

Part 15. Chapter 56 of the City Code (Unified Development Ordinance) is proposed to be amended as follows:

- (1) by adding the words shown in underline and by striking the words shown in strikethrough within Article 1 (Administration), Article 3 (Zoning Districts), Article 4 (Shoreland Zoning), Article 8 (Performance Standards), Article 9 (Street Design and Construction Standards), Article 10 (Stormwater), and Article 11 (Parking), as shown on the following pages;**
- (2) by adopting a new Article 2 (Building Permits) in its entirety, as shown on the following pages;**
- (3) by repealing and replacing Article 6 (Site Plan Development Review) with proposed new Article 6 (Site Plan Development Review), as shown on the following pages; and**
- (4) by adopting Article 7 (Subdivision Review) in its entirety, as shown on the following pages.**

Code of Ordinances, City of Ellsworth

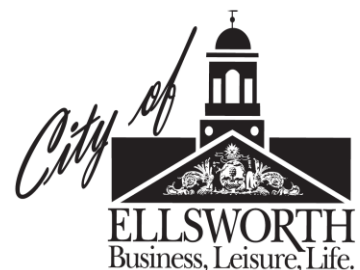
CHAPTER 56

UNIFIED DEVELOPMENT ORDINANCE

A true copy, attest:

Heidi Noël Grindle
City Clerk

HISTORICAL NOTE: ADOPTED JUNE 18, 2012; AMENDED AUGUST 20, 2012; AMENDED NOVEMBER 19, 2012; AMENDED JANUARY 14, 2013; AMENDED JULY 15, 2013; AMENDED MARCH 17, 2014; AMENDED APRIL 21, 2014; AMENDED APRIL 19, 2016; AMENDED NOVEMBER 21, 2016; AMENDED MAY 21, 2018; AMENDED APRIL 20, 2020; AMENDED *** 2026.



CHAPTER 56

UNIFIED DEVELOPMENT ORDINANCE

ARTICLE 1 PURPOSE, ~~AND~~ ~~AUTHORITY~~ APPLICABILITY ~~AND~~ ADMINISTRATION OF THE UDO

101 PURPOSES

In addition to the general purposes of the City Code set forth in Chapter 1, Article 2, the purposes of the UDO are as follows:

101.1 Implement the provisions of the *Comprehensive Plan*.

101.2 Promote the health, safety, and general welfare of residents.

101.3 Encourage the most appropriate use of land.

101.4 Promote traffic safety.

101.5 Preserve access to adequate light, air, water and land.

101.6 Conserve natural resources and open space.

101.7 Protect archaeological, historic and scenic resources.

101.8 Allow for the strengthening of the economic base and the enhancement of the appearance of business and commercial zoning districts throughout the City.

101.9 Affirmatively further the purposes of the Federal Fair Housing Act, codified at 42 U.S.C. ch. 45, and the Maine Human Rights Act, codified at 5 M.R.S.A. ch. 337, to achieve applicable statewide or regional production goals established by the DECD.

The UDO is enacted pursuant to and consistent with the general intent of the *Comprehensive Plan* and all other City Council-approved neighborhood, area, or specific plans referenced in this Chapter 56.

102 ~~TITLE TO WHICH ACTIVITIES DOES THE UDO APPLY?~~

~~The Ordinance and the accompanying Official Land Use Map(s) shall be known as the Unified Development Ordinance of the City of Ellsworth, Maine (UDO) and shall be referred to herein as this "Ordinance" or "UDO."~~The UDO applies to any structure, or any part of a structure, that is proposed to be erected, altered, improved, renovated, enlarged, moved (including removed from, moved onto, or moved within a lot), or demolished; land that is used or occupied; any proposed use, or a change or expansion of a use; and the 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 provided in Section 702.

