



MID - COAST

REGIONAL PLANNING COMMISSION

166 SOUTH MAIN STREET, SUITE 201 ~ ROCKLAND, ME 04841

(207) 594-2299

Model Provisions for Amending Land Use Ordinances

These model provisions include criteria, procedures and application forms for reviewing proposed land use ordinance amendments and rezoning requests. Mid-Coast communities should consider these models in their drafting or amending of ordinances.

Background and Purpose: In the review of development proposals, some municipalities are asked to rezone portions of their community. This is often true for proposed large-scale projects that would affect the region beyond the individual municipalities in which such projects might be located. City council or town meeting votes are required to amend land use ordinances. Without well-defined and formal criteria and a regularized procedure, such requests may not be reviewed adequately, leading to decisions based just on the perceived benefits and costs, but lacking rigorous assessments that could better evaluate the positive and negative impacts of rezoning. With more detailed information, better decisions can be made, and where appropriate, impact fees assessed to offset the costs to taxpayers of new developments.

Please contact the Mid-Coast Regional Planning Commission with questions or for more information and assistance on drafting or amending your community's land use ordinances.

Model Criteria for Rezoning Requests

Zoning amendments may be sought by municipalities, requested by applicants with project proposals, or through citizen initiatives. In each case, public participation through a series of public meetings and hearings is essential and required. Before adopting any of these model provisions, an evaluation of your current ordinance amendment criteria and procedures - and their effectiveness as relates to zoning changes - should be undertaken.

Approval Criteria

LAND USE ORDINANCE rezoning approval criteria:

1. The proposed rezoning is consistent with the stated purpose and intent of the zoning district and regulations.
2. The proposed rezoning corrects an error or inconsistency or meets the challenge of some changing condition in the area.
3. The proposed rezoning will allow development that is compatible with existing uses and zoning of nearby properties.
4. The proposed rezoning will be in conformance with the locally adopted comprehensive plan.
5. The municipality and other service providers will be able to provide adequate public facilities and services to the property, while maintaining adequate levels of service to existing development.
6. The proposed rezoning will not result in significant adverse impacts on other property in the vicinity of the subject tract or on the environment, including air, water, noise, stormwater management, wildlife and natural resources.
7. And the subject property is suitable for the proposed zoning classification.

In addition to the criteria contained in the LAND USE ORDINANCE, there are additional factors that should be given consideration in all rezoning cases. These factors are:

1. The existing uses and zoning of nearby property.
2. Any proposed local zoning changes that are being contemplated as the result of a comprehensive planning effort already underway in the community.
3. The extent to which the property's value is diminished by the present zoning restrictions.
4. The extent to which the diminution of property values of applicant by the existing zoning promotes the health, safety, morals or general welfare of the public.
5. The relative gain to the public as compared to the hardship imposed upon the individual property owner.
6. The suitability of the subject property for the (presently) zoned purposes.
7. The length of time the property has been vacant as zoned considered in the context of land development in the area in the vicinity of the subject property.
8. The community need for the proposed use.

The municipality should designate a MUNICIPAL BOARD (which could be an existing board like the Planning Board or Board of Appeals) or committee (like an ordinance committee or a new committee) to conduct the review of rezoning requests including a

public hearing. Once reviewed by this board, rezoning requests would then be forwarded to the City Council for vote after public hearing(s), or to the Town Select Board for inclusion on a town warrant for a town meeting vote. Since the legislative power to enact zoning ordinance amendments rests either with the Town/City Council or with town voters, the MUNICIPAL BOARD reviewing rezoning requests would provide advisory rulings only. If additional authority for such a board is sought, consultation with legal staff and the Maine Municipal Association is recommended.

Model Procedure for Applicants

Introduction

The information contained in this package is to help you become familiar with the various requirements that must be met before your rezoning application can be accepted. This information will also prepare you to provide testimony and address any questions that might be raised at the public hearing.

Once your application is accepted, the entire rezoning process generally takes about --- months to complete. (For communities in which town meeting votes are required for ordinance amendments, regular or special town meetings may be used.) You will save considerable time and expense both for yourself and for the municipality through careful and proper preparation of your application

If you should have any questions, please contact ----- . If you wish to visit the office to discuss your application, please call ahead for an appointment.

Before Filing the Application

You are strongly urged to meet with the staff of ----- before preparing any rezoning application. The staff will advise you on the correct form to use, how to complete the application, explain the procedures involved, and attempt to identify potential problems which might be encountered. You may wish to obtain a copy of the land use ordinance to become familiar with the standards and requirements applicable to the requested rezoning. The staff of ----- will notify affected agencies, at your request, to seek their comments prior to the public hearing.

