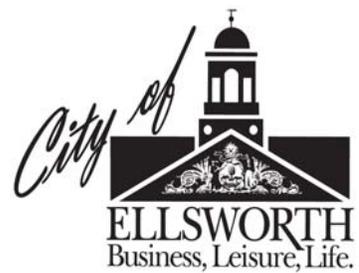


**City of Ellsworth  
Chapter 56  
Unified Development Ordinance**

**Article 2  
Plan Approval and Permitting Procedures**

Amended November 19, 2012



## **ARTICLE 2 PLAN APPROVAL AND PERMITTING PROCEDURES**

### **201. PURPOSE**

The purpose of this Article is to consolidate the procedures for filing and processing applications for development. The format is designed to allow users to ascertain the various steps needed to be able to build in Ellsworth.

### **202 BUILDING PERMITS REQUIRED**

It shall be unlawful to start any work for the purpose of construction, alteration, or removal of any building or engage in any other activity or use of land or structure requiring a permit in the zoning districts in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued non-conforming use, unless a building permit has been issued in conformity with this Ordinance. No building permit may be issued for an activity which requires review by the Planning Board until approval is granted by the Planning Board.

### **203 GENERAL PROCEDURES**

A building permit is required for all development, unless otherwise excepted, to ensure compliance with this Ordinance. For some projects, Planning Board approval is needed before a Building Permit can be issued. General procedural elements common to all development include, but are not limited to: a) the submittal of a complete application, including required fee payments and appropriate back-up information and studies; b) the review of the submittal by the Administrator; and c) the decision to approve or deny.

### **204 LEVELS OF REVIEW BY PROJECT TYPE**

There are different levels of review associated with the implementation of this Ordinance based on the complexity, location, and/or impact of the project. In some cases more than one level of review may be required.

**204.1 Limited Scope Project.** This is a basic level of review conducted by the Code Enforcement Officer for uses such as, but not limited to: one- and two-family residential units; home-occupation; demolition; and many activities within the Shoreland Zone; and for uses having received prior Planning Board approval.

**204.2 Site Plans.** There are two levels of Site Plan review: 1) Minor Use Site Development Plan; and 2) Major Use Site Development Plan. The Code Enforcement Officer shall classify Site Development Plan review levels. The Code Enforcement Officer may classify a Minor Use Site Development Plan project as a Major Use Site Development Plan project after determination that it may have significant impact to the physical, social, or economic environment because of stormwater, traffic, erosion, dust, lighting, or other factors.

**A. Minor Use Site Development Plan Review.** This level of review shall include those projects that require a higher level of scrutiny than a Limited

Scope Project but do not require a public hearing. Minor Use Site Development Plan reviews are conducted by the Code Enforcement Officer.

- B. **Major Use Site Development Plan Review.** This level of review is for uses that are relatively large and have a potentially greater impact than Minor Use Site Development Plan, and where public comments are warranted. Major Use Site Development Plan reviews are conducted by the Planning Board.

**204.3 Subdivision Plans.** All subdivision plans shall be reviewed by the Planning Board.

## **205. REVIEWERS**

**205.1 Code Enforcement Officer.** The Code Enforcement Officer issues Limited Scope Project permits, reviews and permits Minor Use Site Development Plans and is responsible for the enforcement of this Ordinance and the enforcement of Planning Board Approvals.

**205.2 Fire Chief.** The Fire Chief or his designee reviews the site and construction plans for fire and life safety details including but not limited to occupancy type, fire department access, fire hydrant location, construction type, and general fire and life safety. The reviews ensure that the plans meet the intent of applicable codes and standards for fire and life safety.

**205.3 Planning Board.** The Planning Board is responsible for reviewing and acting upon applications for Major Use Site Development Plan, Subdivision Plans, and some Shoreland Zoning proposals in accordance with the provisions of this Ordinance. The Planning Board also makes recommendations to the City Council on amendments to this ordinance and rezoning matters. Following Planning Board approval, the applicant shall apply to the Code Enforcement Officer for a Building Permit.

- A. **Public Hearings.** Plan review by the Planning Board requires at least two public hearings with the exception of plan revisions and amendments, which require only one public hearing. The City Planner coordinates review processes on behalf of the Planning Board, recommends actions for project approvals, and maintains records.

- B. **TRT.** All Planning Board projects are subject to review by the Technical Review Team (TRT). The TRT, made up of City Department heads, provides the Planning Board with an opinion on the completeness of the project proposal and on the quality of the information provided.

**205.4 City Council.** The City Council, the legislative body of the City of Ellsworth, decides on proposals to amend this Ordinance, including rezoning, to accept private roads as public roads, and has the authority to modify road standards and other

decision as specified in this Ordinance. A public hearing is required prior to the City Council making decisions pertaining to this Ordinance.

