

**2012 AMENDMENTS TO
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: Authority: This ordinance is adopted pursuant to and **with Title 30-A. M.R.S.A. Section 3001**, and may be known and cited as the “Minimum Lot Size Ordinance and Regulations of the Town of Prospect”.
- B: Administration: **The Code Enforcement Officer (CEO) of the Town of Prospect shall administer this ordinance.**

Section III: Applicability

This Ordinance shall apply to all new seasonal or permanent houses, mobile homes, modular homes, and all other dwellings and/or 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 2 acres per dwelling and/or building and shall be of such dimensions as to accommodate within the boundaries a square measure no less than 150 by 150 feet.
- B: All new dwellings and/or buildings shall be set back a minimum of 40 feet from all public or private right-of-way property lines.
- C: No part of any dwelling and/or building shall be closer than 15 feet to any property line.

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 the complete or substantially underway within 2 years of the original loss, and new dwelling and/or building is located no closer to property lines than was the original.
- C: For the purposes of this Ordinance, buildings, other than dwellings, shall be classified as either (1) a Principal building or (2) an Accessory building. (1) A principal building is one that is not incidental to or accessory to the use of a dwelling or building on the same lot. Accessory buildings shall be exempt from Section IV A.
- D: For the purposes of this Ordinance, a dwelling shall be construed to mean one residential housing unit, a single family house, mobile home, or modular home.

Section VI: Waiver and Modification of this Ordinance

- A: 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.
- B: In granting any waiver, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived.

Section VII: Validity, Effective Date, 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: Effective Date: November 3, 1977

- C: 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.
 2. That the need for a variance is due to the unique circumstances of the property and not the general conditions in the neighborhood.
 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 right-of-ways.
 - 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 notifying, in writing, the owner or lessor of the lot and the Selectpersons of the kind of nature of the violation and correction of same, if possible. Said notification shall be deemed to have been made when sent to the owner or lessor by certified or registered mail.
- B. The Selectpersons are charged with the prosecution for all violations of the provisions of this ordinance. In cases where such notices referred to in Paragraph XA, above, are not promptly complied with after receipt of said notices, the Selectpersons shall make such complaints to the courts as, in their judgment are proper, or may institute such action or proceedings at laws or in equity as are proper to restrain, correct, remove, or punish such violations.
- C. 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 XI: Amendments

March 27th, 1978 warrant article 30;

To see if the Town will amend the ordinance entitled “Minimum Lot Size and Specifications” so as to protect the present lots of less than two acres

March 20th, 1989 warrant article 71;

To see if the Town will amend the ordinance entitled “Minimum Lot Size and Specifications” so as to: clarify and define the terms Building and Dwelling”; establish a 200 foot road frontage requirement; to revise the appeals process; to revise the fines.

Action; Motion to pass over "establish a 200 foot road frontage requirement" and accept rest of article as read. -Sneed-2nd Dwight Accepted

March 31st, 2012; to see what action the Town will take regarding proposed changes to the "Minimum Lot Size Ordinance".

Heather Boynton

Heather Boynton

William Sneed Jr.

Diane Terry

Diane Terry

True attested copy:

_____ 3/31/12 _____

Jill Orestis, Town Deputy Clerk