

TOWN OF LIVERMORE BUILDING ORDINANCE

TABLE OF CONTENTS

PURPOSE.....	1
SECTION 1. APPLICABILITY.....	2
SECTION 2. NONCONFORMANCE.....	2
2.1 General	
2.1 A Accessory Structures.....	2
2.1 B Contiguous Built Lots.....	2
2.1 C Contiguous Lots – Vacant or Partially Built.....	2
2.1 D Illegal Reduction in Dimensions.....	2
2.1 E Repair and Maintenance.....	2
2.1 G Structures not requiring a Permit.....	2
(1) Expansions of existing structures.....	2
(2) Structures under 75 Feet.....	2
(3) Temporary structures.....	2
2.1 H Transfer of Ownership.....	3
Nonconforming Lots.....	3
Nonconforming Structures.....	3
2.3 A Change of Use of a Non Conforming Structure.....	3
2.3 B Expansions.....	3
2.3 C Relocation.....	3
2.3 D Reconstruction or Replacement.....	3
2.3 E Resumption Prohibited.....	3
SECTION 3. PERMITS.....	3
3.1 A Driveways.....	4
3.1 B Expansion.....	4
3.1 C Plumbing Permits.....	4
3.2 Application.....	4
3.3 Permit Approval.....	4
3.4 Life of Permit.....	4
SECTION 4. PERMIT FEES.....	4
SECTION 5. CERTIFICATE OF OCCUPANCY.....	4
SECTION 6. BULK AND SPACE STANDARDS.....	4
6.2 Back Lots.....	5
Multiple structures.....	5
Duplexes.....	5
Elderly or Handicapped Housing.....	6
6.5 A Purpose.....	6
6.5 B General Requirements.....	6
6.6 Setback measurements.....	6
6.7 Table of Regulations.....	6
6.7 A Table.....	7

SECTION 7.	MINIMUM FLOOR AREA.....	8
SECTION 8.	FOUNDATION.....	8
SECTION 9.	EXTERIOR FINISH.....	8
SECTION 10.	ROOF COVERING.....	8
SECTION 11.	CHIMNEYS, PIPING AND FIREPLACES.....	8
SECTION 12.	ELECTRICAL INSTLLATION.....	8
SECTION 13.	PLUMBING.....	8
SECTION 14.	MEANS OF EXIT.....	8
SECTION 15.	DISPOSAL OF WASTE DURING CONSTRUCTION.....	8
SECTION 16.	ELECTRICAL UTILITY COMPANIES.....	9
SECTION 17.	AMENDMENTS TO ORDINANCE.....	9
SECTION 18.	VIOLATION.....	9
SECTION 19.	EFFECTIVE DATE.....	9
SECTION 20.	REPEAL OF EXISTING BUILDING ORDINANCE.....	9
SECTION 21.	CONFLICTING PROVISIONS.....	9
SECTION 22.	VALIDITY.....	9
SECTION 23.	APPEALS.....	10
	23.2 A Variances.....	10
	23.2 B Variances shall not be granted.....	10
	23.3 Appeal Procedure.....	10
	23.4 Appeal to Superior Court.....	11
SECTION 26.	DEFINITIONS.....	11 - 16

TOWN OF LIVERMORE

BUILDING ORDINANCE

This Ordinance is adopted pursuant to the enabling provisions of Article VIII-A of the Maine Constitution, the provision of Title 30-A, M.R.S.A. Section 3001 (Home Rule), the State's Growth Management Law, Title 30-A, M.R.S.A. Section 4312 et seq., and the Mandatory Shoreland Zoning Act, Title 38M M.R.S.A. Sections 435, et seq.

The Purposes of this Ordinance Are:

1. To promote the health, safety and general welfare of the community through the regulation of construction and relocation and replacement of buildings.
2. To implement the provisions of the Town's comprehensive plan;
3. To encourage the appropriate use of land throughout the community;
4. To provide safety from fire and other elements;
5. To provide an allotment of land area in new developments sufficient for adequate enjoyment of community life;
6. To further the maintenance of safe and healthful conditions; to prevent and control water pollution and accelerated erosion; to protect archaeological and historic resources; to protect freshwater; to control building sites, placement of structures and land uses; and to provide effective procedures for the enforcement of this Ordinance against violators.

SECTION 1. APPLICABILITY

- 1.0 The provisions of this Ordinance shall apply to all development and all structures within the boundaries of the town of Livermore.

SECTION 2. NONCONFORMANCE

- 2.0 It is the intent of this Ordinance to promote land use conformities except that nonconforming lots, structures and uses that legally existed before the effective date of this Ordinance shall be allowed to continue subject to the requirements set forth in this section.

