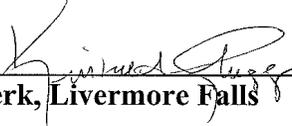


**BOARD OF APPEALS ORDINANCE
TOWN OF LIVERMORE FALLS**

ATTEST: A True Copy of an ordinance entitled "Board of Appeals Ordinance of the Town of Livermore Falls" as certified to me by the Municipal Officers of the Town of Livermore Falls in July, 1996



Town Clerk, Livermore Falls

**BOARD OF APPEALS ORDINANCE
TOWN OF LIVERMORE FALLS**

Board of Appeals

1. Establishment

A Board of Appeals is hereby established in accordance with State Law and the provisions of the ordinance.

2. General Provisions

A. Business of the Board shall be conducted in accord with Maine Statutes, Town Ordinances and the procedures adopted by the Board in its Bylaws.

B. It shall be the responsibility of the Board to become familiar with all the duly enacted Ordinances of the Town which may be expected to act upon as well as with the applicable State Statutes.

C. It shall be the responsibility of the Board to become familiar with the community goals, desires and policies as expressed in the Livermore Falls Comprehensive Plan, and grant the minimum relief which will insure that the goals and policies of the plan are preserved and substantial justice is done.

3. Appointments

A. The Board of Appeals shall be appointed by the Municipal Officers/Town Manager and shall consist of five (5) members, all of whom shall be legal residents of the municipality, serving staggered terms of at least three (3) years and not more than five (5) years. The Board shall elect annually a Chairperson, acting Chairperson and a Secretary from its membership. A quorum shall consist of three (3) members.

B. A Municipal Officer or his/her spouse may not serve as a member or associate member.

C. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereof shall be decided by a majority vote of the membership who is being challenged.

D. A member of the Board may be dismissed for cause by the Municipal Officers upon written charges and after a public hearing.

4. Duties

A. The Officers of the Board shall consist of a Chairperson, Acting Chairperson and a Secretary, who shall be elected annually by the majority of the Board, and shall until their successors are elected.

B. Chairperson. The Chairperson shall perform all duties required by law and the Bylaws and preside at all meetings of the Board. The Chairperson shall rule on issues or evidence, order and procedure, and shall take such other actions as are necessary to carry out the business of the Board.

C. Acting Chairperson. The Acting Chairperson shall serve in the absence of the Chairperson and shall have all the powers of the Chairperson during the Chairperson's absence, disability or disqualification.

D. Secretary. The Secretary, subject to the direction of the Board and the Chairperson, shall keep minutes of all Board proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The Secretary shall also arrange from proper and legal notice of hearings, attend to all correspondence of the Board, and to other duties as are normally carried out by the Secretary. All records are public and may be inspected at reasonable times.

5. Powers and Limitations

A. The Board shall have the following powers to be exercised only upon receipt of a written appeal by an aggrieved party:

1. The Board may interpret the provisions of any applicable Town Ordinance which are called into question.

2. The Board may approve the issuance of a special exception permit or conditional use permit if it deems appropriate.

3. The Board may grant a variance only where strict application of any applicable Town Ordinance, or a provision thereof, or Maine State Statute to the petitioner and his property. For examples:

A. That the land in question cannot yield a reasonable return unless a variance is granted;

B. That the need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood;

C. That the granting of a variance will not alter the essential character of the locality;

D. The hardship is not a result of action taken by the applicant or prior owner.

4. The Board shall have the power to hear and determine all appeals by any person directly or indirectly affected by any decision, action or failure to act with respect to any Town Ordinance.

6. Hearings

A. The Board shall schedule a public hearing on all appeals applications within thirty (30) days of the filing of a completed appeal application.

B. The Board shall cause notice of the date, time and place of such hearing, the location of the building or lot and the general nature of the question involved, to be given to the person making the application and to be posted in three (3) public places within the Town at least seven (7) days prior to the hearing. The Board shall also cause notice of hearing to be given to the Municipal Officers, the Planning Board, the Code Enforcement Officer, and the owners of property abutting that for which the appeal is taken at least twenty (20) days prior to the date of the hearing.

C. The Board shall provide as a matter of policy for exclusion of irrelevant material, or unduly repetitious evidence.

D. The order of business at a public hearing shall be as follows:

1. The Chairperson calls the hearing to order.
2. The Chairperson determines whether there is a quorum.
3. The Chairperson gives a statement of the case and reads all correspondence and reports received.
4. The Board determines whether it has jurisdiction over the appeal.
5. The Board decided whether the applicant has the right to appear before the Board.
6. The Board determines which individuals attending the hearing are “interested parties.” “Interested parties” are those persons who request to offer testimony and evidence and to participate in oral cross-examination. They would include abutting property owners and those who may be adversely affected by the Board’s decision. Parties may be required by the Board to consolidate or join their appearances in part or in whole if their interests or contentions are substantially similar and such consolidation would expedite the hearing. Municipal Officers, the Planning Board, the Code Enforcement Officer shall automatically be made parties to the proceedings. Other persons attending the hearing and federal, state, municipal and other governmental agencies shall be permitted to make oral or written statements and to submit oral or written questions through the Chair.
7. The appellant is given the opportunity to present his/her case without interruption.
8. The Board and interested parties are given the opportunity to present their case.
9. The interested parties are given the opportunity to present their case. The Board may call its own witnesses, such as the Code Enforcement Officer.
10. The appellant may ask questions of the interested parties and Board witnesses directly.
11. All parties are given the opportunity to refute or rebut statements made throughout the hearing.

12. The Board shall receive comments and questions from all observers and interested citizens who wish to express their view.

13. The hearing is closed after all parties have been heard. If additional time is needed, the hearing may be continued to a later date. All participants should be notified of the date, time and place of the continued hearing.

14. Written testimony may be accepted by the Board for seven days after the close of the hearing.

D. The Board may waive any of the above rules if good cause is shown.

7. Decisions

A. Decisions by the Board shall be made not later than thirty (30) days from the date of the hearing.

B. The final decision on any matter before the Board shall be made by written order signed by the Chairperson. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record. All decisions shall constitute the record. All decisions shall become part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial thereof.

C. Notice of any decision shall be sent by certified or registered mail, or hand delivered to the applicant, his representative or agent, Planning Board, the Code Enforcement Officer, and the Municipal Officers with seven (7) days of the decision.

D. Decisions of the Board shall be immediately filed in the office of the Town Clerk and shall be made public record. The date of filing of each decision shall be entered in the official records and minutes of the Board.

E. Unless otherwise specified, any order or decision of the Board which permits a use shall expire if a building or occupancy permit for the use is not obtained by the applicant within ninety (90) days from the date of

the decision; however, the Board may extend this time an additional ninety (90) days.

8. Appeal to Superior Court

The decision of the Board of Appeals may be taken, within forty-five (45) days after the decision is rendered, by any party to the Superior Court in accordance with the Maine Rules of Civil Procedure.

9. Severability

A. The invalidity of any section or provision of these by-laws shall not be held to invalidate any other section or provision of these by-laws.

B. In the event of a conflict or inconsistency between this Ordinance and Maine State Law, the Maine State Law will prevail.

Adopted July 1996