



# City of Bath Zoning Update

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Technical Review & Approaches Report





# 1 | Introduction

This report presents the findings of a technical review of the City of Bath Land Use Code. The purpose of the Technical Review + Approaches Report is three-fold. First, the review provides a synopsis of the City’s current approach to development regulations, as represented within the current Land Use Code. Second, it allows for discussion of issues identified during meetings and interviews with City staff and stakeholders, as well as additional issues identified during review of the Code. Finally, it introduces a series of new concepts and regulatory approaches to set a direction for substantive changes that will be reflected in the City’s new Land Use Code.

This report does not present or discuss every needed or recommended change, as some will be minor changes that serve to simply “clean up” the Code and create a more user-friendly document, while others may be more detailed revisions identified and worked out during the process of drafting the new Code. Rather, the intent of this report is to spotlight core challenges within the current Code, and identify proposed revisions that represent substantive changes to the content of the current regulations.





# 2 | Organization & Format of the Land Use Code

## 2.1 | The Code should be organized into a system of logical compartments.

The Code should adhere to a consistent, structured pattern of organization from beginning to end. A logical series of “compartments” within the Code can help to improve its organization structure and – in turn – its ease of use. Within this new series of compartments, regulations and items of information are grouped together under common categories and purposes. A proposed outline for the new Land Use Code is provided below.

|                   |  |
|-------------------|--|
| <b>Article 1</b>  | Title, Purpose, and Intent                                     |
| <b>Article 2</b>  | Definitions + Measurement Methodologies                        |
| <b>Article 3</b>  | Zoning Districts + Zoning Map                                  |
| <b>Article 4</b>  | Residential Zoning Districts                                   |
| <b>Article 5</b>  | Mixed-use and Commercial Zoning Districts                      |
| <b>Article 6</b>  | Industrial Zoning Districts                                    |
| <b>Article 7</b>  | Special Purpose Zoning Districts                               |
| <b>Article 8</b>  | Uses + Use Standards   |
| <b>Article 9</b>  | General Development Standards                                  |
| <b>Article 10</b> | Off-street Parking and Loading                                 |
| <b>Article 11</b> | Landscape  |
| <b>Article 12</b> | Code Administrators  |
| <b>Article 13</b> | Application Procedures   |
| <b>Article 14</b> | Zoning Applications and Approvals (Including Site Plan Review) |
| <b>Article 15</b> | Subdivision Approvals  |
| <b>Article 16</b> | Public Realm   |
| <b>Article 17</b> | Mining Activity  |
| <b>Article 18</b> | Floodplain Management  |
| <b>Article 19</b> | Nonconformities  |
| <b>Article 20</b> | Enforcement  |





## **2.2. | All general terms used within the Code should be clearly defined and consolidated into one place.**

All definitions of general terms used within the Land Use Code should be grouped into a single article. Currently, the majority of terms are defined within Article 2, but Article 17 (Wireless Telecommunications Facilities) and Article 18 (Adult Use and Medical Marijuana) contain sets of self-contained definitions, which may lead to unintended internal conflicts in terminology over time. All definitions of general terms within the Code should be reviewed, evaluated, and updated as needed to ensure clarity and consistency in terminology across the entirety of the Code. Any key terms that are currently undefined should be defined, and definitions that are not needed – such as those defining terms not used within the Code – should be deleted. Select definitions should also be supplemented with illustrations to provide further clarity as needed.

## **2.3. | All measurement methodologies should be clearly explained and illustrated as needed.**

Currently, the Code contains definitions for select terms with general explanations of their measurement; for example “height of structure – all districts except Shoreland Zone” specifies that height is measured as “the vertical distance from the mean grade level to the top surface of the roof or to the top of the structure.” This definition is somewhat unclear, and further, refers to another term – “mean grade level,” which is not defined in the Code. This lack of clarity may unintentionally lead to a lack of consistency in application of the Code over time.

Moving forward, all rules of measurement for dimensional standards within the Code should be consolidated into a single section to ensure that they are clearly explained, and that their application is consistent. Rules of measurement should include

items such as building height, setbacks and yards, lot width, and the like. Further, most measurement standards should be accompanied by illustrations to ensure the legibility of key concepts.

## **2.4. | The Code should contain illustrations and matrices to elucidate key concepts and clearly communicate information to users.**

The Land Use Code should contain illustrations for a variety of definitions and regulations. Illustrations can help to communicate complex concepts in a manner that allows for easier comprehension and clarity. Numerous items within the Code would benefit from illustration, including but not limited to:

- Rules of measurement including building height, setbacks, yards, etc.
- Definitions including lot types, lot lines, etc.
- Design standards
- Parking and landscape regulations
- Regulations dealing with accessory structures such as fences, detached garages, etc.

It is anticipated that, in addition to the above, a variety of regulations, design concepts, and new terms will require illustrations during the development of the Land Use Code.

Furthermore, the Code would benefit from greater use of matrices to organize information. The current Code contains a number of matrices, such as the use table and tables for each zoning district. However, there are numerous other items of information that may be suited to a matrix to allow for improved ease of use.



**2.5. | Internal consistency in terminology and “voice” should be prioritized.**

Effective land use regulation depends upon the consistency of details and terms used within the Code. For example, the current Code includes various terms for required dimensions, including setbacks, yard areas, and yard widths. Some clarity is needed in terms of which of these is a required dimension, the current terms may be confusing and provide unintentional overlapping requirements.

Further, the current Code is an amalgamation of different “voices,” as it has been updated and amended by different authors over time. This combination of voices can lead to inconsistency in terminology and approach to regulations, as varying sections of the Code reflect the individual backgrounds, specializations, and priorities of their authors. An overall rewrite of the Code can eliminate this type of inconsistency.







## 3 | Uses & Use Standards

### 3.1. | The Land Use Code should employ a modern, generic use approach.

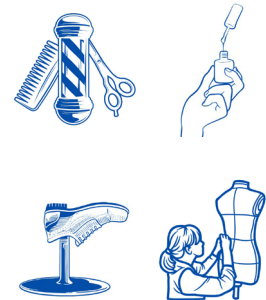
The generic use approach is a zoning technique that categorizes land uses based upon their general characteristics, rather than listing specific activities or businesses. Under this approach, rather than being regulated separately, specific uses are combined into a broader use category that allows for more flexibility and interpretation of new and emerging uses. For example, barber shops, beauty parlors, nail salons, shoe repair shops, and tailors would all fall under the broad category of “personal services establishment,” which could then allow other similar uses such as dry cleaners, household appliance repair, etc.



Retail Goods Establishment

Currently, Bath’s Land Use Code employs an approach that incorporates some generic use categories, but still relies upon listing certain specific uses, which can lead to difficulty in responding to new and emerging uses. Incorporating a full generic use approach would accrue two main benefits:

- A generic use approach eliminates the need to provide extensive or detailed lists of uses, and only requires the addition of new specific uses when such uses may create impacts that the City wishes to control independent of a larger use category.
- The approach provides the City with the flexibility, as discussed above, to review and permit uses which may be desirable, but are not specifically listed within an existing use definition.



When restructuring the Code’s approach to uses, it is critical to ensure that detailed use definitions are included. Every use in the Code must be defined. Further, many may include specific examples of both what is included, and what is not included within the use definition. This is because, though generic uses provide for increased responsiveness and flexibility, the Code’s use structure must also acknowledge that there continue to be certain specific uses that require sensitivity and special consideration due to their potential impacts and/or community concerns around



their establishment. When such uses are identified, they can be “pulled out” of a larger category and regulated separately, to ensure that they cannot be considered a part of a broader, generic use definition. Once separated and independently defined, specific uses cannot be considered part of a generic use category.

Additionally, certain ancillary uses - those uses that are secondary or incidental to the principal use - can be included within the set of principal use definitions. For example, the definition of a light industrial use can specify that such use may include the ancillary use of a showroom, making it easier to permit these types of customary activities while ensuring that they are controlled and do not conflict with other uses in the same district.

### **3.2. | The Land Use Table should be reorganized and restructured to provide additional clarity and ease of use.**

The Land Use Table within the current Code may present some practical difficulty for users seeking to identify a particular use and where it is allowed within the City. The structure of the use table, with uses numbered and organized non-alphabetically, and with detailed subcategories that address gross floor area, indoor vs. outdoor sales/display, and a number of other factors may prove to be counterintuitive for many users of the Code. To simplify the table, uses should be organized alphabetically, and to the extent practicable specific standards should be removed from the table and addressed with use standards for each particular use to which they apply.

The table could be further clarified and simplified through an adjustment to the various indicators used to convey the permissions. Currently, “A” indicates that a use is allowed with no review; “C” indicates that a use is allowed with review and approval by the CEO; “S” indicates that a use may require site

plan approval per Article 12, and “N” indicates that a use is not permitted in a zone. These are somewhat counterintuitive, as “A,” “C,” and “S,” all indicate permitted uses that may or may not be subject to specific use standards or additional review. Currently, the only uses indicated within the table that do not require review are in-home lodging, garage/yard sales, and agricultural uses in certain districts including timber harvesting, community gardens, and keeping of livestock and chickens.

Moving forward, it is recommended that the table should be simplified to indicate uses that are permitted, whether subject to review and approval by the CEO or not, as “P.” Uses that are permitted subject to conditions contained in the Code can be indicated as “PC,” with applicable references included in a new column within the table. Those uses that are not allowed in a zone should simply be indicated by a blank cell, allowing for much easier interpretation of the table. Site plan review triggers can be consolidated and clarified into the appropriate section of the Code, removing the need to indicate specific uses that may be subject to review within the table.

### **3.3. | Uses should be tailored to specifically address the characteristics and purpose of each zoning district within the Code.**

The uses allowed within each of the City’s zoning districts should be evaluated and updated as needed. The uses allowed in a district should correspond to the purpose, form, and function of that district, working to establish or reinforce a legible sense of place. It is anticipated that Bath’s new Land Use Code will include a review and revision of uses that may be allowed in each district.