2.1 General

- 2.1 A. **Accessory structures:** Accessory structure shall not contain a kitchen or a full bath, however a sink and a toilet are permitted. Structures originally manufactured, as principal structures must be modified in such a manner that the appearance of the principal structure is maintained in the accessory structure.
- 2.1 B. **Contiguous Built Lots:** If two or more principle structures existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot provided that the state Minimum Lot Size Law and State of Maine Subsurface Wastewater Disposal Rules are complied with. When such lots are divided, each lot this created must be as conforming as possible to the dimensional requirements of this Ordinance.
- 2.1.C **Contiguous Lots - Vacant or Partially Built:** If two or more contiguous lots or parcels are in single or common ownership or record at the time of or since adoption of this Ordinance, and if any of these lot do not individually met the dimensional requirements of the Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the dimensional requirements.
- 2.1 D **Illegal Reduction in Dimensions:** No lot shall be reduced or created in any manner that violates the requirements of this Ordinance. If land is subdivided, conveyed, divided or otherwise transferred in violation of this Ordinance it shall be subject to the penalties found in title 30-A ss4452. No building permit or other municipal permit shall be issued with reference to any of the land or lots so reduced or created until all such land or lots fulfill the dimensional regulations, except as allowed by waiver from the Planning Board in connection with the approval of a subdivision plan.
- 2.1 E **Repair and Maintenance:** This Ordinance allows the normal upkeep and maintenance of nonconforming and structures including repairs or renovations and the expansion of the nonconforming structures as set forth below.
- 2.1 F **Structures not requiring a permit:**
- 2.1 G (1) Expansions of existing structures of less than 15% but not exceeding 200 square feet must meet the provisions of this Ordinance but do not require a building permit (unless located in a Shoreland Area).
- 2.1 G (2) Structures under 75 square feet and not located in Shoreland Area must meet the provisions of this Ordinance but do not require a building permit.
- 2.1 G (3) Temporary structures composed of fabric sheathing over a frame located outside the Shoreland Area do not require a building permit.

2.1 H Transfer of Ownership: Nonconforming structures and lots may be transferred, and the new owner may continue to use the non-conforming structure or lot subject to the provisions of the Ordinance.

2.2 Nonconforming Lots: A nonconforming lot of record as of the effective date of March 6, 1989 may be build upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met.

2.3 Nonconforming Structures:

2.3 A (1) The use of a nonconforming structure may not be changed to a commercial use unless the Planning Board, after reviewing written application, determines that the new use is equally or more appropriate to the area than the existing use of the nonconforming structure and will have no greater adverse impacts than the existing use.

2.3 A (2) In the determination of no greater adverse impact, traffic, parking, noise, odors, smoke, dust, air discharges, rate of surface water runoff, and adverse impact on surrounding properties shall be equal to or less than the current use.

2.3 A (3) The hours of operation of the proposed use shall be compatible with the surrounding land uses.

2.3.B Expansions: A nonconforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure if such addition or expansion does not increase the nonconformity of the structure. Should the expansion of the nonconforming structure require Site Plan Review approval shall be required by the Planning Board.

2.3 C Relocation: A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements.

2.3 D Reconstruction or Replacement: Any nonconforming structure which is damaged or destroyed by more than 50% of market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within one year of such the date of said damage, destruction or removal, and provided that such reconstruction or replacement is in compliance with setbacks to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this and other applicable Ordinances. In no case shall a structure be reconstructed or replaced so as to increase the non-conformity.

2.3 E Resumption Prohibited: If a lot, building or structure in or on which a commercial use was operated and has abandoned for a period exceeding two years, the operation may be allowed to resume only after Site Plan Review by the Planning Board.

SECTION 3 PERMITS

3.0 A The Code Enforcement Officer is often required to make several trips to inspect construction. Fees charged are used to defray the expense of inspections and to ensure adherence to state laws and local codes.

3.0 B The owner, lessee, architect, contractor or builder employed by such owner or lessee shall obtain from the Code Enforcement Officer a permit covering proposed work.

- 3.0 C** The Selectmen shall have the right to disburse funds from the Code enforcement, and Plumbing Inspection account to the Plumbing Inspector and the Code Enforcement Officer and for materials pertaining thereto.
- 3.1** Before the construction, relocation, replacement, or placement of any building shall be commenced the following must be met.
- 3.1 A Driveways:** Whenever a driveway or access to a town road is created a driveway permit shall be required from the Road Commissioner and the access shall be built in the manner prescribed on the permit.
- 3.1 B Expansion:** Expansion of the floor space of an existing building of less than 15% but not exceeding 200 square feet, shall be subject to the provisions of this building ordinance but shall not require a building permit, *unless located in a Shoreland area.*
- 3.1 C Plumbing Permits:** The applicant for a building permit shall have a valid internal and external plumbing permit if plumbing is involved.
- 3.2 Application:** The application for a building permit shall be in writing and shall be made in such form as the Code enforcement Officer shall prescribe and shall contain a description of all proposed new Improvements on the property or relocated building.
- 3.3 Permit Approval:** The Code Enforcement Officer after examination of the application shall either issue the requested permit or transmit notice of refusal with 30 days. Notice of refusal shall be in writing and shall state the reason therefore. Any ruling of the Code Enforcement Officer may be appealed to the Appeals Board.
- 3.4 Life of Permit:** Life of a permit shall be one (1) year: if the building and/or foundation there under is not commenced with six (6) months from the date of issuance, it shall be voided. A permit can be renewed for two (2) years.

