces, and galleries.				•
Indoor amenities for residents or tenants, such as fitness rooms, theaters, or community spaces, are permitted, but may only qualify for 25% of the total required area of green space or civic space.			•	
Public accessways to plazas, courtyards, seating areas, and benches that are part of green space or civic space areas must be readily apparent to passersby. Such areas may not be gated or otherwise blocked.	•			•

D. Maintenance of On-Site Green Space and Civic Space

1. A maintenance agreement must be approved, between the developer and the City, as to the maintenance of any public open space or civic space as part of site plan approval, unless such public open space is donated to the City.
2. A maintenance agreement must be approved, between the developer and the City, as to the maintenance of any common on-site green space as part of site plan approval.

9.6 Pedestrian Connectivity and Shoreline Access

A. Pedestrian Connectivity

1. A site plan must provide for a system of pedestrian walkways within the development, appropriate to the type and scale of development. Such system must connect the major building entrances and exits with site



features such as parking areas and open spaces, and with existing or planned sidewalks in the vicinity of the development.

2. Features of the pedestrian connectivity system may be located both within and outside the public street right-of-way.
3. The pedestrian connectivity system must be designed to link the site with additional uses within the neighborhood including residential, recreational, and commercial facilities, schools, bus stops, bicycle infrastructure, and the larger pedestrian connectivity network.

B. Shoreline Access

Any existing public rights of access to the shoreline of a water body must be maintained, or must be included in any on-site green space or civic space, with provisions made for continued public access.

9.7

Fences and Walls

- A. Fences and walls are allowed in any setback or a long a lot line, given adequate space is available to allow for maintenance.
- B. In the residential and commercial zoning districts, fences located in the front yard or fences located in the corner side yard between the front building line and the front lot line are subject to the following:
 1. Open fences are not subject to a height limitation.
 2. Solid fences are limited to a maximum height of four feet.
- C. All fences and walls in any zoning district must meet the corner clearance requirements of § 9.1.D above.
- D. Any retaining wall taller than four feet in height must be designed by a registered professional engineer in accordance with the requirements of the Maine Uniform Building and Energy Code, as amended.

9.8

Exterior Lighting

A. Lighting Plan Required

1. A lighting plan is required for all non-residential, mixed-use, and multi-family uses. Other uses are exempt from a required lighting plan, but are subject to applicable lighting standards of Item B below.
2. The required lighting plan must include the following information:
 - c. A plan showing the location of all light poles, building-mounted lights, bollard lights, and any other lighting.
 - a. Specifications for all luminaires, lamps, and poles, including certifications of energy efficient lighting. Photographs or drawings of proposed light fixtures must be included in the lighting plan.
 - b. Pole and luminaire details including pole height, height of building-mounted lights, mounting height, and height of the luminaire.
 - c. Elevations of the site including all structures and luminaires sufficient to determine the total cutoff angle of all luminaires and their relationship to abutting parcels.
 - d. For developments subject to site plan review, photometric plans that show the footcandle measurement at all lot lines may be required.
 - e. Other information and data reasonably necessary to evaluate the required lighting plan.

B. Lighting Standards

1. Direct or indirect illumination may not exceed 0.2 footcandles at any interior side or rear lot line. Direct or indirect illumination at any lot line abutting a right-of-way may not exceed 1 footcandle.



2. All lighting fixtures installed must be of full-cutoff design.
3. Freestanding luminaires are limited to a maximum height of 20 feet in nonresidential zoning districts, and 15 feet in residential zoning districts.
4. All lighting fixtures must be located and shielded so as to produce no glare impacting adjacent lots or the public right-of-way.
5. All lighting fixtures must have a correlated color temperature (CCT) at or below 2,700°K.

C. Exceptions to Lighting Standards

1. Luminaires used to illuminate public roadways or those installed to light public rights-of-way are exempt from the requirements of this Code.
2. Temporary emergency lighting required by public safety agencies, other emergency services, or construction activity is exempt from the requirements of this Code.
3. Security lighting installed with a motion vacancy sensor, which extinguishes the lights within 15 minutes after the area is vacated is exempt from the requirements of Item B above.
4. Shielded, directional accent lighting is permitted. Such lighting must be aimed at a building facade, sign, or element such as an architectural or landscape feature, and must be directed so that glare is not visible from adjacent properties. Such lighting must not exceed the maximum footcandle allowance at any lot line.
5. Due to the nature of their requirements for visibility and their limited hours of operation, outdoor recreational fields (public or private) such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, driving ranges, skating rinks/ ponds and other similar uses are exempt from the lighting standards of Item B above, but are subject to the following:
 - a. Recreational fields are permitted a total luminaire height of 75 feet in any zoning district.
 - b. All lighting must be directed onto the recreational field.
 - c. Lighting outside the recreational field, such as for parking or service areas, remains subject to the lighting standards of Item B above.
 - d. Outdoor recreational field lighting must be extinguished no more than one hour following the end of the event. This does not include lighting outside the recreational field, such as for parking or service areas.
6. Temporary holiday and seasonal lighting designs are exempt from the requirements of this Code.
7. Certain temporary uses may use lighting that does not meet the requirements of this section. When such temporary uses are allowed, approval of the lighting plan is required as part of the temporary use permit.

D. Prohibited Lighting

The following types of lighting are specifically prohibited:

1. Flickering, flashing, or strobing lights.
2. Searchlights, laser lights, or any similar high intensity light sources.
3. Any light fixture which could reasonably be confused with or construed as a traffic control device.

9.9

Historic or Archeological Resources

If any portion of a site being proposed for development has been identified as potentially containing historic or archeological resources, the applicant must notify the Maine Historic Preservation Commission. In such cases, the development must employ appropriate measures to protect any identified resources including but not limited to modifying the proposed design of the site, timing of construction, and limiting the extent of excavation.



9.10 Permitted Encroachments

An encroachment occurs when a structure or part of a structure is built or extends into a required setback. Certain encroachments are permitted as indicated within this section and in Table 9-2: Permitted Encroachments into Required Setbacks.

- A. Article 10 contains regulations related to accessory structures and may include additional permissions or restrictions for specific permitted encroachments of such structures into required setbacks.
- B. Features allowed to encroach into a required setback are also allowed within the corresponding yard. Features not allowed to encroach into a required setback may be allowed within the corresponding yard, subject to any additional standards or prohibitions.
- C. Unless specifically allowed within Table 9-2: Permitted Encroachments, no structure or part of a structure may project over a lot line or into a right-of-way.

Table 9-2: Permitted Encroachments into Required Setbacks

• = Permitted // Blank = Prohibited

	Front Setback	Corner Side Setback	Interior Side Setback	Rear Setback
Accessibility Ramp	•	•	•	•
Awning (Non-Sign) Max. of 3' into setback Min. vertical clearance of 9'	•	•	•	•
Balcony Max. of 3' into setback Min. vertical clearance of 9'			•	•
Bay Window Max. of 3' into setback Min. vertical clearance of 24"	•	•	•	•
Canopy (Non-Sign) Max. of 3' into setback Min. vertical clearance of 9'	•	•	•	•
Chimney Max. of 2' into setback	•	•	•	•
Decks (Ground Floor) Max. height of first finished floor Min. 5' from any lot line, except must be 10' from the rear lot line		•	•	•
Decks (Upper Floor) Max. of 10' into rear setback Prohibited in front yard				•
Eaves and Cornices Max. of 3' into setback	•	•	•	•
Exterior Stairwell Max. of 3' into setback Prohibited in front yard				•
Fire Escape Max. of 3' into setback				•
Porch - Unenclosed	•	•	•	•



Table 9-2: Permitted Encroachments into Required Setbacks

• = Permitted // Blank = Prohibited

	Front Setback	Corner Side Setback	Interior Side Setback	Rear Setback
Max. of 6' into front setback Min. 5' from any lot line, except must be 10' from the rear lot line Enclosed porches are considered part of the principal structure				
Retaining wall Any retaining walls higher than 4' must be designed by a registered professional engineer	•	•	•	•
Sills and belt courses Max. of 2' into setback	•	•	•	•
Stoop and Steps Max. of 6' into setback	•	•	•	•

9.11 Performance Standards

All uses must comply with the performance standards established in this section unless any federal, state, or local law, code, ordinance, or regulation establishes a more restrictive standard, in which case the more restrictive standard applies.

A. Noise

1. The maximum permissible sound-pressure level of any continuous, regular, or frequent source of sound produced by any activity must be limited to 60 dBA between the hours of 7 a.m. and 8 p.m., and 50 dBA between the hours of 8 p.m. and 7 a.m. Sound levels will be measured a minimum of four feet above ground level at the lot line of the source.
2. The levels specified may be exceeded by 10 dBA for a single 15-minute period per day. Noise will be measured by a meter set on the A-weighted response scale, fast response.
3. The following uses and activities are exempt from this sound-pressure level regulation:
 - a. Noise created by construction activity, forestry, agricultural, and temporary maintenance between the hours of 7 a.m. and 8 p.m.
 - b. Noises emanating from safety signals or warning devices, emergency pressure-relief valves, and any other emergency activity.
 - c. Noises not directly under the control of the owner or occupant of the property.
 - d. Transient noises from moving sources such as railroads, aircraft, and motor vehicles on public streets.

B. Glare and Heat

Any activity or the operation of any use that produces glare or heat must be conducted so that no glare or heat from the activity or operation is detectable at any point off the lot on which the use is located. Flickering or intense sources of light must be controlled or shielded so as not to cause a nuisance across lot lines.

C. Vibration

No earth-borne vibration from the operation of any use may be detectable at any point off the lot on which the use is located.

D. Dust, Air, and Water Pollution



1. Dust and other types of air pollution, borne by the wind from sources such as storage areas, yards, roads, conveying equipment and the like, must be kept to a minimum by appropriate landscape, screening, sheltering, paving, fencing, wetting, collecting, or other acceptable means.
2. Storage of materials must include all proper precautions to protect any surface water or groundwater sources, whether natural or manmade, from contamination.

E. Electromagnetic Interference

Electromagnetic interference from any operation of any use must not adversely affect the operation of any equipment located off the lot on which such interference originates.

F. Odors

Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the public health and welfare, or which interferes unreasonably with the comfort of the public, must be removed, stopped, or modified to remove the odor.

G. Fire and Explosion Hazards

Materials that present potential fire and explosion hazards must be transported, stored, and used only in conformance with all applicable federal, state, and local regulations.



10 Accessory Structures

10.1 General Accessory Structure Regulations

10.2 Standards for Specific Accessory Structures

10.1 General Accessory Structure Regulations

Accessory structures are subject to the requirements of this article and this section. Certain specific accessory structures are regulated in §10.2. All accessory structures are subject to the following regulations, unless otherwise permitted or restricted by specific regulations of this section or Code.

- A. An accessory structure may not be constructed prior to construction of the principal building to which it is accessory. Where there is no principal structure as part of the use, such as a community garden, no accessory structure may be constructed until the use is approved.
- B. Detached accessory structures must be setback as follows, unless otherwise specifically permitted or restricted by this Code:
 - 1. A minimum of five feet from any interior side or rear lot line.
 - 2. No detached accessory structure may be placed in a front or corner side yard unless specifically allowed by this Code.
- C. Certain accessory structures may be prohibited in specific yards. The use of the term “yard” refers to the area between the principal building line and applicable lot line (see definitions in Article 2). The distinction is made because certain principal buildings may be built further back than the required district setback, thereby creating a yard larger than the minimum setback dimension of the district.
- D. The maximum height of any detached accessory structure is 22 feet, unless otherwise specifically permitted or restricted by this Code. However, no accessory structure may exceed the height of the principal building on the same lot. These height limitations do not apply to any structure accessory to an agricultural use, which are not limited in height.
- E. The footprint of any single detached accessory structure cannot exceed the footprint of the principal building.

10.2 Standards for Specific Accessory Structures

A. Amateur (ham) Radio Equipment

- 1. Towers that solely support amateur (ham) radio equipment are permitted in the rear yard only and must be located ten feet from any lot line. Towers are limited to the maximum building height of the applicable district plus an additional five feet.
- 2. If a taller tower is technically necessary to engage successfully in amateur radio communications, the applicant must provide evidence to support such a conclusion. In addition, the applicant must provide evidence that the tower and/or antenna will not prove a hazard.
- 3. Antennas may also be building-mounted and are limited to a maximum height of five feet above the structure. If a taller antenna is technically necessary to engage successfully in amateur radio communications, the applicant must provide evidence to support such a conclusion.
- 4. Amateur (ham) radio equipment must conform to all applicable performance criteria set forth in Section 9.11.

B. Apiary

- 1. Hives are allowed only in rear yards, or as rooftop accessory structures.
- 2. If a hive entrance faces any lot line, the hive must be set back at least ten feet from that line. Additionally, a flyway barrier at least six feet high must be established in front of the hive opening. This barrier can be a



lattice fence, dense hedge, or similar structure, ensuring that bees fly upward and away from neighboring properties. The flyway must be within three feet of the hive opening and extend at least two feet to either side of the opening. Hives with entrances facing a lot line and set back 20 feet or more from the line are exempt from the flyway requirement.

3. Hives with openings facing away from or parallel to a lot line are not subject to the ten-foot setback. However, if they are located closer than ten feet from a lot line, a solid fence or hedge at least six feet high must be installed behind the hives.
4. If a colony exhibits unusual aggressive behavior, such as stinging or attempting to sting without provocation, or exhibits an unusual tendency to swarm, the beekeeper must promptly re-queen the colony.

C. Carport (Detached)

1. A carport may not be erected closer than five feet from any lot line
2. Carports are not permitted in a front yard or the required corner side setback.
3. Carports may not exceed 12 feet in width, 22 feet in length, and 15 feet in height. If located within a rear yard, a carport may be 22 feet in width.
4. A carport must be located a minimum of 20 feet from the lot line where access is taken.

D. Chicken Coops

1. Chicken coops are permitted only in the rear yard only and must meet be ten feet from any lot line.
2. The chicken coop must provide a minimum of five square feet per chicken, and must include a fenced outdoor enclosure (chicken run).
3. The chicken coop and fenced enclosure must be designed to ensure the health and well-being of the chickens, including protection from predators, the elements, and inclement weather. It must also be kept in good repair, maintained in a clean and sanitary condition, and free of vermin, obnoxious smells, and substances.
4. Any manure must be composted in enclosed bins.
5. Roosters are prohibited. If the sex of a chick cannot be determined at hatching, a chick of either sex may be kept on the property for up to six months.
6. Slaughtering of chickens is prohibited.

E. Donation Boxes

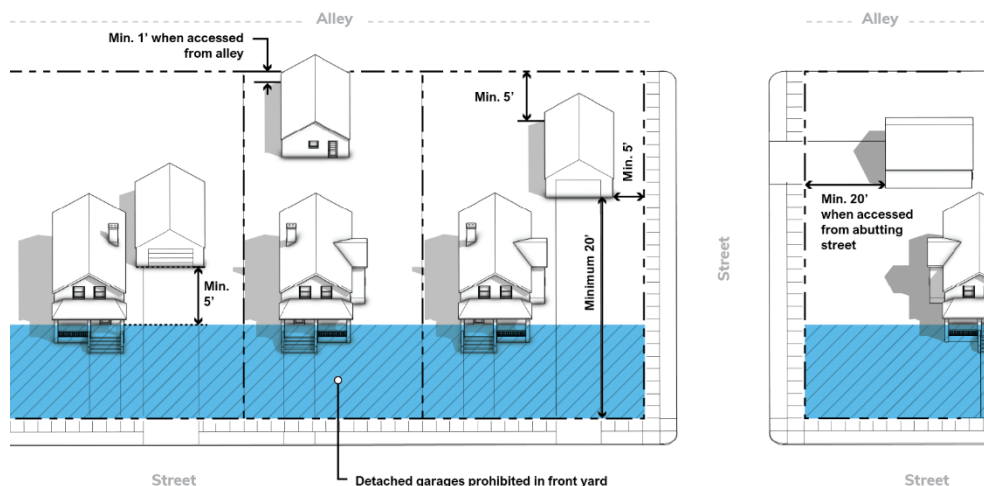
1. Donation boxes are permitted for nonresidential uses in nonresidential districts only.
2. Only one donation box is permitted per lot. Donation boxes are only permitted on a site where there is a principal building.
3. Donation boxes may be located to the side or rear of a principal building or may be located within a parking lot.
4. The area surrounding the donation box must be kept clean and free of any junk or debris.
5. Donation boxes must be made of metal and maintained in good condition and appearance with no structural damage, holes, or visible rust, and must be kept free of graffiti.
6. Donation boxes must be locked or otherwise secured.
7. The name, address, email, and phone number of the operator must be visible on the front of each donation box.



F. Garage, Detached

1. Detached garages are permitted in rear, corner side, and interior side yards, and must be five feet from any lot line.
2. Detached garages are not permitted in a front yard and must be located a minimum of five feet behind the front building line of the principal structure.
3. Detached garages in the rear and interior side yards must be set back a minimum of 20 feet from the lot line where access to the garage is taken. This does not apply where garages take access from an alley. Where detached garages are accessed from an alley, they may be located a minimum of one foot from the rear lot line.
4. Detached garages located in a corner side yard are subject to the following:
 - a. Where a garage is located in the corner side yard and takes access from the abutting street, the garage must be set back 20 feet from the corner side lot line.
 - b. Where a garage is located in the corner side yard but does not take access from the abutting street, the garage must be set back five feet from the corner side lot line and must be set back a minimum of 20 feet from the lot line where access to the garage is taken.
5. The area above vehicle parking spaces in a detached garage may not contain a cooking facility or a full bath. This does not apply if an accessory dwelling unit use has been approved.

Detached Garage Placement



G. Free Item Exchange Box

1. Generic legal item exchange boxes are permitted in front or corner side yard only and must be located a minimum of one foot from any lot line, measured from the base of the exchange box.
2. No exchange box may be located so that it impedes pedestrian access or circulation, obstructs parking areas, or creates an unsafe condition. Boxes cannot be located within the required corner clearance area.
3. Generic legal item exchange boxes are prohibited in the public right-of-way.
4. Each box must be designed and constructed in such a manner that its contents are protected from the elements. All items must be fully contained within a weatherproof enclosure that is integral with the structure of the exchange box.
5. Generic legal item exchange boxes are limited to a maximum height of five feet to the highest point of the structure, and a maximum width and depth of three feet.



6. Foundations comprising masonry pavers or other similar moveable materials are permitted.
7. No more than one generic legal item exchange box is permitted per lot.
8. Generic item exchange boxes may not be used to conduct any type of sales or display products for purchase.

H. Mechanical Equipment

Mechanical equipment includes heating, ventilation, and air conditioning (HVAC) equipment, electrical generators, power storage, pool pumps, and similar equipment.

1. Ground-Mounted Equipment

- a. Ground-mounted mechanical equipment is permitted in the interior side or rear yard only.
- b. For multi-family, nonresidential, and mixed-use developments, ground-mounted mechanical equipment must be screened from public view along the right-of-way by year-round landscaping or a decorative wall or solid fence that is compatible with the architecture and landscaping of a development site. The wall, fence, or plantings must be of a height equal to or greater than the height of the mechanical equipment being screened.

2. Roof-Mounted Equipment

- a. On structures 40 feet or more in height, all roof equipment must be set back from the edge of the roof a minimum distance of one foot for every two feet in height of the equipment.
- b. On structures less than 40 feet in height and for any building where roof equipment cannot meet the setback requirement of item a above, there must be either a parapet wall to screen the equipment or the equipment must be housed within an enclosure of solid building material that is architecturally integrated with the structure.

3. Wall-Mounted Equipment

- a. Wall-mounted mechanical equipment is not permitted on the front or corner side façade of a building.
- b. For multi-family, nonresidential, and mixed-use developments, wall-mounted mechanical equipment that protrudes more than 18 inches from the outer building wall must be screened from view by structural features that are compatible with the architecture of the building.
- c. Wall-mounted mechanical equipment that protrudes less than 18 inches must be designed to blend with the primary color and architectural design of the building.
- d. These requirements do not apply to window air conditioning units, satellite dishes, or required public utility meters.

I. Recreational Equipment

1. Personal recreation game courts are permitted only in the rear yard. Courts must be located ten feet from any lot line.
2. Private playground equipment is permitted only in the interior side or rear yard and must be located five feet from any lot line. This does not apply to backstops and portable basketball nets, which are allowed in any yard.

J. Solar Panels

1. Solar panels may be building-mounted or freestanding, subject to the regulations of this section. Installation of solar panels in the Historic Overlay District is also subject to the standards of §7.1.G.5.
2. Solar panels must be placed so that concentrated solar radiation or glare is not directed onto nearby properties or roadways.



3. A building-mounted system may be mounted on the roof of a principal building or accessory structure, subject to the following:
 - a. On pitched roof buildings, the maximum height a roof-mounted solar panel may rise is 18 inches.
 - b. On flat roofed buildings up to 40 feet in height, the roof-mounted solar panel system is limited to a maximum height of six feet above the surface of the roof. On flat roofed buildings over 40 feet in height, the roof-mounted solar panel system is limited to 15 feet above the height of such structure. Roof-mounted solar energy systems are excluded from the calculation of building height.
4. Freestanding solar panels are permitted only in rear or interior side yards and must meet the following standards.
 - a. The total area of a freestanding solar panel installation shall be less than 750 square feet. Freestanding solar panel installations of 750 square feet or more are considered a principal use and are subject to the standards of § 8.3.JJ.
 - b. Freestanding solar panels must be located ten feet from any lot line.
 - c. Freestanding solar panels are limited to a maximum of 20 feet in height, measured to the highest point of the structure including the solar panel.
 - d. Freestanding solar panels are excluded from any building coverage and impervious surface coverage calculations.

K. Swimming Pools

1. Swimming pools are permitted in the rear or interior side yard only.
2. Swimming pools must be set back ten feet from any lot line.
3. Swimming pools must meet all other applicable standards contained in the City of Bath Code of Ordinances.

L. Wind Turbines

1. Wind turbines may be designed as either vertical or horizontal axis turbines, or as a design that combines elements of the different types of turbines.
2. Wind turbines are subject to the following height restrictions:
 - a. The maximum height of any ground-mounted wind turbine is the maximum height allowed in the district or 35 feet, whichever is less.
 - b. The maximum height of any wind turbine mounted upon a structure is 15 feet above the height of such structure.
 - c. Maximum height is the total height of the turbine system as measured from the base of the tower to the top. For horizontal axis turbines, the maximum vertical height of the turbine blades is measured as the length of a prop at maximum vertical rotation.
 - d. No portion of exposed turbine blades may be within 20 feet of the ground. Unexposed turbine blades may be within ten feet of the ground.
3. Ground-mounted wind turbines are permitted only in the rear yard. The tower must be set back from all lot lines equal to the height of the system. No principal buildings may be located within this area.
4. All wind turbines must be equipped with manual (electronic or mechanical) and automatic overspeed controls to limit the blade rotation speed to within the design limits of the wind energy system.



11 Off-Street Parking, Loading, and Access

- 11.1 General Requirements
- 11.2 Vehicle and Bicycle Parking
- 11.3 Electric Vehicle Charging Infrastructure
- 11.4 Off-Street Parking Facility Design
- 11.5 Bicycle Parking Design
- 11.6 Off-Street Loading
- 11.7 Commercial and Recreational Vehicle Storage
- 11.8 Access Control and Traffic Impacts
- 11.9 Access Drive Design

11.1 General Requirements

A. Continuance of Existing Parking Facilities

Existing off-street parking and loading areas that do not conform to the requirements of this Code, but were in conformance with the requirements of this Code at the time the parking or loading facilities were established, are permitted to continue.

B. Completion of Parking Facilities

All new off-street vehicle and bicycle parking and loading facilities, as applicable, must be completed prior to the issuance of the certificate of occupancy for the use.

C. Use of Parking Facilities

1. The sale, repair, dismantling or servicing of vehicles, equipment, or supplies is prohibited.
2. The use of any parking facility to park or store more than two unregistered motor vehicles that are not capable of passing the Maine motor vehicle inspection test is not permitted, with the exception of vehicle repair facilities as defined within Article 8 of this Code.

11.2 Vehicle and Bicycle Parking

A. No Vehicle Parking Spaces Required

The provision of off-street vehicle parking is not required. When vehicle parking is provided, it must meet all applicable standards of this Code.

B. Maximum Vehicle Parking Spaces in General

1. When off-street vehicle parking is provided, Table 11-2: Off-Street Parking Maximums and Minimum Bicycle Parking Requirements applies, which limits the maximum number of off-street parking spaces that may be provided for certain uses.
2. Certain uses in Table 11-2 are not subject to parking maximums, as indicated within the table.
3. Spaces reserved for the following shall not count toward parking maximums::
 - a. Accessible parking spaces in compliance with Americans with Disabilities Act (ADA) standards.
 - b. Electric vehicle spaces per § 11.3
 - c. Pick-up and drop-off vehicle spaces, which must be marked as reserved. Such spaces may accommodate ride-hailing vehicles, delivery vehicles, and spaces for the safe exchange of goods.
4. **Permission to Exceed Maximum Vehicle Parking Spaces**
 - a. An established parking maximum may be exceeded by no more than 25% if one or more of the following conditions are met:



- i. 10% of the total parking spaces provided are available for public use at no charge 24 hours a day, seven days a week.
- ii. 20% of the total number of spaces are provided as shared spaces, available for public use at no charge from 8:00am to 6:00pm, Monday through Friday.
- iii. 20% of the total number of spaces are provided as shared spaces, available for public use at no charge from 6:00pm to 8:00am, seven days a week.
- b. When public use spaces are provided to exceed a parking maximum, the following apply:
 - i. Public use spaces within a parking structure must be located within the first two floors of the structure.
 - ii. Signs must be posted indicating the availability and location of public use spaces.
 - iii. Shared spaces not available to the public 24 hours a day, seven days a week must be clearly marked, indicating the hours of availability for public use.
- c. An established parking maximum may be exceeded without the provision of public use spaces if the findings of a parking study provided by the applicant demonstrate that the number of spaces proposed is necessary for the successful operation of the use. The parking study must be completed by a qualified transportation planner or traffic engineer with expertise in parking demand analysis and transportation planning.

C. Required Bicycle Parking

1. Bicycle parking is not required when no off-street vehicle parking is provided. If off-street vehicle parking is provided, Table 11-2: Off-Street Parking Maximums and Minimum Bicycle Parking Requirements applies, and may require the installation of bicycle parking spaces for certain uses. Bicycle parking spaces are required only for new construction as of the effective date of this Code.
2. In any case where bicycle parking is required, a minimum of two bicycle spaces must be provided.
3. Where bicycle parking space requirements indicate a threshold, such as "over 10,000sf GFA," this means that bicycle spaces are only required for structures over a certain gross floor area. Once such threshold is reached, bicycle parking space requirements are calculated based upon the entire gross floor area, not only the gross floor area above the threshold.
4. In no case shall this Code require the installation of more than 20 bicycle parking spaces. If the calculation of required bicycle spaces exceeds 20, additional spaces may be provided at the option of the applicant, but are not required.

D. Calculation of Maximum Vehicle Parking and Minimum Bicycle Parking

1. The total maximum number of vehicle parking spaces and the minimum number of bicycle spaces is calculated based upon the principal use of the lot. When more than one use occupies the same lot, the number of spaces is the sum of the separate requirements for each use, unless such use is a multi-tenant retail center, which has a separate requirement per item D.2 below. The following standards for computation apply:
 - a. When the calculation for the number of spaces results in a fractional requirement of 0.5 spaces or more, said fraction is rounded up.
 - b. In places of assembly in which patrons or spectators occupy benches, pews, or similar seating facilities, each 24 inches of such seating is counted as one seat for the purpose of determining the number of spaces. Floor area of a prayer hall is counted as one seat per marked prayer mat space, or one seat for every six square feet in the prayer hall if prayer mat spaces are not marked.
2. A multi-tenant retail center is defined as a group of three or more commercial establishments that is planned, owned, and/or managed as a single property. The two main configurations of multi-tenant retail centers are large shopping centers and strip retail centers. Multi-tenant retail centers are subject to the following:



- a. Maximum parking for multi-tenant retail centers is calculated as one space per 600 square feet of gross floor area, rather than by the individual uses.
- b. Multi-tenant retail centers over 20,000 square feet in gross floor area require one bicycle space per 2,500 square feet of gross floor area.

E. Accessible Spaces Required

Where vehicle parking is provided, all parking facilities must comply with the “ADA Accessibility Guidelines for Buildings and Facilities” regulations issued by federal agencies under the Americans with Disabilities Act (ADA), State of Maine requirements, and local requirements for the amount and design of accessible vehicle parking spaces required in parking lots and structures. Table 11-1: Minimum Accessible Spaces establishes the required number of accessible spaces. In the case of any conflict with federal or state requirements that prescribe the minimum number of accessible spaces, federal and state requirements will control over these requirements.

Table 11-1: Minimum Accessible Spaces		
Total Number of Parking Spaces Provided	Minimum # of Accessible Parking Spaces	Minimum # of Van-Accessible Parking Spaces
Up to 25	1	1
26-50	2	1
51-75	3	1
76-100	4	1
101-150	5	1
151-200	6	1
201-300	7	2
301-400	8	2
401-500	9	2
501-1,000	2% of total parking	1 of every 6 required spaces
1,001 or More	20 + 1 for each 100 over 1,000	1 of every 6 required spaces

F. Maximum Vehicle Parking and Minimum Bicycle Parking Established

Table 11-2: Off-Street Parking Maximums and Minimum Bicycle Parking Requirements		
Use	Maximum Vehicle Spaces	Minimum Required Bicycle Spaces
Agriculture	No maximum	--
Airport	No maximum	--
Amusement Facility - Indoor	1 per 300sf GFA	Over 10,000sf GFA: 1 per 2,500sf GFA
Amusement Facility - Outdoor	1 per 300sf GFA	Over 10,000sf GFA: 1 per 2,500sf GFA



Table 11-2: Off-Street Parking Maximums and Minimum Bicycle Parking Requirements

Use	Maximum Vehicle Spaces	Minimum Required Bicycle Spaces
Animal Care Facility - With Outdoor Area	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Animal Care Facility - Fully Indoors	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Animal Shelter	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Aquaculture	No maximum	--
Art Gallery	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Arts and Fitness Studio	1 per 200sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Banquet Hall	1 per 200sf GFA	Over 10,000sf GFA: 1 per 2,500sf GFA
Bed and Breakfast	2 spaces + 1 per guest room	2 spaces
Body Art Studio	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Broadcasting Facility - With Antennae	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Broadcasting Facility - No Antennae	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Campground/RV Park	1.5 per campsite	--
Cannabis Cultivation Facility	1 per 500sf GFA up to 40,000sf, then 1 per 2,500sf for additional GFA above 40,000sf (excludes outdoor storage area)	Over 10,000sf GFA: 1 per 2,500sf GFA
Cannabis Manufacturing and Testing	1 per 300sf GFA	Over 10,000sf GFA: 1 per 2,500sf GFA
Cannabis Retail Store	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Cannabis, Medical Cannabis Dispensary and Medical Cannabis Storefront	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Car Wash	2 per car wash bay	--
Care Home	2 per dwelling unit or room	1 per 4 dwelling units or rooms
Cemetery	1 per 100sf of floor area (office and/or chapel/parlor)	--
Children's Home	1 per 100sf of office area	--
Commercial Kitchen	1 per 500sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Community Center	1 per 300sf GFA	1 per 2,000sf GFA
Community Garden	1 per 300sf GFA	5 spaces
Cultural Facility	1 per 300sf GFA	1 per 2,000sf GFA



Table 11-2: Off-Street Parking Maximums and Minimum Bicycle Parking Requirements

Use	Maximum Vehicle Spaces	Minimum Required Bicycle Spaces
Day Care Center	1 per 300sf GFA	--
Day Care Home	2 additional spaces dedicated for customers (in addition to those for resident use)	--
Drug Treatment Clinic	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Dwelling - Above the Ground Floor	3 per dwelling unit	1 per 2 dwelling units
Dwelling - Live/Work	3 per dwelling unit	1 per 2 dwelling units
Dwelling - Multi-Family	3 per dwelling unit	1 per 2 dwelling units
Dwelling - Single-Family	No maximum	--
Dwelling - Single-Family Attached	No maximum	--
Dwelling - Townhouse	No maximum	--
Dwelling - Two-Family	No maximum	--
Eating and Drinking Establishment	1 per 100sf GFA of indoor space + 1 per 300sf GFA of outdoor space	Over 5,000sf GFA: 1 per 1,500sf GFA
Educational Facility - College/University	4 per classroom + 4 per office + 1 per 2 students of maximum enrollment	1 per 10 students of maximum enrollment
Educational Facility - Primary or Secondary	10 per classroom + 4 per office	1 per 2 classrooms
Educational Facility - Vocational	4 per classroom + 4 per office + 1 per 8 students of maximum enrollment	1 per 10 students of maximum enrollment
Financial Institution	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Financial Service, Alternative (AFS)	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Food Bank	1 per 300sf GFA of office area	--
Food Pantry	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Freight Terminal	1 per 200sf GFA of office area	--
Fueling Station	3 per pump island + 1 per 500sf GFA of interior space	--
Funeral Home	1 per 100sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Golf Course	6 per hole + 6 per tee on driving range	2 per hole + 2 per tee on driving range
Government Office/Facility	1 per 200sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Halfway House	1 per room	1 per 4 rooms



Table 11-2: Off-Street Parking Maximums and Minimum Bicycle Parking Requirements

Use	Maximum Vehicle Spaces	Minimum Required Bicycle Spaces
Heavy Retail, Rental, and Service	1 per 300sf GFA of interior space + 1 per 1,000sf of outdoor space	--
Hospital	No maximum	1 per 100 beds
Hotel	2 per guest room	--
Individual Private Campsite	1 per campsite	--
Industrial – Artisan/Craft	1 per 500sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Industrial – Light	1 per 500sf GFA up to 40,000sf, then 1 per 2,500sf for additional GFA above 40,000sf (excludes outdoor storage area)	Over 10,000sf GFA: 1 per 2,500sf GFA
Industrial – General	No maximum	--
Industrial Design	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
In-Home Lodging	2 spaces, + 1 per lodging room	--
Kennel	1 per 300sf GFA	--
Live Entertainment - Ancillary	Subject to requirements for principal use of the site	--
Live Performance Venue	1 per 3 persons included in maximum capacity	Over 5,000sf GFA: 1 per 1,500sf GFA
Lodge/Meeting Hall	1 per 200sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Long-Term Care Facility	2 per dwelling unit or room	Over 10,000sf GFA: 1 per 2,500sf GFA
Manufactured Home – Dwelling	No maximum	--
Manufactured Home Park	No maximum	--
Marina	1 per 2 slips	--
Medical/Dental Office/Clinic	1 per 200sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Micro-Production of Alcohol	1 per 500sf GFA of production facility area + 1 per 300sf GFA of public area	Over 5,000sf GFA: 1 per 2,500sf GFA
Mineral Extraction	No maximum	--
Neighborhood Commercial Establishment	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Office	1 per 200sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Park	No maximum	Over 5,000sf of lot area: 1 per 2,000sf of lot area



Table 11-2: Off-Street Parking Maximums and Minimum Bicycle Parking Requirements

Use	Maximum Vehicle Spaces	Minimum Required Bicycle Spaces
Parking Lot (Principal Use)	No maximum	--
Parking Structure (Principal Use)	No maximum	--
Passenger Terminal	1 per 1,000sf GFA	Over 10,000sf GFA: 1 per 2,500sf GFA
Personal Service Establishment	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Piers, Docks, and Other Marine Structures	No maximum	--
Place of Worship	1 per 8 seats	1 per 25 seats
Private Recreation Club	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Private Social Club	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Public Safety Facility	No maximum	--
Public Works Facility	No maximum	--
Research and Development	1 per 300sf GFA	Over 10,000sf GFA: 1 per 2,500sf GFA
Residential Substance Abuse Treatment Facility	1 per patient room	Over 10,000sf GFA: 1 per 2,500sf GFA
Retail Goods Establishment	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Rooming House	2 spaces, + 1 per room	--
Sawmill	No maximum	--
Self-Storage Facility: Fully Enclosed	1 per 25 storage units	--
Self-Storage Facility: Outdoor	1 per 25 storage units	--
Shelter, Community	1 per 200sf GFA of office area	--
Shelter, Domestic Violence	1 per 200sf GFA of office area	--
Short-Term Rental	2 per bedroom	--
Social Service Center	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Solar Energy Generation Facility	1 per 200sf GFA of office area	--
Specialty Food Service	1 per 300sf GFA	Over 5,000sf GFA: 1 per 1,500sf GFA
Supportive Housing	2 per dwelling unit or room	--



Table 11-2: Off-Street Parking Maximums and Minimum Bicycle Parking Requirements

Use	Maximum Vehicle Spaces	Minimum Required Bicycle Spaces
Timber Harvesting	No maximum	--
Utility (Principal Use)	1 per 200sf GFA of office area	--
Vehicle Operation Facility	1 per 2,000sf of lot area	--
Vehicle Sales and/or Rental	1 per 300sf GFA of interior space + 6 per service bay	--
Vehicle Repair/Service: Major	6 per service bay	--
Vehicle Repair/Service: Minor	6 per service bay	--
Warehouse	1 per 300sf GFA of office area + 1 per 25,000sf GFA of warehouse area	Over 10,000sf GFA: 1 per 2,500sf GFA
Wholesale and Distribution	1 per 300sf GFA of office area + 1 per 10,000sf GFA of warehouse area	Over 10,000sf GFA: 1 per 2,500sf GFA
Wind Energy System	1 per 200sf GFA of office area	--
Wireless Telecommunications	1 per tower or facility	--

11.3 Electric Vehicle Charging Infrastructure

A. Applicability

1. Electric vehicle (EV) charging infrastructure is required for the construction of new off-street parking facilities containing five or more parking spaces, additions of five or more parking spaces to existing off-street parking facilities, and reconstructed parking facilities impacting five or more parking spaces when associated with certain uses. Table 11-3: Minimum Required EV Charging Stations establishes the requirements for EV infrastructure.
2. The following uses are subject to the standards established in Table 11-3:
 - a. Multi-family dwellings and any parking provided for the residential component of a mixed-use development.
 - b. Hotels
 - c. Parking lots and parking structures as a principal use
 - d. Office
3. Installation of EV charging infrastructure within existing parking lots or parking structures is exempt from site plan review, unless 15 or more parking spaces are added.

