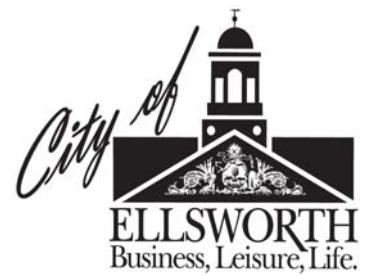


**City of Ellsworth
Chapter 56
Unified Development Ordinance**

**Article 1
Purpose and Authority**

Amended March 17, 2014



ARTICLE 1 PURPOSE AND AUTHORITY

101 TITLE

The Ordinance and the accompanying Official Land Use Map(s) shall be known as the Unified Development Ordinance of the City of Ellsworth, Maine (UDO) and shall be referred to herein as this “Ordinance” or “UDO.”

102 AUTHORITY AND ADMINISTRATION

102.1 Authority. The Ordinance has been prepared in accordance with the provisions of Title 30-A Maine Revised Statutes Annotated (M.R.S.A.), Title 38 M.R.S.A. Sections 435-449, as amended, and other sections as cited in support of specific articles.

102.2 Administration. This Article shall be administered in general by the Planning Board or the Code Enforcement Officer, referred herein as *the Administrator*, and as described below:

- A. By the Planning Board for projects requiring Planning Board Approval as specifically authorized in this Ordinance.
- B. The City Planner and its designee serve in advisory capacity to the Planning Board and are responsible to provide guidance to the applicant whose project requires Planning Board Review.
- C. By the Code Enforcement Officer for all projects not requiring Planning Board and for projects in the Commerce Park zoning district. All enforcement of construction activities shall be the responsibility of the Code Enforcement Officer.

103 GENERAL PURPOSES

103.1 General Purposes. The general purposes of the Ordinance are to:

- A. Implement the provisions of the City’s Comprehensive Plan.
- B. Promote the health, safety, and general welfare of residents.
- C. Encourage the most appropriate use of land.
- D. Promote traffic safety.
- E. Preserve access to adequate light, air, water and land.
- F. Conserve natural resources and open space.
- G. Protect archaeological, historic and scenic resources.
- H. Allow for the strengthening of the economic base and the enhancement of the appearance of business and commercial zoning districts throughout the City.

103.2 Specific Purposes. The specific purposes for individual articles of the Ordinance are stated within those articles, as applicable.

104 APPLICABILITY

The provisions of the Ordinance shall govern all buildings, structures, lands, and uses regardless of ownership. All government entities including the State of Maine, the County of Hancock, and the City of Ellsworth are subject to the Ordinance unless otherwise exempt.

“Liberally Interpreted” means that if there is ambiguity or conflict the Ordinance shall be broadly applied to affect its purposes rather than restrictively or technically applied according to its strict terms.

105 CONSISTENCY WITH PLANS

The Ordinance is consistent with the general intent of the Comprehensive Plan and other neighborhood, area, or specific plans, as referred herein, and adopted by the Ellsworth City Council.

106 COORDINATION WITH OTHER REGULATIONS.

The use of building and land within the City of Ellsworth is subject to all other regulations as well as the Ordinance, whether or not such other provisions are specifically referenced in the Ordinance. References to other regulations or provisions of the Ordinance are for the convenience of the reader. The lack of a cross-reference does not exempt a land, building, structure or use from regulations.

107 CONFLICTS WITH OTHER REGULATIONS. Whenever the requirements of the Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, or ordinance, the more restrictive requirements shall govern.

108 DEFINITIONS, UN-TITLES AND UN-NUMBERED AIDS, CROSS-REFERENCES

108.1 Definitions. The Ordinance shall be liberally interpreted in order to further its underlying purposes. The meaning of any and all words, terms, or phrases in the Ordinance shall be construed in accordance with Article 14 Definitions, or otherwise as found in the dictionary.

108.2 Un-titled and Un-numbered Aids. the Ordinance contains un-titled/un-numbered graphics, pictures, illustrations, and drawing in order to assist the reader in understanding and complying with the Ordinance. However, to the extent that there is any inconsistency between the text of the Ordinance and such graphic, picture, illustration, or drawing, the text controls unless otherwise provided in the specific section.

108.3 Cross-References. Articles, sections, and tables in this ordinance are cross referenced for the convenience of the reader. Any omissions or mis-references shall not preclude projects from having to meet the requirements of applicable articles, sections, and tables in the ordinance.

109 VALIDITY AND SEVERABILITY

If any section, subsection, clause or phrase of the Ordinance shall be held to be invalid or unconstitutional, such invalidity shall not affect the remaining provisions of the Ordinance and to that end the provisions of the Ordinance are hereby declared to be severable.

110 EFFECTIVE DATE

The Ordinance and portions thereof shall become effective on the date specified by the enabling City Council action.

111 AVAILABILITY

A certified copy of the Ordinance shall be filed with the City 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 availability of this Ordinance shall be posted in the Ellsworth City Hall.

