

Part 1. Chapter 1 of the City Code is proposed to be repealed in its entirety and replaced with the proposed Chapter 1 (General Provisions), attached hereto.

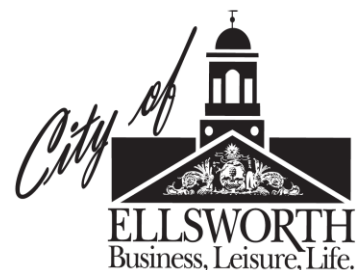
Code of Ordinances, City of Ellsworth

**CHAPTER 1
GENERAL PROVISIONS**

A true copy, attest:

Suzanne McLean
City Clerk

HISTORICAL NOTE: REPEALED AND REPLACED MARCH 18, 2013; AMENDED NOVEMBER 18, 2013; AMENDED APRIL 16, 2018; REPEALED AND REPLACED (ARTICLE 1, SECTION 5) MAY 21, 2018; AMENDED NOVEMBER 8, 2019; AMENDED DECEMBER 16, 2019; AMENDED APRIL 20, 2020; REPEALED AND REPLACED *****, 2026.**



CHAPTER 1

GENERAL PROVISIONS

ARTICLE 1 THE CITY SEAL

101 THE CITY SEAL

101.1 The design set forth below is the device of the City Seal, and the inscription shall be as follows:

“CITY OF ELLSWORTH, STATE OF MAINE, 1869”



City Seal

101.2 A person may not use or display an imitation, likeness, imprint, representation, facsimile or copy of a seal of a municipality except by written permission of the municipality from the City Clerk.

STATE LAW REFERENCE—30-A M.R.S.A. § 2002 (MUNICIPALITY AS BODY CORPORATE); 30-A M.R.S.A. § 2006 (MISUSE OF MUNICIPAL SEAL).

ARTICLE 2 ADMINISTRATION

201 HOW IS THE CITY CODE DESIGNATED AND CITED?

201.1 City Code. The ordinances contained in the following chapters, articles, and sections constitute and are designated the “Code of Ordinances, City of Ellsworth” and may be cited as the “Code of Ordinances, City of Ellsworth,” the “Ellsworth City Code,” or the “City Code.”

201.2 Exclusions from City Code. The cover sheets, tables of contents, pagination, headers and footers, state law references, and historical notes contained throughout the City Code are included for convenience, have no legal effect, and may be altered by the City at any time.

201.3 UDO. Taken together, the provisions in Chapter 56 and the accompanying Official Land Use Map may be cited as the “Unified Development Ordinance, City of Ellsworth,” the “Unified Development Ordinance,” or the “UDO.”

201.4 Zoning Chapter. Taken together, the provisions in Chapter 33 (Floodplain Management) and Chapter 56, Articles 3 and 4, and the accompanying Official Land Use Map, may be cited as the “Zoning Chapter of the City Code” or the “Zoning Chapter.”

STATE LAW REFERENCE—30-A M.R.S.A. § 3004 (CODIFICATION AUTHORITY).

202 WHAT ACRONYMS ARE USED IN THE CITY CODE?

CEO	Code Enforcement Officer
DACF	Maine Department of Agriculture, Conservation and Forestry, and any successor state department or agency
DECD	Maine Department of Economic and Community Development
DEP	Maine Department of Environmental Protection, and any successor state department or agency
DHHS	Maine Department of Health and Human Services, and any successor state department or agency
MaineDOT	Maine Department of Transportation, and any successor state department or agency
MHPC	Maine Historic Preservation Commission
MUBEC	Maine Uniform Building and Energy Code, as adopted by the Maine Technical Building Codes and Standards Board pursuant to 10 M.R.S.A. § 9721, <i>et seq.</i>
FEMA	Federal Emergency Management Agency
LPI	Local Plumbing Inspector
MDIFW	Maine Department of Inland Fisheries and Wildlife, and any successor state department or agency
M.R.S.A.	The latest edition of the Maine Revised Statutes Annotated
NFPA	National Fire Protection Association
NRPA	The Natural Resources Protection Act, codified at 38 M.R.S.A. § 480-A <i>et seq.</i>
OCF	Maine Department of Administrative and Financial Services, Office of Cannabis Policy, and any successor state department or agency
UDO	The Unified Development Ordinance, City of Ellsworth, codified at Chapter 56, including the accompanying Official Land Use Map

203 HOW IS THE CITY CODE INTERPRETED?

203.1 Liberal Construction. All provisions of the City Code must be liberally construed to protect and preserve the health, safety, and welfare of the inhabitants of the City. “Liberally construed” means that if there is ambiguity with respect to the meaning of any of its provisions, the City Code must be broadly applied to affect its purposes rather than restrictively or technically applied according to its strict terms.

203.2 Rules of Construction. In construing the City Code, the following rules apply unless (i) such construction is inconsistent with the plain meaning of the affected provision of the City Code and the context clearly otherwise requires, or (ii) a definition is provided in the City Code:

1. **Administrator.** “Administrator” or “City Administrator” means the board, committee, official, or officer of the City responsible for administering the

provisions of the City Code by reviewing and acting on applications for permits, licenses, or other approvals required by the City Code.

2. **Appellate Authority.** “Appellate Authority” means the board, committee, official, or officer of the City authorized to hear administrative appeals from any decision or failure to act of a City administrator or municipal board, officer, or official in the administration or enforcement of the City Code.
3. **Applicant.** “Applicant” means a person with sufficient right, title, or interest to submit an application for a permit or approval to a City administrator pursuant to the City Code, and includes any duly authorized designee or agent of the applicant.
4. **City.** “City,” “Ellsworth,” or “City of Ellsworth” means the City of Ellsworth, Maine, an incorporated municipality in the County of Hancock, State of Maine, and its municipal boards, officials, and officers.
5. **City Charter.** “Charter” or “City Charter” means the Charter of the City of Ellsworth and any amendments to it.
6. **City Code.** “Code” or “City Code” means the Ellsworth City Code and any amendments to it.
7. **City Council, Municipal Officers.** “Municipal Officers” or “City Council” means the duly elected Councilors of the City of Ellsworth.
8. **Computation of Time.** Whenever a notice is required to be given or an act to be done in a certain length of time before any proceeding, the day on which such notice is given or such act is done is not counted in computing the time, but the day on which such proceeding is to be held is counted.
9. **Corporate or City Limits.** Reference to the corporate limits, City limits, territory, or geographic boundaries of the City, or the like, means the legal boundaries of the City of Ellsworth, Maine.
10. **Cross-References, References to Chapters, Articles, or Sections.** All references to chapters, articles, or sections are to the chapters, articles, or sections of the City Code, unless otherwise specified. Any chapters, articles, sections, or tables in the City Code that are not cross-referenced or are mis-referenced but that reasonably should be considered to be cross-referenced must be read to be cross-referenced.
11. **Delegation of Authority.** Whenever a provision of the City Code requires an official or officer of the City to do some act or perform some duty, reference to the official or officer authorizes the official or officer to designate, delegate, and authorize subordinates or deputies to perform the required act or duty, unless the provision specifies otherwise.
12. **Enforcement Authority.** “Enforcement Authority” means the official or officer of the City responsible for enforcing the provisions of the City Code. Unless otherwise expressly provided, the CEO is the enforcement authority.
13. **Including.** “Including” means “including, but not limited to.”
14. **Inhabitant, Resident.** “Inhabitant” or “resident” means a person having an established residence in the City.

15. **Oath.** “Oath” includes an affirmation, when affirmation is allowed. Affirmation is allowed when a person required to be sworn in is conscientiously scrupulous of taking an oath.
16. **Or, And.** “Or” may be read “and,” and the word “and” may be read “or,” as the context dictates.
17. **Owner, Landowner, Property Owner.** “Owner,” “landowner,” or “property owner,” applied to a building, structure, or land, includes any part owner, joint owner, tenant in common, tenant in partnership, or joint tenant of the whole or of a part of the building, structure, or land.
18. **Person.** “Person” means any individual, firm, partnership, corporation, company, association, club, joint venture, estate, trust, governmental entity, municipality, quasi-municipal entity, other legal entity, or any group or combination acting as a unit and the individuals constituting the group or unit.
19. **Plural, Singular Numbers.** A word importing the singular number only includes the plural, and the plural number includes the singular.
20. **Professional Consultants.** All references to professional consultants, including arborists, engineers, foresters, geologists, hydrogeologists, land surveyors, and soil scientists, mean professionals that are licensed or registered by the Maine Office of Professional and Occupation Regulation and its licensing boards and programs in accordance with applicable Maine laws and rules.
21. **References to Maine Statutes and Rules.** References to Maine statutes and state department or agency rules include any amendments and successor provisions to them.
22. **Shall, Must, Will, May Not, May.** “Shall” and “must” and “will” and “may not” are mandatory and not discretionary. “May” is permissive.
23. **State.** “The state” or “this state” means the State of Maine.
24. **Technical Words.** Unless specifically defined in the City Code, words and phrases must be construed according to their customary dictionary meanings, except that technical words and phrases that have acquired a peculiar meaning in law must be construed according to such meaning.
25. **Text Controls.** If there is any difference in meaning or implication between the text of the City Code and any figure or illustration, the text controls.

STATE LAW REFERENCE—FOR SIMILAR PROVISIONS, SEE 1 M.R.S.A. § 72 (RULES OF CONSTRUCTION; WORDS AND PHRASES).

204 WHAT ARE THE PURPOSES OF THE CITY CODE?

204.1 General Purposes. The general purposes of the City Code are to:

1. Promote and protect the health, safety, and general welfare of residents of and visitors to the City.
2. Ensure that commercial activities, including business activities, operate in the City with the highest professional and ethical standards.
3. Encourage the most appropriate use of land.

4. Promote traffic safety.
5. Preserve access to adequate light, air, water, and land.
6. Conserve natural resources and open space.
7. Protect archaeological, historic, and scenic resources.
8. Allow for the strengthening of the economic base and the enhancement of the appearance of business and commercial zoning districts throughout the City.

204.2 Specific Purposes. In addition to the general purposes of the City Code, several of its chapters and articles set forth additional specific purposes.

205 TO WHICH ACTIVITIES DOES THE CITY CODE APPLY?

205.1 Applicability, Generally. Except as provided in the City Code or state or federal law, the City Code governs all buildings, structures, lands, waters, and activities within the City, regardless of ownership.

205.2 Applicability, Specifically. In addition to the general applicability of the City Code, several of its chapters and articles set forth additional specific applicability provisions.

205.3 Exception. Notwithstanding this Section 205 or any other provision of the City Code, the City Code does not apply to forest management activities, including timber harvesting activities, as defined in 12 M.R.S.A. § 8868(5).

STATE LAW REFERENCE—38 M.R.S.A. § 438-B(2) (TIMBER HARVESTING IN SHORELAND AREAS); 06-096 C.M.R. CH. 1000 (GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES).