### 3.4. | Use standards should be included, to address potential impacts of certain uses allowed in the City.

The current Code contains a series of “performance standards” applicable to specific uses or activities as described in Article 11. However, additional use standards may be needed as a revision of the use structure is undertaken. As a component of drafting the City’s new Land Use Code, each use allowed within the City will be reviewed to determine if additional specific standards are needed. Such standards may include design or dimensional considerations, or may simply be translation of existing standards contained within the Land Use Table of Article 9. Where uses are subject to standards, a cross-reference should be inserted into the use table to direct users to the appropriate location within the new Code.

### 3.5. | Bath’s Land Use Code should address a series of modern and emerging uses.

Zoning must continually address land uses that are either arising as particular concerns for communities, or emerging as desirable new forms of development. While the aforementioned update to the Code’s use structure would provide a new level of flexibility for interpretation of desired uses into a generic category, certain uses would need to be addressed specifically within the regulations.

The following list contains a series of uses that are either new uses that may be appropriate or needed in Bath, or are refinements needed to current allowed uses. This is not intended to be a comprehensive list; during drafting there may be additional uses identified that need to be addressed.

**Corner Stores (Neighborhood Commercial Establishments).** As an older City, Bath’s urban residential neighborhoods likely developed with limited commercial services integrated into the

residential fabric closer to downtown. Although these structures were historically part of the residential fabric, pursuant to the current Code they would be prohibited, and those that currently exist would be considered nonconforming. To encourage the creation of neighborhood businesses and allow this historic, walkable pattern to continue, the Code should incorporate a “neighborhood commercial establishment,” as a use that would be allowed within certain districts. A series of design standards and impact controls would be included, as well as a tailored list of allowed uses within that use category to prohibit more intensive commercial uses or uses of concern, such as the retail sales of alcohol.

**Live/Work Dwellings.** A live/work dwelling is a structure that is both a dwelling and a resident’s place of business. A live/work dwelling may also include the combination of a dwelling unit with arts/artisan related activities, such as painting, photography, sculpture, music, and film, principally used by one or more of the residents. Typically, standards for this type of use specify that any area used for commercial space in a live/work dwelling cannot be converted to residential living space if the commercial component is no longer operating.

**Industrial Design.** Industrial design is typically defined as an establishment where the design, marketing, and/or brand development of various products are researched and developed, typically integrating the fields of art, business, science, and/or engineering. An industrial design establishment may create prototypes and products but does not mass manufacture products from the premises.

**Artisan Industrial.** An artisan industrial use can accommodate skilled crafts and similar uses that may not fit within a light industrial use category, such as small-scale metalworking, glassblowing, and furniture making, are allowed.



**Specialty Food Service.** This use includes businesses that specialize in the sale of food products, such as a candy makers, catering businesses, or coffee roasters, and may offer areas for ancillary retail or restaurants that sell and serve the products produced on-site. Specialty food service includes preparation, processing, canning, or packaging of food products where all processing is completely enclosed and there are no outside impacts.

**Food Truck Parks.** Food truck parks accommodate food truck vendors offering food and/or beverages for sale to the public, which may include seating areas for customers. A food truck park is a principal land use, and does not cover food trucks located in the right-of-way.

**Commercial Kitchens.** A shared commercial kitchen in which individuals or businesses prepare value-added food products and meals, usually paying a set rate by time (daily, weekly, monthly, etc.) to lease a kitchen space shared by others. During the course of the COVID-19 pandemic, these types of uses have become more frequent, and are also referred to as “ghost kitchens,” or “ghost restaurants.” They typically require specific standards due to a tendency to generate high levels of traffic from delivery services.

**Social Service Uses.** It is recommended that the City should expand the range of social service and congregate care uses addressed within the Land Use Code. These uses provide valuable services to Bath’s residents, and identifying them separately within the Code allows for assignment to appropriate zoning districts, and the creation of standards to address operations and impacts. Where applicable, these uses should refer to State licensing requirements. For Bath’s new Code, the following uses may be considered (some may already be addressed within the Code).

**Alternative Correctional Facilities.** Facilities for either adults or minors who are referred by

the courts as an alternative to incarceration. Such facilities are also referred to as community correctional centers.

**Children’s Homes.** Institutional residential facilities that provide housing and care for children who are wards of the state or otherwise require out-of-home placement.

**Domestic Violence Shelters.** Facilities that provide temporary shelter and support for those escaping domestic and/or intimate partner violence, including victims of human trafficking. Domestic violence shelters also accommodate minor children of those seeking shelter. Facilities may offer a variety of related services to individuals and their children, including but not limited to counseling and legal assistance.

**Drug Treatment Clinics.** Facilities authorized and licensed by the State to use medication in the treatment, maintenance, or detoxification of individuals, such as methadone, suboxone, or naltrexone.

**Food Banks.** Non-profit organizations that collect and distribute food to hunger relief organizations. Food is not distributed to individuals directly from food banks. Rather, food banks are typically found in heavy commercial or industrial areas, as they may be operated from large warehouses that facilitate the storage and distribution of significant amounts of food.

**Food Pantries.** Non-profit organizations that provide food directly to those in need. Food pantries receive, purchase, store, and distribute food directly to the public. Such facilities may also prepare meals to be served at no cost to those who are in need. Food pantries may be part of a place of worship, social service center, homeless shelter, or domestic violence shelter. In the case of a food bank operating from another use, such



as those identified herein, the ancillary use would simply be allowed as a component of the principal use, not identified separately.

**Halfway Houses.** Halfway houses are residential facilities that provide accommodation for persons who have been released from a correctional facility, and who require a group setting to facilitate a healthy transition from incarceration.

**Homeless Shelters.** Facilities that provide temporary shelter to individuals experiencing homelessness.

**Residential Addiction Treatment Facilities.** Licensed care facilities providing 24-hour medical and or non-medical/therapeutic care of persons seeking rehabilitation from drug or alcohol addiction. Residential addiction treatment facilities include medical detoxification treatment.

**Residential Care Facilities.** Licensed facilities that provide 24-hour medical and/or non-medical care of persons in need of supportive personal services, supervision, or assistance essential to sustaining the activities of daily living, or for protection. A residential care facility may include nursing care, assisted living, hospice care, and continuum of care facilities.

**Social Service Centers.** Establishments that provide assistance for those recovering from chemical or alcohol dependency, survivors of abuse seeking support, individuals who are experiencing homelessness or transitioning from prior incarceration, and those with health and disability concerns. Social service centers do not include in-patient or overnight accommodation for clientele or staff, nor do they include medical examinations or procedures, or medical detoxification, dispensing of drugs or medications, or other treatments normally conducted in a medical office.

### 3.6. | The Code should address a broad range of temporary uses.

Bath's current Code addresses a series of specific temporary uses in Section 11.31, however this range should be broadened to ensure all temporary uses can be accommodated and regulated appropriately. Currently, the Code contains standards related to four temporary uses, some of which are quite broad in nature, such as special events (like carnivals, circuses, and tent sales). Others are very specific, such as contractor's offices (including construction equipment sheds and equipment trailers), Christmas tree sales, and portable classrooms. Moving forward, it is recommended that the temporary uses addressed within the Code should include:

- Mobile food sales (food trucks)
- Mobile retail sales
- Real estate sales offices/model units
- Temporary contractor's offices/contractor's yards
- Temporary outdoor events (including sales and/or entertainment)

Additionally, a temporary use permit could be created, allowing for uses to be more carefully regulated for impacts and to ensure that temporary uses do not, in fact, operate as permanent uses. Creation of a temporary use permit would also enable easier enforcement. For example, temporary outdoor events can often create negative externalities such as traffic, noise, and security issues; with a temporary use permit, the City could require mitigation measures as a component of the permit approval, along with requirements addressing the duration of the event. This can enable easier enforcement, as the permit would contain clear standards related to the duration and operation of an event.

Lastly, each type of temporary use should contain a series of standards to address typical concerns



and potential impacts; each of these uses can be integrated into the overall use matrix allowing the City to tailor where each type of temporary use may be appropriate.

### 3.7. | Accessory uses should be comprehensively addressed within the Code.

The Code should address a variety of common accessory uses, including but not limited to:

- Accessory dwelling units
- Drive-through facilities
- Event hosting
- Home occupations
- Outdoor sales and displays
- Outdoor storage
- Outdoor seating and activity areas

Permissions for accessory uses should be tailored to the purpose and characteristics of the City's zoning districts, ensuring that the right mix of accessory uses is allowed within each district.

**Accessory dwelling units (ADUs).** Bath's current Code contains allowances for accessory dwelling units, added to the Code in March of 2022. The City's ADU regulations are broadly permissive, allowing for an accessory dwelling on any lot that has a single-family or two-family dwelling, as well as allowing for units within pre-existing non-conforming principal or accessory structures. Additional considerations for ADUs should be evaluated during the course of updating the Code, however, to ensure that the City complies with State legislation to increase housing opportunities in Maine, commonly referred to as "LD2003."

Though the City's current regulations largely comply with or exceed the requirements of LD2003, certain elements, such as requirements related to parking, will need to be evaluated and adjusted to ensure

continued compliance with State mandates and local goals.

**Home occupations.** Standards related to home occupations should be modernized, and should work to ensure that structures maintain a residential character. Standards should be flexible enough to accommodate the range of home occupations that now exist, as well as those that may emerge in the future. Preliminary recommendations include:

- Consolidate multiple types of home occupations, currently regulated as "A," and "B," into a single set of standards focused on impacts rather than on the nature or scale of the use within a home.
- Personal home offices (no outside employees or client visits) should be permitted in accessory structures. Aligning with the Comprehensive Plan's recommendation to expand access to home occupations, the City should consider allowing other types of home occupations within accessory structures, subject to performance standards ensuring impacts are controlled.
- Permissions for additional employees outside the resident of the home should be revised; modern standards allow for one additional employee; the current standard allowing 8 is uncommon.
- Standards should carefully address impacts of outside storage, client visits, and vehicular traffic on the neighborhood environment. Signs and lighting should also be considered.
- Modern approaches typically list select uses that aren't permitted as home occupations, including kennels, vehicle and machinery repair, rental services where materials or equipment for rent are stored on site and require visitors to pick-up and return items, firearm sales and/or transfers, contractors or similar business dispatch services that may stage any vehicles on-site.



