

PROSPECT MINIMUM LOT SIZE ORDINANCE

Section I: Purpose

It is declared a necessary public purpose for the preservation of the public health, safety, welfare, and prevention of public nuisance to regulate the minimum lot size upon which all new dwellings and/or buildings are erected or placed in the Town of Prospect.

Section II: Authority and Administration

- A. Authority: This ordinance is adopted pursuant to and with Title 30-A M.R.S.A. Sections 3001 and 4364A-B and may be known and cited as the "Prospect Minimum Lot Size Ordinance."
- B. Administration: The Code Enforcement Officer (CEO) of the Town of Prospect shall administer this ordinance.
- C. An application for all new structures, additions, or reconstruction of existing buildings can be found in the town office.

Section III: Applicability

This Ordinance shall apply to all new seasonal or permanent dwelling units, including houses, mobile homes, modular homes, accessory dwelling units; and all other dwellings; and/or all buildings erected or placed on any land within the Town of Prospect.

Section IV: Specifications

- A. The minimum lot size for all new dwellings and/or buildings shall be two acres per dwelling and/or principal building and shall be of such dimensions as to accommodate within the boundaries a square measure no less than 150 by 150 feet. Notwithstanding these requirements, up to two dwelling units per two-acre lot are allowed if no existing dwelling unit of any kind is located on the lot. An affordable housing development as defined in 30-A M.R.S. § 4364 and located in the designated growth area shall be entitled to the density bonuses set forth in that statute.
- B. All new dwellings, accessory dwelling units, and/or buildings shall be set

back a minimum of 560 feet from the centerline of a~~ll~~ public or private ~~right-of-way, or 15 feet from the edge of the right of way, whichever is greater. Setback from a state road or state highway shall comply with 23 M.R.S. Section 1401-A, as may be amended from time to time.~~property lines.

C. No part of any dwelling, accessory dwelling unit, and/or building shall be closer than twenty-five feet to any property line.

D. Accessory dwelling units shall comply with the following requirements:

1. Notwithstanding the requirements of this Ordinance, a lot with one existing dwelling unit shall be allowed to add an accessory dwelling unit, subject to approval by the Town Code Enforcement Officer upon submission of an application form provided for that purpose.

2. Accessory dwelling units shall comply with all setback requirements.

3. The owner of an accessory dwelling unit must provide written verification to the Code Enforcement Officer that the accessory dwelling unit is connected to adequate water and wastewater services. Written verification under this subsection must include all of the following:

a. If an accessory dwelling unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a licensed plumbing inspector under Title 30-A M.R.S.A. Section 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under Title 22 M.R.S.A. Section 42;

b. If an accessory dwelling unit is connected to a well, proof of access to potable water. Tests of an existing or proposed well must indicate that the water supply is potable and of sufficient quantity and quality to serve the proposed accessory dwelling unit.

Section V: Qualifications

- A. Any lot conveyed by registered deed to the present owner(s) prior to the enactment of this Ordinance, which is of smaller size or dimension than specified in Section IV, above, may be utilized as a building lot by the present owner(s).
- B. Any dwelling and/or building destroyed by fire or other act of God and which is on a lot of smaller size or dimension than specified in Section IV, above, may be replaced by any type of dwelling and/or similar building so long as replacement is complete or substantially underway within two years of the original loss, and new dwelling and/or building is located no closer to property lines than was the original.
- C. Accessory buildings shall be exempt from Section IV A.

Section VI: Waiver and Modification of this Ordinance

Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with this Ordinance, or where there are special circumstances of a particular building-lot location, it may waive any provision of this Ordinance provided that such a waiver will not have the effect of nullifying the purpose of this Ordinance, any Comprehensive Plan, Shoreland Zoning, or any other land use ordinance or regulation. In granting any waiver, the Planning Board shall require such conditions as within its judgment, substantially secure the objectives of the requirements so waived.

Should the property owner not be granted a waiver, the property owner may apply for a variance.

Section VII: Validity, Conflict of Ordinances

- A. Validity: Should any section or provision of the Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance, and to this end, the provisions of this Ordinance are hereby declared to be severable.

- B. Conflict of Ordinances: This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit, or provision of law.

Where this Ordinance imposes a higher standard for the promotion and protection of health, safety, or welfare, the provisions of this Ordinance shall prevail.