Before filing your application, you should discuss the proposal with all adjacent property owners. If the scale of the proposal could be reasonably assumed to have a regional impact, notify the elected officials of the nearest municipality within 1-1/2 miles of your property. For example, a large retail facility that would depend on customers beyond the boundaries of the town in which the facility is proposed to be located would have a regional impact. Clearly, it is in your interest to consult with these parties prior to filing an application. The staff of the ----- will officially notify all of these parties of the public hearing.

Proposed Zoning Amendments are forwarded to the Regional Planning Commission (RPC) for their review and recommendation. The RPC then makes a recommendation to the municipality.

Filing the Application

The following documents, information, and the correct filing fee must be submitted in proper form before your application will be accepted for processing.

- **The Application:** The application must be prepared in essentially the same format as the attached sample application. The application must address how the request

for rezoning meets the applicable standards contained in the land use ordinance.

- **The Applicants:** All fee owners of the subject property must be the applicants. If the property is subject to a contract to purchase, the contract purchaser shall also join as an applicant. Likewise, if the property is owned or to be purchased by a land trust, the trustee shall be an applicant.

- **Disclosure:** Whenever applicable, the following disclosures must be made:

When the applicant is a corporation, the applicant shall include the correct names, addresses and percent interest of all stockholders or shareholders owning any interest in excess of 20 percent of all outstanding stock of such corporation. If the corporation has no shareholders, a statement to that effect shall be submitted.

When the applicant is a business entity doing business under an assumed name, the application shall include the names and addresses of all true and actual owners of such business or entity.

When the applicant is a partnership, joint venture, syndicate, or an unincorporated voluntary association, the application shall include the names and addresses of all partners, joint ventures, syndicate members, or members of the unincorporated voluntary association.

When the applicant is a land trust or trustee of a land trust, the application shall identify each beneficiary of such land trust by name and address and define each beneficiary's interest therein. All Applications shall be verified by the applicant in his or her capacity as trustee.

- **Deed and Purchase Contract:** A copy of the deed to the subject property (available from the office of the Registry of Deeds) is required in all cases. If the property is subject to a purchase contract, a copy of the contract must also be submitted. The purchase price may be deleted.
- **Authorized Representative:** If the applicant(s) cannot attend the hearing, an authorized representative must be designated to act on the behalf of the applicant(s).
- **Maps:** Certain information must be shown on maps that accompany your application. Maps should be drawn clearly and where appropriate, be stamped by a licensed architect, engineer, or surveyor. If any map to be submitted is in color or measures larger than 11" x 17", fifteen copies of such map must be submitted. The following information should be shown on these maps:
 - ✓ The parcel to be rezoned (a plat of survey is preferred, if one is available)
 - ✓ The existing uses, dimensions, and current zoning of contiguous parcels
 - ✓ The dimensions and acreage (or square footage) of the subject parcel

- ✓ The location of all improvements, if any, on the subject property and the distances from these improvements to all property lines
 - ✓ The existing uses (e.g. “house”, “pastureland”, “gas station”, etc.; not to be confused with zoning districts) on all adjacent properties
 - ✓ The approximate locations of natural resources present on the property (see sample form at the end of this document), such as steep slopes, woodlands, floodplain, etc. (as defined by the LAND USE ORDINANCE and state and federal agencies)
- **Application Fee:** The application fee is to be paid at the time of filing the application. Checks must be payable to the municipality. See the attached Fee Schedule for the proper amount. No portion of this fee is refundable once a public meeting or hearing has been held.

The Public Hearing

The public hearing is generally held approximately --- weeks after an application is filed. The time and place of the hearing is scheduled by the MUNICIPAL BOARD responsible reviewing the rezoning application. The public hearing is usually held in the municipality in which the property is located. The attached procedure sheet outlines the procedure to be followed by the municipality at the public hearing. In addition to the filing fee, you will be billed separately for the cost of publishing the legal notice of the hearing in the newspaper.

The following information is commonly presented by applicants at public hearings. This list is advisory only and certain items may not be applicable in every case. However, if the MUNICIPAL BOARD feels that certain information is essential, it may require that such information be submitted prior to arriving at a decision on the case.

For example, if the desired use for the subject parcel is not clearly and specifically listed in the Use Table (See ----- in the LAND USE ORDINANCE), the petitioner should contact the staff of the ----- for clarification and/or a written opinion regarding the Zoning District(s) in which the proposed use is permitted.