## 4 | Zoning Districts

There are currently 24 zoning districts in the City of Bath's Land Use Code. While there is no magic number of districts that are needed to effectively regulate the use of land in accordance with the community's vision for the future, there may be opportunities to consolidate districts for better clarity of purpose, more logical organization, and easier administration. The relatively high number of zoning districts indicates that, perhaps, zoning districts have been incrementally created over time to address unique or very specific issues within the community. A number of these zones effectively communicate this, such as the Golf Course District, the Plant Home Zone, and the Museum District. It is likely that these single-purpose zoning districts, targeted at single uses or properties, may be able to be eliminated or consolidated into a series of simpler solutions.

Through the creation of a new Land Use Code, a new district structure should be created for the City of Bath – one that acknowledges the unique characteristics of the City and that effectively works to implement the vision and policies articulated in its comprehensive plan. Revising the district structure can serve to clarify the intent and purpose of each of the zoning districts, help to reduce the number of variances sought, and result in a more business and housing-friendly development environment.

Throughout the process of refining and reorganizing the City's zoning districts, dimensional regulations including items such as lot area, lot width or frontage, required setbacks, allowed building heights, and lot coverage maximums will be evaluated and tested against "as built" conditions within Bath's neighborhoods and business districts. This process of testing and revision is designed to ensure that the final palette of zoning districts developed for Bath is responsive both to the City's existing developed condition, as well as to the community's vision for the future – reinforcing and protecting existing character where desired, and facilitating change where needed.





### **Dimensional standards organization & terminology**

Bulk and area standards within the zoning districts should be refined to ensure that they clearly address the size, placement, and disposition of structures. As written, Bath's current Code contains a series of dimensional standards that address items using terminology that may be confusing or counterintuitive to many users. For example, the terms setback and yard are typical in most zoning ordinances, with a setback being a minimum linear dimension that structures must locate from a specified lot line, and a yard most commonly referring descriptively to the entirety of the area between a structure's building line and a lot line. Within the current Code, however, both terms appear as requirements with minimum dimensions, which may create unintentional redundancies or confusion.

Further, dimensional requirements within the tables for each district are separated into multiple line items to address placement of principal structures (by use in many cases), small storage buildings accessory to residential uses, and all other buildings accessory to residential uses. Dimensional standards within the tables should be simplified to address the placement of principal structures, with specific requirements by use addressed as use standards, and requirements for accessory structures moved to a new section and tailored to the nature of the structure, such as a detached garage, storage shed, or chicken coop. Standards related to the placement of accessory structures in yards or setbacks – called permitted encroachments – would specify whether individual types of accessory structures could locate in the required setback, or between a structure and a specified lot line. For example, standards might indicate that all detached garages must locate 10 feet from any lot line and are prohibited in the front yard (between a structure and the front lot line).

Additionally, specific dimensional standards appear in certain districts to address context-specific requirements, such as minimum waterbody frontage, minimum setbacks (and yard areas) from a waterbody, and minimum setbacks (and yard areas) for uses not connected to public sewer. These types of context-specific requirements should be reevaluated to ensure that they accurately reflect the City's desires and address development realities on the ground in the City.

These adjustments to terminology and dimensional standards would allow for simplification of the tables within each zoning district, and provide additional clarity and ease of use.

### **New dimensional standards**

The City should consider including several new standards, including allowances for averaging of setbacks to promote context-sensitive development in residential districts. Such a standard would allow for adjacent lots on either side of a subject lot to be used to calculate the required front setback. Once this average is determined, typical controls allow for modification of up to 10% from the average to accommodate specific site conditions as needed.

A corner side setback requirement should also be included. Corner side setbacks can create flexibilities for new development or redevelopment that may be precluded by treating both street-facing sides of a corner lot as the "front." Applying multiple front setbacks may unintentionally create situations where buildable widths of corner lots, particularly in denser areas of the City, are reduced to the point that construction becomes difficult or infeasible. Including a corner side setback standard can ensure that setbacks along a block face remain relatively consistent, while allowing flexibility for corner lots to maintain buildable widths.



Finally, a landscaped open space ratio should be included within the dimensional standards, to complement the current regulation of lot coverage. Whereas lot coverage maximums can effectively address the size of buildings (as written the standard controls “that part of the lot area covered by buildings”), a landscaped open space ratio can help to control the total amount of impervious surfaces on the lot, including buildings, accessory structures and paved areas such as driveways or patios. Typically, such a standard is referred to as a landscaped open space ratio, rather than an impervious surface ratio, to avoid potential conflicts with State Shoreland Zoning definitions. Together with a lot coverage maximum, a minimum ratio of landscaped open space can help to achieve a balance between the size of buildings and the total impervious coverage of a developed lot.

#### 4.1. | Residential Zoning Districts

##### 4.1.A. Ensure alignment with State legislation to increase housing opportunities in Maine, commonly referred to as “LD2003.”

A key component of review and drafting of residential districts will be to ensure that the new Code complies with the requirements of LD2003, intended to increase housing opportunities and alleviate issues with affordability in the State of Maine. Key considerations will include alignment of zoning districts, allowed uses and densities, and housing types with Bath’s Comprehensive Plan, to identify key growth areas within the community. The City has already adopted language to implement LD2003 per State requirements; the Code update will ensure continued alignment and compliance with these requirements and the City’s goals for housing, as districts and uses are updated.

##### 4.1.B. The Code should allow for a diverse range of options to address Bath’s housing needs.

Bath needs new development encompassing a diverse range of housing types and densities. This diversity is crucial for sustaining multi-generational neighborhoods, tackling the issue of “missing density” in the City, and offering options that cater to evolving residential preferences and a broad spectrum of income levels, all of which ultimately strengthen the position of the City. The City’s rich stock of historic buildings were previously home to more residents than the City has today, indicating that there is potential both in the reuse of existing resources, as well as development of new housing units.

The Code can unlock options to address issues of housing diversity and affordability through various means, such as permitting diverse and unique dwelling types, creating zoning districts that either permit or require a blend of dwelling types, and providing for innovative housing forms like cottage courts.

##### *Think Bigger*

Allowing for more density and increased height in strategically chosen areas can serve as a powerful tool for generating new housing in the community. The existing zoning structure fails to convey a coherent vision for this sort of development in Bath, as the majority of residential districts are oriented toward single-family development. Moving forward, an enhanced palette of residential districts could be an effective tool for directing density toward areas of the City that are suitable for a more urban development pattern.

##### *Think Smaller*

On the other hand, adopting a smaller-scale approach can also yield new, more affordable housing alternatives. In the City’s neighborhoods,



consideration should be given to a handful of alternative development forms to enable creativity and flexibility in developing new housing that caters to a wide array of needs and preferences. Such options may include updated approaches to accessory dwelling units, or acknowledgment of emerging trends such as smaller housing developments consisting of multiple lower-density dwelling units (single-family, two-family, townhouse) arranged on a single lot as separate detached structures, which may also contain common facilities for residents' use. The Code can recognize these newer development forms and explicitly permit them where desired, subject to specific standards.

The City may also wish to explore the possibility of establishing standards for cottage courts as an option for new residential development. The cottage court form facilitates small lot residential development by organizing various dwelling types around a common courtyard or shared open space, designed as a cohesive whole and maintained in shared stewardship by residents. This development form can also encourage the creation of smaller, potentially more affordable units through provisions that promote reduced square footage in exchange for additional development potential.

**Think About the Middle**

The City's regulations should encourage and facilitate the development of "middle density" housing – those forms of housing that bridge the gap between traditional detached single-family homes and larger-scale multi-family or mixed-use development. Encompassing duplex, triplex, quadraplex, and other small-scale multi-family forms – middle-density options can play a critical role in providing an expanded range of housing choices while respecting established neighborhood contexts. Moving forward, the City's palette of districts can help to clarify what these forms are, how they are permitted, and where they are appropriate within the City.

**4.1.C. Revisions to zoning district standards could help Bath to better address its existing residential development patterns.**

An analysis of existing residential development patterns in Bath has been conducted as part of this technical review. The intent of this analysis is to gauge how well the City's current slate of residential zoning districts acknowledges the actual development patterns exhibited on the ground in Bath's neighborhoods. For the purposes of this technical review, residential districts are discussed both in terms of their current purposes, as well as their dimensional requirements. This structure allows for an exploration of the utility of each district from both a policy perspective as well as a physical perspective. Findings are discussed below.

**R-1 High-Density Residential District**

**Purpose.** The purpose of the R-1 district is to accommodate existing, dense residential development within the City. The R-1 purpose statement specifies that the district is intended to provide for "the maintenance and increased livability of the existing densely built-up areas of the City," as well as areas that may be suitable for additional high-density residential development, with a focus on fostering neighborhood cohesion and providing housing options in proximity to community services.

The R-1 district is currently mapped to neighborhoods in and around downtown Bath, acknowledging the City's traditional urban development pattern of relatively small lots and setbacks in an urban environment. The district allows for single-family dwellings, two-family dwellings, multi-family dwellings, and cluster development. However, analysis shows that the standards within the current R-1 district do not necessarily reflect the as-built conditions in these areas of the City, and may warrant



revisions moving forward to ensure that they can adequately accommodate production of new housing units.