206 WHICH ACTIVITIES REQUIRE A CITY PERMIT, LICENSE, OR APPROVAL?

206.1 Generally. A written permit, license, or approval from the appropriate City administrator is required before undertaking any activity to which the City Code applies, unless the activity is expressly exempted from the permit, license, or approval requirements by a provision of the City Code or applicable law.

206.2 Types of Permits, Licenses, or Approvals Required. The types of permits, licenses, or approvals required are set forth in the various chapters of the City Code, and include:

1. **Boat, Aeroplane Tags.** A boat or airplane permit and tag is required before launching any watercraft or aeroplane in Branch Lake, in accordance with Chapter 55.
2. **Building Permits.** A building permit from the CEO is required before undertaking any residential or non-residential development, unless the development is expressly identified as not requiring permits or approvals in Chapter 56, Section 103.
3. **Certificates of Occupancy.** Prior to the sale, lease, or occupancy of any new building, or use of a site, the holder of a valid building permit must secure a Certificate of Occupancy from the CEO, in accordance with Chapter 56, Section 105.
4. **Electrical Installation Permits.** An electrical installation permit from the Electrical Inspector is required before installing, altering, or adding to electrical

equipment in any building, structure, or premises, as required by Chapter 41 (Electrical Installation and Inspection).

5. **Flood Hazard Development Permits.** A flood hazard development permit is required from the CEO before commencing construction or other development within any areas of special flood hazard established in Chapter 33 (Floodplain Management).
6. **Historic Preservation Certificate of Appropriateness.** A certificate of appropriateness is required from the Historic Preservation Commission before making material changes to the exterior appearance of a historic landmark, site, or building; commencing construction of a principal or accessory building; demolishing or moving a historic landmark; or demolishing any building, structure, or appurtenance in any designated historic district established in Chapter 39.
7. **Municipal Officers' License.** Licenses and approvals issued by the City Council or designated City administrators pursuant to Chapter 14 are required to start and continue to operate businesses and host certain events within the City, including:
 - (a) Adult use cannabis stores
 - (b) Amusement and special amusement establishments
 - (c) Arcades
 - (d) Businesses
 - (e) Carnivals / circuses
 - (f) Closing-out sales
 - (g) Consumer fireworks retail sales
 - (h) Driveway / street openings
 - (i) Junkyards / automobile graveyards / automobile recycling businesses
 - (j) Liquor sales
 - (k) Lodging houses
 - (l) Mass gatherings
 - (m) Medical cannabis dispensaries
 - (n) Mobile vending units
 - (o) Parades
 - (p) Poles and wires in the public way
 - (q) Sewer hook-ups
 - (r) Use of streets
 - (s) Taxicabs, taxi drivers, and taxi stands
 - (t) Towing services
 - (u) Transient sellers
 - (v) Tree work
 - (w) Victualers
8. **Plumbing and Subsurface Wastewater Disposal Permits.** A plumbing permit or a subsurface wastewater disposal permit is required from the LPI before installing plumbing into a building, erecting or expanding a structure that requires a subsurface wastewater disposal system, or converting a seasonal dwelling located in the shoreland zone to a year-round or principal dwelling, as required by state law.

9. **Site Development Plan Approval.** Site development plan approval from the CEO or Planning Board pursuant to Chapter 56, Article 6 is required before undertaking certain commercial, industrial, and non-residential development projects.
10. **Subdivision Approval.** Subdivision approval from the Planning Board pursuant to Chapter 56, Article 7 is required before selling, leasing, developing, building upon, or conveying for consideration any land in a subdivision, as defined in 30-A M.R.S.A. § 4401(4), except as set forth in Chapter 56, Article 7.
11. **Tree Permit on Public Property.** A permit issued by the Tree Warden is required for any activity related to public trees and landscaping plans on public property, in accordance with Chapter 43.

206.3 Reserved.

206.4 Waivers.

1. **Waivers of Submission Requirements.** The administrator may modify or waive any of the submission requirements contained in the City Code, other than the fee as provided in Chapter 1, Article 3, if the administrator finds that: (i) due to special circumstances of the application, the proposed activity, or the premises, the information is not applicable or necessary for the administrator to determine compliance with the standards governing its review of the application and (ii) granting a waiver would not adversely affect abutting properties or the general health, safety, and welfare of the residents of the City.
2. **Waivers of Review Criteria or Performance Standards.** The administrator may waive any review criterion or performance standard, other than those contained in the Zoning Chapter of the City Code, if the administrator finds that: (i) due to special circumstances of the application, the proposed activity, or the premises, the review criterion or performance standard is not applicable or necessary to protect the public health, safety, or welfare; (ii) granting the waiver will not have the effect of nullifying or deviating from the purposes of the City Code, the Comprehensive Plan, or applicable state or federal laws; and (iii) the proposal will comply with all other applicable review criteria and standards. The administrator may condition a permit, license, or approval as the administrator deems necessary to make these findings. Nothing in this Section 206.4.2 authorizes the administrator to waive zoning requirements.
 - (a) **Findings of Fact; Notations on Plans Required—Subdivisions, Site Development Plans.** When granting a waiver of any review criteria or performance standards related to Chapter 56, Article 7 (Subdivision Review) or Chapter 56, Article 6 (Site Development Plan Review), the administrator must make written findings of fact and indicate the waivers granted and the date on which they were granted on any final plans associated with such approvals.

STATE LAW REFERENCE—30-A M.R.S.A. § 4401 (SUBDIVISIONS; DEFINITIONS); 30-A M.R.S.A. § 4215 (REGULATION AND INSPECTION OF PLUMBING; PERMITS); 10-144 C.M.R. CH. 241 (SUBSURFACE WASTEWATER DISPOSAL RULE); 30-A M.R.S.A. CH. 181, 183 (REGULATION, LICENSES AND PERMITS; ECONOMIC REGULATION).

207 WHO IS RESPONSIBLE FOR ADMINISTERING THE CITY CODE?

The following City boards, officers, and officials are responsible for administering the City Code:

207.1 City Council. Without limiting, modifying, or abrogating any of the powers and duties of the City Council as set forth in the City Charter, the City Council is responsible for:

1. The administration of all municipal affairs of the City, including the appointment of City officials, boards, and committees, as set forth in the City Charter and the City Code.
2. Reviewing and acting on proposals to amend the City Code.
3. Establishing and maintaining a fee schedule in accordance with Article 3.
4. Reviewing and acting on license and permit applications requiring City Council approval as set forth in Chapter 14 (Licenses and Permits).
5. Reviewing and acting on requests for the City to accept a private road.
6. Reviewing and acting on special exception requests pursuant to Chapter 5 (Public and Private Sewers).
7. Administering the provisions of Chapter 49 (Cable Television).
8. Upon the written application of an aggrieved person, hearing and deciding administrative appeals from the following acts or omissions in the administration of the City Code:
 - (a) A decision of an enforcement authority to suspend or revoke, in accordance with Section 510, a right, privilege, permit, license, or approval granted pursuant to the City Code.
 - (b) A decision of the Tree Warden with respect to the administration of Chapter 43 (City Trees).
 - (c) A decision of the CEO with respect to the administration of Chapter 54 (Development Fee).
 - (d) Any other act or omission of a City administrator where the City Council is expressly designated in a provision of the City Code as the appellate authority.

207.2 Animal Control Officer. The Animal Control Officer, duly appointed in accordance with 7 M.R.S.A. § 3947, is responsible for the administration of Chapter 22 (Animal Control).

207.3 Board of Appeals. The Board of Appeals, duly established and organized pursuant to 30-A M.R.S.A. § 2691 and Chapter 38, is responsible for:

1. Serving as the City's Board of Assessment Review pursuant to Chapter 30 (Department of Tax Assessment).
2. Upon the written application of an aggrieved person, hearing and deciding administrative appeals from the following acts or omissions in the administration of the City Code:

- (a) A decision of the City administrator to deny, revoke, or suspend an amusement permit or special amusement permit, as provided in Chapter 37 (Special Amusement Permits).
 - (b) A decision of the City administrator to approve, conditionally approve, or deny a permit pursuant to Chapter 33 (Floodplain Management) or Chapter 56 (UDO).
 - (c) Any other act or omission of a City administrator where the Board of Appeals is expressly designated in a provision of the City Code as the appellate authority.
 - (d) Reviewing and acting on variance requests in accordance with Section 211 or Chapter 33 (Floodplain Management).
- 3. Interpreting the location of land use zoning district and shoreland zoning district boundaries upon referral from the CEO.
- 207.4 City Assessor.** The City Assessor is responsible for carrying out the duties set forth in Section 10 of the City Charter (Assessors of Taxes).
- 207.5 City Clerk.** The City Clerk is responsible for:
 - 1. Carrying out the duties and responsibilities of the office of the City Clerk, as set forth in the City Charter, the City Code, and applicable law.
 - 2. Processing, reviewing, and acting on certain license applications, as provided in Chapter 14.
- 207.6 City Highway Foreman.** The City Highway Foreman is responsible for reviewing and acting on license applications for driveway and road opening permits in accordance with Chapter 14.
- 207.7 City Manager.** The City Manager is responsible for:
 - 1. Carrying out the duties and responsibilities of the office of the City Manager, as set forth in the City Charter, the City Code, and applicable law.
 - 2. Reviewing and acting on certain license applications, as provided in Chapter 14 (Licenses and Permits).
 - 3. Managing the Ellsworth Transfer Station in accordance with Chapter 42 (Solid Waste Management).
- 207.8 Code Enforcement Officer (CEO).** The CEO, duly established pursuant to Chapter 13 (Office of Code Enforcement) is responsible for:
 - 1. Administering and enforcing the provisions of the MUBEC pursuant to Chapter 4 (Fire Protection and Prevention Ordinance), Chapter 56, Article 2 (Building Permits), and 10 M.R.S.A. § 9724.
 - 2. Reviewing and acting on all license and permit applications requiring CEO approval as set forth in Chapter 14 (Licenses and Permits).
 - 3. In the CEO's role as the local floodplain administrator, administering the provisions of Chapter 33 (Floodplain Management), including issuing flood hazard development permits.

4. Administering and enforcing the provisions of Chapter 54 (Development Fee).
5. Enforcing the provisions of Chapter 55 (Water Supply Protection).
6. For applications and matters that are not within the jurisdiction of the Planning Board, administering and enforcing the provisions of Chapter 56 (UDO), including reviewing and acting on (i) building permit applications; (ii) shoreland zoning applications requiring CEO approval; (iii) minor site development plan applications; (iv) development applications in the Commerce Park zoning district, and (v) certificates of occupancy.
7. Interpreting the Official Land Use Map and the location of land use zoning district and shoreland zoning district boundaries.
8. Determining whether a proposed use, or any structure associated with or devoted to such use, is allowed pursuant to Chapter 56, Article 3 (Zoning Districts) and Chapter 56, Article 4 (Shoreland Zoning).
9. Determining whether uses, structures, and lots comply with Chapter 56, Article 5 (Non-Conforming Uses).
10. Enforcing the provisions of the UDO, and any other provisions of the City Code unless otherwise expressly stated in the City Code or in state law, by inspecting premises, investigating complaints, issuing notices of violation, suspending or revoking permits or approvals, participating in legal prosecution of violations as needed, and processing or acting on consent agreements, in accordance with Section 510.
11. Interpreting the provisions of the City Code, including the meaning of terms used in the City Code, when performing the duties in the preceding subsections.