103 WHICH ACTIVITIES DO NOT REQUIRE PERMITS OR APPROVALS UNDER THE UDO?

No permit or approval from the City administrator is required for the following activities or structures under the UDO, as long as the activities are conducted and the structures are constructed in compliance with applicable dimensional requirements and performance standards:

103.1 **Normal Maintenance and Repair.** Repair, maintenance, and improvement of a structure within the footprint of the structure, including insulation, plumbing, painting, re-roofing,

and minor efficiency upgrades such as replacement doors or windows, but not replacement foundations.

103.2 Residential Gardening and Landscaping. Non-structural residential gardening and landscaping activities. If in the shoreland zone, such activities must comply with any applicable dimensional and land use standards in Section 410 (Land Use Standards) and Section 411 (Performance Standards).

103.3 Agriculture and Forestry Uses. Non-structural use of land for agricultural purposes, subject to the provisions of Section 802 (Backyard Livestock), or forestry purposes. If in the shoreland zone, such activities must comply with any applicable dimensional and land use standards in Section 410 (Land Use Standards) and Section 411 (Performance Standards). Note that forest management activities, including timber harvesting activities, are regulated by the DAFB Bureau of Forestry pursuant to 12 M.R.S.A. §§ 8866 *et seq.*

103.4 Fencing. Enclosure of a pasture or area with a fence.

103.5 Small Accessory Structures. Outside of the shoreland zone, the erection of free-standing structures that are accessory to residential uses, not more than 100 square feet in floor area and not exceeding 10 feet in height.

103.6 Farm and Fire Ponds. Outside of the shoreland zone, construction of farm or fire ponds. Note that a NRPA permit may be required for such activities.

103.7 Division of Land; Exempt Subdivisions. Creation or conveyance of a lot that is not part of a subdivision, as defined in 30-A M.R.S.A. § 4401(4), or which is exempt from subdivision review pursuant to Section 702.

103.8 Road Culvert Repair and Maintenance. Repair and maintenance of an existing road culvert, or replacement of an existing road culvert as long as (a) the replacement culvert is not more than 25% longer than the culvert being replaced and not longer than 75 feet, (b) erosion control measures are taken to prevent sedimentation of the affected water body, and (c) the culvert does not block fish passage. Ancillary culverting activities, including excavation and filling, are included in this exemption. See Section 409.28 for applicable standards.

103.9 Archaeological Excavation. Archaeological excavation, as long as the excavation is conducted by an archaeologist listed on Level 1 or Level 2 approved list in accordance with the State Historic Preservation Officer's Standards for Archaeological Work in Maine, 94-089 C.M.R. ch. 812, and adequate erosion control measures are taken to prevent sedimentation of any affected water body.

103.10 Sand and Salt Storage. Outside of the shoreland zone, outdoor storage or stockpiles of winter abrasives (sand and salt) used for the maintenance of private or public roads, except for any storage or stockpiles associated with mineral extraction.

103.11 Utility Transmission and Distribution Lines Repair, Replacement. Repair or replacement of damaged or destroyed public utility transmission and distribution lines and related equipment.

STATE LAW REFERENCE—30-A M.R.S.A. § 4401 (SUBDIVISIONS; DEFINITIONS); 38 M.R.S.A. § 438-A (MANDATORY SHORELAND ZONING; MUNICIPAL AUTHORITY); 38 M.R.S.A. § 480-A *ET SEQ.* (NATURAL RESOURCES PROTECTION ACT); 94-089 C.M.R. CH. 812 (STATE HISTORIC PRESERVATION OFFICER'S STANDARDS FOR ARCHAEOLOGICAL WORK IN MAINE).