**Analysis.** The R-1 district comprises 65% of the residentially zoned parcels in the City of Bath, including all of the homes in the City’s historic district overlay. R-1 standards, however, may not currently align with the traditional building pattern in these areas, resulting in numerous non-conforming lots and structures. Approximately 65% of parcels in the district meet the Code’s 6,000 square foot minimum lot area requirement, leaving over 750 individual parcels nonconforming due to their lot area. This includes numerous parcels with existing homes, which may present practical or financial difficulties for homeowners who wish to improve or expand their existing homes.

Further, based upon analysis of a sample of R-1 parcels, only 61% meet the current 60 foot minimum lot width requirement, and 56% meet the current 10 foot front setback requirement. As built, front setbacks in these areas of the City can be as little as zero feet, with homes built up to the sidewalk on lots that are as narrow as 20 feet in width. Given the substantial observed misalignment between the district dimensional standards and on-the-ground development realities within these neighborhoods, it is recommended that the City should consider adjustments to the R-1 standards to better reflect neighborhood character and expand housing opportunities in the R-1 district.

**R-2 Medium-Density Residential District**

**Purpose.** The R-2 district is intended to accommodate those areas of the City that represent a transition from the traditional urban development pattern of the R-1 district to a more rural development pattern as exhibited

in those areas largely to the west of Whiskeag Creek, or the City’s R-3 district. It is intended to accommodate densities of residential development that transition from those of the more rural areas of the City to those seen in the R-1 district, and contains a series of standards that differentiate lots served by public water and sewer from those not served by public water and sewer.

The district’s purpose statement indicates that R-2 zoned areas include parts of the City that do not now, “but could in the future have municipal facilities such as public sewers and public water.” Given the implications of State-level legislation related to identified growth areas and adequate public facilities including water and sewer, it is recommended that the areas of the City currently zoned R-2 should be evaluated against the City’s adopted future land use to determine whether the district’s current purpose remains relevant, or if the district should be realigned or split based upon the City’s anticipated pattern of growth.

**Analysis.** The R-2 district purpose statement indicates that these areas of the City are not currently served by public sewer and public water, however the district dimensional standards are split to accommodate both lots that have access to these municipal facilities, and lots that do not. Not accounting for the presence of sewer service, preliminary analysis indicates that three-quarters (76%) of parcels currently mapped R-2 meet the Code’s 12,000 square foot minimum lot area requirement, with similar percentages of conformance to the 80 foot minimum lot width (71%) and 10 foot minimum front setback (73%). Further, using the City’s data indicating the location of sewer mains, preliminary analysis indicates that nearly 75% of lots within the R-2 district are within 150 feet of an existing sewer main.



### R-3 Low-Density Residential District

**Purpose.** The R-3 district accommodates low-density, rural residential development in areas of the City not served by public services such as municipal sewer and water. The district’s stated purpose is to accommodate areas of the City that are “geographically located next to many of the most important natural-resource areas that should be protected by the City.” As such, the R-3 district ensures low-intensity residential development maintains compatibility with the rural nature of these areas, and with the physical capacity of the land to handle new development. The district also allows for “resource-use” activities including light mineral extraction and farming.

**Analysis.** Dimensionally, the R-3 district is nearly identical to the requirements of the R-2 district for lots not located in areas with access to municipal facilities. The only differences from a physical development standpoint are modest increases in front, side, and rear setbacks, and a 50 foot addition to the required waterfront setback. Differences in uses manifest primarily in terms of multifamily permissions (allowed in the R-2 but not in the R-3), permissions for manufactured homes on individual lots (allowed in the R-3 but not in the R-2), allowances for schools and other institutional uses (allowed in the R-2), and uses such as outdoor recreation that are allowed in the R-3 only.

Bearing in mind these relatively minor differences, there may be opportunities to consider how the R-2 and R-3 zones are applied moving forward, and if there is reason to consider greater differentiation in the purpose and applicability of these districts to meet the City’s future vision.

### R-4 Waterfront High-Density Residential District, R-5 Waterfront Activity District, and R-6 Waterfront Medium Density Residential District

**Purpose.** The R-4 and R-6 districts purpose statements differentiate these two districts as addressing residential development along the shoreline of the Kennebec River at a high density, and a medium density, respectively. From a use perspective, they allow an identical set of uses in the table, however, and the differences in dimensional standards between the two districts are quite minor in most cases.

The R-5 district, in contrast, is intended to allow for a combination of high-density residential use, with a very limited set of water-dependent commercial uses. In application, this appears to manifest as higher-density residential than allowed within the Waterfront High-Density Residential District, in combination with a handful of nonresidential uses including small-scale accommodations and marinas.

**Analysis.** The R-4 and R-6 districts are framed in purpose as allowing residential uses at high and medium densities, however the dimensional standards for these districts are nearly identical, with differences in setbacks and yard areas being the only significant differentiation between them. As such, and given that their application on the map is relatively modest, the City may want to consider if there are opportunities to better differentiate or simplify/consolidate these districts based upon current development patterns and anticipated future land use. Similarly, the R-5 district is very narrowly applied to the City’s zoning map, and may not be fulfilling the City’s vision for a true “Waterfront Activity District.” The district should be evaluated to determine whether it continues to be a useful tool, or whether the intended form and use mix might be better accommodated within a low-intensity



mixed-use district that allows for a modestly expanded palette of uses to create activity along the waterfront near downtown.

**4.1.D. Adjustments to Bath’s residential district structure could provide opportunities for more housing diversity within the City.**

Within Bath’s existing residential districts, particularly within the R-1 district, there are a number of lots that are significantly smaller than district lot area minimums currently required. As such, there is an established pattern of smaller lot residential development that is currently not conforming to the standards of any of the City’s residential districts, and would not be able to be rebuilt under today’s Code. This has been reflected in conversations with stakeholders, as well as in the analysis of existing residential patterns vis-a-vis the current Code requirements. Adjustments to dimensional standards, whether via a small-lot option aimed at bringing these small lots into conformance, or via allowances within a series of new zoning districts could allow for the continuation of some of the City’s most desirable traditional residential patterns.

**4.1.E. The Code should allow for cottage court development as a new residential option.**

The City should consider the use and an associated set of standards for cottage courts (also often referred to as “pocket neighborhoods”) as an option for new residential development within certain areas of Bath. The cottage court form allows for small lot residential development in a manner that organizes various dwelling types around a common courtyard or shared open space, designed as a cohesive whole and maintained in shared stewardship by residents. Such a development form can also incentivize the creation of smaller, potentially more affordable units through provisions that encourage smaller square footage in exchange for additional development potential.

**4.1.F. Clarify controls related to availability of municipal infrastructure.**

Within a new general development standards article of the Code (see recommendation below), dwellings that are served by private water and/or individual septic tanks should be subject to a consistent minimum lot size based upon engineering and utilities standards.

**4.1.G. Summary of proposed residential district structure.**

The following residential district structure is proposed for Bath. Of note, we have recommended reversing the hierarchy currently employed within Bath’s Code. Modern codes typically contain nomenclature that increases in number as it increases in development intensity. For example, an R-1 district is commonly the least intense/dense residential district, as opposed to Bath’s current structure wherein the R-1 district is the densest residential district. We are also recommending using descriptive district names to clearly communicate the intent of each district, as opposed to simply numbering the districts sequentially.



| <b>Proposed District</b>                            | <b>Current District (if Revised)</b>                                       | <b>Summary</b>   |
|---|--|--|
| <b><i>R-R Rural Residential District</i></b>        | <i>R-3 Low-Density Residential District</i>                                | To explicitly accommodate Bath's areas of rural residential character, we recommend reorienting the R-3 to a purely rural residential district orientation. The district should maintain a focus on residential development in accordance with the capacity of these areas of the City, and should allow a series of typical associated uses such as agriculture and forestry-related uses. In line with the City's adopted comprehensive plan, conservation and/or cluster development should also be allowed in these areas. A typical lot area standard for a rural residential district is one acre. |
| <b><i>R-T Transitional Residential District</i></b> | <i>R-2 Medium Density Residential District</i>                             | To accommodate those areas currently zoned R-2 that are served by municipal water and sewer infrastructure and/or are located within Bath's identified growth area, transitioning from the more rural areas of Bath to the more centrally-located residential neighborhoods. This district would be drafted to require a minimum lot area of 10,000 square feet.<br><br>Those areas not served by such infrastructure should be evaluated to determine if they are more appropriate for the R-R district, or if another new district may be needed.  |
| <b><i>R-C Central Residential District</i></b>      | <i>R-1 High Density Residential District</i>                               | To accommodate areas of residential development close to Bath's core that exhibit a dense development pattern of relatively small lots and high levels of lot coverage. It is recommended to reduce the minimum lot area to 5,000 square feet.   |
| <b><i>R-UC Urban Core Residential District</i></b>  | <i>New</i>   | To accommodate those areas close to Bath's core that exhibit a traditional compact development pattern characterized by minimal front setbacks, and relatively small lots. This district would require a minimum lot area of 3,000 square feet.  |
| <b><i>R-W Waterfront Residential District</i></b>   | <i>R-4 Waterfront High Density</i><br><i>R-6 Waterfront Medium Density</i> | Consolidation of two current districts; refinement of dimensional standards will address context-sensitivity. This district would require a minimum lot area of 10,000 square feet.<br><br>It is recommended that the current R-5 Waterfront Activity District be recalibrated toward a broader mixed-use orientation, as opposed to a residential district.   |





## 4.2 | Commercial Mixed-Use Zoning Districts

### 4.2.A. The commercial districts should be restructured to accommodate a complete range of options for commercial and mixed-use development at varying scales within the City.

It is recommended that the City should consider a complete restructuring of the current commercial and mixed-use districts, to ensure that a broad range of opportunities and scales of development are represented. A more intentional palette of commercial and mixed-use districts can help to ensure that the City is getting new development of a quality and character that fits with its vision for the future. Moreover, a revised palette of districts accommodating a variety of characters and scales, along with the inclusion of simple, tailored design standards, can help to allow more by-right development that meets the City’s intent without a need to rely upon conditions imposed during contract rezonings.

