

ENGLISH TRANSLATION

New Law on Constructions valid from January 1st, 2018

As presented to the APCAV General Assembly by the Commune de Bagnes on
DECEMBER 28, 2018

Preamble:

Request from your President to have a brief presentation on the elements, which may be of direct interest to you as a land or property owner.

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Since January 1, 2018, the municipalities have 7 years, specifically until January 2025, to implement their new Municipal Regulations for Buildings and Zones (RCCZ). It will have to integrate all the new concepts of the Cantonal Law (LC) and respect the new law of regional planning (LAT) (dimensioning of the zones to be built).

For information, the Commune of Bagnes must not delete building zones. In fact, according to the Canton's calculations, its reserves of building areas are slightly lower than the need for the next 15 years.

However, the new LC provides that certain provisions will apply immediately during the interim period between January 1, 2018 and the effective date of the new RCCZ.

The main novelty consists in the calculation of the building density, though it should be noted that no modification affects the prescriptions concerning the authorized volumes (height, width, distance to the neighboring bottom, etc ...).

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To date, the calculation is done with the "Gross Useable Floor Area" (SBPU)

It is legally defined as follows:

"Sum of all surfaces above and below the ground, including the surface of walls and walls in their horizontal sections, which are directly used for habitation or for the exercise of a professional activity or which are usable to this effect (art. 5 al. 2 OC).

The following are not taken into consideration:

- service rooms outside the accommodation such as cellars, attics, dryers and laundries, technical heating rooms for wood, coal or oil tanks;
- rooms for the elevator machinery, ventilation and air conditioning systems;
- common-use games & crafts areas in multi-unit buildings;

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- garages for motor vehicles, bicycles and baby cars, not used for a professional activity;
- corridors, stairs and elevators serving **only** areas not directly usable;
- open entrance porticos, attic terraces, covered and open, balconies and open loggias;
- glazed spaces (verandas, oriels, greenhouses, winter gardens) that cannot be used for permanent accommodation (located outside the thermal envelope) or for commercial or professional activities;
- underground warehouses insofar as they are not open to the public, nor equipped with workplaces.

However, counted as usable area:

- attic space with a finished height under rafters greater than 1.80 m .;
- Basements that can be used for work or for living."

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With the new LC, the owner can always invoke this (rather complex) calculation method if it is more favorable.

On the other hand, the owner can also use a simpler calculation which is that of the "Gross Land Use Index" (IBUS)

The latter is simpler in its understanding:

"ALL BUILT SURFACES ARE COUNTED *"

* The following are not taken into account in the calculation of the IBUS: parking spaces / covered car spaces which are not closed and areas in the attic whose height is less than 1.80 m.

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Drawings on page 6 explain IBUS index

Dark lines on each floor represent the Floor Surface

AIHC ch. 8.2 All built surfaces are counted

Reminder: LC 13 and 5 ss OC only counted are the habitable surfaces

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Drawings on page 7 (2 different colored floor plans) explain the differences between calculations

IBUS art.18 LC / norme SIA 416 (*new method*) **versus** SBPU art. 5 aOC (*old method*)

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To maintain or even increase the building potential of the plots, the new LC provides a mechanism for increasing the construction index in the different zones:

See chart on APCA website: Construction regulations.

Measurements are calculated Usage index x 1.333 (but 0.5 min) = IBUS

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The calculation must be done on a case-by-case basis. For constructions with large basements, the new IBUS calculation is not always more favorable than that of the SBPU of the current regulations.

This concept is also different from that used in the Law on Secondary Residences (Art. 11 LRS) which allows an extension of 30% of the dwellings built before the introduction of the LRS. The 30% is calculated here in relation to the preexisting main useful areas (SIA 416), a concept fairly close to that of the SBPU.

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Density transfer (Art 20 LC / 13 OC):

A density transfer can be carried out for non-contiguous plots, however located in the same building area. It is also possible to transfer density through a service road.

It is reminded that these density transfers must be in the form of servitudes/easements (authentic form) to be registered in the Land Registry.

The municipal administration's construction service is at your entire disposal for any questions.

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Last important information:

During the analysis made by the Canton on the construction service of Bagnes, it was noted that the version of our RCCZ, also used by the judicial authorities, did not correspond to that archived by the Canton in the early 2000s;

The main difference lies in the heights of the constructions authorized in zones T3 and T4. The RCCZ provided for heights of 9 and 8 m respectively, while the approved version of the Canton prescribed heights of 8.5 and 7.5 m.

A partial modification of our RCCZ was initiated immediately to regularize the situation. The General Council and the Municipal Council have already validated this modification which must be approved by the Council of State.

Until then, the authorized heights are 8.5 m. for the T3 zone and 7.5 m. for the T4 area.

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- Translated 31.01.2020 by LF