

MINIMUM LOT SIZE

ORDINANCE

Town of St. George

Enacted 03/12/79
Amended 03/12/84
Amended 03/15/88
Amended 11/07/95
Amended 10/06/97
Amended 03/11/02
Amended 03/10/03
Amended 05/17/05
Amended 03/10/08

A true copy.

Attest: _____

John M. Falla
Town Clerk

Section 1. Purpose. The purpose of this ordinance is to preserve the rural and residential character of the Town, to promote the maintenance of safe and healthful living conditions, to preserve and protect the natural environment and scenic beauty of the area, and to protect existing residential development.

Section 2. Applicability, Conflict with Other Ordinances. This ordinance applies to all land within the Town of St. George. All buildings and accessory structures hereafter erected, reconstructed, altered, enlarged, or moved shall be in conformance with the provisions of this ordinance. Nothing in this ordinance shall prevent the strengthening or restoring to safe condition any part of any building or structure declared unsafe by the Code Enforcement Officer. Where other ordinances impose a greater restriction on the use of land, buildings or structures, the greater restriction shall control. This ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other ordinance, regulation, permit or provision of law.

Section 3. Effective Date. The effective date of this ordinance, as amended, is March 10, 2003. This ordinance shall be kept on file with the Town Clerk and shall be made available to any members of the public, at reasonable cost, at the expense of the person making the request.

Section 4. Validity and 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. Amendments. This ordinance may be amended in part or in whole by majority vote of the registered voters of the Town of St. George present at a regular or special Town meeting.

Section 6. Non-Conforming Buildings and Structures. The use of a building or structure, existing before the effective date of this ordinance or subsequent amendment thereto, may continue although the building or structure does not conform to the provisions of this ordinance. A non-conforming building or structure may be repaired, maintained or improved, but any expansion of the building or structure shall be in conformance with the provisions of the ordinance.

Section 7. Non-Conforming Lots.

1. Non-Conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. Variance requests relating to setback or other requirements not involving lot size or frontage shall be submitted to the Board of Appeals.

2. Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided, each lot thus created must be as conforming as possible to the dimensional requirements of this ordinance.

3. Contiguous Lots - Vacant or Partially Built: 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, if any of these lots do not individually meet the dimensional 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 dimensional requirements.

4. Division of Non-Conforming Lots: A non-conforming lot of record may be divided providing that the resulting lots do not increase the original non-conformity or create a new non-conformity and are in compliance with all other conditions of the ordinance.

Section 8. Transfer of Ownership. The ownership of a non-conforming building or structure or a non-conforming lot may be transferred and the new owner may continue its use, subject to the provisions of this ordinance.

Section 9. Land Use Standards:

- A. Lot Size shall meet or exceed the following minimum standards.
 - a. The minimum lot size is one (1) acre, (43,560 square feet) exclusive of Resource Protected Land.
 - b. Multi-unit residential dwellings shall be located on lots or parcels of land which contain a minimum of five (5) acres. Any land divided by a town road shall be deemed to be two separate lots or parcels of land and non-contiguous lots owned by the same owner shall not be considered in determining the acreage requirement herein contained.
- B. Density requirements shall meet or exceed the following standards.
 - a. For each residential dwelling unit, there shall be at least one acre of lot area exclusive of public and private rights of way and land not suitable for development in accordance with current state and town ordinances and regulations.
- C. Buildings and Accessory Structures Setbacks shall meet or exceed the following minimum standards.
 - a. Single Family Residential
 - Setback: 25 feet from any right of way
 - Setback: 10 feet from any boundary line
 - b. Multi-unit Residential
 - Setback: 25 feet from any right of way
 - Setback: 25 feet from any boundary line
 - Separation Distance: each building shall be separated by a distance of at least 25 feet.
- D. Lot Coverage of all structures shall not exceed 20% of any lot.
- E. Multi-unit Residential Buildings shall contain no more than five single residential dwelling units.
- F. Residential structures shall not exceed 35 feet in height or contain more than 2-1/2 stories. Non-residential structures shall not exceed 35 feet in height or contain more than 2-1/2 stories unless reviewed by the Planning Board under the Site Plan Review Ordinance and the Planning Board has approved a waiver under Section X of that ordinance.
 1. Structures such as transmission towers, wind energy systems, antennas, and similar structures having no floor area shall comply with the following provisions.
 - a. Purpose: The purpose of this section is to promote the safe, effective, and efficient use of transmission towers, wind energy systems, antennas, and similar structures having no floor area. This section describes the requirements for obtaining a permit to install transmission towers, wind energy systems, antennas, and similar structures having no floor area.
 - b. Setbacks:
 1. Transmission towers, wind energy systems, antennas, and similar structures having no floor area shall be setback a distance equal to 110% of its height from:
 - (a) any public or private right of way, unless written permission is granted by the Town or State entity with jurisdiction over the road,
 - (b) any overhead utility lines, unless written permission is granted by the utility, and