The following is a potential new commercial and mixed-use zoning district structure to better reflect the scale and form of both existing and envisioned commercial and mixed-use areas within Bath.

| <b>Proposed District</b>          | <b>Current District (if Revised)</b> | <b>Summary</b>  |
|-----------------------------------|--------------------------------------|---|
| <b>NC Neighborhood Commercial</b> | NC Neighborhood Commercial           | The current NC district is only mapped to five parcels in the City, centered around the intersection of Lincoln Street and North Street/Congress Avenue. This tool, with controls on design and considerations for additional uses intended to serve the local neighborhood, could be more widely mapped and used to achieve small-scale nodal commercial in a manner that complements existing neighborhood fabric.  |
| <b>CT Commercial Transitional</b> | C-2 Mixed Commercial + Residential   | As currently mapped, this district seems to be serving transitional areas within the community moving from more intense uses into adjacent neighborhoods, and accommodating limited commercial uses predominantly within previously residential structures. Standards should be evaluated to determine whether this district is creating the intended form and use mix, or if it should be reoriented to allow for a greater mix of uses and achieve a true transitional character. |
| <b>DB Downtown Bath</b>           | C-1 Downtown Commercial              | Standards for downtown Bath should be evaluated to ensure that they encourage the walkable, pedestrian character desired, and continue to support downtown as the mixed-use heart of the City.  |



|                              |  |   |
|------------------------------|--|---|
| <b>CG Commercial Gateway</b> | <i>C-4 Route 1 Commercial Contract</i> | Standards for the CG district should be based upon typical conditions placed upon development through contract zoning in the district. The intent should be to combine a series of dimensional, use, and design standards that achieve the community’s vision for a commercial gateway, rather than a piecemeal approach through contract rezoning.   |
| <b>MC Marine Commercial</b>  | <i>C-5 Marine Business District</i>    | It is recommended that the MC Marine Commercial district should continue to focus on marine commercial uses, as well as other uses that may be compatible with/complementary to the marine commercial character of the area.  |
| <b>CX Commercial Flex</b>    | <i>C-3 Business Park</i>               | <p>The traditional “business park” model of development may no longer be an effective tool for Bath to recruit new businesses and investment to the areas of the City currently mapped to the C-3 district.</p> <p>The current C-3 district should be evaluated for the potential to transition these areas into a flexible commercial district that can accommodate a variety of office, warehousing, technology, and light industrial uses, as well as a mix of commercial and service uses designed to serve workers and the nearby neighborhoods.</p> |

**4.2.B. Select commercial and mixed-use zoning districts should contain build-to zone requirements rather than minimum setbacks, to reinforce the sense of a pedestrian-friendly environment through the creation of a consistent street-wall.**

Certain areas within Bath, such as the C-1 district, which does not currently require a minimum setback – should be reoriented to control how buildings address the street through a build-to zone requirement. A build-to zone regulates a range in which a building must be placed, as opposed to a minimum dimension from a lot line. For instance, while a minimum setback may be set at zero feet to encourage an urban orientation, there is no control requiring that a building should be limited in proximity to the street. A build-to zone can contain a range, such as zero to five feet, which requires that the front façade of a building is located within that range, and no farther. This type of control can help to reinforce certain areas of the City as key walkable, pedestrian-friendly centers.



**4.2.C. Design standards should be created to enhance the quality of development in the City’s commercial and mixed-use zoning districts.**

Design standards can address items such as the location and design of building entries, elements of building articulation such as projections and recesses, ground floor and upper story transparency, and other key features of new development. These standards do not address architectural style or aesthetics, but rather seek to control the basic features of a building façade through a series of measurable and objective requirements. For example, standards can require that elements of building articulation be included at regular or maximum intervals along the length of a building façade facing a public street. Such elements may be defined to include features such as architectural projections or recesses, changes in materials, textures, or colors, or the incorporation of features like columns or pilasters. Standards included within the Code should not control how such articulation is achieved, but rather should present the basic, measurable requirements.

Standards can be included to the desired characteristics of the City’s varied commercial and mixed-use districts, for instance requiring greater or more frequent articulation in those areas anticipated to focus on walkability and a pedestrian-orientation, such as downtown, and allowing for more flexibility in other areas of the community, such as along the Route 1 corridor. A clear, objective approach to design standards, working in combination with a refined set of dimensional standards, can help to provide a scaffolding for new development that aligns with each district’s purpose and intent.

**4.2.D. Floor area ratio (FAR) should be eliminated as a dimensional standard within the Code, in favor of more predictable dimensional controls, such as maximum building height.**

For communities like Bath, controls related to maximum heights, minimum setbacks or build-to zones, maximum lot coverage and minimum landscaped open space ratios are significantly more effective in producing predictable, desirable building forms than are controls on floor area ratio. Controls on these simple, physical aspects of development – as opposed to the somewhat unpredictable mathematical calculation to determine FAR – are also much more user-friendly, enabling a broader understanding of their intent, and articulating a clearer vision for desired future development.

The current FAR controls within the C-1 district appear designed to incentivize sensitivity to maintaining key viewsheds, in accordance with Section 10.33 which allows for an increase in floor area ratio if a plan for protecting views of the Kennebec River is agreed to by the applicant and approved by the Planning Board. This type of viewshed protection, if it remains a key concern, may be more effectively regulated through a series of controls dealing specifically with building heights in the C-1 district. In the C-1, for instance, heights may be controlled through a tool such as a specific height map for downtown Bath, tying maximum building heights to key identified view corridors to ensure their protection. Such an approach may also include minimum heights in the C-1 district, to ensure the continuation of the area’s walkable urban orientation.



### 4.3 | Industrial Zoning Districts

**4.3.A. The Industrial/Shipyard district should be evaluated and refined as needed to ensure it is meeting the needs of major users and the overall community.**

The I district accommodates the main facilities of the Bath Iron Works (BIW) as well as certain support facilities. Standards within the district appear to work well, in general, to meet the needs of BIW and to mitigate impacts on the surrounding neighborhoods. However, it is recommended that further testing and evaluation of district dimensional standards such as allowed building heights may be warranted, to ensure that the standards of the district can continue to meet the needs of one of Bath’s major employers into the future, while continuing to protect surrounding residential and commercial areas of the City.

Further, there may be opportunities to explore allowing a broader range of uses, such as personal services and limited retail that would meet the needs of both workers and nearby residents, and to include dimensional and design controls to enhance the public realm in this area.

### 4.4 | Special Purpose and Overlay Zoning Districts

**4.4.A. The current Code contains a number of special purpose or single purpose zoning districts, as well as overlay districts.**

The following table presents a preliminary approach to addressing each of the existing districts.

| Current District                    | Comments / Recommendations   |
|-------------------------------------|--|
| <i>HO Historic Overlay District</i> | <p>Conversations with multiple stakeholders have indicated that the standards within the HO Historic Overlay district are often difficult to interpret and administer. As a component of the update, it is recommended that these standards be evaluated and refined or clarified where needed to facilitate easier review.</p> <p>Further, the City should consider removing the requirement for new construction to be reviewed against the HO district standards, in favor of a set of base zoning standards for residential and commercial development in these areas that address form and encourage compatibility, but are simpler to administer, review, and approve.</p> |



|   |   |
|---|---|
| <b><i>SPCCO Special Purpose Commercial Contract Overlay</i></b> | The SPCCO district accommodates small-scale commercial nodes within a residential context, in structures that are not suitable for residential use, and not allowed a broad enough range of uses to continue to function absent special consideration. With adjustments to the NC neighborhood commercial district, and the possible inclusion of new “neighborhood commercial establishments” within the use structure, this district may no longer be needed.   |
| <b><i>GC Golf Course District</i></b>                           | The GC Golf Course District is currently the subject of ongoing community conversations and an upcoming referendum. Given these circumstances, no recommendations for the district are being made at this time.   |
| <b><i>P &amp; O Parks and Open Space District</i></b>           | This district should be evaluated and refined to ensure it is a useful tool for the City. It appears to operate similarly to typical open space districts, however the City should consider modifying the standards to accommodate typical functions for these types of spaces including outdoor entertainment, cafes, special event spaces, and similar uses. Dimensional standards should also be considered to control any structures that may be built within these areas.  |
| <b><i>RP Resource Protection District</i></b>                   | The RP district protects those areas of the City that are severely physically limited or where development would threaten the critically high natural resource value. This district should be maintained.   |
| <b><i>NRPO Natural Resource Protection Overlay District</i></b> | <p>The NRPO, as currently mapped, appears to operate as more of a required buffer from the Kennebec and Whiskeag Creek shorelines than a functional zoning district. It is recommended that this district should be evaluated to explore opportunities to simplify its applicability and administration, and to ensure it is working effectively and is not redundant with other controls in the Code.</p> <p>The updated Code’s approach to the NRPO will also be informed by the City’s ongoing work related to Climate Impacts and coastal resiliency.</p> |
| <b><i>TMC Trufant Marsh Contract District</i></b>               | The continued utility of this district will be further evaluated during the drafting process. At present, no changes are anticipated.   |



|                                 |   |
|---------------------------------|---|
| <b><i>Shoreland Zone</i></b>    | Shoreland zoning is required by the State of Maine – it is recommended to maintain the Shoreland Zone, and work to clarify its applicability and interaction with other standards within the Code, as well as its compliance with current State requirements.   |
| <b><i>Plant Home Zone</i></b>   | This is a single-purpose district. The City should explore opportunities to consolidate into another district, understanding the intent to accommodate the Plant Memorial Home facility.  |
| <b><i>M Museum District</i></b> | This is a single-purpose district. The City should explore opportunities to consolidate into another district, understanding the intent to accommodate the Maine Maritime Museum.   |
| <b><i>S School District</i></b> | <p>This is a single-purpose district. The City should explore opportunities to consolidate into another district, understanding the intent to accommodate public and private school facilities.</p> <p>Alternatively, this could be reoriented as an institutional district. An institutional district can accommodate large institutional uses and campuses, such as healthcare facilities and educational institutions, large religious campuses, or federal, state, county, and municipal governmental operations. Standards for districts such as this are generally structured to provide the City more control over the “edges” of the district so that it presents to the public in a way that aligns with City character, while providing the development more flexibility within the interior of the site.</p> |