207.9 Electrical Inspector. The Electrical Inspector is responsible for administering the provisions of Chapter 41 (Electrical Installation and Inspection).

207.10 Fire Chief. The Fire Chief is responsible for:

1. Administering and enforcing the NFPA codes and standards, as set forth in Chapter 4 (Fire Protection and Prevention), including serving as the authority having jurisdiction, as that term is defined therein.
2. Reviewing site and construction plans submitted pursuant to the UDO for fire and life safety details (including occupancy type, fire department access, fire hydrant location, construction type, and general fire and life safety) to advise the administrator whether the plans meet applicable fire and life safety codes and standards.

207.11 General Assistance Administrator; Fair Hearing Authority. The General Assistance Administrator and Fair Hearing Authority are responsible for administering the provisions of Chapter 36 (General Assistance).

207.12 Harbormaster; Harbor Commission. The Harbormaster and Harbor Commission are responsible for managing the City's harbors and coastal waters in accordance with Chapter 3 (Harbor Management).

207.13 Historic Preservation Commission. The Historic Preservation Commission is responsible for administering the provisions of Chapter 39 (Historic Preservation), including reviewing

and acting on applications to designate historic districts, historic sites, and historic landmarks in the City and applications for certificates of appropriateness.

207.14 Local Plumbing Inspector (LPI). The LPI is responsible for issuing plumbing and subsurface wastewater permits and carrying out all other responsibilities set forth in 30-A M.R.S.A. § 4221(3) and the state rules for appointment and administration of local plumbing inspectors, codified at 10-144 C.M.R. Ch. 240, § 4.

207.15 Planning Board; City Planner.

1. **Planning Board.** The Planning Board, duly established pursuant to Chapter 18, is responsible for:
 - (a) Reviewing and acting on all applications for conditional uses pursuant to Chapter 33 (Floodplain Management).
 - (b) For applications and matters that are not within the jurisdiction of the CEO, administering the provisions of Chapter 56 (UDO), including reviewing and acting on (i) shoreland zoning applications requiring Planning Board approval; (ii) major site development plan applications; and (iii) subdivision applications.
 - (c) Serving as the municipal reviewing authority for purposes of holding public hearings pursuant to 30-A M.R.S.A. § 4352 concerning proposed amendments to the City Code or the Official Land Use Map.
 - (d) Recommending to the City Council whether or not an article to amend the land use provisions of the City Code or the Official Land Use Map should be adopted.
 - (e) Interpreting the land use provisions of the City Code, including the meaning of terms used in the City Code, when performing the duties in the preceding subsections.
2. **City Planner.** The City Planner serves in an advisory capacity to the Planning Board, including making initial completeness determinations and seeking third-party professional reviews; is responsible for classifying subdivision applications as major or minor pursuant to Chapter 56, Article 7; and is responsible for providing guidance to applicants whose projects require Planning Board review. All applications requiring Planning Board approval shall be made to the City Planner.

207.16 Police Chief; Police Department.

1. Any officer of the City Police Department is responsible for enforcing the provisions of Chapter 7 (Traffic Code), Chapter 11 (Use of Streets), Chapter 15 (Dumping), Chapter 23 (Noise), Chapter 24 (Regulation of Handbills), Chapter 25 (Discharge of Firearms), Chapter 29 (Regulation of City Owned Land), Chapter 46 (Paid Sexual Contact); Chapter 47 (Smoking); Chapter 48 (Rotational Towing); and Chapter 55 (Water Supply Protection).
2. The Police Chief is responsible for reviewing and acting on any parade permit in accordance with Chapter 27 (Parades).
3. The Police Chief is responsible for administering the provisions of Chapter 48 (Rotational Towing).

- 207.17 Public Works Director.** The Public Works Director provides guidance to applicants as part of the Technical Review Team process and assists the Highway Foreman, Wastewater Superintendent, and Water Superintendent, as well as the Solid Waste Manager, as needed in the performance of their duties.
- 207.18 Recreation Commission.** The Recreation Commission is responsible for administering the provisions of Chapter 31 (Recreation Commission).
- 207.19 Registration Appeals Board.** The Registration Appeals Board is responsible for administering the provisions of Chapter 51 (Registration Appeals Board).
- 207.20 Road Commissioner.** The Road Commissioner is responsible for administering the provisions of Chapter 44 (Maintenance of Certain Public Easements).
- 207.21 Superintendent, Wastewater.** The Wastewater Superintendent is responsible for overseeing the City wastewater Treatment Plant and collection system, reviewing and acting on all applications for hookups to the City sewer system, and enforcing the provisions of Chapter 5 (Public and Private Sewers).
- 207.22 Superintendent, Water.** The Water Superintendent is responsible for overseeing the City water treatment plant and drinking water distribution system, reviewing and acting on all applications for hookups to the City water system, and, together with the CEO, Police Department, and Branch Lake Steward, enforcing the provisions of Chapter 55 (Water Supply Protection).
- 207.23 Technical Review Team (TRT).** The TRT, composed of the Police Chief, the Fire Chief, the Highway Foreman, the Tree Warden, the Public Works Director, the Water Superintendent, the Wastewater Superintendent, the CEO, and the City Planner, is responsible for providing its professional review and expert opinion with respect to applications submitted pursuant to the requirements of Chapter 56 (UDO), including the completeness of any application, the quality of any application materials submitted, and the conformity of a proposal with review standards.
- 207.24 Tree Warden; Arbor Commission.** The Tree Warden is responsible for reviewing and acting on all applications for tree work in accordance with Chapter 14 and for administering the provisions of Chapter 43 (City Trees) in coordination with the Arbor Commission.

STATE LAW REFERENCE—30-A M.R.S.A. § 4352 (MUNICIPAL REVIEWING AUTHORITY); 30-A M.R.S.A. § 2691 (BOARD OF APPEALS); 30-A M.R.S.A. § 4221 (PLUMBING INSPECTORS).

208 WHAT ARE THE GENERAL PROCEDURES FOR ADMINISTERING PERMITS, LICENSES, AND APPROVALS UNDER THE CITY CODE?

Unless otherwise expressly provided in the City Code, the following general procedures apply to the administration of permits, licenses, and other approvals pursuant to the City Code:

- 208.1 Written Application.** An application for a permit, license, or approval required under the City Code must be submitted in writing to the City administrator on forms provided by the City for that purpose and signed and dated by the applicant. The application must be accompanied by the application submission requirements set forth in Section 208.2. All applications shall be dated, and the City administrator shall note upon each application the date of receipt.
1. **Dated Receipt—Subdivision Applications.** When a subdivision application is received, the City Planner must give a dated receipt to the applicant.

2. **Application Deadline.** For applications requiring a review by a board or committee of the City, applications must be delivered to the City administrator no later than 4:00 P.M., at least 27 days prior to the next regularly scheduled meeting of the City administrator. For applications requiring a review by an individual officer of the City, this application deadline shall not apply.

208.2 Application Submission Requirements; Notice to Abutters. Each application must be accompanied by:

1. The name, address, and telephone number of the applicant and the name, address, and telephone number of the property owner, if different from the applicant.
2. Application and other applicable fees, including the fees set forth in Article 3 or in any other provision of the City Code.
3. Proof that the applicant holds right, title, or interest in the affected premises, business, or enterprise and, if the applicant is not the property owner, a letter of authorization from the owner
4. Copies of any notices required by the City Code to be given by the applicant.
5. Any submission requirements specific to the type of permit, license, or approval being sought, as provided by the City Code.
6. Such other information as may be required by the administrator to determine conformance with the applicable provisions of the City Code.

When required by the City Code, the applicant must give notice of the application to abutting property owners in accordance with Section 209.

208.3 Completeness Review. Prior to starting its review of an application, the administrator must determine that the application is complete for review by finding that (i) the application is accompanied by all fees required by the City Code, as provided in Article 3; (ii) the application contains sufficient documentation of right, title, or interest; (iii) notice has been given as required by the City Code, including Section 209, and (iv) the application contains sufficient information for the administrator to begin its review. “Sufficient information” means all application materials (including documents, legal instruments, reports, and analyses) and any other information required by the City Code, unless any such submittals have been waived by the administrator in accordance with Section 206.4, as well as such other information as may be required by the administrator to determine conformance with the applicable provisions of the City Code, including City department head reviews. If the application is found incomplete, the administrator must notify the applicant and direct the applicant to submit any omitted or incomplete information within a specified period of time. If the omitted or incomplete information has not been submitted by then, the administrator may return the application as incomplete and conclude its review. If the application is found complete for review, the administrator must begin its full evaluation of the application.

1. **Time Limits—Shoreland Zoning.** Within 35 days of receiving an application for activities requiring a permit or approval within the shoreland zone, the administrator must notify the applicant in writing that the application is complete or incomplete and must specify what additional information is needed to make the application complete.

- 208.4 Public Hearing.** When required by the City Code, the administrator shall schedule a public hearing, cause notice of the hearing to be given in accordance with Section 209, and place the matter on the next available agenda for action by the City administrator.
- 208.5 Written Decision; Conditions of Approval.** The administrator must issue a written decision to approve, approve with conditions, or deny each application permit or approval which is deemed complete for review in accordance with any time limits set forth in state law and requirements of the City Code. The administrator shall have the authority to impose such terms and conditions as the administrator reasonably deems necessary to protect the public health, safety, and welfare and to obtain compliance with requirements of the City Code. One copy of the written decision shall be returned to the applicant; a second copy shall be retained by the City administrator; and, for building permits, a third copy shall be delivered to the City Assessor.
- 208.6 Burden of Proof.** The applicant has the burden of proving, by demonstrable evidence, that an application, proposal, petition, or request complies with the requirements of the City Code.
- 208.7 Access to Permits, Licenses and Approvals.** The permit holder must have a copy of all written permits, licenses, and approvals on site while the authorized activity is performed, except that the permit holder must post any building permit issued in a conspicuous location on the property where the authorized activity will occur, in a location clearly visible from the access road unless other means of posting are authorized by the CEO.

209 HOW MUST NOTICE TO ABUTTING PROPERTY OWNERS AND THE PUBLIC BE GIVEN?

Whenever a provision of the City Code requires the notification of owners of abutting properties and the public of an application submission, public meeting, public hearing, site visit, or other filing or event, the following requirements apply unless otherwise specified:

209.1 Notice to Abutters.

The applicant must send a notice, in a form acceptable to the administrator, to the administrator and to the property owners affected by the proposal, as follows:

- (a) If the lot or lots affected by the application are located entirely in the Urban Core, as shown on the Official Urban Core Map, attached and made a part of the City Code as Appendix 1-B, then notice must be sent to all property owners within 250 feet of the boundary of the lot or lots affected by the application.
- (b) If the lot or lots affected by the application are located partially or entirely outside the Urban Core, then notice must be sent to all property owners within 500 feet of the boundary of the lot or lots affected by the application.

