

MINIMUM LOT SIZE
ORDINANCE


For the
TOWN OF WEST PARIS

ENACTED:

March 9, 1996

Date

CERTIFIED BY:


Dian P. Stimson

Town Clerk

Title

Affix Seal

**TOWN OF WEST PARIS
MINIMUM LOT SIZE ORDINANCE**

SECTION I. Purposes

The purposes of this Ordinance are to establish minimum lot sizes and setbacks in the Town of West Paris in order to promote the health, safety, and welfare of the residents of West Paris.

SECTION II. Authority and Administration

- A. This Ordinance is adopted and hereafter amended pursuant to and consistent with Article VIII-A of the State of Maine Constitution and Title 30-A, M.R.S.A., Section 3001.
- B. This Ordinance shall be administered and enforced by a Code Enforcement Officer appointed or re-appointed annually by the Selectmen.

SECTION III. Applicability

This Ordinance applies to all lots in the Town of West Paris, except those lots governed by the Town of West Paris Shoreland Zoning Ordinance, upon which residential dwellings, multi-family structures, commercial, industrial and institutional buildings and their accessory structures are to be located.

SECTION IV. Amendments, Validity, Effective Date, Repeal of Existing Lot Size Standards

A. Amendments

- 1. Initiation of Amendments: An amendment to this Ordinance may be initiated by:
 - a. The Planning Board, provided a majority of the Board has so voted;
 - b. Request of the municipal officers; or
 - c. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial election.
- 2. The Planning Board shall hold a public hearing on the proposed amendment at least 14 days prior to the meeting of the Governing Body. Notice of the public hearing shall be posted at the town office at least 14 days prior to the public hearing. Notice of the hearing shall be published at least two times in a newspaper of general circulation in the area. The date of the first notice shall be at least 14 days before the hearing the date of the second notice shall be at least 7 days before the hearing.
- 3. Adoption of Amendment: An amendment to this Ordinance may be adopted by a majority vote of the Town Meeting.

B. Validity and Severability

Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision.

C. Conflict With Other Ordinances

This Ordinance shall not be construed to repeal any existing bylaws or ordinances, except as set forth in Section IV. D., or to impair the provisions of private restrictions placed upon property, provided, however, that where this Ordinance imposes greater restrictions, its provisions shall control.

D. Effective Date

The effective date of this Ordinance is the date of adoption by the town meeting. Adoption of this Ordinance shall repeal any and all Minimum Lot Size Ordinances previously adopted.

SECTION V. Enforcement

A. Nuisances

Any violation of this Ordinance shall be deemed to be a nuisance.

B. Code Enforcement Officer

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer finds that any provision of this Ordinance is being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. A copy of such notices shall be maintained as a permanent record.

C. 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 authorized and 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.

D. Fines

Any person, including but not limited to 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. Section 4452. Each day the violation exists shall be considered a separate violation. Such persons shall also be liable for court costs and attorney fees incurred by the municipality.

SECTION VI. Non conforming Lots

A. Vacant Non conforming Lots

A vacant and unimproved legally non conforming lot may be built upon provided the lot is in separate ownership and not contiguous with any other lot in the same ownership and that all provisions of this Ordinance can be met except road frontage and lot size. Variance of setback or other requirements not involving lot area or width may be obtained only by action of the Board of Appeals.

B. Non conforming Lots with Structure

A structure which was built or placed on a legally non conforming lot prior to the time when the lot became non conforming may be rebuilt, repaired, improved or replaced in conformity with the dimensional requirements imposed by this Ordinance other than lot area and lot frontage.

C. Contiguous Vacant Lots

If two or more vacant and unimproved contiguous lots were in the same ownership of record at the time of adoption or amendment of this Ordinance, and , if all or part, of these lots does not meet the dimensional requirements imposed by this Ordinance, the lots shall be combined to the extent necessary to meet these standards and no division of the parcel made up of the combined lots shall be made which creates any dimension or area which is less than the requirements established by this Ordinance.

D. Contiguous Built and Vacant Lots

If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

E. Transfer of Ownership

Ownership of legally non conforming lots together with the rights of use created by this section may be transferred to subsequent owners.

F. Illegal Reduction in Dimensions

No lot shall be reduced in any manner that violated the requirements of this Ordinance. If land is subdivided, conveyed, divided or otherwise transferred in violation of this ordinance, no building permit or other municipal permit shall be issued with reference to any of the land or lots so reduced until all such land or lots fulfill the dimensional regulations.

