

CASTLE HILL, MAINE




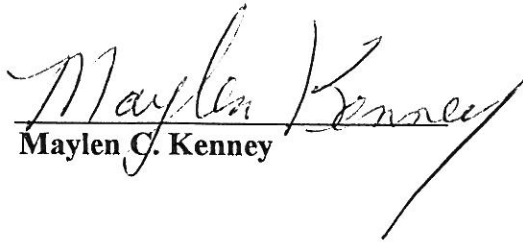
LAND USE ORDINANCE

ADOPTED MARCH 17, 1998
REVISED MARCH 5, 2001
REVISED MARCH 18, 2003

THE CASTLE LAND USE ORDINANCE

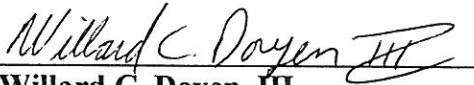
Board of Selectmen


Robert A. Vigue, Chairman

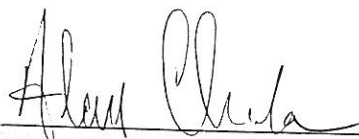

Maylen C. Kenney



Richard H. Carter

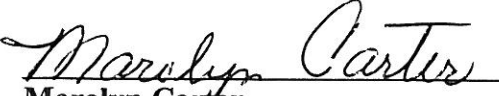

Herman G. Condon

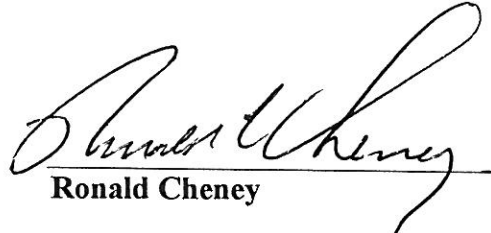

Willard C. Doyen, III

Planning Board


Alan Chalou, Chairman


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Ronald Cheney


James Baillargeon

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PURPOSE

The purpose of this ordinance is to set the standards for development within the Town of Castle Hill to protect the health, safety and general welfare of its residents. It is the intent of this Ordinance to give landowners freedom to utilize their land, providing it does not disrupt or negatively affect the environment, municipal services, their neighborhood, or the Town as a whole.

I. Scope

The provisions of this Ordinance shall apply to any new construction, alterations and additions on the exterior, location, relocation, and replacement of any detached single family dwelling, two family dwelling, manufactured housing or any part thereof.

II. ADMINISTRATION, ENFORCEMENT AND PENALTIES

A. Administration

This Ordinance shall be administered by the Code Enforcement Officer, who shall be appointed by the municipal officers. The Code Enforcement Officer, or his/her designated alternate in performing his/her duties, may enter any premises and any building thereon for the purposes of making the inspection required by this Ordinance.

B. Permit

Before any new construction shall commence or any manufactured home located or alterations or additions on the exterior or relocation or replacement, the owner or lessees or the architect, contractor, or builder employed by such owner, shall obtain from the Code Enforcement Officer a permit covering such proposed work.

1. Application

The application for the permit shall be made in such form as the Code Enforcement Officer shall prescribe and shall contain such information as he/she deems necessary to determine compliance with the provisions of this Ordinance.

2. Approval or Refusal

The Code Enforcement Officer, after proper examination of the application shall either issue the requested permit or transmit notice of refusal within thirty (30) days from date of filing. Notice of refusal shall be in writing and shall state reasons thereof. The Code Enforcement Officer shall approve the application if found in compliance with all applicable requirements of this Ordinance.

3. Life of the Permit

A building/Land Use permit shall become void unless operations are commenced within six (6) months from the date of approval unless a one time extension of a period of six (6) months is approved by the Code Enforcement Officer.

C. Fees

A fee of two (\$2.00) per \$1,000.00 estimated cost of construction value shall be paid for all permits issued with a minimum fee of twenty dollars (\$20.00).

D. Violations

Any building, dwelling, manufactured home or any part thereof constructed, relocated, replaced, located, or used in violation of the provisions of this Ordinance may be declared a nuisance, pursuant to Title 30, MRSA, Section 2151 et seq. as amended.

E. Penalty

Any person found guilty of violating any provisions of this Ordinance shall be subject to a fine of not less than \$100.00 minimum and \$2500.00 maximum. Each day in which a violation is proved shall constitute a separate offense under this section.

