

Town of Robbinston

Land Use and Development Code

ARTICLE I. GENERAL

1. Title

This Ordinance and the accompanying land use (zoning) map shall be known and may be cited as the “Land Use Ordinance of the Town of Robbinston, Maine.”

2. Authority

This Ordinance has been prepared and adopted pursuant to the enabling provisions of Article VIII, Part 2, of the Maine Constitution, the provisions of Title 30-A M.R.S. § 3001 (Home Rule), and the Comprehensive Planning and Land Use Regulation Act, Title 30-A M.R.S. § 4301, *et seq.*

3. Purposes

The purposes of this Ordinance are:

- A. To implement the provisions of the Town’s Comprehensive Plan;
- B. To encourage growth in the identified growth areas of the community, and to limit growth in the rural areas;
- C. To promote the health, safety, and general welfare of the residents of the community;
- D. To encourage the most appropriate use of land throughout the community;
- E. To promote traffic safety;
- F. To provide safety from fire and other elements;
- G. To provide an allotment of land area in new developments sufficient for adequate enjoyment of community life; and
- H. To conserve natural resources.

4. Applicability

The provisions of this Ordinance shall govern all land areas of the Town of Robbinston. Areas within the shoreland zone as described in the Town of Robbinston Shoreland Zoning Ordinance are subject to the provisions of that ordinance. Uses of land existing or for which approval has been requested at the time these regulations came into effect and that are otherwise lawful are not affected. If such uses are discontinued for more than 12 consecutive months or are substantially destroyed or expanded, they may not be reestablished except in accordance with the provisions of this Ordinance.

5. Conflicts with Other Ordinances

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation, or statute, the more restrictive provision shall control. This Ordinance supersedes and replaces the Land Use and Development Code, last amended in March 1995, and shall not prevent enforcement of the repealed ordinance with respect to the time periods in which it was in effect.

6. Validity and Severability

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

7. Effective Date of the Ordinance and Ordinance Amendments

The effective date of this Ordinance shall be the date of adoption by the legislative body on _____.

8. Amendments

This Ordinance may be amended by a majority vote of the legislative body.

9. Availability

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of this availability shall be posted.

10. Annual Administrative Review

The Code Enforcement Officer (CEO), Planning Board and Board of Appeals each shall report annually, in the month of January, to the Select Board on their respective experience with the administration of this Ordinance during the previous year. Their reports shall include any recommended amendments that would:

- A. Enhance their ability to more effectively meet their respective administrative responsibilities under this Ordinance; and
- B. Enhance the implementation of the purposes of this Ordinance contained in Article 1, Section 3.

The failure of any person or board to comply with this provision shall not affect the validity or enforceability of this Ordinance in any way.

ARTICLE II. LAND USE DISTRICT REQUIREMENTS

1. Establishment of Districts

For the purposes of this Ordinance, the Town of Robbinston is hereby divided into the following land use districts: General District.

A. General District

- 1. Designation: All land areas within the Town that are not included in a shoreland overlay district or part of any other district identified in this ordinance.

2. Rules Governing District Boundaries

The location and boundaries of the land use districts are established as shown on the “Town of Robbinston Land Use Map,” which is hereby made a part of this Ordinance. This map shall be on file in the office of the Town Clerk. Unless otherwise set forth on the Town of Robbinston Land Use Map, district boundary lines are property lines, the centerlines of roads, streets and rights-of-way or such lines extended, and the center lines of water courses or such lines extended, or the Town boundary lines. Boundaries indicated as following or parallel to shore lines shall be construed to follow or be parallel to the normal high water mark of such shore lines, and in the event of changes in the shore line shall be construed as moving with the actual shore line. Where uncertainty exists as to the exact location of the district boundary lines, the Board of Appeals shall interpret the district boundaries. Exclusive of lands subject to shoreland zoning requirements, where a land use district boundary line divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the regulations applicable to the less restricted portion of the lot may be extended not more than 100 feet into the more restricted portion of the lot.

3. Land Use Requirements

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded,

moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

4. District Purposes

The purpose of these district requirements is to implement the municipality's Comprehensive Plan and to provide for orderly growth and development.

- A. Management District. The purpose of the Management District is to protect and conserve those areas suited for the large-scale, commercial production of agricultural, aquacultural, and forest products and to limit development of areas otherwise suited for varied use, in accordance with ability of Town and others to provide public facilities and services.
- B. General District. The purpose of the General District is to encourage such other residential, recreational, commercial, and industrial development and land uses which are consistent with the health, safety, and general welfare of the inhabitants of the Town and to discourage inconsistent, unsuitable, and incompatible development and land use.

5. District Requirements

All land use activities shall conform with all of the applicable land use standards set forth in this Ordinance. The district designation for a particular site shall be determined from the Official Land Use Map. Land uses permitted in each of the districts, in accordance with the land use standards of this Ordinance, are shown in Table 1.