**205.5 Board of Appeals.** In general, decisions of the Code Enforcement Officer or Planning Board may be taken to the Ellsworth Board of Appeals with the exception of Subdivision Plans which shall be taken directly to the Hancock County Superior Court, or as specifically stipulated in this Ordinance. The Code Enforcement Officer coordinates review processes on behalf of the Board of Appeals and maintains records. Refer to Article 1 section 114 and Article 13 Board of Appeals.

## **206. PROCEDURES FOR BUILDING PERMIT AND MINOR USE PLAN REVIEW**

**206.1 Building Permit Application.** Any application for a building permit shall be in writing and signed by the applicant. All applications shall be dated, and the Code Enforcement Officer shall note upon each application the date of its receipt.

**206.2. Minor Use Site Development Plan Notice to Abutters.** In consideration of a Minor Use Site Development Plan application, the Code Enforcement Officer shall send abutters notice by first class mail to property owners within 250 feet of any property line if the applicant's property is in the Urban Core Area, and within 500 feet elsewhere. The Code Enforcement Officer shall also send notice to the review authority of neighboring political divisions if any portion of a proposed development is within 500 feet of the political boundary or unless otherwise specified in this Ordinance. This notice shall provide a brief description of the proposed project, the physical location, and announce a 10-day public comment period. The public comment period will commence upon the mailing of said notices to the address of record as maintained by the City Assessor. At the end of the public comment period, the Code Enforcement Officer will review the public comments and either grant Minor Use Site Development Approval and issue the building permit or move the proposed project up to Major Use Site Development Plan to be reviewed by the Planning Board. Agricultural and forestry activities pertaining to soil disturbance and addition of fill are exempt from public notices.

**206.3 Processing of Building Permit Applications.** One copy of the building permit application shall be returned to the applicant by the Code Enforcement Officer who shall have marked such copy either approved or denied or approved with conditions and attested to same by the Code Enforcement Officer's signature on such copy. The second copy of such application, similarly marked, shall be retained by the Code Enforcement Officer and shall be kept on file as a public record. The third copy shall be given to the City Assessor. Failure of the Code Enforcement Officer to issue written notice of the decision within 30 days of the date of filing of the application shall constitute refusal of the permit.

**206.4 Posting of Building Permits.** The applicant shall conspicuously post any permit issued, on the lot where the activity will occur, at a location clearly visible from

the street unless other means of posting are authorized by the Code Enforcement Officer.

**206.5 Expiration of Building Permits.** If no substantial start of construction has been made within 12 months beginning with the date the building permit is issued, the permit shall expire. If construction has not been completed within 36 months beginning with the date the permit is issued, the permit shall expire. The Code Enforcement Officer may grant a onetime extension for a building permit when a project is delayed by circumstances beyond the applicant's control.

**206.6 Expiration of Minor Use Site Development Plan Approval.** Minor Use Site Development Plan approval shall remain in force for a period not to exceed 36 months. If the proposed use has not been established during that period or a building permit has not been obtained, said approval shall be deemed to have lapsed.

**206.7 Certificates of Occupancy and Site Compliance.** Prior to the sale, lease, or occupancy of any new building, or use of a site, the builder or developer (person who received a valid building permit) shall secure a Certificate of Occupancy and/or a Certificate of Site Compliance, as applicable, from the Code Enforcement Officer. Prior to issuance of any certificates, the Code Enforcement Officer will check to see that all requirements under this Ordinance and other applicable City Ordinances have been met. Any person who sells, leases, or occupies a building or uses a site within the City of Ellsworth prior to securing the appropriate certificate(s) by the Code Enforcement Officer is in violation of this Ordinance and is subject to its penalties. The Code Enforcement Officer shall maintain a record of all certificates and copies shall be furnished upon request.

A. **Certificate of Occupancy.** This is a document issued by the Code Enforcement Officer allowing the occupancy or use of a structure and certifying that the structure has been constructed or will be used in compliance with the applicable Code and Ordinances. Said Certificate shall be requested by the applicant within 15 days after the erection or alteration have been completed and approved.

B. **Certificate of Site Compliance.** This is a document issued by the Code Enforcement Officer certifying that the proposed site work complies with the terms and provisions of this Ordinance and with applicable approvals and conditions. Certificate of Site Work Compliance shall be secured by the applicant within 6 months of securing a Certificate of Occupancy if applicable or prior to beginning of the activities for which approval is intended including but not limited to offering for sale.