B. Required EV-Capable and EV-Installed Parking Spaces

1. Minimum EV-capable and EV-installed parking spaces are required per the standards of Table 11-3: Minimum Required EV Charging Stations.
2. For reconstructed parking structures or parking lots, only the parking spaces impacted by reconstruction shall be counted toward this requirement.



3. For expansion of parking structures or lots, only the parking spaces added shall be counted toward this requirement.
4. When the calculation for the number of EV-capable or EV-installed parking spaces results in a fractional requirement of 0.5 spaces or more, said fraction is rounded up.
5. Where applicable, the location of employee parking and number of provided spaces shall be shown on any site plan submitted for approval.
6. All EV chargers installed by an owner/applicant to satisfy the requirements of this section must be capable of charging multiple makes and models of electric vehicles.
7. All EV-Installed Spaces count towards EV-Capable Spaces Required.

Table 11-3: Minimum Required EV Charging Stations

Approved Number of Parking Spaces	EV-Capable Spaces Required	EV-Installed Spaces Required
Less than 5 spaces	None	None
5 – 25 spaces	20% of total spaces	None
26 - 50 spaces	20% of total spaces	2 spaces
51 – 100 spaces	20% of total spaces	4 spaces
101 – 1,000 spaces	10% of total spaces + 10	2% of total spaces + 4
Over 1,000 spaces	5% of total spaces + 60	1% of total spaces + 15

C. Alternative EV Charging Infrastructure Installation Plan

A property owner or applicant may prepare an alternative EV charging infrastructure installation plan for consideration by the Planning Board. If the plan is approved by the Planning Board, the standards of the plan shall govern the provision of EV parking infrastructure, in lieu of the requirements established in this section. The provisions for an alternative EV parking plan as detailed in this section are applicable to all zoning districts.

1. An alternative EV charging infrastructure installation plan must meet the following requirements:
 - a. Submission of an EV charging infrastructure installation plan application furnished by the City of Bath Planning Office.
 - b. Phased installation of EV charging infrastructure that will meet the minimum requirements of Table 11-3 upon completion of the final phase.
 - c. Duration of time between completion of construction of the initial phase and the beginning of construction of the final phase shall not exceed five years.

D. Exemptions from Electric Vehicle Charging Infrastructure Requirements

1. In cases where the Planning Board finds installation of any required EV charging infrastructure is not feasible, a payment of an in-lieu fee equal to the cost of providing the minimum required EV Capable and EV Installed parking spaces shall be required. The calculated costs must be reviewed and approved by the Planning Director and a payment must be made prior to the start of construction and placed into a dedicated EVCS municipal account to be utilized for public EVCS installations.
2. In cases of federally or state funded multi-family housing projects with at least 51% of the units affordable to households at or below 80% AMI the Planning Board shall defer to the EV charging infrastructure requirements of the state or federal funding source.



11.4 Off-Street Parking Facility Design

When off-street parking lots or structures are provided, such facilities must meet the standards of this section.

A. Dimensions

Off-street parking spaces and drive aisles within a parking facility must be designed in accordance with the minimum dimensions in Table 11-4: Minimum Off-Street Parking Space Dimensions. Other parking angles other than those described in Table 11-4 are permitted but must be approved by the Planning Director and provide evidence of safe and efficient parking configuration and traffic circulation.

Parking Angle	Stall Width	Stall Depth	Aisle Width Two-way	Aisle Width One-Way	Vertical Clearance
0° (Parallel)	9'	21'	24'	12'	7' 6"
30°	9'	16.8'	24'	11'	7' 6"
45°	9'	19'	24'	13'	7' 6"
60°	9'	20'	24'	18'	7' 6"
90° (Head-In)	9'	18'	24'	24'	7' 6"
30°	9'	16.8'	24'	11'	7' 6"

B. Access and Circulation

1. All required off-street parking facilities must have vehicular access from a street, driveway, alley, or cross-access connection.
2. All required off-street parking facilities must have an internal pedestrian circulation system that allows for safe passage between parking areas and any public sidewalk in the adjacent right-of-way and the use it serves. This includes but is not limited to interconnected sidewalks, striped walkways, and separated walkways.
3. All parking facilities must be designed with vehicle egress and ingress points that least interfere with traffic movement. Parking facilities must be designed to accommodate all necessary vehicle movements for entering or exiting a space outside of the right-of-way; this does not apply to single-family detached, single-family attached, and two-family dwellings.
4. All access drives must comply with the regulations of §11.8. Townhouse developments are prohibited from constructing individual curb cuts for each dwelling unit along a public street.
5. All driveways must conform to all applicable City driveway specifications.
6. Dead end parking lots without a turnaround space are prohibited.

C. Surfacing

1. All parking lots must be paved with all-weather materials such as asphalt, concrete, or brick.
2. Permeable paving is also permitted. Permeable paving includes any materials installed, operated, and maintained to permit the passage of water through the pavement, including but not limited to porous concrete, porous asphalt, permeable interlocking concrete pavers, and concrete grid pavers. In cases where permeable paving is proposed to be used, the following must be provided:



- a. A statement of compliance from a registered professional engineer, indicating that the subsurface is adequate to allow proper drainage.
 - b. A maintenance plan, describing how the surface will be maintained so as to prevent the porous material from becoming impervious over time.
- 3. Gravel is prohibited.

D. Striping

Off-street parking facilities for uses other than single-family detached, single-family attached, and two-family dwellings must delineate parking spaces with paint or other permanent materials, which must be maintained in clearly visible condition.

E. Curbing and Wheel Stops

- 1. Curbing and wheel stops are required when a parking space abuts required landscape areas, pedestrian walkways, structures, fences, or the edge of the parking lot along a lot line. Such curbing must be constructed of permanent materials, such as concrete or masonry, a minimum height of six inches above ground level, and permanently affixed to the paved parking area.
- 2. Wheel stops within the interior of the parking lot are prohibited when not abutting required landscape areas, pedestrian walkways, structures, fences, or the edge of the parking lot along a lot line.

F. Lighting

Parking facility lighting must be in accordance with § 9.8.

G. Location of Surface Parking

1. Residential Uses

- a. Parking spaces must be located to the side or rear of the dwelling and behind the front building line. Parking spaces in front of the front building line are prohibited.
- b. However, where a single-family detached, single-family attached, or two-family dwelling has a driveway that is a minimum of ten feet in width and 35 feet in length, such driveway is deemed two parking spaces, and may be used for parking in front of the front building line.

2. Nonresidential Uses

- a. Parking spaces are prohibited between a principal structure and a front or corner side lot line in the NC, C-C, and DB Districts.
- b. The following exceptions apply to item a above:
 - i. For structures existing as of the effective date of this Code, existing parking located between a principal structure and a front or corner side lot line is allowed and may be expanded.
 - ii. For lots abutting a State highway, parking is permitted between a principal structure and a front or corner side lot line, but must be set back a minimum of 20 feet from the lot line or the dimension of the required setback of the district, whichever is greater.

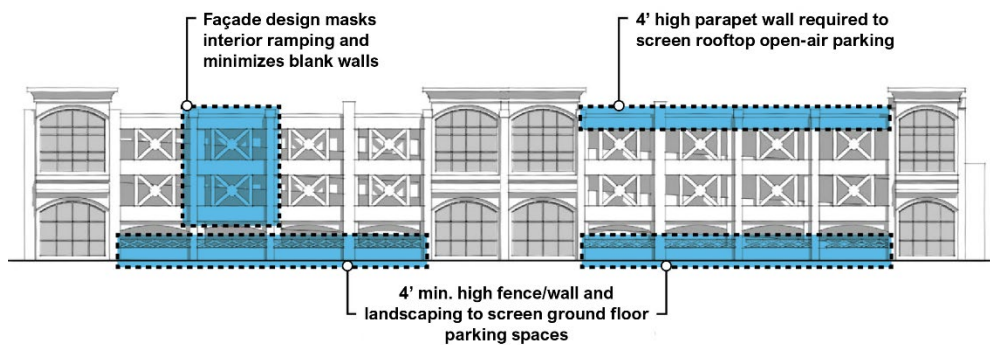
H. Parking Structure Design

- 1. On facades that front on public streets, the Kennebec shorefront, or a public open space, façade design and screening must, to the extent practicable, mask interior ramping and provide an appearance of horizontality.
- 2. Parking structures must be designed to minimize blank facades through architectural detail, landscape elements, art installations, or similar features.

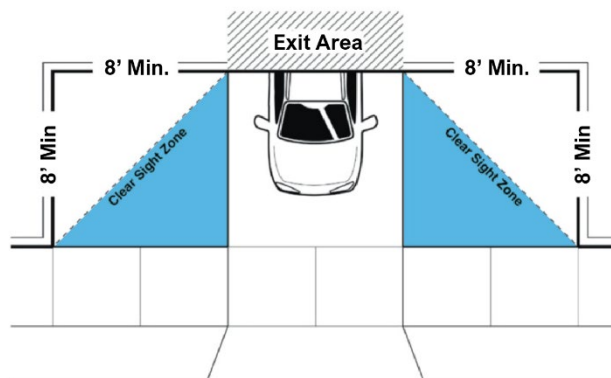


3. On portions of the ground floor façade where parking spaces are visible, a decorative fence or wall and landscape is required to screen parking spaces. Such fence or wall must be a minimum of four feet in height.
4. For parking structures with rooftop open-air parking, a four-foot parapet wall is required for screening.
5. A vehicular clear sight zone must be included at any vehicular exit areas as follows:
 - a. The façade of vehicular exit areas must be set back from any adjacent pedestrian walkway a minimum of eight feet for the portion of the façade that includes the vehicle exit area and eight feet on each side of the exit opening.
 - b. A clear sight zone must be established. A clear sight triangle is defined as that area contained within a straight line from the edge of the vehicular exit area to a point on the property line abutting the pedestrian walkway eight feet to the side of the exit lane.
 - c. Within the clear sight triangle (bounded by the parking structure wall, pedestrian walkway and vehicular exit lane), groundcover, landscape, or a decorative wall must be used to act as a buffer between the exit aisle and the pedestrian walkway. Landscape or a decorative wall must not exceed three feet in height to maintain driver sightlines to the pedestrian walkway.
 - d. The upper story façade(s) of the parking structure may overhang the vehicular clear sight zone.

Parking Structure Design



Parking Structure Clear Sight Zone



11.5

Bicycle Parking Design

A. Required Bicycle Spaces

When off-street parking facilities are provided, bicycle parking spaces must be provided as indicated in §11.2 and Table 11-2.



B. Location

1. Bicycle racks must be located on the same lot as the use.
2. Bicycle racks must be located such that they are highly visible from the street and/or building entrance with adequate lighting. Bicycle parking must be located in designated areas that minimize pedestrian and vehicular conflicts. Bicycle parking located within an automobile parking area must be clearly designated and located as close to a building entrance as practicable.
3. Required bicycle parking for residential uses may be provided in garages, storage rooms, and other resident-accessible secure areas. Spaces within dwelling units or on balconies do not count toward satisfying bicycle parking requirements.

C. Design

1. Racks must be designed to support bicycles in an upright position and allow them to be locked securely.
2. Bicycle parking must be securely anchored to an improved hard surface. Installation must follow the manufacturer's requirements.
3. Bicycle racks must be installed with adequate space beside them for cyclists to access and use their locks easily.

D. Shared Bicycle Parking Facilities

Bicycle parking spaces for nonresidential uses may be shared between uses. Bicycle parking spaces must be accessible and clearly visible from all uses. A 20% reduction in the total number of required bicycle spaces is allowed for shared facilities.

11.6 Required Off-Street Loading Spaces

- A. Loading spaces are required as indicated in Table 11-5: Off-Street Loading Requirements. The location, design, and layout of all loading spaces must be indicated on required site plans.
- B. Loading spaces must be a minimum of ten feet by 45 feet, and must have a minimum vertical clearance of 14 feet.
- C. All off-street loading spaces must be improved with a hard surfaced, all-weather dustless material.
- D. No part of a loading area utilized for the access, maneuvering and temporary parking of delivery vehicles may be used for vehicle parking. No part of a loading area may be used for the outdoor storage of materials, merchandise, or equipment.
- E. Loading spaces must be located and designed so the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way and complete the loading or unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.
- F. Loading spaces must be located a minimum of 50 feet from any lot line that abuts a residential district.
- G. Off-street loading spaces must be provided in accordance with Table 11-5. In the case of multi-tenant buildings or mixed-use developments, required loading spaces are calculated on the basis of each individual tenant (for example, if only one nonresidential tenant of a multi-tenant building is over 10,000 square feet, only one loading space is required; if all tenants are under 10,000 square feet, no loading is required).

Table 11-5: Off-Street Loading Requirements

Use Type and Size	Minimum Number of Loading Spaces Required
Multi-Family Dwelling	
Total of 50 Dwelling Units or More	1 loading space



Table 11-5: Off-Street Loading Requirements

Use Type and Size	Minimum Number of Loading Spaces Required
Commercial or Institutional Use	
10,000 - 100,000sf GFA	1 loading space
100,001 - 200,000sf GFA	2 loading spaces
200,001sf and above GFA	3 loading spaces
Industrial Use	
10,000 - 40,000sf GFA	1 loading spaces
40,001 - 100,000sf GFA	2 loading spaces
100,001 and above GFA	3 loading spaces

11.7 Commercial and Recreational Vehicle Storage

A. Commercial Vehicle Storage

1. Residential Lots

- a. No commercial vehicle may be parked outdoors on a residential lot with the exception of vehicles engaged in loading or unloading or current work being done to the adjacent premises.
 - i. However, this does not include standard size passenger motor vehicles (including, but not limited to, vans, sports utility vehicles (SUVs), standard passenger size livery vehicles, and pick-up trucks), which may be stored or parked outdoors overnight on lots in residential districts.
 - ii. Permitted standard size passenger commercial vehicles, as described in item i above, also include those owned and used for commercial purposes by the occupant of a dwelling or guest, provided that the vehicle is stored or parked in a permitted parking area. Permitted personal commercial vehicles may include the logo of the commercial business painted on or applied to the vehicle.
- b. All other commercial vehicles that exceed standard size passenger vehicles, including but not limited to semi-truck tractor units with or without attached trailers, commercial trailers, flatbed trucks, box vans and box trucks, buses, tow trucks, construction vehicles, livery vehicles that exceed standard passenger vehicle size such as limousines, or other large commercial vehicles, are not permitted to be parked outdoors overnight on a residential lot.

2. Nonresidential Lots

- a. On nonresidential lots, commercial vehicles with the logo of the commercial business painted on or applied to the vehicle that are being operated and stored in the normal course of business, such as signs located on delivery trucks, promotional vehicles, moving vans, and rental trucks, are permitted to be stored on the lot in areas related to their use as vehicles. All such vehicles must be in operable condition.

B. Recreational Vehicle Storage on Residential Lots

1. No recreational vehicle or trailer licensed to transport recreational vehicles or equipment may be stored outdoors within the front yard except on a driveway and for no more than seven days.
2. Recreational vehicles six feet or less in height, height as measured to the highest point of the vehicle, may be stored behind the front building line or in the rear yard.



3. Recreational vehicles more than six feet in height, as measured to the highest point of the vehicle, must be stored in the rear yard and located at least five feet from any lot line.
4. The area devoted to recreational vehicle storage must be on an all-weather dustless material.
5. There is no limit on the storage of recreational vehicles within fully enclosed permanent structures.
6. No recreational vehicle may be used for living, sleeping, or housekeeping purposes in any district and may not be hooked up to any public utilities.
7. All recreational vehicles must be maintained in mobile condition. No recreational vehicle may be parked or stored in such manner as to create a dangerous or unsafe condition on the lot where it is parked or stored. If the recreational vehicle is parked or stored, whether loaded or not, so that it may tip or roll, it is considered a dangerous and unsafe condition.

11.8 Access Control and Traffic Impacts

Except as otherwise noted, this section applies to new or expanded nonresidential, mixed-use, and multi-family development. The purpose of this section is to limit the number of conflict points that a vehicle may experience in its travel, separate conflict points as much as possible and remove slower turning vehicles which require access to the adjacent sites from the through-traffic lanes as efficiently as possible. The Review Authority may waive the requirement to meet a standard of this section if the applicant or landowner requests a waiver, in writing, and the Review Authority finds that, due to special circumstances, meeting the standard is not required in the interest of public health, safety, and general welfare, or is inappropriate. Waivers may be granted only in writing with written findings of fact and conclusions, and may be subject to conditions.

- A. Any lot shown on property tax maps of the City of Bath as of the date of the adoption of this section is permitted one access drive to any adjacent public street, notwithstanding other provisions of this section. This applies to all uses.
- B. Access to lots is limited to 1 access drive for lots with less than 100 feet of frontage. Lots with more than 100 feet of frontage are limited to 1 access drive for each 250 feet of frontage or fraction thereof, and the access drives must be separated by at least 75 feet. This applies to all uses unless otherwise specifically permitted or restricted by this Code.
- C. Access to parking spaces must be internal only. Other than the access drive all other areas must be closed off from potential access with curbing or similar materials. No access drive may be wider than 30 feet at the point of intersection of the street.
- D. The development must ensure safe interior circulation within its site by separating pedestrian and vehicular traffic and by providing parking and loading areas required in this Code.
- E. Unless otherwise approved by the Planning Board, if a lot has frontage on more than 1 street, the access drive must be located on the street that has the least potential for traffic congestion and for hazards to traffic and pedestrians. This applies to all uses.
- F. Unless there is no other feasible means of access, an access drive may not be located in a residential district to provide access to uses other than those permitted in that residential district.
- G. The street to which an access drive connects and the streets that are expected to carry traffic to the use served by the access drive must have traffic-carrying capacity and be suitably improved to accommodate the amounts and types of traffic generated by the proposed use. A development may not reduce any street or intersection's Level of Service to "E" or below.
- H. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provisions must be made for turning lanes, traffic directional islands, frontage streets, and traffic controls within the public streets.
- I. Access drives must be designed with enough on-site vehicular-stacking capacity so as to prevent queuing of entering vehicles on any street.



- J. Where topographic and other conditions allow, provisions must be made for circulation connections to adjoining lots of similar existing or potential use when such connections will enable the public to travel between 2 existing or potential uses without need to travel onto a street, and when such circulation connections are in the best interest of public safety. Such connections must be privately owned and maintained. In the case where an adjoining lot is undeveloped, future connections must be shown on the site plan, an easement must be established, and a stub or hammerhead must be installed for use as a turnaround until the connection is constructed.
- K. Unless there is no other feasible means of access, an access drive may not be located less than 50 feet from the point of tangency of streets at an unsignalized intersection and less than 100 feet from the point of tangency of streets at any signalized intersection. This applies to all uses.

11.8 Access Drive Design

Except as otherwise noted this section applies to all new or expanded uses. The Review Authority may waive the requirement to meet a standard of this section if the applicant or landowner requests a waiver, in writing, and the Review Authority finds that, due to special circumstances, meeting the standard is not required in the interest of public health, safety, and general welfare, or is inappropriate. Waivers may be granted only in writing with written findings of fact and conclusions, and may be subject to conditions. Waivers for any standard contained in § 11.8 may only be granted if agreed upon by the Review Authority, the Director of Public Works, the Fire Chief, and the Police Chief.

- A. Access drives that connect to public streets must be approved by the Public Works Director, the Fire Chief, and the Police Chief. Access drives must provide for safe vehicle, including emergency vehicle, access. The Public Works Director, the Fire Chief, and the Police Chief may approve an access drive with conditions attached to the construction of any buildings served by the access drive if such conditions are needed to provide for fire safety.
- B. Access drives must be designed and constructed so that stormwater drains to either side of the drive and not into the street nor down the drive from the street. Installation of a culvert or other stormwater management features may be required to carry stormwater from one side of the access drive to the other side. The size and location of the culvert must be approved by the Public Works Director.
- C. An access drive must be paved within the street right-of-way with at least two inches of bituminous concrete pavement over a gravel subbase at least 6 inches thick. An access drive serving a multi-family or non-residential use, regardless of access drive volume, must be paved with at least three inches of bituminous concrete pavement over a gravel subbase at least 6 inches thick within the street right-of-way and for a distance of 30 feet from the paved portion of the street right-of-way.
- D. For multi-family and non-residential uses the slope of an access drive may not exceed 3 percent for a distance of 40 feet from the point of intersection of a street, and may not have a slope in excess of 10 percent for the entire length.
- E. The angle of intersection between the access drive and the street must be as close to 90 degrees as possible. The radius for curbs into and out of the lot must be as close to 15 feet as possible.



12 Landscape

- 12.1 Purpose and Intent
- 12.2 Landscape Plan
- 12.3 Landscape Plan and Certificate of Occupancy
- 12.4 Selection, Installation, and Maintenance
- 12.5 Parking Lot Landscape
- 12.6 Buffer Yards
- 12.7 Required Root Zone Protection

12.1 Purpose and Intent

- A. The landscape and screening requirements in this Article are intended to preserve and enhance the City's appearance and character, improve compatibility between adjacent uses, reduce negative impacts on neighboring properties, and create adequate transitions between uses or districts of different intensities. The requirements of this Article apply only to landscaping and screening on private property.
- B. Landscaping requirements for public property, including city-owned rights-of-way are controlled by the Bath Community Forestry Ordinance (Chapter 6, Article 5 of the Bath City Ordinances).
- C. Requirements related to tree removal, clearing or removal of vegetation, and revegetation in the SZO Shoreland Zone Overlay are included in §7.4.

12.2 Landscape Plan

A. Landscape Plan Required

A landscape plan is required for any nonresidential, mixed-use, or multi-family development, and for any parking structure or parking lot. A landscape plan may be prepared by a landscape architect registered in the State of Maine, a licensed professional engineer, or a qualified landscape designer. Based upon project complexity, scope, or other relevant factors, the Review Authority may require that the landscape plan be prepared specifically by a landscape architect registered in the State of Maine.

B. Landscape Plan Submittal

The following information must be shown on the landscape plan:

1. The location and dimensions of all existing and proposed structures, property lines, easements, pavements, curbs, parking spaces and drives, rights-of-way, refuse disposal and recycling areas, pedestrian and bicycle paths, fences, mechanical equipment, overhead utility wires, underground and overhead utilities and piping, and drainage facilities.
2. The location, quantity, size, name, and condition, both botanical and common, of all existing plant materials on-site, indicating plant material to be retained and removed.
3. The location of all required landscape and the quantity, size, spacing, condition, and name, both botanical and common, of all proposed plant material.
4. The existing and proposed grading of the site indicating contours at one foot intervals. Proposed berming must also be indicated using two foot contour intervals.
5. Elevations of all proposed fences, stairs, and retaining walls.
6. Irrigation systems if installed.
7. The zoning district of the subject property and the zoning district of abutting lots.
8. Any other details as determined necessary by the Planning Director.

C. Changes to Approved Landscape Plans



Changes to the landscape plan that do not result in a reduction in the net amount of required plant material may be approved by the Planning Director. Any changes to the approved landscape plans require the submission of revised plans for review.

12.3 Landscape and Certificate of Occupancy

- A. No certificate of occupancy will be issued until all the requirements of this Section and the landscape plan have been fulfilled. Failure to implement the landscape plan, or to maintain the lot in conformance with the landscape plan, may result in the application of fines and penalties as established in this Code. All landscape is subject to periodic inspection.
- B. If weather prohibits the installation of required landscape at the time a certificate of occupancy is applied for, a temporary certificate of occupancy may be issued for a six-month period.

12.4 Selection, Installation, and Maintenance

A. Selection and Design

- 1. The use of regionally native plants, as listed on the USDA PLANTS Database for Sagadahoc County, is preferred and encouraged.
- 2. Invasive plant species, species on the watch list, and species of special concern per 01 Maine Code Rules § 001-273 (Criteria for Listing Invasive Terrestrial Plants), are prohibited.
- 3. All landscaping must be installed according to sound horticultural practices in a manner designed to encourage quick establishment and healthy growth, and per the ANSI A 300 Standard Practice for Tree, Shrub, and other Woody Plant Maintenance, most current edition and parts, and American Standard for Nursery Stock, current edition.
- 4. Placement of plant material to support site sustainability is encouraged to leverage passive heating and cooling strategies and to reduce the energy consumption needs of the development.

B. Landscape Plantings

1. Shade Trees

- a. Shade trees must be installed at a minimum caliper of two inches as measured from 2.5 feet above grade level from the base of the tree. Shade trees must have a minimum expected maturity height of at least 35 feet. For shade trees to be planted under overhead power lines see item b below.
- b. Shade trees to be planted under overhead power lines must be installed at a minimum caliper of 1.5 inches as measured at 2.5 feet above grade level from the base of the tree. Such shade trees must have a maximum expected maturity height of 15 feet.
- c. Evergreen trees may be treated as shade trees if they meet the minimum maturity height and canopy spread criteria.

2. Evergreen Trees

Evergreen trees must be installed at a minimum height of six feet at planting and have a minimum expected mature spread of eight feet.

3. Shrubs

Shrubs must be a minimum of 18 inches in height when planted and an average height of three to four feet expected as normal growth within four years. A minimum spread of two feet is required at time of planting. Evergreen shrubs are preferred, to provide year-round screening and visual interest.

C. Existing Trees and Shrubs



All existing trees and shrubs that are maintained on a site and in good health may be counted toward any required on-site landscape of this Article.

D. Species Diversity

Diversity among required plant material is required for visual interest and to reduce the risk of losing a large population of plants due to disease. Table 12-1: Species Diversity Requirements indicates the percentage of diversity required based on the total quantity of species being used. (For example, if a development requires 45 trees, no more than 18 trees (40%) can be of one species, and there must be a minimum of five different species within the 45 trees.) When the calculation of plant diversity requirements results in a fraction, the fraction is rounded up.

Table 12-1: Species Diversity Requirements		
Total Number of Plants per Plant Type	Maximum Percentage of One Species	Minimum Number of Species
1-3	100%	1
4-7	60%	2
8-13	45%	3
12-22	40%	5
23-35	25%	8
36-50	30%	10
50+	15%	15

E. Maintenance

1. Trees and vegetation, irrigation systems, fences, walls, and other landscape elements are considered elements of a development in the same manner as parking, building materials, and other site details. The applicant, developer, landowner, or successors in interest are jointly and severally responsible for the regular maintenance of all landscaping elements in good condition.
2. All landscaping must be maintained free from disease, pests, weeds, and litter. All landscape structures such as fences and walls must be repaired and replaced periodically to maintain them in a structurally sound and aesthetically pleasing condition.
3. Any required landscape element that dies, or is otherwise removed or seriously damaged, must be removed and replaced within 30 days.
4. Proper organic mulching is required to maintain all required plant material.
5. The ANSI A 300 Standard Practice for Tree, Shrub, and other Woody Plant Maintenance, most current edition and parts, is the standard for maintenance.
6. All installed plant material must be fully maintained, including watering, fertilization, and replacement as necessary.

12.5

Parking Lot Landscape

A. Required Parking Lot Landscape

Parking lot landscape is required as follows:

1. New construction of a parking lot.



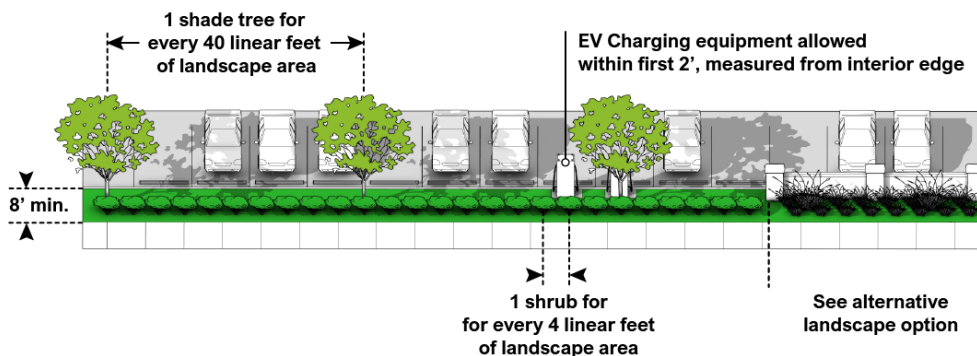
2. When an existing parking lot is fully reconstructed and/or reconfigured.
3. When an existing parking lot is expanded by an additional 25% or more spaces (viz., the total number of spaces after expansion is 125% or more of the spaces prior to expansion).

B. Parking Lot Perimeter Landscape

Landscape is required along all edges of a parking lot that abut a street, whether the parking lot is a principal use of the site or an accessory parking lot to a principal use. The landscape treatment must run the full length of that edge, except for required access points. This landscaped area must be improved as follows:

1. The parking lot perimeter landscape area must be a minimum of eight feet in width.
2. There must be a minimum linear clear distance of 18 inches between any wheel stops or curbs to accommodate vehicle bumper overhang. This area is not included in the minimum landscape area of item 1 above.
3. Where EV charging stations are included as a component of parking spaces, EV charging equipment is allowed within the first two feet, measured from the interior edge of the required landscape area.
4. A minimum of one shade tree must be planted for every 40 linear feet of landscape area. Trees may be spaced at various intervals based on specific site requirements, but the total number of trees planted must be no less than one per 40 linear feet of landscape area.
5. A minimum of one shrub must be planted for every four linear feet of landscape area, spaced linearly on-center.
6. Fences or walls are permitted within this area. Such fences or walls must be constructed of high quality, durable materials such as masonry, stone, brick, iron, or any combination thereof. Chain link is prohibited. If installed, fences must be a minimum of three feet in height to a maximum of four feet in height.
7. A minimum of 70% of the landscape area outside of required tree and shrub masses must be planted in live groundcover, perennials, and/or grass. Rain gardens, bioswales, and similar stormwater management landscape elements meet this requirement.

Parking Lot Perimeter Landscape



8. Alternative Landscape Option

The following is an accepted alternative to the planting requirements of items 1 through 6 above:

- a. The parking lot perimeter landscape area of item 1 above may be reduced to three feet in width of the following standards are met:
 - i. A low pedestrian wall must be installed, of a minimum of three feet in height to a maximum of 4 feet in height, constructed of masonry, concrete, or similar permanent material and running the full length of the perimeter abutting the street, except for required access points.



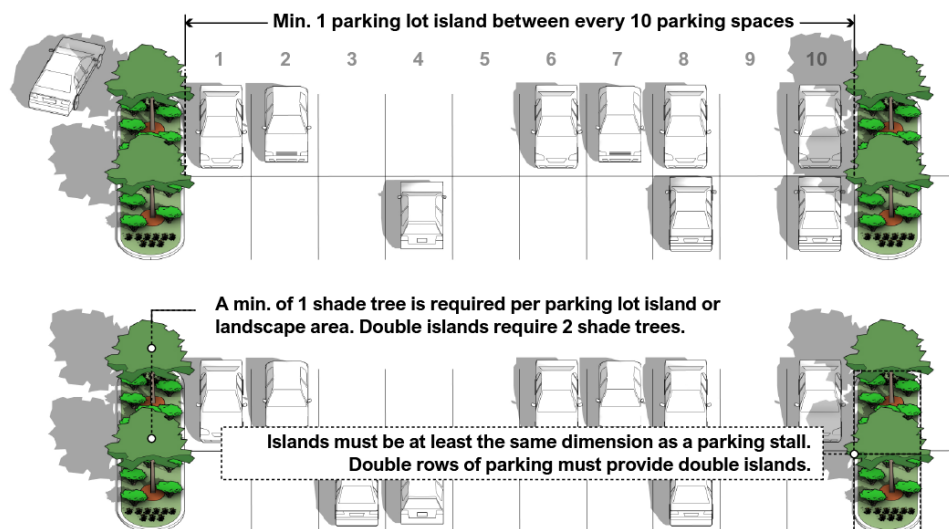
- ii. A mix of shrubs, groundcover, perennials, ornamental grasses, and other native planting types must be planted in front of such wall along the street, facing toward the street. These plantings must create a continuous screen along a minimum of 50% of the wall.
- iii. Up to 40% of the total length of the wall may be designed to accommodate pedestrian seating. Where seating areas are included, the minimum wall height does not apply.