F. Appeal

In case of refusal by the CEO to issue a permit, appeal shall be to the Board of Appeals/Planning Board. The Boards may affirm or reverse the decision of the CEO as to the interpretation of the provisions of this Ordinance. In specific cases where the enforcement of this Ordinance would involve practical difficulty or unnecessary hardships, and where desirable relief may be granted without substantially departing from the intent and purpose of this Ordinance but not otherwise, the Board of Appeals/Planning Board may permit exceptions to and variations from the provisions of this Ordinance. The fee for Board of Appeals/Planning Board hearings is forty dollars (\$40.00) which is non refundable.

III. Regulations

A. Area and Yard Requirements per Single/Two Family Dwelling

1. Lot size shall be a minimum of one (1) acre.
2. Minimum road frontage along a public or private road shall be 200 feet. No building permit shall be issued on a private road unless the deed states that said lot is on a private road.
3. Minimum building set back shall be 40 feet from edge of travelled way.

4. Minimum side and rear set back shall be twenty five (25) feet from property line.
5. Net residential density shall be one (1) dwelling unit per net residential acre.

B. Non Conforming Lots

1. Vacant Lots

A non-conforming lot may be built upon, provided that the lot was created prior to the adoption of this Ordinance, and 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. If two or more vacant contiguous lots or parcels are in the same ownership of record at the time of adoption or amendment of this Ordinance, and these lots do not individually meet the minimum lot size, minimum lot area per dwelling unit or minimum road frontage standards, the lots shall be combined to the extent necessary to meet these standards, except:

- a. where the contiguous lots front onto different streets, or
- b. where lots were legally created as part of a recorded subdivision after September 23, 1971, the effective date of the Maine Subdivision Act.

A non-conforming lot created after the adoption of this Ordinance may not be built upon.

2. Lots with Structures

- a. A structure built on a lot prior to enactment of this Ordinance, which lot does not conform to lot size, lot area per dwelling unit or frontage requirements, may be repaired and maintained.
- b. Additions and enlargements in non-conformity with the minimum building set back provisions of this Ordinance (Section III A, 3 and 4) are permitted provided that they do not exceed 30% of any set back space and are limited to a single expansion upon enactment of this Ordinance.
- c. If two or more contiguous lots or parcels are in the same ownership of the record at time of adoption or amendment of this Ordinance, if all or part of the lots do not meet the minimum lot or maximum frontage requirements, and if a principal use exists on each lot, or if lots were legally created as part of a recorded subdivision after the effective date of the Maine Subdivision Act (September 23, 1971), the non-conforming lots may be conveyed separately or together, providing all other State law and local ordinance requirements.

3. Changes in Existing Nonconforming Lots, and Structures

Upon approval of the Planning Board, a nonconforming aspect of a lot or structure may be changed upon finding by the Board that such change will bring the lot, or structure into closer conformance with provisions of this Ordinance, or will make the nonconforming aspect no worse. A lot or structure will be deemed to have brought into closer conformance with the provisions of this Ordinance or have been made no worse. The Planning Board may approve, approve with conditions or disapprove requests under this section.

C. Plumbing

All plumbing and sewage disposal shall be in strict conformance with State of Maine Law and State Plumbing Code.

IV. Validity

Partial Invalidity: In the event any part or provision of this Ordinance is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions thereof, which may be or shall be determined to be legal; and shall be presumed that this Ordinance would have been passed without such illegal or invalid parts or provisions.

Segregation of Invalid Provisions: Any invalid part of this Ordinance shall be segregated from the remainder of the Ordinance by the court holding such part invalid, and the remainder shall remain effective.

Decisions Involving Existing Buildings: The invalidity of any provision in any section of this Ordinance, as applied to existing buildings, shall not be held to affect validity of such section in its application to buildings and structures hereafter erected.

V. Definitions

Alteration: Any change, addition or modification in construction, other than cosmetic or decorative, any change in the structural members of building such as bearing walls, columns, beams or girders.

Accessory Building: A subordinate or a portion of the main building, the use of which is incidental to that of the main or principal building. By way of example, farm structures such as barns, silos, and similar structures are generally considered accessory buildings.

Building: Any structure having a roof supported by column or walls, and intended for the shelter, housing, or enclosure of persons, animals or personal property.

Code Enforcement Officer: A person and/or alternate appointed by the municipal officer to administer this Ordinance and enforce Land Use issues.

Dwelling: A room or group of rooms designed or equipped exclusively for a use permanent, seasonal or temporary living quarters. This term shall include mobile and manufacturing housing, but not recreational vehicles.

