

Town of Cutler

Land Use Ordinance

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SECTION 1 PURPOSE

The purpose of this Ordinance is to control building sites and land used for the good and welfare of the community. New buildings and structures, additions to existing buildings, conversions of existing structures to other uses, and changed land uses all have a significant effect on many things in the Town of Cutler, including the cost, capacity and efficiency of Town services. Also impacted are the environment, aesthetics, and, property values. Therefore, it is the purpose of this ordinance to help manage building and land use changes with an eye to mitigating negative impacts for the general well-being of the Town and its residents.

SECTION 2 APPLICABILITY

This Ordinance applies to all areas of the Town of Cutler except those subject to the Town's Shoreland Zoning Ordinance.

SECTION 3 EFFECTIVE DATE

The effective date of this Ordinance shall be upon adoption by the Cutler Town Meeting.

SECTION 4. 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 or provision of this Ordinance.

SECTION 5. CONFLICTS WITH OTHER ORDINANCES

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute, the more restrictive provision shall control.

SECTION 6. AMENDMENTS

This Ordinance may be amended by majority vote of Town Meeting. Prior to consideration of any proposed amendments, the Board of Selectmen shall hold a public hearing. Notice of the hearing must be posted in the municipal office at least 13 days before the public hearing. The notice must also be published at least 2 times in a newspaper that has a general circulation in the municipality. The date of the first publication must be at least 12 days before the hearing and the date of the 2nd publication must be at least 7 days before the hearing.

SECTION 7. DIMENSIONAL REQUIREMENTS

- A. Minimum Lot Area.** The minimum lot area is 30,000 square feet.
- B. Multiple Buildings.** If more than one principal building is constructed on a single lot or parcel of land, the minimum lot area requirement shall apply for each building, and all buildings shall meet the front, side, and rear setback requirements.
- C. Minimum Road Frontage.** Each lot shall have a minimum of 150 feet of road frontage.
- D. Back Lots.** Notwithstanding the road frontage requirements of this Ordinance, back lots may be built upon provided that all state, federal and the following requirements are met:
 - 1.** The area of the back lot shall be at least the required minimum lot area.

2. The total road frontage of the front lot, less the width of the access to the back lot, shall continue to equal or exceed the required minimum road frontage. Where the access bisects the front lot line, the lot frontage on either side of the access may be combined to meet this requirement, and the front lot shall continue to be treated as a single, undivided lot.
 3. The access to the back lot may serve not more than two back lots, or not more than two (2) single family dwellings or one (1) two-family dwelling.
 4. No more than one access for back lot development may be created out of any single lot fronting on a road unless each subsequent access is created out of at least an additional 150 feet of road frontage, as measured from the centerline of the accesses.
 5. No structure shall be constructed or placed within the limits of the access.
 6. A copy of the recorded access shall be attached to the building permit application.
 7. The provisions of this section may not create an exempt lot or otherwise excuse or exempt a parcel or tract of land from any review of a subdivision otherwise required by the subdivision statute or Ordinance.
 8. Access to a back lot shall provide for a permanent easement for a right-of-way or fee simple ownership of a right-of-way, which is at least 20 feet in width for its entire length, described by metes and bounds, or by a plan, either of which shall include language requiring the development and use of these lots and their access to be in compliance with all provisions of this Ordinance that may apply specifically to back lots, and recorded in the Washington County Registry of Deeds, and held by deed or other legal instrument by the owner of the back lot.
 9. Back lots, together with any right-of-way serving those back lots, created and legally recorded on or before August 27, 2019 shall be considered legally nonconforming lots and rights-of-ways of record and may be used in accordance with all other provisions of this Ordinance.
- E. Cul-de-sac frontage.** New building lots located at the end of cul-de-sacs or along curves in a road where the radius of the curve at the front lot line is less than 90 feet, may be designed so that they have a minimum of 35 feet of road frontage along the front lot line, so long as lot width at the location where the principal building is to be constructed is at least equal to the required road frontage. The lot width shall be measured along a line that is parallel to a tangent of the mid-point of the curve.
- F. Structure Setbacks.** The minimum structure setbacks shall be as follows:
1. **Front Setback.** The minimum front setback is 25 feet. The front setback along a road shall be measured from the edge of the travelled way to the nearest part of the building. Where no travelled way exists, the measurement shall be from the edge of the right-of-way.
 2. **Side and Rear Setback.** The minimum side and rear setback is 10 feet. All side and rear setbacks shall be measured from the property line to the nearest part of the structure.
- G. Accessory structures.** When located beyond the rear of the principal structure, accessory structures no larger than 150 square feet in floor area may be located within the required side or rear setbacks, provided that no structure shall be located within 6 feet from a side or rear lot line.
- H. Corner lots.** The required front setback shall be required on both sides of the lot that front on a road right-of-way. The remaining two sides of the lot shall meet the side and rear setback requirements.
- I. Driveways, parking areas.** Driveways and parking areas shall not be located within 6 feet of the side or rear lot lines.