C. Interior Parking Lot Landscape

Interior parking lot landscape is required for any parking lot of 15 or more spaces, and must meet the following standards:

1. A minimum of one parking lot island must be provided between every ten parking spaces. As part of the landscape plan approval, parking lot island locations may be varied based on specific site requirements or design scheme, but the total number of islands must be no less than the amount required of one island for every ten spaces.
2. Parking lot islands must be, at minimum, the same dimension as a parking stall. Double rows of parking must provide parking lot islands that are, at minimum, the same dimension as the double row.
3. A minimum of one shade tree must be provided for every parking lot island or landscape area. Where a parking lot island is the same dimension as a double row of parking, two shade trees are required.
 - a. 70% of the remaining area of a parking lot island must be planted in ornamental trees, live groundcover, shrubs, perennials, or grass. Fully vegetated, non-turf, green infrastructure stormwater control measures also meet this requirement. This percentage may be reduced to 25% if the parking lot island is designed to accommodate pedestrian access or refuge.
4. The use of stormwater management elements, such as sunken islands, perforated curbs, rain gardens and bioswales, is encouraged in landscape areas.
5. All landscaping in or adjacent to a vehicular use area shall be protected from vehicular damage by a raised concrete curb six inches in height, or an equivalent barrier. Such barrier need not be continuous, and may allow for the movement of water into landscaped areas.

Interior Parking Lot Landscape



12.6 Buffer Yards

- A.** Buffer yards must be located along rear and interior side lot lines when indicated in Table 12-2, and are measured perpendicular to the lot line. Where a district requires a setback that is less than the required dimension of a buffer yard, the buffer yard dimension controls.
- B.** Buffer yards must be reserved for plant material and screening as required by this section. No parking spaces, loading spaces, refuse containers, or storage areas are permitted within the required buffer yard.
- C.** In cases where a buffer yard is required by this section and a site does not have an existing buffer yard, or the existing buffer yard on the site does not meet the standards of this section, a buffer yard must be installed when any of the following actions occur:
 - 1. New construction of a principal building. This includes construction of additional principal buildings on a lot.
 - 2. Expansion of a principal building by 30% or more of gross floor area.
 - 3. When a parking lot is expanded by an additional 25% or more spaces (viz., the total number of spaces after expansion is 125% or more of the spaces prior to expansion).
 - 4. Expansion of lot area.
- D. Buffer Yard Requirements Established**
 - 1. Table 12-2: Buffer Yard Requirements, establishes requirements for buffer yards in various zoning districts. The table specifies the type of development that must install buffer yards, the conditions under which buffer yards are required, and the corresponding class of buffer yard that must be installed.
 - 2. Where Table 12-2 indicates that “nonresidential development” or “any development in the district” is required to install a buffer yard, the requirement does not apply to parks, which are not subject to these standards.

Table 12-2: Buffer Yard Requirements

Zoning District	Development Type	Condition	Required Buffer Yard Class
R-R, R-WM, R-WH	Nonresidential development ¹	When abutting a residential use	B
R-T, R-C, R-UC	Nonresidential development ¹	When abutting a residential use	B
NC, CC, WMU	Nonresidential development	Abutting a residential use other than multi-family	C
CG, CX	Any development in the district	Abutting a residential district or residential use	A
DB	Any development in the district	Abutting a residential district or residential use	B
MC	Any development in the district	Abutting any zone other than I	A
I	Any development in the district	Abutting any zone other than MC	A

¹ Not including neighborhood commercial establishments



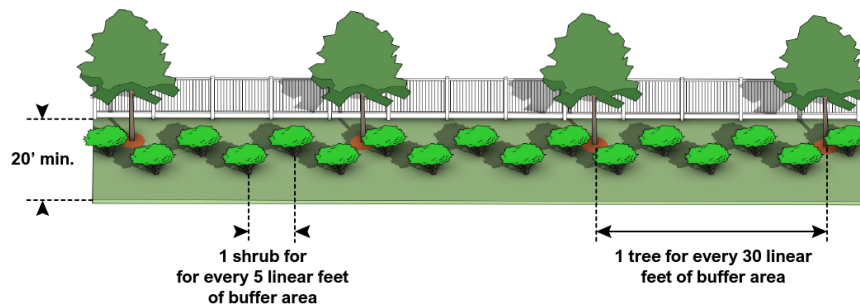
E. Buffer Yard Classes Established

Table 12-3: Buffer Yard Classes establishes the requirements for each class of buffer yard required by this Article.

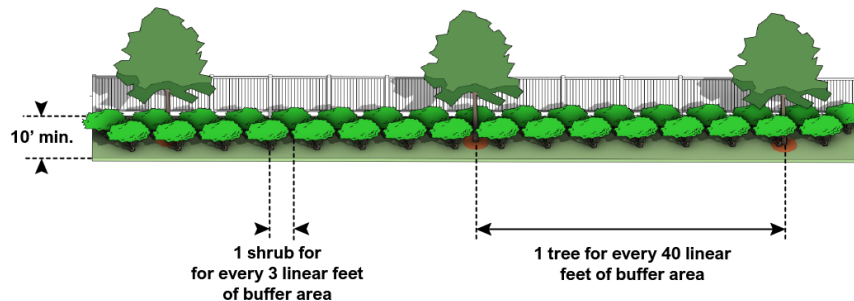
1. Where trees and/or shrubs are required to be planted as a component of a buffer yard, a minimum of 60% of the total number of trees and shrubs planted must be evergreen species.
2. All buffer yard classes require the installation of a solid fence or wall along the entire length of the buffer yard. Such fence or wall must be a minimum of six feet in height and a maximum of eight feet in height, and must be installed in a manner that provides for easy access and maintenance of all required buffer yard elements and plant material.

Requirement	Buffer Yard Class		
	A	B	C
Width (Min.)	20 ft.	10 ft.	5 ft.
Shrubs (Min.)	1 per 5 linear ft.	1 per 3 linear ft.	1 per 3 linear ft.
Trees (Min.)		1 per 30 linear ft.	N/A

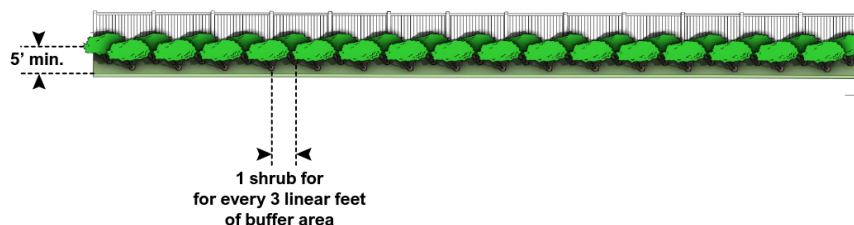
Buffer Yard Class A



Buffer Yard Class B



Buffer Yard Class C



12.7 Required Root Zone Protection

- A. All existing trees identified on the landscape plan to be retained must be adequately protected during site preparation and construction.
 - 1. Protective fencing or a similar construction barrier must be placed at and completely encompass the root protection zone of all trees being retained prior to site preparation and construction. Protective measures must remain in place and maintained until completion of development.
 - 2. Any tree with a root protection zone that will be affected by soil removal must have roots cleanly and properly pruned at a point at least one foot inside the construction barrier installed as required above.
- B. The following is prohibited within the root protection zone of any tree being retained:
 - 1. Grading and excavation that involves cutting, filling, or trenching.
 - 2. Pouring of any material which is toxic or harmful to plants.
 - 3. Installing, depositing, placing storing, or maintaining any stone, brick, sand, concrete, or other materials which may impede the free unobstructed growth of or passage of water, air, and fertilizer to the roots.
 - 4. Attaching any sign, poster, notice or other object, or fastening any guy wire, cable, rope, nail, screw, or other device to any retained tree for any reason.
 - 5. Causing or encouraging any fire or burning of any kind.
 - 6. Parking construction or passenger vehicle of any type.
- C. Temporary arrangements needed for access through protected areas with root protection zones are permitted only after one of the following measures is installed. At no time may encroachment be allowed into more than the outer one-third of the root protection zone.
 - 1. Construction of a bridge of railroad ties and street plates to support movement of equipment over the root zone. Railroad ties must be positioned so as to not damage or impede the growth of major roots.
 - 2. Spreading of mulch or wood chips to maintain a minimum thickness of six to 12 inches. If equipment is heavy, or frequency of use is regular, then thickness must be maintained at 12 inches. When temporary access is no longer required, mulch must be removed, and original grade restored.



13 Code Administrators

- 13.1 City Council
- 13.2 Codes Enforcement Officer
- 13.3 Historic District Committee
- 13.4 Planning Board
- 13.5 Planning Director
- 13.6 Staff Review Committee
- 13.7 Zoning Board of Appeals

13.1 City Council

- A.** The City Council has the following powers and responsibilities pursuant to this Code:
1. To make final decisions on zoning text and map amendment applications.
 2. To review and make final decisions on certain temporary use permits per §15.5.

13.2 Codes Enforcement Officer (CEO)

- B.** The Codes Enforcement Officer 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 approvals are carried out, and that this Code is enforced. The CEO has the following powers and responsibilities pursuant to this Code:
1. Issue all building permits per §15.10 and maintain such records.
 2. Issue certificates of occupancy per §15.11 and maintain such records.
 3. Review and make final decisions on temporary use permits per §15.5 and maintain such records.
 4. Render zoning interpretations per §15.7 and maintain such records.
 5. Delineate the normal high-water line where such is not clearly mapped.
 6. Delineate the boundary of freshwater wetlands where such is not clearly mapped.

13.3 Historic District Committee

- A.** The Historic District Committee has the following powers and responsibilities pursuant to this Code:
1. To make final decisions on historic district approval applications per §7.1.

B. Composition

The Historic District Committee will consist of 3 members, including the Planning Director and 2 Planning Board members designated annually by the Chair of the Planning Board.

13.4 Planning Board

- A.** The Planning Board has the following powers and responsibilities pursuant to this Code:
1. To make recommendations on zoning text and map amendment applications per §15.1.
 2. To make final decisions on site plan approval applications per §15.4.
 3. To make final decisions on appeals of Staff Review Committee decisions per §15.4.J.
 4. To make final decisions on demolition permits per §15.6



5. To make final decisions on historic district approval applications per § 7.1.
6. To make final decisions on subdivision applications per Article 16.
7. To make final decisions on Mineral Extraction Operations Permits per Article 17.
8. To prepare a report to the City Council on development trends in the City, submitted to the City Council on or before April 1st in odd-numbered years.
9. To prepare a Comprehensive Plan and periodic revisions for the growth and development of the City, and to submit them to the City Council with the Planning Board's recommendation.

B. Composition

The Planning Board will consist of 7 members. Those persons who are members and associate members as of the date of adoption of this Code will continue as members of the Planning Board until their terms of office expire and they have been reappointed or replaced.

C. Appointments

The members of the Planning Board are appointed by the City Council.

D. Qualifications

All members of the Planning Board must be residents of the City of Bath and must be registered voters. A City Council member, a ZBA member, or the spouse of a City Council member or Planning Board member may not be a member of the Planning Board.

E. Terms of Office

Members of the Planning Board serve staggered 3-year terms. If a vacancy occurs, the term of the person appointed to fill the vacancy is for the period of the unexpired term. The terms of members expire on September 1 unless a replacement has not been appointed, in which case the term of the expiring member is extended until a replacement is named.

F. Dismissal of Members

A member of the Planning Board may be dismissed for cause by the City Council. When considering removal, the member must be notified of the cause and the time and place of the City Council meeting at least 7 days prior to the meeting at which the removal is to be considered. At that meeting, the member has the right to be heard concerning the removal. Any member who does not attend 50 percent of the Planning Board meetings in any 6-month period, unless otherwise excused by the Chair of the Planning Board, may be removed by the City Council without notice.

G. Officers

The Planning Board must elect annually a Chair, a Vice Chair, and other officers as it chooses from its membership. These officers are elected by the Planning Board during its first meeting in September, provided the City Council has made its new appointments by that date. The term of office for officers is 1 year; officers may succeed themselves if so elected.

1. The Chair is responsible for calling meetings of the Planning Board, working with the Planning Director to establish agendas for the meetings, presiding at meetings, and representing the Planning Board before the City Council or other groups.
2. The Vice Chair is responsible for carrying out the duties of the Chair in his/her absence or incapacity.

H. Meetings of the Board

1. The Planning Board meets monthly on the first Tuesday of the month. The Chair may schedule other meetings as necessary. The Chair must call a meeting of the Planning Board within 7 days upon the written request of any 3 members of the Planning Board.
2. All meetings are open to the public and will be conducted in accordance with such rules of procedure as the Planning Board may determine, as well as applicable state and local laws. All meetings of the Planning



Board are open to the public, except that the Planning Board may go into executive session to meet with its attorney.

I. Quorum, Voting, and Rules of Procedure

1. A quorum consists of 4 members of the Planning Board. No business may be conducted without a quorum; however, fewer than a quorum may decide to postpone the meeting to another date.
2. On any and all voting matters pertaining to recommended adoption of or amendments to the Comprehensive Plan or to proposed adoption of or amendment to the Land Use Code, a majority vote of those present and voting is needed to constitute such a recommendation, and only after a public hearing has been conducted on the matter. All other voting matters are decided by a majority vote of those present and voting.
3. The Planning Board has the authority to establish any rules and procedures as necessary for its efficient operation.

J. Conflict of Interest

Members of the Planning Board must adhere to State conflict of interest rules at MRS 30-A, §2605., and applicable City of Bath rules and policies.

13.5 Planning Director

A. The Planning Director has the following powers and responsibilities pursuant to this Code:

1. To perform preliminary completeness checks of subdivision and site plan applications received by the Planning Office.
2. To review and make recommendations regarding the approval of site plan and subdivision applications.
3. To serve as an ex-officio member of the Historic District Committee.

13.6 Staff Review Committee

A. The Staff Review Committee has the following powers pursuant to this Code:

1. To make final decisions on site plan approval applications per §15.4.

13.7 Zoning Board of Appeals

A. The Zoning Board of Appeals has the following powers pursuant to this Code:

1. Review and make decisions on variance requests per §15.3.
2. Hear administrative appeals of decisions of the Codes Enforcement Officer (CEO) per §15.8.
3. Hear appeals related to notice of Site Plan Approval applications.
4. Hears miscellaneous appeals including those related to sign provisions and the Building Code.

B. Composition

The Zoning Board of Appeals (ZBA) will consist of 7 members. Those persons who are members and associate members as of the date of adoption of this Code continue as members of the ZBA until their terms of office expire and they are replaced. This does not constitute a re-establishment of the ZBA.

C. Appointments

The members of the ZBA are appointed by the City Council.



D. Qualifications

All members of the ZBA must be residents of the City of Bath and must be registered voters. A City Council member, a Planning Board member, or the spouse of a City Council member or Planning Board member may not be a member of the ZBA.

E. Terms of Office

Members of the ZBA serve staggered 3-year terms. If a vacancy occurs, the term of the person appointed to fill the vacancy is for the period of the unexpired term. The terms of members expire on September 1 unless a replacement has not been appointed, in which case the term of the expiring member is extended until a replacement is named.

F. Dismissal of Members

A member of the ZBA may be dismissed for cause by the City Council. When considering removal, the member must be notified of the cause and the time and place of the City Council meeting at least 7 days prior to the meeting at which the removal is to be considered. At that meeting, the member has a right to be heard concerning the removal. Any member who does not attend 50 percent of the ZBA meetings in any 6-month period, unless otherwise excused by the Chair of the ZBA, may be removed by the City Council without notice.

G. Officers

The ZBA must annually elect a Chair, a Vice Chair, and other officers as it chooses from its membership. These officers are elected by the ZBA during its first meeting in September, provided the City Council has made its new appointments by that date. The term of office for officers is 1 year; officers may succeed themselves if so elected.

1. The Chair is responsible for calling meetings of the ZBA, establishing agendas for the meetings, presiding at meetings, and representing the ZBA before the City Council or Planning Board.
2. The Vice Chair is responsible for carrying out the duties of the Chair in their absence or incapacity.

H. Meetings of the Board

1. The ZBA will meet on the first Monday of each month unless that day falls on a legal holiday, in which case the meeting will be held on the following Monday. The Chair also may call other meetings as necessary, and must call a meeting upon the written request of any 3 members of the ZBA.
2. All meetings are open to the public and will be conducted in accordance with such rules of procedure as the ZBA may determine, as well as applicable state and local laws.

I. Quorum

A quorum consists of 4 members of the ZBA. No business may be conducted without a quorum; however, fewer than a quorum may decide to postpone the meeting to another date.

J. Conflict of Interest

A member of the ZBA may not vote on or participate in any matter in which he/she has a direct or indirect financial or personal interest. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon will be decided by a majority vote of the members present and voting, except the member who is being challenged. A member of the ZBA may not represent any third party in matters coming before the ZBA.

K. Voting

All members present and not excused must vote on each item. The votes of a majority of those members present and voting are required for the passage of any item of ZBA business.



14 Zoning Application Procedures

14.1 Application

14.2 Notice

14.3 Coordination of Multiple Approvals

14.1 Application

A. Submittal

All zoning applications must be filed in accordance with Table 14-1. Applications must be on forms provided by the City, and filed in such quantity and with such submittals as required by the City.

Table 14-1: Application Filing

Zoning Application	Receiving Body/Official	
	Planning Office	Codes Enforcement Officer
Zoning Text Amendment	●	
Zoning Map Amendment	●	
Contract Rezoning	●	
Site Plan Review	●	
Demolition Permit	●	
Variance		●
Administrative Appeal		●
Temporary Use Permit		●
Zoning Interpretation		●
Building Permit		●
Certificate of Occupancy		●

B. Pre-Application Conference

Prior to formal submittal of an application, the applicant may, at their option, choose to schedule a pre-application conference with Planning Office staff. The purpose of a pre-application conference, which does not require a formal application or fees, is to provide informal advice and assistance to the applicant. Opinions or advice presented to the applicant during the pre-application conference are not binding with respect to any official action that may be taken on a formal application. No decision is made regarding the application during the pre-application conference.

C. Preliminary Determination of Completeness

1. An application must include all information, plans, data, and fees as specified in the application requirements. The Planning Office or CEO, as applicable, will examine all applications to make a preliminary determination of completeness. If the application does not include all the submittal requirements for the application, staff will reject the application and provide the applicant with the reasons for the rejection. No further steps to review the application will be taken until all deficiencies are remedied.



2. After a preliminary determination of completeness has been made, and before action is taken on the application, any substantive change made by the applicant to the application requires resubmittal of the entire application and a new preliminary determination of completeness. However, such revisions do not require additional payment of fees. Once the application is under consideration, additional information or revisions are not subject to this provision.

D. Fees

1. Each application must be accompanied by the required filing fee, as established and modified, from time to time, by the City Council. The failure to pay such fee when due is grounds for refusing to accept the application and renders the application incomplete. If an application is submitted by the City Council or Planning Commission, all fee requirements are considered waived.

E. Withdrawal of Application

An applicant has the right to withdraw an application at any time prior to the final decision on the application by a board or official, including the ability to withdraw the application if it has been tabled. The applicant must submit a request for withdrawal in writing. There will be no refund of fees.

F. Consideration of Successive Applications

1. Within one year of the date of denial, a subsequent application for the same zoning approval will not be reviewed or heard unless there is substantial new evidence available, or if a significant mistake of law or of fact affected the prior denial.
2. If the application is resubmitted earlier than one year from the date of denial, the subsequent application must include a detailed statement of the grounds justifying its consideration. The Planning Director will make a determination as to whether the subsequent application is appropriate for resubmittal prior to the expiration of the one-year wait requirement. If they find that there are no new grounds for consideration of the subsequent application, the application will be summarily, and without hearing, found incomplete and no further action taken.

14.2

Notice

A. Required Notice

Table 14-2: Required Notice for Zoning Approvals indicates the type(s) of notice required for the various zoning applications. If the specific requirements of a zoning approval process found in Article 15 contain contradictory information to Table 14-2, the specific requirements of that process shall control.

Table 14-2 Required Notice for Zoning Approvals			
Zoning Application	Notice Type		
	Published	Mailed	Posted
Zoning Text Amendment Notice of Public Hearing	●		●
Zoning Map Amendment Notice of Public Hearing	●	●	●
Contract Rezoning Notice of Public Hearing	●	●	●
Variance Notice of Public Hearing	●	●	
Site Plan Review Notification to Abutters		●	



Table 14-2 Required Notice for Zoning Approvals

Zoning Application	Notice Type		
	Published	Mailed	Posted
Demolition Permit Notice of Public Hearing		●	●
Administrative Appeal Notice of Public Hearing	●	●	

B. Published Notice

When published notice is required by Table 14-2, the City will publish notice in a newspaper of general circulation in the City of Bath. The notice must include the date, time, place, and purpose of such action, the name of the applicant, and the address of the subject property. Published notice must be provided as follows:

1. Text Amendments, and Map Amendments

Published notice will be provided at least two times in advance of the public hearing for zoning text amendments, zoning map amendments, and contract rezonings. The date of first publication must be at least 12 days prior to the hearing; the date of the second publication must be at least 7 days prior to the public hearing.

2. Contract Rezonings

Published notice will be provided at least two times in a newspaper having general circulation in the municipality in advance of the public hearing for contract rezonings. The date of first publication must be at least 7 days prior to the hearing.

3. Variances and Administrative Appeals

Published notice will be provided at least 7 days prior to the public hearing for a variance or administrative appeal.

C. Mailed Notice

When mailed notice is required by Table 15-1, the City will provide notification as specified below. Such notification must include the date, time, place, and purpose of such action, the name of the applicant, and the address of the subject property. Failure to notify as required herein does not invalidate any action of the Review Authority, nor does it require the Review Authority to reconsider an application, unless a property owner can demonstrate that they were materially prejudiced by the lack of knowledge of the Review Authority meeting. Such an appeal shall be processed as an Administrative Appeal.

1. Zoning Map Amendments, Contract Rezonings, Variances, and Administrative Appeals

The City will mail notice at least 7 days prior to the public hearing to all property owners within 200 feet of the subject property as shown by the most recent tax record of the City. When a zoning map amendment is initiated by the City, notice must also be mailed to the owner of the subject property.

2. Site Plan Review

The Planning Office will mail notice at least 7 days prior to the date when the applicable review authority is to review a site plan to all property owners within 100 feet of the subject property as shown by the most recent tax record of the City.

3. Demolition Permit

The Planning Office will mail notice at least 7 days prior to the date when the Planning Board is to review an application at a public hearing to all property owners within 200 feet of the subject property as shown by the most recent tax record of the City.



D. Posted Notice

When posted notice is required by Table 14-2, the City will post a public hearing notice in City Hall at least 14 days prior to the public hearing. The notice must include the date, time, place, and purpose of such action, the name of the applicant, and the address of the subject property.

E. Additional Notice

Nothing in this section is intended to prevent the applicant or the City from providing additional notice as may be deemed necessary for any application.

14.3**Coordination of Multiple Approvals**

- A.** 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. If multiple approvals are required they may be sought concurrently, with the following exceptions:
1. If a variance is required, it must be obtained before approval of a site plan, subdivision approval, or historic district approval.
 2. A building permit may be issued only after all other necessary approvals are obtained.

B. 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.



15 Zoning Approvals and Permits

- 15.1 Zoning Text and Map Amendment
- 15.2 Contract Rezoning
- 15.3 Variance
- 15.4 Site Plan Review
- 15.5 Temporary Use Permit
- 15.6 Demolition Permit
- 15.7 Zoning Interpretation
- 15.8 Administrative Appeal
- 15.9 Historic District Approval
- 15.10 Building Permit
- 15.11 Certificate of Occupancy

15.1 Zoning Text and Map Amendment

A. Purpose

The zoning regulations of this Zoning Code and of the Zoning Map may be amended from time to time in accordance with this section. These processes are intended to allow for modifications in response to omissions or errors, changed conditions, or changes in City policy. Amendments are not intended to relieve particular hardships or confer special privileges or rights upon any person or party.

B. Initiation

1. Zoning text amendments may be initiated by the City Council, the Planning Board, the Planning Director, the City Manager, or by any person or entity having a proprietary interest in property located within the City.
2. Zoning map amendments may be initiated by the City Council, the Planning Board, the Planning Director, the City Manager, or by the owner of the property involved.

C. Authority

The City Council, after receiving a recommendation from the Planning Board, may take action on requests for zoning text or map amendments.

D. Procedure

1. Filing

All applications must be filed in accordance with Article 14. Following a preliminary determination of completeness, the application will be scheduled for consideration by the Planning Board at a Public Hearing. Amendments initiated by the City Council, Planning Board, Planning Director, or City Manager also require an application, but are exempt from required fees.

2. Action by the Planning Board

- a. Upon receipt of an application, the Planning Board will consider the proposed zoning text or zoning map amendment at a public hearing to be held at the next regularly scheduled Planning Board meeting that allows for compliance with the notice requirements of Article 14.
- b. The Planning Board must evaluate the application based upon the evidence presented, pursuant to the approval standards of this section.
- c. For zoning text amendments, the Planning Board must recommend approval, approval with modifications, or denial of the application. For zoning map amendments, the Planning Board must recommend approval or denial of the application. A majority vote of those present and voting is needed to constitute a recommendation.



- d. The Planning Board must forward its recommendation to the City Council within 45 days of the close of the public hearing. This 45-day period may be extended for an additional 45 days by vote of the Planning Board.
- e. Failure of a property owner to receive notice in accordance with Article 14 does not invalidate any action on an application, nor does it require the Review Authority to reconsider an application, unless a property owner can demonstrate that they were materially prejudiced by the lack of knowledge of the Review Authority meeting. Such an appeal shall be processed as an Administrative Appeal.

3. Action by the City Council

- a. Upon receipt of a recommendation from the Planning Board, the City Council will review the application and the Planning Board recommendation at the next regularly scheduled meeting to be considered for first passage. For zoning text amendments, the City Council will either deny the application, approve the application, or approve the application with modifications. For zoning map amendments, the City Council may take action in the form of approval or denial of the application. At this stage, approval or approval with modifications shall constitute a first passage.
- b. If the City Council grants first passage, the application will be subsequently considered at a public hearing, noticed in accordance with Section 221 of the City of Bath Charter.
- c. Following the close of the public hearing, for zoning text amendments the City Council will take action in the form of approval, approval with modifications, or denial of the application. For zoning map amendments, the City Council may take action in the form of approval or denial of the application.

E. Approval Standards

The Planning Board Recommendation and the City Council decision on any zoning text or zoning map amendment is a matter of legislative discretion. In making such determinations, recommendations, and decisions, the City Council and Planning Board will consider the following criteria. Approval of amendments is based on a balancing of these standards.

1. Approval Standards for Zoning Text Amendments

- a. Whether the proposed amendment corrects an error or omission, adds clarification to existing requirements, or reflects a change in policy.
- b. The extent to which the proposed amendment may create new nonconformities.
- c. The consistency of the proposed amendment with the intent and general regulations of this Code.
- d. Assessment of intended and possible unintended consequences.
- e. The consistency of the proposed amendment with the Comprehensive Plan and any other adopted plans and land use policies of the City of Bath.

2. Approval Standards for Zoning Map Amendments

- a. The compatibility with the existing use of the property and zoning of nearby property.
- b. The extent to which the proposed amendment may create new nonconformities.
- c. The trend of development, if any, in the general area of the property in question.
- d. The consistency of the proposed amendment with the Comprehensive Plan and any other adopted plans and land use policies of the City of Bath.

15.2

Contract Rezoning

A. Purpose

Pursuant to the authority delegated to municipalities under 30-A M.R.S. §4352(8), contract rezoning is hereby authorized to permit rezoning of property when projects can better meet community objectives articulated in the



Comprehensive Plan due to additional flexibility being allowed, in order to encourage innovative design, or where it has been determined that there exists an unusual nature, condition, or location relative to the property being considered for rezoning. In these circumstances, the City Council may find it necessary and appropriate to impose, by agreement with the applicant, certain conditions or restrictions relating to the physical development and/or operation of the property that are generally not applicable under conventional zoning regulations.

B. Applicability

Contract rezoning is allowed only on properties located within the zoning districts listed below:

1. CC Community Commercial District
2. CG Commercial Gateway District
3. DB Downtown Bath District
4. MC Marine Commercial District
5. I Industrial/Shipyard District
6. Trufant Marsh Contract District

C. Procedure

1. Filing

All applications must be filed in accordance with Article 14. Following a preliminary determination of completeness, the application will be scheduled for consideration by the Planning Board at a Public Hearing.

2. Action by the Planning Board

Contract rezoning applications must be reviewed by the Planning Board in accordance with the provisions for Site Plan Review, as well as any other sections of this Code that may be applicable to the proposed development.

- a. Upon receipt of an application, the Planning Board will consider the proposed contract rezoning at a public hearing to be held at the next regularly scheduled Planning Board meeting that allows for compliance with the notice requirements of Article 14.
- b. Following the close of the public hearing, the Planning Board must recommend approval, approval with conditions, or denial. Such recommendation must be forwarded to the City Council within 45 days of the close of the public hearing. This 45-day period may be extended for an additional 45 days by vote of the Planning Board.
- c. In recommending contract rezoning approval to the City Council, the Planning Board must make findings of fact consistent with the site plan, historic district, and subdivision approval criteria of this code, as applicable, and must find that the following criteria are met:
 - i. The approval is consistent with the mandatory conditions for granting contract rezoning approval in §15.2.D.1.
 - ii. The applicant is willing to meet certain community objectives contained in the Comprehensive Plan due to additional flexibility being allowed, the applicant has employed innovative design, or there exists an unusual nature, condition, or location relative to the property being considered for contract rezoning.
- d. Historic district, site plan, and/or subdivision approval may be processed concurrently with an application for contract rezoning.

3. Action by the City Council

- a. Upon receipt of a recommendation from the Planning Board, the City Council will review the contract rezoning application, the Planning Board recommendation and findings of fact, and any discretionary conditions at the next regularly scheduled meeting. The scope of review by City Council in granting



contract rezoning is limited to the conditions contained in §15.2.D.2, and only if such conditions are not otherwise required for historic district approval, site plan approval, or subdivision approval.

- b. The City Council must take action in the form of approval, approval with modifications, or denial of the application. At this stage, approval or approval with modifications shall constitute a first passage by the City Council.
- c. If the City Council grants first passage, the application will be subsequently considered at a public hearing, noticed in accordance with Section 221 of the City of Bath Charter. Following the close of the public hearing, the City Council will take action in the form of approval, approval with modifications, or denial of the application. If the City Council votes to recommend modification of any of the discretionary conditions, and if any of the recommendations affect historic district, site plan, or subdivision approvals granted by the Planning Board, the modifications to such discretionary conditions must be referred back to the Planning Board for its review and approval prior to final approval of the contract rezoning being granted by the City Council.

4. Recordation and Expiration

- a. Evidence of approval must be recorded in the Sagadahoc County Registry of Deeds prior to the issuance of any building permit by the Codes Enforcement Officer, on forms adopted by the Planning Board for such purpose. The applicant shall be responsible for recording evidence of approval. No recordation of evidence of the approval is required for contract zoning approvals granted by the Bath City Council prior to July 1, 2016.
- b. The time period at the end of which a site plan approval is considered void shall begin 21 days following final approval of the contract rezoning by City Council.

D. Conditions for Granting Contract Rezoning Approval

1. Mandatory Conditions

All rezonings under this section must be consistent with the Comprehensive Plan of the City of Bath and any adopted land use policies of the City of Bath, and must include only conditions and/or restrictions that relate to the physical development or operation of the property.

2. Discretionary Conditions

Approval by the Planning Board may include conditions affecting any or all of the following:

- a. The number and type of authorized uses of the property.
- b. The space and bulk regulations of any structure or structures built on the property.
- c. The installation, operation, and maintenance of physical improvements relating to pedestrian and vehicular access for the convenience and safety of the general public, including but not limited to off-street parking lots, traffic control devices, ingress and egress, and impact on off-site traffic directly attributable to the contract rezoning proposal.
- d. Limitations on the number of ingress and/or egress points.
- e. The implementation of a landscaping plan designed to improve or protect the neighborhood by improving aesthetics or providing a buffer from surrounding properties.
- f. The location and buffering of exterior storage, parking, and loading areas.
- g. Limitations on the type and style of lighting.
- h. Requirements for the installation of underground utilities.
- i. Innovative design for new construction, alterations, or expansions that provide a smooth transition between streetscape, the Route 1 corridor (if applicable), the Downtown (if applicable), driveway entrances, and structures (height, scale, and treatment of new and altered structures must endeavor to assist in buffering Route 1 traffic (if applicable) from residential neighborhoods and to provide an attractive gateway to the City and an attractive Downtown.



- j. The design and façade treatment of any new building, additions, or existing structures.
- k. The dedication or conveyance of property for public purposes, including but not limited to streets, scenic and conservation easements, and utility systems.

E. Costs

Any administrative costs incurred by the City for drafting the contract rezoning provisions will be paid for by the applicant, whether or not the project or any conditions of approval are approved by City Council.

F. Amendments

Contract zoning approvals may be amended as follows:

- 1. An amendment to any site plan and conditions that qualifies as a minor amendment per §15.4.I.2 may be approved per such minor amendment process. All other amendments require approval by the Planning Board.
- 2. If a proposed amendment alters any of the conditions for granting contract rezoning approval included in item D above, such amendment must be processed as a new contract rezoning approval in accordance with the process contained in this Section.

15.3

Variance

A. Purpose

A variance is a relaxation of the terms of this Code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Code will result in unnecessary or undue hardship. As used in this Code, a variance is authorized only for the following items:

- 1. Minimum lot area
- 2. Lot width
- 3. Building height
- 4. Building coverage and landscaped open space ratio
- 5. Setbacks

B. Initiation

A property owner in the City may file an application for a variance. A property owner may only propose a variance for property under their control.

C. Authority

The Zoning Board of Appeals will take formal action on variances.

D. Procedure

1. Filing

All applications must be filed in accordance with Article 14. Following a preliminary determination of completeness, the application will be scheduled for consideration at a meeting of the Zoning Board of Appeals to be held within 45 days.

2. Action by the Zoning Board of Appeals

- a. Upon receipt of an application, the Zoning Board of Appeals will consider the variance at a public hearing. Notice is required per Article 14.



- b. The Zoning Board of Appeals must evaluate the application based upon the evidence presented at the public hearing, pursuant to the approval standards of this section. The Zoning Board of Appeals will approve, approve with modifications, or deny the variance.
- c. The Zoning Board of Appeals may impose such conditions and restrictions upon the variance as may be deemed necessary for the protection of the public health, safety, and welfare. If the application is approved subject to conditions, any violation of those conditions revokes the approval of the ZBA.
- d. The Zoning Board of Appeals may grant a variance that is less than that requested when it has been decided that the applicant is entitled to some relief of the hardship, but not to the entire relief requested in the variance application.
- e. The applicant must be notified in writing of the action of the ZBA, together with the reasons for any denial, within 45 days following the close of the public hearing.

3. Property in the Shoreland Zone

- a. For any variance requested on property in the Shoreland Zone, A copy of each variance request, including the application and all supporting information supplied by the applicant, must be forwarded by the CEO to the Commissioner of the Department of Environmental Protection at least 20 days prior to action by the ZBA. Any comments received from the Commissioner prior to the action by the ZBA must be made part of the record and must be taken into consideration by the ZBA.
- b. The ZBA must state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the ZBA. Copies of written decisions of the ZBA must be given to the Planning Board, CEO, the City Manager, the City Council, and the Department of Environmental Protection within 45 days of the close of the public hearing.