For purposes of this Section 209.1, the “property owners” are the persons listed in the most recent version of the *City of Ellsworth Real Estate Tax Commitment Book*.

2. The notice must contain a brief description of the application, the physical location, and a sketch plan, together with the date, time, and location of any public meeting, public comment deadline, public hearing, site visit, or other event (collectively, “event”).

3. The notice must be sent, using certified mail, return receipt requested, at least seven days before the date of the event.
- 209.2** The City administrator must publish notice of the date, time, and place of any public hearing in a newspaper of general circulation in the City at least two times, the date of the first publication to be at least seven days prior to the public hearing.
- 209.3** The City administrator must give notice of the date, time, and place of any public meeting, site visit, or other public proceeding in ample time to allow public attendance and disseminated in a manner reasonably calculated to notify the general public in the City.
- 209.4** In addition, for subdivision and site development plan applications, the City must send the notice described in Section 209.1 as follows:
 1. If the subdivision or site development plan application abuts or includes any portion of the neighboring municipality, to the City Clerk and the municipal reviewing authority of any neighboring municipality.
 2. If the subdivision or site development plan is within its source water protection area, to the public drinking water supplier.

STATE LAW REFERENCE—30-A M.R.S.A. § 4403(3) (NOTICE OF SUBDIVISION APPLICATIONS); 1 M.R.S.A § 406 (PUBLIC RECORDS AND PROCEEDINGS; PUBLIC NOTICE).

210 WHAT IS THE PROCESS FOR REQUESTING RECONSIDERATION OR APPEALING A CITY ADMINISTRATOR’S DECISION?

210.1 Reconsideration.

1. **City Administrator Decision.** A City administrator may reconsider any decision within 45 days of its prior decision. A request to the administrator to reconsider a decision must be filed within 10 days of the decision that is to be reconsidered. A vote to reconsider and the action taken on that reconsideration, if any, must occur and be completed within 45 days of the date of the vote on the original decision. The administrator may conduct additional public hearings and receive additional evidence and testimony.
2. **Appellate Authority Decision.** An appellate authority may reconsider any decision in accordance with the provisions of 30-A M.R.S.A. § 2691(3)(F).

210.2 Administrative Appeal.

1. **No Right of Administrative Appeal; Exceptions.** No City administrator has jurisdiction to hear appeals from any decision or failure to act of any other administrator or municipal board, officer, or official in the administration or enforcement of the City Code—including from any notices of violation, enforcement orders, written determinations of no violation, or any other enforcement decisions issued by the enforcement authority—except as follows:
 - (a) An aggrieved person has the right to appeal to the City Council the acts or omissions of an administrator expressly set forth in Section 207.1.
 - (b) An aggrieved person has the right to appeal to the Board of Appeals the acts or omissions of an administrator expressly set forth in Section 207.3.

2. **Administrative Appeal Procedures.** When an aggrieved person has the right to appeal an act or omission of an administrator to an appellate authority, the following appeal procedures shall apply:
- (a) *Timing.* An appeal expressly authorized by a provision of the City Code may be taken to the appellate authority by an aggrieved person within 30 days of the date of the final decision appealed from, except that the appellate authority, upon a showing of good cause, may extend the 30-day deadline.
 - (b) *Making an Appeal.* Applications for appeals must be made by filing with the appellate authority a written notice of appeal which must include a concise written statement indicating what relief is requested and why the appeal should be granted. The Board of Appeals shall forthwith notify the City administrator whose decision is being appealed of the appeal.
 - (c) *Administrative Record.* Upon being notified of an administrative appeal, the City administrator or City Clerk shall transmit the decision of the administrator and all materials comprising the record of the decision appealed from to the appellate authority.
 - (d) *Parties to the Proceeding.* In any administrative appeal, the City administrator whose decision is being appealed shall automatically be a party to the proceeding.
 - (e) *De Novo Review.* Appeals from decisions of a City administrator made without conducting a public hearing, are de novo. The appellate authority must conduct a public hearing, after notice of the hearing is given pursuant to Section 209, at which all persons have the right to present additional testimony and documentary evidence within 30 days of the appellate authority's receipt of a complete application, unless this time period is extended by the appellate authority for good cause. At the public hearing, any party has the right to cross-examine witnesses. The standard of review is whether, on the basis of the evidence before the appellate authority, the application complies with the requirements of the City Code. The burden of proof is on the applicant. The appellate authority may grant or deny a permit, license, or approval or remand the matter to the administrator for further proceedings.
 - (f) *Appellate Review.* Appeals from decisions of a City administrator made after conducting a public hearing are purely appellate. The appellate authority must conduct a public proceeding at which all persons have the right to present legal argument concerning the decision of the administrator within 30 days of the appellate authority's receipt of a complete application, unless this time period is extended by the appellate authority for good cause. The appellate authority may not permit the introduction of additional testamentary or documentary evidence. The standard of review is whether the decision of the administrator was arbitrary or capricious, based on error of law, or based on findings of fact not supported by substantial evidence in the record. The appellate authority has authority to sustain or reverse a decision of the administrator or to remand the matter to the administrator for further proceedings.

- (g) *Written Decision.* A majority of the full voting membership of the appellate authority constitutes a quorum for the purpose of deciding an appeal. The appellate authority must issue a written decision, stating the reasons and basis for its decision, directed to the appellant, within 35 days of the close of the public hearing or public proceeding. Copies of the written decision must be given to all parties of the proceeding, the City Manager and, if the appeal concerns any activities within the shoreland zone, to the DEP within seven days of the issuance of the written decision.
- (h) *Appeal to Superior Court.* Any aggrieved person may appeal a decision of the appellate authority to the Superior Court in accordance with 30-A M.R.S.A. §§ 2691 and 4353, and Rule 80B of the Maine Rules of Civil Procedure.

210.3 Appeal to Superior Court. Except as provided in Section 210.2, an aggrieved person may appeal an act or omission of an administrator directly to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

210.4 Appeals of Reconsidered Decisions. Notwithstanding Section 210.2 or Section 210.3, an administrative appeal of a reconsidered decision of a City administrator to an appellate authority, if permitted pursuant to Section 210.2(1), or a direct appeal of a reconsidered decision of a City administrator to the Superior Court, if permitted pursuant to Section 210.3, must be made within 15 days after the decision on reconsideration.

STATE LAW REFERENCE—30-A M.R.S.A. § 2691 (BOARD OF APPEALS); 30-A M.R.S.A. § 4353 (ZONING ADJUSTMENT).

211 WHAT IS THE PROCESS FOR SEEKING A VARIANCE?

211.1 Review Procedures. The Board of Appeals hears and decides variance requests in accordance with the following review procedures:

1. **Variance Application.** A request for a variance must be submitted in writing to the Board of Appeals on forms provided by the City for that purpose and signed and dated by the applicant. Each application must be accompanied by:
 - (a) The application submission requirements set forth in Section 208.2.
 - (b) A sketch drawn to scale showing lot lines, the location of existing and proposed buildings, and other physical features such as septic systems and wells.
 - (c) A concise statement of the nature of the variance sought.
 - (d) A written statement and other evidence demonstrating that the request for a variance satisfies each of the applicable variance criteria in Section 211.2, Section 211.3, Section 211.4, or Section 211.5.
2. **Copy of Variance Application to DEP.** For any variance request within the shoreland zone, the Board of Appeals must forward a copy of the variance request, including the application and all supporting information supplied by the applicant, to the DEP Commissioner at least 20 days prior to action by the Board of Appeals. Any comments received from the DEP Commissioner prior to the action by the Board of Appeals must be made part of the record and must be considered by the Board of Appeals prior to taking action on the variance request.

3. **Completeness Review.** Prior to starting its review of the variance request, the Board of Appeals must determine that the application is complete for review in accordance with Section 208.3.
4. **Notice and Public Hearing.** The Board of Appeals must hold a public hearing on each variance request within 30 days of receipt of a complete application. Notice of the public hearing must be given in accordance with Section 209. In addition, notice of the public hearing must be given to the City administrator. Failure of any property owner to receive notice of the public hearing will not necessitate another public hearing or invalidate any action of the Board of Appeals.
5. **Written Decision.** The Board of Appeals must state the reasons and basis for its decision in writing. The Board of Appeals must cause written notice of its decision to be mailed or hand-delivered within seven days of the decision to the applicant and, when a variance is issued for property located within the shoreland zone, to the DEP Commissioner.
6. **Certificate; Recording.** If the Board of Appeals grants a variance pursuant to this Section 211, a certificate 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, must be prepared in recordable form. This certificate must be recorded by the applicant in the Hancock County Registry of Deeds within 90 days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded as provided in this subsection. For the purpose of this subsection, the date of the final written approval is the date stated on the written approval.
7. **Conflict with State Law.** In the event of a conflict between this Section 211 and 30-A M.R.S.A. §§ 4353(4), 4353(5), 4353-A, or 38 M.R.S.A. § 438-A(6-A), the state law provision controls.

211.2 Undue Hardship. The Board of Appeals may grant a variance if a proposed structure or use complies with all of the provisions of the City Code except for the specific provisions from which relief is sought, and only when strict application of the City Code to the applicant and the applicant's property would cause undue hardship. The term "undue hardship" as used in this Section 211.2 means:

1. The land in question cannot yield a reasonable return unless a variance is granted;
2. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
3. The granting of the variance will not alter the essential character of the locality; and
4. The hardship is not the result of action taken by the applicant or a prior owner.

Within the shoreland zone, the specific provisions from which relief is sought are limited to dimensional standards. The establishment of a new use or the expansion of an existing use that is otherwise prohibited in the zoning district in which the use is located is not allowed by variance.

211.3 Variance from Dimensional Standards; Practical Difficulty.

1. The Board of Appeals may grant a variance from certain dimensional standards of the City Code when strict application of the dimensional standards to the applicant and the applicant's property would cause a practical difficulty and when the following conditions exist:
 - (a) The need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood;
 - (b) The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
 - (c) The practical difficulty is not the result of action taken by the petitioner or a prior owner;
 - (d) No other feasible alternative to a variance is available to the applicant;
 - (e) The granting of a variance will not unreasonably adversely affect the natural environment; and
 - (f) The property is not located in whole or in part within the shoreland zone.
2. As used in this Section 211.3:
 - (a) "Dimensional standards" means and is limited to those provisions of the City Code relating to minimum lot size, maximum lot coverage, minimum road frontage, and minimum setback requirements.
 - (b) "Practical difficulty" means that the strict application of the dimensional standards of the City Code to the property for which a variance is sought would preclude the ability of the applicant to pursue a use of the property which is allowed in the zoning district in which the property is located and would result in significant economic injury to the applicant.
 - (c) "Significant economic injury" means the value of the property if the variance were denied would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that denial of the variance would mean the practical loss of all beneficial use of the land.