- J. **Height.** The height of any building or structure shall not exceed 35 feet.
- K. **Lot Coverage.** The total area covered by all structures shall not exceed 30% of the total lot area.
- L. **Road and Driveway Standards.** All new roads and driveways constructed after August 27, 2019 of this Ordinance must meet the following standards:
 - 1. All new private roads and driveways entering onto a Town-maintained road must be approved in writing by the Town Road Commissioner.
 - 2. Culverts shall be a minimum of 12" diameter. The Town Road Commissioner must approve the diameter of culverts within the Town road right-of-way.
 - 3. Private roads and driveways that access onto a State road shall comply with the applicable Maine Department of Transportation (Maine DOT) design requirements. The applicant shall submit a permit from MDOT for the road access.
 - 4. The intersection of all private roads and driveways entering onto a Town-maintained road must be as near to 90 degrees as site conditions permit, but in no case shall be less than 60 degrees.
 - 5. All new private roads and driveways entering onto a Town-maintained road shall have no more than a 3% grade within 50 feet of the intersection
 - 6. All new private roads and driveways entering onto a Town-maintained road shall be constructed so as to prevent high volumes and velocities of storm water from entering the Town road ditches.

SECTION 8. NON-CONFORMANCE

It is the intent of these provisions to promote land use conformities, except that non-conforming conditions that legally existed before August 27, 2019, or any amendment thereto, shall be allowed to continue, subject to the requirements set forth in this section.

A. General Requirements

- 1. **Transfer of ownership.** Non-conforming structures, lots and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
- 2. **Repair and maintenance.** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs and renovations that do not involve expansion of the non-conforming use or structure, and such other change in a non-conforming use or structure as federal, state or local building and safety codes may require.

B. Non-Conforming Structures

- 1. **Expansions.** A non-conforming structure may be added to or expanded after the owner has obtained a permit from the Planning Board, provided such addition or expansion does not increase the non-conformity of the structure.
 - a. **Foundations.** Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided:
 - i. That the structure and new foundation are placed such that the setback and other dimensional requirements are met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria listed in subsection B, Relocation, below;

- ii. That the completed foundation does not extend beyond the exterior dimensions of the structure for the portion of the structure that is non-conforming.
2. **Relocation.** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface wastewater disposal system meets the requirements of State law and State of Maine Subsurface Wastewater Disposal Rules or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback or other dimensional requirements to the greatest practical extent, the Planning Board shall base its decision on:

- a. The size of the lot;
 - b. The slope of the land;
 - c. The potential for soil erosion;
 - d. The location of the septic system and other on-site soils suitable for septic systems; and
 - e. The type and amount of vegetation to be removed to accomplish the relocation.
3. **Reconstruction or replacement.** Any non-conforming structure that is located less than the required setback, or which otherwise fails to meet the dimensional requirements of this Ordinance, and which is removed, or damaged or destroyed may be reconstructed or replaced provided that a permit is obtained within one year of the date of said damage, destruction or removal and provided that such reconstruction or replacement is in compliance with the setback or other dimensional requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface wastewater system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

In determining whether the building reconstruction or replacement meets the setbacks to the greatest practical extent, the Planning Board shall consider, in addition to the criteria in subsection B, above, the physical condition and type of foundation present, if any.

SECTION 9. ADMINISTRATION

A. Planning Board.

The Planning Board is appointed by the Board of Selectmen. The Planning Board issues Building Permits. Approved Building Permits are signed by both the Planning Board Chair or designee and the Code Enforcement Officer.