104 WHICH ACTIVITIES REQUIRE A PERMIT OR APPROVAL UNDER THE UDO?

A written permit or written approval from the City administrator is required before undertaking any of the following activities, unless the activity is expressly identified as not requiring a permit in Section 103:

- 104.1 Erecting, altering, improving, renovating, enlarging, moving (including removing from, moving onto, or moving within a lot), or demolishing a structure, or any part of a structure.
- 104.2 Establishing, changing, or expanding a land use, and any structures associated with or accessory to such use, which is identified as:
 - 1. Allowed in the Table of Use Regulations in Section 307.
 - 2. Allowed with a permit issued by the CEO, allowed with a permit issued by the LPI, or allowed with Planning Board approval in the Table of Land Uses for the Shoreland Zone in Section 409 (Shoreland Zoning).
- 104.3 Renewing a discontinued nonconforming use.
- 104.4 Creating a subdivision, as defined in 30-A M.R.S.A. § 4401(4), except as provided in Section 702, including selling, leasing, developing, building upon, or conveying any land in a subdivision.

STATE LAW REFERENCE—30-A M.R.S.A. § 4401 (SUBDIVISIONS; DEFINITIONS).

105 WHAT TYPES OF PERMITS OR APPROVALS ARE REQUIRED UNDER THE UDO?

Unless expressly identified as not requiring permits or approvals in Section 103, the following permits or approvals are required under the UDO:

- 105.1 **Building Permit.** A building permit issued by the CEO is required for all residential and non-residential structural development, including the construction, reconstruction, expansion, or relocation of detached single-family dwellings and duplexes, residential accessory structures, and non-commercial structures. When development requires site development plan approval under the UDO, such approval shall be secured before applying for a building permit.
- 105.2 **Site Development Plan Approval.** Site development plan approval issued by the CEO or the Planning Board pursuant to Article 6 is required for all non-residential development and for the division of a new or existing structure so as to create three or more dwelling units.
- 105.3 **Subdivision Approval.** Subdivision approval issued by the Planning Board pursuant to Article 7 is required for the division of a tract or parcel of land into four or more lots.
- 105.4 **Certificate of Occupancy.** Prior to the sale, lease, or occupancy of any new or altered building, the holder of a valid building permit must secure a certificate of occupancy from the CEO, in accordance with Chapter 56, Section 205.

STATE LAW REFERENCE—30-A M.R.S.A § 4352 (ZONING ORDINANCES); 25 M.R.S.A § 2353-A (DUTY TO INSPECT BUILDINGS UNDER CONSTRUCTION).

~~101 AUTHORITY AND ADMINISTRATION~~

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

~~102.2 Administration. This Article shall be:~~

~~By the Planning Board for projects requiring Planning Board Approval as specifically authorized in this Ordinance.~~

~~The City Planner and its designee serve in advisory capacity to the Planning Board and are responsible to provide guidance to the applicant whose project requires Planning Board Review.~~

~~By the Code Enforcement Officer for all projects not requiring Planning Board and for projects in the Commerce Park zoning district. All enforcement of construction activities shall be the responsibility of the Code Enforcement Officer.~~

~~GENERAL PURPOSES~~

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

~~Implement the provisions of the City's Comprehensive Plan.~~

~~Promote the health, safety, and general welfare of residents.~~

~~Encourage the most appropriate use of land.~~

~~Promote traffic safety.~~

~~Preserve access to adequate light, air, water and land.~~

~~Conserve natural resources and open space.~~

~~Protect archaeological, historic and scenic resources.~~

~~Allow for the strengthening of the economic base and the enhancement of the appearance of business and commercial zoning districts throughout the City.~~

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

~~104 APPLICABILITY~~

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

~~105 CONSISTENCY WITH PLANS~~

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

~~106 COORDINATION WITH OTHER REGULATIONS~~

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

~~107 CONFLICTS WITH OTHER REGULATIONS.~~

~~Whenever the requirements of the Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, or ordinance, the more restrictive requirements shall govern.~~

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

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

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

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

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

~~109—VALIDITY AND SEVERABILITY—~~

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

~~110—EFFECTIVE DATE—~~

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

~~111—AVAILABILITY~~

~~A certified copy of the Ordinance shall be filed with the City Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted in the Ellsworth City Hall.~~