211.4 Setback Variance for Single-Family Dwellings. Outside the shoreland zone, the Board of Appeals may grant a variance from the minimum setback requirements of the City Code for a single-family dwelling that is the primary year-round residence of the applicant only when the Board of Appeals determines that strict application of the City Code to the applicant and the applicant's property would cause an undue hardship. A variance granted under this Section 211.4 may not exceed 20% of the applicable setback requirement and may not be granted if the variance would cause the area of the single-family dwelling to exceed the maximum lot coverage. For purposes of this Section 211.4, "undue hardship" means:

1. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
2. The granting of a variance will not alter the essential character of the locality;

3. The hardship is not the result of action taken by the applicant or a prior owner;
4. The granting of the variance will not substantially reduce or impair the use of abutting property; and
5. The granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

211.5 Disability Variances.

1. **Disability Variance.** The Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board of Appeals shall restrict any variance granted under this Section 211.5 solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Board of Appeals 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 in the dwelling. The term, “structures necessary for access to or egress from the dwelling,” includes railing, wall, or roof systems necessary for the safety or effectiveness of the structure.
2. **Disability Vehicle Storage Variance.** Outside of the shoreland zone, the Board of Appeals may grant a variance to an owner of a dwelling unit who resides in the dwelling unit and who is a person with a permanent disability for the construction of a place of storage and parking for a noncommercial vehicle owned by that person and no other purpose. The width and length of the structure may not be larger than two times the width and length of the noncommercial vehicle. The owner must submit proposed plans for the structure with the request for the variance pursuant to this Section 211.5 to the Board of Appeals.
 - (a) The person with the permanent disability must prove by a preponderance of the evidence that the person’s disability is permanent.
 - (b) For purposes of this Section 211.5.2, “noncommercial vehicle” means a motor vehicle as defined in 29-A M.R.S.A. § 101(42) with a gross vehicle weight of no more than 6,000 pounds, bearing a disability registration plate issued pursuant to 29-A M.R.S.A. § 521, and owned by the person with the permanent disability.
3. **Confidentiality of Medical Records.** All medical records submitted to the Board of Appeals and any other documents submitted for the purpose of describing or verifying a person’s disability are confidential.

211.6 Limitation; Conditions.

The Board of Appeals must limit any variances granted pursuant to this Section 211 as strictly as possible to ensure conformance with the purposes and provisions of the City Code to the greatest extent possible. The Board of Appeals may impose conditions on any variance granted under this Section 211.

ARTICLE 3 FEE SCHEDULE AND SPECIAL FEES

301 FEE SCHEDULE

- 301.1 Fee Schedule Established.** The City Council must establish and maintain a fee schedule which bears a substantial relationship to the cost of processing, reviewing, and administering applications, licenses, petitions, permits, and any other approvals required by the City Code (for purposes of this Article 3, collectively, “applications”). The fee schedule is attached to and made a part of this Chapter 1, Article 3 as Appendix 1-A.
- 301.2 Other Information on the Fee Schedule.** For administrative ease, the fee schedule may also identify City-imposed fees, costs, rents, assessments, fines, and penalties other than those associated with the processing, review, and administration of applications (including fees, costs, rents, fines, and penalties related to cemetery plots, assessing records, parking tickets, public drains, common sewers, photocopying and printing, recreational programming, facility rentals, and statutorily mandated fees) to which this Article 3 does not apply.
- 301.3 Amendment.** The fee schedule may be amended from time to time by order of the City Council as it deems necessary to ensure that the fee schedule sets reasonable and fair fees to recover costs associated with the City’s exercise of its police powers in processing, reviewing, and administering applications.

302 SPECIAL FEE

- 302.1 Designation of Special Application; Assessment of Special Fee.** If an administrator determines that an application, by virtue of its size, uniqueness, complexity, or other factors, is likely to require a disproportionate share of City resources to process, review, or administer, the administrator may designate the application as a “special application” and may assess a special fee in addition to any applicable fees established by the fee schedule in Article 3, Section 1 or any other law or rule. The administrator may designate an application as a special application at any time during the processing of the application. The designation by the administrator of an application as a special application is final.
- 302.2 Special Fee Not To Exceed Actual Costs.** The special fee may not exceed the actual costs associated with processing, reviewing, and administering the special application. The special fee may include the actual fees and costs of (i) City personnel time, administration, supplies, advertising, legal notices, mailings, postage, or photocopies and other document reproductions; (ii) administering City meetings, referenda, public hearings, public information sessions, or workshops; (iii) specialized computer software or technical support necessary or advisable to process, review, and administer the special application; (iv) in-house or third party attorneys’ fees; (v) in-house or third party professional reviews of the special application or the record related thereto, or other expert or consulting fees, including the costs of services of state or federal reviewing agencies, professional consultants, planners, visual impact experts, traffic impact experts, and economic development and finance consultants.
- 302.3 Notice; Maintenance; Accounting.**
1. The administrator must notify the applicant in writing of the special application designation and provide the applicant with an estimate of the special fee. The applicant must pay to the City the estimated special fee within 14 days of receipt of the notification; otherwise, the special application must be returned as incomplete. If the estimated special fee is depleted prior to the completion of

processing, reviewing, and administering the special application, the administrator may provide the applicant with a revised estimate of the special fee from time to time, and the applicant must pay to the City the revised estimate, less any prior estimate already paid, within 14 days of receipt of the notification.

2. The City must deposit the special fee into an escrow account and may draw on the account to pay for the actual costs associated with processing the special application.
3. After the administrator renders its final decision on the special application, the City must provide the applicant with an accounting of the actual costs of processing the special application and must return any unspent portion of the special fee to the applicant within 60 days.

303 REFUNDS, WAIVERS

The administrator may refund, reduce, or waive any application fee or special fee assessed under this Chapter 1, Article 3 when the person requesting the refund, reduction, or waiver demonstrates to the satisfaction of the administrator that an extreme hardship or injustice would result from payment of the fee.

ARTICLE 4 DEVELOPMENT FEES

Development fees are administered in accordance with the requirements of Chapter 54 (Development Fee Ordinance).

STATE LAW REFERENCE—30-A M.R.S.A. § 4354 (IMPACT FEES).

ARTICLE 5 LEGAL

501 AUTHORITY, AVAILABILITY OF CITY CODE

501.1 Authority. The City Code is adopted pursuant to Article VIII, Part Second, of the Maine Constitution; 30-A M.R.S.A. §§ 2101-2109, 2691, 3001-3014, 4151-4174, 4311-4331, 4351-4362, and 4401-4408; 10 M.R.S.A. § 9724; 12 M.R.S.A. Ch. 37; 22 M.R.S.A. §§ 2429-D, 2642; 28-B M.R.S.A. § 401; 38 M.R.S.A. §§ 1-13, 435-449, and 1301 *et seq.*; and any other enabling statutes, including those cited in support of specific chapters and articles.

501.2 Shoreland Zoning. Chapter 56, Article 4 of the City Code (Shoreland Zoning) and the Official Land Use Map do not become effective unless approved by the DEP Commissioner. A certified copy of Chapter 56, Article 4, attested and signed by the City Clerk, must be submitted by the City to the DEP Commissioner for approval, following adoption by the City Council. If the DEP Commissioner fails to act on any amendment to the shoreland zoning provisions of this Code within 45 days of the DEP Commissioner's receipt of the amendment, the amendment is automatically approved. Any application for a permit or approval submitted to the City within such 45-day period is governed by the City Code as if DEP Commissioner approval of the amendment has been granted. If amendments are made to the shoreland zoning district boundaries or any other matter portrayed on the Official Land Use Map with respect to the shoreland zone, such changes must be made on the Official Land Use Map within 30 days after the amendment has been approved by the DEP Commissioner.

STATE LAW REFERENCE—30-A M.R.S.A. § 3005 (ORDINANCES AVAILABLE); 38 M.R.S.A. § 438-A(3) (MANDATORY SHORELAND ZONING; COMMISSIONER APPROVAL).

502 EFFECTIVE DATE

502.1 In General. The City Code and any amendments to it becomes effective on the date specified by the City Council action, except as provided in Section 502.2 or as otherwise expressly provided.

502.2 Shoreland Zoning. Chapter 56, Article 4 of the City Code (Shoreland Zoning) and the Official Land Use Map do not become effective unless approved by the DEP Commissioner. A certified copy of Chapter 56, Article 4, attested and signed by the City Clerk, must be submitted by the City to the Commissioner for approval, following adoption by the City Council. If the Commissioner fails to act on any amendment to the shoreland zoning provisions of this Code within 45 days of the Commissioner's receipt of the amendment, the amendment is automatically approved. Any application for a permit or approval submitted to the City within such 45-day period is governed by the City Code as if Commissioner approval of the amendment has been granted. If amendments are made to the shoreland zoning district boundaries or any other matter portrayed on the Official Land Use Map, such changes must be made on the Official Land Use Map within 30 days after the amendment has been approved by the Commissioner.

STATE LAW REFERENCE—38 M.R.S.A. § 438-A(3) (MANDATORY SHORELAND ZONING; COMMISSIONER APPROVAL).

503 DATE OF APPLICABILITY

Notwithstanding 1 M.R.S.A. § 302, except as otherwise expressly provided by law, the City Code applies to an action or proceeding, including a petition or application for permits, licenses, or approvals required by law at the time of their filing, when the City administrator has deemed the petition or application complete for review.

STATE LAW REFERENCE—1 M.R.S.A. § 302 (CONSTRUCTION AND EFFECT OF REPEALING AND AMENDING ACTS).

504 AMENDMENTS TO THE CITY CODE

The provisions of the City Code and the Official Land Use Map may be amended as follows:

504.1 Authority to Amend. The City Code and the Official Land Use Map may be amended by the City Council or the registered voters of the City in accordance with the City Charter.

504.2 Proposed Amendments. Amendments to the text of the City Code or the Official Land Use Map may be proposed by the City Council, by the Planning Board in accordance with 30-A M.R.S.A. § 4352, by the Historic Preservation Commission in accordance with Chapter 39, or upon the written petition of registered voters of the City pursuant to Article V of the City Charter.

504.3 Public Hearings, Notices.

1. A public hearing on any proposed amendments to the City Code must be conducted by the City Council. Notice of the hearing must be posted in City Hall at least 13 days before the hearing, and must appear in a published newspaper of general circulation in the City twice, at least 12 days and at least 7 days before the hearing.
 - (a) A public hearing on any proposed amendments to the UDO or the Official Land Use Map must be conducted by the Planning Board, which serves as the municipal reviewing authority. Notice of the hearing must be given in

accordance with 30-A M.R.S.A. § 4352 and, if property is being considered for placement in the Resource Protection (RP) shoreland zoning district, pursuant to 38 M.R.S.A. § 438-A(1-B). Following the public hearing, the Planning Board must make its official report to the City Council as to whether or not to amend the UDO or the Official Land Use Map at the next regularly scheduled meeting of the City Council. In making its report, the Planning Board may recommend amendments to the text of the City Code or the Official Land Use Map that deviate from the original proposed amendments. Planning Board action under this Section 504.3 is not a decision subject to any rights of appeal.