B. Code Enforcement Officer

The Code Enforcement Officer is hired to serve the Town by the Board of Selectmen. The Code Enforcement Officer's responsibilities are to investigate issues relating to public compliance with this ordinance. The Code Enforcement Officer will attend Planning Board meetings to serve as an advisor and will perform such other tasks as are detailed in this ordinance.

C. Board of Appeals

The Board of Appeals is appointed by the Board of Selectmen and functions in accordance with the laws of the State of Maine. Its primary responsibilities are the following:

1. to hear and decide administrative appeals where it is alleged that there is an error in any decision, order or determination by the Planning Board or CEO, and
2. to grant variances pursuant to 30-A M.R.S.A. §4353(4) and (4-A).

SECTION 10. PERMITS

It shall be unlawful to engage in any of the following activities without first obtaining a building permit. The building permit applicant is ultimately responsible for complying with all Town permit requirements. The Planning Board should be consulted if there is any question about whether or not a building permit will be required. Further, the CEO and/or the Local Plumbing Inspector (LPI) should be consulted when an owner plans to add one or more bedrooms which may impact the water and subsurface wastewater disposal/septic systems. Failure to obtain a building or other required permit can result in costly construction delays, legal action and/or the removal of work already completed.

A. Building Permit Required:

1. New building construction including erecting modular structures.
2. Erection of a temporary structure intended to be in place for more than ninety (90) days in a calendar year.
3. Expansion of a building or structure.
4. Removal and/or replacement of an existing structure, including a mobile home or trailer.
5. Construction or extension of a porch larger in area than twenty-five (25) square feet (including stairs).
6. Construction or extension of a deck attached to any building/structure.
7. Relocation of a building or structure.
8. Installation of a mobile home.
9. Placement of any building, structure, or vehicle intended for occupancy for periods exceeding ninety (90) days, including but not limited to, mobile homes, trailers (a.k.a. fifth wheels) and recreational vehicles.
10. Construction of a windmill or tower, including but not limited to a communications tower, since windmills and towers are considered structures.
11. Placement of any building or structure, not attached to another building or structure, with a footprint one hundred (100) square feet or more, and more than one (1) story in height.
12. Installation of a driveway and/or culvert connecting a Town road.
13. Installation of a driveway and/or culvert connecting to a state road.
14. Installation of an outdoor wood-fired furnace/boiler.
15. Remodeling of a building or structure to add one or more bedrooms.
16. Demolition of an existing structure includes tearing down and/or burning of the structure.

B. Exemptions. The following activities are exempt from building permit requirements.

1. Construction of any building/structure not attached to another building/structure with a footprint of less than one hundred (100) square feet, and no more than one (1) story in height. (Note: All buildings/structures must meet the setback requirements.)

2. Installation of a septic system (Note: Approval of a septic system design is the responsibility of the Local Plumbing Inspector.)
3. Painting or decorating.
4. Repairs or interior renovations in general so long as the work does not modify the building/structure's lateral dimensions, raise the building/structure height or add any bedrooms.
5. Construction of a porch twenty-five (25) square feet or smaller in area (including stairs).
6. Installation of a new roof over an existing roof that does not change the height of the building or structure.
7. Storage of recreational vehicles and boats.

C. Change of use permit required. A change of use permit is required for the following:

1. Conversion of an existing building/structure to create a dwelling, bunkhouse, guest cottage, an apartment or business that involves changes in the water and/or sewer systems.
2. Conversion of an existing residence to a commercial business use.
3. Conversion of an existing commercial business to a residential use.
4. Conversion of an existing residence to a home occupation as defined.

SECTION 11. PERMIT APPLICATION

- A. Written application.** Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the Town, to the Town Office with associated fees. Applications shall be submitted at least 7 days before a regular monthly meeting of the Planning Board so they can be checked for completeness and reviewed by the CEO/LPI. The following items, when appropriate, shall be included on the application.
1. The shape, size and location of the lot to be built upon and structure(s) to be erected, altered or removed.
 2. Any structure(s) already on the lot.
 3. Depth of front yards of structure(s) and adjoining lots.
 4. Statement of intended use.
 5. Documentation that the applicant has right, title or interest in the property.
- B. Signature.** All applications shall be signed by the owner of the property or the owner's legal agent, certifying that the information on it is complete and accurate. If the person signing the application is not the owner or lessee of the property, then that person shall submit a letter of authorization from the owner or lessee.
- C. Application to be dated.** All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- D. Plumbing permit.** A valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Local Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface wastewater disposal system.
- E. Fees.** Building Permit Application Fees are established by the Board of Selectmen and are subject to change. Please see the Town Clerk for a list of current Building Permit Application Fees. Applications

for a permit shall be accompanied by appropriate fee. This application fee shall be made by check payable to the Town of Cutler. No application shall be found complete until the fee is paid. This fee shall not be refundable.

