

TOWN OF SORRENTO
LAND USE ORDINANCE
NOTIFICATION TO ASSESSORS

Approved May 16, 2016

1. PURPOSE

This ordinance is designed to comply with Title 30-A M.R.S.A., Section 3001 providing for permits and Title 30-A M.R.S.A., Section 4452 providing penalties for violations. This ordinance is made with reasonable consideration among other things to the character of the community and the suitability of property for particular uses, with a view to encouraging the best use of land, conserving property values and enhancing the quality of life for all citizens.

2. SCOPE

The provisions of this ordinance shall apply to all new construction, reconstruction, conversion to a different use, substantial additions, relocations, and replacement of any building or significant segment thereof, including all trailers, recreational vehicles, and/or manufactured homes when connected to any utility and/or used as a residence for a period of more than 30 days. Any person or persons who, during the course of construction or other activity on his/her property, directly or indirectly causes damage to a public or private way shall be responsible for all repairs to said way. This ordinance does not require that a permit be obtained for the construction or placement of a dog house, children's playhouse, tool shed, or similar small building having not more than 100 square feet or 800 cubic feet, providing such structures meet all other requirements of this ordinance.

3. PERMIT

A. Before new construction or exterior alterations that would increase the outside dimensions of any building, as noted in section 2 above, or before location or re-location of mobile homes and/or other structures, or before the location of any structure intended for occupancy or other use for periods exceeding three months, including but not limited to the placement of mobile residential trailers (a.k.a. "fifth wheels"), recreational vehicles or storage sheds, the owner or duly appointed representative shall obtain a permit pertaining to such work from the duly authorized issuing agent or body for the particular district on which it is empowered to act as detailed under, but not specifically limited to, Shoreland Zoning, Flood Plain Management, and Subdivision Ordinances.

B. In areas not specifically designated by ordinance and outside the 75-foot line of a shore, the CEO will be empowered to act as issuing agent for all permits. In the absence of a working Planning Board, the Sorrento Board of Selectmen may direct the CEO to act

as issuing agent for all permits including in areas designated by ordinance for permitting by the Planning Board. The Planning Board will grant all other permits. Issuance of the requested permit or notice of refusal shall be given within 35 days upon receipt of a complete application. Notice of refusal shall be in writing and shall state specifically the reasons for refusal.

C. No permit shall be issued prior to the applicant obtaining all other Local, State and Federal permits required including a State HHE-200 form if plumbing is required.

D. A copy of the permit shall be filed with the Board of Assessors.

E. No permit will be issued until all applicable fees have been paid.

F. Any work commenced prior to the issuance of the permit shall be considered a violation of the provisions of this ordinance.

G. Any person or entity under review or charged with an existing land use, shoreland or similar ordinance violation with respect to any property in the Town of Sorrento shall be ineligible for any land use or other permit relating to that or any other property, unless and until the land use violation is resolved by the CEO, Planning Board or Court, and the resolution is approved by Sorrento's Board of Selectmen.

4. APPLICATION

A. The application for the permit shall be in writing on the standard town form for the district where the property is located and shall contain a description of the proposed new or altered dimensions of the building and/or the location or re-location of a mobile home and/or other Structures.

B. The application shall be filed with the necessary attachments and fees at the town office. *See application for all required attachments and fees.*

C. Verification of payment of all taxes due up to and including the day on which mobile homes and other structures are to be moved will be supplied with the application.

5. RIGHT OF APPEAL

Upon denial of a permit, the applicant may present in writing, within 30 days, the proposal to the Board of Appeals for review. In the absence of a working Board of Appeals, the Sorrento Board of Selectmen shall review the proposal.

6. LIFE OF PERMIT

All permits shall be void after one year from the date of issuance unless a substantial amount of the proposal has been completed. If necessary, a permit may be renewed

before the expiration date. The original permit can be renewed a total of three times, after which a new permit must be obtained.

7. DISPLAY OF PERMIT

Every building permit shall be retained by the owner or duly authorized representative until one year after all work covered by the permit is complete. The owner or duly authorized representative shall produce the permit upon request.

8. FEES

A. The application for a permit shall be accompanied by an application fee in such amount as the Board of Selectmen may by rule from time to time establish. The Code Enforcement Officer will provide the fee schedule to the applicant.

B. A basic fee shall apply for new gravel roads or driveways; however, maintenance and improvements of existing gravel roads or driveways are exempt.