SECTION VII. Dimensional Requirements

A. Single-Family Dwellings

For each single family dwelling and accessory structures (including manufactured housing not located in a mobile home park) constructed or placed, there shall be provided lot area road frontage and setbacks as follows:

1. 30,000 sq. ft. minimum lot area (rights-of-way shall not be used in the calculation of lot size);
2. 125 ft. minimum frontage along a public road;
3. Minimum setbacks for Principal and Accessory Structures
 - a. 25 feet road/street measured from the road right-of-way;

- b. 15 feet side yard; and
 - c. 15 feet rear yard.
4. If more than one dwelling is constructed on a single lot, all dimensional requirements including frontage shall be met separately for each such dwelling, notwithstanding other provisions of this Ordinance.

B. Multi-Family Dwellings

For each multi-family dwelling unit, there shall be provided a minimum lot area, road frontage and setbacks as follows:

- 1. 30,000 sq. ft. for the first dwelling unit, and 20,000 sq. ft. per unit for each additional unit. Rights-of-way shall not be used in the calculation of lot size.
- 2. 125 ft. minimum frontage along a public road.
- 3. Minimum setbacks for Principal and Accessory Structures
 - a. 25 feet road/street measured from the road right-of-way;
 - b. 15 feet side yard; and
 - c. 15 feet rear yard.
- 4. Lots of multi-family dwellings shall not exceed a ratio of length (depth) to width (frontage) of 3 to 1 with respect to the area required to satisfy Section VII B. 1.
- 5. Structures existing on the effective date of this ordinance may be converted to multi-family dwellings without regards to lot size provided a permit is issued by the planning board. Before issuing a permit the planning board shall find that off-street parking is provided at a rate of two (2) per unit or one (1) per bedroom; the subsurface sewage disposal system complies with Subsurface Waste water Disposal Rules and can be expanded or replaced; and all applicable local, State and Federal laws and rules are met.

C. Commercial/Industrial/Institutional

For each commercial/industrial/institutional building or complex, there shall be provided lot areas as follows:

- 1. 30,000 sq. ft. minimum lot area
- 2. 125 ft. minimum frontage along a public road;
- 3. Minimum setbacks for Principal and Accessory Structures
 - a. 25 feet road/street measured from the road right-of-way;
 - b. 15 feet side yard; and
 - c. 15 feet rear yard.

SECTION VIII. Back Lots

- A. Back lots may be developed for use if they are or can be provided with a right-of-way, it may be used if the following conditions are met:

If a back lot is accessible only by a legally enforceable right-of-way, it may be used if the following conditions are met:

1. The right-of-way must be a minimum of fifty (50) feet in width.
2. Creation of the 50 foot right-of-way to serve the back lot shall not create a non conforming front lot by reducing such lot's required road frontage below the minimum, or, if the front lot is already non conforming, reduce its road frontage at all. Where the right-of-way is conveyed by easement or irrevocable license, or some grant less than a fee interest, the land over which such servitude is places may not be counted toward meeting road frontage requirements for the front lot.
3. If the right-of-way is brought up to subdivision road standards as set forth in the Town of West Paris Subdivision Regulations further dwellings may be constructed on a back lot with Planning Board approval. For purposes of such approval, the construction of an additional dwelling or dwellings along the right-of-way shall be considered in the same manner and under the same restrictions and requirements as if such construction were a subdivision.

SECTION IX. Appeals

A. Variance Appeals

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

1. The strict application of the terms of this Ordinance would result in undue hardship to the applicant. The term "undue hardship" shall mean:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted;
 - b. that the need for variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c. that the granting of a variance will not alter the essential character of the locality; and
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.
2. The Board of Appeals may grant a variance to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who is living in the dwelling 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 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 person with the disability lives in the dwelling. The term "structures necessary for access and egress from the

property" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

3. **Setback Reduction Variance**

The Board of Appeals may grant a setback reduction variance provided that the variance request meets the requirements below. A setback reduction variance shall not be considered as a variance to relieve undue hardship as defined in Section IX A.1 above.