Key

Districts

G General Districts

Permit Symbols

YES Yes, allowed without a permit, but must comply with land use standards
CEO CEO permit required
C Permitted as conditional use upon approval by Planning Board
NO Not allowed

TABLE 1

Activities/Districts	G
Resource Extraction Activities	
Commercial timber harvesting	
Production of commercial agricultural products	
Mineral extraction not associated with permitted development, affecting an area of less than 5 acres in size	
Mineral extraction operations for any purpose affecting an area of 5 acres or greater in size except when associated with permitted development	
Filling, grading, draining, dredging, or alteration of water table or water level, not including individual wells	
Accessory uses and structures that are essential for the exercise of uses listed above	

Activities/Districts	G
Residential Activities	
Single-family detached dwelling	
Condominium/town houses	
Single-family mobile home	
Multi-family dwelling: duplexes	
Multi-family dwelling: 3 or more families, including apartments	
Mobile home parks	
Nursing home/boarding care facility	
Home occupations	
In-law apartments	
Group homes with up to 3 residents	
Group homes with more than 3 residents	
Accessory uses or structures that are essential for the exercise of uses listed above	

Activities/Districts	G
Institutional Activities	
Hospital	
Medical clinic, facilities, and services	
Government facilities and services	
Public schools	
Private schools (under 15 students)	
Day care centers	
Churches	
Cemeteries	
Fraternal organizations	
Community center	
Addiction treatment facilities	

Activities/Districts	G
Institutional Activities	
Accessory uses and structures that are essential for the exercise of uses listed above	

Activities/Districts	G
Commercial Activities	
Automobile supplies	
Automobile body repair	
Automobile repair/service	
Banks/credit unions	
Beauty shops	
Sporting camps	
Clothing store	
Fireworks sales	
Craft shops	
Florist shop/greenhouse	
Fuel oil sales	
Funeral homes	
Professional offices	
Professional offices complex	
Pharmacy	
Restaurant	
Animal hospital/clinic	
Take-out restaurant (no interior seating)	
Recreation vehicle sales and service	
Automobile sales	
Boarding kennels	
Commercial kennels	
Bed and breakfast	
Motels, hotels, inns, maximum of 10 rooms	
Motels, hotels, inns, more than 10 rooms	
Campgrounds	
Retail establishments of more than 5,000 square feet	
Retail establishments of less than 5,000 square feet, not listed above	
Self-storage buildings	
Sales and service of motor homes and camper trailers	

Activities/Districts	G
Industrial Activities	
Lumber yard, sawmill	
Transportation facility and terminal yard	
Bulk oil and fuel tank storage in excess of 50 gallons except for on-site heating and cooking purposes	
Salvage and recycling facility	
Wholesale business facility	

Activities/Districts	G
Industrial Activities	
Light manufacturing facility	
Disposal of solid waste	
Sewage treatment facility	
Wood products manufacturing facility	
Print/publishing facility	
Warehousing facility	
Distributing facility	
Processing facilities (industrial)	
Processing facilities (agricultural)	
Accessory uses and structures that are essential for the exercise of uses listed above	

Activities/Districts	G
Transportation & Utilities	
Land management roads with water crossings of minor flowing waters	
Land management roads with water crossings of standing waters and of major flowing waters	
Road construction projects, other than land management roads, and not part of a project requiring a permit from the Planning Board	
Road construction projects, other than land management, which are part of projects requiring Planning Board review	
Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops	
Thermal, building-integrated photovoltaic, building-mounted photovoltaic, roof-mounted, or small-scale ground-mounted Solar Energy System	
Medium and large-scale ground-mounted Solar Energy System	
Accessory uses and structures that are essential for the exercise of uses listed above	

ARTICLE III. ADMINISTRATION, ENFORCEMENT AND PENALTIES

1. Administering Agencies

A. Code Enforcement Officer (CEO)

1. Appointment. The Select Board, within 30 days of vacancy, shall appoint one or more persons to serve a term of one year unless removed for cause by the Select Board or unless a majority of the Planning Board so request.

2. Compensation. The CEO shall be compensated by appropriation or transfer of funds in the town budget. If the governing body fails or neglects to appropriate such funds, then such appropriation shall be considered to have been made and compensation shall be paid at an hourly rate in accordance with scales prevailing in the area for comparable responsibilities and skill.
3. Inter-local agreement. The Select Board, upon the recommendation of the Planning Board, shall enter into a contract for the performance of the duties of a CEO with the regional planning commission, the board of county commissioners, or any other inter-local agency capable of performing such services.
4. Duties and responsibilities. The CEO shall be responsible to the Planning Board. Unless otherwise provided in this Ordinance, the CEO shall administer and enforce this Ordinance. No permit application shall be approved by the CEO except in compliance with the provisions of this Ordinance. The CEO shall have the following duties, among others, in enforcing this Ordinance:
 - a. Act upon all applications and collect any fees due, refer/process all applications as required, and make findings and recommendations to the Planning Board for action on such applications.
 - b. Act upon permit applications that are under the jurisdiction of the CEO.
 - c. Refer requests for variances and administrative appeals to the Board of Appeals.
 - d. Inspect sites where permit applications have been approved to ensure compliance with local ordinances and State laws or rules.
 - e. Investigate complaints and reported violations.
 - f. Keep written inspection reports and thorough records.
 - g. Issue violation notices and notify the Planning Board of any apparent violations of this Ordinance or orders or conditions of the Planning Board.
 - h. Participate in appeals procedures.
 - i. Process or act on consent agreements involving violations of this Ordinance and appear in court when necessary.
 - j. Prepare agendas for mailing at least seven days before meetings of the Planning Board and Board of Appeals, and attend meetings of the Planning Board and Board of Appeals where applicable.

