

# Town of Otis

## Land Use:

### Administrative Ordinance

#### Section 1: Purpose

The purpose of this ordinance is to provide the town with the administrative capability to effectively guide public and private land use decisions in accordance with state law and the town's comprehensive plan.

#### Section 2: Authority

This land use administration ordinance is an active pursuant to Article 8, part 2, section 1 of the Constitution of the State of Maine, title 30-A section 3001, of the MRSA.

#### Section 3: Establishment of offices

The town hereby establishes the following land use administrative offices:

1. A Planning Board, pursuant to title 30-A, section 3001, of the MRSA
2. A Board of Appeals, pursuant to title 30-A, section 2691 of the MRSA
3. A Code Enforcement Officer, pursuant to title 30-A, 2601-A, title 38, section 441.

#### Section 4: Appointments

- A. The selectmen shall appoint:
  1. A Planning Board consisting of five members and 2 associate members:
  2. A Board of Appeals consisting of five members and 2 associate members and,
  3. A Code Enforcement Officer.
- B. The terms of the members of the Planning Board and Board of Appeals shall be for one year.
- C. The term of the Code Enforcement Officer shall be for one year.
- D. When a permanent vacancy exists on the Planning Board, Board of Appeals, or Code Enforcement Officer, the Selectmen shall within 30 days of its occurrence appoint a person to serve the unexpired term.
- E. The members of the Planning Board and Board of Appeals shall be residents of the town. The Code Enforcement Officer may be a non-resident.

#### Section 5: General Responsibilities

It shall be the responsibility of the Planning Board and Board of Appeals members and the Code Enforcement Officer to:

1. Become familiar with all the duly enacted ordinances of the town, which they may be expected to act upon, as well as with the applicable state statutes.

2. Become familiar with the community goals, and policies as expressed in the comprehensive plan, and conduct themselves in a manner which will ensure that the goals and policies of the plan are preserved; and
3. To attend all meetings and hearings related to their respective responsibilities, as appropriate.

## Section 6: Organization and Duties

### A. Officers and duties

The officers of the Planning Board and Board of Appeals shall consist of chairperson, acting chairperson, and secretary, whom shall be elected annually by a majority of their respective boards, with responsibilities as follows:

1. Chairperson: the chairperson shall perform all duties required by law and this ordinance and preside on all meetings of the Board. The chairperson shall decide on all points of order and procedure, subject to this ordinance unless directed otherwise by a majority of the Board. The chairperson shall appoint any committees found necessary to carry out the business of the Board. The chairperson's signature shall be the official signature of the Board and shall appear on all decisions as directed by the Board.
2. 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.
3. 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 absence or failing to vote, indicating such fact, and shall also keep records of all Board official actions.

### B. Powers and Limitations

1. The Planning Board shall have the following Powers:
  - a. The Planning Board shall perform such duties and exercise such powers as are provided by town ordinances and the State of Maine.
2. The Board of Appeals shall have the following powers to be exercised only upon receipt of a written appeal by an aggrieved party:
  - a. The Board may interpret the provisions of any applicable town ordinance, which may be called into question;
  - b. The Board may grant a variance only where strict applications of any applicable town ordinance, or provisions thereof, to the petitioner and his property would cause undue hardships. (As defined by the Otis Shoreland Zoning Ordinance, section 16).
  - c. The issue of a variance is subject to any specific conditions contained in the applicable town ordinance/regulation;
  - d. In granting a variance, the Board of Appeals may prescribe such conditions and safeguards, as they deem advisable in order to protect public interest, health, safety and general welfare and the purpose of the ordinance.
  - e. A variance may only be granted for use permitted any particular zone and only for lot area, lot coverage by structures, lot line, set backs, road setback, and frontages. A variance shall not be granted to permit the use or structure otherwise prohibited by ordinance what to reduce the required setback from the normal high water mark; and
  - f. The granting of a variance shall not relieve the applicant from obtaining all permits in accordance with applicable state law or local ordinance or regulation.

### C. Meetings:

1. The regular meeting of the Planning Board and Board of Appeals shall be held once every month or as necessary.
2. Special meetings of the board, may be called by the chairperson. At least 48 hours written notice of the time, place, and business of the meeting shall be given to each member of the board, the Selectmen and the Code Enforcement Officer.
3. The chairperson shall call a special meeting within 10 days of receipt of a written request from any three members of the board. The request shall specify the matters to be considered at such special meetings.