Upon granting a setback reduction variance which complies with the standards a.1. below, the Board of Appeals may attach reasonable conditions which it finds necessary to protect the privacy of the abutting property owners and neighbors. These conditions are limited to specifications for landscaping, fencing, parking, and construction materials. The Board shall grant a setback reduction variance as provided herein if the Board finds that the applicant has proved that the reduction, if granted, will meet the following criteria:

- a. The structure is a single family dwelling that is the primary year-round residence of the petitioner;
- b. Any variance granted will not exceed 20 percent of the setback requirement unless the petitioner has obtained written consent from all affected abutting property owners;
- c. The variance will cause the dwelling to exceed the maximum allowable lot coverage;
- d. The need for the variance is due to the unique circumstances of the property and not the general conditions of the neighborhood;
- f. The granting of the variance will not alter the essential character of the locality;
- g. The hardship is not the result of action taken by the applicant or prior owner;
- h. The granting of the variance will not substantially reduce or impair the use of abutting property; and
- i. The granting of the variance is based upon demonstrated need, not inconvenience or no other feasible alternative is available.

B. Administrative Appeals

The Board of Appeals, may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Planning Board or Code Enforcement Officer 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 Code Enforcement Officer or Planning Board only upon a finding that the decision is clearly contrary to specific provisions of this Ordinance.

C. Meetings

The Board of Appeals shall conduct its meetings in accordance with the provisions of 30-A M.R.S.A. Section 2691 as the same may be amended.

D. Appeal to Superior Court

An appeal may be taken within forty-five (45) days after any decision is rendered by the Board of Appeals, by any party to Superior Court in accordance with State laws.

E. Filing of Variances

The applicant for a variance shall record any variance granted by the Board of Appeals in the Oxford County Registry of Deeds within 30 days of the Board's decision. If such certification of variance is not filed within 30 days, the variance shall become invalid.

SECTION X. Definitions

In general, words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

1. **Back lot:** Any lot or parcel of land which does not have frontage on a road or lacks the minimum frontage as required.
2. **Commercial:** Provisions of services on the premises, or sale of goods to the general public on a regular basis for a charge or fee and rooms to let.
3. **Contiguous Lots:** Lots which adjoin at any line or point, or are separated at any point by a body of water less than 15 feet wide.
4. **Disability:** Any disability, infirmity, malformation, disfigurement, congenital defect, or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other or sensory impairment which requires special education, vocational rehabilitation or related services.
5. **Industrial:** Any activity which includes the fabrication, servicing, manufacturing, storage, processing or shipping of products.
6. **Institutional:** The use of land or structures by a governmental, educational, religious, medical, charitable, or non-profit organization, either public or private.
7. **Legally Enforceable Right-of -Way:** A right-of-way the description of which is by metes and bounds.
8. **Lot:** A contiguous parcel of land in single or joint ownership described on a deed, plot, plan or similar legal document.
9. **Lot of Record:** A parcel of land in single or joint ownership described on a deed plot or plan and registered at the Oxford County Registry of Deeds on or before the effective date of this Ordinance.
10. **Multi-Family Dwelling:** A building containing two or more dwelling units. The term also includes apartments located in commercial structures containing commercial space as the principal use.

11. **Manufactured Housing:** Structural unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and then transported to a building site where it is utilized for housing. They are:
- (a) Those units commonly called "newer mobile homes", which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, or certification exists as required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et. seq.; and
 - (b) Those units commonly called "modular homes", which the manufacturer certifies are constructed in compliance with the state's Manufactured Housing Act and regulations, 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 foundations when connected to require utilities, including the plumbing, heating, air-conditioning or electrical systems contained therein.
12. **Mobile Home:** Structures, transportable in one or more sections, which, in the traveling mode, are 14 body feet in width and are 750 or more square feet, and which are built on a permanent chassis or designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein; except that the term shall include any structure which meets all the requirements of this paragraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et. seq. or complies with safety standards contained in the 1987 edition of the BOCA National Building Code.
13. **Non conforming Lot of Record:** A lot shown on a plan or deed recorded in Oxford County Registry of Deeds prior to the effective date of this Ordinance or amendment thereto which was legal prior to the adoption of the Ordinance or amendment but which became non conforming with respect to area, frontage, width, or depth requirements as a result of the adoption of this Ordinance or amendment.
14. **Dwelling Unit:** A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities: includes single-family houses, seasonal residences, manufactured housing, and units in a duplex, apartment house, multi-family dwellings, and residential condominiums.
15. **Road:** A public way that has been accepted as such and maintained by the Town of West Paris, the State of Maine or the County of Oxford.
16. **Tract or Parcel of Land:** All contiguous land in the same ownership, whether or not the tract is separated at any point by an intermittent or non-navigable stream, or a private road established by the abutting landowners.