- (c) all property lines, unless written permission is granted from the affected landowner or neighbor.
 - 2. The Planning Board may accept restrictive easements on abutting parcels to satisfy setback requirements.
 - 3. Transmission towers, wind energy systems, antennas, and similar structures having no floor area must meet all setbacks for residential structures for the district in which the system is located. Setback requirements include the guy wires, including anchors.
- 2. Tower Height:
 - a. There shall be no limitation on Tower Height except as imposed by Federal Aviation Administration (FAA) regulations and setback requirements.
 - b. The Planning Board may accept restrictive easements on abutting parcels to satisfy acreage requirements.
 - c. The applicant shall provide evidence that the proposed Tower Height does not exceed the height recommended by the manufacturer of the system.
- 3. Design Requirements:
 - a. Access.
 - (1) All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access. All electrical transmission lines connecting to the public utility electrical distribution system shall be located underground.
 - (2) The tower shall be designed and installed such that public access via step bolts or a ladder is prevented for a minimum of 12 feet above the ground or a locked anti-climb device is installed on the tower or a locked, protective fence at least six feet in height encloses the tower.
 - b. Blade clearance. For all systems the minimum distance between the ground and any protruding blades shall be 15 feet as measured at the lowest point of the arc of the blades.
 - c. Appearance. Towers shall maintain a galvanized steel finish (non-reflective surface) unless FAA standards require otherwise or if the owner is attempting to conform the tower to the surrounding environment and architecture, in which case it may be painted to reduce visual obtrusiveness. Owner will immediately repair any visible oxidation or corrosion.
 - d. Location. The system shall be designed and located in such a manner to minimize negative visual impact on significant designated resources.
 - e. Guy Wires. Guy wires, if required, shall be enclosed by a fence or sheathed in bright orange or yellow covering from three to eight feet above the ground.
 - f. Signs. Towers shall not display any permanent or temporary signs, writing, symbols, logos, or any graphic representation of any kind.
 - g. Lighting. Tower shall be lighted when required by the FAA and at the discretion of the Planning Board.
 - h. Noise. Except during short-term events, including utility outages and severe wind storms, the audible noise due to wind turbine operations shall not be created which causes the noise level at the property boundary line of the proposed site to exceed fifty (50) dBA for more than five (5) minutes out of any one hour time period or to exceed fifty-five (55) dBA for any time period. Certification shall be provided by the applicant before construction demonstrating compliance with this noise requirement.
 - i. Vibration. Any proposed transmission towers, wind energy systems, antennas, and similar structures having no floor area shall not produce vibrations humanly perceptible beyond the boundaries of the property on which the system is located.
 - j. Endangered or Threatened Species and/or Migratory Birds. Installation of a transmission towers, wind energy systems, antennas, and similar structures having no floor area shall not have an adverse impact on endangered or threatened species and/or migratory birds.
- 4. Documents Required: The following documents must be submitted with the application for a transmission towers, wind energy systems, antennas, and similar structures having no floor area:

