



CITY COUNCIL ACTION

Council Meeting Date: February 8, 2021

Item No: 21-086

Responsible Dept: Planning/Legal

Action Requested: Ordinance

Map/Lot: N/A

Title, Ordinance

Amending Chapter 165, Land Development Code, Section 165-17 to eliminate conflicts with Section 165-18.

Summary

This Ordinance would eliminate the conflict between two provisions in the Land Development Code's nonconformities chapter.

Section 165-18 of the Code allows a property owner to rebuild a nonconforming residential structure in URD-1 and URD-2 within three years after the building was demolished. This provision helps to ensure that the Code is not forcing a reduction in the amount of available housing.

Section 165-17 appears to prohibit the same replacement that 165-18 allows if the demolished structure was vacant. Such a provision may make property owners less willing to demolish dilapidated buildings, knowing that the buildings will lose their nonconforming status.

This amendment changes Section 165-17 to allow replacing a building as authorized by Section 165-18, provided that the building was not vacant for more than seven years prior to the application for a building permit that is then granted.

Committee Action

Committee: Business and Economic Development

Meeting Date: February 2, 2021

Action:

For: 5

Against: 0

Staff Comments & Approvals

As this is an amendment to the Land Development Code, this is also scheduled for the Planning Board meeting of February 16, 2021.

City Manager

City Solicitor

Finance Director

Introduced for: First Reading and Referral



CITY COUNCIL ORDINANCE

Date: February 8, 2021

Assigned to Councilor: Dubay

ORDINANCE, Amending Chapter 165, Land Development Code, Section 165-17 to correspond with Section 165-18, by allowing an abandoned structures three years to rebuild if it was abandoned for less than seven years and then destroyed.

WHEREAS, at present, the requirement is so long as a property has been vacant for a period of seven years or longer, changed to another use, or destroyed.

WHEREAS, in order to have Section 165-17 correspond with Section 165-18 and allow for structures that were abandoned less than seven years and destroyed to have three years to rebuild.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANGOR AS FOLLOWS, THAT

Chapter 165 of the Code of the City of Bangor is amended as follows:

§ 165-17 Discontinuance.

- A. If any nonconforming use is discontinued for 12 consecutive months it shall be deemed abandoned, and the right to continue it shall terminate; provided, however, that even after such discontinuance a conforming or conditional use may be established in accordance with § 165-20 below.
- B. Notwithstanding Subsection A above, a nonconforming residential unit otherwise in compliance with this Code of Ordinances may, upon application for and receipt of a certificate of occupancy, retain its nonconforming residential use so long as it has not been vacant for a period of seven years or longer, changed to another use, or destroyed. Provided, however, that if Subsection B of Section 165-18 would allow reconstruction of a destroyed residential unit and that unit was not vacant for more than seven years prior to the application for a building permit for said reconstruction, then this Section will not prohibit reconstruction of that unit if the building permit is in fact granted by the Code Enforcement Office.

Additions are underlined, deletions ~~struck through~~.



CITY OF BANGOR
Planning Division

Memorandum

To: Honorable Bangor City council
Cathy Conlow, City Manager

CC: Tanya Emery, Director of Community & Economic Development
Jeff Wallace, Code Enforcement Officer

From: Anne Krieg AICP, Planning Officer
Josh Saucier, Assistant City Solicitor

Date: March 3, 2021

Regarding: Amending Chapter 165, Land Development Code, by Eliminating Conflicts with Section 165-18, Non-Conformities

Please accept this memorandum as the recording and explanation of the Planning Board action on the above noted item at their requisite public hearing dated March 7, 2021.

Assistant City Solicitor Saucier provided the staff report to the Board, points included the following:

- A. The City's Code of Ordinances contains a chapter on nonconformities. This is a chapter of the Code that City Staff have an interest in rewriting in its entirety, and staff are working on that rewrite. In the meantime, there are two provisions that are in conflict with one another, and are prohibiting the redevelopment of a tax acquired property that the City recently sold, and possibly others.
- B. Those two provisions are Section 165-17 and Section 165-18. Section 165-18 allows nonconforming residential structures to be rebuilt on the same footprint within three years of their destruction. Section 165-17 appears to prohibit the same replacement that 165-18 allows if the demolished structure was vacant. This conflict may make property owners less willing to demolish dilapidated buildings, knowing that the buildings will lose their nonconforming status.
- C. This amendment changes Section 165-17 to allow replacing a building as authorized by Section 165-18, provided that the building was not vacant for more than seven years prior to the application for a building permit that is then granted.
- D. Staff recommend approval of this change, which resolves a conflict in the City's Code of Ordinances.

City of Bangor Planning Division

Planning Board action summary

Amending Chapter 165, Land Development Code, by Eliminating Conflicts with Section 165-18, Non-Conformities

Upon answering minor clarifications questions, the Board unanimously passed a motion to recommend to the City Council that the amendment ought to pass. The motion was made by Meagher and seconded by Shaw.

IN CITY COUNCIL

FEBRUARY 8, 2021

COrd 21-086

Motion made and seconded for First Reading and Referral to Planning Board Meeting of February 16, 2021

Vote: 9 – 0

Councilors Voting Yes: Davitt, Dubay, Fournier, Hawes, Nichols, Okafor, Schaefer, Sprague, Tremble

Councilors Voting No: None

Passed



CITY CLERK

IN CITY COUNCIL

MARCH 8, 2021

COrd 21-086

Motion made and seconded for Passage

Vote: 9 - 0

Councilors Voting Yes: Davitt, Dubay, Fournier, Hawes, Nichols, Okafor, Schaefer, Sprague, Tremble

Councilors Voting No: None

Passed



CITY CLERK