TOWN OF MADISON, MAINE
Chapter 165: Building Construction
Article I: Building Safety

Adopted – 6.11.2012

Revised – ~~10.22.2024~~9.22.2026

§ 165-1. Purpose.

The purpose of this article is to protect the health and safety of the citizens of Madison, and to present in a unified format those state statutes effecting building safety that the citizens are responsible for complying with. By combining varied state laws under one local ordinance, the citizens will have a single document rather than many separate and unconnected statutes.

§ 165-2. Legislative authority.

This article is authorized in accordance with 30-A M.R.S.A. § 3001. Further authority is derived from 25 M.R.S.A. § 2351.[1]

§ 165-3. Applicability.

This article is applicable to all new structures, both principal and accessory, that are intended for human habitation or occupancy, including manufactured and prefabricated structures, and to the renovation and repair of existing structures.

§ 165-4. When effective.

This article is effective when approved by the voters of the Town of Madison.

§ 165-5. Availability.

Copies of this article are available free of charge at the municipal building.

§ 165-6. Severability.

~~Copies of this article are available free of charge at the municipal building.~~ If any section, subsection, clause, paragraph, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed to be a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

§ 165-7. Conflicts with other ordinances.

Whenever a provision of this article conflicts with, or is inconsistent with, the provisions of this or any other ordinance, the more restrictive provision shall control.

§ 165-8. Amendments.

This article may be amended by vote of the legislative body. Amendments may be proposed by the Code Enforcement Officer (CEO), the Fire Chief, the Road Commissioner, the Selectmen, or by citizen petition.

[1] Editor's Note: 25 M.R.S.A. § 2351 was repealed by Laws 2009, c. 261, § B-1, effective 12-1-2010.

§ 165-9. Nonconforming structures.

A. Purpose: This section allows the continued use of legal nonconforming structures that existed prior to the enactment of this article and that are determined not to be a hazard.

B. General: A structure is considered nonconforming if it was erected or placed prior to the effective date of this article. It is the intent of these provisions to promote land use conformities, except that non-conforming conditions that legally existed before the effective date of this Chapter or subsequent updates, shall be allowed to continue, subject to the requirements set forth in the Article. ~~, without an inspection by the Code Enforcement Officer or the Fire Chief and for which a certificate of occupancy has not been issued.~~

C. Nonconforming structures: Any nonconforming structure can be used, and occupied, providing it meets, to the greatest extent possible, the standards of this article. Nonconforming structures may be expanded, and a certificate of occupancy may be issued, provided that the expansion does not further increase the nonconformity of the structure. If a nonconforming structure is destroyed by fire, flood, or other cause, it may be rebuilt, and a certificate of occupancy may be issued, provided that the new structure meets the provision of this article to the greatest extent possible; and provided that any structure in the special flood hazard area that is destroyed by 50% or greater is elevated at least one foot above the base flood elevation as is required by the Floodplain Management Ordinance.[2]

D. Nonconforming lots: Any nonconforming lot of record in existence prior to the effective date of this article may be used and built upon, provided that all provisions of this article except setback can be met.

§ 165-10. Standards.

All structures constructed, placed, expanded, reconstructed or repaired, after the effective date of this article and any amendments thereto, shall meet those chapters of the National Fire Protection Association adopted by the Department of Public Safety, State Fire Marshal's office; the Maine State Plumbing Code; National Electrical Code; and the Madison Floodplain Management Ordinance.[3]

A. Setbacks: This section provides standards for the use and minimum size of setbacks. These standards are intended to provide open areas around structures for visibility and traffic safety; access to and around structures; access to natural light, ventilation and direct sunlight; separation of incompatible land uses; and space for privacy, landscaping, and recreation. ~~.~~

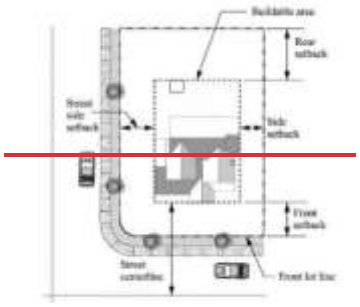
(1) All new principal and accessory structures, and expansions of existing structures that do not have common walls, or firewalls and sprinklers, must be set back a minimum of five (5) ~~15~~ feet from the property lines, except as otherwise provided for road frontage.