- k. Revoke any permit after notice if it was issued in error or if it was based on erroneous information.
- l. Refer matters to the Board of Appeals when there is a question concerning the interpretation of this Ordinance.
- m. Advise the Planning Board of the enactment, amendment, repeal, or promulgation of applicable state laws and regulations and interpretation related thereto.

B. Planning Board

- 1. Duties and responsibilities. In addition to any other responsibilities which may be imposed in other parts of this Code or by any other law or ordinance, the Planning Board shall:
 - a. Make any inspection necessary to carry out its responsibilities;
 - b. Provide consultation to other local, regional, and State officials when requested and on its own initiative make recommendations to such officials regarding any matter within the purposes or provisions of this Ordinance;
 - c. Obtain technical assistance and advice from public agencies, firms, and individuals. Where a fee or other cash expenditure is not provided for in its approved budget, the applicant whose permit request necessitates such technical assistance shall agree in writing to pay for such services;
 - d. Devise or adopt forms and other materials to make more efficient and uniform the administration of Ordinances;
 - e. Establish and make public the rules for holding and conducting public hearings within the provisions set forth in this Ordinance;
 - f. Record in writing or by other permanent means a summary of its deliberations regarding any permit required by this Ordinance to be issued by the Planning Board and set forth as fully as is practicable its reasons for granting or denying an approval requested of it or in connection with which its consultation has been requested or its recommendation given;
 - g. Require, as it deems necessary for the protection of buyers, lessees, other grantees, or the public, that in advertisements or other offers to convey, the subdivider, grantor, or agent inform said grantees or the public that the subdivision or lot is subject to this Ordinance and any specific terms and conditions imposed in the granting of any permit or approval under this Ordinance;

- h. Submit a written report in detail to the Select Board annually, before the first day of January, regarding its responsibilities under this Ordinance and including an evaluation of the effectiveness of this Ordinance and recommending any amendments to it.
2. Issuance of permits. Following approval by the Planning Board, the applicant shall return to the CEO for issuance of any applicable permits.

C. Plumbing Inspector

1. Appointment and certification requirements. The Select Board shall appoint one or more inspectors of plumbing, who need not be residents of the municipality for which they are appointed. The appointment and qualifications of the Plumbing Inspector shall conform to the requirements of Title 30-A M.R.S.A. § 4221, as the same may be amended.
2. Duties and responsibilities. In addition to any other responsibilities that might be imposed in other parts of this Ordinance or by any other law, the Plumbing Inspector shall:
 - a. Prepare a program for carrying out a comprehensive survey of sanitary waste disposal facilities existing in the Town, including the type, location, present condition, and property owner of record. Such survey shall be carried out in consultation with the Planning Board and municipal officers. The Plumbing Inspector shall from time to time make recommendations of such officials regarding the repair or replacement of improper sanitary waste disposal systems;
 - b. Inspect all plumbing for which permits are granted to ensure compliance with state rules and ordinances and investigate all construction or work covered by those rules and ordinances;
 - c. Condemn and reject all work done or being done or material used or being used that does not comply with state rules and municipal ordinances, and order changes necessary to obtain compliance;
 - d. Issue a certificate of approval for any work that the inspector has approved;
 - e. Keep an accurate account of all fees collected and transfer those fees to the municipal treasurer;
 - f. Keep a complete record of all essential transactions of the office;
 - g. Investigate complaints of alleged violations relating to plumbing or subsurface waste water disposal and take appropriate action as specified by the Department of Health and Human Services (DHHS) by rule in DHHS's

enforcement manual for subsurface waste water disposal and plumbing rules;
and

- h. Accompany staff of the Department of Environmental Protection or DHHS in the conduct of a sanitary survey intended to identify potentially failing subsurface waste water disposal systems affecting shellfish harvesting areas when requested by either agency.
- i. Annually, before the first day of January, make a full report in detail to the Planning Board of all activities during the preceding year regarding the administration of the State Plumbing Code, the provisions of this Ordinance, and related laws or ordinances.

2. Permits Required

It shall be unlawful, without first obtaining a permit from the appropriate reviewing authority, to engage in any activity or use of land or structure requiring approval in the district in which such activity or use would occur; or change, replace, or substantially expand an existing use or structure; or renew a discontinued nonconforming use. Approval shall be required for:

- A. Any activity listed in Article 2, Land Use Districts, as requiring approval from the CEO.
- B. Any activity listed in Article 2, Land Use Districts, as requiring approval from the Planning Board.