SECTION 4 PERMIT FEES

- 4.1** All applications for Building Permits and variance appeals shall be accompanied by the appropriate application fee. The fee is intended to cover the cost of the municipality's administrative processing for the application, the time of the Code Enforcement Officer for review and inspections, and similar costs. The fee shall not be refundable.
- 4.2** Building Permit and variance appeal fees shall be established by the Municipal Officers from time to time after consultation with the Planning Board. The Municipal Officers shall also have the authority to establish the penalty fee for construction begun without the proper permit.

SECTION 5 CERTIFICATE OF OCCUPANCY

- 5.0** No building shall be occupied after its construction, relocation, replacement, or placement until a Certificate of Occupancy is issued from the Code Enforcement Officer. The Code Enforcement Officer shall issue said certificate after proper examination shows that all work was performed in compliance with the provisions of this ordinance and state law.

SECTION 6 BULK AND SPACE STANDARDS

- 6.1** Lots created after March 6, 1989 shall meet or exceed the following minimum standards of the Ordinance. No lot shall be created or reduced below the minimum standards unless allowed by other provisions of this ordinance.

- 6.1 A Land below the normal high-water line of a water body and land beneath streets serving more than two (2) lots shall not be included toward calculating minimum lot area for single lots.
- 6.1 B Lots located on opposite sides of public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- 6.2 **Back Lots** with less than the minimum road frontage shall be allowed so long as they meet the following standards.
 - 6.2 A Each single-family dwelling on a back lot shall be located within the area defined by a circle with a minimum diameter equal to the required road frontage as required in the Zone.
 - 6.2 B The right-of-way leading to the back lot must be conveyed by deed recorded in the Androscoggin County Registry of Deeds and shall be at least 60 feet wide as defined in section 406 of the Subdivision Ordinance.
 - 6.2 C A legal description of the right-of-way by metes and bounds shall be attached to any building permit application for construction on the back lot.
 - 6.2 D The creation of the right-of-way to serve a back lot shall not create a non-conforming front lot by reducing such lot's required road frontage below the minimum required by the Ordinance, or, if the front lot is already nonconforming, with respect to road frontage, reduce its rod frontage at all. Where the right-of-way is conveyed or granted by easement or irrevocable license, or some grant less than a fee interest, the land over which such right of way is placed may not be counted toward meeting minimum lot area, coverage, setback or frontage requirements for the front lot.
 - 6.2 E The right-of-way may sere no more than two (2) single-family dwellings unless the right-of-way is brought up to the street construction standards found in section 406 of the Subdivision Ordinance.
 - 6.2 F All further lots must meet the standards required for front lots contained in the Ordinance.
- 6.3 **Multiple Structures**
 - 6.3 A If more than one principal structure is constructed on a single parcel of land, the "minimum lot area" requirement shall apply to each structure, and each structure shall meet the front, side and rear setback and road frontage requirements.
 - 6.3 B Each structure shall be so situated and constructed to be capable of being sold or transferred separately with a conforming lot and setbacks.
- 6.4 **Duplexes**
 - 6.4 A Lots for duplexes crated after the effective date of this Ordinance shall require a minimum of 150 percent of the lot size and road frontage requirements for a single-family home in the district. Existing lots or record as of the effective date shall be required to have road frontage equal to that needed for a single-family home.
- 6.5 **Elderly or Handicapped Housing**

- 6.5 A** The purpose of these standards is to provide for temporary habitation of a dwelling unit by an older, or disable person(s) on lots where single family dwellings exist, except in Shoreland Areas, without the need to increase lot size so the adult children may care for aging parents or persons that need assistance due to a disability. This provision shall not be used for commercial purposes.
- 6.5 B General Requirements:** The construction or placement of this type of unit on a lot which a single family dwelling is located may be allowed by a permit of the Code enforcement Officer regardless of lot size and road frontage if the following are met.
- 6.5 B** (1) All required setbacks shall be observed.
- 6.5 B** (2) The owner of the principal structure must reside in either the principal structure or the elderly unit.
- 6.5 B** (3) The elderly or handicapped unit shall be limited to no larger than 800 square feet.
- 6.5 B** (4) When the elderly or handicapped person(s) the permit was issued for ceases to live at this property; the unit shall be removed or altered within one (1) year as to make it incapable in independent habitation.
- 6.6 Setback Measurements** All setbacks shall be measured from the property line to the nearest part of the structure except as may be provided for in other provisions of this Ordinance.
- 6.7 Table of Regulations**

Table 1, on the next page, is a part of this Ordinance and sets forth the minimum space, coverage, bulk, setback and frontage requirements that must be observed in all districts.

