

**LAND USE ORDINANCE
TOWN OF INDUSTRY**

ARTICLE 1 – GENERAL

1.1 Title

The title of this Ordinance shall be “The Land Use Ordinance of the Town of Industry, Maine”, and shall be referred to herein as “this Ordinance”

1.2 Authority

This Ordinance is adopted pursuant to Article VIII of the Maine Constitution and the Home Rule Statute, Title 30-A.M.R.S.A., Section 3001.

1.3 Effective Date

The effective date of this Ordinance shall be the date of the TBA, subject to approval.

1.4 Repeal of Prior Ordinances

This Ordinance shall repeal prior town ordinances and their amendments (1977 ordinances)

If any provisions of this Ordinance conflict with the provisions of the “Shoreland Zoning Ordinance”, for the Town of Industry and the provisions of the “Floodplain Management Ordinance” for the Town of Industry, or any other ordinances or regulations, then the stricter provisions shall apply.

1.5 Validity and Severability

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section of this Ordinance.

1.6 Purpose

The purpose of this Ordinance is to protect the health, safety, and welfare of the citizens of the Town of Industry and to protect the environment and natural resources of the town by allowing for development that ~~must meet~~ ^{meets} local and State standards.

1.7 Applicability

The provisions of this Ordinance apply to all land, structures, and new driveway entrances that do not require a State entrance permit within the boundaries of the town of Industry.

ARTICLE II – LOT STANDARDS

2.1 Lot Size Standards

- A. The minimum lot size eligible for a building permit is the same as allowed per State statute.
- B. No building permit shall be issued for any structure on any new lot that is created after the effective date of this Ordinance unless such lot shall have at least 40,000 square feet.

2.2 Frontage Requirement

- A. No building permit shall be issued for any structure on any new lot that is created after the effective date of this Ordinance unless such lot has at least 100 feet of continuous frontage on a public or private road.
- B. No building permit shall be issued for any structure on any new lot that is created after the effective date of this Ordinance and that does not have frontage on a public or private road, unless the new lot is served by a right-of-way at least 30 feet in width.

2.3 Setback Requirements for Structures on All Lots

- A. All structures on all lots shall conform with the following setbacks:
 - 1) At least 60 feet from the centerline of a public or private road
 - 2) At least 15 feet from a side or rear property line.
- B. All accessory structures, such as decks, porches, additions, sheds, and similar structures, on all lots, shall conform with the following setbacks:
 - 1) At least 60 feet from the centerline of a public or private road.
 - 2) At least 15 feet from a side or rear property line.

2.4 Lot Size and Frontage Requirements for Mobile Home Parks

This Ordinance hereby adopts, by reference, Title 30-A, M.R.S.A., Section 4358, and it is the intent that the town of Industry shall apply the maximum allowed regulations for mobile home parks as the minimum standards.

ARTICLE III – ADDITIONAL STANDARDS

3.1 Additional Principal Residential, Commercial and Industrial units

If more than one principle residential, commercial or industrial unit is constructed on a single parcel, all dimensional requirements shall be met for each additional unit.

3.2 Driveway Entrances

- A.** The Road Commissioner is responsible for reviewing driveway entrances for any parcel of land on which shall be built a new structure for a residential, commercial or industrial unit.
- B.** A driveway entrance permit will not be required if the Road Commissioner determines that the following minimum safety standards either exist or will be met for the driveway entrance:
 - 1.** Sight distance in each direction is equal to or greater than 10 times the posted speed limit for the section of the road where the driveway entrance is located.
 - 2.** A culvert, made of corrugated metal, having a minimum diameter of 15 inches, a minimum length of 30 feet, a maximum length of 40 feet, and a minimum of 16 inches of cover, is installed, if necessary, as determined by the Road Commissioner, in order to prevent the interruption of road drainage.
 - 3.** Inlet and outlet ditches are constructed in such a manner as to prevent ponding of the road drainage.
- C.** If a driveway entrance does not meet the minimum standards stated in Article 3.2 B, then a permit must be obtained from the Road Commissioner. The Road Commissioner shall determine what standards must be met in order for a driveway entrance permit to be issued. The Road Commissioner may reduce the standards for sight distance, culvert diameter, minimum length of the culvert, and the amount of the culvert cover by no more than 30%. When the standards are reduced, the Road Commissioner may require, as applicable, the trimming of vegetation, the installation of "hidden drive" signage, the installation of a larger culvert or additional ditching.
- D.** The landowner is responsible for constructing the driveway entrance to the standards stated in Article 3.2 B. If a permit is necessary, then the landowner is responsible for constructing the driveway entrance to the Road Commissioner's standards.
- E.** The town will maintain the culvert at driveway entrances that either meets the minimum standards or for which a permit has been granted by the Road Commissioner.
- F.** Any application for a building permit for any parcel of land on which shall be built a new structure for a residential, commercial, or industrial unit that has a driveway entrance that either does not meet the above minimum standards or that has not received a permit from the Road Commissioner shall not be approved.

