

Article 14 Amendments

Section 1401. General Procedure

On petition, or on the recommendation of the Planning Board, or on its own motion the City Council may amend, supplement, or repeal the regulations and provisions of this Ordinance.

The City Council shall refer all proposed amendments to the Planning Board for a report thereon. The Planning Board shall hold a public hearing for consideration of the proposed amendment at least ten (10) days before the report is submitted to the City Council. Notice of the hearing before the Planning Board shall be made public in at least one newspaper of general circulation in the area at least seven (7) days before such hearing. This published notice shall include a small map of the area to be affected.

1401-1. Amendments to Shoreland Development Provisions

The Shoreland Development provisions in this Ordinance may be amended by majority vote of the City Council, pursuant to the procedures in Section 1401. Copies of amendments, attested and signed by the City Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the City Council. If the Commissioner fails to act on any amendment within forty-five (45) days of the Commissioner's receipt of the amendment, the amendment is automatically approved. Any application for a permit received by the City within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner. (Amended 4-21-92)

Section 1402. Petition Requirements

1. An application for change or amendment of the text and/or map of this Ordinance shall include the submittal of a written petition to the City Clerk setting forth the proposed change and the reasons therefore, which shall be promptly referred to the Planning Board for the setting of the hearing date, in accordance with this Ordinance. In the case of a proposed textual change, the petition shall clearly identify and describe that section or portion of the text to be changed and shall identify the proposed revision or amendment being requested.
2. In the case of a proposed map change, the petition shall include the legal description of the parcels of land involved, a scaled drawing of the parcel of land showing all boundary dimensions and the existing and total area, and the proposed zoning classification(s) applying to the parcel(s) of land.
3. The petitioner shall bear the cost of advertising (to notify the general public) and/or postage (to notify abutters and neighborhood property owners) of the change or amendment. The petitioner shall also furnish such addition information as may be necessary to enable the Planning Board to properly evaluate the petition.

1402-2. Repetitive Petitions

A proposed change in the Ordinance which has been unfavorably acted upon by the City Council on the merits of the petition shall not thereafter be considered by the City Council for a period of two (2) years, unless adoption of the proposed change is recommended by the unanimous vote of the Planning Board at a meeting where at least 2/3 of the full membership is present.

Section 1403. Contract Zoning

1403-1. PURPOSE

Occasionally, competing and incompatible land uses conflict; and traditional zoning methods and procedures such as variances, conditional use permits, and alterations to the zone boundaries are inadequate to promote desirable growth. In these special situations, more flexible and adaptable zoning methods are needed to permit differing land uses in both developed and undeveloped areas, and at the same time recognize the effects of change. In consideration of a change in zoning classification for a particular property or group of properties, it may be determined that public necessity, convenience, or the general welfare require that provisions be made to impose certain limitations or restrictions on the use or development of the property. Such conditions are deemed necessary to protect the best interests of the property owner, the surrounding property owners and the neighborhood, all other property owners and citizens of the City, and to secure appropriate development consistent with the City's Comprehensive Plan.

1403-2. AUTHORIZATION

Pursuant to 30A M.R.S.A. § 4352 (8), contract zoning is hereby authorized for rezoning of property where, for reasons such as the unusual nature or the unique location of the property, the City Council finds its necessary or appropriate to impose, by agreement with the property owner, certain conditions or restrictions in order to ensure that the rezoning is consistent with the city's Comprehensive Plan. Contract zoning shall be limited to property for which a rezoning is requested by the owner or other person with sufficient right, title and interest. Nothing in this section shall be interpreted to permit an amendment that is not consistent with the Comprehensive Plan. Areas rezoned under this provision shall be consistent with, but not limited to, the existing and permitted (whether permitted or conditional) uses within the original zones. Contract zoning is permitted in all zones except RP. By "contract zoning" this section means both contract and conditional zoning as enabled in 30A M.R.S.A. § 4352 (8).
(Amended 6/3/02)