3. Permit Application

- A. Written application. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the CEO. The following items, when appropriate, shall be included on the application.
 - 1. A map or other means of showing the shape, size, topography, soil characteristics, and location of the lot to be built upon and structures to be erected, altered, or removed.
 - 2. Any structures already on the lot.
 - 3. Depth of front yards of structures and adjoining lots.
 - 4. Statement of intended use.
 - 5. Documentation that the applicant has right, title, or interest in the property.

6. The nature and extent of all alterations of the land, construction, or other use or development proposed (whether or not to be carried out immediately).
 7. Steps to be taken in regard to erosion control, conservation of shoreland trees and vegetation, preservation of points of public access to public bodies of water, and the protection of the natural beauty or present appearance of shoreland areas.
- B. Signature. All applications shall be signed by the owner of the property or the owner's legal agent, certifying that the information on it is complete and accurate. If the person signing the application is not the owner or lessee of the property, then that person shall submit a letter of authorization from the owner or lessee.
- C. Application to be dated. All applications shall be dated, and the CEO or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- D. Plumbing permit. A valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface wastewater disposal system.
- E. Fees.
1. Applications for a permit shall be accompanied by an appropriate fee to be set by the Select Board. A copy of the Schedule of Fees is available at the Town office. This application fee shall be made by check payable to the Town. No application shall be found complete until the fee is paid. This fee shall not be refundable.
 2. Any modification to the description, scale drawing, or site plan of the proposed structures shall require a revised application, payment of an additional one-half of the application fee, and approval in accordance with the provisions of Article 2, Land Use District Requirements, prior to beginning the work.

4. Procedure for Administering Permits

A. Submission of permit applications to CEO

1. Determination of complete application. Within 30 days of the date of receiving a written application for approval of either the CEO or the Planning Board, the CEO shall notify the applicant in writing either that the application has been accepted as a complete application or, if the application is incomplete, that specific additional material is needed to make the application complete.
2. Action on complete application. Within seven working days of the date of receipt of a complete application the CEO shall examine such application and physically

examine the premises to determine whether or not the proposed building, structure, or use would be in compliance with this Ordinance.

3. Referrals. All applications which require approval of the Planning Board or action by the Board of Appeals shall within a period of thirty days be referred to the applicable board for action and public notice shall be given. After approval, with or without conditions by such Board, the CEO shall issue a permit within seven working days after being notified of such approval.
4. Building permit approvals. In all other cases involving approval by the CEO, the CEO shall within a period of seven working days approve or deny such applications in accordance with the provisions of this Ordinance.
5. Written notification. If approval is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any State law which the municipality is responsible for enforcing.

B. Applicant Responsibility

1. Burden of proof. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.
2. Posting. Within seven working days of receiving the approval, the applicant shall conspicuously post any approval issued, on the lot where the activity will occur, at a location clearly visible from the public street or road.

C. Expiration of Approval

If no substantial progress of construction has been made within one year from the date the approval is granted, the approval becomes invalid. The CEO shall renew the approval within 30 days after the expiration of the approval upon payment of a fee as specified in this Ordinance. Otherwise the permit becomes invalid and the application process must begin anew.

5. Enforcement

- A. Violations. It shall be the duty of the CEO to enforce the provisions of this Ordinance. If the CEO shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation.
- B. Penalty. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A M.R.S.A. § 4452. Each day that the

violation occurs shall constitute a separate offense, beginning with the day following notification by the CEO of such violation.

- C. Other remedies. If any building is constructed, altered, removed, or any building or land is used in violation of this Ordinance the CEO or any other appropriate authority or any person who would be damaged by such violation, in addition to other remedies, may institute appropriate legal procedures to prevent such violation.
- D. Unsafe buildings. Any building or structure that may be or shall at any time hereafter become dangerous or unsafe, shall, unless made safe and secure, be taken down and removed, in accordance with provisions of Title 17 M.R.S.A. § 2851.
- E. Minimize harm. Any person in violation of these provisions shall takes steps as may be required by the CEO to prevent or minimize harmful or adverse effects of such unauthorized activity to persons, the land, or a water body.

ARTICLE IV. PERFORMANCE STANDARDS

1. Auto Graveyards; Junkyards

- A. No automobile graveyard or junkyard shall be established, operated, or maintained, or permitted by the owner of any land to be established, without first obtaining a non-transferable permit from the Select Board of the Town in accordance with Title 30-A M.R.S.A. §§ 3751-3760, as the same may be amended. Navigable waters shall be considered as public roads and shall be subject to the most restrictive provisions provided in said sections of Title 30.
- B. Any places where one or more old, discarded, word out, or junked motor vehicles as defined in Title 29-A M.R.S.A. § 101(42), as the same may be amended, are gathered together, kept, or deposited, or allowed to accumulate in such manner or in such location or situation either within or without the limits of any highway or navigable water, as to be unsightly, detracting from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are declared to be public nuisances.