ARTICLE IV – NON-CONFORMING PROVISIONS

4.1 General

Non-conforming lots and structures may be transferred, and the new owner may continue to use the non-conforming lot or structure, subject to the provisions of this Article.

Normal upkeep and maintenance of a no-conforming structure, including repairs and renovations that do not involve expansion of the non-conforming structure, are allowed.

4.2 Non-conforming Lots of Record

A. Vacant Lots

1. Non-conforming vacant lots of record that are part of a subdivision previously approved by the Industry Planning Board and recorded at the Registry of Deeds at the time of the adoption of this Ordinance, and that are not located in the shoreland zone, may be built upon provided that setback requirements are met and that all other requirements of this Ordinance and State law are met.
2. Any other legally created non-conforming lot of record may be built upon, provided that such lot of record is in separate ownership and is not contiguous to any other lot in the same ownership, and that all provisions of this Ordinance except lot size, lot width, or lot frontage can be obtained only by action of the Board of Appeals.
3. If two or more contiguous lots of record are in the same single or joint ownership on or after the effective date of this Ordinance, and if either or both of these lots do not individually meet the dimensional requirements of this Ordinance, and either or both of the lots are vacant or contain only a principal or accessory structure, then the lots shall be combined to the extent necessary to meet all dimensional standards.

B. Built Lots

1. A non-conforming lot of record that was built upon prior to the adoption of this Ordinance is subject to the restrictions in Article 4.3.
2. If two or more contiguous lots of record are in the single or joint ownership on or after the effective date of this Ordinance, and if either or both of these lots do not individually meet the dimensional requirements of this Ordinance, and if a principal structure exists on each lot then the non-conforming lots of record may be conveyed separately or together in accordance with the State Minimum Lot Size Law and the State Plumbing Code.

4.3 Non-conforming Structures

A non-conforming structure may be added to or expanded after a permit has been obtained from the Code Enforcement Officer/ Planning Board as long as such expansion does not extend the non-conformity any farther toward the setback line (front, side, rear, shore) beyond the most non-conforming point of the existing structure.

4.4 Non-conforming Provisions for the Shoreland Zone

All lots of record and structures located in the shoreland zone shall comply with the non-conforming provisions of the "Shoreland Zoning Ordinance."

ARTICLE V – ADMINISTRATION

5.1 Code Enforcement Officer

This Ordinance shall be administered by a Code Enforcement Officer (CEO) who shall be appointed or reappointed annually by the Selectmen. The CEO shall inspect all structures for compliance with, and for the enforcement of, the provisions of this Ordinance. The CEO, in the performance of his/her duties, shall have the right to enter any property at reasonable hours or to enter any structure with the consent of the owner, occupant, or agent to inspect the property or structure for compliance with this Ordinance.

5.2 Permits

A building permit shall be obtained from the CEO prior to any construction, relocation, placement, replacement, demolition, conversion, or alteration that changes the square footage or volume of any structure or part thereof. If necessary, a permit for a driveway entrance shall be obtained from the Road Commissioner, as outlined in Article 3.2, prior to obtaining a building permit from the CEO.

5.3 Application for Permit

A permit required under the provisions of this Ordinance and permits required from the Planning Board (PB) and the CEO under the provisions of the "Shoreland Zoning Ordinance, Industry" shall be submitted to the CEO on application forms provided by the CEO. Exterior or interior plumbing permits required by the State Plumbing Code and, where applicable, proof of payment of sales taxes for mobile homes as required by State Law shall be submitted with the application.