1403-3. APPLICATION CONTENTS

A request for a contract rezoning shall include a written petition to the Planning Board requesting a rezoning, including the following:

- A. Evidence of right, title or interest in the property;

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- B. A plot plan showing the boundaries of the parcel and its dimensions, as well as the existing and proposed buildings and structures;
- C. A plan showing the location of existing streets and driveways within two hundred (200) feet of the property;
- D. A detailed statement of the proposed use of the property and the precise zoning change requested;
- E. A statement explaining how it is consistent with the Comprehensive Plan and permitted and existing uses within the original zone;
- F. A description of the property's unusual nature or unique location;
- G. A statement setting forth the conditions or restrictions that the applicant proposes. The Planning Board may propose additional conditions or restrictions.

1403-4. HEARING AND NOTICE

- A. The Planning Board shall conduct a public hearing before forwarding its recommendation to the City Council under this provision.
- B. Notice of the hearing shall be posted in City Hall at least fourteen (14) days before the public hearing.
- C. Notice shall also be published twice in a newspaper of general circulation, the date of first publication to be at least seven (7) days before the hearing.
- D. Public hearing notices shall be mailed to the owner of the property to be rezoned and all abutters to that property. Property owners in the Conservation District, any industrial district, the Resource Protection District, or the R-1, R-2, and R-4 districts, shall be notified by mail if their property is within six hundred (600) feet of the applicant's property. Property owners in the R-3 District, or any business district, shall be notified by mail when the applicant's property is located within two hundred (200) feet. This notice shall be sent out at least seven (7) days prior to the public hearing. This notice must contain a copy of the proposed conditions and restrictions with a map indicating the property to be rezoned.
- E. Failure of any property owner to receive a notice shall not necessitate another hearing or invalidate any action by the Planning Board or City Council.

1403-5. CONDITIONS AND RESTRICTIONS

Conditions and restrictions imposed under this section shall relate only to the physical development and operation of the property and may include, by way of example:

- A. limitations on the number and types of uses permitted;
- B. conditions on the scale and density of development, including the height, lot coverage and other space and bulk provisions;
- C. specifications for the design and layout of buildings and other improvements;
- D. schedules for commencement and completion of construction;
- E. performance guarantees securing completion and maintenance of improvements, and guarantees against defects;

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- F. preservation of open space and buffers, and protection of natural areas and historic sites;
- G. provision of municipal services required by the development;
- H. provisions for enforcement and remedies for breach of any condition or restriction, including the timing of the effective date of the change and its repeal should conditions not be met;
- I. the dedication or conveyance of property for public purposes, including but not limited to, streets, easements, parks and utility systems.

1403-6. RECOMMENDATION

Before forwarding a recommendation a contract zoning amendment to the City Council the Planning Board shall make a finding on each of the four standards in this subsection. A favorable recommendation to the Council requires a positive finding on all four standards. If the Planning Board makes a negative finding on any of the standards, its recommendation shall be negative. The Planning Board shall base its recommendation on whether the rezoning:

- A. is for land with an unusual nature or location;
- B. is consistent with the Comprehensive Plan;
- C. is consistent with, but not limited to, the existing uses and permitted uses within the original zone;
and
- D. that the conditions proposed are sufficient to meet the intent of this section.

(Amended 12-20-93)

1403-7. FINAL ACTION

Before amending the zoning ordinance for contract zoning, the City Council shall adopt the Planning Board's findings or other findings indicating that the rezoning is consistent with all four standards of 1403-6. (Amended 12-20-93)

1403-8. STATUS OF AMENDMENTS

Amendments to the zoning map and ordinance made under this section may be amended or repealed by the City Council.

1403-9. OTHER PERMITS

All applications for contract zoning are subject to site plan review. An applicant may seek other permits at the same time as he or she is seeking the contract zoning as if the contract zoning were already in effect, or may seek them after the City Council has approved the zoning amendment. If the applicant seeks approval before final Council action on the amendment, the Planning Board shall make its approval of these other permits contingent on the City Council's approval of the contract zoning amendment. (Amended 12-7-92)