# 5 | Development Standards: General Standards & Accessory Structures

## **5.1. | All development standards of general applicability should be consolidated into one section of the Code.**

Some of the standards within the Code apply to all development within the City. To make it easier for users of the Code to understand requirements that apply to all new development, these standards should be clarified and grouped together into a single article of the Code. Some examples of current and/or new general development standards that should be included or moved into this article include:

- Controls related to the maximum number of principal structures on a lot
- Controls related to required sight triangles
- Requirements related to availability of municipal services such as public water and sewer
- Environmental performance standards

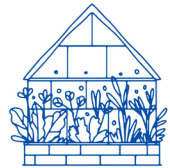
## **5.2. | The Code should comprehensively address exterior lighting on private property.**

The Code currently contains a set of standards that control the basic impacts of exterior lighting for non-residential and multi-family uses. These standards can be expanded and modernized to address all impacts of exterior lighting, and tailored to certain districts. Standards may vary by district, for instance being more flexible in higher-intensity commercial and mixed-use districts, and more stringent in lower-intensity residential districts. Additionally, standards can address lighting for specific uses such as recreational fields where taller pole heights and sensitivities to surrounding uses may be needed. Standards can be crafted to ensure that they work to minimize the impacts of light pollution and light spillage onto adjacent properties, and so they can be easily administered – not requiring technical expertise beyond the capacity of the City.





**5.3. | Accessory structure controls should be expanded and enhanced to simplify their regulation and provide clarity regarding what types of structures are allowed, and where they are allowed.**



Currently, certain accessory structures such as farmstands, fences, small utility structures, piers, docks, and other marine structures are singled out and subject to standards within Article 11 (Performance Standards, Specific Activities And Land Uses). However, a comprehensive approach to addressing accessory structures is not included in the current Code. Moving forward, accessory structures should be consolidated into their own section in the proposed Article 9 (General Development Standards). A set of general standards controlling accessory structures, related to heights, setbacks, placement, etc. would be created in this section, and further enhanced with standards for specific accessory uses and structures. These specific standards can address size/dimensions of specific structures, as well as heights, placement, design, and other requirements to ensure that impacts are considered and controlled where needed. Some common accessory structures that would be identified and specifically controlled within this section include (but are not limited to):

- Personal recreational game courts
- Piers, docks, marine structures
- Refuse and recycling containers
- Satellite dish antennas
- Sheds
- Solar panels (private use)
- Treehouses
- Wind turbines (private use)

These standards would be specific to accessory structures. As noted above, accessory uses would be addressed within the proposed Article 8 (Uses and Use Standards).

**5.4. A permitted encroachments table would be help to clarify what types of structures are allowed to locate within or encroach into required setbacks, and in what yards specific structures or encroachments are allowed.**

A comprehensive approach should be established in the general development standards, to provide clarity in terms of where structures and architectural features are permitted to locate or encroach into required setbacks or yards. An example of what such an approach might look like is provided in the table below. Specific structures and features can be listed, along with detail in terms of how far, and into which setbacks they may encroach, as well as in which yards they are allowed to locate. This example is for illustrative purposes only, and does not represent actual recommendations drafted for Bath.

- Amateur (ham) radio equipment
- Carports
- Coldframe structures
- Decks
- Detached garages
- Fences and walls
- Gazebos
- Garages
- Greenhouses
- Generic item exchange box (e.g. little free library/community pantry)
- Mechanical equipment
- Patios
- Pergolas



| <b>Table XX: Permitted Encroachments Into Required Setbacks</b><br><i>Y= Permitted   N= Prohibited</i>  | <b>Front</b> | <b>Corner Side</b> | <b>Interior Side</b> | <b>Rear</b> |
|---|--------------|--------------------|----------------------|-------------|
| <b>Accessibility Ramps &amp; Accessibility-Related Structures</b>   | Y            | Y                  | Y                    | Y           |
| <b>Arbors</b>   | Y            | Y                  | Y                    | Y           |
| <b>Balconies</b><br><i>Max. of 6' into front, interior side, or corner side setback</i><br><i>Max. of 8' into rear setback</i><br><i>Min. of 4' from any lot line</i><br><i>Min. vertical clearance of 8'</i> | Y            | Y                  | Y                    | Y           |
| <b>Bay Windows</b><br><i>Max. of 5' into any setback</i><br><i>Min. of 24" above ground</i>   | Y            | Y                  | Y                    | Y           |
| <b>Chimneys</b><br><i>Max. of 18" into setback</i>  | Y            | Y                  | Y                    | Y           |
| <b>Decks</b><br><i>Max. of 5' into front, corner side, or interior side setback</i><br><i>Max. of 10' into rear setback</i><br><i>Prohibited in front yard</i>  | Y            | Y                  | Y                    | Y           |
| <b>Eaves</b><br><i>Max. of 2' into setback</i>  | Y            | Y                  | Y                    | Y           |

**5.5. | Consider including controls on steep slope development.**

Because some areas within the City of Bath contain significant topographical features and changes in elevation, development on steep slopes may be a concern. The Code currently contains some basic standards addressing development on steep slopes, for instance within the cluster development standards in Section 11.06. However, moving forward the Code can contain a series of standards to more comprehensively control development on lots that exhibit areas of steep slope. A number of criteria will need to be identified and evaluated in order to implement these types of controls, including but not limited to the following:

- Steep slopes should be clearly defined within the Code. Currently, the term is referenced within a few areas of the Code including subdivision (Article 13), cluster development, mining activity (Article 14), and standards related to erosion and sedimentation control, but there is no clear definition of what constitutes a steep slope. While this standard varies between communities, most



commonly steep slopes are defined somewhere within a range of 15% to 25%, with slopes greater than 25% being classified as “very steep.”

- Standards should be created to limit the amount of disturbance in these areas. The Code can, for instance, require larger minimum lot sizes for areas of steep slope, require greater landscaped open space, and limit the maximum amount of site disturbance to ensure protection of the steep slope areas.
- Site plans can be required to include detailed information related to grading, erosion and sedimentation control.



# 6 | Development Standards: Off-Street Parking & Loading

## 6.1. | Off-street vehicle parking and loading standards should be updated.

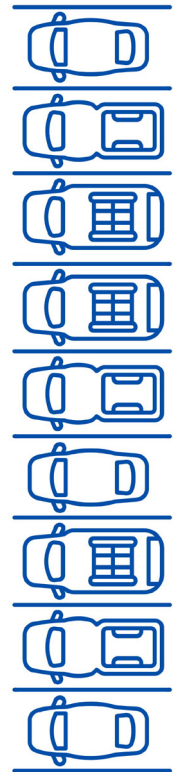
Parking requirements for the City of Bath should reflect the realities of Bath’s existing built development pattern, and should address the demand for all types of parking and loading within the City. Updated parking requirements should be located within their own section of the Code (proposed Article 11) and should address the full range of off-street parking and loading elements, including the following:

- Parking lot design (dimensions, surfacing, curbing, location, etc.)
- Parking structure design (design standards, ingress/egress, etc.)
- Parking for electric vehicles
- Location of parking for residential and nonresidential uses
- Driveway design, curb cut design
- Pick-up, drop-off, and delivery holding spaces
- Parking flexibilities (shared parking, etc.)
- Location and design of off-street loading facilities
- Storage of commercial and recreational vehicles

The proposed Article 11 should contain a series of general standards addressing how parking spaces are used (for example, parking spaces shall not be used for vehicle repair or long-term vehicle storage unless specifically allowed), and how existing parking facilities will be addressed if requirements change.

## 6.2. | Parking ratios should be evaluated and revised.

The current parking ratios established in Section 10.6 of the Code should be updated to reflect a more modern approach to parking. The uses listed within the parking table will need to be updated and aligned with a revised use structure; each use included in the Code should have a specific corresponding parking requirement, even if that requirement is “none.” Current required parking ratios are high overall, and may require more parking than is needed in most cases. Additionally, parking ratios should be determined through objective standards such as physical





space or gross square footage, rather than by number of employees, seats, etc. as these types of standards can change over time resulting in a lack of predictability and difficulty in enforcement or interpretation.

Some special development types, such as retail centers, may be better served by inclusion of specialized parking requirements that allow the required parking to be calculated based upon the gross floor area of the development as a whole, as opposed to an agglomeration of individual uses. Because uses may turn over frequently, parking calculations for these developments can quickly shift from conformance to nonconformance. A single, clear calculation based upon gross floor area as a whole would allow these types of developments to better manage parking needs and attract new tenants.

### **6.3. | The City may wish to consider implementation of parking maximums in certain areas.**

The City can consider, as a component of the new Code, implementing parking maximums to prevent over-parking and the negative associated effects, such as heat-island, increased stormwater runoff, etc. This type of control may be appropriate within certain commercial and mixed-use areas as well as for larger retail developments. Standards can be crafted to allow for parking to be provided in excess of the established maximums if certain development standards are met, such as the use of permeable paving materials or innovative stormwater management techniques, or if spaces are provided for public use. Commercial districts, most specifically downtown, should be considered as candidates for implementation of parking maximums.

### **6.4. | Design standards for parking structures should be included in the Code.**

Regulations should include design standards for parking structure façades that face a public street, and may include standards related to façade articulation, screening of ground-floor or rooftop parking spaces, and maintenance of a vehicular clear-sight zone to prevent conflicts with pedestrians and other vehicles.