## 207 PROCEDURES FOR MAJOR SITE DEVELOPMENT PLAN AND SUBDIVISION REVIEW

**207.1 Applications in Writing.** All applications for Major Use Site Development Plan, Subdivision, Revisions and/or other plan approval by the Planning Board, as specified shall be made in writing to the City Planner and include the completed Land Use Application form. All applications shall be made by the owner of the property or agent as designated in writing by the owner.

**207.2 Application Deadline.** Applications shall be delivered to the City Planner with all appropriate fees no later than 4:00 PM, twenty days before the scheduled Planning Board meeting. The Office of the City Planner shall post at City Hall a schedule of meetings each December for the coming calendar year.

### **207.3 Supplemental Application Materials.**

A. **City Planner.** In general, no supplemental application materials shall be accepted by the City Planner after noon on the first Monday following the Regular Technical Review Team Meeting.

B. **Planning Board.** Supplemental application materials shall NOT be distributed by the applicant to the Planning Board members at the Planning Board meeting unless it is determined by the Chairman to be relevant, necessary, brief enough to be quickly assimilated, and ten copies are provided and of a type that is compatible with information technology currently available at the City of Ellsworth.

**207.4 Application Completeness.** The City Planner shall make an initial determination of the completeness of applications for inclusion on the Planning Board meeting agenda. Determination of completeness for approval purposes will be made by the Planning Board at a scheduled meeting. Any application which the City Planner initially determines to be incomplete shall not be placed on the agenda but shall be returned to the applicant with an indication of the additional information required. When this additional information has been supplied, the City Planner shall place the application on the Planning Board's agenda.

**207.5 Planning Board Agenda.** Complete applications shall be placed on the Planning Board's next regular monthly agenda for consideration. The Chairman may call a special meeting if the number of agenda items or other circumstances seem to require it.

**207.6 Technical Review Team Regular Meeting.** The City Planner shall call an Ellsworth Technical Review Team meeting consisting of the Police Chief, the Fire Chief, the Highway Foreman, the Water Superintendent, the Wastewater Superintendent, the Code Enforcement Officer, and the Planner, within 7 days of

an application deadline. This meeting shall be referred to as the Regular Technical Review Team meeting. The City Planner, in coordination with the Technical Review Team, conducts a final qualitative review of the applications on the agenda and issues a memorandum of findings to the Planning Board and the applicants

**207.7 Public Hearing.** Prior to taking final action on any preliminary or final application, the Planning Board shall hold a hearing to afford the public the opportunity to comment on the application.

**207.8 Notice to Abutters.** In consideration of an application to the Planning Board, the City Planner shall send notice by first class mail to property owners within 250 feet of any property line if the applicant's property is in the Urban Core Area, and within 500 feet elsewhere. The City Planner shall also send notice to the review authority of neighboring political divisions if any portion of a proposed development is within 500 feet of the political boundary or unless otherwise specified in this Ordinance. This notice shall indicate the time, date, and place of the Planning Board meeting or site visit. Other notices may apply as specified in this Ordinance or applicable State laws.

**207.9 Conditions.** The Planning Board may attach reasonable conditions to plan approvals to ensure conformity with the standards and criteria of this Ordinance.

**207.10 Planning Board Approval.**

- A. **Major Use Site Development Plan Expiration.** Approval shall remain in force for a period not to exceed 36 months. If the proposed use has not been established during that period or a building permit has not been obtained, said approval shall be deemed to have lapsed.
- B. **Subdivision Expiration.** The plan shall be null and void if the period of time between Planning Approval and recording at the Hancock Registry of Deeds is greater than 100 days.
- C. **Existing Violations.** Planning Board approval shall not be granted for an application involving a structure if the structure would be located in an unapproved subdivision; the application is in violation of the provision of a previously approved plan; or the approval would violate any other local ordinance or regulation or any state law, which the City of Ellsworth is responsible of enforcing

**208 PLAN REVIEW AND BUILDING PERMIT FEE SCHEDULE**

**208.1 Building Permit Fees.**

Before a building permit may be issued, the applicant shall show right, title or interest and pay a fee to the Code Enforcement Officer in accordance with the fee schedule in Table 208.1 below:

Table 208.1 BUILDING PERMIT FEE RATES					
	New Construction and Additions	Demolition	Alterations* per estimated cost	Activities within the Shoreland Zone setbacks*	Minor Use Site Plan*
One- & two- Family Dwellings	\$0.17 per sf	\$0.05 per sf	\$3 per \$1,000 cost	\$25 flat fee	\$100 flat fee
Accessory Structures	\$0.15 per sf	\$0.05 per sf	\$3 per \$1,000 cost	\$25 flat fee	\$100 flat fee
Other Buildings	\$0.20 per sf	\$0.05 per sf	\$3per \$1,000 cost	\$25 flat fee	\$100 flat fee

NOTES:	Number of Stories	Story Factor
sf = building size in square feet.	1.0	1.00
The chart above provides the Building Permit Fee Rates for one-story buildings. To calculate the fee for multi-story building construction, addition or demolition, multiply the total building square footage by the Rate and by the appropriate Story Factor provided at right.	1.5	1.45
	2.0	1.70
	2.5	1.85
	3.0	2.05
	3.5	2.30
*Do Not use the Story Factor at right to calculate the fee for <b>alterations, Shoreland Zone, and Minor Use Site Development Plan</b> as these are flat fees.	4.0	2.45
More than one fee may be applicable.		