2. Signs and Outdoor Lighting

- A. Off premises signs: billboards and signs relating to goods and services not rendered on the premises or to a place of residence are prohibited. Provided that the Planning Board may identify one or more locations for the erection of a standard upon which, and subject to their approval, unlighted signs of uniform or harmonious size, design, or lettering may be attached. Notwithstanding this provision, temporary signs relating to a civic function or an event of general interest may be displayed for a period not to exceed fifteen days.

- B. On premises signs: Not more than two signs, totaling not more than six square feet, relating to goods or services rendered on the premises or identifying a place of residence, or for the sale, rental, or lease of the premises may be erected either by attachment of a building or free standing. No such sign shall be displayed at a height exceeding ten feet.
- C. Signs shall be illuminated only by external, non-flashing white or yellow lights. Such lights shall be shielded and of such intensity as to preclude either danger of marine or vehicular traffic or annoyance of the occupants of surrounding property. Neon signs and lighting and plastic or signs of similar material and lighted from within are prohibited.
- D. No person shall place or maintain upon or in view of any public way or navigable water any light so that its beams or rays are directed at any portion of said public way or navigable water when the light is of such brilliance or so positioned as to blind, dazzle, or otherwise impair the vision of the operator of any motor vehicle or boat upon such public way or navigable water.

3. Mobile Homes

- A. Mobile homes shall be located on lots of the same size as those required for conventional homes.
- B. Mobile home parks are also subject to the requirements of the Subdivision Ordinance of the Town of Robbinston. Consistent with Title 30-A M.R.S. § 4358, as the same may be amended, mobile home parks are subject to the following.
 - 1. A mobile home park shall consist of a single parcel of land.
 - 2. At least three mobile home lots shall be established and provided with utilities before mobile home park occupancy is allowed.
 - 3. A mobile home park shall have safe and convenient vehicular access to and from public streets.
 - 4. The overall density of any park served by any on-site wastewater disposal system shall not exceed one dwelling unit for each 20,000 square feet of total park area.

4. Off-Road Parking and Loading

In the construction or establishment of all new buildings and land uses, there shall be provided parking and loading space on the property adequate for the safety and convenience of the users of such property and the public. When any existing buildings or uses are enlarged or otherwise substantially altered, provisions shall then be made for sufficient off-road parking and loading.

5. Entrances and Exits for Motor Vehicles

- A. All new structures and land uses shall provide safe, convenient entrance and exit from the property. The Planning Board shall determine whether the entrance and exit may be combined or shall be separated, as well as the number and location of each. Their determination shall be based on the number and frequency of vehicular movement to and from the property, as well as the size and condition of the adjacent public way, traffic volume, and visibility.
- B. All driveways and roads shall have a setback of ten feet from property lines, unless otherwise approved by the Planning Board.

6. Animal Keeping

- A. Unless their numbers qualify their keeping as a kennel, household pets such as dogs and cats may be kept in all zoning districts.
- B. In addition to all applicable state regulations, the keeping of domesticated farm animals for personal purposes shall be subject to the following:
 - 1. The property must be a minimum of ten acres for the keeping or raising of domesticated farm animals.
 - 2. There must be a 100-foot minimum setback from the property lines to any structure, pen, pasture, or other open area where the animals are kept or allowed to roam.
 - 3. Domesticated farm animals shall be securely enclosed in a roaming or grazing area sufficient to keep them contained.

7. Buffers

Buffer strips may be required along the property line where the reviewing authority (CEO or Planning Board) determines it is desirable and necessary to accomplish the following:

- A. To shield incompatible uses from one another;
- B. To block prevailing winds to stop wind borne debris from leaving a development site;
- C. To prevent any proposed lighting from interfering with residential properties or with safe driving;
- D. For gravel extraction operations, utility buildings and structures, automobile salvage and junkyards, parking areas, garbage collection areas, and loading and unloading areas.

8. Conditional Uses

Applications for permits for conditional uses are subject to the following:

- A. The applicant shall apply in writing to the Planning Board on the form provided or shall furnish at least the following information:
 - 1. A map or other means of showing the size, location, topography, and soil characteristics of the property; and
 - 2. The nature and extent of all alterations of the land, construction, or other use or development proposed, whether or not to be carried out immediately.
- B. The applicant shall prove that the proposal is in compliance with the following impact standards which shall be the minimum requirements for approval of the permit.
 - 1. Water: There is sufficient water available for the reasonably foreseeable needs of the proposed building or buildings.
 - 2. Water pollution: The proposal will not result in undue water pollution, considering: the elevation of the land above sea level and its relation to the flood plains, the nature of soils and subsoils and, if necessary, their ability to adequately support waste disposal and/or any other State of Maine, Department of Environmental Protection approved licensed discharge; the slope of the land and its effect on effluent; the aquifers and aquifer recharge areas; and the availability of streams for disposal of surface run-off.
 - 3. Sewage disposal: There will be adequate provision for sewage disposal. For buildings requiring septic systems, a report by a licensed Soils Evaluator must be submitted showing septic system design. If a closed vault, a plumbing permit is necessary.
 - 4. Air pollution: The proposal will not result in undue air pollution.
 - 5. Soil erosion: The proposal will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water.
 - 6. Noise: The proposal will not result in undue noise pollution. If it is likely that the proposal will result in noise in excess of that which is normal for the area, it shall be designed and landscaped to minimize noise interference with neighboring uses. Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable beyond the property lines due to intermittence, beat frequency, shrillness, or volume. The following uses and activities shall be exempt from the noise level regulations:

- a. Noises created by construction and temporary maintenance activities between 6:30 a.m. and 8:00 p.m.;
 - b. The noises of safety signals, warning devices, and emergency pressure relief valves and any other emergency activity;
 - c. Traffic noise on public roads and railroads.
- 7. Surface water drainage: Adequate provision is made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream water quality, or streets or roads. Whenever possible, on-site absorption of run-off waters shall be utilized to minimize off-site discharge.
- 8. Exterior lighting: There will be no flashing lights or strong light shining beyond the lot lines onto neighboring properties or onto any town way so as to impair the vision of the driver of any vehicle upon that town way.
- 9. Preserve and enhance landscape: The landscape will be preserved in its natural state insofar as practicable by minimizing tree removal and disturbance of soil and retaining existing vegetation during construction in order to minimize the impact of the proposed use on neighboring land uses.
- 10. Road access: The building will be placed on the lot which is either on a town or private road or has deeded access. Lots in town or private roads shall have a minimum of 100 feet road frontage.
- 11. Setback and height: In residential areas, all buildings shall have front yard setbacks of 40 feet and side yard setbacks of 15 feet, and no building shall exceed 35 feet in height.
- 12. Vehicular access: The proposed site layout will provide for safe access and egress from public and private roads. Provision shall also be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.
- 13. Parking: Off-street parking will be provided in accordance with the Planning Board's standards.
- C. In determining whether the foregoing tests have been met, the Planning Board shall consider:
 - 1. Any elements of, or a completed or adopted, comprehensive plan;
 - 2. Recommendations of the conservation commission, if any;

3. The plans, policies, and practices of regional and State agencies and commissions having jurisdiction over some or all of such matters, whether such jurisdiction is regulatory or advisory; and
4. Whether or not the applicant has adequate financial and technical capacity to meet the above standards.

ARTICLE V. NON-CONFORMANCE

1. Purpose

It is the intent of these provisions to promote land use conformities, except that nonconforming conditions that legally existed before the effective date of this Ordinance, or any amendment thereto, shall be allowed to continue, subject to the requirements set forth in this section.

2. General Requirements

- A. Transfer of ownership. Non-conforming structures, lots and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the nonconforming structure or lot, subject to the provisions of this Ordinance.
- B. Repair and maintenance. This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs and renovations that do not involve expansion of the non-conforming use or structure, and such other change in a non-conforming use or structure as federal, state or local building and safety codes may require.

2. Non-Conforming Structures

- A. Expansions. A non-conforming structure may be added to or expanded after the owner has obtained a permit from the same permitting authority as that for a new structure, provided such addition or expansion does not increase the non-conformity of the structure.
 1. Foundations. Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided:
 - a. That the structure and new foundation are placed such that the setback and other dimensional requirements are met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria listed in subsection B, Relocation, below;
 - b. That the completed foundation does not extend beyond the exterior dimensions of the structure for the portion of the structure that is nonconforming.

- B. Relocation. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface wastewater disposal system meets the requirements of State law and State of Maine Subsurface Wastewater Disposal Rules or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming. In determining whether the building relocation meets the setback or other dimensional requirements to the greatest practical extent, the Planning Board shall base its decision on:
1. The size of the lot;
 2. The slope of the land;
 3. The potential for soil erosion;
 4. The location of the septic system and other on-site soils suitable for septic systems; and
 5. The type and amount of vegetation to be removed to accomplish the relocation.
- C. Reconstruction or replacement. Any non-conforming structure that is located less than the required setback from the normal high water mark of a water body, tributary stream or upland edge of a wetland, or from the property line, or which otherwise fails to meet the dimensional requirements of this Ordinance, and which is removed, or damaged or destroyed by more than fifty percent of the market value of the structure before such damage, destruction, or removal may be reconstructed or replaced provided that a permit is obtained within one year of the date of said damage, destruction, or removal and provided that such reconstruction or replacement is in compliance with the setback or other dimensional requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface wastewater system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

Any non-conforming structure that is damaged or destroyed by fifty percent or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit from the CEO.

In determining whether the building reconstruction or replacement meets the setbacks to the greatest practical extent, the Planning Board shall consider, in addition to the criteria in subsection B, above, the physical condition and type of foundation present, if any.