## Section 7: Appeals

### A. Appeals

1. Any person aggrieved by an action which comes under the jurisdiction of the Board of Appeals pursuant to section 6, subsection B, 2 of this ordinance must file such appeal, in writing on forms provided within 30 days of the granting or denial of a permit. The applicant shall file this appeal at the town office, setting forth the grounds for his/her appeal. Upon receiving the application for appeal, the town clerk shall notify the chairman of the board.
2. The fee to accompany applicants for appeal shall be \$10 checks are made payable to the Town of Otis.

### B. Hearings

1. The Board of Appeals shall schedule a public hearing on all appeals applications within 30 days of the filing of a completed appeal application.
2. In the event the Board of Appeals determines to hold a public hearing, it 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 published in a newspaper of general circulation in the municipality, at least one time, the date of the first publication to be at least seven days prior to the hearing. The board shall cause notice of the hearing to be given to the Selectmen, the Planning Board and the Code Enforcement Officer.

### C. Decisions

1. Decisions by the Board of appeals shall be made not later than 30 days from the date of the final hearing.
2. The final decision on any manner before the Board of appeals shall be made by written order signed by the chairperson. The transcript of the testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, 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 in the appropriate order, relief or denial thereof. Notice of a decision shall be delivered by hand or certified mail to the petitioner, his representative or agent. A copy of said decision must be provided to the Planning Board, Code Enforcement Officer, and the Selectmen within seven days of their decision.
3. The Board of Appeals, in reaching said decision, shall be guided by the standards specified in the applicable ordinance as well as by community goals,

and policies as specified in the comprehensive plan, and by the findings of the Board of each case.

4. In reviewing and application on any matter, the standards in any applicable local ordinance or state statute shall take precedence over the standards of these rules whenever a conflict occurs and all other instances, the more restrictive rule shall apply.
5. Unless otherwise specified, in any order or decision of the Board of Appeals for a permitted use shall expire if a building or occupancy permit for the use is not obtained by the applicant within 90 days from the date of the decision; however, the Board may extend this time an additional 90 days.
6. Decisions of the Board of Appeals shall immediately be filed in the town office.

#### D. Appeal to Superior Court

1. A decision of the Board of Appeals may be taken, within 30 days after the decision is rendered, by any party to Superior Court in accordance with the Maine rules of civil procedure.

#### Section 8: Code Enforcement Officer Duties

The Code Enforcement Officer shall have the power and duty to:

1. Enforce all applicable provisions of the various building and land use ordinances and regulations adopted by the town;
2. See to the enforcement of all state statutes and regulations relating to the erection, placement, or alteration of structures, and the alteration of land or water bodies;
3. Grant or deny approval to applicants for use is in town ordinances requiring permits from the Code Enforcement Officer;
4. Conduct inspections as frequently as may be necessary to insure compliance with town ordinances and regulations of the state laws;
5. Advise applicants as to whether additional approval is required by other municipal officials or state or federal agencies and the procedure necessary to obtain such approval;
6. Notify the Planning Board and Selectmen of any violations of state law or local ordinances and regulations that come to his/her attention;
7. Assist and advise the municipal officers of the town with the enforcement and administration of coastal wetlands law, junk yard law, dangerous buildings law, and similar laws;
8. Assist and advise the Planning Board with all subdivision applications for compliance with all applicable local ordinances and regulations and state law. Issue permits when authorized by the Planning Board, and see that any conditions placed upon permits are compiled with the applicant;
9. Attend meetings of the Planning Board and Board of Appeals as requested.
10. Prepares and submits an annual report to the Selectmen of his/her activities including amounts of time spent and number of applicants and/or enforcement actions processed;
11. Have the full powers that are necessary for him/her to perform the requirements of the several applicable local ordinances and state laws he/she is responsible for.

#### Section 9: Removal

1. The Code Enforcement Officer or any member of the Planning Board or Board of Appeals may be removed from office, for just cause, by the Selectmen before the

- expiration of his/her term; but only after an advertised public hearing at which the person in question has an opportunity to refute specific charges against him/her.
2. The term "for just cause" shall include failure to attend three consecutive meetings or hearings without sufficient justification.

#### Section 10: Conflict of Interest

1. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member of either of the Planning Board or Board of Appeals from voting thereon, shall be decided by a majority vote of the members of the respective boards, except the member whose potential conflict is under consideration.

#### Section 11: Effective Date

The effective date of this ordinance or any amendments thereto shall be the day immediately following its adoption at a regular or special town meeting. The adoption of this ordinance hereby repeals and supersedes all conflicting administrative provisions of all ordinances adopted prior to the effective date of this ordinance.

#### Section 12: Validity and Separability

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

#### Section 13: Conflict with other Ordinances

If this ordinance is found to be in conflict with any other ordinance, than the more restrictive ordinance shall apply.