### **6.5. | Electric vehicle charging spaces should be clearly accommodated or required within the Code.**

Permissions or requirements related to electric vehicle charging facilities should be clearly stated within the proposed Article 11. This may include clear standards that incentivize inclusion of EV charging spaces, or specific requirements for parking lots and structures to include EV-capable, EV-ready, or EV-installed spaces. These requirements could be of general applicability, or could be tied to specific types of uses where electric vehicle charging may be most utilized, such as offices and employment centers, multi-family residential developments, hotels/motels, schools, hospitals, and standalone parking lots or structures over a specific threshold in size.

### **6.6. | Inclusion of additional parking flexibilities in the Code may reduce the need for variances and open up new options for development in key areas of the City.**

The current Code contains limited parking flexibilities, including the exemption of the C-1 district from parking requirements, the ability for the Planning Board to reduce the parking requirement for uses that require more than 100 spaces if certain actions are taken such as car-pooling, van-pooling, or bus service provision, and the inclusion of a shared



parking standard in Article 11. Applicants may also apply for a waiver in accordance with Section 10.01. These flexibilities should be considered for refinement and expansion, and new options for by-right parking flexibilities should be considered. Recommendations include:

Based upon the final restructuring of zoning districts within the Code, the City should consider expansion of the parking exemption in the C-1 district to additional zoning districts or geographic areas within the City that may benefit from this flexibility, such as areas of the current C-2 district in and around downtown Bath.

Structures existing as of the date the new Code becomes effective that do not currently provide parking on-site (and that have no room on-site to provide parking) should be exempted from parking requirements. This can be a powerful tool to encourage reuse of existing structures and eliminate the need for variances in cases where it is not practical or possible to provide parking on-site.

Certain districts within the Code could contain parking exemptions based upon square footage of uses, for example exempting the first 2,500 gross square feet from parking calculations. This can help to provide relief for new development on small lots, requiring only larger structures to provide parking.

### **6.7. | The Code should require bicycle parking.**

Currently, Bath's Code does not include any requirements for bicycle parking. To encourage the creation of a more cohesive multi-modal transportation network within the City, and to facilitate use of bicycles as an alternative to vehicles within the City, bicycle parking should be required. To avoid becoming onerous, standards should be cognizant of the nature of certain districts within the City, and the practical difficulties associated

with bicycle transportation in certain contexts. Requirements for bicycle parking can be included alongside vehicular parking requirements, and typically include standards related to percentages of short-term vs. long-term parking spaces, as well as the design and siting of spaces.

### **6.8. | Loading standards should be updated, and should include standards related to the location and design of loading areas.**

The number of loading spaces included is an important practical element of new development. As such, controls should be specifically oriented to address specific types of uses or use types. As the use structure of the Code is updated, the standards related to loading for specific uses will need to be aligned. In addition, standards should continue to address dimensional requirements, and should also address the design, location – such as a minimum distance from intersections or specific yards where loading may or may not locate, surfacing requirements, and required screening.

Finally, the thresholds for requirement of loading spaces should be evaluated and refined as needed to ensure that they are flexible and do not overburden specific uses with excessive requirements for on-site loading. As with vehicular parking spaces above, certain older existing structures that do not have the ability to provide loading on-site should be provided relief via flexibilities or exemptions to encourage reuse and avoid the need to seek variances.

### **6.9. | The Code should address the storage of commercial vehicles in residential zoning districts.**

Standards for commercial vehicles parked within a residential district should accommodate standard-sized vehicles owned and operated for commercial purposes by the occupant of a dwelling or a guest,



including but not limited to vans, sport utility vehicles (SUVs), standard passenger-sized livery vehicles, and pickup trucks, provided that such vehicles are parked in a permitted parking area. Standards for commercial vehicles in nonresidential districts should be limited to those that are being operated and stored in the normal course of business. They should be required to be stored on a lot in areas related to their primary use as a vehicle, and not for display of signage or advertising.



## 7 | Development Standards: Landscape

### 7.1. | **Landscape standards within the Code should be consolidated into a new Article 12 that comprehensively addresses all requirements related to screening, buffering, and other applications.**

Landscape standards can make a significant contribution to the quality of the built environment in Bath. In addition to the numerous aesthetic benefits offered, landscape requirements can accrue environmental benefits to the City on multiple levels, improving quality of life, health, and resiliency. Landscape requirements in Bath's Code should address all aspects of site development to help beautify, screen, and buffer.

Currently, landscape requirements are found in multiple areas within the Code, including for some specific uses and activities, as well as within multiple sections of Article 10. To clarify what is required, and allow for the enhancement of standards in the Code moving forward, it is recommended that a new Article 12 be created, allowing for the consolidation of all landscape requirements for ease of use and understanding.

The landscape article should be organized around specific sets of requirements; a proposed set of requirements (some already found within the Code) is outlined below:

**Parking lot perimeter landscape.** Where a parking lot abuts a street, requirements should effectively screen vehicles from the right-of-way. Such screening could constitute an ornamental fence and shrubs, or a pedestrian-scaled wall or natural plantings that meet an established screening requirement.

**Parking lot interior landscape.** Specific interior parking lot landscape requirements should be included, specifying number of landscape parking lot islands or strips, and a minimum percentage of overall landscape space for larger lots.





**Buffer yards.** Buffer yard requirements can help to ensure proper screening between incompatible adjacent uses, and are currently addressed within the Code in specific areas such as the R-1 setback reduction plan, and the standards for cluster development abutting a public street. Current standards should be expanded and enhanced to match the form and intent of zoning districts, and the intensity of specific uses requiring impact mitigation.

**Tree preservation.** The City may wish to include specific tree preservation standards, including broadly applicable standards for maintaining on-site significant trees. Such a regulation might require all trees exceeding a certain size to be maintained, with any removal of such a tree without permission constituting a violation. Inevitably, some trees will need to be removed; the City Arborist would be responsible for approving removal of trees once it is verified that such removal is necessary. Removal is typically approved in cases of public health or safety, disease or infestation, risk of damage to structures, line of sight issues, or similar concerns. A tree preservation requirement would specify that removed trees must be replaced at a one-to-one ratio, with flexibilities acknowledging that certain circumstances occur which do not allow for replacement, such as a lack of a suitable location on-site.



**Stormwater management.** The use of green infrastructure as stormwater management should be encouraged through the landscape standards. Raingardens, bioswales, and similar features should be encouraged in required landscape areas, including in parking lots.

considered for exemptions due to site considerations; others may be identified that should require greater landscape than typically specified.

## **7.2. | Installation and maintenance standards for landscape should be included to ensure proper implementation of landscape requirements.**

Basic landscape installation and maintenance standards should be included as part of the Code. Standards would include native planting requirements, planting sizes, and required species diversity. These standards are important because they assure a significant landscape impact by controlling the type of plantings and the level of maturity required for plant types at the time of installation. Plantings that are too young can result in an insufficient level of landscape improvements during the first several years of a project and may not perform the intended screening and beautification functions until the plants mature or may result in landscape that does not survive the first growing season. Landscape standards should incorporate sustainable landscape design techniques such as native landscape requirements, prohibitions on invasive exotics, species diversity requirements, and drought-tolerant landscape requirements.

Landscape requirements will need to be tailored to districts and uses to ensure that they do not become onerous or create an abundance of nonconformities. Additionally, certain areas may need to be



## 8 | Administration

### 8.1. | Administrative sections of the Code should be reorganized so that the processes and requirements are easier to understand and follow.

To make the various applications and approvals within the Code simpler and easier to understand, we propose the following reorganization.

#### Code Administrators (Article 12)

This Article would list the powers and duties of all boards and officials involved in the administration of the Code. Listing all boards and officials can clarify the processes and help users understand who is responsible for recommending and approving applications. The following boards and officials will be included:

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

#### Application Procedures (Article 13)

This Article would contain all the rules for reviewing various zoning applications. These administrative procedures should be verified to ensure consistency with Maine law, and grouped into two primary sections:

- Application procedures
- Required notice (mailed, posted, published, etc.)



### Zoning Applications and Approvals (Article 14)

All applications and approval processes would be located within this Article. Anticipated applications to be included are:

- Amendments (Text and Zoning Map)
- Conditional Uses (New)
- Variances
- Site plan review
- Temporary use permits (New)
- Zoning interpretation (New)
- Contract zoning
- Historic district review

To the extent practicable, each of the application sections would follow a parallel structure, consisting of the following items:

- Purpose
- Applicability
- Authority
- Procedure
- Submission requirements
- Approval Standards
- Appeals

### 8.2. | A completeness review should be included as part of the filing of applications.

Currently, a completeness review is referenced at multiple steps in the site plan review process, but is absent from other application procedures within the Code. It is recommended that a completeness requirement be added to the Code in order to avoid incomplete applications moving forward through approval.

Such a provision would allow interested members of the public to review a complete application prior to any hearing, and would help to eliminate postponements due to incomplete submittals. It

should be noted that payment of fees should be considered a component of completeness review.

### 8.3. | Zoning text interpretations should be clarified and formalized.

Every City informally interprets the requirements of the Zoning Code text, but the Code should include a formal procedure for documenting text interpretations. No code can adequately or clearly address every conceivable aspect of regulation, so a procedure such as this allows the CEO to render a written interpretation upon request. Such a process results in a record of interpretation requests, which can lead to a more predictable and consistent application of the regulations over time.

### 8.3. | A temporary use permit should be created to regulate temporary uses.

As described above, the Code should include a full set of temporary uses. Therefore, a temporary use permit should be created so that uses can be better regulated for impacts and to ensure that a temporary use is not, in fact, functioning as a permanent use. This would also allow for easier enforcement. Temporary events can bring impacts such as traffic, noise, litter, and security issues. With a temporary use permit, mitigation measures can be required as part of the permit approval and could control the duration of these uses and enforce violations more effectively and efficiently as the permit would lay out the clear rules for how the event must be conducted.

