

Part 8. Chapter 38 of the City Code (Board of Appeals) is proposed to be amended by striking the words shown in strikethrough and adding the words shown in underline, as follows.

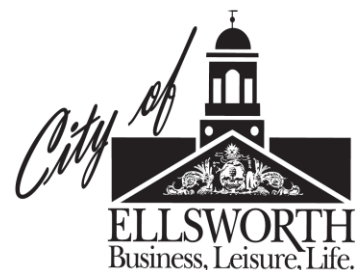
Code of Ordinances, City of Ellsworth

CHAPTER 38
BOARD OF APPEALS

A true copy, attest:

Suzanne McLean
City Clerk

HISTORICAL NOTE: EFFECTIVE JUNE 19, 1978; AMENDED *** 2026.



CHAPTER 38

BOARD OF APPEALS

ARTICLE I ESTABLISHMENT

Pursuant to the provisions of 30-A M.R.S.A. §§ 2691 and 4353, there is hereby established a Board of Appeals for the City.

ARTICLE 2. ORGANIZATION

- 201** The Board of Appeals shall consist of five (5) members and one associate member, all of whom shall be residents of Ellsworth.
- 202** The members and associate member of the Board of Appeals shall be appointed by the City Council for terms of five (5) years each. The five (5) year terms of the members shall be staggered such that the term of one member will expire each year. The term of the associate member shall be five (5) years.
- 203** The associate member shall act in place of any member who may be unable to act due to conflict of interest, absence, physical incapacity, or any other reason. The
- 204** The members of the Board of Appeals shall annually elect one of its numbers to serve as Chair and one of their number to serve as Secretary.
- 205** Neither a municipal officer nor a spouse of a municipal officer may be a member or associate member of the Board of Appeals.
- 206** Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting on that issue shall be decided by a majority vote of the members of the Board of Appeals, excluding the member who is being challenged.
- 207** The City Council may dismiss a member of the Board of Appeals for cause before the member's term expires.
- 208** In the event that vacancy shall occur with respect to the Board of Appeals by non-acceptance of appointment, resignation, abandonment, death, disability, incompetency, forfeiture, or failure to qualify after written demand from the City Council, the City Council shall appoint a resident of Ellsworth to fill the unexpired term.

ARTICLE 3 PROCEDURES

The provisions of Chapter 1, Section 210, and 30-A M.R.S.A §§ 2691(3) and 4353(1) govern the procedures of the Board of Appeals. In addition:

- 301 Chair.** The Chair shall call meetings as required or when requested to do so by a majority of the members of the Board of Appeals, by the City Council, or by the CEO. The Chair shall preside at all meetings of the Board of Appeals and shall serve as the official spokesperson of the Board of Appeals.
- 302 Secretary.** The Secretary shall maintain a permanent record of all Board of Appeals meetings and all correspondence of the Board of Appeals. The Secretary is responsible for maintaining those

records which are required as part of the proceedings which may be brought before the Board of Appeals. All records to be maintained or prepared by the Secretary are public records, must be filed in the office of the City Clerk, and may be inspected by the public at reasonable times.

303 Quorum. A quorum of the Board of Appeals is required to conduct any business of the Board of Appeals. A quorum shall consist of a majority of the members of the Board of Appeals.

304 Rules of Procedure. The Board of Appeals may establish, by vote of its membership, such other rules of procedure for hearings and proceedings before it, as are not inconsistent with the procedures set forth in this Chapter 38, any other applicable provisions of the City Code, and state law.

ARTICLE 4 JURISDICTION

The Board of Appeals shall have the following powers and duties:

401 Administrative Appeals. To hear and decide any appeal by any aggrieved person, any decision, order, act, or failure to act of any City administrator, as expressly set forth in Chapter 1, Section 207.3, in accordance with Chapter 1, Section 210.

402 Variances. To authorize in specific cases variances from the terms of the City Code in accordance with Chapter 1, Section 211.

403 Limitation on Jurisdiction. The Board of Appeals shall not assert jurisdiction over any matter unless the City has, by charter or ordinance, specified the precise subject matter that may be appealed to the Board of Appeals and the official or officials whose action or nonaction may be appealed to the Board of Appeals.

ARTICLE 5 STATE LAW CONTROLS

Notwithstanding the provisions of this Chapter 38, the provisions of 30-A M.R.S.A. §§ 2691 and 4353 shall govern and control the organization, procedures, and jurisdiction of the Board of Appeals.

ARTICLE 6 EFFECTIVE DATE

This Chapter 38 became effective on June 19, 1978.

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