Table 1 - Table of Regulations

Bulk and Space Standards

Zone	Residential Lot Area Square FT	Duplex Lot Area Square FT	Residential Road Frontage See note D	Residential Shore Frontage	Commercial Shore Frontage	Setback Front See note C	Side Rear Setback	Off Street Parking See note B	Setback Water Major/Minor	Lot Coverage	Maximum Height See note A
Resource Protection	40,000	60,000	200 Feet	200 Feet	300 Feet	25 Feet	25 Feet	300 Square Feet	100/75	20%	35 Feet
Limited Residential	40,000	60,000	200 Feet	200 Feet	300 Feet	25 Feet	25 Feet	300 Square Feet	100/75	20%	35 Feet
Limited Commercial	40,000	60,000	200 Feet	200 Feet	300 Feet	25 Feet	25 Feet	300 Square Feet	100/75	20%	35 Feet
General Development	40,000	60,000	200 Feet	200 Feet	300 Feet	25 Feet	25 Feet	300 Square Feet	25/25	70%	NA
Stream Protection	40,000	60,000	200 Feet	200 Feet	300 Feet	25 Feet	25 Feet	300 Square Feet	100/75	20%	35 Feet
Other Areas	40,000	60,000	200 Feet	NA	NA	25 Feet	25 Feet	300 Square Feet	NA	NA	NA
Cul-de-sac Frontage											

A - Does not apply to antenna towers

B - Per dwelling unit garage areas may be counted

C - Measured from the edge of the right-of-way

D - Per Dwelling Unit see section 6 for Duplex units

E - Cul-de-sac Frontage: New building lots located at the cul-de-sac or along curves in a road where the radius of the curve at the front lot line is less than 90 feet, may be designed so that they have a minimum of 35 feet of road frontage along the front lot line, so long as lot width at the location where the principal building is to be constructed is at least equal to the distance normally required for road frontage.

SECTION 7 MINIMUM FLOOR AREA

- 7.0 No dwelling shall be constructed or placed that will enclose an area of less than five hundred (500) square feet of living space suitable for year-round occupancy.

SECTION 8 FOUNDATION

- 8.1 Foundations for new residential type structures shall conform with the most recent edition of the C.A.B.O. One and Two Family Dwelling Code.
- 8.2 Foundations for new Commercial structures shall conform to the most recent B.O.C.A. International Building Code.
- 8.3 Installation of Mobile Homes shall conform to the State of Maine Manufactured Housing Installation Standards.

SECTION 9 EXTERIOR FINISH

- 9.1 The exterior walls shall be finished with a covering of clapboards, wood siding, wood, or asphalt or asbestos shingles, masonry, brick, stone or other standard siding approved materials.
- 9.2 Such covering shall be completed within 90 days after the outside studding is in place.
- 9.3 Tarred paper, tarred felt, tyepar, or similar substances may not be used unless completely covered by the finished exterior wall covering.

SECTION 10 ROOF COVERING

- 10.1 The roof shall be covered with non-combustible or fire-resistant roofing materials as outlined in Chapter 9 of the 1995 edition of the C.A.B.O. Building Code.

SECTION 11 CHIMNEYS, PIPING AND FIREPLACES

- 11.1 Chimneys, Smoke pipes and Fireplaces shall be installed as outlined in N.F.P.A.-211 as adopted by the State of Maine.

SECTION 12 ELECTRICAL INSTALLATION

- 12.1 All electrical work shall conform to the National Electrical Code as adopted by the State of Maine.

SECTION 13 PLUMBING

- 13.1 All plumbing and sewage disposal shall be in strict conformance with the State of Maine law and the State Plumbing Code.

SECTION 14 MEANS OF EXIT

- 14.1 All new construction and new relevant structural changes shall have at least two (2) means of exit and shall conform with N.F.P.A.-101 LIFE SAFETY CODE as adopted by the State of Maine.

SECTION 15 DISPOSAL OF WASTE DURING CONSTRUCTION

- 15.1 Waste material and rubbish shall not be stored nor allowed to accumulate within the building or in the immediate vicinity, but shall be removed from the premises as soon as possible, but not to exceed thirty (30) day intervals. No material shall be disposed of by burning on the premises or the immediate vicinity without permission from the Fire Chief.

SECTION 16 ELECTRICAL UTILITY COMPANIES

16.1 Electrical Utility companies are hereby forbidden to make any electrical hookup to a dwelling until they have proof furnished by the said Builder or owner that they have a building permit. Inspections are required by the Code Enforcement Officer before electrical service hookup can occur.

SECTION 17 AMENDMENTS TO ORDINANCE

17.1 These regulations may be amended by the Town at any town meeting. Such amendments shall be entered in full in the minutes of said meeting. Copies of all amendments in force and of the present regulations shall be available to the public in the office of the town clerk, on or before the effective date.

SECTION 18 VIOLATIONS

18.1 The Code Enforcement Officer shall take such action, as may be necessary and legal under state law to ensure compliance with the Building Ordinance. Any person found guilty of violating any provisions of this Ordinance shall be subject to a fine as set forth by State Law in Title 30-A Subsection 4452 for each offence under this section. Legal suit shall be brought by the selectmen of the town, acting in the name of the Town of Livermore.

SECTION 19 EFFECTIVE DATE

19.1 This Ordinance shall take effect upon passage.

SECTION 20 REPEAL OF EXISTING BUILDIN ORDINANCE

20.1 Adoption of the Ordinance shall repeal any and all previous Building Ordinances. This shall not prevent the enforcement of the repealed Ordinance or regulations with respect to the time period, which they were in effect.