- (b) A public hearing on any proposed amendments to Chapter 39 (Historic Preservation) must be conducted by the Historic Preservation Commission. Notice of the hearing must be given in accordance with Chapter 1, Section 209. Following the public hearing, the Historic Preservation Commission must make its official report to the City Council as to whether or not to amend Chapter 39 at the next regularly scheduled meeting of the City Council. In making its report, the Historic Preservation Commission may recommend amendments to the establishment of a historic district, historic site, or historic landmark that deviate from the original proposed amendments. Historic Preservation Commission action under this Section 504.3 is not subject to any rights of appeal.
- (c) The public hearings required to be held by the Planning Board, Historic Preservation Commission, and the City Council under this Section 504.3 or applicable law may be combined into a single consolidated hearing attended by both the Planning Board and City Council as long as the notice requirements applicable to both hearings are satisfied.

504.4 Shoreland Zoning Amendments. The DEP Commissioner must be notified of any amendments made to the shoreland zoning provisions of the City Code in accordance with Section 502.2.

504.5 Amendments to Official Land Use Map. Any amendments made to the district boundaries or any other feature portrayed on the Official Land Use Map must be (i) immediately shown on the Official Land Use Map or (ii) shown within 30 days after an amendment to the zoning district boundaries or other shoreland zoning features of the Official Land Use Map has been approved by the DEP Commissioner in accordance with Section 502.2. The amended Official Land Use Map must be certified by the attested signature of the City Clerk and filed with the City Clerk.

STATE LAW REFERENCE—30-A M.R.S.A. § 2522 (PETITION FOR ARTICLE IN WARRANT); 30-A M.R.S.A. § 2528(5) (SECRET BALLOT, REFERENDUM QUESTIONS); 30-A M.R.S.A. § 4352 (ZONING ORDINANCES, NOTICES; GENERAL REQUIREMENTS); 38 M.R.S.A. § 438-A(1-B) (SHORELAND ZONING; NOTIFICATION TO LANDOWNERS).

505 EFFECT OF REPEAL OR AMENDMENT

505.1 Whenever a provision of the City Code is repealed or amended, such repeal or amendment must not be construed to revive such former provision unless it is so expressly provided therein.

505.2 The repeal or amendment of a provision of the City Code will not affect any enforcement action or penalty incurred before the repeal or amendment took effect, nor any suit, prosecution, or proceeding to which the City Code applied at the time of the repeal or

amendment, for an offense committed or cause of action arising under the repealed or amended provision.

506 CONFLICTING PROVISIONS

506.1 Whenever a section, paragraph, sentence, clause, or phrase of the City Code conflicts with or is inconsistent with a provision of the City Charter, the provision of the City Charter controls.

506.2 Whenever a section, paragraph, sentence, clause, or phrase of the City Code conflicts with or is inconsistent with another section, paragraph, sentence, clause, or phrase of the City Code or another ordinance, regulation, or rule administered by the City, the more restrictive section, paragraph, sentence, clause, or phrase controls.

507 VALIDITY AND SEVERABILITY

The chapters, articles, sections, paragraphs, sentences, clauses, and phrases of the City Code are severable. If any chapter, article, section, paragraph, sentence, clause, or phrase of the City Code is declared unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such unconstitutionality, invalidity, or unenforceability does not affect the validity of any remaining chapters, articles, sections, paragraphs, sentences, clauses, and phrases of the City Code.

508 COORDINATION WITH OTHER LAWS, RULES, AND ORDINANCES

All activities within the City are subject to all applicable laws, rules, and ordinances, whether or not such laws, rules, and ordinances are specifically referenced in the City Code. Any permits or approvals required by the City Code are in addition to any other permits or approvals required by other law, rule, or ordinance. The lack of a reference in the City Code to an applicable law, rule, or ordinance does not exempt the activity from such law, rule, or ordinance.

509 RESERVED

510 ENFORCEMENT; PENALTIES.

510.1 Nuisance. Any violation of the City Code is deemed to be a nuisance.

510.2 Enforcement Authority. The enforcement authority is responsible for enforcing the provisions of the City Code and the terms and conditions of any permit, license, or approval issued pursuant to the City Code. Unless otherwise expressly provided, the CEO is the enforcement authority. The CEO is appointed or reappointed annually and, if certified in accordance with 30-A M.R.S.A. § 4451, has all of the powers and authorities described in 30-A M.R.S.A. § 4452.

510.3 Inspections; Investigation of Complaints. The enforcement authority may conduct site inspections to ensure compliance with all applicable laws and all terms and conditions attached to permits, licenses, and approvals under the City Code. The enforcement authority may also investigate all complaints of alleged violations of the City Code.

510.4 Right of Entry. The enforcement authority has a right to enter any property or enter any building pursuant to 30-A M.R.S.A. § 4452(1) or any other applicable authority.

510.5 Notice of Violation. If, after investigation, the enforcement authority finds that any provision of the City Code or any terms or condition of a permit, license, or approval issued under the City Code has been violated, the enforcement authority must give written notice of the violation, in person or by certified mail return receipt requested, to the owner or occupant of the premises and to any other person responsible for the violation, indicating

the nature of the violation, a citation to the provisions of the City Code that has been violated, and ordering any action necessary to correct it (including discontinuance of illegal use of structures or lots; discontinuance of work being done; removal or relocation of illegal structures; and abatement of nuisance conditions) within a designated reasonable time. A copy of each such notice of violation must be submitted to the City Manager.

510.6 Suspension and Revocation of Permits, Licenses, and Approvals. A permit, license, or approval granted under the City Code may be suspended or revoked by the enforcement authority if the enforcement authority determines that:

1. The permit, license, or approval was issued on materially incomplete or false or fraudulent information;
2. Continuation of the work or activities authorized under the permit, license, or approval would result in a violation of federal or state law, the City Code, or any other City ordinances, regulations, or rules;
3. Continuation of the work or activities authorized under the permit, license, or approval is endangering or may endanger the public health, safety, or welfare;
4. The permit holder exceeded the scope of the work or activities authorized under the permit, license, or approval;
5. A term, condition, or requirement of the permit, license, or approval issued under the City Code has been violated; or
6. The enforcement authority is unable to determine the continued validity of a permit, license, or approval.

A permit, license, or approval granted under the City Code may also be suspended or revoked by the enforcement authority if there is a judicial finding that the permit holder conducted work or activities in an unlawful manner or in such a manner as to constitute a breach of the peace or endanger the public health, safety, or welfare.

The enforcement authority must give written notice of suspension or revocation to the permit holder stating the reason for the suspension or revocation and, in the case of suspension, the measures that must be taken by a date certain to correct the violation.

A suspension remains in force until the enforcement authority determines that (i) the permit holder can and will pursue the work or activity authorized under the permit, license, or approval without continuing, extending, or creating a violation; (ii) the violation has been abated or otherwise discontinued; or (iii) a new permit, license, or approval has been issued. When cause for a suspension has been removed or corrected, the enforcement authority must so certify in writing. If, within the time specified for correction, cause for the suspension has not been removed or suspended, the enforcement authority may continue the suspension or revoke the permit, license, or approval.

No work or activity authorized under a suspended or revoked permit or approval may continue except work or activity that is necessary to protect the public health, safety, and welfare, as authorized in writing by the enforcement authority.

510.7 Fines and Penalties. Except where stricter penalties are provided for elsewhere in the City Code or under state or federal law, any person who violates any term or condition of a permit, license, or approval or who violates or continues to violate any provision of the City Code after receiving notice of such violation is subject to such fines, penalties, actions,

and orders as are authorized by 30-A M.R.S.A. § 4452. A fine or penalty may be imposed for each violation. Each day that a violation continues constitutes a separate offense.

510.8 Legal Prosecution of Violations. If, after notice and demand, a violation has not been abated within the time specified in the notice of violation, the enforcement authority may, pursuant to City Council policy, institute in the name of the City any and all actions and proceedings, in law or in equity, including seeking injunctions of violations the imposition of fines, and the recovery of any expense, loss, damage, or cost (including attorneys' fees) that the City Manager determines are appropriate or necessary to prevent, correct, restrain, or abate any violation of the City Code or to prevent the occupancy of any building, structure, or land where such violation has occurred. All civil prosecutions under the City Code shall be prosecuted by the City Attorney pursuant to Article VI, Section 6.04, of the City Charter.

510.9 Consent and Settlement Agreements. The enforcement authority or the City Manager may refer any judicial consent agreements and administrative settlement agreements in the name of the City to the City Council for the purpose of resolving violations of the City Code and recovering fines with or without legal prosecution.

1. With regard to violations of the provisions of Chapter 56, Article 4 (Shoreland Zoning), an administrative consent agreement must not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized City official and there is no evidence that the owner or occupant acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health, safety, and welfare or will result in substantial environmental damage.
2. In determining what, if any, monetary penalty to impose as part of an administrative consent agreement, the City Manager must consider (i) how long the violation has existed; (ii) the nature and circumstances of the violation and the violator; (iii) whether a permit or approval was issued for the work; (iv) whether the violation was the result of survey work that caused a shift of boundary lines; (v) the statutory minimum and maximum penalties for land use violations set forth in 30-A M.R.S.A. § 4452; (vi) the recommendation of the enforcement authority, and (vii) such other facts and considerations as the City Manager deems relevant.

510.10 Report to City Council. The City Manager shall deliver annually, or at such interval as the City Council requests, a report to the City Council summarizing all actions and proceedings instituted by the City Manager and all consent and settlement agreements entered into pursuant to Section 509.8 and Section 509.9.

STATE LAW REFERENCE—30-A M.R.S.A. § 4452 (ENFORCEMENT OF LAND USE LAWS AND ORDINANCES); 38 M.R.S.A. § 441(3) (CEOs, POWERS AND DUTIES); 30-A M.R.S.A. § 4101 *ET SEQ.* (REGULATION OF CONSTRUCTION AND IMPROVEMENTS).

511 PERFORMANCE GUARANTEES

Whenever one or more performance guarantees are required by the City Code or as a condition of approval of a license, permit, or approval issued by an administrator pursuant to the City Code, the following requirements apply:

511.1 Review; Delegation. The performance guarantee must be satisfactory to the City administrator as to scope, amount, form, sufficiency, manner of execution, conditions and

stipulations, and surety. The administrator may delegate to the City Manager, in consultation with the Road Supervisor and Town Attorney, the review and acceptance of a performance guarantee in accordance with this Section 511.

