

Planning Board INTERIM WORKING DRAFT Revisions, Oct. 6, 2022

[NOTE: This is a second draft. The Planning Board is working to address the changes required by Maine Public Law Chapter 672 (passed April 27, 2022), and other issues identified in the past year. The Planning Board will continue to work on this and welcomes input from the public at any time, including at its monthly meetings. The Planning Board tentatively anticipates holding a more formal public hearing later in the fall.]

**TOWN OF ALNA, MAINE
BUILDING CODE ORDINANCE
(As Amended, March 24, 2001)**

Section 1 Purposes

The purposes of this Ordinance are to provide for safety, health and public welfare through regulations on new construction, regulations on the relocation, additions to, renovations and replacement of existing structures and regulations for businesses.

Section 2 Authority and Effective Date

This Ordinance has been prepared in accordance with the provisions of Title 30-A, Section 3001 of the Maine Revised Statutes Annotated (MRSA) and the Home Rule Powers as provided for in Article VIII-A of the Maine Constitution. This Ordinance shall be effective upon its adoption by vote of the Special Town Meeting on June 28, 1995. This Ordinance was amended by vote of the Special Town Meeting on June 26, 1996, the Annual Town Meeting on March 29, 1997, ~~and~~ the Annual Town Meeting on March 24, 2001¹ and the Annual Town Meeting on March , 2023.²

Section 3 Applicability

The provisions of this Ordinance shall apply to all new construction, the relocation, additions to, renovations and replacements of all existing structures and regulations for businesses. Also included in this Ordinance are provisions for the siting and construction of manufactured housing which does not comprise a Mobile Home Park.

Section 4 Severability

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.

Section 5 Conflicts with Other Ordinances

¹ To add a new Section 16, Accessory Apartments, and make other changes to the Ordinance consistent with the requirements of this new section.

² To make changes required by Maine Public Law Chapter 672 (passed April 27, 2022), to clarify the intent of the existing ordinance, to comply with the federal Fair Housing Act, and to harmonize the definitions used in the Building Code Ordinance and the Shoreland Zoning Ordinance.

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute, the more restrictive provision shall control.

Section 6 Amendments

This Ordinance can only be amended by a majority vote of the Town Meeting. Amendments may be initiated by a majority vote of the Planning Board, the Board of Selectmen or on petition of 10% of the number of registered voters of the Town who voted in the last gubernatorial election. The Planning Board shall conduct a public hearing on any proposed amendment.

Section 7 Filing and Availability

A copy of this Ordinance and any amendments hereto shall be filed with the Town Clerk. Copies shall be available to any Town resident or property owner at no charge and to others at a reasonable cost.

Section 8 Definitions

For the purpose of this Ordinance the following words and phrases shall have the meaning herein described.

- A. Accessory ~~Dwelling Unit~~ ~~Apartment~~. A ~~non-rental~~ dwelling unit ~~that is subordinate in size to the principle dwelling unit~~ that is contained within the confines of a principle dwelling unit, ~~or is attached to or sharing a wall with a single-family~~ ~~that~~ dwelling unit, ~~or is contained within the structure of a free standing out building, such as a garage or barn, on the same lot as the principal dwelling unit, or is a new structure on the lot for the primary purpose of creating an accessory dwelling unit.~~ For purposes of this ordinance, a tiny home, as defined in 29-A MRS §101(80-C), shall be considered an accessory dwelling unit if located on a lot already occupied by a dwelling unit.
- B. Addition. An expansion in volume and/or area to an existing structure, including, but not limited to, decks, porches and garages.
- C. Business. Any enterprise engaged in the sale, lease, production or distribution of any products, equipment, supplies, goods, commodities, including plants and animals, or services which are sold, leased or distributed by the owner or an affiliated person where revenue exceeds \$500 per year.
- D. Dwelling Unit. A room or group of rooms designed and equipped exclusively for use as living quarters for one family including living, cooking, sleeping, bathing and sanitary facilities.
- E. Family. One or more persons occupying a dwelling unit and living as a single housekeeping unit.

Comment [Cj1]: Maine Public Law Chapter 672Aka ADU. 190 sq ft minimum required by MAINE PUBLIC LAW CHAPTER 672, section4364-B(6)

Comment [Cj2]: Required by MAINE PUBLIC LAW CHAPTER 672 Sec. 4364-B(2)(C)

Comment [Cj3]: Harmonizes Alna's Building Code Ordinance with Maine's "Tiny Home" statute (See 30-A MRS §4363).

Comment [Cj4]: Responds to town attorney and MMA's concerns about the Fair Housing Act.