~~112—PENALTIES FOR VIOLATION~~

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

~~113—REMEDIES~~

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

~~114—APPEALS~~

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

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

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

~~115—AMENDMENTS TO THE ORDINANCE~~

~~115.1—Authority.~~

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

~~115.2—Planning Board Reports to City Council.~~

A. ~~Proposed amendments or repeal must first be submitted to the Planning Board for their consideration.~~

B. ~~Within 20 days of receiving a proposal for an amendment or repeal, the Planning Board shall schedule a public hearing on the proposed amendment.~~

C. ~~The notice must be published at least 2 times in a newspaper that has a general circulation in the City of Ellsworth. The date of the first publication must be at least 13 days before the hearing and the date of the second publication must be at least 6 days before the hearing.~~

D. ~~The Planning Board shall make its official report at the next meeting of the Ellsworth City Council, which is held at least 10 days after the public hearing held by the Planning Board.~~

~~115.3—Procedure of Amendments by the City Council.~~

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

~~Contents.~~ The notice must be written in plain English, understandable by the average citizen and contain a copy of the Official Land Use Map indicating the portion of the City affected by the proposed amendment.

~~Posted.~~ The notice must be posted in the Ellsworth City Hall at least 13 days before the public hearing.

~~Published.~~ The notice must be published at least 2 times in a newspaper that has a general circulation in the City of Ellsworth. The date of the first publication must be at least 13 days before the hearing and the date of the second publication must be at least 6 days before the hearing.

~~Mailed.~~ For each parcel within the City that is in or abutting the portion of the City affected by the proposed amendment, the notice must be mailed by first class mail at least 13 days before the public hearing to the last known address of the person to whom property tax on each parcel is assessed. The City Planner shall prepare for the City Council and file with the City Clerk a written certificate indicating those persons to whom the notice was mailed and at what address, when it was mailed, by whom it was mailed and from

~~what location it was mailed. This certificate constitutes prima facie evidence that notice was sent to those persons named in the certificate.~~

~~Additional _____ Notice _____ for _____ Particular _____ Circumstances. Notice must be given to additional recipients in accordance with this subsection when the following described conditions occur.~~

~~Changes to Allowed Uses. Notice must be sent to affected landowners when the City of Ellsworth proposes an amendment to the Ordinance or Official Land Use Map that has the effect of either prohibiting all industrial, commercial or retail uses where any of these uses are permitted or permitting any industrial, commercial or retail uses where any of these uses are prohibited. Notice must also be sent to a Public Drinking Water supplier if the area to be rezoned contains its Source Water Protection Area—refer to Title 30-A §4352.~~

~~Shoreland Zoning Resource Protection. Notification to Landowners whose property is being considered for placement in a Resource Protection Zone shall comply with Title 38, §438 A public notice shall be given according to State Law~~

106 ADMINISTRATION

~~The CEO, the Planning Board, and the City Planner are responsible for administering the UDO, as set forth in Chapter 1, Section 207.~~

107 ENFORCEMENT

~~The CEO is responsible for enforcing the provisions of the UDO by inspecting premises, investigating complaints, issuing notices of violation, suspending or revoking permits or approvals, and participating in legal prosecution of violations as needed, in accordance with Chapter 1, Section 510 of the City Code.~~

~~STATE LAW REFERENCE—30-A M.R.S.A § 4452 (ENFORCEMENT OF LAND USE LAWS AND ORDINANCES).~~

102108 PLAN APPROVAL AND PERMITTING PROCEDURESADMINISTERING PERMITS AND APPROVALS, GENERALLY

201. — PURPOSE

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

202 — BUILDING PERMITS REQUIRED

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

203 — GENERAL PROCEDURES

~~A building permit is required for all development, unless otherwise excepted, to ensure compliance with this Ordinance. For some projects, Planning Board approval is needed before a Building Permit can be issued. General~~

~~procedural elements common to all development include, but are not limited to: a) the submittal of a complete application, including required fee payments and appropriate back up information and studies; b) the review of the submittal by the Administrator; and c) the decision to approve or deny.~~

108.1 Levels ~~Of~~ Review By Project Type

~~There are d~~ Different levels of administrative review ~~associated with the implementation of this Ordinance~~ apply to uses and structures that are subject to the requirements of the UDO, based on the complexity, location, and ~~or~~ impact of the project. In some cases, more than one level of review may be required.