E. Approval Standards

Prior to voting to grant a variance, the Zoning Board of Appeals must review the application and offer specific findings that the following standards have been met:

- 1. That the requirements of this Code will impose an undue hardship on the property owner, which means:
 - a. The land in question cannot yield a reasonable return unless a variance is granted.
 - b. The need for the variance is due to unique circumstances of the property and not to the general conditions of the neighborhood.
 - c. The granting of the variance will not alter the essential character of the locality.
 - d. The hardship is not the result of action taken by the applicant or a prior owner.

F. Limitations

- 1. No variance may allow a use that is prohibited in the district.
- 2. The variance granted must be the minimum adjustment necessary for the reasonable use of the land.

G. Expiration

An approved variance will expire one year from the date of approval unless a building permit is obtained or applied for within such period. The Zoning Board of Appeals may grant an extension for a period of validity so long as the applicant applies in writing for an extension of time at least one month prior to the date of expiration.

H. Misrepresentation

The Zoning Board of Appeals retains the right to rescind any approval of a variance if further information or additional investigation reveals a misrepresentation of the information presented to the ZBA.

I. Prior Work

Any construction activity commenced prior to the granting of a required variance is a violation of this Code.



15.4 Site Plan Review

A. Purpose

The site plan review process is intended to promote orderly development and redevelopment in the City in a manner that ensures compatibility with surrounding properties, alignment with the City's adopted land use policies, and the safeguarding of public health, safety, and welfare. This section provides standards by which to determine and control the physical layout and design of development to achieve compatibility of uses and structures, efficient use of land, minimization of traffic and safety hazards, and adequate public facilities.

B. Authority

Site plan approval from the appropriate Review Authority must be obtained prior to undertaking any alteration or improvement of the site, including grubbing or grading, cutting of trees, obtaining construction permits, and commencing any activity that requires site plan approval per this section.

1. Staff Review Committee

The Staff Review Committee is authorized to review and act on site plans as follows. For the purposes of determining applicability, all thresholds listed below are inclusive of cumulative expansions over a three-year period.

- a. New construction or additions to townhouse, multi-family, nonresidential, and mixed-use development up to 10,000 square feet in gross floor area in any district, or any new construction up to 20,000 square feet of gross floor area in the Industrial/Shipyard District.
- b. Creation of outdoor storage and/or display areas, or any impervious surface of 500 to 10,000 square feet.
- c. Creation of parking lots up to 15 spaces.
- d. Change of use of up to 5,000 square feet in gross floor area from any use category to another. Use categories are as follows: Residential, Mixed-Use/Commercial, Industrial, Institutional, Water-dependent/Marine.

2. Planning Board

The Planning Board is authorized to review and act on site plans as follows. For the purposes of determining applicability, all thresholds listed below are inclusive of cumulative expansions over a three-year period.

- a. New construction, additions, or change of use to any use designated in the Use Matrix (Article 8) as subject to site plan review by the Planning Board.
- b. New construction or additions to any townhouse, multi-family, nonresidential, and mixed-use development of more than 10,000 square feet in any district, or any new construction of more than 20,000 square feet in the Industrial/Shipyard District.
- c. Creation of outdoor storage and/or display areas, or any impervious surface of more than 10,000 square feet.
- d. Creation of parking lots of more than 15 spaces.
- e. Change of use of more than 5,000 square feet in gross floor area from any use category to another. Use categories are as follows: Residential, Mixed-Use/Commercial, Industrial, Institutional, Water-dependent/Marine.

C. Procedure

1. Pre-Application Workshop with the Planning Board

Prior to submitting a formal application for site plan approval from the Planning Board, the applicant may, at their option, schedule a pre-application workshop with the Planning Board. The workshop is informal and informational in nature, and does not constitute or result in any formal action. There is no fee for a pre-



application workshop, and it does not cause any application to be deemed pending. No decision on the substance of the plan may be made at the workshop. Applicants are encouraged to meet informally with the Planning Director prior to any pre-application workshop with the Planning Board.

a. Purpose

The pre-application workshop is intended to allow the Planning Board an opportunity to understand the nature of the proposed development and the issues involved in the proposal, and to identify any issues that must be addressed in future submissions.

b. Information Required

There are no formal submissions required for a pre-application workshop. However, the applicant should be prepared to discuss any characteristics of the site that may limit its use and/or development, the nature of the proposed use of the site and development including a conceptual site plan, any issues or questions regarding existing regulations and their applicability to the project, and any potential requests for waivers from the formal submission requirements.

2. Filing

Applications for site plan review must be submitted in accordance with Article 14. The application must include the following:

- a. Three paper copies and one digital copy of the site plan and all supporting information as required by this section. The digital submittal must be in PDF format, and must be provided on a USB drive.
- b. A list of owners of contiguous properties, property directly across the street, and property within 100 feet of the applicants property.

3. Pre-Review

a. Codes Enforcement Officer Review

- i. Following a preliminary determination of completeness by the Planning Office, the application will be forwarded to the Codes Enforcement Officer for pre-review determination. The CEO must determine:
 - (a) If the use proposed is allowed within the zoning district.
 - (b) If the application is in conformance with all applicable dimensional and design standards of the zoning district.
 - (c) If the Review Authority for the site plan is the Staff Review Committee or the Planning Board per §15.4.B above.
- ii. Following pre-review, the Codes Enforcement Officer must report their determination in writing to the Planning Director. If the Codes Enforcement Officer finds that item (a) or (b) above has not been met, the applicant must be notified in writing, and processing of the site plan application will stop.

b. Planning Director Review

- i. Upon receipt of the CEO's determination, the Planning Director will review the application to ensure all items required by §15.4.D are included. The Planning Director may request additional information from the applicant as needed to ensure that the review body is able to conduct a thorough and timely review. The Planning Director, after confirming all necessary information has been received, will take the following actions as necessary:
 - (a) For applications subject to Staff Review Committee Review, place the application on the agenda for a Staff Review Committee meeting.
 - (b) For applications subject to Planning Board review, place the application on the agenda of the next available Planning Board meeting.



- ii. The Planning Director may, due to the anticipated impacts of any project, determine that it is subject to review by the Planning Board, and place the application on the agenda of the next available Planning Board meeting.

4. Action by the Staff Review Committee

Upon receipt of an application, the Staff Review Committee will review the application at a meeting. Notice is required per Article 14.

a. Application Review

- i. The Staff Review Committee will first review the application to verify that all necessary information has been received. If the application is determined to be incomplete or lacking necessary information, the committee may not continue review, and must notify the applicant in writing of the information that is missing.
- ii. The applicant or their duly authorized agent or representative must present the application and explain how the proposed development will conform to all applicable provisions of this Code.
- iii. Questions and comments from those present may be made through the Staff Review Committee Chair.
- iv. The Staff Review Committee will review the information presented and determine if the proposed development will conform to all applicable provisions of this Code.
 - (a) If the Staff Review Committee determines that the application conforms to the approval criteria, it must grant Site Plan Approval. The Staff Review Committee may attach reasonable conditions to the site plan approval if it determines that such conditions are necessary to carry out the purpose of this Code.
 - (b) If the Staff Review Committee determines that the application does not conform to the approval criteria, it must deny Site Plan Approval and state in writing the reasons for the denial.
- v. If the Staff Review Committee needs more time to review the application and the information presented, or if the applicant needs more time to present additional information to show that the application meets the approval criteria, it may vote to continue review of the application to another Staff Review Committee meeting that is to be held within 14 days. This time may be extended by mutual agreement of the applicant and the Staff Review Committee. The motion to continue must state the reason for the continuation of and the date, time, and location of the meeting to which it is continued.

b. Independent Consultants

If the Staff Review Committee cannot judge that the proposed development will conform to all applicable provisions of this Code, it may, after notification to and at the expense of the applicant, employ 1 or more independent consultants. The estimated costs of such consultants must be deposited with the City Treasurer prior to employing the independent consultant. Any money not spent must be reimbursed to the applicant. If the cost of the review exceeds the amount deposited, the applicant must deposit additional funds with the City Treasurer before Site Plan Approval may be granted.

5. Action by the Planning Board

Upon receipt of an application, the Planning Board will review the application at a meeting. Notice is required per Article 14.

a. Application Review

- i. The Planning Board will first review the application to verify that all necessary information has been received. If the application is determined to be incomplete or lacking necessary information, the Board may not continue review, and must notify the applicant in writing of the information that is missing.



- ii. The applicant or their duly authorized agent or representative must present the application and explain how the proposed development will conform to all applicable provisions of this Code.
- iii. Questions and comments from those present may be made through the Planning Board Chair.
- iv. The Planning Board will review the information presented and determine if the proposed development will conform to all applicable provisions of this Code.
 - (a) If the Planning Board determines that the application conforms to the approval criteria, it must grant Site Plan Approval. The Planning Board may attach reasonable conditions to the site plan approval if it determines that such conditions are necessary to carry out the purpose of this Code.
 - (b) If the Planning Board determines that the application does not conform to the approval criteria, it must deny Site Plan Approval and state in writing the reasons for the denial.
- v. If the Planning Board needs more time to review the application and the information presented, or if the applicant needs more time to present additional information to show that the application meets the approval criteria, it may vote to continue review of the application to another Planning Board meeting that is to be held within 45 days. This time may be extended by mutual agreement of the applicant and the Planning Board. The motion to continue must state the reason for the continuation of and the date, time, and location of the meeting to which it is continued.

b. Independent Consultants

If the Planning Board cannot judge that the proposed development will conform to all applicable provisions of this Code, it may, after notification to and at the expense of the applicant, employ 1 or more independent consultants. The estimated costs of such consultants must be deposited with the City Treasurer prior to employing the independent consultant. Any money not spent must be reimbursed to the applicant. If the cost of the review exceeds the amount deposited, the applicant must deposit additional funds with the City Treasurer before Site Plan Approval may be granted.

D. Submission Requirements

1. The applicant must submit 3 paper copies and one digital copy of the site plan (at a scale of not less than 1 inch = 50 feet) and all supporting information. Building elevations and other exterior building details may be required by the Planning Board for applications such as those for Historic District Approval and Contract Rezoning. The site plan and supporting submissions must include the following information:
 - a. The proposed use according to the Use Matrix in Article 8.
 - b. Evidence of right, title, or interest in the site of the proposed project.
 - c. A location map of the site with reference to surrounding areas and existing street locations.
 - d. The name and address of the owner and site-plan applicant.
 - e. Lot lines, including courses and distances, and existing monuments.
 - f. Locations of all existing buildings and structures, streets, easements, driveways, entrances, and exits on the site and within 100 feet thereof.
 - g. Locations and dimensions of proposed buildings and structures, roads, access drives, parking areas, and other improvements.
 - h. Lines on the site plan indicating required setbacks.
 - i. All existing physical features on the site including streams, watercourses, existing vegetated areas and an indication whether the vegetation will be removed or preserved, and soil conditions (e.g., wetlands, rock ledge, and areas of high water table) as reflected by a medium-intensity survey (the Review Authority may require a high-intensity soils survey where it deems necessary).
 - j. Topography showing existing and proposed contours at 5-foot intervals for slopes averaging 5 percent or greater and at 2-foot intervals for land of lesser slope. A reference benchmark must be clearly



designated. Where variations in the topography may affect the layout of buildings and roads or stormwater flow, the Review Authority may require that the topographic maps be based on an on-site survey.

- k. Parking, loading, and unloading areas must be indicated with dimensions, traffic patterns, EV Charging Infrastructure, and curb radii.
 - l. Improvements such as roads, curbs, bumpers, and sidewalks with cross sections, design details, and dimensions.
 - m. Locations and designs of existing and proposed stormwater systems, sanitary waste- disposal systems, potable water supplies, and methods of solid-waste storage and disposal.
 - n. Landscaping and buffering showing the location, quantity, size, name, and condition, both botanical and common, of all existing plant materials on-site, indicating plant material to be retained and removed, as well as the location of all required landscape and the quantity, size, spacing, condition, and name, both botanical and common, of all proposed plant material.
 - o. Lighting details indicating type of standards, location, direction, wattage, radius of light, and intensity.
 - p. Location, dimensions, and details of signs.
 - q. Demonstration of technical and financial capability to complete the project. In determining the applicants technical ability, the review authority shall consider the scope of the project, the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.
 - r. Evidence in site plan, text, or report form explaining how the development meets the applicable dimensional and design standards of the zoning district, the use standards of Article 8, and general development standards of Article 9.
2. Where the applicant requests in writing and the Review Authority finds that due to special circumstances of a particular plan the submission of any information listed in this section is not required in the interest of public health, safety, and general welfare, or is inappropriate because of the nature of the proposed development, the Review Authority may waive such requirements, subject to appropriate conditions.

E. Approval Criteria

Approval of site plans must be based upon conformity with all applicable provisions of this Code, including but not limited to zoning district standards, general development standards, use standards, parking standards, and landscape standards of this Code.

F. Approval Subject to Additional Information

The Review Authority may grant site plan approval subject to additional information. The applicant must provide any requested information and receive site plan approval from the Review Authority or the Planning Director if so designated by the Review Authority in its motion to grant the approval subject to additional information within 45 days of said approval, or the approval is void.

G. Expiration

Site plan approval is void 1 year from the date of the Review Authority approval unless a building permit for the project has been issued by the CEO. If the site plan approval is contingent upon a rezoning by the City Council, the 1 year period begins 21 days following final City Council approval of such rezoning. Prior to expiration of the site plan approval, the applicant may request an extension of up to 6 months from the Review Authority. Site plan approval remains valid if a building permit has been issued for the project prior to the expiration date. Expiration of the building permit prior to completion of the project renders the site plan approval null and void. Failure to comply with conditions placed on site plan approval or to comply with any other permitting process renders the approval null and void, unless an extension is granted by the Review Authority.

H. Change in Ownership



A change in the ownership of property does not affect the requirements of this section, including but not limited to requirements related to receiving site plan approval and implementing a final construction schedule.

I. Amendments to Approved Plans

1. Field Changes

Any practical difficulties arising during construction, such as minor utility relocations due to unforeseen conditions or substituting equivalent plant materials, must be approved by the Public Works Director and the Planning Director. Such changes must not substantially alter the approved site plan or any conditions imposed by the Review Authority.

2. Minor Amendments

Minor amendments to approved site plans may be permitted by the following procedure:

- a. An applicant may request a minor amendment to an approved site plan by submitting a written statement of the proposed amendment or amendments, and amended site plans reflecting such changes to the Codes Enforcement Officer. Amended site plans must be submitted in accordance with §15.4.D.
- b. Any amendments to the design of an approved project subject to design standards including but not limited to façade, transparency, orientation and entry placement must include a copy of the original approved design as well as the proposed design.
- c. If the Codes Enforcement Officer determines that the revision does not violate any applicable codes, the plan will be referred to the Planning Office for review by the Public Works Director, the Planning Director, and the Chair of the Planning Board.
- d. The Public Works Director, the Planning Director, and the Chair of the Planning Board must agree that the proposed change is a minor revision and that it does not materially change an approved site plan. If any member does not agree that the change is a minor revision, the proposed site plan revision will be placed on the next available agenda of the Review Authority that granted the site plan approval.
- e. Minor revisions to site plans may be approved, provided that such minor revisions will not materially alter the layout or scale of the development nor its impact on its surroundings, nor will they specifically:
 - i. Expand the size of a project by increasing the number of lots or dwelling units; by increasing the gross floor area of a primary-use structure; or by adding an accessory structure containing more than 200 square feet of gross floor area to the site.
 - ii. Violate the provisions of any City ordinance.
 - iii. Reduce the effectiveness of landscaping, screening, or buffering elements.
 - iv. Change the number of vehicular access points to the public street system, significantly alter the location of such access points, or significantly alter on-site vehicular circulation.
 - v. Significantly alter drainage patterns.
- f. If the minor revision is not approved by the Public Works Director, Planning Director, and Chair of the Planning Board, the proposed site plan revision will be placed on the next available agenda of the Review Authority that granted the site plan approval.

J. Appeals

1. Appeals of Action by the Staff Review Committee

An aggrieved party may appeal any action taken by the Staff Review Committee to the Planning Board within 30 days of the final action by the Staff Review Committee. When appealed to the Planning Board, the application shall be reviewed as a new application.

2. Appeals of Action by the Planning Board



An aggrieved party may appeal any action taken by the Planning Board to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B.

15.5 Temporary Use Permit

A. Purpose

A temporary use permit allows for the short-term use and/or placement of structures on a lot. The temporary use permit regulates temporary uses that occur entirely on and within a lot (private property). Temporary uses located within the public right-of-way are regulated separately by the City Code.

B. Initiation

A property owner in the City or a person expressly authorized in writing by the property owner may initiate a temporary use permit application.

C. Authority

The Codes Enforcement Officer will review and make final decisions on all temporary use permit applications, unless otherwise indicated within the standards for a specific use in §8.5.

D. Procedure

1. All applications for temporary use permits must be filed with the Codes Enforcement Officer.
2. The CEO or other review authority as indicated within the standards must render a decision on the temporary use permit within 45 days of the date of receipt of a complete application. Applications must be reviewed and evaluated pursuant to the standards of this section, and approved, approved with conditions, or denied.

E. Approval Standards

All temporary uses must comply with the requirements of this Code, including the temporary use standards of §8.5 and the following standards:

1. Unless otherwise allowed by this Code, the temporary use or structure complies with the dimensional requirements of the district in which it is located.
2. The temporary use does not adversely impact the public health, safety, and welfare.
3. The temporary use is operated in accordance with any restrictions and conditions as the Police Department, Fire Department, and/or other City officials may require.
4. The temporary use does not conflict with another previously authorized temporary use.

F. Expiration

The temporary use permit is valid for the time period granted as part of the approval.

15.6 Demolition Permit

A. Purpose

The Demolition Permit process is intended to establish a predictable process for reviewing requests to demolish certain buildings and structures in order to:

1. Establish an appropriate waiting period during which the City, the Public, and the Applicant can propose and consider alternatives to the demolition of a building of historical, architectural, functional or urban design value to the City
2. Provide an opportunity for the public to comment on the issues regarding the demolition of a particular building.



3. Minimize the number and extent of building demolitions where no immediate re-use of the site is planned.
4. Provide a period of time to evaluate the potential for rehabilitation, adaptation, restoration, or reuse of property in pursuit of goals established in the Comprehensive Plan.

B. Applicability

1. Activities Requiring a Permit

A Demolition Permit is required prior to undertaking any of the following activities:

- a. Partial or total demolition, including pulling down, destroying, removing, relocating, altering, or razing a building or structure or part thereof; or commencing work with the intent of completing the same.
- b. Reduction in building footprint.
- c. Permanent relocation of a structure, any portion of a structure, or any exterior architectural element from its present parcel.

2. Properties Subject to Permit Requirement

A Demolition Permit is required for the activities listed above when performed on any of the following:

- a. Any principal building or structure within the City which is in whole or in part 50 or more years old.
- b. Any accessory structure that is 100 or more years old.
- c. Any building or structure located in the Historic Overlay District.
- d. Any building or structure for which the age cannot be conclusively determined.

3. Exempt Activities

The following activities do not require a Demolition Permit under this Section:

- a. Removal of paint, covering, or surface treatments as part of ordinary repair and maintenance.
- b. Temporary removal or relation of a structure, any portion of a structure, or any exterior architectural element to facilitate repair, maintenance, or restoration, not to exceed a period of one year.
- c. Installation or removal of antennas and other mechanical, electrical, or utility equipment not visible from a public way, such as through their placement on the rear-facing portion of a sloping roof.

C. Authority

The Planning Board is authorized to review and take action on all Demolition Permit applications, whether submitted independently or as part of any other application.

D. Procedure

1. Filing

Applications for a Demolition Permit must be submitted in accordance with Article 14. The application must include the following:

- a. Three paper copies and one digital copy of all application materials as required by this section. The digital submittal must be in PDF format, and must be provided on a USB drive.

2. Pre-Review by the Planning Director

Following a preliminary determination of completeness by the Planning Office, the application will be forwarded to the Planning Director for pre-review. Within 30 days of the receipt of a complete application, the Planning Director must determine whether the application requires review by the Planning Board in accordance with the standards of this section. If such a determination is made, the application will be scheduled for consideration by the Planning Board at a public hearing.



3. Action by the Planning Board

- a. The Planning Board will consider the proposed Demolition Permit application at a public hearing to be held at the next regularly scheduled Planning Board meeting that allows for compliance with the notice requirements of Article 14.
- b. The Planning Board must consider whether the property is preferably preserved by demolition delay in accordance with the review criteria of this section.
 - i. Upon determination by the Planning Board that a building or structure is not significant, the Board shall notify the Codes Enforcement Officer and the applicant in writing. The Codes Enforcement Officer may then issue the Demolition Permit.
 - ii. Upon determination by the Planning Board that a building or structure is significant, the Board shall determine whether such building or structure should be preferably preserved.
 - (a) If the Planning Board determines that the building or structure is not preferably preserved, the Board shall notify the Codes Enforcement Officer and the applicant in writing. The Codes Enforcement Officer may then issue the Demolition Permit.
 - (b) If the Planning Board determines that the building or structure is preferably preserved, the Board shall notify the Codes Enforcement Officer and the applicant in writing. No demolition permit may then be issued for a period of up to six months—determined at the Board's discretion—from the date of the public hearing, unless otherwise agreed to by the Planning Board. If the Board fails to notify the Codes Enforcement Officer in writing within 21 days of the public hearing, the Codes Enforcement Officer may issue the demolition permit.
 - (c) Upon determination by the Planning Board that any building or structure that is the subject of an application is a preferably preserved building, no building permit for new construction or alterations on the premises shall be issued for a period of up to six months—determined at the Board's discretion—from the date of the public hearing, unless otherwise agreed to by the Planning Board.
 - iii. The Codes Enforcement Officer may issue a demolition permit or a building permit for a preferably preserved building within the delay period if the Planning Board notifies the Codes Enforcement Officer in writing that the Board finds that the intent and purpose of this ordinance is served even with the issuance of the demolition permit or the building permit. This may include that the Planning Board is satisfied that the applicant for the demolition permit has made a bona fide, reasonable and unsuccessful effort to identify alternative plans for demolition, or the applicant has agreed to accept a demolition permit on specified conditions approved by the Board. Such conditions may include the review and approval by the Planning Board of a revised set of submitted development plans.
 - iv. The property owner shall be responsible for properly securing the building, structure, or element thereof to the satisfaction of the Codes Enforcement Officer. Should the owner fail to secure the proposed object of demolition, and as a result it is lost through fire or other cause, said failure to act shall be considered a violation of the delay period and this ordinance.

4. Termination of Delay

Following the termination date of the delay period, the applicant may obtain, subject to the discretion of the Codes Enforcement Officer, a permit to proceed with the demolition as requested in the application.

E. Submission Requirements

The applicant must submit 3 paper copies and one digital copy of all application materials as required by §15.6.D.1. Applications must be submitted or co-signed by the owner of record at the time of application, and must include the following information:

1. A completed application form.
2. Evidence that the applicant possesses right, title, or interest in property.



3. Existing conditions photographs of all street-facing elevations of the building or structure.
4. A description of the building, structure, or element thereof to be demolished.
5. The reason for requesting a demolition permit.
6. If the application for demolition is based on a claim of structural deficiency, the applicant must submit a structural report on the structure's soundness that is prepared by a licensed professional structural engineer.
7. A written description of the proposed reuse, reconstruction, or replacement, if applicable.
8. A site plan and/or map of the subject property.

F. Review Criteria

The Planning Board must determine whether the building or structure proposed for demolition is preferably preserved, and thereby suitable for delay, based on the following criteria:

1. The building or structure is listed on the National Register of Historic Places.
2. The building or structure is or has been otherwise designated to be a historically significant building or structure because either:
 - a. It is associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic, or social history of the city; or
 - b. It is found to be architecturally significant in terms of period, style, method of building construction, or association with a famous architect or builder, either by itself or in the context of another building or a group of buildings.
3. The building or structure, if preserved, may provide an opportunity for rehabilitation, adaptation, restoration, or reuse that would advance the goals of the Comprehensive Plan.

G. Emergency Demolition

If the Code Enforcement Officer determines that a building subject to this ordinance is found to pose an immediate threat to public health, safety, or welfare due to its deteriorated condition, and that there is no reasonable alternative to the immediate demolition of the building or structure, nothing in this ordinance shall prevent the Code Enforcement Officer, pursuant to statutory authority, from issuing an emergency demolition permit to the owner of the building or structure. No provision of this section is intended to conflict with or abridge any obligations or rights conferred by Chapter 9 of the Bath City Ordinances regarding Building and Electrical Codes. In the event of a conflict, the applicable provisions of Chapter 9 shall control.

H. Expiration of Approved Demolitions

Where the Planning Board has determined that the demolition of a building or structure would not conflict with the intent and purpose of this section, any request to extend a demolition permit or renewed permit application shall be reviewed de novo if demolition previously authorized is not substantially completed within one year of the issuance of the demolition permit, or, if no permit has been issued, within one year of the Planning Board determination.

I. Transfer of Ownership

The time limits set forth in this section apply only to the original owner requesting a demolition permit. Any subsequent owner of the property shall be required to apply de novo pursuant the procedures set forth above.

J. Waivers

At any time during an enacted delay period, the applicant may request, in writing, that the Planning Board waive the remainder of the delay period. The request will be placed on the agenda of the next available Planning Board meeting. The Planning Board may grant the request under one or more of the following circumstances:

1. The Board has approved a plan to move the building or structure proposed for demolition, intact, to a new permanent location.



2. The applicant has demonstrated a reasonable and unsuccessful effort to locate a purchaser who would preserve the building or structure.
3. The applicant has accepted specific terms and conditions from the Board regarding the demolition.
4. The applicant has presented a site plan for redevelopment of the site, including elevations and details, which the Board has reviewed and approved under the provisions of this Land Use Code.

K. Violations

Violations shall be subject to enforcement and penalties in accordance with Article 21.

L. Appeals

Appeal of a final action by the Planning Board regarding a demolition delay permit may be made to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B.

15.7 Zoning Interpretation

A. Purpose

The interpretation authority is intended to recognize that the provisions of this Code, though detailed and extensive, cannot, as a practical matter, address every specific zoning issue. However, this zoning interpretation authority is not intended to add to or change the essential content of the Code.

B. Initiation

The City Council, Planning Board, or a property owner in the City may initiate a zoning interpretation application. All interpretation requests must be for the purpose of furthering actual development.

C. Authority

The Codes Enforcement Officer will review and make final decisions on written requests for zoning interpretations.

D. Procedure

1. All applications for interpretations must be filed with the Codes Enforcement Officer.
2. The CEO must review a written request for an interpretation and render the interpretation in writing within 45 days of receipt of a complete application.
3. The CEO may request additional information prior to rendering an interpretation. Until any such additional material is received, the 45 day period is temporarily suspended.

15.8 Administrative Appeal

A. Purpose

Any person aggrieved by any interpretation or determination made by the CEO in the administration of this Code by the granting or denying of an application may file an appeal. An aggrieved person is defined as the person making the original application for determination or any abutter to the property forming the basis for the application.

B. Authority

The Zoning Board of Appeals will hear and take action on administrative appeals.

C. Procedure

1. Filing

An administrative appeal must be filed with the CEO within 30 days of the CEO's action. The appeal must state the CEO's action, and the reason the applicant believes it is in error.



2. Action by the Zoning Board of Appeals

- a. The Zoning Board of Appeals will consider the appeal at a public hearing. Notice is required per Article 14.
 - i. When reviewing a decision of the Code Enforcement Officer, the ZBA must hold a “de novo” hearing. In a de novo hearing, the ZBA may receive and consider new evidence and testimony, whether oral or written. The ZBA must hear and decide the matter anew, conducting its own independent analysis of the evidence and applicable law, and reaching its own decision.
- b. The Zoning Board of Appeals must evaluate the administrative appeal based upon the evidence presented at the public hearing, pursuant to the review standards of this section. At any hearing, the appellant has the right to be present, to be represented, and to present all relevant information to the Zoning Board of Appeals. The Zoning Board of Appeals may sustain, modify, or reverse the action of the CEO. If the decision of the CEO is modified or reversed subject to any conditions, any violation of those conditions revokes the approval of the ZBA.
- c. The appellant must be notified in writing of the action of the ZBA, together with the reasons for any denial, within 45 days following the close of the public hearing. For property in the Shoreland Zone, copies of written decisions of the ZBA must be given to the Planning Board, CEO, the City Manager, the City Council, and the Department of Environmental Protection within 45 days of the close of the public hearing.
- d.

15.9 Historic Overlay District Approval

Regulations relating to Historic Overlay District Approval are found in § 7.1.

15.10 Building Permit

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 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 dimensional requirements are met; the CEO may require the applicant to provide a boundary survey prior to the issuance of a permit to address any boundary or bulk and space issues.



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, request additional necessary information, 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, 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.

15.11

Certificate of Occupancy

A. 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.

B. Application

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.

C. Action on Applications



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.

D. Temporary Certificate of Occupancy

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.

E. Conditional Certificate of Occupancy for Any Use with an Approved Site Plan

1. Any project, use, or activity that received site plan approval must be completed according to the approved or amended site plan before a Certificate of Occupancy may be issued, except if a performance guarantee is provided by the applicant.
2. The purpose of a performance guarantee is to ensure that the site plan, including all of the improvements proposed in the application, whether in narrative, report, or site- plan form, are completed as approved.
3. A person requesting a conditional certificate of occupancy must apply to the Review Authority that granted approval by filing an application with the Planning Director. The Review Authority that granted approval will determine if circumstances (e.g., weather conditions) do not permit the completion of all improvements of the approved site plan. The Review Authority will also determine the cost to complete the project according to the approved site plan. The Review Authority will require a report from the CEO regarding the safety of occupants and the public if the certificate of occupancy is granted before all improvements are completed. The Review Authority may not approve a conditional certificate of occupancy if the CEO reports that there may be a safety hazard to occupants or the public.
4. The performance guarantee may be a certified check payable to the City, an irrevocable letter of credit from a lending institution, or a passbook savings account in the name of the City. The performance guarantee must be in an amount adequate to cover the total costs of all required but not completed improvements, considering the time-span of the guarantee and the effects of inflation on costs.
5. Prior to the release of any part of or the entire performance guarantee, the Review Authority must determine to its satisfaction that the design and construction requirements for that portion of the improvements for which the release is requested have been met or exceeded. Any money plus any interest accumulated on any escrow account must be returned to the applicant after it has been determined that the proposed improvements meet all design and construction requirements.
6. If the development is not completed within the time allowed by the Review Authority, or is not completed according to the approved site plan, the Review Authority is authorized to use the funds in the performance guarantee to have the project completed in a reasonable and commercially viable manner.



16 Subdivision

- 16.1 Title and Purpose
- 16.2 Authority and Enforcement Prior to Approval
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16.1 Title and Purpose

This Article may be cited as the “City of Bath Subdivision Ordinance,” and referred to herein as the “Ordinance.” The purpose of this Ordinance is:

- A. To provide for an expeditious and efficient process for the review of applications for subdivision approval and applications for subdivision amendment approval.
- B. To provide specific standards of approval for the state subdivision review criteria, found in 30-A M.R.S. § 4404.
- C. To assure that new development in the City of Bath meets the goals and conforms to the policies of the Comprehensive Plan. Compliance with ordinances based on the Comprehensive Plan constitutes a presumption that the provisions of the Comprehensive Plan have been met.
- D. To assure the comfort, convenience, safety, health, and general welfare of the inhabitants of the City of Bath.
- E. To protect the environment and conserve the natural and cultural resources identified as pertinent in the Comprehensive Plan.
- F. To assure that services and facilities are available to residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures.
- G. To minimize the potential impacts from new subdivisions.
- H. To promote the development of an economically sound and stable community.

16.2 Authority and Enforcement Prior to Approval

This Ordinance has been adopted in accordance with the provisions of 30-A M.R.S. § 4403, and sets forth regulations by which the Planning Board of the City of Bath will review applications for subdivision approval and amendments to subdivisions.

- A. The Planning Board of the City of Bath, hereinafter referred to as “the Board,” is authorized to administer this Ordinance.
- B. The provisions of this Ordinance pertain to all land and buildings proposed for subdivision within the boundaries of the City of Bath.
- C. The grading or construction of streets, grading of land or lots, the clearing of land, or the construction of buildings in a subdivision is prohibited until such time as the Board has granted subdivision approval and the original copy of the Subdivision Plan so approved and endorsed has been duly recorded in the Sagadahoc County Registry of Deeds.



- D. No public utility, water district, or any utility of any kind may serve any lot in a subdivision where the Board has not granted subdivision approval and the approved Plan has not been recorded at the Sagadahoc County Registry of Deeds.
- E. No subdivision plan within the City of Bath may be recorded in the Sagadahoc County Registry of Deeds unless the Subdivision Plan meets the requirements of this Ordinance and is approved by the Board.
- F. No person may sell, lease, develop, build upon, convey, offer or agree to sell, lease, develop, or build upon any land or dwelling unit in a subdivision that has not been approved by the Board and the approved Plan has not been recorded at the Sagadahoc County Registry of Deeds.
- G. Any person who sells, leases, develops, builds on, conveys, offers or agrees to sell, lease, develop, or build on any land or dwelling unit in a subdivision that has not been approved as required by this Article is subject to the provisions of 30-A M.R.S. § 4452.

16.3 Developmental Subdivision

A. Definition

A developmental subdivision is a development that meets the definition of subdivision in 30-A M.R.S. § 4401(4), but is on a single, undivided lot. Such development(s) include the construction or placement of 3 or more dwelling units on a single lot within a 5-year period and the division of an existing structure into 3 or more dwelling units within a 5-year period.

B. Review Procedure and Approval Criteria

1. An application for approval of a developmental subdivision may be processed and reviewed concurrently with an application for Site Plan Approval.
2. Sketch plan review may be conducted concurrently with the site plan preapplication workshop.
3. Subdivision review may be conducted concurrently with site plan review.

C. Exemption for Division of New or Existing Structures

Any development involving division of a new or existing structure into 3 or more dwelling units, and which is subject to site plan review and approval is exempt from the requirements of this Article.

16.4 Application Procedure

A. Pre-Application Workshop

Prior to submitting a formal application, a developer may schedule a pre-application workshop with the Planning Board. The workshop is informal and informational in nature, and does not constitute or result in any formal action. There is no fee for a pre-application workshop, and it does not cause any application to be deemed pending. No decision on the substance of the plan may be made at the workshop. Applicants are encouraged to meet informally with the Planning Director prior to any pre-application workshop with the Planning Board.

B. Sketch Plan Review

1. Purpose

The purpose of sketch plan review is for the applicant to present to the Planning Board general information regarding the proposed subdivision and receive the Board's comments on the preparation of the complete application for subdivision.

2. Procedure

- a. The applicant must submit a signed application for sketch plan review and the processing fee payable in a form acceptable to the City of Bath in an amount set by the City Council. The Planning Office



must issue a dated receipt to the applicant upon submission of a signed application and processing fee.