F. —

- | ~~G-F.~~ Lot. An area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the Lincoln County Registry of Deeds.
- | ~~H-G.~~ Manufactured Housing. As defined in Section 11 of the Town of Alna, Maine Mobile Home Park Ordinance.
- | ~~H-H.~~ Mobile Home Park. As defined in Section 11 of the Town of Alna, Maine Mobile Home Park Ordinance.
- | ~~H-I.~~ New Construction. All structures, newly constructed on a lot, said lot conforming to specifications of this Ordinance.
- | ~~K-J.~~ Relocation. Any structure moved to a new lot or a structure moved to a new location on the lot it occupied. Both lot and structure must conform to the provisions of this Ordinance.
- | ~~L-K.~~ Renovations. Any modification or addition to a structure's chimney, electrical and/or plumbing system.
- | ~~M-L.~~ Replacement. Any structure already constructed which is to be moved to the existing site of a structure destroyed by fire or other natural calamity, or new construction of a structure on the existing site of a building lost because of the foregoing reasons.
- | ~~N-M.~~ Shoreland Zone. As defined in Section 17 of the Shoreland Zoning Ordinance for the Town of Alna, Maine.

~~O-N.~~ Structures. 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, poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located such as decks, satellite dishes and ~~A structure also includes~~ manufactured housing when it is not located in a Mobile Home Park.

O. Tiny Homes. A tiny home is defined in Title 29-A MRS § 101(80-C), and is considered a dwelling unit if located on a lot not already occupied by a dwelling unit. It is considered an accessory dwelling unit if located on a lot already occupied by a dwelling unit.

Comment [Cj5]: Inclusion of the existing phrase "for the support, shelter or enclosure" is identical to the state model Shoreland Zoning Ordinance, 06-096, Chap. 1000, §17 (p. 55).

Comment [Cj6]: Harmonizing BCO definition of structure with definition in SZO.

Comment [Cj7]: Harmonizes Alna's Building Code Ordinance with Maine's "Tiny Home" statute (See 30-A MRS §4363).

Section 9 Building Inspector/Code Enforcement Officer

The Board of Selectmen is hereby given the power and authority to enforce the provisions of this Ordinance. In carrying out their responsibilities, the Board of Selectmen shall appoint a Building Inspector/Code Enforcement Officer and an assistant Building Inspector/Code Enforcement Officer. The Selectmen shall delegate to

said Building Inspector/Code Enforcement Officer and the assistant, the power and authority in accordance with the provisions of this Ordinance, to issue any and all permits, except permits for land use activities in the Shoreland Zone which shall be the responsibility of the Planning Board.

Section 10 Inspections

During reasonable hours and with due notice, the Building Inspector/Code Enforcement Officer and/or the assistant Building Inspector/Code Enforcement Officer, in performance of their duties shall have access to any lot or building under construction for the purpose of enforcing provisions of this Ordinance.

Section 11 Non-Conformance

A non-conforming land use, building or structure may be continued, repaired, or replaced within two (2) years if destroyed by fire, natural calamity or act of God, but the area in non-conforming use may not be extended or expanded except in conformity with the provisions of this Ordinance.

Section 12 Permits

- A. Outside of the Shoreland Zone, prior to new construction of a structure of greater than 200 square feet or the addition to, renovation, relocation or replacement of an existing structure where the proposed work exceeds 200 square feet, the owner, lessee, architect, contractor or builder employed by owner or lessee shall obtain a permit from the Building Inspector/Code Enforcement Officer or assistant Building Inspector/Code Enforcement Officer. Although permits will not be issued for any structure, or work thereto, of less than 200 square feet, the structure, or work thereto, must comply with all other provisions of this Ordinance.
- B. Within the Shoreland Zone, prior to new construction of a structure of any size or the addition to, renovation, relocation or replacement of an existing structure where the proposed work is of any size, the owner, lessee, architect, contractor or builder employed by owner or lessee shall obtain a permit from the Planning Board.
- C. Application. The permit application shall be on a form supplied by the Town and contain a description of the proposed new construction, addition to, relocation, renovation or replacement of any structure. The application shall be filed with the Building Inspector/Code Enforcement Officer or the assistant Building Inspector/Code Enforcement Officer if the proposed work is outside of the Shoreland Zone and with the Planning Board if the proposed work is within the Shoreland Zone.
- D. Permit Approval. The Building Inspector/Code Enforcement Officer or the assistant Building Inspector/Code Enforcement Officer for proposed work outside of the Shoreland Zone or the Planning Board for proposed work within the Shoreland Zone, after proper examination of the application, shall either issue the permit or notice of refusal within 30 days of application submittal. Failure of the Building

Comment [Cj8]: Is this logistically realistic?