- a. Complete an Application for Building or Use Permit.
 - b. A plot plan showing:
 - (1) The location of all existing and proposed structures or uses with scale and arrow pointing north.
 - (2) The setbacks of the transmission towers, wind energy systems, antennas, and similar structures having no floor area shall be 110% of the height of the structure from the abutting property lines and water setbacks.
 - (3) Any overhead utility lines.
 - c. Wind system specifications, including manufacturer and model, rotor diameter, Tower Height, tower type (freestanding or guyed).
 - d. Tower foundation blueprints or drawings.
 - e. Tower blueprint or drawing.
 - f. Standard drawing and an engineering analysis of the tower, and certification by a professional mechanical, structural, or civil engineer. This analysis shall include standards for ice and wind load.
 - g. A drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the current edition of the National Electric Code on file in the Code Enforcement Officer's office.
 - h. Data on approval from any small wind certification program that may apply.
 - i. Information showing that the generators and alternators to be used are constructed as to prevent the emission of disruptive electromagnetic interference with signal transmission or reception beyond the site, including radio and television signals. If it has been demonstrated that a system is causing such disruptive electromagnetic interference, the system operator shall promptly eliminate the disruptive electromagnetic interference or cease operation of the system.
5. Notification: The applicant shall provide evidence that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
6. State and Federal Requirements:
- a. Transmission towers, wind energy systems, antennas, and similar structures having no floor area must comply with applicable FAA regulations, including any necessary approvals for installations close to airports. Evidence of compliance or non-compliance shall be submitted with the application.
 - b. Transmission towers, wind energy systems, antennas, and similar structures having no floor area must comply with applicable building codes, National Electric Code, and other State and Federal requirements.
7. Removal of Unsafe Transmission Towers, Wind Energy Systems, Antennas, and similar structures having no floor area: Any transmission towers, wind energy systems, antennas, and similar structures having no floor area found to be unsafe by the CEO shall be repaired by the owner to meet all federal, state, or local safety standards or removed within 6 months. If the owner fails to repair/remove the system as directed, the CEO may pursue legal action to have the system removed at the owner's expense.
8. Abandonment of Use: Transmission towers, wind energy systems, antennas, and similar structures having no floor area which is not used for eighteen (18) consecutive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner within six months of receipt of notice from the Town of St. George.
- G. Road Frontage of each lot shall be a minimum of 100 feet on a public or private R.O.W.
- H. Parking Requirements shall be not less than two off-street parking spaces for each residential dwelling unit. Garages may be used to fulfill this requirement.

Section 10. Administration.

A. This ordinance shall be administered and enforced by the Code Enforcement Officer.

B. Permits.

1. Permits Required: After the effective date of this ordinance, no person shall erect, demolish, reconstruct, enlarge, or move a building or accessory structure, or expand or change an existing non-conforming structure without first obtaining a Permit.
2. Permit Application: Applications for permits shall be submitted in writing. The Code Enforcement Officer may require the submission of whatever information is necessary to determine conformance with the provisions of this ordinance.
3. Permit Application Fee Schedule:
 - No permit or fee is required for maintenance or repair of structures costing under \$5,000.00.
 - For all other construction projects, the fee schedule for this ordinance shall be set by the St. George Board of Selectpersons and amended as needed by the St. George Board of Selectpersons. (See attached fee schedule.)
 - No fee is required for demolition projects.
4. Wastewater Disposal Permit Required Prior to Building Permit: No building permit shall be issued for any structure or use involving or requiring the construction, installation or alteration of sewage disposal facilities unless a permit for such facilities has been secured by the applicant or his authorized agent.
5. Procedure for Administering Permits: Within ten days of the date of receiving a written application, the Code Enforcement Officer shall notify the applicant in writing either that the application is a complete application, or if the application is incomplete, the specific additional material needed to make a complete application. All permits shall either be approved or denied in writing within thirty days of receiving a completed application, including all information requested. Permits shall not be denied if the proposed use is found to be in conformance with the provisions of this ordinance. Permits may be subject to reasonable conditions to insure conformity with the purposes and provisions of this ordinance. If a permit is denied, the reasons for the denial shall be stated in writing. An appeal to the Board of Appeals from an approval or denial of a permit shall be made within thirty days of the approval or denial. A copy of all permits, conditions, and denials shall be maintained as a permanent record by the Code Enforcement Officer.
6. Following the issuance of a permit, if no substantial start is made in construction or in the use of the property within two years of the date of the permit, the permit shall lapse and become void. After expiration, the application process must begin again, conforming to this ordinance and amendments at the time of re-application.