Section VIII: Appeal

A. The Board of Appeals may, upon written application of the affected landowner, grant a variance from the strict application of this Ordinance under the following conditions:

- a. The strict application of the terms of this Ordinance would result in undue hardship to the applicant. The term "undue hardship" shall mean:
 1. That the land in question cannot yield a reasonable return unless a variance is granted, and
 2. That the need for a variance is due to the unique circumstances of the property and not the general conditions in the neighborhood, and
 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.
- b. The Board of Appeals, based upon clear and convincing evidence presented to it, will make a finding. A variance is authorized only for dimension requirements. A variance may ~~not~~ be granted regarding offsets from property lines or set-back requirements from the property line of public or private rights-of-way.
- c. The Board of Appeals may, upon written application of an aggrieved party and after public notice, hear appeals from the determinations of the Planning Board or CEO in the administration of this Ordinance. Such hearings shall be held in accordance with State laws. Following such hearing, the Board of Appeals may reverse the decision of the Planning Board or CEO only upon finding that the decision is clearly contrary to specific provisions of this Ordinance.

- d. An appeal may be taken within thirty days after any decision is rendered by the Board of Appeals, by any party, to Waldo County Superior Court in accordance with State laws.

Section IX: Amendments

This Ordinance may be amended by a majority vote in a special or regular town meeting of the Town of Prospect.

Section X: Enforcement

- A. The CEO shall act in all cases of violations of this Ordinance by written notification to the owner or lessor of the lot and the municipal officers of the kind of nature of the violation and correction of same, if such correction is possible. The notification shall be deemed to have been made when sent to the owner or lessor by certified or registered mail to the last known address in municipal records.
- B. The municipal officers are charged with the prosecution for all violations of the provisions of this ordinance. In cases where such notices referred to in Paragraph XA are not promptly complied with after receipt of the notices, the municipal officers shall make such complaints to the courts as, in their judgment, are proper or may institute such action or proceedings at law or in equity as are proper to restrain, correct, remove, or punish such violations.

Section XI: Penalties

Any person or corporation who shall violate any provisions of this Ordinance or fail to comply with any of the requirements thereof shall, upon conviction, be punished by a fine of not less than \$100, nor more than \$2500, and each day on which such violations shall continue shall constitute a separate offense. In accordance with Title 30-A M.R.S.A. Section 4452.

Section XII: Definitions

- A. Accessory dwelling unit means a self-contained dwelling unit located within, attached to, or detached from a single-family dwelling unit located on the same parcel of

land, or such other definition found in Title 30-A M.R.S.A. Section 4301 (1)(B), as may be amended.

B. Accessory use or structure means a subordinate use of a building, other structure or land, or a subordinate building or other structure:

(1) Whose use is customary in connection with the principal building, other structure or use of land;

(2) Whose use is clearly incidental to the use of the principal building, other structure or use of land;

(3) Which is located on the same lot with the principal building, other structure or use of land or on a lot abutting such lot if in the same ownership or part of the same establishment.

(4) Which does not constitute, in effect, conversion of the principal use of the premises to one not permitted; and

An accessory dwelling unit is not, for the purposes of this ordinance, an accessory use or structure.

C. Dwelling unit means a room or group of rooms, containing at least three hundred (300) square feet of living area, designed and equipped exclusively for use as living quarters for one (1) family, including provisions for living, sleeping, cooking, and eating. The term shall not include accessory dwelling units, individual lodging house units that do not have kitchen facilities, club or institutional group rooms, or similar accommodations.

D. Mobile home means a factory-fabricated structure meeting the standards of the U.S. Department of Housing and Urban Development which is built on a permanent chassis, is designed to be used as a dwelling unit and was constructed after June 15, 1976. Mobile homes built before June 15, 1976, are considered to be older mobile homes and are prohibited, unless they meet safety and design standards put forth by the state manufactured housing board.

E. Modular home means those units which the manufacturer certifies are constructed in compliance with 10 M.R.S.A. Chapter 951, and rules adopted under that chapter, meaning structures, transportable in one (1) or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings and must be placed on permanent foundations.

- F. Principal building means the building occupied by the chief or principal use on the premises. When a garage is attached to the principal dwelling in a substantial manner as by a roof or common wall, it shall be considered as a part of the principal dwelling for the purpose of computing setback requirements.

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