Single Family: A building containing only one (1) dwelling unit for occupation by not more than one (1) family.

Two Family: A building containing only two (2) dwelling units for occupation by not more than two (2) families.

Seasonal: A dwelling unit lived in for periods aggregating less than seven (7) months of the year and is not the principal residence of the owner.

Family: One or more persons occupying a premises and living as a single housekeeping unit.

Lot: A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it and having frontage on a road.

Manufactured Housing:

Modular Homes: Those units which the manufacturer certifies are constructed in compliance with Title 10 Chapter 957, 9001 et seq., and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on a permanent foundation when connected to the required utilities, including plumbing, heating, air conditioning and electrical systems contained in the unit.

Mobile Home: A structural unit designed for occupancy and constructed after June 15, 1976, which manufacturer certifies is constructed in compliance with the United States Department of Housing and Urban Development Standards, meaning structures transportable in one or more sections, which in the travelling mode is 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundation, when connected to required utilities, including the plumbing, heating, air conditioning and electrical systems contained in the unit.

Non-Conforming Lot: A lot shown on a plan or deed recorded prior to the effective date of an Ordinance or amendment which, does not meet the area, frontage, width or depth requirements.

Non Conforming Structure: A structure which does not meet any one or more of the following requirements; setback, height, or lot coverage, but which allowed solely because it was lawfully in existence at the time of an ordinance or subsequent amendments took effect.

Permit: A document or certificate giving permission to do something. i.e. building or land use

Person: An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two (2) or more individuals having joint or common interest, or other legal entity.

Road: A public or recognized private thoroughfare used, or intended to be used, for passage or travel by motor vehicles, consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeat passage of motorized vehicles.

Shoreland Zone: The land area located no less than within two hundred and fifty (250) feet, horizontal distance, of the normal high water line of any great pond or river; 250 feet of the upland edge of freshwater wetland; seventy five (75) feet of the normal high-water of a line of stream; or as may be indicated on the official municipal shoreland zoning map.

Structure: Anything built for the support, shelter, or enclosure of persons, animals, good, 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 receiving dishes, but in land areas outside of the shoreland zone such as signs, sidewalks, patios, driveways, and parking lots are not defined as structures.

Subdivision: The definition of a "Subdivision" is as follows. The division of a tract or parcel of land into 3 or more lots within any 5 year period that begins on or after September 23, 1971, whether accomplished by sale, lease, development, buildings, or otherwise. The term "subdivision" shall include the division of any structure or structures on a tract or parcel of land into 3 or more dwelling units or combination thereof within a 5 year period;

the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

1. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel shall be considered to create the first two lots and the next dividing of either of these first lots, by whomever accomplished, is considered to create a third lot unless:
 - a. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or
 - b. The division of the tract or parcel is otherwise exempt under this definition.
2. The dividing of a tract or parcel of land and the lot or lots so made, which dividing of lots when made are not subject to this ordinance, do not become subject to this ordinance by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The Planning Board shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.
3. A lot of 40 acres or more must be counted as a lot.
4. A division accomplished by devise, condemnation, order of court, gift to person related to the donor by blood, marriage, or adoption or a gift to the municipality or by the transfer of any interest in land to the owner of land abutting that land does not create a lot or lots for the purpose of this definition, unless the intent of the transferor is to avoid the objectives of this definition. If the real estate is exempt under this paragraph by gift to a person related to donor by blood, marriage, or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage, or adoption, then the exempt division creates a lot or lots for the purpose of this definition. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 assessed value of the real estate.
5. The division of the tract of parcel of land into 3 or more lots and upon each lot permanent dwelling structures legally existed before September 23, 1971, is not a subdivision.
6. In determining the number of dwelling units in a structure, the provisions regarding the determination of the number of lots shall apply, including exemptions from the definition of a subdivision of land.

7. Nothing in this ordinance may be construed to prevent the municipality from enacting an ordinance under its home rule authority which expands the definition of subdivision or which otherwise regulates land use activities.
8. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of a subdivision under paragraph 4, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of the ordinance.
9. For the purposes of this definition, a new structure or structures included any structure for which construction began on or after September 23, 1988. The area included in the expansion of the existing structure is deemed to be a new structure for the purposes of this ordinance.
10. For purposes of this definition, a tract or parcel of land is defined as all contiguous land in the same ownership, provided the 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 the land on both side thereof.