Other such items may include:

- ✓ Copies of any and all contracts, leases, deeds, trust agreements, title reports, etc., which in any way affect the ownership or use of the subject property,
- ✓ Copies of any and all covenants, deed restrictions, easements, etc. which in any way affect the subject property,
- ✓ A plat of survey of the subject property, if one is available,
- ✓ A copy of any proposed plat of subdivision and/or topographic maps which

have been prepared for the subject property,

- ✓ A map of the parcel showing the location of all significant mature vegetation, drainage patterns, floodplain boundaries and other significant natural features,
- ✓ Photos or an architectural drawing of a typical or a proposed building(s) to be constructed on the parcel,
- ✓ Any market reports, studies, or other evidence or testimony to substantiate that there is a public need for the proposal,
- ✓ The results of any on-site soil borings conducted on the subject property. In those cases in which private well and septic systems will be utilized, the results of these borings should be confirmed by the MUNICIPAL BOARD.
- ✓ If private wells are to be utilized, any testimony or evidence in regard to the quality and quantity of available groundwater.
- ✓ If public water and/or sewers are to be utilized, documentation should be submitted to substantiate the availability of this service.
- ✓ Comments from the local fire protection district relative to the availability or potential problems of furnishing adequate fire protection may be required.
- ✓ If a State road is involved, evidence of communications with the Department of Transportation as to the availability of access permits, traffic impact and adequacy of roadway design may be requested. Likewise, if a municipal road is involved, the Municipal Highway Commissioner or equivalent should be contacted.
- ✓ If local school districts will be affected, comments from the district superintendent should be presented.

Be prepared to address each specific approval criteria (See ----- in the LAND USE ORDINANCE) in providing testimony at the public hearing.

After the Public Hearing

Within --- days of the public hearing, the MUNICIPAL BOARD must prepare a recommendation that will be presented to the full municipal SELECT BOARD/COUNCIL at its next regular meeting. At this time the TOWN/CITY COUNCIL either approve or deny the rezoning request, or the SELECT BOARD will make a recommendation to place the request on the town warrant for town meeting vote.

MUNICIPAL BOARD
REZONING APPLICATION

Applicant(s):
(please print)

Owner(s)

Phone: _____

Fax: _____

Address

Phone: _____

Contract purchaser(s) if any

Fax: _____

Address

I/we hereby authorize the following person to represent me/us in all matters related to this application:

Name

Phone: _____

Cell: _____

Fax: _____

Email: _____

Address

Subject
Property:

Present Zoning: _____

Present Use: _____

Proposed Use: _____

PIN(s): _____

Address: _____

Legal description:
(__ see deed)

Request: I/we request the property be rezoned to the _____ zoning district.

I/we believe this rezoning is justified because:

Approval The MUNICIPAL BOARD is required to make findings of Criteria fact on your request. You should “make your case” by explaining specifically how your proposed request relates to each of the following criteria:

1. The proposed rezoning is consistent with the stated purpose and intent of the zoning regulations (see -----);
2. The proposed rezoning corrects an error or inconsistency or meets the challenge of some changing condition in the area;
3. The proposed rezoning will allow development that is compatible with existing uses and zoning of nearby property;
4. The municipality and other service providers will be able to provide adequate public facilities and services to the property, while maintaining adequate levels of service to existing development;
5. The proposed rezoning will not result in significant adverse impacts on other property in the vicinity of the subject tract or on the environment, including air, water, noise, stormwater management, wildlife and natural resources; and

6. The subject property is suitable for the proposed zoning classification.

I/we hereby attest that all information given above is true and complete to the best of my/our knowledge.

Signature of owner(s)

Signature(s) of contract purchasers

I, _____ a Notary Public aforesaid, do hereby certify that

_____ personally known to me is (are) the person(s) who executed the foregoing instrument bearing the date of _____ and appeared before me this day in person and acknowledged that he/she/they signed, sealed and delivered the same instrument for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this _____ day of _____, 20__.

(Seal)

My Commission expires _____.

**THE FOLLOWING DOCUMENTS MUST BE SUBMITTED WITH THE APPLICATION
(see -----)**

- ✓ COPY OF DEED
- ✓ COPY OF PURCHASE CONTRACT (if applicable)
- ✓ MAP OF SURROUNDING LAND USES
- ✓ DISCLOSURE STATEMENT (if applicable)
- ✓ PROPERTY SURVEY and / or SITE PLAN (if applicable)
- ✓ FILING AND NOTIFICATION FEES

Zoning Fee Schedule

Map Amendment to an Agricultural, Residential, or ----- Zone/District

Less than 2 acres	\$1,400
2 acres but less than 5 acres	2,300
5 acres but less than 10 acres	3,200
10 acres to 20 acres	3,500
21 acres but less than 200 acres	3,850
plus each additional full acre over 21 acres	25
201 acres or more	5,000
plus each additional full acre over 201 acres	15

Map Amendment to a Commercial, Industrial or ----- Zone/District

Less than 2 acres	\$2,850
2 acres but less than 5 acres	3,850
5 acres but less than 10 acres	5,600
10 acres to 100 acres	7,500
101 acres or more	9,250
plus each additional full acre over 101 acres	90