C. Variances and Appeals to the Board of Appeals.

1. Variances: A copy of all variances granted by the Board of Appeals shall be maintained as a permanent record. The Board of Appeals may, upon written application of the affected landowner, grant a variance from the strict application of the 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” means:

- that the land in question cannot yield a reasonable return unless a variance is granted;
- that the need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood;
- that the granting of the variance will not alter the essential character of the locality; and
- that the hardship is not the result of action taken by the applicant or a prior owner.

- b. The Board of Appeals, based on clear and convincing evidence presented to it, makes a finding that the proposed use would conform with the purposes of this ordinance.
- c. Notwithstanding subsection C(1)(a) above, the Board of Appeals may grant a variance without finding undue hardship 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. A variance is authorized only for dimensional requirements. A variance shall not be granted to permit a use or structure otherwise prohibited.

2. Administrative Appeals: The Board of Appeals may hear and decide administrative appeals where it is alleged that there is an error in any order, requirement, decision or determination made in writing by the Code Enforcement Officer in the administration or enforcement of this Ordinance. The procedures and standards for administrative appeals under this Ordinance shall be the same as those for administrative appeals under Section 16.G of the Town of St. George Shoreland Zoning Ordinance.
3. Appeal to Superior Court: Any aggrieved party who participated as a party during 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 the decision of the Board of Appeals.

D. Enforcement.

1. Enforcement shall conform with the provisions of Section 16.H of the Shoreland Zoning Ordinance for the Town of St. George.

Section 11. 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.

Contiguous Lots: lots in the same ownership which adjoin at any line or point, except that lots on opposite sides of a public or private road shall be each considered a separate tract or parcel unless such road was established by the owner of the land on both sides thereof.

Dimensional Requirements: numerical standards relating to spatial relationships including but not limited to setback, shore frontage and height.

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.

Expansion of Use: the addition of months to a use's operating season, or the use of more floor area or ground area devoted to a particular use.

Family: one or more persons occupying a premise and living as a single housekeeping unit.

Height of a Structure: the vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances which have no floor area.

Increase in Non-conformity of a Structure: any change in the structure or property which causes further deviation from the dimensional standard(s) creating the non-conformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of non-conformance of the existing structure shall not be considered to increase non-conformity. For example, there is no increase in non-conformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing non-conforming structure. Hence, a structure may be expanded laterally from any portion of the existing structure to fill in the space left by an L or U shaped structure. Similarly, there is no increase in non-conformity with the height requirement if the expansion increases the height of the structure no further than the highest point of the existing non-conforming structure.

Lot Area: the area of land enclosed within the boundary lines of a lot, minus land below normal high water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Multi-unit Residential: a residential structure containing three or more residential dwelling units.

Nacelle: the generator housing located at the top of the tower.

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 to remain solely because it was in lawful existence at the time this ordinance or subsequent amendments took effect.

Principal Structure: any building or structure in which the main use of the premises takes place.

Principal Use: the main use which takes place on the premises.

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.

Right of Way: a road or other area over which is given legal right of passage. A public right-of-way is a way dedicated to the use of the public and accepted for ownership by the Town of St. George or other level of government.

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

Rotor Diameter: the cross sectional dimension of the circle swept by the rotating blades.

Solar energy system: a system designed and used to obtain energy from the sun in order to supply energy to a principal use or structure located on the same lot as the system, or an adjacent lot in the case of a common system serving more than one principal use or structure for the purpose of reducing the consumption of fuel for heating or electricity. A Solar Energy System may include solar hot water or air conditioning or photovoltaic systems. Solar Energy Systems are allowed only as accessory uses or structures.

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, such as decks. It does not include driveways but does include paved parking areas.

Substantial Start: completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Tower Height: the height above grade of the fixed portion of the tower, at the furthest most reaching point of the structure.

Wind Energy System: a system of equipment located on a single lot that has an aggregate rated capacity of not more than 100 kilowatts that converts and then stores or transfers energy from the wind into usable forms of energy for use on the same lot as the system, or on an adjacent lot in the case of a common system serving more than one residence or structure. This equipment includes the base, blade, foundation, generator, nacelle, rotor, tower, transformer vane, wire, inverter, batteries, or other components used in the system. Small Wind Energy Systems are allowed only as accessory uses or structures, and only one Small Energy Wind System is allowed per lot.

Wind Energy System Height: the height above grade to the top of the turbine blade when it reaches its highest elevation.