

## **Fire Protection Ordinance**

### **101. TITLE**

This Ordinance shall be known as the “Fire Protection Ordinance of the Town of Cumberland, Maine” and shall be referred to herein as the “Ordinance.”

### **102. LEGAL AUTHORITY**

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

### **103. PURPOSE**

The purpose of this Ordinance is to protect the health, safety and general welfare of the residents of Cumberland by establishing fire protection measures for residential and commercial occupancies.

To provide for the protection and enhancement of life safety against fire and its byproducts to persons occupying new buildings in the Town of Cumberland by improving the chances of emergency escape.

To ensure for the reasonable protection and safety of firefighters against building collapse and other effects of fires.

To better facilitate the needs of a volunteer fire department response.

To ensure that sound engineering practices are utilized when installing fire protection systems.

## 104. DEFINITIONS

**Approved:** Acceptable to the authority having jurisdiction (AHJ).

**Authority Having Jurisdiction:** The organization, office, or individual responsible for approving equipment, materials, an installation, or a procedure.

**Commercial Property:** Any building designed for the following occupancy use(s): business, educational, industrial, health care, public assembly, day care, lodging/rooming, mercantile, apartment, hotel, detention, board and care, storage or any combination thereof as defined by the National Fire Protection Association Life Safety Code.

**Dry Hydrant:** A drafting source for fire department apparatus connected to either an underground storage tank or a body of water. Each hydrant shall be equipped with a male 4.5 inch National Standard Thread (NST) Fire Department connection with a reducing male 2.5 inch NST connection with cap and chain. This connection shall be located within 6 feet from pavement for support of fire apparatus. The center of the cap shall be 30 inches from final grade. There must be 6 feet of level ground around the hydrant. Protective posts shall be approved by the Fire Department. All vertical pipe components and the hydrant shall not be plastic. The design of the hydrant, associated components and piping shall be approved by a licensed engineer. The Public Works Director and the Fire Chief, or their designees, shall approve access roads, protection from vehicular traffic, signage, gates, painting of the hydrant, and any other associated items. Access roads must be maintained year round and will be the responsibility of the developer.

**Dwelling Unit:** A room or group of rooms designed and equipped exclusively for use as living quarters for a family, including provisions for living, sleeping, cooking and eating. The term shall include, but not be limited to, manufactured housing, modular/mobile homes, apartment unit, duplexes and multiplexes and condominium units. The term shall not include trailers or recreational vehicles used for overnight or temporary lodging only.

**Fire Pond:** A body of water containing at a minimum 120,000 gallons of useable water for fire protection. A hydrologic study shall be performed by a licensed engineer to certify the availability of the 120,000 gallons water during all conditions, including draught and freezing temperatures. Ponds to be considered shall have been in place prior to October 6, 2003.

**Major Subdivision:** A Town of Cumberland Planning Board approved subdivision with 5 or more residential occupancies.

**Minor Subdivision:** A Town of Cumberland Planning Board approved subdivision with 4 or fewer dwelling units.

**Monitored Fire Alarm System:** An approved automatic fire alarm system, with battery backup, shall be capable of detecting the presence of elevated heat temperatures, smoke conditions or sprinkler system water flow within a building and have the capability of calling an approved fire alarm monitoring company. The system shall meet all of the requirements as outlined in the National Fire Alarm Code.

**Public Water System:** Water system maintained by the Portland Water District, including water mains and fire hydrants.

**Sprinkler System:** An approved automatic fire protection sprinkler system shall be capable of immediately supplying water to a fire without human intervention. The system shall meet all of the requirements as outlined in the applicable National Fire Protection Association (NFPA) Standard. These standards shall include NFPA 13, NFPA 13R, or NFPA 13D. The system design is required by State Law to be permitted by the State Fire Marshal's Office prior to installation.

**Subdivision:** A subdivision shall be defined by 30-A M.R.S.A. § 4401, and as amended from time to time. For the purposes of this Ordinance, subdivisions shall mean only those approved by the Planning Board after March 6, 1959. In addition, any lots shown on a subdivision plan, but not subject to Planning Board review shall not be considered a lot in a subdivision.

**Underground Storage Tanks:** A tank or network of tanks located in the ground serving the sole purpose of supplying at a minimum 30,000 gallons of water for fire protection purposes. All applications shall contain a fire protection water supply plan with profiles designed and stamped by a State of Maine registered professional engineer. A State of Maine registered professional engineer shall also approve the installation of all components of the tank(s) and hydrant system. This plan shall show the fire pond or existing water body, spring, well point, or pumping facility; overflow system; security fence; access road; dry hydrant(s); associated piping and materials; easements; and other elements of the proposed water supply system, or other means of providing fire protection as approved by the Fire Chief. In addition, the engineer shall provide a written narrative describing the materials and methods used in the water supply system and supportive documentation for the proper sizing of the system shall accompany the plan.

105. **APPLICABILITY**

This Ordinance shall apply to all new commercial properties in excess of 4000 square feet and all new residential dwelling units in major subdivisions (including manufactured housing) within the Town of Cumberland. No new dwelling unit or commercial property that fails to meet the requirements of the Ordinance shall be constructed or placed within the Town of Cumberland. The Planning Board, after review by the fire department, may impose additional requirements for projects with multi-family dwelling units or single-family dwellings separated by less than 100 feet.