Model Procedure of Public Hearing

1. **Call meeting to Order.**
2. **Roll Call and Determination of Quorum.**
3. **Pledge of Allegiance** (if flag is present).
4. **Preliminaries by Chairman:** State purpose of hearing, acknowledge publication and posting of the property, oath to those who are to testify; explain procedure to be followed for the remainder of the hearing.
5. **Comments received from the Municipal Departments are acknowledged.**
6. **Presentation of evidence by the petitioner or designated Representatives.**
 - Opening statement.
 - Testimony by the petitioner's witnesses.
 - Questioning of each witness by the Members of the MUNICIPAL BOARD.
 - Questioning of each witness by any person attending this hearing.

(NOTE: This is an opportunity only to question the witnesses, not to make statements or offer personal testimony)

 - Close of petitioner's evidence.
7. **Presentation of evidence by the objectors or their Representatives.**
 - Opening statement.
 - Testimony by the objectors' witnesses.
 - Questioning of each witness by the Members of the MUNICIPAL BOARD.
 - Questioning of each witness by any person attending this hearing.

(NOTE: This is an opportunity only to question the witnesses, not to make statements or offer personal testimony)

 - Close of objectors' evidence.
8. **Presentation of Statements by any person attending the Hearing.**
9. **Closing Statement by the Petitioner or Designated -Representative, if desired.**
10. **Closing of Testimony.**
11. **Statement by the chairman as to the rights of objectors and instructions for filing objections.**
12. **Municipal Board Discussion and Recommendation.**
13. **Adjournment.**

Model Natural Resource Information Report Request

Petitioner's Name: _____
Address: _____ Phone: _____
Contact Person: _____
Address: _____ Phone: _____

Petitioner's Copy of the Report should be sent to: Petitioner -or- Contact Person

PROPERTY INFORMATION:

Property Size: _____ acres Number of Parcels: _____
Map/Block/Lot and/or Tax Parcel ID: _____
Parcel Location (with address or street intersections): _____

REQUESTED ZONING/PLANNING CHANGE(S): (Check all applicable items)

- | | |
|--|---|
| <input type="checkbox"/> Variance | <input type="checkbox"/> Conditional Use Permit |
| <input type="checkbox"/> Zoning Change | <input type="checkbox"/> Subdivision |
| <input type="checkbox"/> Annexation | <input type="checkbox"/> Other _____ |

Unit of Government Responsible: _____ Date of Hearing: _____
Current Zone: _____
Requested Zone: _____
Existing Land Use (e.g., farmland): _____
Proposed Land Use (e.g., single family residences): _____
Proposed No. of Lots: _____ Proposed No. of Structures: _____

PROPOSED IMPROVEMENTS: (Check all applicable items)

<u>Planned Structures:</u>	<u>Open Space:</u>	<u>Water Supply:</u>
<input type="checkbox"/> Dwellings w/o Basements	<input type="checkbox"/> Park/Playground Areas	<input type="checkbox"/> Individual Wells
<input type="checkbox"/> Dwellings with Basements	<input type="checkbox"/> Common Open Space Areas	<input type="checkbox"/> Community Water
<input type="checkbox"/> Commercial Buildings	<input type="checkbox"/> Conservancy Easements	
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____	

Wastewater Treatment:

Stormwater Management:

<input type="checkbox"/> Septic System	<input type="checkbox"/> Drainage Ditches/Swales	<input type="checkbox"/> Wet Retention Basin
<input type="checkbox"/> Sanitary Sewers	<input type="checkbox"/> Storm Sewers	<input type="checkbox"/> No Detention Facilities Proposed
<input type="checkbox"/> Other _____	<input type="checkbox"/> Dry Detention Basin	<input type="checkbox"/> Other _____

EXISTING SITE CHARACTERISTICS: (Check all applicable items)

<input type="checkbox"/> Ponds or Lakes	<input type="checkbox"/> Floodplain	<input type="checkbox"/> Woodland	<input type="checkbox"/> Drainage Tiles
<input type="checkbox"/> Perennial Stream	<input type="checkbox"/> Floodway	<input type="checkbox"/> Cropland	<input type="checkbox"/> Grassland/Prairie Remnant
<input type="checkbox"/> Intermittent Stream	<input type="checkbox"/> Wetland(s)	<input type="checkbox"/> Disturbed Land	<input type="checkbox"/> Wooded Fence Rows

IMPEDIMENTS TO SITE VISIT:

Is advanced notice required: Yes No _____ Locked Fence
If yes, to whom? _____ _____ Dog on Premises
(Name & Phone Number) _____ _____ Other Hazardous Feature(s)