Inspector/Code Enforcement Officer or the assistant Building Inspector/Code Enforcement Officer or the Planning Board, as applicable, to act on the application within the 30 days of application submittal shall constitute automatic denial. Notice of refusal shall be in writing, stating reasons therefore. Applicant may appeal an adverse ruling to the Board of Appeals within thirty days of such action.

- E. Life of Permit. All permits are non-transferable and unless renewed, shall be void unless work thereunder is substantially completed within two years of date of issuance.
- F. Fees. The Board of Selectmen may at its discretion establish and publish a schedule of permit fees.(as Amended June 25, 2007)

Section 13 Size of Lot

A. Each dwelling unit, except for Accessory ~~Apartments~~Dwelling Units, shall be on a lot of ground not less than two acres (87,420 square feet) in area; and the lot shall be of such dimensions that the lot will accommodate within its boundaries a square of not less than 150 feet on a side. No more than one dwelling unit and one accessory dwelling unit shall be permitted on any single lot except as allowed under Section (B) or (C) below.

Comment [Cj9]: Clarifies long-standing town policy to limit residential dwellings to one per lot plus one accessory apartment.

B. If the lot does not contain an existing dwelling unit, structures with up to 2 dwelling units per lot are allowed.

Comment [Cj10]: Required by LD 2003, Sec. 5(1)

C. If the lot contains one existing dwelling unit, up to 2 additional dwelling units are allowed: one additional dwelling unit within or attached to an existing structure or one additional detached dwelling unit, or one of each.

Comment [Cj11]: Required by MAINE PUBLIC LAW CHAPTER 672, Sec. 5(1)

~~B. The division of any lot shall not result in a lot, including the residual lot, with less than these minimum dimensions.~~

Comment [Cj12]: MAINE PUBLIC LAW CHAPTER 672 allows the municipality to establish a prohibition or an allowance for lots where a dwelling unit in existence after July 1, 2023 is torn down and an empty lot results. Do we want to do that?

~~C.D.~~ A single lot of record, as of June 19, 1980, which does not meet the area (two acres) or width requirement (a square of 150 foot on a side), or both, may be built upon provided that such lot shall be in a separate ownership and not be contiguous with any other lot in the same ownership, and that all other provisions of this Ordinance and 12 MRS Section 4807 (Minimum Lot Size Law) shall be met.

Comment [Cj13]: Minimum lot size for residential dwelling units is established in Section A. above. PB believes no minimum lot size is needed for non-residential lots.

~~D.E.~~ If two or more contiguous lots are in single ownership of record at any time since June 19, 1980, and if all or part of the lots do not meet the dimensional requirements of this Ordinance, the lands involved shall be considered to be a single lot for the purpose of this Ordinance.

Section 14 Location

A. No structure or subsurface sewage disposal system shall be closer than 50 feet to the center line of any street or highway and shall be setback at least 20 feet from any adjoining lot.

B. Ample off-street parking shall be provided for structures. This may be accomplished by driveway space, garage space, parking lot space or any combination of these spaces.

Section 15 Minimum Floor Area and Height

Except for Accessory ~~Dwelling Units~~ ~~Apartments~~, no dwelling unit shall be constructed, added to or replaced that encloses less than 600 square feet of living space. ~~Tiny homes, as defined in Title 29-A MRS § 101(80-C), located on a lot not already occupied by a dwelling are exempt from this minimum square foot requirement.~~ Living space shall not include porches, patios or similar areas, enclosed or not. No new structure or an existing structure added to or replaced shall exceed 35 feet in height measured from the structure's sill.

Section 16 Accessory ~~Apartments~~ ~~Dwelling Units~~

Accessory ~~Dwelling Units~~ ~~Apartments~~ shall adhere to the following standards:

A. ~~Option 1: The owner of the principal dwelling unit must reside in either the principal unit or one of the other dwelling units or accessory dwelling units.~~

~~Option 2: The owner of the principal dwelling unit must reside on the lot if there is a total of more than two dwelling units or accessory dwelling units on the lot.~~

~~Option 3: No requirement that the owner reside on the lot.~~

~~B. When the accessory apartment is contained in an out building, the principal purpose of the out building must be for non-human occupancy, such as a barn or garage.~~

~~C. The occupants of the accessory and principal units must be members of the same extended family, or a certified medical caregiver of a family member. Extended family shall mean: father, mother, son daughter, sister, brother, (or in-law relationships of any of the preceding), grandparent, aunt, or uncle~~

