

# Oakland Board of Appeals

## Section 1. Establishment

There is hereby created the Oakland Board of Appeals pursuant to Title 30 MRSA Section 2411.

## Section 2. Appointment

2.1 Members of the Board of Appeals shall be appointed by the Municipal Officers who shall determine their compensation, and be sworn by the Municipal Clerk or other person authorized to administer oaths.

2.2 The Board shall consist alternate members of five (5) members and two (2) alternate members.

2.3 The term of each member shall be three (3) years, except the initial appointments which shall be for one, two, or three years, with alternate members appointed for three years.

2.4 When there is a permanent vacancy, the Municipal Officers shall appoint a person to serve for the unexpired term. A vacancy shall occur upon the resignation or death of any member, or when a member fails to attend four (4) consecutive regular meetings, or when a member ceases to be a voting resident of the town. The Board may recommend to the Municipal Officers disapprove the recommendation. The Municipal Officers may remove members of the Board of Appeals by majority vote, for cause, after notice and hearing.

2.5 A Municipal Officer or any member of their immediate family may not serve as a member or alternate members of the Board of Appeals

## Section 3. Organization, Rules and Procedures

3.1 The Board shall elect a Chairperson and a Vice Chairperson from among its regular Members. A secretary may be from members of the Board, or an appointed secretary, or the Code Enforcement Officer. The term of all offices shall be for one (1) year with eligibility for re-election.

3.2 when a member is unable to act because of conflict of interest, physical incapacity, lateness or absence, the Chairperson shall designate an alternate as a voting member for that relevant portion of the meeting.

3.3 Any question of whether a particular issue involves a conflict "of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.

3.4 An alternate member may attend all meetings of the board and participate in its' proceedings, but may vote. only when he has been designated by the Chairperson to sit for a member.

3.5 The Appeals board shall hold at least one regular meeting a month as established by vote of the Board members. The Chairperson may waive a regular meeting if there is no business to conduct. If the date should fall on a holiday, the board members may select a different date for that month.

3.6 No meeting of the Board shall be held without a quorum consisting of three (3) members or alternate members authorized to vote. No action shall be taken by the board without at least three (3) concurring votes on the issue before the Board.

3.7 On matters to come before the Board, the Board of Appeals shall be empowered to hear:

1. Issues that require an interpretation of an ordinance. The Board shall act in a purely appellate capacity and shall be bound in its deliberations by the Findings of Fact made by the Planning Board or the Code Enforcement Officer. Should an error by the Planning Board be uncovered, the appeal shall be returned to the Planning Board with recommendations for a further review to correct the error; and
2. Variances, which shall not be granted unless the applicant demonstrates an undue hardship as defined in 30 MRSA Section 4963; and
3. Issues of Set Back Approval pursuant to the Letter of Intent Ordinance.

3.8 Setback Variance of up to 20% may be granted for structures providing the following criteria is met:

1. The need for the variance is due to the unique circumstances of the property; and
2. The granting of the variance will not alter the essential character of the locality or substantially reduce or impair the use of abutting property; and
3. The need for a variance is not the result of action taken by the applicant or a prior owner; and
4. No other feasible alternative is available; and
5. Disabled persons shall not need a variance to secure access or egress from a building. This access or egress shall include railing, wall or roof systems necessary for the safety and effectiveness of the structure.

#### Section 4. Duties and Powers

4.1 The Board of Appeals shall adopt bylaws governing the Board functions.

4.2 The Board of Appeals shall adopt rules and procedures for transaction of business and the Secretary, along with the Code Enforcement Officer, shall keep a record of its' resolutions, transactions, correspondence, findings, and determinations.

4.3 The Board of Appeals shall file all bylaws, rules and procedures and subsequent revisions with the Municipal Clerk. Copies shall be provided to the Municipal Officers for their information.

4.4 The Board of Appeals shall perform such duties and exercise such powers as are provided by Oakland Ordinances and the laws of the State of Maine.

4.5 The Board of Appeals may obtain goods and services necessary to its' proper function within the limits of appropriations made for the purpose.

#### Section 5. Savings Provision

The creation of the board of Appeals shall not nullify or affect in any way, any actions taken by a prior Board of Appeals.

#### Section 6. Severability Clause

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance. The effective date of this Ordinance is March 12, 1986, Revisions(s) to this Ordinance dated July 27, 1988, June 24, 1992 and February 9, 2016.

#### Section 7. Amendments

This Ordinance may be amended by a majority vote of the Town Council. Amendments may be initiated by the Town Council, a majority vote of the Planning Board, or written petition by a number of votes cast in the municipality in the last gubernatorial election.