Town of Liberty
Minimum Lot Size Ordinance

Amended 4/05
Amended 3/06

Section 1. Title and Purpose

This ordinance shall be known and may be cited as the Minimum Lot Size Ordinance of the Town of Liberty, Maine, and will be referred to herein as this "Ordinance." The purpose of this Ordinance is to protect and promote the safety, welfare and property values of the inhabitants of the Town of Liberty, and to insure adequate and safe subsurface waste disposal.

Section 2. Authority and Administration

2.1 This Ordinance is enacted pursuant to the authority given the Town by 30-A M.R.S.A. Section 3001 (Home Rule).

2.2 The effective date of this Ordinance shall be thirty (30) days after it is adopted by vote of the legislative body of the Town of Liberty.

2.3 The Code Enforcement Officer shall enforce this Ordinance.

2.4 **Upon submitting an application or pre-application for permit, or notice of construction, to the Town, applicant/owner accepts that designated town officers and officials have an implicit right to visit property for purposes of validating information provided and to inspect for compliance both work in progress as well completed projects.**

Section 3. Minimum Lot Size and Setbacks

3.1 After the effective date of this Ordinance, no lot shall be created which does not meet the minimum lot size requirements of this Ordinance.

3.2 Except as otherwise provided herein, no dwelling, including mobile homes and manufactured housing, shall be constructed, enlarged, located or relocated on a lot of less than one acre.

3.3 Lots in a mobile home park, or in a development which qualifies for state or federal low-income or elderly housing project subsidies, shall meet the following lot size, width, and density requirements:

a. Lots served by individual subsurface sewage disposal systems:
minimum lot area: 20,000 square feet
minimum lot width: 100 feet

b. Lots served by a central subsurface sewage disposal system:
minimum lot area: 12,000 square feet
minimum lot width: 75 feet

c. Where lots front on a curved right-of-way or are served by a driveway, the lot width requirement shall be measured by a straight line between the two side lot lines.

d. The overall density of a mobile home park served by a central subsurface sewage disposal system shall be no greater than one unit per 20,000 sq.ft. of total park area. Total Park area shall be the combined area of the individual mobile home lots, plus the area required for road rights-of-way, plus the area within the shoreland setback or located in a shoreland zone.

e. Lots within a shoreland zoning district shall meet the lot area, width, setback, and shore frontage requirements for the district.

3.4 If more than one dwelling unit is constructed or located on a single lot, the lot shall be a minimum of one acre per dwelling unit; except that in a development which qualifies for state or federal low-income or elderly housing project subsidies, the lot shall have a minimum of 20,000 square feet per dwelling unit.

3.5 Setbacks

Except as otherwise provided in this Ordinance, no portion of any building or freestanding sign may be located on any lot closer to any lot line or to the road centerline than is authorized herein. As used herein, the term "building" includes any substantial structure which by nature of its size, scale, dimension, bulk or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description:

a) Gas pumps and overhead canopies or roofs.
b) Fences running along lot boundaries adjacent to public streets if such fences exceed six feet in height and are substantially opaque.

a. Setback Standards

	Minimum distance from Lot Boundary Line			**Minimum Distance from a Road**
	Front	**Rear***	**Side**	**All**
Principal Buildings and Mobile Homes	**25 ft**	**15 ft**	**10 ft**	**40 ft from the centerline or 25 ft from the lot line abutting the road,** whichever is least.
Accessory Structures	**25 ft**	**15 ft or variable[1]**	**10 ft**	**same as above**
[1] See paragraphs b. and c. of this section (below).				

b. The minimum rear setback requirement shall be four (4) feet for accessory buildings or structures that occupy no more than 100 square feet of land and where the minimum lot coverage of principal plus accessory structures does not exceed 40 percent of the lot.

c. Where the high point of the roof of the accessory building or structure exceeds 12 feet in height, and the accessory building is subject to a four (4) foot rear setback pursuant to paragraph a. above, the accessory building or structure shall be set back from the rear lot boundary line an additional two feet for every foot of height exceeding twelve feet.

Section 4. Non-Conforming Properties

4.1 Any lot in lawful existence on the date of adoption of this Ordinance or subsequent amendments that cannot meet the minimum lot size requirements is grandfathered as a legal non-conforming lot for the purposes of this Ordinance.

4.2 A single lot of record, whether built (where a building exists on the lot) or vacant, which, on the effective date of this Ordinance, does not meet the minimum lot size requirements may be built upon in accordance with State law, provided that the setback requirements of this Ordinance are met to the maximum extent feasible.

4.3 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, and if any of these lots do not individually meet the minimum lot size requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the lot size requirement, and shall be considered a single parcel for the purposes of this Ordinance.