106. **EXEMPTIONS**

This Ordinance shall not apply to the following:

- 106.1.1 The repair, replacement, reconstruction or alteration of any existing building or structure provided the number of units is not increased, regardless of the need for a variance.
- 106.1.2 Minor Subdivisions and any new residential units that are not located within a major subdivision (5 or more dwelling units).

107. **ADMINISTRATION**

All new commercial properties in excess of 4000 square feet and all new residential dwelling units in major subdivisions shall meet one of the requirements set forth in the following subsections:

- 107.1a: An extension of the public water system with hydrants supplied at a distance not greater than 1000 feet from each other and from the added building(s).
- 107.1b: An Approved Automatic Sprinkler System
- 107.1c: A dry hydrant connected to one of the following may be allowed. Subdivisions protected by this section shall be designed with two entrances (maintained year round) to facilitate fire department tanker shuttle operations.
  - 107.1.c.1: Fire Pond (Pre-existing as of

October 6, 2003)

107.1.c2:      Underground storage tank(s)

107.2      Additional Requirements: The Cumberland Fire Department may recommend and the Planning Board may approve, additional requirements for multi-family dwelling units or major subdivisions in which the dwelling units are separated by less than one hundred (100) feet. Additional requirements may include automatic fire protection sprinkler systems, additional fire hydrants, building construction designs intended to reduce the spread of fire, or other accepted engineering methods.

107.3      Distances shall be measured by the path of a fire apparatus from the water source to the dwelling unit or commercial property including the driveway.

**108. CONFLICT WITH OTHER LAWS, CODES OR ORDINANCES**

This Ordinance shall not repeal, annul, or otherwise impair or remove the necessity of compliance with any federal, state or other local laws, codes or ordinances. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall prevail.

**109. SEPARABILITY**

Should any section or provision of this Ordinance be found by the courts to be invalid, illegal, or unenforceable, such decision shall not affect any other section or provision of this Ordinance either singly or collectively.

**110. EFFECTIVE DATE**

The effective date of this Ordinance shall be September 13, 2004.

**111. REVIEW PROCEDURE**

This Ordinance shall be reviewed by the Town Council in September 2007 to assess the efficacy of the Ordinance and shall be reviewed by the Planning Board periodically (but not less frequently than once every three years). Based on its review the Planning Board may recommend amending this Ordinance as provided in Section 112 AMENDMENTS.

**112. AMENDMENTS**

112.1. An amendment to this Ordinance may be initiated by one of the following:

112.1.1 The Planning Board.

112.1.2 The Town Council.

112.1.3 The residents, pursuant to Article X, Section 2 of the Town Charter.

**113. VIOLATIONS**

113.1. A violation of this Ordinance shall be deemed to exist when any person, partnership, or corporate entity engages in any construction activity directly related to the erection or placement of a commercial property in excess of 4000 square feet or a residential dwelling unit in a major subdivision, without first having an approved fire protection plan obtained from the Fire Chief or his/her designee.

113.2. If a new commercial property in excess of 4000 square feet or a new residential dwelling unit in a major subdivision has been constructed, without an approved fire protection plan, it shall be deemed a violation for any person, firm, or corporate entity to sell, lease, rent or occupy such new commercial property in excess of 4000 square feet or new residential dwelling unit in a major subdivision until such approval has been duly issued.

**114. NOTICES OF VIOLATIONS; LEGAL ACTION**

When a violation of any provision of this Ordinance shall be found, the CODE ENFORCEMENT OFFICER shall send a written notice of the violation to the responsible party or parties and shall notify the Town Council of the violation. If the notice does not result in the correction of the violation, the Town Council may institute any and all actions and proceedings, either legal or equitable, including seeking injunctive relief, the imposition of fines, removal of the structure, or other action that may be appropriate or necessary to enforce the provisions of this Ordinance. The remedies set forth herein are intended to be cumulative and not exclusive of each other. The Town Council is authorized to enter into administrative consent orders to eliminate violations with or without court action. Such agreement shall not allow an illegal structure or use to continue.

**115. PENALTIES**

115.1. Any person owning or controlling the use of any new commercial property in excess of 4000 square feet or any new residential dwelling unit in a major subdivision being constructed or occupied in violation of this chapter shall be liable to be fined not less than \$100 or more than \$2,500 for each day such a violation (i.e. construction activity, unlawful occupancy) continues after notification by the CODE ENFORCEMENT OFFICER.

115.2. If a new commercial property in excess of 4000 square feet or a new residential dwelling unit in a major subdivision has been built in violation of this chapter and is then occupied the owner may be fined as provided in Section 114. Notices Of Violations; Legal Action of this Ordinance.

**116. APPEALS**

116.1. The Board of Adjustment and Appeals in accordance with Section 603 of the Cumberland Zoning Ordinance, may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Code Enforcement Officer in the administration of this Ordinance. Following such hearing, the Board of Adjustment and Appeals may reverse the decision of the Code Enforcement Officer only upon a finding that the decision is clearly contrary to the specific provisions of this Ordinance.