

**TOWN OF MONMOUTH
BOARD OF APPEALS
ORDINANCE
(Amended: June 9, 2015)**

Section 1. Authority to Establish.

Pursuant to 30-A M.R.S.A. Sub-section 2691, and 3001, a Board of Appeals is hereby established for the Town of Monmouth, hereafter referred to as, "the Board".

Section 2. Composition; Appointment; Qualifications; Terms; Removal; Vacancies.

The Board shall consist of 5 regular and 2 alternate members who shall be appointed by the Municipal Officers and who shall be a Monmouth resident. Neither a Municipal Officer, nor the spouse of the Municipal Officer, shall be a member.

Members shall serve for a term of 3 years and shall continue to serve in office until their successors are appointed. The current board members shall continue until expiration or resignation. Re-appointments or new appointments shall be staggered so as nearly an equal number of terms shall expire annually (Year One - 2 regular members; Year Two – 2 appointments or re-appointments; and Year Three – 1 regular member and 2 alternates).

The Municipal Officers may remove a member for cause, after notice and hearing. Vacancies shall be filled within 60 days by appointment of the Municipal Officers for the unexpired term.

Section 3. Officers; Meetings; Quorum; Procedure.

The Board shall annually elect a Chairman, Vice Chairman, and a Secretary from among its' members.

The Chairman shall call meetings as necessary, or when requested by a majority of members or by the Municipal Officers.

A quorum is necessary to conduct business and shall consist of at least a majority of members. The Vice Chairman shall serve in place of the Chairman when the Chairman is not available or cannot serve in the Chair capacity. The Chairman shall designate an alternate member to serve in place of a regular member who is absent or disqualified; alternate members shall otherwise not be considered members for purposes of a quorum or voting.

The Chairman shall preside at all meetings and shall be the official spokesman of the Board. The Secretary (*) shall maintain a permanent record of all proceedings and correspondence of the Board. These shall be a public record and shall be filed with the Town Clerk. The records may be inspected at reasonable times.

The Board may adopt written rules of procedure governing the conduct of any hearing or proceeding, provided that they are not inconsistent with statutes, this Ordinance, or any other Ordinance. The Chairman may waive any rule for good cause shown. The Board may waive in cases of extreme hardship. Fees may be altered/waived by the Municipal Officers.

Section 4. Jurisdiction; Appeals.

The Board shall have jurisdiction to hear and decide appeals from any Town of Monmouth Ordinance that references the Board of Appeals.

The Board may exercise jurisdiction only upon receipt of a written appeal from a person or legal entity aggrieved that is filed within 30 days after the action is denied or ordered. The written appeal should contain a non-refundable fee, as to be determined by the Municipal Officers, and stating the relief sought and the grounds therefor.

The Board shall have no authority to act in any other matter except as expressly provided by Ordinance or statute.

Section 5. Hearings; Decisions; Notice.

No appeal may be decided by the Board without first providing an opportunity for a hearing. A whole case will be heard in "de novo", which is a hearing that is ordered by an appellate court that has reviewed the record of a hearing. Therefore, "a new hearing with a new beginning."

Notice of any hearing shall be given to the public by publication in a newspaper of general circulation at least 7 days before the hearing, to the appellant by mail at least 14 days before the hearing, and to the Planning Board or other appropriate Municipal Officials by mail or hand-delivery at least 14 days before the hearing.

The Board may receive oral or documentary evidence, but shall provide as a matter of policy for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. All parties may present their cases by oral or documentary evidence, submit rebuttal evidence and cross-examine witnesses. The transcript of testimony, if any, and exhibits, together with all documents filed in the proceeding and the decision of the Board, shall constitute the record.

(*) The Board may retain clerical assistance for this work.

In deciding any appeal, the Board shall be guided solely by standards, criteria, or requirements of the applicable statute, Ordinance, or regulations. The Board may reverse the decision of other officials only if it is clearly erroneous or not supported by substantial evidence in the record. All decisions shall include written findings and conclusions, as well as reasons or basis thereof, upon all of facts, law, or discretion, and the appropriate order, relief, or denial.

Notice of any decision shall be mailed or hand-delivered to the appellant, the Planning Board, or other appropriate Municipal Officials and the Municipal Officers within 7 days after the decision.

Section 6. Reconsideration.

The Board may reconsider any decision within 30 days after its' prior decision and may conduct additional hearings and receive additional evidence, provided that notice of any hearing or decision to reconsider shall be given as provided herein for hearings and decisions generally.

Section 7. Appeals to Superior Court.

Any person aggrieved by a decision of the Board may appeal to Superior Court in accordance with Rule 80B, Maine Rules of Civil Procedures, within 45 days after the decision is rendered, as per Maine Revised Statutes, Sub-section 2691, Board of Appeals, 3. Procedure. (G).

Section 8. Repeal of Prior Ordinances, Ratification of Prior Board's Decisions.

Any prior Ordinance or legislative act establishing or purporting to establish a Board of Appeals by that or another name, or governing or purporting to govern its membership, authority or procedure, is hereby repealed. The intent of this Ordinance is to abolish and replace any such Board with a Board of Appeals lawfully established and authorized, among other things, to hear zoning appeals pursuant to 30-A M.R.S.A., Sub-section 4353.

Any act prior to the Board commonly known as the Board of Appeals and abolished hereby is hereby ratified and confirmed.

Section 9. Severability.

The lack of validity of any section or provision of this Ordinance shall not be held to invalidate any other section or provision, which shall remain in full force and effect.

Section 10. Effective Date.

This Ordinance shall take effect upon ratification at the Town of Monmouth Town Meeting dated June 9, 2015.