**Note: To learn about other fees that may apply to your project such as, but not limited to, electrical, internal plumbing, utility hook-ups, development fee, licensing, etc. please dial 207-667-4910 during regular business hours.**

**208.2 Major Use Site Development Plan and Subdivision Plan Review Fees.**  
 Acceptance of applications will be contingent upon receipt by the Administrator or the City Planner as applicable of all fees described in this Section.

**A. Minor Use Site Development Plan. \$200**

**B. Major Use Site Development Plan.**

**Note: Retained land and/or community space shall be counted as one lot or unit for the purpose of fee calculations.**

- i. Sketch Plan. \$25.
- ii. Preliminary Plan. \$200.
- iii. Final Plan. Apply the cost per square footage of buildings and structures as shown in Table 207.2.1, in addition to the cost of Site Disturbance as presented in Table 207.2.2:

<b>Table 207.2.1 COST PER SQUARE FOOTAGE (sf)</b>	
<b>Total Square Footage</b>	<b>Fee</b>
Up to 5,000 sf	\$250
5,001-10,000 sf	\$500
10,001-20,000 sf	\$750
20,001-30,000 sf	\$1,000
30,001-40,000 sf	\$1,250
40,001-50,000 sf	\$1,500
50,001-100,000sf	\$2,000
100,001 sf and more	\$2,500

<b>Table 207.2.2 Site Disturbance Fees Excludes buildings and structures</b>	
<b>Acres of Soil Disturbance</b>	<b>Fee</b>
First acre	\$0
More than one acre	\$100/acre over 1 acre or any part of an acre
<i>Example: Disturbed Area = 2.2 acres: Fee = \$ 200 (1.2 acres more than 1 acre)</i>	

**C. Subdivision Review.**

Applications for Subdivision Approval shall be accompanied by the following fees:

- i. Sketch Plan. \$25.
- ii. Preliminary Plan. \$20 per lot or dwelling unit
- iii. Final Plan. \$25 per lot or dwelling unit.
- iv. Subdivision of New or Existing Structures. Site Plan Review fees apply.

**D. Additional Fees.**

- i. Revisions. Applications for revisions to approved plans shall be charged a fee of \$100.

- ii. Rezoning. Applications for rezoning shall be charged \$100.
- iii. Others. Any other costs to the City for extraordinary measures needed to review applications may result in additional fees.

## 209 PEER REVIEW

- A. **Request by City Planner.** When, in its advisory capacity to the Planning Board, the City Planner determines that the Ellsworth Technical Review Team does not have the expertise to ensure compliance with this Ordinance, the City Planner may ask the applicant for a peer review. The applicant may comply with the request or decide to ask for a determination by the Planning Board.
- B. **Request by the Planning Board.** When the Planning Board determines that it and/or the Ellsworth Technical Review Team does not have the expertise to ensure compliance with this Ordinance it may require a peer review.
- C. **Request by Code Enforcement Officer.** When the Code Enforcement Officer determines that it does not have the expertise to ensure compliance with this Ordinance it may require a peer review.
- D. **Hiring of Expert Consultant for Peer Review.** Per the above sub-sections A through C, the City may choose to hire an expert consultant to review any submission of an application. The consultant shall report as to the compliance or non-compliance with this Article, and report, if applicable, of procedures which will result in compliance. The selected consultant shall estimate the cost of such review and the applicant shall deposit with the City the full estimated cost, which the City shall place in an escrow account. The City shall pay the consultant from the escrow account and reimburse the applicant if funds remain after payments are completed. To be selected, the consultant shall be fully qualified to provide the required information and shall be mutually acceptable to the Administrator or the City Planner and the applicant.
- E. **Hiring of Expert, Request for Additional Studies.** Only the Planning Board may require the applicant to undertake any additional study, which it deems reasonable and necessary to ensure that the requirements of this Ordinance are met. The costs of all such studies shall be borne by the applicant.

## 210 PERFORMANCE GUARANTEES

Performance guarantees including surety bonds, money, or letters of credit may be required by the City Manager, the City Council, or the Planning Board in an amount sufficient to cover the cost of all or any part of the improvements.