- b. In order to establish an orderly, equitable, and expeditious procedure for reviewing sketch plans, applications must be submitted to the Planning Office a minimum of 4 weeks prior to the meeting at which the Planning Board will review the sketch plan.
- c. Upon receipt of an application for sketch plan review, the Planning Office must notify in writing all property owners within 200 feet of the proposed subdivision, as well as the clerk and the reviewing authority of municipalities that abut or include any portion of the subdivision. Such notification must include the location of the proposed subdivision and a general description of the project. The Planning Office must also notify by mail any public drinking water supplier if the subdivision is within its source water protection area.
- d. Within 30 days from the date of receipt, the Planning Office must make a preliminary determination of completeness, and must notify the applicant in writing either that the sketch plan and application are complete, or if incomplete, the specific additional material needed to make them complete.
- e. The decision to hold a public hearing on the sketch plan application is discretionary. In making the decision to hold a public hearing, the Planning Board may consider the size of the subdivision, the potential community impact, and whether any written requests for a public hearing have been received. If a public hearing is held, notice must be given to the applicant, and published at least two times in a newspaper of general circulation in the City of Bath. The notice must include the date, time, place, and purpose of the hearing, the name of the applicant and the address of the subject property. The date of the first publication must be at least 7 days prior to the public hearing.
- f. At the sketch plan review meeting or public hearing if applicable, the applicant will present the plan and allow the Board to ask questions and make suggestions to be incorporated by the applicant into the application. The Board may not take any formal action on the plan, but may schedule a site inspection.

3. Site Inspection

If the Board schedules a site inspection, it must be held within 30 days of the sketch plan review meeting, unless circumstances, such as deep snow, render the site's conditions unobservable. If the site conditions are unobservable, the site inspection must be postponed until such time the site's conditions are observable. Prior to site inspection, the applicant must place "flagging" at the centerline of any proposed streets and emergency roads, at the approximate intersections of the street centerlines, at lot and any common area corners, and at regular intervals to delineate wetlands or other significant environmental features. The provisions of 1 M.R.S. §401, et seq., apply to site inspections.

4. Rights not Vested

Submittal of a sketch plan, the meeting or public hearing to review the sketch plan, and site inspection are not considered substantive reviews under 1 M.R.S. § 302.

C. Final Plan Review

1. Submission of Applications for Subdivision Approval

a. Timing of Submission

- i. Within 6 months of the sketch plan review meeting or public hearing, the applicant must submit an application for subdivision approval to the City of Bath Planning Office. Failure to submit an application within 6 months may require resubmission of a sketch plan in accordance with this Article.
- ii. In order to establish an orderly, equitable, and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing of applications for subdivision approval, applications must be submitted to the Planning Office a minimum of 4 weeks prior to the meeting at which the Planning Board will review the application, or at such time set by the Board during sketch plan review.



b. Conformance with Sketch Plan

Applications for subdivision approval must generally conform to the layout shown on the sketch plan, and must include any recommendations made by the Planning Board during sketch plan review.

c. Fee Required

Applications for subdivision approval must be accompanied by a processing fee payable in a form acceptable to the City of Bath, in an amount set by the City Council.

d. Notification

Upon receipt of an application for subdivision approval, the Planning Office must issue a dated receipt to the applicant, and notify in writing all property owners within 200 feet of the proposed subdivision, as well as the clerk and the reviewing authority of municipalities that abut or include any portion of the subdivision. Such notification must include the location of the proposed subdivision and a general description of the project. The Planning Office must also notify by mail any public drinking water supplier if the subdivision is within its source water protection area.

e. Independent Consultants

The Planning Office may, if City staff is not available or qualified to review the plans and supporting materials, and after notification to and at the expense of the applicant, employ 1 or more independent consultants to review the plans and supporting materials. The estimated costs of such consultants must be deposited with the City Treasurer prior to employing the independent consultant. Any amount not spent must be returned to the applicant. If the cost of the review exceeds the amount deposited, the applicant must deposit additional funds with the City Treasurer before processing of the application may continue.

2. Code Enforcement Officer's Review

The Planning Office must forward the application to the Code Enforcement Officer, who must review the application to determine whether the space and bulk regulations of the zone are met. The CEO must report their determination in writing to the Planning Director. If the CEO finds that the space and bulk regulations of the zone have not been met, the applicant must be notified in writing, and processing of the application will cease, unless the space and bulk nonconformance is the subject matter of a contract rezoning amendment.

3. Planning Director's Review

Once the CEO has reported their determination to the Planning Director, the Planning Director must review the application for subdivision approval and the supporting information. The Planning Director must send copies of the plans and supporting materials to appropriate City staff for review. If the Planning Director makes a preliminary determination that the application is complete, in accordance with the requirements of this Article, the application must be placed on the agenda of the next available Planning Board meeting. If the Planning Director makes a preliminary determination that the application is not complete, the applicant must be notified in writing and advised of the materials or information necessary to complete the application. The applicant may appeal the Planning Director's preliminary determination, in writing, to the Planning Board. If appealed, the application will be placed on the agenda of the next available Planning Board meeting. The Planning Director's review is not considered a substantive review process under 1 M.R.S. § 302.

4. Action by the Planning Board

Upon receipt of a complete application, the Planning Board must determine whether to hold a public hearing on the application. The decision to hold a public hearing on the sketch plan application is discretionary. In making the decision to hold a public hearing, the Planning Board may consider the size of the subdivision, the potential community impact, and whether any written requests for a public hearing have been received. If a public hearing is held, notice must be given to the applicant, and published at least two times in a newspaper of general circulation in the City of Bath. The notice must include the date, time, place, and purpose of the hearing, the name of the applicant and the address of the subject property. The date of the first publication must be at least 7 days prior to the public hearing.

a. Review Procedure



The Board must use the following procedure when reviewing the application to determine whether or not the application meets the standards of this Ordinance and the provisions of 30-A M.R.S. § 4404, as amended. The meeting at which the Board considers the application may not be combined with sketch plan review for the same development.

- i. The applicant or their duly authorized agent or representative must present the application and demonstrate how the subdivision will conform to all applicable provisions of this Ordinance and the provisions of 30-A M.R.S. § 4404, as amended.
- ii. Questions and comments from those present, including Planning Board members, the public, and City staff, must be made through the Planning Board Chair.
- iii. If the Board needs more time to review the application and the information presented, or if the applicant needs more time to present additional information to demonstrate that the application meets the standards of this Ordinance and the provisions of 30-A M.R.S. § 4404, as amended, the Board may vote to continue review of the application to another Planning Board meeting, to be held within 30 days of the public hearing if applicable, or within 60 days of receiving a complete application, if no public hearing is held. The Board and the applicant may mutually agree upon such other time as appropriate. The party requesting the continuance must state the reason for such continuance.
- iv. If necessary to determine that the subdivision will conform to applicable provisions of this Ordinance and the provisions of 30-A M.R.S. § 4404, as amended, the Planning Board, after notification to, and at the expense of, the applicant may employ 1 or more independent consultants. The estimated costs of such consultants must be deposited with the City Treasurer prior to employing the independent consultant. Any funds not spent must be returned to the applicant. If the cost of the review exceeds the amount deposited, the applicant must deposit additional funds with the City Treasurer before review of the application may continue.

b. Decision

Within 30 days of conclusion of a public hearing, or, if no public hearing is held, within 60 days of receipt of a complete application by the Planning Board, or such other time as may be mutually agreed upon by the Board and the applicant, the Board must make findings of fact and conclusions as to whether or not the application meets the provisions of 30-A M.R.S. § 4404, as amended, and the standards of §16.7. If the provisions of 30-A M.R.S. § 4404, as amended, and the standards of §16.7 have been met, subdivision approval must be granted. If any of the provisions of 30-A M.R.S. § 4404, as amended, or the standards of §16.7 have not been met, the Board must either deny the application, or approve the application with conditions to ensure all of the provisions and standards will be met. The Board must issue a written notice of its decision to the applicant, including its findings of fact and conclusions.

D. Failure to Notify

Failure to notify as required herein does not invalidate any action of the Planning Board.

16.5

Submission Requirements

A. Sketch Plan Review

Applications for sketch plan review must include 3 paper copies of the sketch plan and supporting materials, and one digital copy of the sketch plan and supporting materials. The digital submittal must be in PDF format, and must be provided on a USB drive.

1. The sketch plan and supporting materials must show, on a topographic map, the proposed layout of all streets, lots, buildings, and other features in relation to existing conditions.
2. The sketch plan must be supplemented with information to describe the existing conditions of the site and the proposed development. Such information may include but is not limited to square footage of buildings, proposed uses, proposed number of dwelling units if applicable, impervious surfaces, and similar features.



3. Existing site conditions such as steep slopes, wet areas, important or unique natural features, significant trees and vegetative cover, rock outcrops, and stone walls must be identified in a general manner.
4. The sketch plan must be superimposed upon, or accompanied by, a copy of the tax map(s) on which the land is located.
5. The sketch plan must include the boundaries of the proposed subdivision and a general location of proposed utilities, a general description of any proposed covenants, and be accompanied by a copy of that portion of the county soil survey or other equivalent soils information covering the proposed subdivision.

B. Final Plan Review

1. Applications for subdivision approval must include the following. The Planning Board may also request additional materials or reproductions as needed to ensure efficient review of subdivision plans.
 - a. 3 paper copies of a location map, drawn at a size adequate to show the relationship of the subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the City. The location map must show:
 - i. Locations and names of existing and proposed streets.
 - ii. Boundaries and designations of zoning districts.
 - iii. An outline of the subdivision and any remaining portion of the owner's property, if the subdivision plan submitted covers only a portion of the owner's entire contiguous holding.
 - b. 3 paper copies of the subdivision plan, drawn to a scale of not more than 100 feet to the inch. Such copies must be no larger than 24 inches by 36 inches in size, including a margin of 2 inches on the bound side, and one inch on all other sides. Space must be included for endorsement by the Board members. Plans for subdivisions containing more than 100 acres may be drawn to a scale of not more than 200 feet to the inch, provided all necessary detail can be read.
 - c. 3 paper copies of the subdivision plan, reduced to a size of 11 inches by 17 inches.
 - d. 2 full sized copies of the subdivision plan on reproducible, stable-based transparent material, one to be recorded at the Sagadahoc Registry of Deeds, and one to remain in the City files. Reproducible transparencies must be embossed with the seal of the individual responsible for preparation of the plan.
 - e. One digital copy of all submission materials, in PDF format. The digital submittal must be provided on a USB drive.
2. Applications for subdivision approval must also include the following information, either on the plan(s) or in other written form. The Planning Board may also request additional information as needed, in order to determine whether the provisions of 30-A M.R.S. § 4404 and the standards in this Ordinance are met.
 - a. Proposed name of the subdivision, or identifying title, the name of the municipality in which it is located, and the Tax Map and Lot numbers.
 - b. Evidence of right, title, or interest in the property.
 - c. The date the plan was prepared, north arrow, and graphic map scale.
 - d. The names and addresses of the record owner, applicant, and individual or company who prepared the plan.
 - e. The names of abutting property owners, shown on the plan(s).
 - f. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel must be located on the ground and marked by monuments. The plan must indicate the type of monument found or to be set at each lot corner, pursuant to the monumentation standards of §16.8.



- g.** A copy of the most recently recorded deed for the subdivision property. A copy of any and all deed restrictions, easements, rights-of-way, or other prior encumbrances affecting the property.
- h.** A copy of any and all deed restrictions intended to cover all or any part of the lots or dwellings in the subdivision.
- i.** The type of sewage disposal to be used in the subdivision.
 - i.** If sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a Licensed Site Evaluator and a map showing the location of all test pits dug on the site.
- j.** The type of water supply system(s) to be used in the subdivision.
 - i.** If water is to be supplied by private well, a well driller or a hydrogeologist familiar with the area must provide evidence of adequate groundwater supply and quality.
- k.** A high intensity soil survey by a Certified Soil Scientist. Wetland areas must be identified on the survey, regardless of size.
- l.** The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, significant trees and other vegetation including trees 18 inches or more at the base, and other essential existing physical features. On wooded sites, the plan must indicate the area where clearing for lawns and structures is proposed and/or any restrictions to be placed on clearing existing vegetation and the method of protecting the trees and other vegetation proposed to remain.
- m.** The location of all rivers, streams, brooks, wetlands, vernal pools, and significant wildlife habitat as defined by 38 M.R.S. § 480-B(9), as amended, within or abutting the proposed subdivision.
- n.** The location of the 100-year flood elevation and any flood hazard boundaries within the subdivision, if applicable.
- o.** Contour lines at a 2-foot interval, showing elevations in relation to mean sea level.
- p.** The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
- q.** The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- r.** The location, names, and present widths of existing streets, existing and proposed easements, building lines, parks, and other open spaces on or adjacent to the subdivision. The plan must contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and able to be reproduced on the ground. These lines must be tied to reference points previously established.
- s.** The width and location of any streets, public improvements, or open space within the subdivision shown upon the Official Map, if any, or the Comprehensive Plan.
- t.** Detailed construction drawings showing a plan view, profile, and typical cross-section of proposed streets, including a plan showing existing streets and underground utilities within 300 feet of any proposed intersections. The plan view of the proposed streets must be at a scale of 1-inch equals no more than 50 feet. The vertical scale of the profile of the proposed streets must be 1-inch equals no more than 5 feet. The plans of the proposed streets must include the following information:
 - i.** Date, scale, and north arrow, indicating magnetic or true north.
 - ii.** Intersections of proposed street(s) with existing streets.
 - iii.** Street and right-of-way limits, including edge of pavement, edge of shoulder, sidewalks, and curbs.



- iv. Kind, size, location, material, profile, and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
- v. Complete curve data for all horizontal and vertical curves.
- vi. Turning radii at all intersections.
- vii. Centerline gradients.
- u. Size, type, and locations of all existing and proposed overhead and underground utilities and utility easements, to include but not be limited to, water, sewer, electricity, telephone, lighting, and cable television.
- v. The location of any open space to be preserved and a description of proposed improvements and management.
- w. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to public open spaces to the City of Bath must be shown on the plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the lot owners are to be maintained must also be submitted.
- x. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the City's Flood Boundary and Floodway Maps and Flood Insurance Rate Map.
- y. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer experienced in hydrogeology, when the subdivision is not served by public sewer and either has an average density of more than one dwelling unit per 100,000 square feet, or if any part of the subdivision is located over a sand and gravel aquifer, as shown on the map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey.
 - i. The Board may also require a hydrogeologic assessment in cases where site considerations or development design indicate greater potential for adverse impacts on groundwater quality. These cases include but are not limited to extensive areas of shallow to bedrock soils, cluster developments in which the average density is less than 1 dwelling unit per 100,000 square feet but the density of the developed portion is in excess of 1 dwelling unit per 80,000 square feet, or plans that propose use of shared or common subsurface wastewater disposal systems. The hydrogeologic assessment must be conducted in accordance with the provisions of §16.7.
- z. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used must be taken from Trip Generation Manual, most recent edition, published by the Institute of Transportation Engineers, as amended. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
- aa. For subdivisions serving non-residential uses that will contain 20 or more parking spaces for residential subdivisions projected to generate 200 or more vehicle trips per day, and for other subdivisions as required by the Board, a traffic impact analysis, must be prepared by a Registered Professional Engineer with experience in traffic engineering. The analysis must indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets that may be affected, and recommended improvements to maintain the desired level of service on the affected streets.
- bb. A stormwater management plan, prepared by a registered professional engineer in accordance with the Maine Department of Environmental Protection's "Maine Stormwater Best Management Practices Manual." The Board may only waive submission of the stormwater management plan if the subdivision will not involve grading that changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the total area of the subdivision.
- cc. An erosion and sedimentation control plan prepared in accordance with the Maine Department of Environmental Protection's "Maine Erosion and Sediment Control Best Management Practices." The



Board may only waive submission of the erosion and sedimentation control plan if the subdivision will not involve grading that changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the total area of the subdivision.

- dd.** Areas within or adjacent to the subdivision that have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or by the City's Comprehensive Plan. If any portion of the subdivision is located within an area designated as a critical natural area by the Comprehensive Plan, or the Maine Natural Areas Program, the plan must indicate appropriate measures for the preservation of the values, which qualify the site for such designation.
- ee.** All areas within or abutting the subdivision that are either listed on, or eligible to be listed on, the National Register of Historic Places, or have been identified in the Comprehensive Plan as important historic or pre-historic sites.
- ff.** The location and method of disposal for land clearing and construction debris.
- gg.** An infrastructure construction plan including a blasting plan, an estimate of material to be removed or filled, routes for trucking of material, times of trucking, and duration of the construction activity as applicable.
- hh.** A list of construction items, with cost estimates, that will be completed by the applicant prior to the sale of lots, and evidence that the applicant has financial commitments or resources to cover these costs.
- ii.** A written request for any waivers from applicable submission requirements, performance standards, or design and construction standards as allowed by this Article.
- jj.** Demonstration of technical and financial capability to complete the project. Sensitive, financial, and technical information may be submitted on a proprietary basis and will not be treated as public information.
- kk.** A written report explaining how the plan and the supporting materials demonstrate that the provisions of 30-A M.R. § 4404 and the standards of this Ordinance have been, or will be met.

16.6

Approval and Filing

- A.** No application for subdivision approval may be approved by the Board if the applicant is in violation of the provisions of a previously approved subdivision plan or site plan within the City of Bath.
- B.** Prior to the recording of the approved plan, where applicable, and as a condition of any Board approval, the following approvals must be obtained in writing:
 - 1. Maine Department of Environmental Protection, under the Site Location of Development Act.
 - 2. Maine Department of Environmental Protection, under the Natural Resources Protection Act or if a stormwater management permit or a wastewater discharge license is needed.
 - 3. Maine Department of Human Services, if the applicant proposes to provide a community water system.
 - 4. Maine Department of Human Services, if an engineered subsurface wastewater disposal system(s) is to be utilized.
 - 5. Maine Department of Transportation, if a Traffic Movement Permit is required.
 - 6. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
 - 7. Any and all other State or Federal permit(s) that may be required.
- C.** If the provisions of 30-A M.R.S. § 4404 and the standards in this Ordinance have been met, the Board must vote to approve the application and sign the plan. If the Board finds that any provisions of 30-A M.R.S. § 4404, and/or the standards of this Ordinance have not been met, the Board must deny the application, unless the Board



determines that the provisions and the standards would be met with appropriate conditions. The Board's findings of fact must be in writing.

1. Prior to recording of the approved plan, the applicant must provide the City with a digital copy of the plan in a format approved by the Planning Director, containing the information shown on the plan to be recorded.
 2. The subdivision plan must be recorded in the Sagadahoc County Registry of Deeds within 90 days of the date upon which the plan is approved and signed, or the approval becomes void. Proof of filing with the Registry must be submitted to the Planning Office within 30 days of recordation.
 3. No building permits shall be issued for the subdivision until the Planning Office has a digital copy of the approved plan, and proof that the signed plan was recorded at the Sagadahoc County Registry of Deeds.
- D. At the time the Board grants subdivision approval, it may permit the development to be divided into 2 or more sections or phases subject to any conditions the Board deems appropriate in order to ensure the orderly development of the subdivision. If the City or the Bath Water District does not have adequate capital facilities to service the subdivision, the Board may require the development to be divided into 2 or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing, and provision of public services to the subdivision. If the Superintendent of Schools indicates that there is less than 20% excess classroom capacity existing in the school that will serve the subdivision, considering previously approved but undeveloped subdivisions, the Board may require the development to be divided into sections to prevent classroom overcrowding. If the expansion, addition, or purchase of the needed facilities is included in the City's capital improvements program, the time period of the phasing may be no longer than the time period contained in the capital improvements program for the expansion, addition, or purchase.
- E. No changes, erasures, modifications, or revisions may be made to any subdivision plan after approval has been granted by the Board and endorsed in writing on the plan, unless a revised subdivision plan is approved in accordance with this Ordinance. In the event that a plan is recorded without complying with this requirement, subdivision approval must be terminated, and the Board must institute proceedings to have the plan stricken from the records of the Sagadahoc County Registry of Deeds, which proceedings the applicant must bear any and all costs of, including reasonable attorney's fees.
- F. Subdivision approval by the Board does not constitute acceptance by the City of Bath of any street, easement, park, playground, or other recreation or open space shown on any plan. Plans must contain appropriate notes to this effect. The Board may also require a written agreement between the applicant and the City with regard to any dedication, provisions for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- G. Failure to substantially complete construction of the improvements for the subdivision within 5 years of the date of approval and signing of the plan terminates the Subdivision Approval. If a Subdivision Approval has been terminated, the Board must have a notice placed in the Registry of Deeds to this effect at the expense of the applicant. A phased development plan is not subject to this paragraph.

16.7

Performance Standards

A. Applicability and Purpose

The performance standards in this section are intended to clarify and provide specific standards of approval for the provisions of 30-A M.R.S. § 4404, and as amended. Any performance standard that is applicable during the construction of the subdivision infrastructure, including construction of the streets, stormwater management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures, or during the construction of any buildings, must be met during construction. The Board must review the application for conformance with the Performance Standards, below, and make findings that each has been met prior to granting Subdivision Approval. If the applicant meets the intent and purpose of a performance standard by an equivalent method, that equivalent method may be approved. The applicant bears the burden of proof as to whether or not the intent and purpose of the performance standard is met. The Board may waive the requirement to meet a standard if the applicant requests a waiver in writing and the Board finds that, due to special circumstances, meeting the standard is not required in the best interests of the public health, including safety, and general welfare, or is otherwise inappropriate. Waivers must be granted in writing with written findings of facts and conclusions of law, and may be subject to conditions.



B. Stormwater Management

The proposed subdivision must provide for adequate stormwater management in accordance with Article 9 of this Code.

1. If necessary to achieve the standards, easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties must be provided. If the storm drainage system is not within the right-of-way of a public street, there must be restriction, by means of notes on the plan and deed restrictions, to prohibit the filling of such drainage areas, and perpetual easements must be granted to the City allowing maintenance and improvement of the system.

C. Sufficient Water

The applicant must demonstrate that the proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision. To meet this requirement the following standards must be met:

1. Water Supply

- a. All subdivisions, except those in the R-R District, the GC District, and those in the R-T District that are more than 1,000 feet from existing public water line, must be served by the public water system.
- b. When a subdivision is to be served by a public water system, the complete supply system within the subdivision including fire hydrants must be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections must be reviewed and approved in writing by the Bath Water District and the Bath Fire Chief.
- c. The subdivision must not cause an unreasonable burden on an existing water supply system of the Bath Water District, including the source, treatment facilities, or distribution system, beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. Unless paid for by the City or the Bath Water District, the applicant is responsible for paying the costs of system improvements to the District's system as necessary to alleviate deficiencies.
- d. When a subdivision is not served by public water supply service, water supply may be from individual, drilled wells or a private community water system.
 - i. Individual wells must be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.
 - ii. Lot design must allow for placement of wells, subsurface wastewater disposal areas, and reserve sites for subsurface wastewater disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules, as amended.
 - iii. If a central water supply system is provided by the applicant, the location and protection of the source, the design, construction and operation of the system must conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231), as amended.
 - iv. If the Bath Fire Chief determines that there is need for additional water storage capacity for firefighting purposes, the applicant must provide adequate water storage facilities. Facilities may be ponds with dry hydrants, underground storage reservoirs or other methods acceptable to the Bath Fire Chief. Where necessary, an easement must be granted to the City granting access to, and maintenance of, any hydrants, reservoirs, or other facilities. The Board may waive the requirement for water storage only upon submittal of evidence that the soil types in the subdivision will not permit construction or installation and that the Bath Fire Chief has indicated in writing that alternate methods of fire protection are available.
 - v. In areas where the subdivision is not served by public water supply, buildings must have sprinkler systems approved by the CEO and the Bath Fire Chief.

2. Water Quality



Water supplies must meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water, and as amended. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact must be noted on the Plan that is to be recorded in the Sagadahoc County Registry of Deeds.

D. Groundwater Quality and Quantity

The subdivision must not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater. To meet this requirement, the following standards must be met.

1. Groundwater Quality

- a. When a hydrogeologic assessment is required pursuant to §16.5, the assessment must contain at least the following information:
 - i. A map showing the basic soils types.
 - ii. The depth to the water table at representative points throughout the subdivision.
 - iii. Drainage conditions throughout the subdivision.
 - iv. Data on the existing groundwater quality, either from test wells in the subdivision or from existing wells on neighboring properties.
 - v. An analysis and evaluation of the effect of the subdivision on groundwater resources. In the case of residential development(s), the evaluation must, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, at the subdivision boundaries, or at a distance of 1,000 feet from potential contamination sources, whichever is the shortest distance.
 - vi. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision, and within 200 feet of the subdivision boundaries.
- b. Projections of groundwater quality must be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
- c. The subdivision must not increase any contaminant concentration in the groundwater to more than one half of the Primary Drinking Water Standards. The subdivision must not increase any contaminant concentration in the groundwater to more than the Secondary Drinking Water Standards.
- d. If groundwater contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site groundwater supplies, the applicant must demonstrate how the water will be treated so that the primary standards are met.
- e. If groundwater contains contaminants in excess of the secondary standards, the subdivision must not cause the concentration of the contaminants in question to exceed 150% of the ambient concentration.
- f. Subsurface wastewater disposal systems and drinking water wells must be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce groundwater contamination and protect drinking water supplies are recommended in the assessment, those standards must be included as a note on the plan, and as restrictions in the deeds to the affected lots.

2. Groundwater Quantity

- a. Groundwater withdrawals by wells in the subdivision must not lower the water table beyond the boundaries of the subdivision.
- b. The subdivision must not result in a lowering of the water table at the subdivision boundary by increasing runoff with a corresponding decrease in infiltration of precipitation.

E. Solid Waste



The subdivision must not cause an unreasonable burden on the City's ability to dispose of solid waste. If the additional solid waste from the subdivision will exceed the capacity of the solid waste facility, or detrimentally affect the facility's State or Federal licensure, or will cause the City to exceed any contract with a solid waste facility, the applicant must make alternate arrangements for the disposal of solid waste. The alternate arrangements must be at a licensed disposal facility that is in compliance with its license.

F. Sewage Disposal

The proposed subdivision must provide for adequate sewage waste disposal and must not cause an unreasonable burden on the City's sewage collection or treatment services, if utilized. To meet this requirement, the following standards must be met:

1. Public System

A subdivision, except in the R-R District, GC District, or if located within the area designated in the Comprehensive Plan for no future public sewerage service, must be connected to the public sewerage system. Such connections are subject to the standards of Article 9 of this Code.

2. Private System

When a subdivision is not proposed to be serviced by the public sewerage system, sewage disposal must be by private subsurface wastewater disposal systems or a private treatment facility with surface discharge, in accordance with the standards of Article 9 of this Code.

G. Pollution

The applicant must demonstrate that the subdivision will not result in undue water or air pollution.

H. Transportation and Access

All subdivisions must be designed to minimize traffic hazards, avoid unreasonable congestion, and support a safe, efficient, and connected multimodal transportation network. To meet these objectives, the following standards apply:

1. Street Design and Safety Improvements

- a. All subdivisions must be designed in accordance with the City's Complete Streets Policy, and must incorporate features that promote safe movement for all users, including motorists, pedestrians, bicyclists, and emergency vehicles.
- b. To safeguard against the creation of traffic hazards and to reduce congestion, subdivision designs must incorporate improvements to adjacent existing streets, such as:
 - i. Turning lanes.
 - ii. Traffic directional islands.
 - iii. Sidewalks and bicycle facilities.
 - iv. Traffic calming or traffic control devices.
 - v. Frontage roads, if appropriate.

2. Access Control

- a. Where a subdivision abuts an existing or proposed arterial street (as defined by the Comprehensive Plan), individual residential lots must not take direct vehicular access from the arterial. This requirement must be noted on the Subdivision Plan and in the deeds of any affected lots.
- b. Where a lot has frontage on both an existing street and a new subdivision street, access must be taken from the new street. This requirement must be noted on the Subdivision Plan and in the deeds of any affected lots.



- c. Where a lot has frontage on two existing streets, access must be taken from the street with the lower traffic volume, to reduce safety risks. This requirement must be noted on the Subdivision Plan and in the deeds of any affected lots.

3. Connectivity and Network Design

- a. Subdivision street layouts must promote a connected street network by providing access to adjacent undeveloped parcels and reducing reliance on cul-de-sacs.
- b. Where feasible, new streets must align with or extend existing street networks and be designed to allow future extensions to adjacent parcels.
- c. Pedestrian and bicycle connections must be provided within the subdivision and to adjacent public streets, sidewalks, paths, or trails. Such connections are encouraged even if no vehicular connection is made.

4. Construction Traffic and Road Protection

- a. Applicants must demonstrate that public streets to be used for construction access are safe and adequate for the size, weight, and volume of construction vehicles.
- b. If any streets are found inadequate, the applicant must make necessary improvements or safety provisions, as determined in consultation with the Police Chief.
- c. The Board may require a performance bond to ensure repairs are made to public streets damaged by any construction activity.

I. Preservation of Natural, Cultural, and Scenic Resources

Subdivisions must not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat, rare and irreplaceable natural areas, or any public rights for access to the shoreline. To meet this requirement, the following standards must be met:

1. Natural Beauty and Aesthetics

- a. The clearing of trees must be limited to those areas designated on the subdivision plan. This limitation must be noted on the plan.
- b. The applicant must describe the methods to be employed to ensure preservation and protection of significant trees and other vegetation, including, but not limited to, trees with a minimum DBH of 12" or greater, and rare or endangered plants. Such methods must be noted on the subdivision plan, and included in a report by a Licensed Maine Arborist, Certified Forester, or other duly qualified professional.
 - i. The plan and report must also describe the replacement of trees and vegetation to be removed.
 - ii. The limits of clearing must be shown on the plan, marked on site, and field checked with the City Arborist.
- c. In the R-R and GC Districts, subdivisions must be designed to minimize the visibility of buildings from existing public streets.
 - i. Screening or buffer areas used to meet this standard must be a minimum width of 10 feet in width, measured perpendicular to the street. If less than 25 feet in width, such screening must comprise a minimum of 75% evergreen trees and/or shrubs, which must provide effective screening to a height of at least six feet at the time of planting. A minimum of two rows of plantings are required, with material installed at offset spacing to ensure gaps in the screening are minimized.
 - ii. Preservation of existing plant material is preferred to accomplish required screening. If existing plant material is used to constitute a screening or buffer area, it must achieve a comparable effect to the requirements for new plants listed above, as determined by the Board.



- iii. The Board may require additional screening, a higher percentage of evergreen trees, or larger trees in order to effectively screen structures that are larger, that vary significantly from those found on adjacent properties, of that produce significant visual impacts.
- d. When a proposed subdivision street traverses open fields, the subdivision plan must include the planting of street trees.

2. Historic or Prehistoric Features

If any portion of the subdivision is designated a site of historic or prehistoric significance by the Comprehensive Plan or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources must be included in the plan.

3. Unique Natural Areas and Sites

If any portion of the subdivision is located within an area designated as a unique natural area by the Comprehensive Plan, the Maine Natural Areas Program, or by the Department of Inland Fisheries and Wildlife, appropriate measures must be taken for the preservation of the values that qualify the site for such designation.

4. Significant Wildlife Habitat

In certain cases where a proposed subdivision is located in proximity to wildlife habitat as identified below, the applicant must demonstrate that there will be no adverse impacts on the habitat and species it supports. A report prepared by a wildlife biologist certified by the Wildlife Society with demonstrated experience with the wildlife resource being impacted must be submitted. This report must assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and must describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports. This applies to land within the following areas:

- a. Within 250 feet of areas identified and mapped by the Department of Inland Fisheries and Wildlife or the Comprehensive Plan as habitat for species appearing on the official state or federal lists of endangered or threatened species, high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas, shorebird nesting, feeding, staging areas, and seabird nesting islands; or critical spawning and nursery areas for Atlantic Sea Run Salmon as defined by the Atlantic Sea Run Salmon Commission.
- b. Within 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor.
- c. Within other important habitat areas identified in the Comprehensive Plan including coastal wildlife concentration areas.

J. Open Space and Recreation Areas

Residential subdivision development generates demand and need for public services and facilities. These include public open space and recreation areas, the increased need for which is uniquely attributable to the creation of the subdivision. This need is best met on the site of the subdivision by a reservation or dedication of land.

1. Reservation Required

Residential subdivisions must dedicate at least 30% of the total land area of the subdivision for recreation or open space when located in the R-R District, the R-T District without public sewer, or in any district where the proposed development area exceeds 20 acres. This requirement may be met through any combination of land reserved for public use, private common space, or payment of a fee-in-lieu. This requirement does not apply to subdivisions designed as conservation residential developments in accordance with the standards of §4.4.A.

a. Public Use

- i. The subdivider may choose to dedicate any portion of the 30% requirement for public use. The reserved land must be of a character, configuration, and location suitable for the particular use intended.



- ii. Further subdivision of the recreation or open space land, and its use for other than non-commercial recreation, gardening, or conservation purposes, except for easements for underground utilities, is prohibited. Structures or buildings accessory to non-commercial recreational, gardening, or conservation uses may be erected.
- iii. Land dedicated for public use may be conveyed as follows, as approved by the Board:
 - (a) Dedicated to the City of Bath for acceptance.
 - (b) Dedicated to a charitable trust or nonprofit corporation whose mission includes preservation of the property's natural, scenic, or open space values, the availability of the land for forestry purposes, or the provision of recreational or open space use opportunities within the community.

b. Private Common Space Alternative

- i. The subdivider may choose to reserve any portion of the 30% requirement for private common recreation or open space. The reserved land must be of a character, configuration, and location suitable for the particular use intended.
- ii. Further subdivision of private common recreation or open space land, and its use for other than non-commercial recreation, gardening, or conservation purposes, except for easements for underground utilities, is prohibited. Structures or buildings accessory to non-commercial recreational, gardening, or conservation uses may be erected.
- iii. Any subdivider choosing this option may convey the reserved land to one or more homeowner's associations, in which case the developer must maintain control of such land and be responsible for its maintenance until development sufficient to support such an association has occurred. Such determination is made by the Planning Board upon request of the homeowner's association or the developer.

c. Fee-in-Lieu

Where land within the subdivision is not appropriate for recreation or open space due to topographic or other site conditions, or where the applicant prefers, a payment in lieu of reservation may be substituted for some or all of the 30% requirement. The amount and method of calculating such fee shall be as determined by the City, and the payment must be deposited into a Bath Open Space or Outdoor Recreation Facility Acquisition or Capital Improvement Fund, and must be expended for recreation and/or open space land acquisition or capital improvements in the City of Bath within 6 years, or be returned to the applicant.

K. Rights to Shoreline

Any existing public rights of access to the shoreline of a waterbody must be maintained, or must be included in any reserved recreation or open space with provisions made for continued public access.

L. Floodplain Management

If the subdivision is in an area of special flood hazard as established in §18.1, the following standards must be met:

- 1. The plan must indicate the 100-year flood elevation and flood hazard boundaries within the subdivision.
- 2. The plan must include a note requiring that principal structures in the subdivision be constructed with their lowest floor, including the basement, at least 3 foot above the 100-year flood elevation. Such a restriction must be included in any deed, lease, purchase and sale agreement, or any document intending to transfer any interest in real estate or structure(s).
- 3. All public utilities and facilities, such as sewer, gas, electrical, and water systems must be located and constructed to minimize or eliminate flood damages.