511.2 Form. The performance guarantee must be in the form of (i) a performance bond; (ii) a certified check payable to the City; (iii) an escrow account; (iv) an irrevocable letter of credit; or, (v) in the case of a subdivision, an offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

1. **Escrow Account.** A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the permit holder, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the permit holder unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the permit holder and the amount withdrawn to complete the required improvements.
2. **Letter of Credit.** An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the project and may not be used for any other project or loan.
3. **Conditional Agreement--Subdivisions.** The City administrator may, in its sole discretion, provide for the subdivider to enter into a binding agreement with the City in lieu of another financial performance guarantee. Such an agreement shall provide for approval of the final plan on the condition that no more than four lots may be sold or built upon until either (i) it is certified by the enforcement authority that all of the required improvements have been installed in accordance with the City Code, approval conditions, and the regulations of applicable utilities; or (ii) a performance guarantee, acceptable to the City and in conformance with the requirements of this Section 511, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed. Notice of the agreement and any conditions shall be on the final, recorded subdivision plan. Release from the agreement shall follow the procedures in Section 511.6.

511.3 Scope; Amount. The performance guarantee must be of an amount sufficient to cover the full cost of all required infrastructure, reclamation of disturbed land, and decommissioning of any facilities or infrastructure associated with the proposed activity, as determined by the City administrator. Separate performance guarantees may be required by the administrator for any required site infrastructure, reclamation work, and decommissioning work. For reclamation and decommissioning work, the permit holder must arrange for the costs to be recalculated by an engineer every five years, and the amount of the performance guarantee may be adjusted by the City administrator if the calculated cost of reclamation or decommissioning materially changes.

511.4 Schedule. The performance guarantee must contain (i) a schedule and cost estimates for each major phase of required site infrastructure, reclamation work, or decommissioning work, taking into account inflation; (ii) a basis for estimating costs; (iii) provision for the release of part or all of the performance guarantee to the permit holder; and (iv) a date after which the permit holder will be in default and the City must have access to the guaranteed

funds to complete required site infrastructure, reclamation work, or decommissioning work. The City administrator may approve phased performance guarantees when the activity is approved in separate and distinct phases.

1. **Time for Completing Required Site Infrastructure.** A period of one year, or such a period as the City administrator may determine appropriate and necessary, not to exceed three years, must be set forth in the performance guarantee as the time within which any required site infrastructure must be completed. The City administrator may extend this deadline by 12 months upon a showing of good cause.

511.5 Inspections.

1. **Escrow; Selection of Inspector.** At least seven days prior to commencing construction of any required site infrastructure, and at least 30 days prior to commencing any reclamation work or decommissioning work, the permit holder must deposit in escrow with the City funds to cover the costs of site inspections to be conducted by an engineer mutually acceptable to the permit holder and the City administrator. The contractual rate and all indirect charges constitute the expenses for which the permit holder's escrow account will be charged. The City administrator must determine the type and frequency of inspections reasonably necessary to protect the environmental quality or general welfare of the City and the amount required to be placed in escrow. Any part of this escrow payment in excess of the final costs for inspections must be returned to the permit holder.
2. **Building Permits.** No building permits will be issued for any activity and no work will begin until an escrow payment has been made for the site inspections related to any required site infrastructure.
3. **Inspections; Addressing Deficiencies.** If the inspector finds, upon inspection of the required site infrastructure, reclamation work, or decommissioning work, that any of the site infrastructure or work has not been done in accordance with the plans and specifications filed by the permit holder, the reclamation plan, the decommissioning plan, or any applicable conditions of approval, the inspector must so report to the City Manager. The City Manager must then notify the permit holder. The City Manager may take any necessary steps to preserve the City's rights under the performance guarantee and to remedy any insufficiencies identified by the inspector. The City Manager may, in the City Manager's discretion, allow the permit holder a period of time not to exceed 90 days, to remedy any insufficiencies identified by the inspector.
4. **Certification.** Before a permit holder may be released from any performance guarantee obligation, the inspector must certify to the City that all required site infrastructure, reclamation work, and decommissioning work has been satisfactorily completed in accordance with conditions of approval, reclamation plans, decommissioning plans, long-term maintenance plan, and applicable state, federal, and local laws, rules, and regulations.

- 511.6 Release.** Upon certification in accordance with Section 511.5, the permit holder may apply to the City Manager for the release of all or part of the performance guarantee. Prior to the release of any part of a performance guarantee, the City Manager must determine that the required site infrastructure, reclamation work, and decommissioning work comply with the requirements for that portion of the work for which a release is requested.

APPENDIX 1-A
UNIFORM FEE SCHEDULE

ARTICLE 1 ADMINISTRATIVE FEES

Administrative Fees	Amount (\$)	Explanatory Note
Public Hearing Notice Fee	100.00	Per public hearing
Public Records—Searching for, retrieving, compilation	25.00	Per hour, after first 2 hours of staff time
Public Records—Photocopying	0.10	Per page for a standard 8 ½ x 11 inch black and white copy

STATE LAW REFERENCE—1 M.R.S.A § 408-A (PUBLIC RECORDS AVAILABLE FOR INSPECTION AND COPYING).

ARTICLE 2 HARBOR MANAGEMENT FEES (See Chapter 3)

If a mooring fee charged to nonresidents exceeds \$20 a year, the fee charged must be reasonable in relation to the costs involved in providing that mooring and must not exceed five times the amount charged to residents.

Harbor Management Fees	Amount (\$)	Explanatory Note
Mooring Waiting List Application Fee	10.00	Per year
Slip Waiting List Application Fee	25.00	Per year
Mooring/Slip Application Late Fee	50.00	Per application
Mooring Fee—Inner Harbor	150.00	Per mooring, per year
Mooring Fee—Outer Harbor	20.00	Per mooring, per year
Float Mooring Fee	25.00	Per year
Guest Mooring Fee	25.00	Per night
Dinghy Fee	None	
Dock Fee—Regular Season	2.00	Per foot, per day, after 4 hours or at Harbormaster's discretion
Dock Fee—Extended Season	154.00	Per month (prorated)
Dock Fee—Off Season	50.00	Per season
Floating Dock Fee	20.57	Per foot (based on overall length of vessel including bowsprit and swim platforms), per season
Dock "B" Extension Fee	36.30	Per foot, per season
Power Fee—Transient Vessels	5.00	Per night
City Harbor Slip Fee—30 ft.	1,936.00	Per season
City Harbor Slip Fee—25 ft.	1,633.50	Per season
City Harbor Slip Fee—½ Slip	1,000.00	Per season
City Harbor Slip Fee—Weekly	165.00	Per week
City Harbor Slip Fee—Transient Use	2.10	Per foot, per night
Harbor Park Event Fees	Amount (\$)	Explanatory Note
Harbor Park Event Fee—City Taxpayer, or Holder of Mooring or Slip Privilege	50.00	Per event
Harbor Park Event Fee—All Others	100.00	Per event
After Hours Events Fee	30.00	Per hour, minimum 2 hours

STATE LAW REFERENCE—38 M.R.S.A. § 7-A(2) (WAITING LISTS; NONRESIDENT MOORINGS; ALLOCATIONS TO NONRESIDENTS).

ARTICLE 3 FIRE PREVENTION AND LIFE SAFETY FEES
(See Chapter 4)

Fire Prevention and Life Safety Fees	Amount (\$)	Explanatory Note
Fire and Life Safety Plan Review—Not to Exceed Amount	0.04	Per square foot of gross building area
Fire Protection and Prevention Inspection Fee	<i>See Chapter 4, Article II, Section 2.2.1 for method to calculate the inspection fee</i>	
Re-Inspection Fee—First Re-Inspection	None	No additional charge
Re-Inspection Fee—Each Additional Re-Inspection	Per re-inspection; same as original inspection fee (<i>See Chapter 4, Article II, Section 2.2.1 for method to calculate the inspection fee</i>)	
Pre-Inspection / Pre-Build Review	50.00	Mandatory Inspection
Site Inspection—Voluntary or Mandatory	50.00	Site inspections are conducted upon request or if required by the City Code or other applicable law
Occupancy Load Calculation	50.00	
Emergency Vehicle Access Evaluation	50.00	
Commercial Fire Alarm Plan Review and Application Fees	Amount (\$)	Explanatory Note
Fire Alarm Plan Review	100.00	Plus \$0.20 per square foot of building area
Initial Inspection Fee—Installation or modification of fire alarm/detection/smoke control system inspection	100.00	
Re-Inspection Fee—Installation or modification of fire alarm/detection/smoke control system inspection	100.00	
Initial Inspection Fee—Replacement or modification of fire alarm control panel with existing devices	200.00	
Re-Inspection Fee—Replacement or modification of fire alarm control panel with existing devices	100.00	
Commercial Sprinkler System Plan Review and Application Fees	Amount (\$)	Explanatory Note
Sprinkler Connection Fee	275.00	
Fire Pump Installation Fee	100.00	Per fire pump
Automatic Sprinkler System—Initial Installation or Modification	225.00	
Blasting Application and Inspection Fees	Amount (\$)	Explanatory Note
Blasting Application Fee	100.00	Per day
General Annual Inspection—For facilities required to submit Tier II reports	225.00	

ARTICLE 4 PUBLIC AND PRIVATE SEWER FEES, PLUMBING CHARGES
(See Chapter 5)

The terms contained in this Article 4 have the same meanings given to them in the state rules for appointment and administration of local plumbing inspectors, codified at 10-144 C.M.R. ch. 240, and the state subsurface wastewater disposal rule, codified at 10-144 C.M.R. ch. 241.

Plumbing Permit Fees	Amount (\$)	Explanatory Note
Minimum plumbing permit fee	60.00	Includes up to four fixtures
Individual fixture fee	15.00	Per fixture, above four total
Installation of new water or drainage pipes	60.00	
New mobile home or modular home	60.00	
Hook-up to public sewer	24.00	When piping is installed beyond the jurisdiction of the sanitary district; else \$10.00
Hook-up to existing subsurface wastewater disposal system	10.00	
Late permit fee	Double the applicable permit fee.	
Re-inspection fee (upon failed inspection)	40.00	
Permit transfer	10.00	
Subsurface Wastewater Disposal System Fees	Amount (\$)	Explanatory Note
Complete engineered system	200.00	
Complete non-engineered system	250.00	
Primitive system	100.00	Includes one alternative toilet
Separate grey waste disposal field	35.00	
Seasonal conversion permit	50.00	
First-time system variance	20.00	
DEP disposal system surcharge	15.00	
Alternative toilet (only)	50.00	
Disposal field only—engineered system	150.00	
Disposal field only—non-engineered system	150.00	
Septic tank only—non-engineered	150.00	
Septic tank only—engineered	80.00	
Holding tank	100.00	
Advanced treatment unit—tank	150.00	
Advanced treatment unit—component	30.00	
Other components (complete pump station, piping, other)	30.00	
Re-inspection fee (when work has not been completed upon an inspection or was not in compliance with applicable law)	24.00	

Late Permit Fee	Amount (\$)	Explanatory Note
Late permit fee		Double the applicable permit fee.
Sewer Connection Fee	Amount (\$)	Explanatory Note
Residential	500.00	
Non-residential		
—For the first 270 gallons of design flow	500.00	Fee is based on the design flow of the building use, as set forth in the design flow table of the State of Maine Subsurface Rules
—For each additional gallon of design flow	5.00	
Inflow Removal Surcharges	Amount (\$)	Explanatory Note
Inflow Removal Surcharge	50.00	Quarterly, per incidence of unauthorized public sewer connection

STATE LAW REFERENCE—10-144 C.M.R. CH. 240 (RULES FOR APPOINTMENT AND ADMINISTRATION OF LOCAL PLUMBING INSPECTORS); 10-144 C.M.R. CH. 241 (SUBSURFACE WASTEWATER DISPOSAL RULE).