5.4 Permit Fees

The Selectmen, after holding a public hearing, shall establish a schedule of reasonable fees for the administration of this Ordinance.

5.5 Permit Application Procedure

The CEO shall determine if the application is complete. Completeness of the application shall consist of the non-refundable payment of the building permit fee, exterior and interior permits as needed, proof of payment of sales tax or current property taxes as needed, and the information requested on the building permit application. Failure to submit the necessary information in order for the CEO to understand what the applicant wishes to do will automatically result in a decision, by the CEO, of incompleteness of the application.

If the CEO determines that the application is incomplete, then the CEO shall notify the applicant in writing. The CEO shall note the information that is required in order for the application to be deemed complete. The CEO's decision that the application is incomplete can be appealed to the Board of Appeals.

5.6 Action on a Complete Application

Once an application has been found to be complete by the CEO, the CEO shall submit the application for a building permit to the Planning Board, where required; to approve the application for a building permit; to approve the application for a building permit with conditions; or to deny the application for a building permit. The CEO's decision under the provisions of Article 5.6 can be appealed to the Board of Appeals.

5.7 Applications Referred to the Planning Board

Within 45 days of receipt of a completed application from the CEO, the Planning Board shall approve the application for a building permit, approve the application for a building permit with conditions, or deny the application for a building permit. The decision of the Planning Board under the provisions of Article 5.7 can be appealed to the Board of Appeals.

5.8 Term of Permit

Any activity authorized under the issuance of a building permit shall be substantially started within 12 months of the issuance of the permit. If the activity authorized under the building permit has not been substantially started, then the authorized activity must cease and a new building permit must be applied for.

ARTICLES VI – APPEALS

6.1 Responsibility of the Board of Appeals

The existing Board of Appeals (BOA) shall have the responsibility to hear and to act upon requests for variance and administrative appeals, as defined, in accordance with State Law and this Ordinance.

6.2 Appeal Procedure

- A. A variance or administrative appeal shall be received by the BOA within 30 days of the date of the decision that is being appealed, except that the BOA, upon a showing of good cause, may waive the 30-day requirement.
- B. A variance or administrative appeal shall be filed with the BOA on appeal forms provided by the BOA.
- C. A variance or administrative appeal shall be based upon the information previously reviewed by either the CEO or the Planning Board in their decision-making process. New information, other than the information requested on the appeal forms provided by the BOA, shall not be a part of the variance or administrative appeal. Upon being notified of an appeal, the CEO and the Planning Board, where applicable, shall provide the BOA with copies of all documents pertaining to the decision that is being appealed.
- D. The burden of proof shall be upon the person making the appeal.
- E. The BOA shall hold a public meeting on the appeal within 35 days of the receipt of an appeal request. The BOA shall notify abutters, by certified mail, at least 10 days before the date of the public meeting.

6.3 Conditions of a Variance

- A. Variances may be granted only from dimensional requirements, including but not limited to frontage, lot width, percentage of lot coverage, structure height, percentage of structure expansion, and setback requirements.
- B. Variances may be granted only if the BOA finds that all provisions of this Ordinance would be met except for the specific provision that is being appealed and that the strict application of the provisions of this Ordinance would result in undue hardship.

Undue hardship means:

- 1. that the land in question cannot yield a reasonable return;
- 2. that the need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood;
- 3. that the granting of a variance will not alter the essential character of the locality; and
- 4. that the hardship is not the result of action taken by the applicant or prior owner.

6.3 Conditions of a Variance (continued)

- C. Variances issued by the BOA shall be as strict as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible. The BOA may impose conditions on a variance as the BOA deems necessary. The party receiving the variance shall comply with any conditions imposed.
- D. Variances granted by the BOA shall be filed by the party receiving the variance in the appropriate Registry of Deeds within 90 days of the granting of the variance by the BOA.