M. Financial and Technical Capacity



The applicant must have adequate financial and technical capacity to construct all proposed improvements and meet the provisions of 30-A M.R.S. §4404, as amended, and the standards of this ordinance. In making such determination, the Board must consider the proposed time frame for construction, the effects of inflation, the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of any violation of previous approvals granted to the applicant.

N. Impact on Adjoining Municipalities

For any subdivision that crosses municipal boundaries, the subdivision must not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in any adjoining municipality.

16.8 Design and Construction Requirements

A. Applicability

The Board must review an application for subdivision approval to ascertain compliance with the requirements of this section and must issue findings that the requirements have been met prior to granting subdivision approval. If the applicant is able to demonstrate and meet the intent and purpose of these requirements by an equivalent method, that equivalent method may be approved. The applicant bears the burden of proof as to whether or not the requirements and the intent and purposes of the requirements are met. The Board may waive a requirement if the applicant requests a waiver, in writing, and the Board finds that, due to special circumstances, meeting the requirement is not in the best interests of public health, safety, and general welfare, or is inappropriate. Waivers may be granted only in writing with written findings of facts and conclusions of law, and may be subject to conditions.

B. General Compliance

1. Every lot created by subdivision must conform to all applicable regulations of this Ordinance.
2. All infrastructure improvements must meet the standards of this Ordinance and the engineering standards of the City of Bath. The Department of Public Works may modify standards following a site evaluation and verifying the need for such modifications.

C. Lot Configuration for Subdivision

1. All lots created during subdivision must comply with the minimum lot area and lot width standards of the applicable zoning district.
2. Every lot created by subdivision must front on a street, and must be substantially similar in shape to those lots on the same block, unless existing contours of an adjacent street or previously established lot render such shape impractical.
3. Every lot or parcel of land that is subdivided into two or more lots must be divided so that each separate lot contains a straight boundary line between each lot to the extent practicable.
4. Through lots and flag lots must be avoided, except where needed to overcome specific features of topography and site orientation.
5. The Planning Board may require that lots within a development do not derive access principally from arterial or collector streets. If access from such streets is necessary for several adjoining lots, the Planning Board – as part of subdivision approval – may require that the lots be served by an access drive to limit possible traffic hazards. Driveways must be designed so as to avoid vehicles backing into arterial or collector streets.
6. Lots must be configured to provide positive drainage away from all buildings. Individual lot drainage must be coordinated with overall stormwater management for the subdivision.
7. Where feasible, lots must be arranged to afford individual building sites with opportunities to maximize energy conservation measures such as buffering from prevailing winds and providing for solar access.

D. Monumentation



The purpose of requiring monuments is to ensure that lot lines and corners are, and remain, known. Monuments are also necessary to define the edge of the right-of-way when streets are built. Monuments must be permanent. The type(s) of monument(s) must be appropriate for the setting.

1. Granite or concrete monuments must be set at all street intersections and at points of curvature, but no further than 750 feet apart along street lines without curves or intersections.
2. Monuments must be set at all corners and angle points of the subdivision boundaries, and at all lot corners and angle points. In non-wooded locations, where lawns are anticipated, these monuments must be granite or concrete. In wooded locations, where lawns are not anticipated, these monuments may be granite, concrete, or an iron pin.
3. The granite or concrete monuments must be a minimum of 4 inches square at the top and 4 feet in length, and set in the ground at final grade level. After being set, a drill hole 2 inches deep must be made to locate the point or points described above.
4. A drill hole in ledge, with iron pin, may be substituted for the monuments required in 1 and 2, above, where appropriate.

E. Utilities and Utility Easements

1. When practicable, utility services must be clustered within a single easement.
2. All utilities must be installed underground unless specific site conditions make the installation of underground utilities impractical, subject to verification by the Department of Public Works.
3. Public utility easements must be a minimum of 30 feet in width. The developer must take such actions as necessary to ensure the coordination and continuation of utility easements established on adjacent properties with those proposed within the subdivision.
4. Temporary construction easements exceeding the width of permanent easements may be required as necessary until completion of the subdivision.
5. The City of Bath and public utility companies must have the perpetual right, privilege, and authority to construct, reconstruct, repair, inspect, maintain, and operate the variety of utility transmission and distribution systems within such easement, together with right of access across the property for necessary personnel and equipment to do work.
6. No permanent structures are permitted within the easement, but the easement may be used for gardens, shrubs, landscape, and other purposes that do not interfere with the utility and its maintenance. However, within the easement, the right is granted to cut down and trim or remove any temporary structures, fences, trees, shrubs, or other vegetation without compensation, that interferes with operation of the utility.

F. Public Realm

The public realm and rights-of-way must be designed and constructed in accordance with the requirements of §16.9.

G. Lot Numbering

All lots must be numbered pursuant to the City's street numbering system, and must be approved by the City's Addressing Officer.

H. Street Names

Streets that join and are in alignment with streets of abutting or neighboring properties must have the same name. Names of new streets must not duplicate, nor have phonetic resemblance to, the names of existing streets in the City, and are subject to the approval of the Board and the City's Addressing Officer.

I. Street Signs

The developer must install street name, traffic safety, and control signs meeting the City's specifications, or reimburse the City for the costs of such installation.

J. Street Lighting



Street lighting must be installed as approved by the Board.

16.9 Public Realm

A. Applicability

All public right-of-way construction, reconstruction, and reconfiguration shall be under the statutory authority of the City of Bath Department of Public Works or Maine Department of Transportation as applicable. Any new construction, reconstruction, and reconfiguration of City rights-of-way subject to the requirements of this Ordinance must comply with this Article to the extent that such provisions do not conflict with the statutory authority of the controlling agency. Any standard may be modified as needed by the Department of Public Works to address specific site conditions. A right-of-way must be designed in relation to topographic and drainage conditions, public convenience and safety, and the existing and proposed development served by the right-of-way.

B. General Right-of-Way Arrangement

1. Public rights-of-way must be arranged so that building sites are approximately at right-of-way grade, unless site specific conditions do not allow it.
2. The use of public rights-of-way running in an east-west direction and lots on a north-south axis is encouraged for energy conservation of developments.
3. Public right-of-way design and capacity must take into consideration land use traffic generators, such as employment centers, commercial districts and retail centers, and institutional uses, as well as the density of residential neighborhoods.
4. Public rights-of-way must be laid out to conform as much as possible to topography, permit efficient drainage and utility systems, and provide convenient and safe access to abutting lots.

C. Blocks

1. Block Length

New or reconfigured residential blocks must not exceed 1,000 feet in length, unless a greater length is approved by the Department of Public Works. Nonresidential blocks must be of such length and width as deemed necessary by the Department of Public Works and approved by the Planning Board.

2. Block Design

- a. The shape of new blocks shall be generally rectangular, but may vary as needed to conform to natural features, highway and rail rights-of-way, open space boundaries, or other site constraints.
- b. New rights-of-way must connect to and extend the existing block network where practicable. This requirement does not apply when connections are prevented by natural or manmade barriers such as existing structures, steep slopes, wetlands and waterbodies, railroad or utility rights-of-way, and open space.
- c. All rights-of-way must terminate at other rights-of-way, forming a connected network. The Planning Board may approve cul-de-sacs and dead-end streets only in the case that both of the following criteria are met:
 - i. No connection is available to an existing adjacent development, or a natural or manmade barrier such as a waterway, railroad, limited-access road, or unusual topography exists that prevents such connection.
 - ii. The cul-de-sac or dead-end street is no more than 600 feet in length as measured along the centerline from the closest intersection. The minimum radius of a cul-de-sac shall be 75 feet, with a circular turn-around paved area of no less than 100 feet in diameter.
- d. Where adjoining areas remain undeveloped, rights-of-way must extend to the project boundary line when feasible, to provide for connection with future rights-of-way.



D. General Right-of-Way Standards

New construction, reconstruction, and reconfiguration of rights-of-way subject to the requirements of this Ordinance must comply with this section. Design standards must also be in accordance with the standards of the Maine Department of Transportation (MDOT), the American Association of State Highway and Transportation Officials (AASHTO), the Manual on Uniform Traffic Control Devices (MUTCD), and the National Association of City Transportation Officials (NACTO) Urban Bikeway Design Guide, as updated or amended to the extent that such standards do not conflict with the statutory authority of the controlling agency.

1. Complete Streets

All public and private rights-of-way must be improved as Complete Streets in accordance with the City of Bath Complete Streets Policy. A complete street is defined as a right-of-way facility designed and operated to enable safe access for all users. Persons with disabilities, pedestrians, bicyclists, motorists, and transit riders are able to safely move along and across a right-of-way designed as a complete street.

2. Right-of-Way Construction

- a. All right-of-way construction and repair must be in accordance with standards and specifications set forth by the City.
- b. Vertical and horizontal alignment must be in accordance with standards and specifications set forth by the City.
- c. Grades of public rights-of-way must conform as closely as possible to the original topography. A combination of steep grades and curves is not permitted.

3. Intersections

- a. Street intersections must be at right angles. If, because of topography or other natural or man-made barriers, an intersection cannot be at right angles, the intersection may use an alternate design that ensures safety.
- b. No more than two public rights-of-way can intersect at any one point unless specifically approved by the Planning Board.
- c. Proposed new intersections along one side of an existing public right-of-way must coincide, wherever practicable, with any existing intersections on the opposite side of such public right-of-way. Where rights-of-way intersect arterial or collector streets, their alignment must be continuous.

4. Curb Radius

Curb radii must be a minimum of 25 feet and must be increased proportionately where the angle of intersection is less than 50 degrees. These minimums may be increased where the Department of Public Works finds that larger arcs or radii are necessary for the proper design of the intersection.

5. Utility Installation

Prior to paving of streets or sidewalks, water and sewer mains and services must be in place, or the developer must provide necessary casing for utilities. No pavement may be cut without the approval of the Department of Public Works. No boring of new pavement is allowed for the installation of new service lines mains or other facilities unless approved by the Department of Public Works.

E. Sidewalks

1. Sidewalks must be installed in all subdivisions in commercial or industrial zoning districts.
2. Sidewalks must be installed in any zoning district if the subdivision is expected to generate average daily traffic of 200 trips or more, or if the proposed streets intersect with an existing street with a sidewalk, presenting an opportunity to expand the City's connected network of sidewalks. Where installed, sidewalks must meet the following minimum requirements:
 - a. Sidewalks must be constructed in accordance with City engineering standards, and require approval from the City of Bath Department of Public Works.



- b. Sidewalks must be designed to accommodate the planting of street trees.
 - c. Where sidewalks cross driveways, the sidewalk must remain level with no change in cross-slope.
3. If the Planning Board, in their sole discretion, waives the requirement for the installation of sidewalks, the subdivision must be designed to accommodate the construction of sidewalks in the future, and the applicant must have the sidewalk engineered and the construction drawings and specifications must be a part of the application submission.

F. Bicycle Lane Design

When required by the Planning Board and approved by the Department of Public Works, bicycle lanes must be included in right-of-way construction, reconstruction, and reconfiguration projects. Appropriate designs may include but are not limited to those presented in this section. Where installed, bicycle facilities should be constructed in accordance with the Urban Bikeway Design Guide, as amended, published by the National Association of City Transportation Officials (NACTO), as well as the applicable standards of the Manual on Uniform Traffic Control Devices (MUTCD), as amended. Acceptable designs include the following:

1. Shared Lane

A marking placed in a vehicular travel lane to indicate that a bicyclist may use the full lane. Also called a shared-lane marking or sharrow.

2. Bike Lane

A portion of the roadway that has been designated by striping, signs, and pavement markings for the preferential or exclusive use of bicyclists, typically located adjacent to motor vehicle travel lanes and flowing in the same direction as motor vehicle traffic.

3. Buffered Bike Lane

A conventional bicycle lane paired with a designated buffer space separating the bicycle lane from the adjacent motor vehicle travel lane and/or parking lane.

4. Contra-Flow Bike Lane

A bicycle lane designed to allow bicyclists to ride in the opposite direction of motor vehicle traffic, typically used to convert a one-way traffic street into a two-way street, one direction being for motor vehicles and bikes, and the other being for bikes only.

5. Left-Side Bike Lane

A conventional bike lane placed on the left side of one-way streets or two-way median divided streets.

6. Cycle Track

An exclusive bike facility that combines the user experience of a separated path with the on-street infrastructure of a conventional bike lane. A cycle track is physically separated from motor traffic and distinct from the sidewalk.

7. Raised Cycle Track

A bicycle facility that is vertically separated from motor vehicle traffic, typically paired with a furnishing zone between the cycle track and motor vehicle travel lane and/or pedestrian area, and allowing for one-way or two-way travel by bicyclists.

8. Two-Way Cycle Track

A physically separated cycle track that allows bicycle movement in both directions on one side of the road.

G. Right-of-Way Design

All rights-of-way must conform to one of the right-of-way types of this section to the extent that such right-of-way types do not conflict with the statutory authority of the controlling agency. Right-of-way types and design may be



modified by the Department of Public Works. All rights-of-way must be constructed according to City engineering standards.

1. Right-of-Way Types

Rights-of-way are classified into the following categories:

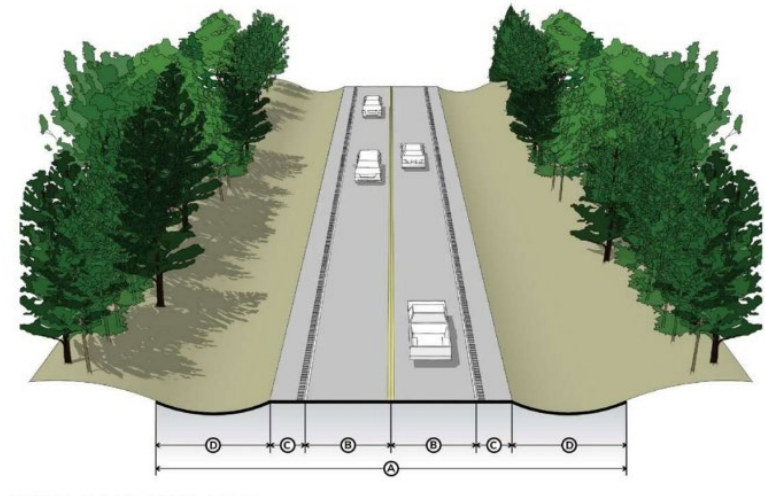
- a. Rural roads provide access and circulation through portions of the City that are predominantly rural in character.
- b. Alleys are vehicular access drives located to the rear of lots, which provide access to service areas, parking, or outbuildings, and which may contain utility easements.
- c. Local streets primarily provide direct access to abutting land and access to higher-order rights-of-way.
- d. Collector streets provide access to local streets, and accommodate traffic circulation within neighborhoods, commercial areas, and industrial areas. Collector streets collect traffic from lower-order rights-of-way and channel traffic to arterial streets.
- e. Arterial streets carry the highest level of traffic within and through the City, and serve to link the City to the larger, integrated highway network.

2. Right-of-Way Dimensional Standards

- a. Minimum dimensions are provided for rural roads, alleys, and local streets. Typical dimensions are provided for collector and arterial streets. Variations to any of these dimensions and configurations may be approved by the Department of Public Works.
- b. In the event that a subdivision adjoins or includes existing City streets that have a right-of-way width of less than 55 feet, additional land along both sides of the street sufficient to conform to the right-of-way requirements must be offered to the City. If a subdivision adjoins such a street on one side only, one-half of the required extra width must be offered to the City.
- c. Diagrams provided in this section are examples only, illustrating potential right-of-way configurations. In some cases, dimensions of the diagrams may exceed the minimum dimensions to illustrate how certain right-of-way features may be designed.

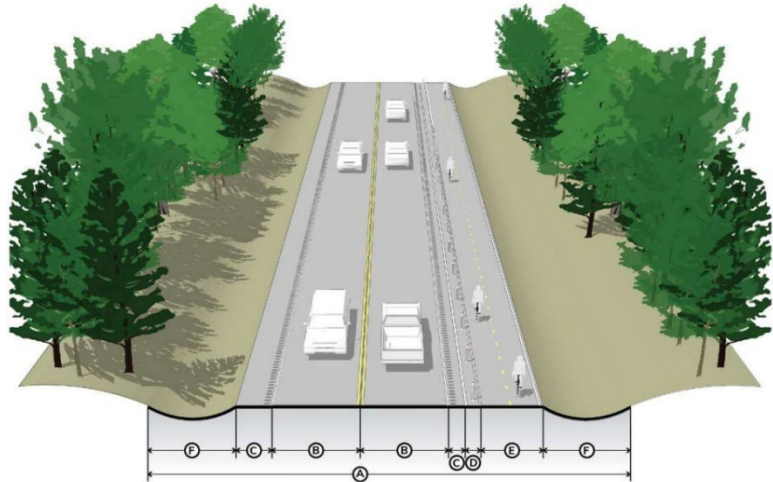
Rural Road: Two-Lane

A	Minimum right-of-way width	55'
B	Minimum travel lane width	11'
C	Minimum shoulder width	4'
D	Minimum drainage area	11'-6"

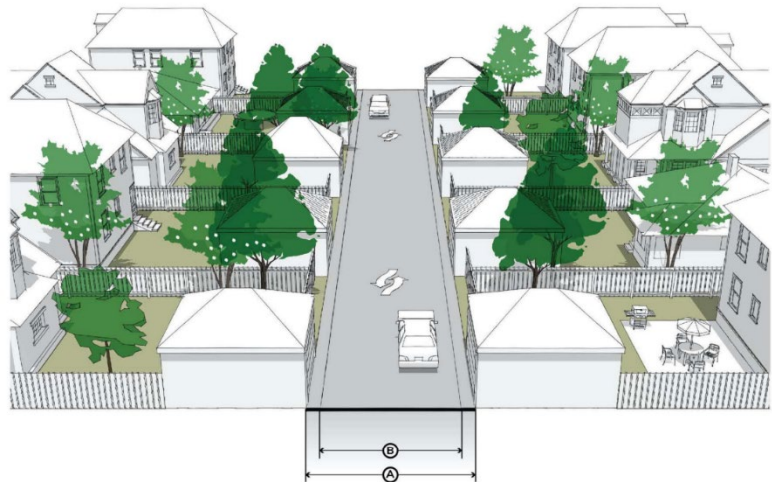


Rural Road: Two-Lane (Multi-Use Path)

A	Minimum right-of-way width	63'
B	Minimum travel lane width	11'
	Minimum shoulder width	4'
C	Minimum shoulder width adjacent to bike lane	2'
D	Minimum bike lane buffer	2'
E	Minimum multi-use path width	10'
F	Minimum drainage area	11'-6"

**Alley**

A	Minimum right-of-way width	24'
B	Minimum travel lane width	20'

**Local Street: Neighborhood One-Way**

A	Minimum right-of-way width	55'
B	Minimum travel lane width	13'
C	Minimum parking lane width	7'
D	Typical tree belt width	12'-6"
E	Minimum sidewalk width	5'



Local Street: Neighborhood Two-Lane (Minor)

A	Minimum right-of-way width	55'
B	Minimum travel lane width	10'
C	Minimum parking lane width	7'
D	Minimum tree belt width	12'-6"
E	Minimum sidewalk width	5'



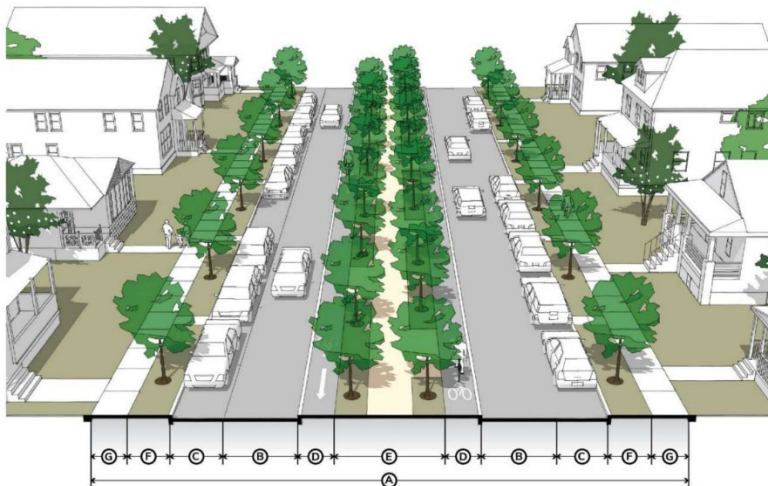
Local Street: Neighborhood Two-Lane

A	Minimum right-of-way width	66'
B	Minimum travel lane width	10'
C	Minimum parking lane width	7'
D	Minimum bike lane width	5'
E	Minimum tree belt width	6'
F	Minimum sidewalk width	5'



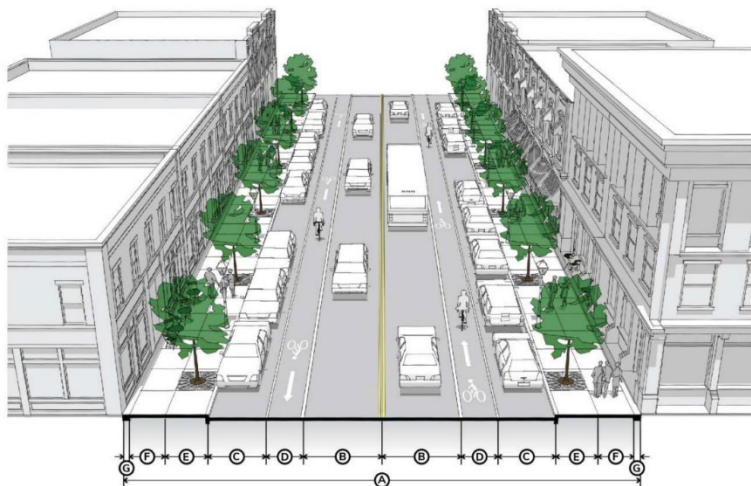
Local Street: Neighborhood Two-Lane (Divided)

A	Minimum right-of-way width	76'
B	Minimum travel lane width	10'
C	Minimum parking lane width	7'
D	Minimum bike lane width	5'
E	Minimum center lane width	10'
F	Minimum tree belt width	6'
G	Minimum sidewalk width	5'

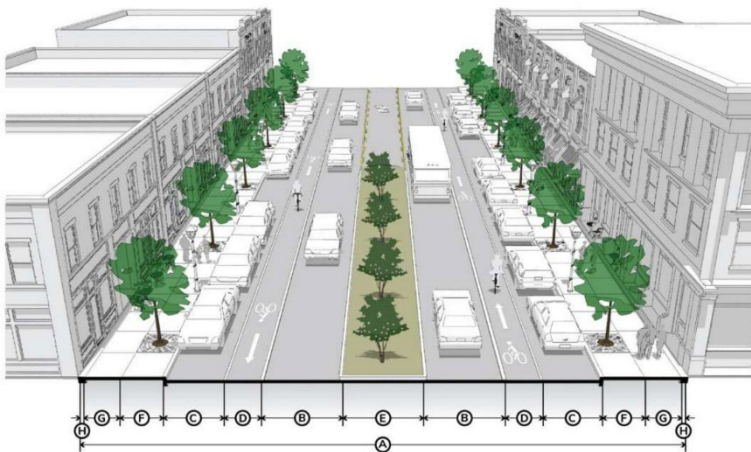


Collector: Two-Lane (Undivided)

A	Typical right-of-way width	72'
B	Typical travel lane width	11'
C	Typical parking lane width	8'
D	Typical bike lane width	5'
E	Typical tree belt width	6'
F	Typical sidewalk width	5'
G	Typical maintenance strip	1'

**Collector: Two-Lane (Divided)**

A	Typical right-of-way width	
	Median / turning Lane	76'/82'
B	Typical travel lane width	11'
C	Typical parking lane width	8'
D	Typical bike lane width	5'
E	Typical center lane width	
	Median / turning Lane	4'/11'
F	Typical tree belt width	6'
G	Typical sidewalk width	5'
H	Typical maintenance strip	1'



Collector: Four-Lane (Undivided)

A	Typical right-of-way width	94'
B	Typical travel lane width	11'
C	Typical parking lane width	8'
D	Typical bike lane width	5'
E	Typical tree belt width	6'
F	Typical sidewalk width	5'
G	Typical maintenance strip	1'



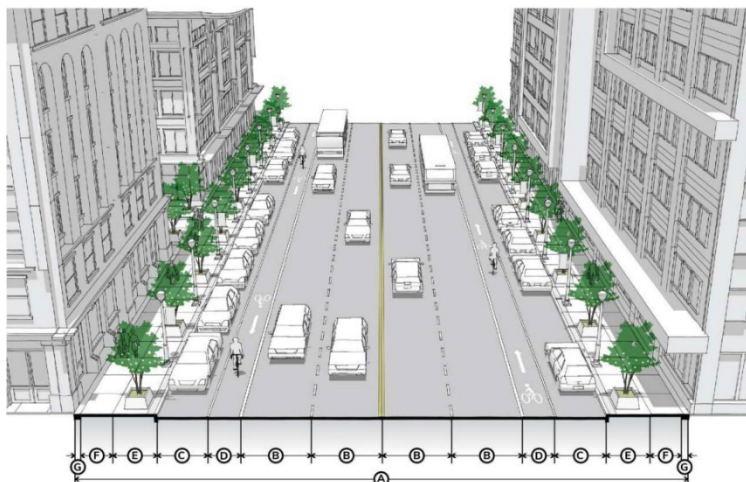
Collector: Four-Lane (Divided)

A	Typical right-of-way width	
	Median / turning Lane	98'/105'
B	Typical travel lane width	11'
C	Typical parking lane width	8'
D	Typical bike lane width	5'
E	Typical center lane width	
	Median / turning Lane	4'/11'
F	Typical tree belt width	6'
G	Typical sidewalk width	5'
H	Typical maintenance strip	1'



Arterial: Four-Lane (Undivided)

A	Typical right-of-way width	96'
B	Typical travel lane width	11'
C	Typical parking lane width	8'
D	Typical bike lane width	5'
E	Typical tree belt width	7'
F	Typical sidewalk width	5'
G	Typical maintenance strip	1'

**Arterial: Four-Lane (Divided)**

A	Typical right-of-way width	
	Median / turning Lane	100'/107'
B	Typical travel lane width	11'
C	Typical parking lane width	8'
D	Typical bike lane width	5'
E	Typical center lane width	
	Median / turning Lane	4'/11'
F	Typical tree belt width	7'
G	Typical sidewalk width	5'
H	Typical maintenance strip	1'

**16.10 Amendments to Approved Plans****A. Procedure**

Subdivision Amendment Approval is required before any and all changes, at any time, are made to the approved plan. Changes include: modifications to lot lines; easements; road layout and other infrastructure such as stormwater and erosion and sedimentation control facilities; conditions of approval; and landscaping and planting.

1. Minor Modifications

- a. If at any time it appears necessary to modify the required improvements before or during construction, approval must be granted by both the Public Works Director and Planning Director, but only for any minor modifications due to unforeseen circumstances such as encountering hidden bedrock outcrops or natural springs. The Planning Director and Public Works Director must issue any approval under this section in writing, and a copy must be maintained in the Planning Office. Revised plans must be filed with the Planning Board.



2. Major Modifications

- a. If the amendment involves the creation of additional lots or dwelling units, the procedures for Subdivision Approval must be followed.
- b. For modifications involving relocation of rights-of-way, property boundaries, changes of grade by more than 1%, and similar modifications, applicants must obtain approval pursuant to the following:
 - i. An applicant for an amendment to a previously approved plan must, at least 3 weeks prior to the meeting at which the application is to be reviewed by the Board, submit an application for Subdivision Amendment Approval to the Planning Office.
 - ii. The applicant must submit a copy of the approved plan, and 3 paper copies and one digital copy of the proposed amendment(s). The digital submittal must be in PDF format, and must be provided on a USB drive. The application must also include adequate supporting information to allow the Board to make a determination that the proposed amendment(s) meet the standards of this Ordinance and the provisions of 30-A, M.R.S.A. § 4404. The amended plan must indicate that it is an amendment to a previously approved and recorded plan, and must show the title of the subdivision and the book and page, or cabinet and sheet, on which the original plan is recorded at the Sagadahoc County Registry of Deeds.
 - iii. The Planning Board's scope of review is limited to only those portions of the plan that are proposed to be changed.

16.11

Performance Guarantees

A. Types of Guarantees

Upon submittal of an Application for Subdivision Approval, or as a condition of approval, the applicant must provide one of the following performance guarantees in an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs. The form, conditions, and amount of the performance guarantee must be approved by the Board with the advice of the Public Works Director, City Solicitor, and Planning Director.

1. A certified check payable to the City or an escrow account in the form of a savings account or certificate of deposit, naming the City of Bath as owner.
2. An irrevocable letter of credit in a form provided by the City from a financial institution establishing funding for the construction of the subdivision, from which the City may draw if construction is inadequate or incomplete, approved by the City Solicitor.
3. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

B. Contents of Guarantee

The performance guarantee must contain a construction schedule, cost estimates for each major phase of construction, taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the applicant, and a date after which the applicant will be in default and the City will have permission to enter the site, access the funds, and finish construction.

C. Interest from the Escrow Account

Any interest earned on the escrow account must be returned to the applicant, unless necessary to fund required improvements.

D. Letter of Credit

An irrevocable letter of credit from a bank or other lending institution must indicate that funds have been set aside for the construction of the subdivision and must not be used for any other project or loan.

E. Conditional Agreement



1. The Board, in its sole discretion, may provide for the applicant to enter into a binding agreement with the City in lieu of the other financial performance guarantees. Such an agreement must provide for approval of the Subdivision Plan on the condition that no lots may be sold, or built upon, until either:
 - a. The Board certifies that all of the required improvements have been installed in accordance with these regulations and the regulations of the appropriate utilities.
 - b. A performance guarantee, acceptable to the Board, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.
- F. Notice of the agreement and any conditions must be on the Subdivision Plan to be recorded at the Sagadahoc County Registry of Deeds. Release from the agreement must comply with the procedures for release of performance guarantees contained in Paragraph G, below.

G. Phasing of Development

The Board may approve plans to develop a subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street that is covered by a performance guarantee. When development is phased, street construction must commence from an existing public way. Final approval of lots in subsequent phases must be given only upon satisfactory completion of all requirements pertaining to previous phase(s).

H. Release of Guarantee

Prior to the release of the performance guarantee, or any part thereof, the Board must determine, based in part upon the report of the Public Works Director and Planning Director or other qualified individual who may be retained by the City, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

I. Default

If the Public Works Director finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he/she must so report in writing to the CEO, the Planning Director, the Board, and the applicant. The City must take any steps necessary to preserve the City's rights.

16.12 Inspections and Enforcement

A. Improvements Guaranteed

Performance guarantees must cover all improvements required to meet the standards of these regulations and for the construction of the streets, stormwater management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.

B. Inspection of Required Improvements

1. At least 5 days prior to commencing construction of required improvements, the applicant must:
 - a. Notify the Planning Office in writing the time when he/she proposes to commence construction of improvements so that the City can arrange for inspections to assure that all requirements, and conditions of approval, are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
 - b. Deposit with the City Treasurer funds equal to 2% of the estimated required improvement costs to pay an inspector to be hired by the City. If, upon satisfactory completion of construction and cleanup, there are funds remaining, the surplus funds must be refunded to the applicant. If the inspection account is drawn down by 90%, the applicant must deposit an additional 1% of the estimated required improvement costs.
- C. If upon inspection it is found that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the applicant, the inspector must so report in writing to the Planning



Director, the Public Works Director, the Board, and the applicant. The City may take any steps necessary to assure compliance with the approved plans.

- D. At the end of each summer construction season the City must, at the expense of the applicant, have the site inspected by the Public Works Director or an individual designated by the Public Works Director. If construction was done on the site, by October 1 of each year, the inspector must submit a report to the Planning Director and the Public Works Director based on the site inspection, addressing whether stormwater and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report must also include discussion and recommendations on any problems encountered.
- E. Prior to the sale of any lot, the applicant must provide the Planning Director, CEO, and Public Works Director with a letter from a Registered Land Surveyor, stating that all of the monuments on the plan have been installed.
- F. Upon completion of street construction, and prior to a vote by the City Council to accept the street, the applicant must submit a written certification to the Public Works Director, signed by a professional engineer, certifying that the street meets or exceeds all of the design and construction requirements of this Ordinance. Any utility providing service must certify in writing that they have been installed in a manner acceptable to the utility. "As-built" plans must be submitted to the Public Works Director and the Planning Director.
- G. The applicant is required to maintain all improvements, provide for trash collection, and provide for snow removal on streets and sidewalks until such time the street is accepted by the City or control is transferred to a lot owners' or homeowners' association.
- H. **Violations and Enforcement**
 - 1. No land in an approved subdivision may be sold, leased, or otherwise transferred or encumbered if it is not shown on the approved Subdivision Plan as a conveyable lot.
- I. The CEO must not issue a building permit, nor approve any use of land, on a lot in a subdivision that has not been approved by the Board and which plan has not been recorded at the Sagadahoc County Registry of Deeds.
- J. No unit in a multi-family development may be occupied before the street upon which the unit is accessed is completed in accordance with this Ordinance.
- K. Violation(s) of this Article are deemed a nuisance and may be subject to the provisions of 30-A M.R.S. § 4452.

16.13 Waivers

A. Waivers Authorized

If the applicant is able to demonstrate that the intent and purpose of a submission requirement, performance standard, or design and construction requirement is met by an equivalent method, that equivalent method may be approved. The applicant bears the burden of proof as to whether the submission requirement, performance standard, or design and construction requirement is met. The Board may waive a standard or requirement if the applicant requests the waiver in writing, and the Board finds that, due to special circumstances, or inappropriateness, meeting the standard or requirement is not required in the best interest of the public health, safety, and general welfare. Waivers must be granted only in writing with written findings of facts and conclusions, and may be subject to conditions. Waivers must not nullify the intent and purpose of the Comprehensive Plan, the Land Use Code, or this Ordinance. The Board may set any necessary conditions to insure that the purposes of this Ordinance are met. The Board must not allow any bulk or space requirement or any other requirement, the waiver of which should be considered a variance, except under Contract Rezoning authority.

B. Waivers to be shown on Subdivision Plan

If the Board grants a waiver under this Ordinance, the Subdivision Plan to be recorded at the Sagadahoc County Registry of Deeds must indicate the waiver(s) granted and the date granted.

16.14 Appeals



An aggrieved party may appeal any decision of the Board under this Ordinance to Sagadahoc County Superior Court within 30 days of the date the Board issues a written decision.



17 Mining Activity

- 17.1 Derivation and Findings
- 17.2 Purpose
- 17.3 Site Plan Approval Required
- 17.4 Requirements and Limitations for Mining Activity
- 17.5 Review Standards
- 17.6 Mining Activity Phasing
- 17.7 Mining Activity License
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- 17.9 Experts
- 17.10 Financial Feasibility and Escrow
- 17.11 Failure to Reclaim

17.1 Derivation and Findings

This article is based on a report entitled “Mineral Extraction and Topsoil Removal Ordinance Study” conducted by Land Use Consultants for the City of Bath (April, 1994), the response to that report and subsequent recommendations by the Natural Resource Committee of the Bath Comprehensive Plan CORE Committee. The report and Committee findings are incorporated as part of the Bath Comprehensive Plan of 1983, and will be incorporated into the new Comprehensive Plan, now under development.