4.4 Any building in lawful existence on the date of adoption of this Ordinance or subsequent amendments that does not conform to the setback requirements of this Ordinance, is grandfathered from the setback provisions of this Ordinance.

4.5 Expansion of a non-conforming building in lawful existence on the date of adoption of this Ordinance as amended is allowed after obtaining a permit from the Planning Board and payment of a $25.00 permit fee. Following the issuance of a permit, if no substantial start is made in construction or in the use of the property within one year of the date of the permit, the permit shall lapse and become void. The planning Board shall grant a permit upon a finding that:

a. the expansion does not increase the non-conformity of the structure with respect to the setback provisions of this Ordinance. An expansion that does not extend the building any closer to any lot line or road centerline than any other existing portion of the building, including decks, steps and railings, and roof overhangs, shall not be considered as increasing the non-conformity of the building; and

b. the expansion will not restrict snow removal or maintenance of drainage ditches or culverts on town roads, and does not restrict visibility for safe egress onto a road, as certified by the Road Commissioner; will not interfere with the provision of fire and ambulance services to any other property (as certified by the Liberty Fire Chief); and the expansion is set back from any public sidewalks by at least 5 feet.

4.5 Any non-conforming structure which is damaged or destroyed by more than 50% of the market value of the structure before such damage or destruction, may be reconstructed or replaced, provided that a permit is obtained within one year of the date of the damage or destruction and provided that such reconstruction or replacement is in compliance with the setback requirements of this Ordinance to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

Any non-conforming structure which is damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance or repair, may be replaced with a permit. In no case shall a structure be reconstructed so as to increase its non-conformity.

Section 5. Violations and Enforcement

5.1. Notice of Violation. If, upon investigation, the Code Enforcement Officer determines that activities are or have occurred that are in violation of this Ordinance or any permits or approvals granted for a project, the Code Enforcement Officer shall give written notice to the owner and/or occupant of the premises. The notice shall specify the nature of the violation, actions necessary to abate the violation, including discontinuance or stoppage of any work being done, and the time frame within which these actions shall occur. In addition, the notice shall advise the party of the right to appeal the Code Enforcement Officer's decision. A copy of such notice shall be submitted to the municipal officers and shall be maintained as a permanent record.

5.2. Enforcement Action. If, after such notice and demand, the violation has not been abated within the time provided, upon notice from the Code Enforcement Officer, the Municipal Officers are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and imposition of fines, that may be necessary and appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.

5.3. Consent Agreements. 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 use to continue unless there is clear and convincing evidence that the illegal use was conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith.

5.4. Penalties. Any person, firm, or entity being the owner of or having control or use of or engaged in the construction, alteration, or repair of or receiving a permit for, any building or land or part thereof, found to violate any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in accordance with Title 30-A, §4452. Each day such a violation is permitted to exist after written notification thereof by the Code Enforcement officer shall constitute a separate offense. [Note: Current penalties include fines of not less than $100 nor more than $2500 per violation for each day that a violation continues.]

Section 6. Appeals

6.1 Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:

a. Administrative Appeals: To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer in the administration of this Ordinance.

b. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

6.2 Variance Appeals. Variances may be permitted only under the following conditions:

a. Variances may be granted only from setback requirements.

b. The Board shall not grant a variance unless it finds that:

(1) The proposed structure would meet the setback provisions of this Ordinance except for the specific provision which has created the non-conformity and from which relief is sought; and

(2) The strict application of the terms of this Ordinance would result in undue hardship. 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 a 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.

c. The Board of Appeals may grant a variance to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property. 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 property 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 on the property. The term "structures necessary for access to or egress from the property" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

d. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure 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.

6.3 Appeal Procedure

a. Making an Appeal

(1) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

(2) Such appeal 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 it 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 being notified of an appeal, the Code Enforcement Officer shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

(4) The Board of Appeals may, at its discretion, hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

b. Decision by Board of Appeals

(1) A majority of the board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.

(2) The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer, or to decide in favor of the applicant on any matter on which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms. The board may reverse the decision, or failure to act, of the Code Enforcement Officer only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.

(3) The person filing the appeal shall have the burden of proof.

(4) The Board shall decide all appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

(5) All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefor, and the appropriate order, relief or denial thereof.

6.4 Appeal to Superior Court. 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.

6.5 Reconsideration. The Board of Appeals may reconsider any decision within thirty (30) days of its prior decision. The Board may conduct hearings and receive evidence and testimony in its reconsideration.

Section 7. Amendments

This Ordinance may be amended by a majority vote of the Town Meeting.

Section 8. Validity, Severability, and Conflict with Other Ordinances

Should any section of this Ordinance be declared to be invalid, such decision shall not invalidate any other section. Whenever the requirements of this Ordinance are inconsistent with the requirements of any other ordinance, code, or statute, the more restrictive shall apply.