~~D. Guest occupancy of an accessory unit by an unrelated party is permissible so long as the total of such occupancies does not exceed ninety (90) days in any calendar year and no rent or other consideration is received for such occupancy.~~

~~E. B. The existing or proposed septic system must be of a size appropriate to serve all both the principal dwelling and the accessory units, as certified by the CEO or the Plumbing Officer.~~

~~F. C. Option 1: The accessory dwelling unit must have a minimum of 190 square feet and may not exceed eight hundred (800) square feet of living space. Option 2: The accessory dwelling unit must be a minimum of 190 square feet of living space and be subordinate in size to the principal dwelling unit. Option 3: The accessory dwelling unit must have a minimum of 190 square feet of living space.~~

~~G. Proper ingress and egress shall be provided to the accessory unit.~~

~~H. —~~

~~I. Upon approval of the accessory apartment by the CEO, a deed restriction shall be~~

Comment [Cj14]: Note that definition of Accessory Dwelling Unit in section 8 (A) above includes tiny homes located on a lot with an existing dwelling unit.

Comment [Cj15]: The PB is considering removing the 600 square foot minimum floor area requirement and welcomes comments on the potential impacts of removing the minimum requirement.

Comment [Cj16]: If the minimum square foot requirement is removed, this exemption for tiny homes (which are a maximum of 400 square feet) would be unnecessary and could be removed.

Comment [Cj17]: Aka ADU.

Comment [Cj18]: Three potential options: 1) this option is most similar to current ordinance. 2) this option would allow an owner to rent two dwelling units on the lot but would prohibit the rental of three DUs by an absentee landowner. 3) this option would allow the rental of three dwelling units by an absentee owner.

Comment [Cj19]: NOTE: If we decide to adopt Option 1 or 2, a new section should be added to add similar requirements to lots with multiple DUS, regardless of whether they meet the definition of ADUs.

Comment [Cj20]: Per MMA and Town Counsel, this provision violates the Fair Housing Act.

Comment [Cj21]: Violates MAINE PUBLIC LAW CHAPTER 672, Sec. 4364-B(1).

Comment [Cj22]: 190 sq ft minimum required by MAINE PUBLIC LAW CHAPTER 672, section 4364-B(6)

Comment [Cj23]: Option 1 is most similar to existing ordinance; Option 2 ensures that the ADU is smaller than the principal DU but has no specific maximum; Option 3 eliminates any maximum size limitation.

~~placed on the property, which shall be recorded at the Lincoln County Registry of Deeds. The restriction shall restate the limited use of the accessory unit, as~~
~~J.D. specified in this section.~~

Comment [Cj24]: Given the removal of most restrictions except as required by state law, this provision is not needed.

~~K.E.~~ Should the owners of the principal structure be found in non-compliance with the requirements contained in this section, the CEO shall order that occupancy of the accessory unit be discontinued.

~~L.F.~~ Nothing in this section shall restrict a properly permitted bed and breakfast or other place of lodging for transitory guests.

Comment [Cj25]: Unresolved policy issue: The PB is beginning to discuss short term rentals including traditional B&Bs (owner on site), and Air B&Bs and VRBO (no owner on site)? Currently, the town's unwritten practice is to regulate them as businesses. That could be codified in this ordinance. MAINE PUBLIC LAW CHAPTER 672, 30-A MRS §4364-C (2) authorizes municipalities to regulate short-term rentals "to achieve the statewide or regional housing production goals." Further research is ongoing.

Section 17 Building Standards

All construction shall conform to generally accepted standards of good building practice. Each dwelling unit shall have at least two suitable exit doorways.

- A. Chimney. If the building is to have a chimney, it shall be a type approved by the State of Maine Fire Marshall or Oil Burnerman's Licensing Board.
- B. Exterior Walls. The exterior walls visible from a public way shall be finished within 12 months after occupancy. Builder's paper, 15 pound felt paper, tarred paper or similar substances shall not be used for more than twelve months after occupancy, unless an extension is granted by the Building Inspector/Code Enforcement Officer or assistant Building Inspector/Code Enforcement Officer.
- C. Manufactured Housing. Manufactured Housing shall meet the safety standards specified in Section 9, Subsection Q of the Town of Alna, Maine Mobile Home Park Ordinance.

Section 18 Electrical Installations

Electrical work shall be in accordance with the National Electrical Code published by the National Fire Protection Association.