1. **Building Permits / Limited Scope Project Review.** ~~This Building permit applications require~~ is a basic level of review conducted by the ~~Code Enforcement Officer~~CEO. This limited scope project review is appropriate for uses such as, but not limited to: including one- and two-family residential units; home-occupation; demolition; and many certain activities within the Shoreland Zone; and for uses having received prior Planning Board approval. A limited scope project review does not require a public hearing. All building permit applications shall be reviewed by the CEO in accordance with Article 2.
2. **Site Development Plan Reviews.** There are two levels of ~~s~~Site development pPlan review: ~~1) minor use site development plan; and 2) major use site development plan.~~ The ~~Code Enforcement Officer~~CEO shall classify site development plan review ~~levels~~ applications as minor use or major use based on the classification criteria in Article 6, Section 604. ~~The Code Enforcement Officer may classify a Minor Use Site Development Plan project as a Major Use Site Development Plan project after determination that it may have significant impact to the physical, social, or economic environment because of stormwater, traffic, erosion, dust, lighting, or other factors. All site development plan applications shall be reviewed by the CEO or the Planning Board in accordance with Chapter 56, Article 6 (Site Development Plan Review).~~
 - A. ~~**Minor Use Site Development Plan Review.**~~ This level of review shall include those projects that require a higher level of scrutiny than a Limited Scope Project but do not require a public hearing. ~~Minor Use Site Development Plan reviews are conducted by the Code Enforcement Officer.~~
 3. ~~**Major Use Site Development Plan Review.**~~ This level of review is for uses that are relatively large and have a potentially greater impact than Minor Use Site Development Plan, and where public comments are warranted. ~~Major Use Site Development Plan reviews are conducted by the Planning Board.~~
 - 4.3. **Subdivision Plans.** There are two levels of subdivision review: minor and major. The City Planner shall classify subdivision applications as minor or major based on the number of proposed lots. All subdivision plans shall be reviewed by the Planning Board in accordance with Chapter 56, Article 7 (Subdivision Review).
 4. **Certificates of Occupancy.** After securing a building permit and prior to the sale, lease, or occupancy of a building or site, the permit holder must secure a certificate of occupancy from the CEO in accordance with the requirements of Chapter 56, Section 205.

108.2 REVIEWERS

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

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

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

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

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

~~City Council. The City Council, the legislative body of the City of Ellsworth, decides on proposals to amend this Ordinance, including rezoning, to accept private roads as public roads, and has the authority to modify road standards and other decision as specified in this Ordinance. A public hearing is required prior to the City Council making decisions pertaining to this Ordinance.~~

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

~~103 — 206. — PROCEDURES FOR BUILDING PERMIT AND MINOR USE PLAN REVIEW~~

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

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

~~1. — 206.4 — Posting of Building Permits. The applicant shall conspicuously post any permit issued, on the lot where the activity will occur, at a location clearly visible from the street unless other means of posting are authorized by the Code Enforcement Officer.~~

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

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

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

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

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

~~104 — 207 — PROCEDURES FOR MAJOR SITE DEVELOPMENT PLAN AND SUBDIVISION REVIEW~~

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

~~207.2—Application Deadline. Applications shall be delivered to the City Planner with all appropriate fees no later than 4:00 PM, 27 days before the scheduled Planning Board meeting. The Office of the City Planner shall post at City Hall a schedule of meetings each December for the coming calendar year.~~

~~207.3—Supplemental Application Materials.~~

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

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

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

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

~~207.6—Technical Review Team Regular Meeting. The City Planner shall call an Ellsworth Technical Review Team meeting consisting of the Police Chief, the Fire Chief, the Highway Foreman, the Water Superintendent, the Wastewater Superintendent, the Code Enforcement Officer, and the Planner, within 7 days of an application deadline. This meeting shall be referred to as the Regular Technical Review Team meeting. The City Planner, in coordination with the Technical Review Team, conducts a final qualitative review of the applications on the agenda and issues a memorandum of findings to the Planning Board and the applicants~~