112 PENALTIES FOR VIOLATION

In accordance with Title 30-A M.R.S.A. Section 4452, any person, including but not limited to a landowner, a landowner's agent or a contractor, violating any provision of this ordinance shall, upon conviction, be fined not less than \$100.00 or more than \$2,500.00 for each such offense. Each offense shall constitute a separate offense for each day the violation occurs. Any violation of this Article shall be deemed to be a nuisance.

113 REMEDIES

If any project or system is erected, constructed, reconstructed, altered, repaired, converted, or maintained in violation of this Ordinance, the Administrator or any other person who would be damaged by such violation, in addition to other remedies, may seek injunctive or any other appropriate relief in a civil proceeding.

114 APPEALS

114.1 Generally. An appeal may be taken to the Board of Appeals by an aggrieved person from any decision of the Code Enforcement Officer or of the Planning Board with the exception of subdivision matters within 30 days of the date of the decision appealed from. The Board of Appeals may extend this time period only upon a showing by the person seeking an appeal that there was good cause for the failure to appeal within thirty (30) days of the decision.

114.2 Subdivisions. An aggrieved party may appeal any decision of the Planning Board on subdivision matters under this Ordinance to the Hancock County Superior Court, within 30 days.

114.3 Sign Standards. The Board of Appeals is only authorized to grant variances for sign set back and location, not variances relating to sign dimension, height or the number of signs. An appealed sign permit decision shall include reasons for the request. An exception from compliance with Article 12 Sign Standards shall only be granted by the Board of Appeals if there are exceptional or unusual circumstances applying to the property involved which do not apply generally to properties in the vicinity with the same zoning. One of the following three conditions shall be met: 1) visual obstructions; 2) unusual building location on-site; and 3) unusual building design, architectural style, or historic significance. The Board of Appeals shall determine that the granting of the exception will not result in the project being inconsistent with the intent and purpose of Article 12 Sign Standards and will not constitute a grant of special privilege or entitlement inconsistent with limitations applied to other properties in the vicinity with the same zoning. And, that the granting of the exception is for superior design and will not result in visual clutter.

115 AMENDMENTS TO THE ORDINANCE

115.1 Authority.

The provisions of the Ordinance including the boundaries of the Zoning Districts shown on the Official Land Use Map(s) may from time to time be amended, or repealed in accordance with the provision of Title 30-A M.R.S.A. as amended.

115.2 Planning Board Reports to City Council.

- A. Proposed amendments or repeal must first be submitted to the Planning Board for their consideration.
- B. Within 20 days of receiving a proposal for an amendment or repeal, the Planning Board shall schedule a public hearing on the proposed amendment.
- C. The notice must be published at least 2 times in a newspaper that has a general circulation in the City of Ellsworth. The date of the first publication must be at least 13 days before the hearing and the date of the second publication must be at least 6 days before the hearing.
- D. The Planning Board shall make its official report at the next meeting of the Ellsworth City Council, which is held at least 10 days after the public hearing held by the Planning Board.

115.3 Procedure of Amendments by the City Council.

- A. **Public Hearing Notice.** Before adopting a new Official Land Use Map or amending the Ordinance or Official Land Use Map, including amendments to Shoreland Zoning, the Ellsworth City Council will post and publish notice of the public hearing to provide the public adequate time to comment, in accordance with the following provisions.

- i. Contents. The notice must be written in plain English, understandable by the average citizen and contain a copy of the Official Land Use Map indicating the portion of the City affected by the proposed amendment.
- ii. Posted. The notice must be posted in the Ellsworth City Hall at least 13 days before the public hearing.
- iii. Published. The notice must be published at least 2 times in a newspaper that has a general circulation in the City of Ellsworth. The date of the first publication must be at least 13 days before the hearing and the date of the second publication must be at least 6 days before the hearing.
- iv. Mailed. For each parcel within the City that is in or abutting the portion of the City affected by the proposed amendment, the notice must be mailed by first class mail at least 13 days before the public hearing to the last known address of the person to whom property tax on each parcel is assessed. The City Planner shall prepare for the City Council and file with the City Clerk a written certificate indicating those persons to whom the notice was mailed and at what address, when it was mailed, by whom it was mailed and from what location it was mailed. This certificate constitutes prima facie evidence that notice was sent to those persons named in the certificate.
- v. Additional Notice for Particular Circumstances.
Notice must be given to additional recipients in accordance with this subsection when the following described conditions occur.
 - a. Changes to Allowed Uses. Notice must be sent to affected landowners when the City of Ellsworth proposes an amendment to the Ordinance or Official Land Use Map that has the effect of either prohibiting all industrial, commercial or retail uses where any of these uses are permitted or permitting any industrial, commercial or retail uses where any of these uses are prohibited. Notice must also be sent to a Public Drinking Water supplier if the area to be rezoned contains its Source Water Protection Area - refer to Title 30-A §4352.
 - b. Shoreland Zoning Resource Protection. Notification to Landowners whose property is being considered for placement in a Resource Protection Zone shall comply with Title 38, §438-A public notice shall be given according to State Law