- The required road setback shall be measured from the road right-of-way line. No portion of a principal or accessory structure shall extend into a public or private road right-of-way. Where a public or private road does not have a documented or established right-of-way width, the required setback shall be measured from a line located five (5) feet from the edge of the existing pavement or traveled way. ~~.~~[4]

[2] Editor's Note: See Ch. 422, Floodplain Management.

[3] Editor's Note: See Ch. 422, Floodplain Management.

[4] ~~Amended 6-12-2017~~



(2) The physical location of the property lines is the responsibility of the property owner or his or her agent.

(3) Exemptions from setback requirements, except as otherwise provided for road frontage:

- Fences and hedges six feet or less in height above the grade of the site.

(4) Allowed projections into setbacks - Certain detached structures may project beyond the wall of the structure and into the front, side, and rear yard setbacks in compliance with the following requirements:

- Equipment: air conditioning, heating, and similar equipment may extend up to 24 inches into setback areas.

(5) Decks (attached and detached), earthworks, free standing solar devices, steps, terraces, and other design elements which are placed directly up the grade shall conform to the setback requirements.

(6) Bay windows, and similar projecting windows shall conform to the setback requirements.

(7) Chimney / fireplace, cornice, eave, awning, and roof overhang shall conform to the setback requirements.

(8) Swimming pools, hot tubs, spas, and associated equipment shall conform to the setback requirements. Sheds, storage buildings, and similar accessory structures shall conform to the setback requirements.

~~(2)~~(9) No storage of inoperable vehicles, campers, or similar items shall be within in the setback area.

B. Buildings with common walls: Any new principal or accessory structure that has a common wall with a structure on an adjacent lot may be constructed without a setback from the property line, provided that the building is a sprinkled structure and/or is fire-resistant construction as determined by the Code Enforcement Officer, Fire Marshall, Fire Chief, or their designee. All other setbacks must be maintained except for the common wall(s).

C. Buildings with fire walls: Any new principal or accessory structure, or expansion of an existing structure, that has a fire wall as defined in the most recent edition of the National Fire Protection Association Section 5000 (NFPA 5000) and is a sprinkled structure may be constructed without a setback from the rear or side property lines, provided that the construction and the building plans are approved, in writing, by the Code Enforcement Officer, ~~and~~ Fire Marshall, and/or Fire Chief prior to the start of construction.

D. Any building, except a single-family residential structure, that has early detection devices (fire alarms and/or sprinklers) shall have an emergency access box, approved by the Fire Chief and installed per

manufacturer's instructions.

E. The ~~Planning Board~~Board of Appeals may approve modifications to the dimensional requirements of this Ordinance where it determines that such modifications are necessary to permit reasonable use of the property and will not adversely affect adjacent properties or the public health, safety, and welfare.

(1) The ~~Planning Board~~Board of Appeals may determine that reasonable use is not possible without setback reduction when one or more of the following conditions exist:

- Lot size or width is insufficient to accommodate a structure in compliance with required setbacks;
- Lot configuration or shape (including irregular, narrow, or triangular lots) limits building area;
- Existing site constraints, including slopes, wetlands, ledge, or existing development restrict placement of structures;
- Required setbacks for wells, septic systems, or other utilities limits the buildable area;
- Expansion of an existing structure is not feasible without encroachment into setbacks due to location of existing building; or
- Strict compliance would result in a structure that is significantly smaller or less functional than typical structures for the permitted use.

(2) A finding of reasonable use shall not be based solely on:

- The applicant's preference for a particular building size, layout, or location;
- The desire to maximize building area or property value;
- Self-created conditions, including prior subdivision, lot line adjustments, or construction that reduced the buildable area; or
- The ability to construct a structure that meets the minimum requirements of this Ordinance, even if less desirable to the applicant.