SECTION 21 CONFLICTING PROVISIONS

21.1 Whenever the regulations made under the authority hereof differ from those described by any Federal or State Statute or other local Ordinance or other regulations, the provisions, which impose the greater restriction, or the higher standard shall govern.

SECTION 22 VALIDITY

22.1 If any section, clause, provision, portion, r phrase of the Ordinance shall be held to be invalid or unconstitutional by any court of competent authority, such finding shall not affect or impair or invalidate any other section, clause, provision, portion, or phrase of this Ordinance.

SECTION 23 APPEALS

23.1 The Board of Appeals may, upon written application of the affected landowner, grant a variance from the strict application of the Ordinance under the following conditions.

23.1 A A variance may be granted only from dimensional requirements including but not limited to, lot width, and setback requirements.

23.1 B (1) The Board shall not grant a variance unless it finds that:

23.1 B (2) The proposed structure or use would meet the provisions of this Ordinance except for the specific provision which has created the non-conformity and from which relief is sought; and

23.1 B (2) The strict application of the terms of this Ordinance would result in undue hardship to the applicant.

23.1 B (2a) The term “undue hardship” shall mean:

23.1 B (2a-1) That the land in question cannot yield a reasonable return unless a variance is granted;

23.1 B (2a-2) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.

23.1 B (2a-3) That the granting of a variance will not alter the essential character of the locality; and

23.1 B (2a-4) That the hardship is not the result of action taken by the applicant or a prior owner.

23.1 C The Board of Appeals shall limit any variance granted as strictly as possible in order to ensure conformance with the purposes and provision of the Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The part receiving the variance shall comply with any condition imposed.

23.2 Variances shall not be granted for the establishment of any uses otherwise prohibited by this Ordinance.

23.3 Appeal procedure:

23.3 A An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board. Such an appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board upon a showing of good cause may waive the thirty (30) day requirement.

23.3 B Such appeal shall be made by filing with the Board of Appeals a written notice of appeal, which includes:

23.3 B (1) A copy of the decision made that the applicant is requesting relief from.

23.3 B (2) A concise written statement indicating what relief is requested and why it should be granted.

23.3 B (3) A sketch drawn to scale showing lot lines, location of existing buildings, structures and other physical features of the lot pertinent to the relief sought.

23.3 C Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Appeals Board a copy of all the papers constituting the record of the decision appealed from.

23.3 D The Board of Appeals shall hold a public hearing on the appeal with thirty-five (35) days of its receipt of an appeal request.

23.3 D (1) The person filing the appeal shall have the burden of proof.

23.3 D (2) The board shall decide all appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals. A Copy of the

written statement shall be sent the applicant, Code Enforcement Officer and Planning Board.

23.3 D (3) All decisions shall become part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, and the appropriate order, relief or denial thereof.

23.2 E When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the lay, and reaching its own decision

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board of Appeals shall not receive or consider any evidence, which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings is inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

23.4 Appeal to Superior Court

23.3 A Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State Law within thirty (30) days from the date of any decision of the Board of Appeals.

SECTION 26 DEFINITIONS

Accessory Structure: A structure, which is incidental and subordinate to the principal use of structure. An accessory structure shall not contain a kitchen or a full bath, however a sink and a toilet are permitted. Structures originally manufactured, as principal structures must be modified in order to be an accessory structure in such a manner that it meets this definition and be finished so that the appearance of the principal structure is maintained.

Alteration: Any change or modification in construction, or change in the structural members of a building or structure such as bearing walls, columns, beams or girders, or in the use of a building.

Arterial Street: A major thoroughfare, which serves as a major traffic way for travel between and through the municipality.

Authorized Agent: An individual or a firm having written authorization to act on behalf of a property owner or applicant. The authorization shall be signed by the property owner or applicant.

Back Lot: Any lot or parcel of land that does not have frontage on a public road or privately owned street or lacks the minimum frontage as required under Section 6.7 of the Ordinance.

B.O.C.A.: Shall mean the Building Officials and Code Administrators International, Inc. Building Code for commercial structures.

Building Coverage Ratio: The ratio derived by dividing the area covered by building(s) by the area of the lot.

Building Envelope: That portion of the lot located within the prescribed front-, rear- and side yard setback distances.

Building Inspector: The Code Enforcement Officer or other person hired and sworn in by the Town to inspect for compliance with, and enforce this Ordinance.

C.A.B.O: Shall mean the Council of American Building Officials One and Two Family Dwelling Code.

Certificate of Compliance: A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of the Floodplain Management Ordinance.

Code Enforcement Officer: A person appointed by the municipal officers to administer and enforce this code.

Collector Street: A street with average daily traffic of 200 vehicles per day or greater, or streets, which serve as feeders to arterial streets and collectors of traffic from minor streets.

Commercial Use: Commercial shall include the use of lands, buildings, or structures, other than home occupations, the intent and result of which activity is the production of income from the buying and selling of goods or services, exclusive of rental or residential buildings or dwelling units.

Complete Application: An application shall be considered complete upon submission of the required fee, a signed application and all information required by this Ordinance except as validly waived by a vote of the Planning Board to waive the submission of required information.