3. Non-Conforming Uses

- A. Expansions. Expansion of nonconforming uses may be allowed provided the Planning Board after reviewing a written application determines that no greater adverse impacts would occur as the result of the expansion as defined below.
1. The expansion of a nonconforming use will be in accordance with any applicable performance standards set forth in this Ordinance.
 2. The expansions of the nonconforming use will not encroach further on the required setbacks.
 3. The proposed expansion is of the same character or less noxious than the current nonconforming use.
 4. The expansion use will not create a traffic hazard nor increase an existing traffic hazard.
 5. The amount of parking required to meet the minimum requirements for the proposed use exists on the site or will be otherwise provided in accordance with this Ordinance.
 6. The amount of noise, odors, vibrations, smoke, dust, and air discharges of the proposed expansion shall be equal to or less than the present use.
 7. The hours of operation of the proposed expansion will be compatible with the existing, surrounding land uses.
 8. The proposed use will not increase the adverse impact on surrounding properties.
- B. Resumption prohibited. A lot, building, or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or that is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one-year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding 5-year period.
- C. Change of use. An existing non-conforming use may be changed to another non-conforming use provided that the Planning Board finds after receiving a written application that the proposed use is equally or more appropriate to the district than the existing non-conforming use and that the proposed use will have no greater adverse impact on adjacent properties than the former use.

The determination of appropriateness shall be based on the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use. The performance standards of this Ordinance shall apply to such requests to establish new nonconforming uses.

4. Non-Conforming Lots

- A. Non-conforming lots. A vacant, non-conforming lot of record legally existing on the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals. If more than one residential dwelling unit or other use is built, located, or created on a non-conforming lot of record, the minimum lot size requirement of the district in which it is located shall be met for each residential dwelling unit and the frontage requirements of the district shall be met. The minimum side setback may be reduced by two-thirds for nonconforming lots of record which were created and built upon prior to the effective date of this Ordinance.
- B. Contiguous built lots. If two or more contiguous lots or parcels are in the same ownership of record at the time of adoption or amendments of this Ordinance, and if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that, where on-site subsurface wastewater systems are used, lots of at least 20,000 square feet are created and provided further that all such lots meet the requirements of the State of Maine Wastewater Disposal Rules. If two or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold as a separate lot provided that the above-referenced law and rules are followed. When such lots are divided, each lot thus created shall be as conforming as possible to the dimensional requirements of this Ordinance.
- C. Contiguous lots – vacant or partially built. If two or more contiguous lots or parcels are in single or joint ownership of record at the time of adoption or amendment of this Ordinance, and if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments thereto, and if one or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the dimensional requirements. This provision shall not apply to two or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface wastewater disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules and:

1. Each lot contains at least 100 feet of shore frontage and is at least 20,000 square feet in size; or
2. Any lots that do not meet the frontage and lot size requirements of paragraph 1 are reconfigured or combined in such a way that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

ARTICLE VI. APPEALS

1. Appointment and Composition

- A. The municipal officers shall appoint members of the Board of Appeals in accordance with the requirements of Title 30-A M.R.S. § 2691.
- B. The Board shall consist of five members serving staggered terms of three years.
- C. The Board shall elect annually a chairman and secretary from its membership. The secretary shall provide for the keeping of the minutes of the proceedings of the Board of Appeals, which shall show the vote of each member upon each question. All minutes of the Board shall be a public record.
- D. A Select Board Member may not serve as a member. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.
- E. A member of the board may be dismissed for cause by the Select Board before the expiration of the member's term after notice and hearing.

2. Procedure

- A. The chairman shall call meetings of the Board as required. The chairman shall also call meetings of the Board when requested to do so by a majority of the members or by the Select Board. A quorum of the Board necessary to conduct an official board meeting shall consist of three members. The chairman shall preside at all meetings of the Board and be the official spokesperson of the Board.
- B. The secretary shall maintain a permanent record of all Board meetings and all correspondence of the Board. The secretary shall be responsible for maintaining those records which are required as part of the various proceedings that may be brought before the Board. All records to be maintained or prepared by the secretary are deemed public, shall be filed in the Town Clerk's Office, and may be inspected at reasonable times.

3. Powers and Duties

A. Administrative Appeals. The authority of the Board of Appeals is as follows.

1. The Board of Appeals shall have the authority to hear and decide administrative appeals, on a de novo basis, from actions by the Planning Board and the CEO;
2. Any order, requirement, decision, or determination made, or failure to act, in the enforcement of a land use ordinance is not appealable to the Board of Appeals. Appeals regarding enforcement go directly to the Superior Court.

B. Variance Appeals. The Board shall have the authority to authorize variances upon appeal, within the limitations set forth in this Ordinance.

1. Dimensional variances only. Variances may be granted only from dimensional requirements including frontage, lot area, lot width, structure height, percentage of lot coverage, and setback requirements.
2. No use variances. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
3. Limitations. The Board of Appeals shall not grant a variance unless it finds that:
 - a. The proposed structure or use would meet the performance standards of this Ordinance except for the specific provision which has created the non-conformity and from which relief is sought; and
 - b. The strict application of the terms of this Ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:
 - i. The land in question cannot yield a reasonable return unless a variance is granted; and
 - ii. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and
 - iii. The granting of a variance will not alter the essential character of the locality; and
 - iv. The hardship is not the result of action taken by the applicant or a prior owner.
4. Disability variance. The Board of Appeals may grant a variance to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by

the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives on the property.