C. Additional fees may be charged if the Planning Board and/or the Board of Appeals require the assistance of a professional engineer or other expert. The applicant shall pay the expert's fee in full within ten days after the Town submits an estimate for such services to the applicant. Failure to pay the fee to the Town within the required time period shall constitute a violation of the Ordinance. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject.

D. A renewal fee will be charged, at a rate set by the Town Selectmen, after the expiration of said original permit.

E. Any and all revisions made to the permit once issued will be subject to additional fees as determined by the CEO.

F. Failure to obtain a permit before the start of construction will double the cost of all fees provided the applicant on his own applies for the permit within thirty (30) days of start of construction. Otherwise the penalties shall be those set forth in Section 12.

Violations below:

9. STRUCTURE / LOCATION

(With the exception of communication towers and driveways as discussed in Section 10 and 11 below).

The placement of principal and accessory structures on lots shall meet or exceed the following minimum requirements except structures, which require direct access to the water as an operational necessity, such as piers, docks, and retaining walls:

A. Compliance with Shoreland Zoning ordinance requirements for all land areas within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; and within 250 feet, horizontal distance, of the upland edge of a freshwater wetland is mandatory. Other considerations include compliance with the Town's Floodplain Management Ordinance.

B. A ten (10) foot setback from all abutting properties.

C. A twenty-five (25) foot setback from the edge of a right-of-way when the right of way can be readily established or forty-five (45) feet from the centerline of a public road, when the right of way cannot be readily established.

D. For the purpose of fire safety: Structures shall be subject to the following:

1. No occupiable building shall have window tops that exceed thirty-six feet (36') in height as measured from the lowest final grade immediately proximal to the building with the final roof height not to exceed forty feet (40') at the peak.

2. Roofing materials should be fire resistant.

3. Chimneys used for burning wood should be screened with a minimum of 1/2" of mesh screening and shall be maintained in serviceable condition. Trees should not be allowed to overhang Chimneys. New chimneys shall meet NFPA Code 211 2016 edition.

4. Combustible eaves, balconies and other such structural parts should be protected on the exposed underside by materials that are approved for one hour fire rated construction.

10. COMMUNICATION TOWERS

A. Definition: Any structure, which as its primary use, is intended for the reception or transmission of radio, television or telephone signals.

B. Height: Communications towers exceeding thirty-five (35) feet in height maybe permitted subject to the following standards:

1. Lot size: the minimum lot size shall be in conformance for lot sizes established in the Town of Sorrento for residential structures and as determined in paragraph 10.B.3 whichever is greater.

2. The structure is not within a Shoreland Zone.

3. The structure is placed on the lot so that its minimum setback from all lot lines, occupiable structures and rights-of-way is equal to one and a half (1 1/2) its height.

4. All State and Federal permits have been obtained prior to the issuance of the building permit, including but not limited to FAA and FCC approvals.

5. Confirmation by a registered structural engineer that the structure's design meets the minimum wind and structural loads as established in the Uniform BOCA Code or more stringent Federal, State or Local code which appropriately applies to the project.

6. The permit application shall include the construction of lockable security fences around the structure, which shall be designed to prohibit unauthorized access to the tower.

7. The total height of the tower shall not exceed one foot (1') less than that which requires illumination.

8. An antenna may be added to an existing local tower, provided that a permit is issued by the Town, and the applicant presents documentation confirming that the proposed application is in compliance with all State and Federal FCC requirements.

C. Approval:

1. The Planning Board shall hold a public hearing, and shall inform known abutting property owners in writing of such meeting, prior to the issuance of any building permit to allow the public an opportunity to comment on the proposal's conformance to the standard enumerated in Section 10, B above.

2. The Planning Board shall approve the permit when it determines that the applicant conforms to the standards enumerated above, unless any person presents factual evidence that the proposal otherwise violates the public health, safety, welfare and any federal or state guidelines in effect at the time of the application.

3. The petitioner shall be given an opportunity to modify the proposal prior to final action by the Planning Board if any such evidence is presented.

11. DRIVEWAY PERMIT

A. Any property owner wishing to construct an entrance to his/her property from a road must obtain a Town permit designated "driveway permit" before commencing construction. Any driveway which provides access to a state or state funded road requires that a Maine DOT permit be obtained first, prior to a local permit being issued.

B. A driveway or road must be a minimum of twelve feet (12') in width, have a twelve foot high clearance, and provide a 5' setback from all abutting property lines.