Comprehensive Plan: Comprehensive plan means a document or interrelated documents containing the elements established under Title 30-A, M.R.S.A. Section 4326, subsection 1 to 4 as outlined in the Livermore Comprehensive Plan.

Conforming: A building, structure, use of land, or portion thereof, which complies with all the provisions of this Ordinance.

Constructed: Built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage, and the like, shall be considered a part of construction.

Developed Area: Any area on which a site improvement or change is made which could include buildings, landscaping, parking areas, and streets.

Development: Any manmade changes to improved or unimproved real estate, including but not limited to, buildings, other structures and driveways.

Dimensional Requirements: Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Disability: Any disability, infirmity, malformation, disfigurement, congenital defect or physical or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician as well as any other health or sensory impairment which requires special education, vocational rehabilitation, access consideration or related services.

Driveway: A vehicular access-way serving one lot.

Duplex: A building containing only two dwelling units for occupation by not more than two families.

Dwelling: Any building or structure or portion thereof designed or used for residential purposes.

1. **Single-family Dwelling:** Any structure containing only one dwelling unit for occupation by not more than one family.
2. **Multi-family Dwellings:** A building containing three or more dwelling units such buildings being designed exclusively for residential use and occupancy by three or more families living independently of one another with the number of families not exceeding the number of dwelling units.

Dwelling Unit: A room or suite of rooms used by a family as a habitation which is separate from other such rooms or suites or rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities.

Expansion of a Structure: An increase in the floor area or volume of a structure including all extensions such as, but not limited to attached decks, garages, porches and greenhouses.

Floor Area: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls with a ceiling height of at least 5 feet, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Foundation: The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts, or frost walls.

Frontage, Road: The linear distance between the sidelines of a lot measured along the lot line that borders upon whatever right-of-way serves as legal access to the lot.

Garage: An accessory building, or part of a principal building, including a carport, used primarily for the storage of motor vehicles as an accessory use.

Home Occupation: An occupation or business activity, which results in a product or service and is conducted in whole or in part in the dwelling unit or accessory structure as defined in the Town of Livermore Site Plan Review Ordinance.

Lot: An area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the County Registry of Deeds.

Lot Area: The total horizontal area within the lot lines.

Lot Lines: The lines bounding a lot as defined below:

1. **Front Lot Line:** Interior lots: the line separating the lot from a street or right-of-way. Corner lot or through lot, the line separating the lot from either street or right-of-way.
2. **Rear Lot Line:** The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line at least dimension.
3. **Side Lot Line:** Any lot line other than the front lot line or rear lot line.

Lot of Record: A parcel of land, a legal description of which or the dimensions of which were recorded on a document or map on file with the Androscoggin County Registry of Deeds on or before March 6, 1989 that meets the minimum frontage of 200 feet and a minimum lot size of 40,000 square feet.

Lot of Record, non conforming: A parcel of land that does not meet the definition of "Lot of Record", a legal description of which or the dimensions of which were recorded on a document or map on file with the Androscoggin County Registry of Deeds and created as follows:

1. Created between March 6, 1989, and March 13, 1971 that contains at least 40,000 square feet and at least 150 feet of road frontage.
2. Created between March 13, 1971 and August 1962 that contains at least 10,000 square feet and at least 100 feet of road frontage.
3. Or any lot not meeting the current standards created before August 1962.

Manufactured Housing / Mobile Home Unit: Means structures, transportable in sections, which were constructed in a manufacturing facility and are transported to a building site and designed to be used as dwelling when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein and as otherwise defined in 30-A M.R.S.A. section 4358(1).

Minor Street: A street with average daily traffic of less than 200 vehicles per day.

Mobile Home Park: A parcel of land under unified ownership approved by the Town of Livermore Planning Board pursuant to the Town of Livermore Subdivision Ordinance and Mobile Home Park Ordinance for the placement of three (3) or more mobile homes.

More Non-conforming: When a structure which does not meet any one or more of the codified dimensional requirements, such as setback, height, lot coverage or other requirement are expanded in such a way as to make the setback, height, lot coverage or other requirement less than the original setback before said expansion.

Multi-Unit Residential: A residential structure containing three (3) or more residential dwelling units.

New Construction: Means structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by a community.

Nonconforming Lot: A single lot of record which at the effective date of adoption or amendment of the ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Nonconforming Structure: A structure which does not meet any one or more of the following dimensional requirements, setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect. A structure that is expanded parallel to a lot line or water body is not considered as becoming more non-conforming.

Person: An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Principal Structure: A building other than one which is used for purposes incidental or accessory to the use of another building or use on the same premises.

Privately - Owned Street: A residential street meeting the standards contained in the Town of Livermore Subdivision Ordinance not including a street serving a mobile home park, which is not intended to be dedicated as a public way.

Reconstructed: The rebuilding of a road or section of a road to improve its serviceability.

Repair: To take necessary action to fix normal damage or storm damage.

Residential Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes, but not recreational vehicles.

Right-of-way: All public or private roads and streets, state and federal highways, private ways (now called public easements), and public land reservations for the purpose of public access including utility rights-of-way.