(3) In granting a reduction in setback requirements, the ~~Planning Board~~ Board of Appeals shall find that the proposed development will not result in:

- Unsafe conditions related to fire separation, including insufficient distance between structures where required by applicable building or fire codes;
- Inadequate access for emergency vehicles or personnel, including obstruction of driveways, fire lanes, or points of entry;
- Undue adverse impacts on abutting properties, including but not limited to loss of light, air circulation, or reasonable privacy;
- Unreasonable drainage impacts onto abutting properties, including concentrated runoff, icing hazards, or erosion caused by rooflines, grading, or impervious surfaces;
- Conflicts with existing access, utilities, easements, including but not limited to wells, septic systems, and utility lines;
- Encroachment into areas necessary for maintenance or the safe use of the structure, including roof overhangs, egress windows, or required building clearances.

(4) All structures receiving a setback reduction shall remain in compliance with the following standards:

- Applicable building and fire codes, including required fire-resistance ratings, opening limitations, and separation distances as enforced by the CEO;
- Minimum lot coverage and height requirements, where applicable;
- All subsurface wastewater disposal and water supply requirements, including required setbacks for wells and septic systems under State of Maine rules;
- Shoreland Zoning standards, where applicable;
- Required easements and rights-of-way, which shall not be obstructed or built upon;
- Safe and adequate access to the structure, including compliance with driveway and emergency access requirements; and
- ~~D.~~ Any conditions imposed by the Planning Board to mitigate impacts or to ensure compliance with this Ordinance.

§ 165-11. Administration; inspections; enforcement.

A. Administering agents: The following individuals shall be responsible for the administration of this article:

(1) The Code Enforcement Officer (CEO).

~~(1)~~(2) Fire Marshall

(3) The Fire Chief.

~~(2)~~(4) The Road Commissioner

B. Notification required: Anyone constructing, or placing, a new principal or accessory structure and anyone repairing, renovating or reconstructing an existing structure must notify the administering agents on forms provided by the Town, prior to starting work.

C. Procedure for conducting inspections: Within 48 hours of receiving notice that a building is ready for inspection, the administering agents shall conduct an inspection in accordance with the specifications of the ordinances identified in § 165-10.

D. Issuance of certificate of occupancy.

(1) Upon successful completion of the inspection and upon payment of an inspection fee as determined by the administering agents(s), the administering agents shall issue a certificate of occupancy for the structure inspected.

(2) If an inspection identifies defects or problems, a certificate of occupancy shall not be issued until the problems or deficiencies are corrected. In addition, for those ordinances that require legal action to be taken, such action will commence if the problems or deficiencies are not corrected within the time frame established by this article or the ordinance being enforced, whichever is shorter.

E. Appeals: The Board of Appeals shall have the following powers:

(1) Administrative appeals: to hear and decide appeals where it is alleged that there is an error in any order, requirements, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Fire Chief on the enforcement or administration of this article. No

administrative appeal shall be considered a "de novo" action.

(2) Variance appeals: to authorize variances upon appeal, provided that said variances will protect to the greatest extent possible the health and safety of the citizens of Madison.

F. Enforcement: The administering agents will enforce the provisions of this article. When the CEO or Fire Chief and/or Fire-Marshall finds that this article is being violated, the following procedure will be used:

(1) A written notification will be given to the violator, with the action necessary to correct the problem. The violator will be given a maximum of 30 days to complete the correction.

(2) If the violation is not corrected after the second notification, the administering agent shall inform the Selectmen. The Selectmen are directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violators and the imposition of fines that may be appropriate or necessary to enforce the provisions of this article in the name of the municipality. The Selectmen can authorize the CEO to prepare an administrative consent agreement for the Town to enter into, with the violator, for the purpose of eliminating violations of this article, and recovering fines without court action. Such agreements shall not allow an illegal structure to continue unless there is clear and convincing evidence that the illegal structure was constructed as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the violator acted in bad faith, or unless the removal of the structure will result in a threat or hazard to public health and safety.

§ 165-12. Definitions.

Words and terms used in this article shall have their customary dictionary meanings unless specifically defined in the individual standards identified in § 165-10.