**Town of St Albans, ME**

**Board of Appeals Ordinance**

  1.  Establishment.

The Town of St Albans, ME hereby establishes a Board of Appeals pursuant to 30-A M.R.S.A. sec. 2691.  The board which has been acting as a Board of Appeals is hereby re-established as the Appeals Board.  The actions which it has taken prior to the adoption of this ordinance are hereby declared to be the acts of the legally constituted Board of Appeals of the Town of St Albans.

2.  Appointment.

A. Board members shall be appointed by the municipal officers and sworn by the clerk or other person authorized to administer oaths.

B. The board shall consist of 5 members.

C. The term of each member shall be for 5 years.

D. 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 ceases to be a legal resident of the town.  When a vacancy occurs, the chairman of the board shall immediately so advise the municipal officers in writing.  The municipal officers may remove members of the Board of Appeals by majority vote, for cause, after notice and hearing.

E. Neither a municipal officer nor his/her spouse may serve as a member of the Board of Appeals.

F.  No person shall serve as a member of the Board of Appeals and the Planning Board at the same time.

3.  Organization and Rules.

A. The board shall elect a Chairman, Vice Chairman and Secretary from among its members. The term of all offices shall be one year with eligibility for re-election.

B.  Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members except the member who is being challenged.

C.  No meeting of the board shall be held without a quorum consisting of three members authorized to vote. The board shall act by majority vote of the members present and voting.

D.  The board may adopt rules and procedures for transaction of business and the Secretary shall record the meeting minutes and turn them over to the Town Manager’s Administrative Assistant for proper filing.

E.  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.  Duties; Powers.

A.  The Board of Appeals shall adopt bylaws governing board functions.

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

C.  Appeals authorized by statute.

The Board shall have the power to hear and decide, using an appellate review standard when the Planning Board is involved and using a de novo review standard when the Code Enforcement Officer is involved, all appeals by any person aggrieved where it is alleged that there is an error in any order, requirement, decision or determination made by or failure to act in the following statutorily authorized appeals:

      1. Title 30-A Sec. 4353. Authorizes the appeals board to hear and decide administrative appeals, interpretation appeals and requests for variances filed in connection with decisions under a zoning or shore land zoning ordinance.

       2. Title 30-A Sec. 2691 (4) grants automatic jurisdiction to appeals boards over appeals filed under the State law relating to special amusement permits (28-A M.R.S.A. Sec. 1054).

       3. Title 7, sec. 51 et seq. automatically authorizes zoning boards of appeal to hear (1) appeals regarding whether a particular piece of farmland is eligible to be registered for protection from inconsistent development and (2) requests for variances to allow inconsistent development to occur on land adjacent to a registered farmland parcel.

D. Appeals authorized by ordinance.

The Board shall also have the power to hear and decide, using an appellate review standard when the Planning Board is involved and a de novo review standard when the Code Enforcement Officer is involved, all appeals by any person aggrieved where it is alleged that there is an error in any order, requirement, decision or determination made by or failure to act by the Code Enforcement Officer or Planning Board pursuant to any ordinance that expressly authorizes an appeal to the Board.

5.  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.

**Ordinance History:**

Adopted at Special Town Meeting 9/12/2011

Revised/Updated Annual Town Meeting March 3, 2012