Road Newly Constructed: A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed to the standards found in section 406 of the Livermore Subdivision Ordinance. This definition is intended to meet the needs of road frontage requirements under Section 6 of this Ordinance and not permit substandard roads to be used to meet frontage requirements.

Road of Record: A route in existence before the adoption of the Ordinance and consisting of a route, track or bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

Seasonal Dwelling: A dwelling unit lived in for periods aggregating less than seven months of the year and not the principal residence of the owner.

Setback: The minimum horizontal distance from a lot line to the nearest part of a building, including porches, steps and railings.

Shoreland Area: The land area located within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within seventy-five (75) feet of a stream; or within two-hundred and fifty (250) feet of the upland edge of a freshwater wetlands. Additional standards for these areas will be found in the Livermore Shoreland Zoning Ordinance.

Sketch Plan: Conceptual maps, renderings and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval. May be used by the applicant as the basis for preparing the subdivision plans as part of the application for subdivision approval.

Street: See Road

Structure: Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks and satellite dishes.

Subdivision: The division of a tract or parcel of land into three or more lots as defined by State law and in addition shall include new developments and structures where there are three or more units involved such as mobile home parks, multiple family housing, apartment houses, multiple housing units mini malls, shopping plazas, business complexes, condominiums, shopping centers and industrial parks. All lots of less than five-hundred (500) acres shall be considered as lots within the proposed subdivision unless exempted by Title 30-A M.R.S.A. Sections 4401 4 A.1, 4 B, 4 D, and 4 E.

Substantial Damage: Means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial Start: Completion of thirty (30) percent of permitted structure or use measured as a percentage of estimated total cost.

Subsurface Sewage Disposal System: A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s) surface spray system(s), cesspool(s), well(s), surface ditch(s), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 M.R.S.A. Section 414, and surface wastewater discharge system licensed under 38 M.R.S.A. Section 413 Subsection 1-A, or any public sewer. The term shall not include as wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 M.R.S.A. Chapter 13, subchapter 1.

Tract, or Parcel of Land: All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

Use: The manner, in which land or a structure is arranged, designed or intended, or is occupied.

Variance: A relaxation of the terms of this code where such relaxation will not be contrary to the public interest where, owing to condition peculiar to the property, and not the result of the actions of the applicants, a literal enforcement of the code would result in undue hardship.

Vegetation: All live trees, shrubs, ground cover, and other plants including, without limitation, trees both over and under four (4) inches in diameter, measured at four and on-half (4 1/2) feet above ground level.

§2851. Dangerous buildings

Whenever the municipal officers in the case of a municipality, or the county commissioners in the case of the unorganized or deorganized areas in their county, find that a building or structure or any portion thereof or any wharf, pier, pilings or any portion thereof that is or was located on or extending from land within the boundaries of the municipality or the unorganized or deorganized area, as measured from low water mark, is structurally unsafe; unstable; unsanitary; constitutes a fire hazard; is unsuitable or improper for the use or occupancy to which it is put; constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; or is otherwise dangerous to life or property, they may after notice and hearing on this matter adjudge the same to be a nuisance or dangerous and may make and record an order prescribing what disposal must be made of that building or structure. [1997, c. 6, §1 (AMD).]

1. Notice. The notice must be served on the owner and all parties in interest, as defined in Title 14, section 6321, in the same way service of process is made in accordance with the Maine Rules of Civil Procedure. [1997, c. 6, §1 (AMD) .]

2. Notice; how published. When the name or address of any owner or co-owner is unknown or is not ascertainable with reasonable diligence, then the notice must be published once a week for 3 successive weeks prior to the date of hearing in a newspaper generally circulated in the county, or if none, in the state paper. [1997, c. 6, §1 (AMD) .]

3. Order. The order made by the municipal officers or county commissioners must be recorded by the municipal or county clerk, who shall cause an attested copy to be served upon the owner and all parties in interest in the same way service of process is made in accordance with the Maine Rules of Civil Procedure. If the name or address cannot be ascertained, the clerk shall publish a copy of the order in the same manner as provided for notice in subsection 2. [1997, c. 6, §1 (AMD) .]

4. Proceedings in Superior Court. In addition to proceedings before the municipal officers or the county commissioners, the municipality or the county may seek an order of demolition by filing a complaint in the Superior Court situated in the county where the structure is located. The complaint must identify the location of the property and set forth the reasons why the municipality or the county seeks its removal. Service of the complaint must be made upon the owner and parties-in-interest in accordance with the Maine Rules of Civil Procedure. After hearing before the court sitting without a jury, the court shall issue an appropriate order and, if it requires removal of the structure, it shall award costs as authorized by this subchapter to the municipality or the county. Appeal from a decision of the Superior Court is to the law court in accordance with the Maine Rules of Civil Procedure.

§2852. Appeal; hearing

An appeal from a decision of the municipal officers or county commissioners must be to the Superior Court, pursuant to the provisions of the Maine Rules of Civil Procedure, Rule 80B. [1997, c. 6, §2 (AMD).]