6.4 Decisions of the Board of Appeals

- A. A majority of the members of the BOA shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
- B. The concurring vote of a majority of the members of the BOA present and voting must be necessary to make a decision.
- C. The BOA shall decide appeals within 35 days after the close of the public meeting.
- D. The BOA shall render its decision in writing, and this decision will become a part of the record. The decision shall include a statement of the findings of fact and of conclusions with the reasons for these conclusions. In cases where a BOA decision is remanded back to the CEO or to the Planning Board, the decision will include an appropriate order.

6.5 Reconsideration

The BOA may reconsider any decision within 30 days of its prior decision. The BOA may conduct an additional hearing and receive additional evidence and testimony, subject to the provision of Article 6.3 C.

6.6 Appeal to Superior Court

Any party aggrieved by a decision of the BOA may appeal to Superior Court in accordance with State laws within 45 days of the decision of the BOA.

ARTICLE VII – ENFORCEMENT

7.1 Violations and Nuisances

Any violation of this Ordinance shall be deemed a nuisance.

7.2 Enforcement Action by the Code Enforcement Officer

- A. It shall be the duty of the Code Enforcement Officer (CEO) to enforce the provisions of this Ordinance. If the CEO finds that any provision of this Ordinance is being violated, the CEO shall notify in writing the person responsible for the violation as well as the owner of the property on which the violation occurred. The notice shall indicate the provisions of this Ordinance that are being violated, the corrective actions to be taken within a certain time period and the possibility of fines if the corrective actions are not taken within the time period. The corrective actions could include the discontinuance of the illegal use of land and structures, the discontinuance of work being conducted, the removal of illegal structures, and/or the abatement of nuisance conditions. A decision by the CEO that any provision of this Ordinance is being violated is not appealable to the BOA.
- B. The CEO, in the performance of his/her duties, shall have the right to enter any property at reasonable hours or to enter any structure with the consent of the owner, occupant, or agent to inspect the property or building for compliance with this Ordinance.

7.3 Legal Actions

When the actions described in Article 7.2 do not result in cessation, correction, or abatement of the violation and nuisance, the Board of Selectmen, upon notice from the CEO, may institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the impositions of fines that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Industry.

The Board of Selectmen may enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure to remain, unless there is clear and convincing evidence that the illegal structure was constructed as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner of the property acted in bad faith, or unless the removal of the structure will result in a threat or hazard to public health and safety or will result in substantial damage.

7.4 Fines

Any party, including but not limited to a landowner, a landowner's agent, or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, M.R.S.A., Section 4452.

ARTICLE VIII – DEFINITIONS

Terms not defined shall have their customary dictionary meaning.

Abutter: The owner of any property with at least one common boundary or point, or across the road, driveway or stream from the property in an application or appeal.

Accessory structure: See “Structure, accessory.”

Addition to a nonconforming structure: See “Expansion of a nonconforming structure.”

Administrative appeal: An appeal in which it is alleged that there is an error in any order, requirement, decision, or determination made by, or a failure to act by, the Code Enforcement Officer or Planning Board in the administration of this Ordinance.

Aggrieved party: 1. A person whose land is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance. 2. A person whose land abuts land for which a permit or variance has been granted. 3. Any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Development: Any change by individuals or entities to improved or unimproved real estate, including but not limited to construction of structures, construction of driveway entrances, construction of additions, and substantial improvements to structures.

Dimensional Requirements: Numerical standards relating to spatial relationships, including but not limited to frontage, lot width, lot area, percentage of lot coverage, structure height, percentage of structure expansion, and setbacks.

Ditch, inlet: A watercourse flowing into a culvert.

Ditch, outlet: A watercourse flowing out of a culvert.

Driveway: A vehicle access way serving 2 lots or fewer. A driveway is not considered a structure.

Driveway entrance: The connection between a driveway and a town-maintained road.

Expansions of a nonconforming structure: An increase in the floor area or volume of a nonconforming structure, including but not limited to dormers, additions, bay windows, decks, garages, patios, porches, and greenhouses that does not become more invasive into the setback area.

Expansions of a structure: An increase in the floor area or volume of a structure, including but not limited to dormers, additions, bay windows, decks, garages, patios, porches, and greenhouses.

Floor area: The sum of the horizontal area of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Frontage, lot: The length of a lot bordering on a public or private road measured in a straight line between the intersections of the side property lines with the right-of-way line of the public or private road.