ARTICLE 5 TRAFFIC VIOLATION FEES
(See Chapter 7)

Traffic Violation Fees	Amount (\$)	Explanatory Note
Overtime Parking	10.00	See Chapter 7, Section 419
Handicapped Parking	50.00	See Chapter 7, Section 419
All Other Violations of Chapter 7	25.00	See Chapter 7, Section 419

ARTICLE 6 MUNICIPAL LICENSE AND PERMIT FEES
(See Chapter 14)

Municipal License and Permit Fees	Amount (\$)	Explanatory Note
Adult Use Cannabis Store	10,000.00	Per year
Amusement Establishment	40.00	Per year
Amusement Establishment, Special	40.00	Per year
Arcade—12 devices or less	25.00	Per year
Arcade—More than 12 devices	40.00	Per year
Business	20.00	Per year
Business—Renewal	10.00	Per year
Carnival / Circus	110.00	Per day
Class A Establishment	120.00	Per year
Class B Establishment	95.00	Per year
Class C Establishment, small	75.00	Per year
Class C Establishment, medium	115.00	Per year
Class C Establishment, large	150.00	Per year
Closing-Out Sale	10.00	Valid for 60 days
Closing-Out Sale—Extension	10.00	Valid for additional 60 days
Consumer Fireworks Retail Sales	500.00	Per year
Driveway Opening	None	Valid for 30 days
Street Opening	See Chapter 14, Section 209	Valid for 30 days; fee is the greater of the base fee or 10% of total impact value, per City's Highway Road Opening / Location Permit Policy
Junkyard / Automobile Graveyard / Automobile Recycling Business—Within 100 feet from highway	200.00	Per year
Junkyard / Automobile Graveyard / Automobile Recycling Business—100 or more feet from highway	75.00	Per year
Liquor	50.00	Per year
Lodging House, other than bed & breakfast	60.00, plus \$3.00 per room	Per year
Lodging House—Bed & Breakfast, less than 5 rooms	35.00	Per year
Lodging House—Bed & Breakfast, 5 to 14 rooms	50.00	Per year
Lodging House—Bed & Breakfast, 15 or more rooms	60.00, plus \$3.00 per room	Per year
Mass Gathering	110.00	Per day
Medical Cannabis Dispensary	1,000.00	Per year
Mobile Vending Unit	65.00	Per year

Municipal License and Permit Fees	Amount (\$)	Explanatory Note
Parade	0.00	Per event
Pole / Wire Permit	8.00	One-time filing fee
Sewer Hook-up	See Article 4	
Taxicab	40.00	Per taxi, per year
Taxi Driver	25.00	Per driver, per year
Taxi Stand	110.00	Per space, per year
Towing Service	110.00	Per year
Transient Seller	110.00	Valid for 30 days
Tree Work	25.00	Per event
Victualer's	75.00	Per year
Victualer's—Off-Premise Consumption	35.00	Per event

ARTICLE 7 DOG LICENSE FEES
(See Chapter 22)

Dog License Fees	Amount (\$)	Explanatory Note
Dog Tag—Neutered	6.00	Per year, per dog
Dog Tag—Intact	11.00	Per year, per dog
Late Fee	25.00	

ARTICLE 8 ELECTRICAL INSTALLATION AND INSPECTION FEES
(See Chapter 41)

Electrical Installation Permit Fees¹	Amount (\$)	Explanatory Note
Signs	25.00	
Change in size of entrance	25.00	
Electrical Installation Permit Fee—Installation, addition, or alteration to single and two-family residence	50.00	
Non-Commercial Property	None	
Commercial Property	The greater of (i) \$100.00 and (ii) 1% of the estimated cost of the electrical work.	
Certificate of Acceptance Fees	Amount (\$)	Explanatory Note
Non-Commercial Property	None	
Commercial Property	The difference between the estimated and actual 1% of the cost of the electrical work, if any.	

¹ A separate fee is assessed for each item listed below, even if the electrical work performed is located on the same job site.

ARTICLE 9 SOLID WASTE DISPOSAL CHARGES FOR TRANSFER STATION USE
(See Chapter 42)

Solid Waste Disposal Fees	Amount (\$)	Explanatory Note
City-Provided Collection Service—Trash Sticker	4.00	Per sticker
Ellsworth Transfer Station—Trash Sticker	4.00	Per sticker
Ellsworth Transfer Station—Scale Tonnage Fee	160.00	Per ton (with a minimum point-of-service charge of \$8.00)
Ellsworth Recycling Center—Recyclable Materials other than E-Waste	None	
Ellsworth Recycling Center—E-waste: TVs and computer monitors (15-34 inches)	5.00	Per item
Ellsworth Recycling Center—E-waste: TVs and computer monitors (35-100 inches)	10.00	Per item
Ellsworth Recycling Center—E-waste: Other (e.g., laptops, motherboards, desktop printers, fax machines, cellphones)	None	

ARTICLE 10 TOWING SERVICE RATES AND FEES
(See Chapter 48)

Towing Fees—Light Duty Tows ²	Amount (\$)		Explanatory Note
	Standard	Accident	
Day Rate (8:00 am – 6:00 pm)	85.00	150.00	
Night Rate (6:00 pm – 8:00 am)	95.00	150.00	
Outside Storage ³	50.00	50.00	
Inside Storage ⁴	70.00	70.00	
Mileage	4.00	4.00	Per loaded mile
Time, after the first ½ hour ⁵	85.00 plus 20.00	150.00 plus 30.00	Per 15-minute increment
Day Service Call	85.00	85.00	
Night Service Call	95.00	95.00	
Accident Scene Clean-Up	---	75.00	
Equipment Clean-Up	50.00	---	

² Light duty tows with a gross vehicle weight (GVW) of less than 12,000 lbs. A dual rear wheel vehicle built on a full-sized chassis is not a light duty tow, regardless of GVW.

³ First day of storage may be charged if the vehicle is held in excess of 12 hours; subsequent storage may be charged after the initial 24-hour period for any part of each subsequent 24-hour period.

⁴ First day of storage may be charged if the vehicle is held in excess of 12 hours; subsequent storage may be charged after the initial 24-hour period for any part of each subsequent 24-hour period.

⁵ Time charges may be assessed for time at the scene only. Time may not be assessed for time spent going to or returning from a town, nor shall time be assessed in addition to mileage.

ARTICLE 11 DEVELOPMENT FEES
(*See Chapter 54*)

Development fees shall be established in accordance with Chapter 54 (Development Fees).

ARTICLE 12 WATER SUPPLY PROTECTION FEES
(See Chapter 55)

Water Supply Protection Fees	Amount (\$)	Explanatory Note
Aeroplane Tag	0.00	See Chapter 55, Section 501
Boat Tag	0.00	See Chapter 55, Section 401

ARTICLE 13 LAND USE PERMIT FEES
(See Chapter 56)

Building Permit Fees	Construction / Additions (\$, per building size, in sq. ft.)	Demolition (\$, per building size, in sq. ft.)	Alterations (\$, per \$1,000 est. construction cost)	Certificate of Occupancy (\$, flat fee)	Activity within Shoreland Zone Setbacks (\$, flat fee)
One-Story Buildings:					
—One- and Two-Family Dwellings	0.25	0.10	5.00	50.00	25.00
—Accessory Structures	0.25	0.10	5.00	50.00	25.00
—Other Buildings	0.30	0.10	5.00	50.00	25.00
Multi-Story Buildings	Calculate using Story Factor ⁶		5.00	50.00	25.00

Site Development Plan Review Fees	Amount (\$)	Explanatory Note
Site Development Plan—Minor	200.00	
Site Development Plan—Major; Sketch Plan	25.00	
Site Development Plan—Major; Preliminary Plan	200.00	
Site Development Plan—Major; Final Plan	Calculate using square footage and soil disturbance. ⁷	

⁶ To calculate the fee for multi-story building construction, additions, or demolition, multiply the total building square footage by the above-identified fee rate and the following Story Factor. Do NOT use the Story Factor to calculate the fees for alterations, certificates of occupancy, or activities within the shoreland zone setback, as these are flat fees.

Number of Stories	Story Factor	Number of Stories	Story Factor
1.0	1.00	3.0	2.05
1.5	1.45	3.5	2.30
2.0	1.70	4.0	2.45
2.5	1.85		

⁷ Apply the cost per square footage of buildings and infrastructure as shown in Table 1, in addition to the cost of site disturbance as presented in Table 2. For solar energy system (SES), use total solar panel area plus square footage of buildings.

Table 1. Cost Per sq. ft.	
Total Square Footage (sf)	Fee (\$)
Up to 5,000	250.00
5,001 – 10,000	500.00
10,001 – 20,000	750.00
20,001 – 30,000	1,000.00
30,001 – 40,000	1,250.00
40,001 – 50,000	1,500.00
50,001 – 100,000 sf	2,000.00
100,000 and more	2,500.00

Table 2. Site Disturbance Fees (excludes buildings and structures)	
Acres of Soil Disturbance	Fee (\$)
First Acre	0.00
More than One Acre (per acre or any part of an acre)	100.00
<i>Example:</i> Disturbed area = 2.2 acres Fee = \$200 (1.2 acres more than 1 acre)	

Subdivision Review Fees⁸	Amount (\$)	Explanatory Note
Sketch Plan	25.00	
Minor Subdivision—Final Plan	25.00	Per lot or dwelling unit
Major Subdivision—Preliminary Plan	20.00	Per lot or dwelling unit
Major Subdivision—Final Plan	25.00	Per lot or dwelling unit
Mobile Home Park	Same as Subdivision fees, above, except that the fee shall be per Mobile Home Site	
Emergency Mobile Home Park	0.00	
Subdivision of New or Existing Structure	Site Plan Review Fees apply	
Subdivision Revisions	100.00	

Rezoning Petition Fees	Amount (\$)	Explanatory Note
Rezoning Petition	100.00	

Flood Hazard Development Permit Fee	Amount (\$)	Explanatory Note
Flood Hazard Development Permit Fee	50.00	<i>See</i> Chapter 33, Article IV.

⁸ Retained land and/or community space shall be counted as one lot or unit for the purpose of fee calculations.

APPENDIX 1-B OFFICIAL URBAN CORE MAP