- F. Modifications.** Any modification to the description, scale drawing, or site plan of the proposed structure(s) shall require a revised application, payment of an additional one-half of the application fee, prior to beginning the work.

SECTION 12. PROCEDURE FOR ADMINISTERING PERMITS

- A. Action on complete application.** Within 30 days from the receipt of a completed application, the Planning Board and/or Code Enforcement Officer shall examine such application and, if necessary, physically examine the premises, to determine whether or not the proposed building, structure or use would be in compliance with this Ordinance.
- B. Written notification.** If approval is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any State law which the municipality is responsible for enforcing.
- C. Building permit approvals.** After approval, with or without conditions, the Planning Board and/or Code Enforcement Officer shall issue a permit within seven (7) working days of such approval.
- D. Applicant Responsibility**
 - 1. Burden of proof.** The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.
 - 2. Posting.** Within seven (7) working days of receiving the approval, the applicant shall conspicuously post any approval issued, on the lot where the activity will occur, at a location clearly visible from the public street or road.
- E. Expiration of Approval**

If no substantial progress of construction has been made within two (2) years from the date the approval is granted, the approval becomes invalid. The Code Enforcement Officer shall renew the approval within 30 days after the expiration of the approval upon payment of a fee as specified in this Ordinance. Otherwise the permit becomes invalid and the application process must begin anew.

SECTION 13. ENFORCEMENT

- A. Violations.** It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

- B. Legal Actions.** When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to 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 or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by the Planning Board when acting as a Board or the Code Enforcement Officer, and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard public health and safety or will result in substantial environmental damage.
- C. Penalty.** Any person, 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. §4452. Each day that the violation occurs shall constitute a separate offense, beginning with the day following notification by the Code Enforcement Officer of such violation.
- D. Unsafe buildings.** Any building or structure that may be or shall at any time hereafter become dangerous or unsafe, shall, unless made safe and secure, be taken down and removed, in accordance with provisions of Title 17 M.R.S.A §2851.

SECTION 14. APPEALS AND VARIENCES

- A. Administrative Appeals:** When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.
- B. Planning Board Appeals:** Any aggrieved party who participated in the proceedings before the Planning Board may take an appeal to Superior Court as set forth in 30-A M.R.S.A. § 2691(3), as may be amended from time to time.
- C. Variance Appeals:** Variances may be granted by the Board of Appeals, only under the following conditions:
1. Variances may be granted only from dimensional requirements including, but not limited to structure height, percent of lot coverage, and setback requirements.
 2. Variances shall not be granted for the establishment of any uses prohibited by this Ordinance.
 3. The Board shall not grant a variance unless it finds that:
 - a. The proposed structure or use would meet the provisions of Land Use Ordinance except for the specific provision which has created the non-conformity and from which relief is sought; and
 - b. The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
 - i. That the land in question cannot yield a reasonable return unless a variance is granted;

- ii. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- iii. That the granting of a variance will not alter the essential character of the locality; and
- iv. That the hardship is not the result of action taken by the applicant or a prior owner.

D. Disability Variance: The Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling.

E. The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

F. Appeal Procedure

1. An administrative appeal or variance may be taken to the Board of Appeals by an aggrieved party from any decision of Code Enforcement Officer. Such an appeal shall be taken within thirty (30) days of the date of the written decision appealed from, and not otherwise.
2. Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
3. Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
4. The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.
5. Decision by Board of Appeals
 - a. A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
 - b. The person filing the appeal shall have the burden of proof.
 - c. The Board shall decide all administrative appeals and variance requests within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

- d. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. Copies of written decisions of the Board of Appeals shall be given to the Code Enforcement Officer and the municipal officers.
6. **Appeal to Superior Court.** Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
7. **Reconsideration.** In accordance with 30-A M.R.S.A. section 2691(3)(F) the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony. Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

SECTION 15. DEFINITIONS

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the Ordinance shall have the meaning implied by their context in the Ordinance or their ordinarily accepted meaning. In the case of any difference of meaning or implication between the text of this Ordinance and any map, illustration or table, the text shall control.