This article is designed to develop a strategy for responsible management of mining activities in the City of Bath. The necessity for this article is reflected in the change in State Statute and Department of Environmental Protection Rules that reduce the review responsibility of the Department in the area of mining activities. This article reflects the concern that the mining of mineral resources within the City is inherently incompatible with, and must be balanced against, other more appropriate uses of scarce land, acknowledging that the City of Bath's future development is severely restricted by its configuration and geography.

As a precursor to the implementation of a balanced management strategy, the following findings are made:

- A. That there are a series of threshold issues that are critical to Bath's future development, including, loss of developable land, impact on existing neighborhoods and their environs, impact on the natural ecosystem (i.e. water quality, groundwater supply, wildlife, visual qualities) and impact on the man-made environment, especially the traffic corridors and supporting road systems.
- B. That based on changes in State Statute and regulation, there is a need to expand the Ordinance definitions and meanings applicable to mining activities.
- C. That there do exist pockets of clay and silt resources scattered primarily throughout the north Bath area that are important as resources for public and private sector development.
- D. That mining activities, particularly in an urban community like Bath, present particular impact issues for the community and environment, some of which can have severe and long-lasting detrimental impacts. Hence, there is a need for sound performance standards that lead to responsible management of these activities, mitigating short and long term impact and balance the interests of the community at large.

17.2 Purpose

The purpose of this article is to define the scope of mining activities and to provide standards and procedures for a fair and equitable review of those activities in the City of Bath. This article is enacted on the basis that the activity regulated by this article constitutes a public nuisance and that this regulation is primarily for the purpose of protecting the public health, safety, and welfare of the inhabitants and for the purpose of protecting the City's environment. This article is enacted pursuant to Home Rule Powers under the Constitution and Laws of the State of Maine. The specific purposes and policies of this ordinance are as follows:

- A. To provide for the protection of groundwater, surface water, and air quality in the City of Bath;



- B.** To conserve and protect the City's natural resources, to preserve property values, recreational opportunities, and the quality of life of the inhabitants of the City;
- C.** To provide for the protection of public and private drinking water sources within the City;
- D.** To provide water quality which will enhance the propagation of fish and wildlife;
- E.** To ensure that mining activities are compatible with other land and water uses within the City;
- F.** To ensure that mining operators and not the taxpayers of the City of Bath bear the expenses associated with protecting human health and the environment from the adverse effects of mining activities; and
- G.** To control and monitor through a permitting and licensing system the environmental impact of mining activities, to conduct necessary oversight activities, and to provide enforcement authority to ensure compliance with all permits and licenses and all applicable standards.

17.3 Site Plan Approval Required

No mining activity may be commenced or continue without a site plan approval granted by the Planning Board of the City of Bath. Upon application by the operator, the Planning Board must act to approve, deny, or approve with conditions in accordance with the procedures of site plan review and must also meet the requirements and standards outlined in this article. Any permit issued by the Planning Board is limited to no more than 10 years of operation or any mining activity beyond that period requires a new application and permitting procedure.

17.4 Requirements and Limitations for Mining Activity

Operators must conduct all mining activities in accordance with the following specific requirements:

A. Setbacks

The following setbacks for mining activity must be applied:

1. 200 feet from any waterbody, stream or wetland;
2. 200 feet from any public right-of-way, private property boundary line or private right-of-way;
3. 200 feet from a private water supply; and
4. 300 feet from a public water supply.

B. Excavation to Seasonal Water Table

No mining activity may excavate within 5 feet or less of the seasonal high-water table.

C. Natural Vegetation

Where natural vegetation exists within a buffer area, no more than 40% of the existing vegetation may be removed.

D. Reclamation

With the exception of changes in topography associated with the removal of mining resources, the site, for reclamation purposes, must be returned to its original condition, including topsoil conditions, unless the Planning Board approves an alternative future land use scheme. The following requirements apply:

1. The development of retention ponds or other water bodies are restricted to 10% of the total land area of the property mining activity.
2. If the re-use plan provides for open space, whether as an original condition or a new condition, no other such use may be permitted for 20 years after the reclamation is deemed approved by the CEO, said condition to be enforced by recorded deed restriction running with the land.



3. Where future use is proposed to be residential, the reclamation use plan must show capacity for subsurface waste disposal, including proposed loading and generalized layout.

E. Routes For Removing Mining Resources

Proposed routes for removing mining resources, subject to the review standards of this Article, are restricted to the following routes. No activity may exceed the posted weight limits of appropriate crossings; however, an applicant may be permitted to improve those crossings for the purpose of allowing heavier loads.

1. Congress Avenue
2. Oak Grove Road
3. Whiskeag Road
4. Ridge Road
5. North Bath Road

F. Slope

All excavated areas must be improved to no steeper than a 4:1 slope.

G. Monitoring

Monitoring may be required to assure that there is no impact on any water supplies in the area, public or private. Because of ledge and clay configurations, there is no limit in distance when examining potential impact.

H. Soil Sediments

No soil sediments may leave the area of active excavation.

17.5

Review Standards

A. Natural Buffers and Visual Assessment

1. The applicant must submit to the Planning Board a plan for the management and maintenance of natural buffers. Should the mining activity impact a street or neighboring property from a visual assessment, then the Planning Board may require a visual assessment plan of how the project impact will be mitigated. This plan must include:
 - a. Topography and elevation of mining excavation;
 - b. Existing natural vegetation in terms of type and location, and common cycles typical to the site in question; and
 - c. Other resources on site that may be used for buffer management.
2. The use and maintenance of natural vegetation is encouraged.

B. Traffic Impact

1. The mining activity scale must be considered in relationship to the capacity of the proposed routes for removal of mining resources. The applicant must provide information on vehicle use, frequency of trips and proposed routes in allowing the Board to assess what improvements may need to be made to the existing road network system. Road improvements decisions must be based upon the standards of this section.
2. Rural roads throughout the City of Bath are considered to be adequate for rural traffic with little truck traffic. With the introduction of truck traffic associated with Mineral Excavation, road geometric design improvements must be made or provided as follows:



Element	Requirement
Roadway Width	20 – 24 ft.
Gravel Shoulders	4 – 8 ft.
Border Areas (Beyond Shoulders)	10 – 20 ft.
Slope of Border Areas	4:1 or flatter
Road Base	
Pavement Course B	3 inches
Base Crushed Gravel	6 inches
Sub-Base	18 inches
Stopping Sight Distance	Consistent with standards set out in “Geometric Design,” pp. 590-592, <i>Transportation and Traffic Engineering Handbook</i> as is currently constituted and as may be from time to time amended.
Decision Sight Distance	
Corner Sight Distance	

- a. The Planning Board must utilize the analysis conducted by the applicant to apply the above standards. The application must take into consideration the proposed route, weight of the vehicles, number of trips per day, speed limit and any other unusual site circumstances. The Board may waive any of these requirements, but may do so only within the following parameters:
 - i. The applicant must demonstrate, through appropriate engineering standards that are consistent with Institute for Transportation Engineers publications, Federal Highway publications, Maine Department of Transportation or the Asphalt Institute, as appropriate, that the proposed engineering alternative is acceptable.
 - ii. Require that the applicant post a bond for all potential road repairs, establish weight limits in conjunction with the Public Works Department and continue to meet various site distance requirements.
3. As a condition of approval prior to the start of operation, where the proposed route is insufficient to handle the proposed traffic activity, the applicant must be required to bring the proposed route up to a condition which is sufficient to handle the proposed traffic impact. In addition, and not being limited by the foregoing, the applicant may also be required to post a surety bond, or other acceptable surety instrument acceptable to the Board, to cover damages during and after operation.

C. Noise and Vibrations Impact

Noise and vibration for on-site activities must be of ambient quality at the lot lines. The applicant is required to demonstrate how this will be achieved using natural contours and vegetation of the property, or other temporary means during operation. If activity on-site will include any blasting, the operator must ensure that blasting is conducted in accordance with Maine Statutes as set forth in Title 25, Chapter 318, and 38 M.R.S. §490-Z, performance standards for quarries. A blasting plan must also be submitted and approved as part of the site plan approval process. Such plan must address the following:

1. Timing of Blasting

Blasting may not occur between the hours of 4:00pm and 11:00am.

2. Notification



The operator must provide for the notification of property owners within one-half mile of the blast site in advance of any scheduled blasting activity. The operator must also notify the City of Bath Codes Enforcement Officer, the Bath Fire Department, and any other property owners who have requested to be notified.

3. Pre-Blast Survey

- a. A pre-blast survey is required as part of the blasting plan. Such survey must be prepared in accordance with the standards of 38 M.R.S. §490-Z(14).
- b. A pre-blast survey shall not be required if the Planning Board determines that no protected natural resource within the limits of the otherwise required survey is likely to be affected by blasting, and production blasting will not occur within 2,000 feet of any building not owned or under the control of the operator.
- c. A pre-blast survey shall not be required to address properties for which the owner or operator documents the rejection of an offer, by registered letter, return receipt requested, to conduct a pre-blast survey. Any person owning a building within a pre-blast survey radius may voluntarily waive the right to a survey.

D. Dust and Mud Impact

The applicant must provide a plan for how dust, mud, and similar nuisances will be confined to the site. Applicant must demonstrate how dust and mud will be prevented from entering onto any public way.

E. Hours of Operation

Based on the neighborhood, topographical conditions, selected travel routes, vegetative buffers and other applicable factors, the Board may elect to restrict the hours of operation of this activity in order to avoid impact on surrounding properties along the site and the proposed route. In considering such a restriction, the Board must consider the impact of the operation on residential neighborhoods, area businesses and other neighborhood uses, insuring that these uses are not negatively impacted.

F. Water Quality Impact

The applicant must demonstrate that the project will not affect the quality and/or quantity of area groundwater both adjacent to the site and hydro-geologically connected. The applicant must establish the seasonal high-water mark and describe how to maintain excavations above the 5 foot seasonal high-water level. To establish the level, the Planning Board may require the applicant to provide an analysis of groundwater conditions related to -the particular site in question, to be conducted by a registered engineer with a specialty in the area of hydrogeologic assessments.

G. Erosion and Sedimentation

All plans must be accompanied by an erosion and sedimentation plan consistent with the standards laid out by the Department of Environmental Protection, best management practices and the most recent Soil Conservation Service directives. Such plans must be made a part of the application and must be developed by a registered engineer. Particular attention will be focused on the spill associated with clay and silt sediment in order to demonstrate that such particles must be confined to the site and not be allowed to enter any surrounding water bodies or groundwater.

H. Stormwater Management Plan

The applicant must provide a stormwater management plan, consistent with Department of Environmental Protection standards, that includes a design for 2-, 10- and 100-year storms. The design must describe measures taken to mitigate the impacts of each event and must relate that mitigation to the erosion and sedimentation plan.

I. Reclamation Plan

Every application must include a reclamation plan tied to the phasing of the mineral activity project. That reclamation plan must be tied to the future use of the property, including insuring that the materials and design are sufficient to allow that future use to occur. In developing the plan, the applicant must address the following factors:

1. The applicant must describe whether the plan will call for new open space, a return to the original condition, or be developed for residential or other permitted uses.



2. Where an open space plan is proposed, the reclamation plan should demonstrate how vegetation, topographical shaping and other natural considerations consistent with the site's location will be utilized. For clay and silt and sand and gravel pits, at least 4 inches of topsoil must be retained to help reestablish the original conditions.
3. Where residential uses or other permitted uses are proposed, the plan must ensure that remaining land is capable of supporting the proposed use in terms of water supply, septic disposal, infrastructure development and other standards addressed in the subdivision, or site plan review ordinances of the City of Bath.
4. The reclamation plan must demonstrate each stage consistent with the annual 1 acre limit on mining activity and must demonstrate the degree of reclamation necessary to reach the point where the site becomes self-sustaining.
5. All other aspects of the reclamation plan must be consistent with the specifications and best management practices developed by the Soil Conservation Service and the Department of Environmental Protection.
6. In the case of clay and silt mining activities, the reclamation plan must demonstrate how vegetation and topsoil are to be stabilized on clay and silt surfaces. Programs for soil development, erosion control and vegetative development must be clear so that the CEO, during the licensing process, can determine whether the reclamation is succeeding and becoming self-sustaining.

J. Environmental Impact Report

Where deemed necessary due to the scope of the activity, site conditions, location, or any other relevant factor, the Planning Board may require the applicant to submit an environmental impact report.

17.6 Mining Activity Phasing

All mining activity permitted under this article is limited to a 10-year period. The activity must be phased so that no more than 1 acre of mining activity per year will be permitted within the site. No activity may be allowed for additional 1 acre sites or expansion beyond the original 1 acre site where the reclamation plan has not been implemented. For purposes of application of this section, no property may be divided for the purposes of defeating the phasing definition above where 10 acres of mining activity must be applied to the original lot of record, irrespective of its size at the time of the original adoption of this article. Any division of the property within 10 years of the date of application, may not be recognized in terms of the phasing activity.

17.7 Mining Activity License

Subsequent to the granting of a site plan review permit under the terms and conditions of this article, the applicant must annually, during the month of April, but not later than April 30th of each year submit an application for re-licensing to the CEO. This license must request a continuation of the mining activity which was approved and the site review permit issued in accordance with this article. The CEO must inspect the mining activity, where applicable with the assistance of the Soil Conservation Service and such other experts as may be necessary in order to conduct an appropriate review of the mining activity and implementation of the reclamation plan. The applicants must demonstrate that they are in full compliance with the approved plan and that the reclamation plan to the extent required in the approval has been implemented. The license application and inspection must continue for each mining operation annually until it has been shown that the mining activity has ceased, the reclamation plan fully implemented, and the site has become self-sustaining.

17.8 Non-Transfer of Permit

The permits issued by the Planning Board under this article and the yearly licenses issued by the CEO, are site-specific, and specific to the owner/operator of the property and no other. The permit/licenses are not transferable and do not run with the land and any subsequent owner or operator will be required to re permit the site.



17.9 Experts

To the extent deemed necessary and appropriate, the Planning Board in reviewing an initial application for a mining activity permit, and the CEO in consideration of the annual licensing of the operation, has the authority to employ, at the applicant's expense, such experts as they deem necessary and advisable in order to assure full and complete compliance with all standards and requirements of this article or any other applicable rules, laws or standards. The estimated costs of such experts must be deposited with the City Treasurer prior to employment. Any amount not spent must be returned to the applicant or licensee. If the cost of the review exceeds the amount deposited, the applicant or licensee must deposit additional funds with the City Treasurer before processing of the application or annual license may continue.

17.10 Financial Feasibility and Escrow

Each applicant must demonstrate to the satisfaction of the Planning Board in the initial permitting process, and to the satisfaction of the CEO upon yearly re-licensing, that the applicant/operator has and has maintained sufficient financial assets to support the operation and the full implementation and completion of the reclamation plan. Where full financial feasibility has not been demonstrated, the Board may refuse to issue the permit, the CEO may refuse to re-license the operation, or require that an escrow fund in an amount adequate to support the reclamation effort be established or if necessary, enhanced.

17.11 Failure to Reclaim

Where an operator has failed to conduct appropriate reclamation activities, in addition to nonrenewal of the annual license or revocation of an existing license, the City has the right to exercise any or all of the following options:

- A.** Seek injunctive relief before a court of competent jurisdiction requiring the operator to come into compliance with the approved reclamation plan.
- B.** If escrow funds exist, to cause the reclamation work to be accomplished, to be paid for out of escrowed monies.
- C.** Where escrowed funds are insufficient, to cause the reclamation to occur, the City of Bath has the right to conduct the reclamation activities and enforce the costs as a lien against the property in favor of the City of Bath to recover all expenses involved in reclamation, including all City costs, administrative time, contractor's fees, legal expenses and court costs.



18 Floodplain Management

- 18.1 Purpose and Establishment
- 18.2 Structure Types and Development Classifications
- 18.3 Flood Hazard Development Permit Required
- 18.4 Application for Permit
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- 18.12 Records and Reporting
- 18.13 Enforcement and Penalties
- 18.14 Disclaimer of Liability

18.1 Purpose and Establishment

- A. Certain areas of the City of Bath, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the City of Bath, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this article.
- B. It is the intent of the City of Bath, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.
- C. The City of Bath has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A M.R.S., Sections 3001-3007, 4352, 4401-4407, and Title 38 M.R.S., Section 440.
- D. The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the City of Bath having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Article establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the City of Bath, Maine.
- E. The areas of special flood hazard, Zones A and AE, for the City of Bath, Sagadahoc County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Sagadahoc County, Maine," dated July 16, 2015 with accompanying "Flood Insurance Rate Map" dated July 16, 2015 with panels: 201F, 202F, 203F, 204F, 208F, 211F, 212F, 214F, 216F, 218F, 277F derived from the countywide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Sagadahoc County, Maine," are hereby adopted by reference and declared to be a part of this Code.

18.2 Structure Types and Development Classifications

- A. **Structure Types**
 - 1. For the purposes of this Article, structure shall mean a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.
 - 2. For the purposes of this Article, accessory structure shall mean a structure which is on the same parcel of property as a principal structure, the use of which is incidental to the use of the principal structure.
 - 3. For the purposes of this Article, the following types of structures shall have the following meanings:
 - a. **Agricultural Structure**



Structures that are used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

b. Elevated Building

A non-basement building that is:

- i. Built, in the case of a building in Zones A, AE, AO, or AH, so that the top of the elevated floor, or in the case of a building in Zone VE or Coastal AE Zone, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, posts, or piers.
- ii. Adequately anchored to not impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A, AE, AO, or AH, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.N. In the case of Zone VE and Coastal AE Zone, Elevated Building also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of §18.7.R.2.c.iii.

c. Historic Structure

A structure that meets any of the following:

- i. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
- ii. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district.
- iii. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior.
- iv. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior, or Directly by the Secretary of the Interior in states without approved programs.

d. Manufactured Home

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

e. Manufactured Home Park or Subdivision

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. An existing manufactured home park or subdivision shall mean a manufactured home park or subdivision that was recorded in the deed registry prior to the adoption date of Bath's first floodplain management regulations.

B. Development Classifications

For the purposes of this Article, the following development classifications are established.

1. Development



Any manmade change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

2. Minor Development

All development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes but is not limited to: accessory structures as provided for in §18.7.L, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

3. New Construction

Structures for which the "start of construction" commenced on or after the effective date of Bath's first floodplain management regulations, including any subsequent improvements to such structures. For the purposes of this Article, start of construction shall mean:

- a. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

4. Substantial Alteration

For the purposes of this Article, substantial alteration shall include both substantial damage and substantial improvements as follows:

a. Substantial Damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

b. Substantial Improvement

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include:

- i. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions
- ii. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the Zoning Board of Appeals.



18.3 Flood Hazard Development Permit Required

- A. The Codes Enforcement Officer shall be designated as the local Floodplain Administrator. The Floodplain Administrator shall have the authority to implement the commitment made to administer and enforce the requirements for participation in the Nation Flood Insurance Program.
- B. Before any construction or other development (as defined in §18.2, including the placement of manufactured homes, begins within any areas of special flood hazard established in §18.1, a Flood Hazard Development Permit must be obtained except as provided in §18.9. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the City of Bath, Maine. If only a site plan is required for development, the Flood Hazard Development Permit must be obtained prior to approval of the site plan.

18.4 Application for Permit

The application for a Flood Hazard Development Permit shall be submitted to the Planning Office, and must include:

- A. The name, address and phone number of the applicant, owner, and contractor.
- B. An address and a map indicating the location of the construction site.
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions.
- D. A statement of the intended use of the structure and/or development.
- E. A statement of the cost of the development including all materials and labor.
- F. A statement as to the type of sewage system proposed.
- G. Specification of dimensions of the proposed structure and/or development.
- H. For new construction and substantial improvements, elevation data relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or , in Zone A only, to a locally established datum. Elevation data is required as follows:
 - 1. Base flood elevation at the proposed site of all new or substantially improved structures.
 - a. In Zone AE, base flood elevation must be determined from data contained in the “Flood Insurance Study – Sagadahoc County, Maine,” as described in this Article.
 - b. In Zone A:
 - i. Base flood elevation must be determined from federal, state, or other technical sources (such as FEMA's Quick-2 model), including information obtained pursuant to §18.7.M and Section 18.6.A.4.
 - ii. Alternatively, base flood elevation may be determined from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s).
 - iii. In the absence of all other data, base flood elevation may be determined to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
 - 2. Elevation of the highest and lowest grades at the site adjacent to the walls of the proposed building.
 - 3. Elevation of the lowest floor, including basement, and whether or not such structures contain a basement.
 - 4. Elevation of the lowest machinery and equipment servicing the building.
 - 5. For nonresidential structures, the elevation to which the structure will be floodproofed.



- I. For new construction and substantial improvements, a description of an elevation reference point established on the site of all developments for which elevation standards apply as required in §18.7
- J. For new construction and substantial improvements, a written certification by:
 - 1. A professional land surveyor that the grade elevations shown on the application are accurate.
 - 2. A professional land surveyor, registered professional engineer or architect that the base flood elevation shown on the application is accurate.
- K. For new construction and substantial improvements, the following certifications as required in §18.7 by a registered professional engineer or architect:
 - 1. A floodproofing certificate (FEMA Form FF-206-FY-22-153, as amended) to verify that the floodproofing methods for any nonresidential structures will meet the floodproofing criteria and other applicable standards of §18.7.
 - 2. A V-Zone Certificate to verify that the construction in coastal high hazard areas, Zone VE and Coastal AE Zone, will meet the criteria and other applicable standards of §18.7.
 - 3. A hydraulic openings certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of §18.7.
- L. A certified statement from a registered professional engineer or architect that bridges will meet the standards of §18.7.
- M. A certified statement from a registered professional engineer or architect that containment walls will meet the standards of §18.7.
- N. A description of the extent to which any water course will be altered or relocated as a result of the proposed development.
- O. A statement of construction plans describing in detail how each applicable development standard in §18.7 will be met.

18.5

Application Fee

A non-refundable application fee, as may be set forth by the City Council for all minor development and for all new construction and substantial improvements must be paid to the Codes Enforcement Officer, and a copy of a receipt for the same must accompany the application. An additional fee may be charged if the Codes Enforcement Officer, Planning Board, and/or Zoning Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee must be paid in full by the applicant within 10 days after the City submits a bill to the applicant. Failure to pay the bill shall constitute a violation of this ordinance and shall be grounds for the issuance of a stop work order. An expert must not be hired by the City at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the ZBA.

18.6

Review Procedures

Upon determination that an application is complete, the Planning Office will coordinate review of the application by the City to assure that proposed developments are reasonably safe from flooding. No permit may be issued until it is found that the development proposal is in compliance with the standards of this Article. Compliance with the provisions of this Article shall be required prior to beginning any development as defined herein.

A. Subdivision and Development Proposals

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- 1. All such proposals are consistent with the need to minimize flood damage.



2. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
3. Adequate drainage is provided so as to reduce exposure to flood hazards.
4. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
5. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area are to be constructed in accordance with the development standards of this Article. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

B. Flood Hazard Development Permit Applications

In reviewing applications for Flood Hazard Permits for compliance with the standards of this article, the Codes Enforcement Officer shall:

1. Utilize, in the review of applications:
 - a. The base flood and floodway data contained in the "Flood Insurance Study – Sagadahoc County, Maine," as described in this Article.
 - b. In special flood hazard areas where base flood elevation and floodway data are not provided, the CEO must obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to §18.4.H.1.b.i.; §18.7.M; and §18.6.A.4., in order to administer this Article.
 - c. When the community establishes a base flood elevation in a Zone A by methods outlined in §18.4.H.1.b.i., the community shall submit that data to the Maine Floodplain Management Program.
2. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in §18.1 of this Article.
3. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344.
4. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency.
5. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of §18.11 of this Article, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of §18.4, §18.7, and §18.10 of this Article.

18.7 Development Standards

All developments in areas of special flood hazard shall meet the following applicable standards:

A. All Development

All development shall:



1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. Use construction materials that are resistant to flood damage.
3. Use construction methods and practices that will minimize flood damage.
4. Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during flooding conditions.

B. Water Supply

All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

C. Sanitary Sewage Systems

All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

D. On Site Waste Disposal Systems

On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

E. Watercourse Carrying Capacity

All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

F. Utilities

New construction or substantial improvement of any structure (including manufactured homes) located within?

1. Zones A, AE, AO, and AH shall have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least three feet above the base flood elevation.
2. Zone VE shall meet the requirements of §18.7.R.

G. Physical Changes to the Natural Landscape

Certain development projects, including but not limited to retaining walls, sea walls, levees, berms, and rip rap, can cause physical changes that affect flooding conditions.

1. All development projects in Zones AE and VE that cause physical changes to the natural landscape shall be reviewed by a qualified professional to determine whether or not the project changes the base flood elevation, zone, and/or the flood hazard boundary line. For the purposes of this article, qualified professional shall mean an individual either licensed by the State of Maine or qualified in another manner to perform the specified work in accordance with all applicable design standards and codes, and whose qualifications indicate that the work as designed and as performed will not increase flood risk to public safety. If the qualified professional is not licensed by the State of Maine, the local permitting authority shall request that the qualified professional identify their qualifications in writing.
 - a. If the qualified professional determines, through the use of standard practices, that the project would not necessitate a Letter of Map Revision (LOMR), a certified statement shall be provided.
 - b. If the qualified professional determines that the project may cause a change, a hydrologic and hydraulic analysis that meets current FEMA standards shall be performed.



2. If the hydrologic and hydraulic analysis performed indicates a change to the base flood elevation, zone, and/or the flood hazard boundary line, the applicant may submit a Conditional Letter of Map Revision (C-LOMR) request to the Federal Emergency Management Agency for assurance that the as-built project will result in a change to the Flood Insurance Rate Map. Once the development is completed, a request for a Letter of Map Revision (LOMR) shall be initiated.
3. If the hydrologic and hydraulic analysis performed show a change to the base flood elevation, zone, and/or the flood hazard boundary line, as soon as practicable, but no later than 6 months after the completion of the project, the applicant shall submit the technical data to FEMA in the form of a Letter of Map Revision request.

H. Residential

New construction or substantial improvement of any residential structure located within:

1. Zones AE, AO, and AH shall have the lowest floor (including basement) elevated to at least three feet above the base flood elevation.
2. Zones AO and AH shall have adequate drainage paths around structures on slopes to guide floodwater away from the proposed structures.
3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. At least three feet higher than the depth specified in feet on the community's Flood Insurance Rate Map, or at least three feet if no depth is specified.
4. Zone A shall have the lowest floor (including basement) elevated:
 - a. To at least three feet above the base flood elevation utilizing information obtained pursuant to §18.4.H.1.b.i., §18.6.B, or §18.6.A.4.
 - b. In the absence of all data described above, to at least three feet above the highest adjacent grade to the structure.
5. Zone VE and Coastal AE Zone shall meet the requirements of §18.7.R.

I. Non Residential

New construction or substantial improvement of any non-residential structure located within:

1. Zones AE, AO, and AH shall have the lowest floor (including basement) elevated to at least three feet above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. Be floodproofed to at least three foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water.
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
 - c. Be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by this Article, and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. At least three feet higher than the depth specified in feet on the community's Flood Insurance Rate Map, at least three feet if no depth number is specified, or together with attendant utility and sanitary facilities, be floodproofed to meet the elevation requirements of this section and floodproofing standards of §18.7.I.1.



4. Zone A shall have the lowest floor (including basement) elevated:
 - a. To at least three feet above the base flood elevation utilizing information obtained pursuant to §18.4.H.1.b.i., §18.6.B, or §18.6.A.4, or:
 - b. In the absence of all data described herein, to at least three feet above the highest adjacent grade to the structure, or:
 - c. Together with attendant utility and sanitary facilities, be floodproofed to meet the elevation requirements of this section and floodproofing standards of §18.7.I.1.

J. Manufactured Homes

New or substantially improved manufactured homes located within:

1. Zones AE, AO, and AH shall:
 - a. Be elevated such that the lowest floor (including basement) of the manufactured home is at least three feet above the base flood elevation.
 - b. Be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles.
 - c. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - i. Over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side).
 - ii. Frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - iii. All components of the anchoring system described above must be capable of carrying a force of 4,800 pounds.
2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
3. Zone AO shall have the lowest floor (including basement) of the manufactured home elevated above the highest adjacent grade:
 - a. At least three feet higher than the depth specified in feet on the community's Flood Insurance Rate Map, or at least three feet if no depth number is specified. The anchoring requirements of §18.7.J.1.c. shall also be met.
4. Zone A shall:
 - a. Be elevated on a permanent foundation as described in §18.7.J.1.b., such that the lowest floor (including basement) of the manufactured home is at least three feet above the base flood elevation utilizing information obtained pursuant to §18.4.H.1.b.i., §18.6.B, or §18.6.A.4., or in the absence of all data described herein, to at least three feet above the highest adjacent grade to the structure. The anchoring requirements of §18.7.J.1.c. shall also be met.
5. Zone VE and Coastal AE Zone shall meet the requirements of §18.7.R.

K. Recreational Vehicles

Recreational Vehicles located within:

1. Zones A, AE, AO, and AH shall meet one of the following requirements:



- a. Be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
 - b. Be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in §18.7.J.
- 2. Zone VE and Coastal AE Zone shall either meet the requirements of §18.7.K.1.a. above, or the requirements of §18.7.R.

L. Accessory Structures

New construction or substantial improvement of accessory structures, as defined in §18.2, shall be exempt from the elevation criteria required in §18.7.H and §18.7.I above, if all other requirements of §18.7 and the following requirements are met.

- 1. Accessory structures located in Zone A, EA, AO, and AH shall:
 - a. Meet the requirements of §18.2.A as applicable.
 - b. Be limited in size to a one-story two car garage.
 - c. Have unfinished interiors and not be used for human habitation.
 - d. Have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and, when possible, outside the Special Flood Hazard Area.
 - e. Be located outside the floodway.
 - f. When possible, be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than the primary structure.
 - g. Have hydraulic openings, as specified in §18.7.N, in at least two different walls of the accessory structure.
 - h. Be located outside the Coastal AE Zone.
- 2. Accessory structures in Zone VE and Coastal A Zones shall meet the requirements of §18.7.R.

M. Floodways

- 1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2. In Zones A and AE riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in §18.7.M.3 below unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
 - a. Will not increase the water surface elevation of the base flood more than one foot at any point within the community.
 - b. Is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.
- 3. In Zones A and AE riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance



of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

N. Hydraulic Openings/Flood Vents

New construction or substantial improvement of any structure in Zones A, AE, AO, and AH that meets the development standards of §18.7 including the elevation requirements of §18.7, paragraphs H, I, or J and is elevated on posts, columns, piers, piles or crawlspaces may be enclosed below the base flood elevation requirements provided the following criteria are met or exceeded:

1. Enclosed areas are not “basements” as defined in Article 2.
2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must meet one of the following standards:
 - a. Be engineered and certified by a registered professional engineer or architect.
 - b. Meet or exceed the following minimum criteria:
 - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area.
 - ii. The bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade.
 - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non- automatic mechanical means.
3. The enclosed area shall not be used for human habitation.
4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

O. Bridges

New construction or substantial improvement of any bridge in Zones A, AE, AO, AH, and VE shall be designed such that:

1. When possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least three feet above the base flood elevation.
2. A registered professional engineer shall certify that:
 - a. The structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of §18.7.M.
 - b. The foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

P. Containment Walls

New construction or substantial improvement of any containment wall located within:

1. Zones A and AE shall:
 - a. Have the containment wall elevated to at least three feet above the base flood elevation.
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
 - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this



section. Such certification shall be provided with the application for a Flood Hazard Development Permit.

2. Zones AO and AH shall have adequate drainage paths around containment walls on slopes, to guide floodwater away from the proposed walls.
3. Zone AO shall have the top of the containment wall elevated above the highest adjacent grade:
 - a. At least three feet higher than the depth specified in feet on the community's Flood Insurance Rate Map, or at least three feet if no depth number is specified.
 - b. The requirements of §18.7.P.1.b. & c. shall also be met.

Q. Wharves, Piers and Docks

New construction or substantial improvement of wharves, piers, and docks are permitted in and over water and seaward of the mean high tide if the following requirements are met:

1. In Zones A, AE, AO, and AH, wharves, piers, and docks shall comply with all applicable local, state, and federal regulations.
2. In Zone VE, wharves, piers, and docks shall have a qualified professional develop or review the structural design, specifications, and plans for the construction.

R. Coastal Floodplains

1. New construction located within Zones AE and VE shall be located landward of the reach of mean high tide except as provided in §18.7.R.7.
2. New construction or substantial improvement of any structure located within Zone VE or Coastal AE Zones shall:
 - a. Have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least three feet above the base flood elevation. Systems, fixtures, equipment, and components shall not be mounted on or penetrate through walls intended to break away under flood loads.
 - b. Be elevated on posts or columns such that:
 - i. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to at least three feet above the base flood elevation.
 - ii. The pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components.
 - iii. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.
 - c. Have the space below the lowest floor:
 - i. Free of obstructions, or
 - ii. Constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns, or
 - iii. Constructed with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.
 - d. Require a registered professional engineer or architect to:



- i. Develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the Coastal Construction Manual, (FEMA-55); and,
 - ii. Certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of §18.7.R.3.
- 3. The use of fill for structural support in Zone VE and Coastal AE Zones is prohibited.
- 4. Human alteration of sand dunes within Zone VE and Coastal AE Zones is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
- 5. The area below the lowest floor shall be used solely for parking vehicles, building access, and storage.
- 6. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in §18.7.I only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in §18.9, and if all the following requirements and those of §18.7.A., M., and N. are met:
 - a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.
 - b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
 - c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
 - d. The structure shall have unfinished interiors and shall not be used for human habitation.
 - e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to three feet above the base flood elevation.
 - f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

18.8

Permit Approval

- A. Upon determining that an application satisfies the requirements of this article, the Codes Enforcement Officer shall approve the issuance of one of the following Flood Hazard Development Permits based on the type of development.
 - 1. **A Two-Part Flood Hazard Development Permit for Elevated Structures.**
 - a. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an "under construction" Elevation Certificate completed by a Professional Land Surveyor based on the Part I permit construction, "as built," for verifying compliance with the elevation requirements of §18.7, paragraphs H, I, J, or R. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit.
 - b. Part II shall authorize the applicant to complete the construction project.
 - 2. **A Flood Hazard Development Permit for Floodproofing of Nonresidential Structures**

This permit shall apply for nonresidential structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of §18.7.I.1. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect.
 - 3. **A Flood Hazard Development Permit for Minor Development**



This permit shall apply for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in §18.7.L., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

- B.** For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in §18.9.

18.9

Conditional Use Review

The Planning Board shall hear and decide upon applications for conditional uses provided for in this article. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the CEO that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

A. Review Procedure for a Conditional Use Flood Hazard Development Permit

1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.
2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.
3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.
5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

B. Expansion of Conditional Uses

1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly established or constructed under this Ordinance.

18.10

Certificate of Compliance

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the CEO subject to the following provisions:

- A.** For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the CEO:
1. An Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with §18.7, paragraphs H., I., J., or R.
 2. For structures in Zone VE and Coastal AE Zone, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with §18.7.R.



