

TOWN OF ANDOVER
BOARD OF APPEALS ORDINANCE

Section 1. Authority; establishment

Pursuant to Title 30-A M.R.S.A. & 2691 and Title 30-A R.R.S.A. §3001, a Board of Appeals is hereby established for the Town of Andover, Maine.

Section 2. Composition; appointment; qualifications; terms; removal; vacancies

The Board shall consist of 3 regular and 1 associate members who shall be appointed by the municipal officers and who shall be registered voters of the Town. Neither a municipal officer nor the spouse of a municipal officer may be a member. Members shall serve for terms of 3 years and shall continue in office until their successors are appointed, except that initial appointments shall be staggered so that as nearly an equal number of terms shall expire annually. The municipal officers may remove a member for cause, after notice and hearing. Vacancies shall be filled within 60 days by appointment of the municipal officers for the unexpired term.

Section 3. Officers; meetings; quorum; procedure

The board shall annually elect a Chair and a Secretary from among its members. The Chair shall call meetings as necessary or when so requested by a majority of members or the municipal officers. A quorum necessary to conduct business shall consist of at least a majority of members. The Chair shall designate an associate member to serve in the place of a regular member who is absent or disqualified; associate members shall otherwise not be considered members for purposes of a quorum or voting. The Chair shall preside at all meetings and shall be the official spokesperson of the Board. The Secretary shall maintain a permanent record of all proceedings and all correspondence of the Board which shall be a public record and shall be filed with the Town Clerk and may be inspected at reasonable times. The Board may adopt written rules of procedure governing the conduct of any hearing or proceeding, provided that they are not inconsistent with any statute or this or any ordinance, and provided further that the Chair may waive any rule for good cause shown.

Section 4. Jurisdiction; appeals.

The Board shall have jurisdiction to hear and decide appeals from any decision, action, or failure to act by the following officials and in the following matters only:

- a. By the Code Enforcement Officer or the Planning Board, in the administration of the Shoreland Zoning Ordinance, the Floodplain Management Ordinance, Height Ordinance and an Ordinance for the Regulation of Building Permits;
- b. By the municipal officers, in the administration of the ordinance or regulations adopted pursuant to 28-A M.R.S.A. §1054 (special amusement permits); and
- c. as required by the Registration of Farmlands Act.

The Board may exercise jurisdiction only upon receipt of a written appeal from a person aggrieved, filed within forty-five (45) days after the action complained of, together with a non-refundable fee as

established by the Selectmen and stating the relief sought and the grounds therefore. The Board shall have no authority to act in any other matter except as expressly provided by ordinance or statute.

Section 5. Hearings; decisions; notice

No appeal may be decided by the Board without first providing an opportunity for hearing. Notice of any hearing shall be given to the public by publication in a newspaper of general circulation at least 7 days before the hearing, to the appellant by mail at least 14 days before the hearing and to the Planning Board or other appropriate municipal officials and the municipal officers by mail or hand delivery at least 14 days before the hearing. The Board may receive oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. All parties may present their case by oral or documentary evidence, submit rebuttal evidence and cross-examine witnesses. **All hearings shall be tape recorded.** The transcript of testimony, if any, and exhibits, together with all documents filed in the proceeding and the decision of the Board, shall constitute the record. In deciding any appeal, the Board shall be guided solely by the standards, criteria or requirements of the applicable statute, ordinance or regulations, and may reverse the decision of other officials only if it was clearly contrary to specific provisions of this Ordinance or not supported by substantial evidence in the record. All decisions shall include written findings and conclusions, as well as the reasons or basis therefor, upon all material issues of fact, law or discretion, and the appropriate order, relief or denial. Decisions of the Board shall be made no later than thirty (30) days from the date of the final hearing. Notice of any decision shall be mailed or hand delivered to the appellant, the Planning Board or other appropriate municipal officials and the municipal officers within 7 days after the decision.

Section 6. Reconsideration

The Board may reconsider any decision within 30 days after its prior decision and may conduct additional hearings and receive additional evidence, provided that notice of any hearing or decision to reconsider shall be given as provided herein for hearings and decisions generally.

Section 7. Appeals to Superior Court

Any person aggrieved by a decision of the Board may appeal to Superior Court in accordance with Rule 80B, Maine Rules of Civil Procedure, within 45 days after the decision is rendered, except as otherwise provided by statute.

Section 8. Repeal of prior ordinance; ratification of prior Board actions:

Any ordinance enacted or legislative act prior hereto and establishing or purporting to establish a Board of Appeals by that or another name, or governing or purporting to govern its membership, authority or procedure, is hereby repealed, it being the intent of this Ordinance to abolish and replace any such Board with a Board of Appeals lawfully established. Any act prior hereto of the Board commonly known as the Board of Appeals and abolished hereby is hereby ratified and confirmed.

Section 9. Amendments:

This Ordinance may be amended by majority vote at Town Meeting.

Section 10. Severability:

The invalidity of any section or provision of this Ordinance shall not be held to invalidate any other section or provision, which shall remain in full force and effect.

Section 11. Effective Date:

This Ordinance shall take effect as of the date of adoption.

This copy of the 'Board of Appeals Ordinance' was re-typed from a copy in the Ordinance Book, in order to provide clear headers and a standardized format for Town Ordinances going forward. Previous/original copies reside in the Ordinance Binder in the Town Office safe, and can be made available upon request.