§2853. Municipal officers may order nuisance abated

If no appeal is filed, the municipal officers of such municipality shall cause said nuisance to be abated or removed in compliance with their order, and all expenses thereof shall be repaid to the municipality by the owner or co-owner within 30 days after demand or a special tax may be assessed by the assessors against the land on which said building was located for the amount of such expenses and such amount shall be included in the next annual warrant to the tax collector of said town for collection, and shall be collected in the same manner as other state, county and municipal taxes are collected. [1967, c. 401, §2 (AMD).]

In the case of any claim for expenses incurred in the abatement or removal of any wharf, pier, pilings or any portion thereof which extends beyond the low water mark, the special tax authorized by this section shall apply to the land from which such wharf, pier or pilings extended or to which they were adjacent, provided the owner of the land is also the owner of the said wharf, pier, pilings or portion thereof. [1973, c. 143, §2 (NEW).]

Expenses shall include, but not by way of limitation, the costs of title searches, location reports, service or process, costs of removal of the structure, any costs incurred in securing the structure, pending its removal, and all other costs incurred by the municipality which are reasonably related to the removal of the structure. In addition to levying a

special tax, the municipality may recover its expenses, including its reasonable attorney's fees, by means of a civil action brought against the owner. [1979, c. 27, §5 (NEW).]

§2856. Securing dangerous structures

In addition to other proceedings authorized by this subchapter, a municipality shall have the right to secure structures which pose a serious threat to the public health and safety and to recover its expenses in so doing as provided in this subchapter. If a building is secured under this section, notice, in accordance with section 2851, subsection 1, shall be given. This notice need not be given before securing the structure if the threat to the public health and safety requires prompt action. [1979, c. 27, §6 (NEW).]

§2857. Recording of notice

The municipal clerk shall cause an attested copy of the notice to be recorded in the Registry of Deeds located within the county where the structure is situated. Recording of this notice shall be deemed to put any person claiming under the owner of a structure subject to proceedings under this subchapter on notice of the pendency of the proceedings. [1979, c. 27, §6 (NEW).]

§2858. Consent to removal

The owner and parties-in-interest of a dangerous structure may consent to its removal and to the recovery of the expenses incurred by a municipality by means of a special tax as set forth in this subchapter. Notices of the consent shall be recorded in the Registry of Deeds located in the county where the structure is situated. [1979, c. 27, §6 (NEW).]

§2859. Summary process

In cases involving an immediate and serious threat to the public health, safety or welfare, in addition to any other remedies, a municipality may obtain an order of demolition by summary process in Superior Court, in accordance with this section. [1981, c. 43, (NEW).]

1. Commencement of action. A municipality, acting through its building official, code enforcement officer, fire chief or municipal officers, shall file a verified complaint setting forth such facts as would justify a conclusion that a building or structure is "dangerous," as that term is defined in section 2851; and shall state in the complaint that the public health, safety or welfare requires the immediate removal of that building or structure.

[RR 2007, c. 2, §5 (COR) .]

2. Order of notice. Whenever a complaint is filed under this section, the justice before whom it is brought, acting ex parte, shall promptly issue an order:

A. Requiring the owner and all parties-in-interest, as that term is defined in the statutes governing foreclosure by civil action, to appear and show cause why the building or structure should not be ordered demolished; [1981, c. 43, (NEW).]

B. Specifying the method of service of the order and the complaint; [1981, c. 43, (NEW).]

C. Setting a time and place for hearing the complaint, which shall be the earliest possible time but not be later than 10 days from the date of filing; and [1981, c. 43, (NEW).]

D. Fixing the time for filing an answer to the complaint if the court determines that an answer is required. [1981, c. 43, (NEW).]

3. Enlargement of time; default. The court may for good cause shown enlarge the time for the hearing. If the owner or parties-in-interest, or any of them, fail to answer, if an answer is required, or fail to appear as directed, or to attend the hearing at the time appointed or as enlarged, the court shall order a default judgment to be entered with respect to the owner or parties-in-interest.

[1981, c. 43, (NEW) .]

4. Hearing. After hearing, the court shall enter judgment. If the judgment requires removal of the building or structure, the court shall award costs to the municipality as authorized by this subchapter. The award of costs may be contested and damages sought in a separate action to the extent permitted by subsection 7.

[1981, c. 43, (NEW) .]

5. Appeal. No judgment requiring demolition issued pursuant to this section may be appealed. The owner of a building or structure which is the subject of an order issued under this section, or a party-in-interest, may appeal the award of costs, if any, or seek damages for wrongful removal pursuant to subsection 7.

[1981, c. 43, (NEW) .]

6. Stay. No judgment authorizing demolition may be stayed pending appeal, unless the court first determines that granting a stay would not pose a significant risk to the public health, safety or welfare.

[1981, c. 43, (NEW) .]

7. Damages. Any complaint that either seeks damages for the wrongful removal of a building or structure or challenges the award of costs must be filed no later than 30 days from the date of the judgment or order that is the subject of the appeal. The damages that may be awarded for wrongful demolition are limited to the actual value of the structure at the time of its removal. The provisions of Title 14, section 7552 do not apply. If the municipality should prevail, the court may award it its costs in defending any appeal which may include, but are not limited to, reasonable attorney's fees.