- B. The applicant shall submit written notification to the CEO that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the CEO shall review the Elevation Certificate and the applicant's written notification. Upon determination that the development conforms with the provisions of this article, the CEO shall issue a Certificate of Compliance.

18.11 Variances and Appeals

A. Authority

- 1. The Zoning Board of Appeals of the City of Bath may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, determination made, or failure to act by the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this article.
- 2. The Zoning Board of Appeals may grant a variance, meaning relief from the requirements of this Article as authorized in §15.3, with the following exceptions:
 - a. As otherwise specifically prohibited in §15.3.F.
 - b. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

B. General Review Standards for Variances

- 1. The provisions of §15.3 notwithstanding, variances from the requirements of this article shall be granted only upon all of the following:
 - a. A showing of good and sufficient cause.
 - b. A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances.
 - c. A showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances.
 - d. A determination that failure to grant the variance would result in "undue hardship," which in this subsection means:
 - i. That the land in question cannot yield a reasonable return unless a variance is granted.
 - ii. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.
 - iii. That the granting of a variance will not alter the essential character of the locality.
 - iv. That the hardship is not the result of action taken by the applicant or a prior owner.
- 2. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Zoning Board of Appeals may impose such conditions to a variance as it deems necessary.

C. Review Standards for Specific Variances

- 1. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
 - a. The criteria of §18.11.B and §18.7.M. are met.
 - b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.



2. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
 - a. The development meets the criteria of §18.11.B.
 - b. The proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances may be issued for new construction and substantial improvement of agricultural structures being used for the conduct of agricultural uses provided that:
 - a. The development meets the criteria of §18.11.B.
 - b. The development meets the criteria of §18.7.M & N.

D. Notification

Any applicant who meets the criteria of §18.11.A., B., and C. as applicable shall be notified by the Zoning Board of Appeals in writing, with the signature of the Chairman of the Zoning Board of Appeals that:

1. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage.
2. Such construction below the base flood level increases risks to life and property.
3. The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

E. Appeal Procedure

1. An administrative appeal may be taken to the Zoning Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
3. Upon receipt of a complete record of the decision, the Board of Appeals shall consider the appeal at a public hearing. Notice is required per procedures for administrative appeals in Article 14.
4. The person filing the appeal shall have the burden of proof.
5. The ZBA shall render a decision following the close of the hearing, and shall issue a written decision on all appeals within 45 days of the close of the public hearing.
6. The ZBA shall submit to the CEO a report of all variance actions, including justification for the granting of the variance and an authorization for the CEO to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

18.12

Records and Reporting

- A. The Codes Enforcement Officer shall maintain a permanent record of all Flood Hazard Development Permits issued, certificates of compliance relevant to such permits, and any reports of the Zoning Board of Appeals regarding variances granted pursuant to the provisions of this article.



- B.** The Codes Enforcement Officer shall be responsible for filing such annual reports as may be required by FEMA regarding the City of Bath's participation in National Flood Insurance Program. A copy of such annual report shall also be submitted to the Maine Floodplain Management Program.

18.13 Enforcement and Penalties

- A.** It shall be the duty of the Code Enforcement Officer to enforce the provisions of this article pursuant to Title 30-A M.R.S. § 4452.
- B.** The penalties contained in Title 30-A M.R.S. § 4452 shall apply to any violation of this article.
- C.** In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of the following:
1. The name of the property owner and address or legal description of the property sufficient to confirm its identity or location.
 2. A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance.
 3. A clear statement that the public body making the declaration has authority to do so and a citation to that authority.
 4. Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance.
 5. A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

18.14 Disclaimer of Liability

The degree of flood protection required by this Code is considered reasonable but does not imply total flood protection.



19 Adult Use and Medical Cannabis

- 19.1 Purpose
- 19.2 Authority
- 19.3 Cannabis Establishments
- 19.4 Prohibited Activities
- 19.5 License Required
- 19.6 Performance Standards for Medical Cannabis
- 19.7 Performance Standards for Adult Use Cannabis Establishments
- 19.8 Violations and Penalties
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- 19.10 Other Laws
- 19.11 Definitions

19.1 Purpose

The purpose of this article is to provide for the regulation of cannabis establishments as defined in this Article and by the State of Maine under the Cannabis Legalization Act, 28- B M.R.S. Chapter 1 as may be amended.

19.2 Authority

This article is adopted pursuant to the authority granted by 28-B M.R.S. §401 et seq., as may be amended.

19.3 Cannabis Establishments

Cannabis Establishments, Dispensaries, and Medical Cannabis Storefronts shall be allowed, subject to the requirements and restrictions of this article.

19.4 Prohibited Activities

- A. No Cannabis Establishment, Dispensary, or Medical Cannabis Storefront shall be established or operated within the City without first receiving and then maintaining all approvals required under this Code, including, but not limited to, this article and other articles as required by the Land Use Code.
- B. No Cannabis Establishment, Dispensary, or Medical Cannabis Storefronts shall conduct any activity for which it has not received the required state license and local license.

19.5 License Required

A. State license

A Cannabis Establishment, Dispensary, or Medical Cannabis Storefront shall not operate until it is licensed by the state licensing authority pursuant to the requirements of 28-B M.R.S. Chapter 1, as may be amended. An applicant may not operate a Cannabis Establishment, Dispensary, or Medical Cannabis Storefront without a state license and all other necessary local approvals.

B. Local license

A local license issued under the provisions of this article is required for any Cannabis Cultivation Facility, Cannabis Products Manufacturing Facility, Cannabis Store, Dispensary, or Medical Cannabis Storefront. A Cannabis Testing Facility does not require a local license.



19.6 Performance Standards for Medical Cannabis

Notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, this section, when enacted, shall govern any proposed Medical Cannabis Dispensary or Medical Cannabis Storefront for which an application has not been submitted and acted upon by the Planning Board prior to January 1, 2019. The following standards apply to all medical cannabis Dispensaries and Medical Cannabis Storefronts:

A. Location Criteria

1. No Medical Cannabis Dispensary, Medical Cannabis Storefront, shall be sited within 500 feet of the lot lines of any of the following:
 - a. A public or private elementary, secondary, or post-secondary school.
 - b. A licensed day care center, or day care home.
 - c. Any juvenile or adult halfway house, correctional facility, drug treatment clinic, or substance abuse treatment facility.
 - d. The following city parks in the DB Zoning District: Waterfront Park and Library Park
2. The distance cited in this subsection shall be measured between the lot line of the proposed site for the medical cannabis dispensary or medical cannabis storefront and the lot line of the site of the use listed above at their closest points.
3. A Cannabis Establishment may continue to operate in its present location as a pre-existing use if a use as listed in this section locates within the applicable buffer zone, however, the Cannabis Establishment does so at its own risk, and City-issued licenses, permits or approvals provide no protection or indemnification against enforcement of federal or other applicable laws that may prohibit operation of a cannabis establishment near another use.

B. Signage and Advertising

All signage and advertising for a Medical Cannabis Dispensary and Medical Cannabis Storefront shall comply with the applicable provisions of the Advertising Ordinance of the City of Bath.

C. Separation of Cannabis Retail Facilities

No Medical Cannabis Dispensary or Medical Cannabis Storefront shall be sited within 300 feet of another Medical Cannabis Dispensary or Medical Cannabis Storefront as measured by the closest points between the storefronts.

D. Security Requirements

1. Security measures at a Medical Cannabis Dispensary, Medical Cannabis Storefront, and any associated Cultivation facilities shall include, at a minimum, the following:
 - a. Security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises.
 - b. Door and window intrusion robbery and burglary alarm systems with audible and Police Department notification components that are professionally monitored and maintained in good working condition.
 - c. A locking safe permanently affixed to the premises that is suitable for storage of all prepared cannabis and cash stored overnight on the licensed premises.
 - d. Exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of the Land Use Code.
 - e. Deadbolt locks on all exterior doors and locks or bars on any other access points.
2. All security recordings shall be preserved for at least seventy-two (72) hours. The Medical Cannabis Dispensary or Medical Cannabis Storefront shall provide the Police Chief or his designee with the name



and functioning telephone number of a 24-hour on-call staff person to whom the City may provide notice of any operating problems associated with the Medical Cannabis Dispensary or Medical Cannabis Storefront.

E. Cultivation

If there is both the cultivation and dispensation of cannabis occurring on the same site, the cultivation area shall not be greater than 25% of the total floor area of the portion of the building used for dispensation of cannabis. The plant canopy of a Cannabis Cultivation Facility shall not exceed 10,000 square feet in area. A Cultivation Facility must comply with all building and life safety codes.

F. On site Consumption of Medical Cannabis

The consumption, ingestion, or inhalation of medical cannabis on or within the premises of a Medical Cannabis Dispensary, Medical Cannabis Storefront, or Cultivation Facility is prohibited.

G. Visibility of Activities

1. All activities of Medical Cannabis Dispensaries, Medical Cannabis Storefronts, and Cultivation facilities including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors.
2. No Cannabis or paraphernalia shall be displayed or kept in a Dispensary, Medical Cannabis Storefront, or Cultivation Facility so as to be visible from outside the premises.

H. Odor Management

For all Medical Cannabis Establishments, the odor of cannabis must not be perceptible at the exterior of the building, at the premises, or at any adjoining use of the property. Medical Cannabis Cultivation facilities must implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein. Medical Cannabis Storefronts and Dispensaries are not required to install filtration equipment on the licensed premises but must satisfy the same odor standard contained herein. While the City does not mandate any particular equipment specifications with regard to filtration, all establishments are strongly encouraged to adopt best management practices with regard to implementing state of the art technologies in mitigating cannabis odor, such as air scrubbers and charcoal filtration systems.

1. Cannabis manufacturing facilities and cannabis testing facilities shall include proper ventilation systems to mitigate noxious gases or other fumes used or created as part of the production.
2. Sufficient measures and means of preventing smoke debris, dust, fluids, and other substances from exiting a cannabis establishment must be provided at all times.

I. Disposal

All Medical Cannabis Establishments shall have in place an operational plan for proper disposal of cannabis and related by products in a safe, sanitary, and secure manner and in accordance with all applicable federal, state, and local laws and regulations. Dumpster and refuse containers must not be overflowing and the surrounding area must be kept free of litter and trash. All dumpsters and containers shall be screened from the public view. All trash receptacles on the premises used to discard cannabis products must have a metal cover or lid that is locked at all times when the receptacle is unattended and security cameras must be installed to record activities in the area of such trash receptacles. In addition, all dumpsters and containers must comply with all other articles of the Land Use Code.

J. Sale of Edible Products

No food products shall be sold, prepared, produced, or assembled by a Medical Cannabis Dispensary or Medical Cannabis Storefront except in compliance with all operating and other requirements of state and local law and regulation, including, without limitation, food establishment licensing requirements. Any goods containing cannabis for human consumption shall be stored in a secure area.

K. Drive Through



Medical Cannabis Establishments, including Medical Cannabis Dispensaries and Medical Cannabis Storefronts, are prohibited from having drive- through facilities. Retail sales of Medical Cannabis shall only be made from within a retail establishment.

L. Other Laws Remain Applicable

A Medical Cannabis Dispensary or Medical Cannabis Storefront shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical cannabis dispensaries, the stricter law or regulation shall control.

19.7

Performance Standards for Adult Use Cannabis Establishments

Notwithstanding the provisions of 1 M.R.S § 302 or any other law to the contrary, this section, when enacted, shall govern any proposed Cannabis Establishment for which an application has not been submitted and acted upon by the Planning Board prior to January 1, 2019. The following standards apply to all Adult Use Cannabis Establishments:

A. Location Criteria

1. No Cannabis Establishment shall be sited within 500 feet of the lot lines of any of the following:
 - a. A public or private elementary, secondary, or post-secondary school.
 - b. A licensed day care center, or day care home.
 - c. Any juvenile or adult halfway house, correctional facility, drug treatment clinic, or substance abuse treatment facility.
2. The distance cited in this subsection shall be measured between the lot line of the proposed site for the cannabis establishment and the lot line of the site of the use listed above at their closest points.
3. A Cannabis Establishment may continue to operate in its present location as a pre-existing use if a use as listed in this section locates within the applicable buffer zone, however, the Cannabis Establishment does so at its own risk, and City-issued licenses, permits or approvals provide no protection or indemnification against enforcement of federal or other applicable laws that may prohibit operation of a cannabis establishment near another use.

B. Cultivation

The plant canopy of a Cannabis Cultivation Facility shall not exceed 10,000 square feet in area. A Cultivation Facility must comply with all building and life safety codes. If there is both the cultivation and retail sales of adult use cannabis occurring on the same site, the cultivation area shall not be greater than 25% of the total floor area of the portion of the building used for retail sale of cannabis.

C. Separation of Cannabis Retail Facilities

No adult use Cannabis Store shall be sited within 300 feet of another adult use Cannabis Store as measured by the closest points between the storefronts.

D. Signage and Advertising

All signage and advertising for adult use Cannabis Establishments shall comply with the applicable provisions of the Advertising Ordinance of the City of Bath.

E. Security Requirements

1. Security measures at an adult use Cannabis Establishment shall include, at a minimum, the following:
 - a. Security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts, and nuisance activities occurring at the premises.
 - b. Door and window intrusion robbery and burglary alarm systems with audible and Police Department notification components that are professionally monitored and maintained in good working condition.



- c. A locking safe permanently affixed to the premises that is suitable for storage of all prepared cannabis and cash stored overnight on the licensed premises.
 - d. Exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of the Land Use Code.
 - e. Deadbolt locks on all exterior doors and locks or bars on any other access points.
2. All security recordings shall be preserved for at least seventy-two (72) hours. The Cannabis Establishment shall provide the Police Chief or his designee with the name and functioning telephone number of a 24-hour on-call staff person to whom the City may provide notice of any operating problems associated with the establishment.

F. No Outdoor Sales

All activities of Cannabis Establishments, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors. Cannabis Establishments are not permitted as outdoor sales or services of any kind.

G. Display of Paraphernalia

No cannabis or paraphernalia shall be displayed or kept in an adult use Cannabis Retail Store, or Cultivation Facility so as to be visible from outside the premises.

H. Odor Management

For all Cannabis Establishments the odor of cannabis must not be perceptible at the exterior of the building, at the premises, or at any adjoining use of the property. Cannabis Cultivation Facilities must implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein. Cannabis stores, Cannabis Manufacturing Facilities, and cannabis testing facilities are not required to install filtration equipment on the licensed premises but must satisfy the same odor standard contained herein. While the City does not mandate any particular equipment specifications with regard to filtration, all cannabis establishments are strongly encouraged to adopt best management practices with regard to implementing state of the art technologies in mitigating cannabis odor, such as air scrubbers and charcoal filtration systems.

1. Cannabis Manufacturing Facilities and Cannabis Testing Facilities shall include proper ventilation systems to mitigate noxious gases or other fumes used or created as part of the production.
2. Sufficient measures and means of preventing smoke debris, dust, fluids, and other substances from exiting a Cannabis Establishment must be provided at all times.

I. Disposal

All Cannabis Establishments shall have in place an operational plan for proper disposal of cannabis and related by products in a safe, sanitary, and secure manner and in accordance with all applicable federal, state, and local laws and regulations. Dumpster and refuse containers must not be overflowing and the surrounding area must be kept free of litter and trash. All dumpsters and containers shall be screened from the public view. All trash receptacles on the premises used to discard cannabis products must have a metal cover or lid that is locked at all times when the receptacle is unattended and security cameras must be installed to record activities in the area of such trash receptacles. In addition, all dumpsters and containers must comply with all other articles of the Land Use Code.

J. Sale of Edible Products

No food products shall be sold, prepared, produced, or assembled by a Cannabis Establishment except in compliance with all operating and other requirements of state and local law and regulation, including, without limitation, food establishment licensing requirements. Any goods containing cannabis for human consumption shall be stored in a secure area.

K. Drive Through

Cannabis Establishments are prohibited from having drive- through facilities. Retail sales of Adult Use Cannabis shall only be made from within a retail establishment.



L. Other Laws Remain Applicable

A Cannabis Establishment shall meet all operating and other requirements of State and local laws and regulations. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing cannabis or cannabis establishments, the stricter law or regulation shall control.

19.8 Violations and Penalties

The operation of any Cannabis Establishment, Dispensary, or Medical Cannabis Storefront without the required local license or in violation of the requirements of this article shall be a violation of this article. Violations shall be subject to fines as set by the City Council. Each day of violation shall constitute a separate violation. Any such fine may be in addition to any suspension or revocation imposed in accordance with the provisions of this article. In any court action, the City may seek injunctive relief in addition to penalties. The City shall be entitled to recover its costs of enforcement, including its attorney's fees.

19.9 Severability

The provisions of this article are severable, and if any provision shall be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.

19.10 Other Laws

Except as otherwise specifically provided herein, this article incorporates the requirements and procedures set forth in the Maine Cannabis Legalization Act, 28-B M.R.S. § Chapter I, as may be amended. In the event of a conflict between the provisions of this article and the provisions of the Act or any other applicable State or local law or regulation, the more restrictive provision shall control.

19.11 Definitions

As used in this Article, the following words and phrases shall have the meanings ascribed to them in this section.

Adult Use Cannabis shall mean “adult use cannabis product” as that term is defined in 28-B M.R.S. § 102-A, as may be amended.

Applicant shall mean a person that has submitted an application for licensure as a cannabis establishment or medical cannabis establishment pursuant to this Article.

Cultivate or Cultivation shall mean the planting, propagation, growing, harvesting, drying, curing, grading, trimming, or other processing of cannabis for use or sale. It does not include manufacturing.

Licensed Premises shall mean the premises specified in an application for a state or local license pursuant to this Article that are owned or in possession of the licensee and within which the licensee is authorized to Cultivate, Manufacture, distribute, sell, or test Adult Use Cannabis or Adult Use Cannabis Products in accordance with the provisions of this Article and the requirements of state law and regulations.

Licensee shall mean a person licensed pursuant to this Article or, in the case of a holder of an occupational license, a natural person licensed pursuant to this Article.

Local Licensing Authority shall mean the City Clerk or the City Council, as further specified in the provisions of this Article.

Manufacture or Manufacturing shall mean the production, blending, infusion, compounding, or other preparation of cannabis products, including, but not limited to, cannabis extraction or preparation by means of chemical synthesis. It does not include cultivation.

Cannabis shall mean “cannabis” as defined in 28-B M.R.S. § 102-A, as may be amended.



Cannabis Concentrate shall mean the resin extracted from any part of a cannabis plant and every compound, manufacture, salt, derivative, mixture, or preparation from such resin, including, but not limited to hashish. In determining the weight of Cannabis Concentrate in a cannabis product, the weight of any other ingredient combined with cannabis to prepare a cannabis product may not be included.

Cannabis Cultivation Facility shall mean a “cultivation facility” as that term is defined in 28-B M.R.S. § 102-A, as may be amended. A Cannabis Cultivation Facility is an entity licensed to cultivate, prepare, and package Adult Use Cannabis and to sell Adult Use Cannabis to Cannabis Establishments.

Cannabis Establishment shall mean a “cannabis establishment” as that term is defined in 28-B M.R.S. § 102-A, as may be amended. A Cannabis Establishment is a Cannabis Store, a Cannabis Cultivation Facility, a Cannabis Products Manufacturing Facility, or a Cannabis Testing Facility.

Cannabis Products Manufacturing Facility shall mean a “products manufacturing facility” as that term is defined in 28-B M.R.S. § 102-A and “Manufacturing facility” as that term is defined in 22-M.R. S. § 2421-A as may be amended. A Cannabis Products Manufacturing Facility is an entity licensed to purchase Adult Use Cannabis products; and to sell Adult Use Cannabis products from a Cannabis Cultivation Facility only to other Cannabis Products Manufacturing Facilities, and Cannabis Stores. A “Manufacturing facility” means a registered tier 1 or tier 2 manufacturing facility or a person or entity authorized to engage in cannabis extraction under 22-M.R. S. § section 2423-F.

Cannabis Store shall mean a “cannabis store” as defined in 28-B M.R.S. § 102-A, as may be amended. A Cannabis Store is an entity licensed to purchase Adult Use Cannabis from a Cannabis Cultivation Facility and to purchase Adult Use Cannabis products from a Cannabis Products Manufacturing Facility and to sell Adult Use Cannabis and Adult Use Cannabis products to consumers.

Cannabis Testing Facility shall mean a “testing facility” as defined in 28-B M.R.S. § 102-A, as may be amended. A Cannabis Testing Facility is a facility licensed to develop, research, and test Cannabis, cannabis products, and other substances.

Medical Use shall mean the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of Cannabis or paraphernalia relating to the administration of Cannabis to treat or alleviate a qualifying patient’s medical diagnosis or symptoms for which a medical provider has provided the qualifying patient a written certification under 22-M.R.S. Chapter 558-C.

Medical Cannabis Storefront shall mean an establishment which resembles a retail storefront in terms of signage, hours of operation, and accessibility to patrons, and which is operated by one or more registered primary caregivers as defined by 22-M.R. S. § 2421-A for the sale of Cannabis and cannabis products to qualifying patients as defined by 22-M.R. S. § 2421-A.

Owner shall mean a person whose beneficial interest in a Cannabis Establishment is such that the person bears risk of loss other than as an insurer, has an opportunity to gain profit from the operation or sale of a Cannabis Establishment and has a controlling interest in a Cannabis Establishment.

Registered Dispensary or “dispensary” shall mean an entity registered under section 22-M.R.S. Chapter 558-C that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses cannabis or related supplies and educational materials to qualifying patients and the caregivers of those patients.

Person shall mean a natural person, partnership, association, corporation, or a manager, agent, owner, director, servant, officer, or employee thereof. “Person” does not include any governmental organization.

State license shall mean any license issued by the state licensing authority.

State licensing authority shall mean the authority created by the State for the purpose of regulating and controlling the testing and sale of Adult Use Cannabis and Adult Use Cannabis products in the state.



20 Nonconformities

- 20.1 General Applicability
- 20.2 Nonconforming Use
- 20.3 Nonconforming Structure
- 20.4 Nonconforming Lot
- 20.5 Nonconforming Site Element

20.1 General Applicability

A. Authority to Continue

Any use, structure, lot, or site element that existed as a legal nonconformity as of the effective date of this Code, and any use, structure, lot, or site element that has been made nonconforming as of the effective date of this Code, and any subsequent amendments, may continue subject to the provisions of this Article so long as it remains otherwise legal.

B. Burden on Property Owner

The burden of establishing the legality of a nonconformity under the provisions of this Code is the responsibility of the property owner or operator of the nonconforming use, structure, or lot.

C. Safety Regulations

All police power regulations enacted to promote public health, safety, and welfare, including, but not limited to, all building, fire, and health codes apply to nonconformities.

20.2 Nonconforming Use

A nonconforming use is the use of a structure or land that at one time was an allowed use within a district, but because of this Code, or a subsequent amendment to this Code, is no longer allowed. This includes nonconformities created by prior zoning codes or amendments to those codes.

A. Expansion

A nonconforming use of a structure or land cannot be expanded, extended, enlarged, or increased in intensity. Such prohibited activity includes additions or enlargements of any structure devoted entirely to a nonconforming use, and any expansion, extension, or relocation of a nonconforming use to any other structure, any portion of the floor area, or any land area currently not occupied by such nonconforming use.

B. Change of Use

A nonconforming use can only be changed to a use allowed within the district where it is located. When a nonconforming use has been changed, in whole or in part, to an allowed use, the whole or part that conforms cannot be changed back to a use that is not allowed in the district. A change of use occurs when an existing nonconforming use has been terminated and another use has commenced. Any change in use is deemed an abandonment of the previously existing nonconforming use.

C. Discontinuation or Abandonment

If a nonconforming use is discontinued for a continuous period of 12 months, the nonconforming use terminates automatically. Any subsequent use of such land or structure must comply with all regulations of the district in which the structure or land is located.

D. Damage or Destruction

1. In the event that a structure that is devoted in whole or in part to a nonconforming use is structurally damaged or destroyed through no fault of the property owner or tenant, the nonconforming use may be re-established provided that no new nonconforming uses are created and the degree of the previous



nonconformity is not increased, and a building permit is obtained for such rebuilding, restoration, repair, or reconstruction within one year of the date of damage or destruction.

2. In the event that the building permit is not obtained within one year, then the use cannot be re-established.
3. If the structure containing the nonconforming use is also a nonconforming structure, the structure may only be rebuilt, restored, repaired, or reconstructed in accordance with Section 20.3.

20.3

Nonconforming Structure

A nonconforming structure is a principal or accessory structure that at one time conformed to applicable zoning regulations, but because of this Code, or a subsequent amendment to this Code, does not conform. This includes nonconformities created by prior zoning codes or amendments to those codes.

A. Maintenance

Normal maintenance and repair may be performed on any nonconforming structure. No repairs or reconstruction are permitted that would create any new nonconformity or increase the degree of the previously existing nonconformity.

B. Structural Alterations

No structural alterations are permitted on any nonconforming structure, except in the following situations:

1. When the alteration is required by law or is necessary to restore the structure to a safe condition upon the order of any official charged with protecting public safety.
2. When the alteration will eliminate the nonconformity.
3. When the alteration will not create a new nonconformity or will not increase the degree of any existing nonconformity.

C. Relocation

1. A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that if the use is not connected to the public sewerage system, the applicant demonstrated that the present subsurface sewage disposal system meets the requirements of State Law and the Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the State Law and Subsurface Wastewater Disposal Rules. A structure may not be relocated in a manner that increases its nonconformity.
2. In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board must consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system (if any) and other on-site soils suitable for septic systems, the impact on views, and the type and amount of vegetation to be removed to accomplish the relocation.
3. **In the Shoreland Zone**
 - a. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system, if applicable, meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the State Law and Subsurface Wastewater Disposal Rules. A structure may not be relocated in a manner that increases its nonconformity.
 - b. In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board must consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system (if any) and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.



- c. When it is necessary to remove vegetation within the water or wetland setback area to relocate a structure, the Planning Board must require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting must be required as follows:
 - i. Trees removed in order to relocate a structure must be replaced at a 1:1 ratio. Native trees, a minimum caliper of 1.5 inches as measured at 2.5 feet above grade level from the base of the tree are required to replace any trees removed. If more than five trees are removed and replaced, the species diversity requirements of §12.4.D apply.
 - ii. Woody and herbaceous vegetation, including groundcover that is removed or destroyed in order to relocate a structure must be re-established. An area of, at minimum, equal size to that removed or destroyed is required. Replanting must consist of native vegetation similar to that which was removed or destroyed.

D. Change of Use

1. The use of a nonconforming structure may be changed to any use permitted within the zoning district, with the exception of the shoreland zone as follows:
 - a. The use of a nonconforming structure in the shoreland zone may not be changed to another use unless the Zoning Board of Appeals, after receipt of a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use. In determining that no greater adverse impact will occur, the ZBA must require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other water-dependent uses.

E. Damage or Destruction

1. If a nonconforming structure is destroyed or damaged, regardless of the percent of damage, it may be rebuilt to its original condition before such casualty or loss if a building permit is obtained within one year of the date of damage or destruction. No reconstruction is permitted that would create any new nonconformity or increase the degree of the previously existing nonconformity.
2. **In the Shoreland Zone:**
 - a. If a nonconforming structure is destroyed or damaged, regardless of the percent of damage, over a period of not more than two years, it may be rebuilt to its original condition before such casualty or loss if a building permit is obtained within one year of the date of damage or destruction.
 - b. Reconstruction must, to the greatest practical extent, comply with all water body, tributary stream, or wetland setback requirements as determined by the Planning Board in accordance with the purposes of this Code. In determining whether reconstruction complies with setback requirements to the greatest practical extent, the Planning Board must consider the following:
 - i. The size of the lot.
 - ii. The slope of the land and the potential for soil erosion.
 - iii. The location of other structures on the property and on adjacent properties.
 - iv. The location of the septic system and other on-site soils suitable for septic systems (if applicable).
 - v. The type and amount of vegetation to be removed.
 - c. If the total amount of floor area and volume of the original structure can practically be relocated or reconstructed beyond the required setback area, as determined by the Planning Board, no portion of the reconstructed structure may be replaced or constructed at less than the setback requirement for a new structure.

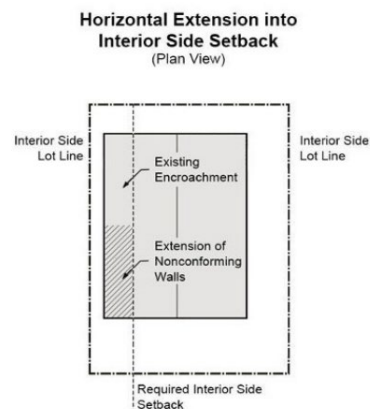
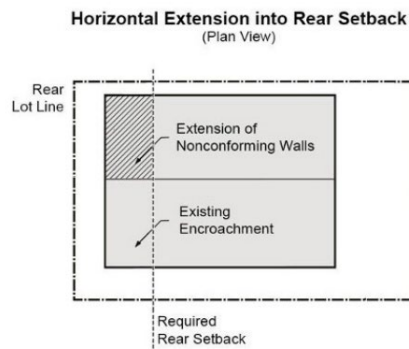
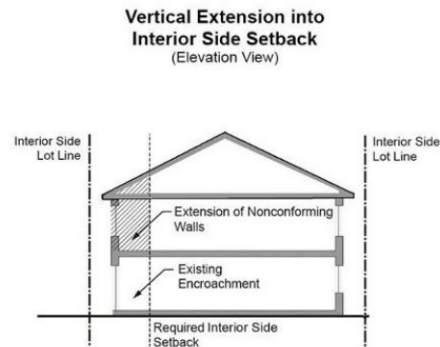
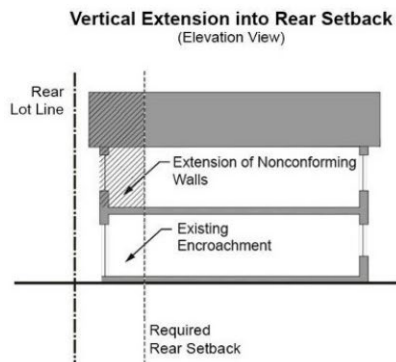


- d. In any case where the reconstruction or relocation of a structure requires the removal of vegetation the Planning Board must require replanting of native vegetation to compensate for the removed vegetation. Replanting must be required as follows:
 - i. Trees removed must be replanted with a minimum of one native tree, a minimum of 2.5 inches in caliper, for every tree removed. Any replanted trees must comply with the species diversity requirements of Article 12. Replanted trees must be placed no further from the water or wetland than the trees that were removed.
 - ii. Woody and herbaceous vegetation and groundcover must be re-established in an area of at least the same size as the area in which vegetation was disturbed, damaged, or removed. Such vegetation must be replaced with similar native woody and herbaceous vegetation and groundcover.
3. In the event that a building permit is not obtained within one year, the structure cannot be restored unless it conforms to all regulations of the district in which it is located.

F. Extension of Walls for Nonconforming Single-Family and Two-Family Dwellings

Where a single-family or two-family dwelling is deemed nonconforming because a building wall of the principal structure is located within the required rear or interior side setback, the structure may be enlarged or extended horizontally or vertically along the same plane as the existing perimeter building walls, so long as the resulting structure does not violate any other district regulation. This does not apply to any portion of a structure located within the shoreland zone.

Extension of Nonconforming Walls



20.4 Nonconforming Lot

A nonconforming lot of record is a lot of record that at one time conformed to the lot dimension requirements of the district in which it is located, but because of this Code, or a subsequent amendment to this Code, does not conform. This includes nonconformities created by prior zoning codes or amendments to those codes.

A. Use

A nonconforming lot of record may be used for a permitted or conditional use allowed within the district.

B. Development

Development of a nonconforming lot of record must meet all applicable dimensional and design regulations of the district in which it is located with the exception of the lot area and/or width requirement that renders it nonconforming. For any nonconforming residential lot under 50 feet in width, interior side setbacks may be reduced to a minimum requirement of five feet in width.

C. Lot Division

No division of a nonconforming lot is permitted that creates a nonconforming lot and/or renders a lot or lots remaining nonconforming.

D. Lot Consolidation

A nonconforming lot is permitted to consolidate with an adjacent lot, even if such consolidation still does not conform to the lot dimension requirements of the district in which it is located. Such consolidation is seen as a reduction of the nonconformity.

E. Common Ownership Limitation

If two or more lots with contiguous street frontage are held in common ownership that have historically been used as a single development site, and one or more of the lots does not meet the requirements for lot width or lot area as established by this Code, the land is considered to be a single zoning lot for the purposes of this Code. No portion of the lots may be used, transferred, or conveyed unless each lot meets the lot width and lot area requirements of this Code.

F. Building Permits

No building permit will be issued for the use of any lot or portion of a lot, transferred or conveyed in violation of this Article.

20.5 Nonconforming Site Element

A nonconforming site element is an element such as landscape or lighting, that predates comprehensive zoning or was constructed or installed in conformance with the applicable zoning regulations, but because of this Code, or a subsequent amendment to this Code, does not meet current requirements

A. Maintenance

Normal maintenance and incidental repair to a nonconforming site element may be performed. However, no repairs or reconstruction are permitted that would create any new nonconformity or increase the degree of the previously existing nonconformity.

B. Required Conformance

1. General

All nonconforming site elements must be brought into conformance when the following occurs:

- a. A new principal building is constructed on a site. This includes construction of a second or more principal buildings on the site.



- b. An existing principal building is increased in building footprint square footage by 50% or more.

2. Nonconforming Parking Lot Landscape

When a parking lot of 15 or more spaces does not conform to required parking lot landscape requirements, it must be brought into conformance when such parking lot is fully reconstructed or expanded by an additional 50% or more spaces (viz., the total number of spaces after expansion is 150% or more of the spaces prior to expansion).

- a. Resealing or re-striping of an existing parking lot, which does not entail paving, resurfacing, or replacement of the asphalt, concrete, or other paving material, is not considered reconstruction.
- b. If such action would result in creating a parking area that no longer conforms to the parking regulations of this Code, such existing parking lot is not required to install all or a portion of the required landscape. The applicant is required to show that landscape cannot be accommodated on the site.
- c. If only certain requirements are able to be accommodated on the site, those elements are required. The CEO will make the determination that all or a portion of required landscape does not have to be installed.

3. Nonconforming Exterior Lighting

For exterior lighting, when 25% or more of exterior lighting fixtures are replaced, all exterior lighting on the site must be brought into conformance. This requirement is calculated by dividing the number of new lighting posts and/or non-post mounted lighting fixtures to be installed by the total number of lighting posts and/or non-post mounted lighting fixtures on the site prior to replacement. Lighting mounting types (posts or non-post mounted lighting) are calculated separately (i.e., if only post lighting installation is being replaced, then only those types are counted, disregarding any non-post mounted lighting).



21 Enforcement

21.1 Enforcement Authority

21.2 Enforcement Actions

21.3 Penalties

21.1 Enforcement Authority

It is the duty and responsibility of the Codes Enforcement Officer to enforce the provisions of this Code together with any conditions of approval issued in conjunction with an approval issued under the Code

21.2 Enforcement Actions

- A. If the CEO finds that any provision or condition of this Code 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.
 - B. The Codes Enforcement Officer has all powers available 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.
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21.3 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. 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. Section 4452(3)(D) must be paid to the City of Bath.