For the purposes of this subsection, a disability has the same meaning as a physical or mental disability under Title 5 M.R.S.A. § 4553-A, and the phrase “structures necessary for access to or egress from the property” is defined to include railing, wall, or roof systems necessary for the safety or effectiveness of the structure.

5. Conditions. The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible and in doing so may impose such conditions on the variances as it deems necessary.
6. Certificate. If a variance is granted under this section, the Board shall prepare a certificate, prepared in recordable form, indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting. The certificate must be recorded by the property owner in the local registry of deeds within 30 days of final approval of the variance or the variance is void. The variance is not valid until recorded as provided in this subsection.

3. Appeal Procedure

- A. Time limit. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the CEO or the Planning Board. Such appeal shall be taken within thirty days of the date of the decision that is the subject of the appeal.
- B. Written notice. Such appeal shall be made by filing with the Board of Appeals a written notice of the appeal that includes:
 1. A concise written statement indicating what relief is requested and why it should be granted;
 2. A sketch plan drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief requested.
- C. Record of case. Upon being notified of an appeal, the CEO or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision from which the appeal is made.
- D. Public hearing. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.

E. Decision by Board of Appeals.

1. Quorum. A majority of the Board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
 2. Majority vote. The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the CEO or Planning Board, to remand the matter to the CEO or Planning Board, or to decide in favor of the applicant on any matter which it is required to decide under the provisions of this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms.
 3. Burden of proof. The person filing the appeal shall have the burden of proof.
 4. Action on appeal. Following the public hearing on an appeal, the Board may affirm, affirm with conditions, or reverse the decision of the CEO or Planning Board. When errors of administrative procedure or interpretations are found, the case shall be remanded back to the CEO or Planning Board for correction.
 5. Time frame. The Board shall decide all appeals within 35 days after the close of the hearing, and shall issue a written decision on all appeals.
 6. Findings. All decision shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis for the decision, and the appropriate order, relief, or denial.
- F. Appeal to Superior Court. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may appeal to Superior Court in accordance with State law and Maine Rule of Civil Procedure 80B within forty-five days from the date of any decision of the Board of Appeals.
- G. Reconsideration. The Board of Appeals may reconsider any decision reached within forty-five days of its prior decision. A request to reconsider a decision must be filed within ten days of the decision to be reconsidered. The Board may conduct additional hearings and receive additional evidence and testimony.

ARTICLE VII. DEFINITIONS

“Accessory structure” includes any building or structure required for the safe and adequate conduct of permitted land use.

“Building permit” means the written decision, opinion, or notice signed by the CEO granting approval to conduct any activity subject to the provisions of this Ordinance or related laws and ordinances, including any requirements imposed as a condition of approval.

“Domesticated farm animals” means but is not limited to bovine, horses, donkeys, mules, sheep, goats, swine, llamas, and alpacas.

“Home-related” means carried out in the home or in adjacent or adjoining structures or property all owned by the same person.

“Land use” includes any activity; building or construction measure or land alteration; and any building or other structure, whether on, under, or above the surface of the ground and whether or not some or most of any of the foregoing shall extend below the mean or average high water. The term shall include both temporary and permanent land use.

“Land use permit” means the written decision, opinion, or notice signed by a majority of the Planning Board stating either that the proposed land use is permitted as a matter of right or has been permitted as a conditional use, subject to any conditions stated therein.

“Mobile Home” means a structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building that is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, two types of manufactured housing are included. Those two types are:

(1) Those units constructed after June 15, 1976, commonly called “newer mobile homes,” that the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, that in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and that are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit.

(a) This term also includes any structure that meets all the requirements of this subparagraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, *et seq.*; and

(2) Those units commonly called “modular homes” that the manufacturer certifies are constructed in compliance with Title 10, chapter 951, and rules adopted under that chapter, meaning structures, transportable in one or more sections, that are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.

“Mobile home park” means a parcel of land under unified ownership approved by the municipality for the placement of three or more manufactured homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes.

“Official” means any individual, officer, board, department, agency, or office, whether elected or appointed, and the personnel of any of the foregoing.

“Person” includes one or more persons, a partnership, corporation, trust, or other legal entity, its employees, agents, or contractors or person acting under its request or direction.

“Photovoltaic (PV) system or device” means a solar energy system that produces electricity by the use of semiconductor devices called photovoltaic cells, which generate electricity when exposed to sunlight. A PV system or device which may be roof-mounted or ground-mounted.

“Public road” includes any road, street, or way which has been accepted by the Town or laid out by the State of Maine or the county commissioners or which has become a public way by continued use and which is maintained year round.

“Substantially expand” includes, without being limited to, an increase of more than 50% in (i) the volume of sanitary waste; (ii) the total floor area of a building; or (iii) the total value of structures and other improvements.

All other words shall have the meaning given them by statute, the science, profession, or trade relating most nearly thereto, or in the absence of either, by ordinary usage.