Accessory Structure: A structure that is customarily both incidental and subordinate to the principal structure on the same lot. The term “incidental” in reference to the principal structure shall mean both a) subordinate and minor in significance to the principal structure, and b) attendant to the principal structure.

Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

Building Height: The vertical distance between the highest point of the roof and the average grade of the existing or original ground adjoining the building, whichever distance is greater.

Code Enforcement Officer: A person appointed by the municipal officers to administer and enforce this Ordinance.

Conforming: A building, structure, use of land or portion thereof, that complies with the provisions of this Ordinance.

Constructed: Built, erected, altered, reconstructed, moved upon, or any physical operations on the premises that are required for construction. Excavation, fill, drainage and the like shall be considered a part of construction.

Development: A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Dwelling: Any building or structure or portion thereof designed or used for residential purposes.

Dwelling unit: A room or suite of rooms used by a family as a habitation that is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities.

Home Occupation: An occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

Increase in Nonconformity of a Structure: Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction of property line setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to property line setback than the closest portion of the existing structure from the property line setback. Included in this allowance are expansions which in-fill irregularly shaped structures.

Lot: An area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the county registry of deeds.

Lot Area: The total horizontal areas within the lot lines, minus land below the normal high water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Lot, corner: A lot with at least two contiguous sides abutting upon a street or right-of-way.

Lot coverage: The percentage of a lot covered by all structures.

Lot Line: A line of record bounding a lot that divides one lot from another or from a public or private street or any other public space.

Lot Line, Front: The lot line separating a lot from a street right-of-way

Lot Line, Corner or Through lots: The line separating the lot from either street right-of-way. Where a right-of-way does not exist or cannot be determined, the front lot line shall be the edge of the paved or graveled area of the road.

Lot Line, Rear: The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to and the front lot line, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front line of least dimension.

Lot Line, Side: Any lot line other than the front lot line or rear lot line.

Lot of record: A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the county registry of deeds.

Multi-family Dwelling – A building containing three (3) or more dwelling units, such buildings designed exclusively for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units.

Non-conforming: A building, structure, use of land, or portion thereof, legally existing on the effective date of adoption or amendment of this Ordinance which thereafter fails to conform to all applicable provisions of this Ordinance.

Planning Board: The Planning Board of the Town of Cutler.

Principal Building: A building in which is conducted the principal use of the lot on which it is located.

Principal Structure: A structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

Principal Use: The primary or predominantly use of any lot or parcel.

Right-of-way: All public or private roads and streets, state and federal highways, private ways (now called public easements), and public land reservations for the purpose of public access, including utility rights-of-way.

Road: An existing state or Town way or a street dedicated for public use and shown on a plan duly approved by the Planning Board and recorded in the county registry of deeds or a road dedicated for public use and shown on a plan duly recorded in the county registry of deeds prior to the establishment of the Planning Board and the grant to the Planning Board of its power to approve plans. The term shall also include private, undedicated roads that are described in a recorded document. The term “road” shall not include those ways that have been discontinued or abandoned.

Road Frontage: The horizontal, straight-line distance between the intersections of the side lot lines with the road right-of-way.

Setback: The minimum horizontal distance from a lot line to the nearest part of a building, including porches, steps and railings.

Single Family Dwelling: Any structure containing only one (1) dwelling unit for occupation by not more than one (1) family.

Structure: Anything constructed or erected, the use of which requires a fixed location on or in the ground or in the water, or an attachment to something having a fixed location on the ground, including buildings, billboards, signs, commercial park rides and games, carports, porches, and other building features including stacks and antennas, but not including sidewalks, fences, driveways, parking lots, and field or garden walls or embankment retaining walls.

Substantial Progress: Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Temporary Structure: A structure that is erected without any foundation or footings and is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

Two-family Dwelling – A building containing only two (2) dwelling units, for occupation by not more than two (2) families.

Use: The manner in which land or a structure is arranged, designed or intended, or is occupied.

**Adopted at Town Meeting, August 27, 2019