Section ~~19~~ Plumbing and Subsurface Sewage Disposal

All plumbing and/or sewage disposal for any structure covered by the provisions of this Ordinance shall be in strict accordance with the State of Maine Internal Plumbing Rules and/or Subsurface Wastewater Disposal Rules. No plumbing or subsurface sewage disposal system shall be covered until it has been inspected and permission to cover given by the Town of Alna Licensed Plumbing Inspector.

Section 20 Businesses

- A. New Businesses. All new businesses not covered under the Subdivision and Site Review Ordinance, shall apply in writing for a New Business Permit from the Building Inspector/Code Enforcement Officer or assistant Building Inspector/Code

Enforcement Officer, who shall within seven (7) working days notify the Planning Board. When the Planning Board has received a complete application, including a \$10.00 application fee and a review of the site by the Building Inspector/Code Enforcement Officer or assistant Building Inspector/Code Enforcement Officer, the Planning Board will either approve the application, if it is agreed that such new business does not or will not constitute a nuisance because of noxious fumes, odors, dust, unsanitary waste disposal, water pollution, vibration, glare, noise or undue parking problems, or call a Public Hearing on the application. Notice of said hearing,

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including a description of the proposed business, will be posted at the usual locations and mailed by the applicant to all abutting property owners and all other property owners within 1,000 feet along any public highway from the proposed business.

- B. Expanded Businesses. Any time a business permitted under this section proposes to increase the square footage devoted to its enterprise by an amount in excess of twenty-five (25) percent of that originally permitted, the expansion must be reviewed under the procedures of this section. Any new business or expansion which would result in a total business facility in excess of 2,000 square feet is reviewable under Section IV of the Subdivision and Site Review Ordinance.
- C. The Planning Board may deny a permit if upon its own review, or upon recommendation of the Building Inspector/Code Enforcement Officer or assistant Building Inspector/Code Enforcement Officer, or upon reviewing comments from the Public Hearing, it determines that such a business would constitute a nuisance because of noxious fumes, odors, dust, unsanitary waste disposal, water pollution, vibration, glare, noise or undue parking problems, or would otherwise place an undue burden upon the municipal services of the Town of Alna.
- D. Permanent signs shall conform to the following criteria:
 - 1. Directional signs shall be limited to three square feet and shall not exceed six in number.
 - 2. Freestanding signs relating to goods and/or services sold on the premises shall not exceed twelve square feet in area, per sign, and shall be limited to two signs, which may be two-sided.
 - 3. Temporary signs (garage sales, etc.) shall be permitted for seventy-two hours only.
 - 4. All existing signs are grandfathered, as long as they conform to State Law.
 - 5.
- E. An applicant may appeal an adverse action by the Planning Board to the Board of Appeals within thirty days of the date of such action.

Section 21 Violations and Enforcement

The Selectmen, Code Enforcement Officer/Building Inspector or assistant Code Enforcement Officer/Building Inspector, upon a finding that any provision of this Ordinance or the condition(s) of any approval is being violated, are authorized to institute legal proceedings to enjoin violations of this Ordinance. Any violation of this Ordinance shall be considered a nuisance. Any person, firm or corporation violating any provision of this Ordinance shall be subject to fines and shall be liable for court costs and reasonable attorney fees incurred by the Town, as provided by Title 30-A, MRSA Section 4452.

Section 22 Appeals and Variances

Appeals and variances shall be governed by the Town of Alna Board of Appeals Ordinance.

Section 23 Special Exceptions

In regard to the location of structures on a lot, Section 14, by special exception the Planning Board may allow structural location to be reduced provided that the applicant demonstrates that all of the following conditions and/or requirements are met:

- A. The setback for an addition to a structure may be the same distance from the centerline of a street or roadway as the original structure provided that the original structure existed in its current location prior to December 14, 1970, that the addition will not be within the right-of-way of the street or roadway and that the addition will not be within thirty-three (33) feet of the center line of the street or roadway.
- B. The setback for an addition to a structure may be reduced to 10 feet from an adjoining lot provided that the original structure existed in its current location prior to December 14, 1970 and that the owner of the adjoining lot states in a notarized document that they have no objection to the reduction.
- C. The setback for a temporary structure of less than 200 square feet, such as a school bus stop shelter, a farm stand or other seasonal use structure, may be reduced to 33 feet from the centerline of a street or roadway provided that the structure does not have a poured-in-place concrete foundation or other feature which would make the structure incapable of being easily moved. If the Planning Board approves a special exception for any of these uses, a condition of approval shall be that the structure will be relocated to a distance of at least 50 feet from the centerline of a street or roadway once the structure is no longer being used for any of these uses.