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

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

~~Board meeting or site visit. Other notices may apply as specified in this Ordinance or applicable State laws.~~

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

~~**207.10** Planning Board Approval.~~

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

~~B. Subdivision Expiration. The plan shall be null and void if the period of time between Planning Approval and recording at the Hancock Registry of Deeds is greater than 100 days.~~

~~C. EXISTING VIOLATIONS. Planning Board approval shall not be granted for an application involving a structure if the structure would be located in an unapproved subdivision; the application is in violation of the provision of a previously approved plan; or the approval would violate any other local ordinance or regulation or any state law, which the City of Ellsworth is responsible of enforcing~~

~~**209** PEER**Third-Party Professional Review**~~

~~A.1. **Request by City Planner.** When, in its advisory capacity to the Planning Board, the City Planner determines that the Ellsworth Technical Review Team does not have the expertise to ensure evaluate whether an application is in compliance with this Ordinance the UDO, the City Planner may ask the applicant for to submit the application to a peer-third-party professional review. The applicant may comply with the request or decide to ask for a determination by the Planning Board.~~

~~B.2. **Request by the Designation by Planning Board.** When the Planning Board determines that it the Planning Board and/or the Ellsworth Technical Review Team does not have the expertise to ensure evaluate whether an application is in compliance with this Ordinance the UDO, it the Planning Board may designate the application a special application and assess a special fee to retain one or more third parties to conduct professional reviews of the application, in accordance with Chapter 1, Section 303 (Special Fee). may require a peer review.~~

~~C.3. **Request Designation by Code Enforcement Officer** CEO. When the Code Enforcement Officer CEO determines that it the CEO does not have the expertise to ensure evaluate whether an application is in compliance with this Ordinance the UDO, the CEO may designate the application a special application and assess a special fee to retain one or more third parties to conduct professional reviews of the application, in accordance with Chapter 1, Section 302 (Special Fee) it may require a peer review.~~

~~D. **Hiring of Expert Consultant for Peer Review.** Per the above sub-sections A through C, the City may choose to hire an expert consultant to review any submission of an application. The consultant shall report as to the compliance or non-compliance with this Article, and report, if applicable, of procedures which will result in compliance. The selected consultant shall estimate the cost of such review and the applicant shall deposit with the City the full estimated cost, which the City shall place in an escrow account. The City shall pay the consultant from the escrow account and reimburse the applicant if funds remain after payments are~~

~~completed. To be selected, the consultant shall be fully qualified to provide the required information and shall be mutually acceptable to the Administrator or the City Planner and the applicant.~~

- E.4. ~~**Hiring of Expert, Request for Additional Studies.**~~ In addition to or in lieu of securing a third-party professional review, t~~Only~~ the Planning Board may require the applicant to undertake ~~any one or more additional studies,~~ which it deems reasonable and necessary to ~~ensure evaluate whether an that application is in compliance with~~ the requirements of ~~this Ordinance are met,~~the UDO. The costs of all such studies shall be borne by the applicant.

240109 PERFORMANCE GUARANTEES

~~For any site development plan or subdivision that has been approved pursuant to the UDO, the City administrator may, as a condition of approval, require a p~~Performance guarantees including surety bonds, money, or letters of credit may be required by the City Manager, the City Council, or the Planning Board~~in an amount sufficient to cover the cost of all or any part of the improvements, in accordance with the requirements of Chapter 1, Section 511.~~

110 EFFECT OF EXISTING VIOLATIONS

Planning Board approval shall not be granted for an application involving a structure if the structure is proposed to be located in an unapproved subdivision; the application is in violation of the provision of a previously approved plan; or the approval would violate any other provision of the City Code or state law which the City is responsible of enforcing.-