Frontage, shore: The length of a lot bordering on a water body measured in a straight line between the intersections of the side property lines with the shoreline at normal high-water elevation.

Lot: A parcel of land described on a deed, plan, or similar legal document.

Lot area: The area of the land enclosed within the property lines of a lot, minus the following: land beneath the normal high-water line of a water body; land beneath the upland edge of a wetland; and the land beneath roads serving more than 2 lots.

Lot frontage: See "Frontage, lot."

Lot line: See "Property line", "Property line, rear", and "Property line, side."

Lot of record: Land designated as a separate and distinct parcel in a legally recorded deed or plan filed in the Franklin County Registry of Deeds.

Lot size: See "Lot area."

Lot width: The horizontal distance between the side property lines measured at the setback line.

Mobile Home Park: A parcel of land under unified ownership approved by the town for the placement of three or more units of manufactured housing.

Nonconforming lot: A single lot of record that, at the effective date of this Ordinance, does not meet the area, frontage, or width requirements stated in this Ordinance.

Nonconforming structure: A structure that does not meet one or more of the following dimensional requirements: setback and height.

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

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

Person: See "Party."

Principal structure: See "Structure, principal."

Property line: A line dividing a parcel of land from another.

Property line, rear: The line opposite the line that forms the lot frontage or the shore frontage.

Property line, side: Any property line that is not a rear property line or that does not form the lot frontage or the shore frontage.

Rear property line: See "Property line, rear."

Right-of-way: An easement for vehicular and pedestrian access.

Right-of-way line: The outer limits of the traveled way of a driveway or road or the limits of the easement of a driveway or road, where defined.

Road: Any route for vehicular access, other than a driveway.

Road, public: 1. Any route for vehicular access accepted by the voters of the town. 2. Any State or County Road.

Road, private: Any route for vehicular access, other than a driveway, not accepted by the voters of the town.

Setback: The nearest horizontal distance from a property line to the nearest part of a structure or other regulated object or area.

Shore frontage: See "Frontage, shore."

Shoreland zone: 1. The land area located within 250 feet, horizontal distance, of the normal high-water line of any great pond or river. 2. The land area located within 250 feet, horizontal distance, of the upland edge of a freshwater wetland. 3. The land area located within 75 feet, horizontal distance, of the normal high-water line of a stream.

Side property line: See "Property line, side."

Sight distance: The distance required to see an object from a driveway entrance with the height of the eye and the object at 3.5 feet above the ground and from a point at the

driveway entrance 15 feet from the centerline of the traveled way of the town-maintained road.

Square footage: See "Floor area."

Structure: Anything built, either temporarily or permanently, for the support, shelter, or enclosure of people, animals, goods, or property of any kind, together with anything constructed or erected, either temporarily or permanently, with a fixed location on or in the ground, exclusive of fences, driveways and roads. The term includes mobile homes and modular homes.

Structure, accessory: A structure that is incidental and subordinate to the principal structure.

Structure, principal: A structure in which the primary use of the lot is conducted.

Subdivision: As defined in Title 30-A, M.R.S.A., Section 4401.

Substantially started: Completion of 30% of a permitted structure, measured as a percentage of the estimated total cost.

Traveled way: The actual portion of a driveway or road that is used for vehicular or pedestrian access.

Unit: A room or group of rooms designed or equipped exclusively for a permanent, seasonal, or temporary use.

Unit, commercial: A room or group of rooms designed or equipped exclusively for only one type of permanent, seasonal, or temporary commercial use. The term includes motor vehicles on which motor vehicle taxes are not current.

Unit, industrial: A room or group of rooms designed or equipped exclusively for only one type of permanent, seasonal, or temporary industrial use. The term includes motor vehicles on which motor vehicle taxes are not current.

Unit, residential: A room or group of rooms designed or equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term includes mobile homes and includes recreational vehicles on which excise taxes are not current.

Vacant Lot: A lot on which no structure exists.

Variance appeal: An appeal for relief from dimensional requirements of this Ordinance.

Volume of a structure: The volume of all portions of a structure enclosed by a roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Water body: Any great pond, river, or stream.

Zoning line: A line separating the shoreland zone from the other land in the town.