C. Dead end roads over one thousand feet (1000') in length shall have:

1. A minimum centerline radius of curvature of one hundred feet (100’).
2. Grades shall be less than Twenty percent (20%) except for distances of less than two hundred feet (200’).
3. End with a cul-de-sac \ turn around having a One hundred feet (100’) diameter.
4. Major Developments shall have two or more routes of access — in and out.
5. Bridges must be able to support a minimum of fifteen (15) tons.

12. VIOLATIONS

A. Any building constructed or altered, or any mobile home and/or other structure located or relocated, which violates the provisions of this ordinance shall be considered a nuisance.

B. Any person found guilty of violating any provision of this ordinance shall be subject to civil penalties and costs which shall be no less than \$100 nor no more than \$2,500 per violation for each day that the violation continues, as provided under Title 30-A M.R.S.A., Section 4452.

C. Violations against any state statute, authorized for enforcement by the municipality, under 30-A M.R.S.A, such as but not limited to, Miscellaneous Nuisance Law Title 17, Sect 2802, Dangerous Buildings Title 17, Sect 2851, Public Health Title 22 Sect 454-A, Protection of Public Waters Title 22 Sect 2647, Fire Code Title 25, and Life Safety Code, may be enforced under this ordinance.

D. The Code Enforcement Officer is authorized to enforce this ordinance and if so certified and with Board of Selectmen approval may seek relief in district court under 80K Ruling. The Board of Selectmen may also choose to use the Town Lawyer in absence of an 80K certified CEO.

13. VALIDITY AND SEPARABILITY

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

14. CONFLICTING ORDINANCES

In any case where a provision of this ordinance is found to be in conflict with a provision of any other ordinance, regulation, or code of the Town of Sorrento existing on the effective date of this ordinance, the provision which established the higher standard shall prevail.

15. PRIOR ORDINANCES

Upon approval of this ordinance by a majority vote of the registered voters of the Town of Sorrento at a regular or special Town Meeting following a public hearing held at least seven (7) days in advance of said meeting, the previous building permit ordinance of The Town of Sorrento shall be deemed repealed effective as of that date.

16. AMEMDMENTS

This ordinance may be amended in part or in whole by a majority vote of the registered voters of the Town of Sorrento at a regular or special Town Meeting following a public hearing held at least seven (7) days in advance of said meeting.

17. DEFINITIONS

Accessory structure or use: A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Aggrieved party: An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Dimensional requirements: Numerical standards relating to spatial relationships including but not limited to setback, area, shore frontage and height.

Emergency operations: Operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Essential services: The construction, alteration or maintenance of gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment-, gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police can boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion of a structure: An increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached decks, garages, porches and greenhouses.

Family: One or more persons occupying premises and living as a single housekeeping unit.

Floor area: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Foundation: The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frostwalls.

Height of a structure: The vertical distance height as measured from the lowest grade immediately proximate to the building structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

Lot size: Requires a minimum lot size for new single-family residential units (including mobile homes and seasonal homes) of 20,000 square feet. For multi-unit housing and other land use activities, a proportionately greater lot size is required based on a statutory formula. Any lot created legally prior to January 1, 1970 is exempt from this requirement, but multiple adjacent lots in the same ownership after 1974 must be combined in order to meet the minimum size.

Non-conforming lot: A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming structure: A structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming use: Use of buildings, structures, promises, land or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Person: An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Principal structure: A building other than one, which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal use: A use other than one that is wholly incidental or accessory to another use on the same premises.

Public facility: Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Recreational vehicle: A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Residential dwelling unit: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes, but not recreational vehicles.

Road: A route or track consisting of a bed of exposed mineral sod, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

Setback: The nearest horizontal distance from the normal high-water line to the nearest part of a structure, road, parking space or other regulated object or area.

Shoreland zone: The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any saltwater body; within 250 feet of the upland edge of a coastal or freshwater wetland; or within seventy-five (75) feet of the normal high-water line of a stream.

Stream: Means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with a wetland. Stream does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

Structure: Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, including but not limited to such as: storage Trailers, Railroad cars, and docks.

Substantial start: Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost. I.e. the foundation walls, but not just a slab.

Wetland: A freshwater or coastal wetland.

Land use within the shoreland is also subject to all the regulations set forth in the Sorrento Land use Ordinance and Floodplain Management Ordinance.