### 8.4. | An optional pre-application review should be included as part of the filing of applications.

Pre-application review is included in Article 12 for site plan review, however it is recommended that applicants be allowed to conduct a pre-application review with zoning staff and any additional staff



deemed appropriate to provide input on any application. This is conducted prior to any formal application or payment of fees, and all comments are not binding with respect to any official action that may be taken on the application.

### **8.5. | The site plan review process should be evaluated and refined**

The site plan review process should be refined to ensure that it helps Bath achieve high-quality development in alignment with the City’s goals as adopted in the Comprehensive Plan. During drafting, site plan review will be further evaluated to determine the continued applicability of specific standards vs. general design and performance standards included in other sections of the Code. Approval expirations should also be considered for extension from the current six months, to a period of two years, a more common time frame.

### **8.6. | Subdivision regulations should be refined and aligned with other standards in the Code as needed.**

With updates to the City’s zoning regulations, subdivision regulations should be updated to ensure that both sets of regulations work together to facilitate the continuation of desirable development patterns within the City. For example, once zoning district lot sizes are established with the intent of preserving the existing or desired lotting patterns, subdivision requirements for lots should be that of the district.

Additionally, requirements should be clarified in terms of their applicability, particularly with regard to developmental subdivision (Section 13.05 of the current Code). The current language references 30-A M.R.S.A. § 4401(4), which defines subdivision as:

*“The division of a tract or parcel of land into 3 or more lots within any 5-year period that*

*begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term “subdivision” also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.”*

However, 30-A M.R.S.A. § 4402 exempts division of new or existing structures (beginning 7/1/2018) into three or more dwelling units “where the project is subject to municipal site plan review.” As such, subdivision standards should clarify that such development is exempt from the standards, and is instead subject to site plan review as noted above.

Additionally, the subdivision standards should be reviewed to identify items relating to technical requirements or physical construction that may be best incorporated by reference, rather than included within the text of the Code. Currently, the Bath Public Works Department Street Handbook is referenced in relation to requirements for street bases and pavement. However, other technical site preparation standards are included within the codified text, which may be better suited to a companion technical document, such as the Streets Handbook. This would allow the City to adjust requirements as best practices evolve, without the need to go through an amendment to the text of the Code.

### **8.7. | Consider the creation of a conservation design requirement to use in rural areas of the City.**

Because of the environmentally sensitive nature of certain portions of the City, particularly to the west



of Whiskeag Creek, conservation design should be considered as a requirement for new development in those areas. Conservation design subdivision is intended to preserve environmentally sensitive areas while allowing for residential development. The intent is to work with – rather than against – the natural features and limitations of the land.

The central idea of Conservation Design is to cluster residential development within the larger development space and leave the remainder of the site as natural areas or open space, either common open space shared by the community or preserved in its natural state. Conservation design typically requires a perimeter buffer along the edge of the development, a minimum development size, required minimum open space for the development (typically 40% of the total site area), and spacing requirements between residential clusters within the development.

Conservation design subdivision helps to achieve numerous environmental and ecological benefits, including wildlife management and habitat preservation, water quality protection, greater aquifer recharge, and environmentally sensitive sewage treatment and disposal. Natural areas preserved in conservation subdivisions provide important habitat for wildlife to dwell and travel through. Greenways provide cover and sheltered corridors for various species. Conservation subdivisions provide larger areas of natural vegetation that act as buffers to help filter stormwater flowing into wetlands and waterbodies, trapping pollutants and excessive nutrients contained in stormwater runoff.

Buffers also offer important infiltration and “recharge” benefits because they help maintain adequate flows of filtered water to underground aquifers. Reduced impervious surface significantly reduces the size and number of stormwater detention basins needed on the site. This lowers infrastructure costs and frees land for other uses.

Conservation subdivisions also offer greater opportunities to implement environmentally sensitive sewage treatment and disposal systems known as “alternative systems.” Because of reduced lot sizes, individual septic systems may no longer fit on each lot – alternatives must be found. It is possible to use shared septic systems and/or a common leach field, and to locate that leach field outside of lot lines.



## 9 | Public Realm

Subdivision, and in some cases site plan review can have impacts on the public realm; standards should reflect City goals for mobility and connectivity.

### 9.1. | The City should consider public realm requirements that incorporate the following principals.

**Right-of-Way Standards.** The recommended approach to right-of-way reconstruction or development is to implement the Complete Streets approach. “Complete Streets” are defined as right-of-way facilities that are 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 complete street. When right-of-way is reconstructed or newly constructed, it should be designed in a way that accommodates multi-modal transportation, as appropriate, and reflects how people move about neighborhoods and the City. As the City includes both urban and rural residential areas, the right-of-way standards should acknowledge these varied conditions, including a series of right-of-way widths and design requirements, and implementing multi-modal principals where appropriate to the character of the area. Bike lanes in particular should not be required for every roadway, but rather work to establish a connected travel path through the City.

**Sidewalks and Block Design.** The pedestrian way is measured from the curb to the property line of the abutting property. This is the portion of the right-of-way that includes the parkway and sidewalk. In order to facilitate better design of these areas, the subdivision regulations should clearly describe each component of the pedestrian way. These are the pedestrian zone, where a sidewalk is constructed for pedestrian travel, and the curb buffer, which is the portion used for street trees, landscape, street lights, etc., as well as used by people accessing cars parked at the curb. This can also include the extension zone - the optional element of the sidewalk area where pedestrian zone may be extended into a parking lane, such as a bulb-out, which is most appropriate for pedestrian-oriented commercial areas.



However, as stated above, Bath is not uniform. There are areas where sidewalks would not be appropriate. Therefore the standards should include an exemption for such areas. In addition, as the City has areas that have been fully built-out but lack sidewalks, a fee-in-lieu of sidewalk construction may be needed so as not to create areas where the construction of a sidewalk would be onerous to property owners/developers and/or not fit the overall character of the area.

As sidewalks create a more walkable environment, block lengths play a similar role. Maximum block length standards should ensure that “superblock” designs, which work against creating walkable areas and multimodal right-of-way designs, are avoided.

**Connectivity Standards.** New developments and public improvements should plan for connectivity both within the development area and to adjacent areas. The Code can implement connectivity standards in a number of ways. Already described are requirements for sidewalks and bicycle lanes where appropriate, but the subdivision regulations should also include requirements for greenway connections between open space and natural areas, road access to adjacent properties or subdivisions, and direct connections to abutting rights-of-way.



# 10 | Nonconformities

## 10.1. | Nonconformity regulations should be updated to specifically address the variety of potential nonconforming situations.

In any code update, the intent is to eliminate as many nonconformities as possible. Many are eliminated when new or revised districts are tailored to existing conditions or remapping of districts is undertaken, however, some properties and uses will remain nonconforming. Therefore, the nonconformities section should be rewritten for clarity, and should include provisions for nonconforming uses, structures, site characteristics, and lots. The updated provisions should clearly spell out what types of changes and/or alterations are permissible. The following are the types of nonconformities that should be addressed. The current Code does address some of these nonconformities, but a clearer organization with rules for each individual type of nonconformity would be implemented.

**Nonconforming use.** A nonconforming use is a lawfully existing use of a building, structure, or land that, as of the effective date of the Code or any subsequent amendment, does not comply with the requirements of the Code. Like the current Code, a 12 month abandonment clause is a typical standard for no longer allowing a nonconforming use to continue.

**Nonconforming structure.** A nonconforming structure is a lawfully existing structure that, as of the effective date of the Code or any subsequent amendment, does not comply with the requirements of the Code. The current Code is already quite permissive in allowing the reconstruction of nonconforming structures, however as currently written horizontal or vertical expansion is currently considered an increase in nonconformity, which is typical, but may limit investment in existing structures. A recommendation below this section (10.3) addresses this specific situation.

**Nonconforming site characteristic.** A nonconforming site characteristic is an existing, legal site characteristic, such as landscape, fences or walls, lighting, or parking, that as of the effective date of the Code or any subsequent amendment, does not comply with the standards of the Code. This would be a new category of nonconformity for the City (see 10.2 below).





**Nonconforming lot.** A nonconforming lot is a lawfully existing lot that, as of the effective date of the Code or any subsequent amendment, does not comply with the minimum lot area or width requirements of the Code. Development permitted within the district should be allowed on such lots, as long as all requirements, except for lot width and/or area, can be met.

### **10.2. | New regulations for nonconforming site characteristics should be added.**

Rather than render a structure nonconforming because of a site characteristic not related to the building, flexibility should be built into the Code by creating a separate nonconformity category for elements such as landscape, fences or walls, lighting, and parking lot design. The regulations would allow normal maintenance and incidental repair to a nonconforming site characteristics, but prohibit repairs or reconstruction that would create any new nonconformity or increase the degree of the previously existing nonconformity. The regulation would also spell out when nonconforming site elements must be brought into conformance when a new principal structure is constructed on a site, an existing principal structure is increased in floor area by a certain amount, an existing parking lot is fully reconstructed or an existing parking lot is expanded, or in specific circumstances, such as when 50% or more of the length of a nonconforming fence is reconstructed.

### **10.3. | A permitted horizontal (expanding toward the rear) or vertical (second floor) expansion for nonconforming single-family and two-family homes can be added to the Code.**

The Code can also allow nonconforming walls of existing single-family and two-family dwellings that are nonconforming in terms of the encroachment of the side or rear wall into a yard to be extended. This type of provision is very useful in allowing additions to existing homes, as it encourages continued investment in existing older neighborhoods, preserves the existing housing stock, and is a way to reward property owners who continue to invest in their homes, particularly older homes. Where a dwelling is deemed nonconforming because of encroachment into the required interior side or rear setback, the structure may be enlarged or extended vertically or horizontally along the same plane as defined by its existing perimeter walls, so long as the resulting structure does not create other nonconformities or otherwise violate district standards.



# City of Bath Zoning Update

**camiros**  
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