

## TOWN OF KENNEBUNKPORT, MAINE

– INCORPORATED 1653 –

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### **Growth Planning Committee**

February 6, 2024 | 6:00PM – 8:00PM

### **Hybrid Meeting Agenda**

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Please click the link below to join the webinar:

<https://us06web.zoom.us/j/84079593470>

Or Telephone: 929 205 6099 US  
Webinar ID: 840 7959 3470

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1. Review and approve minutes from **January 16, 2024.**
2. Continued discussion of the proposed Land Use Ordinance Changes (LD2003)- Suggested Language
  - §240-2.2 Definitions
  - §240-6.10 Residential Parking Standards
  - §240-7.1 Accessory apartments.
  - §240-7.15 Affordable Housing Density
  - §240-6.19 Dwellings
3. Other Business



TOWN OF KENNEBUNKPORT, MAINE  
~ INCORPORATED 1653 ~

## MEMORANDUM

Date: January 26, 2024  
To: Growth Planning Committee, Planning Board  
From: Galen Weibley  
Re: LD 2003 Follow Up Research

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The Town's planning staff met with Maine DECD on January 25, 2024 at the Town of Gray Public Library for a roundtable discussion of planners to understand the nuances with implementation of LD 2003 for local land use ordinances (LUO). Below is a summary of findings as it relates to the 2-4 unit LUO amendment.

**What does the legislation require municipalities to adopt in their LUO?**

: The law requires towns to allow two units (attached or detached) on vacant parcels town wide that meet the density requirements of the zone. Currently the town is in compliance of this provision.

The law also requires towns with a comprehensive plan to allow up to four units on a vacant parcel within the Growth Area (structures can be attached or detached) that meet the density requirements of the zone. The town needs to update language for the LUO to comply.

If an existing single-family dwelling is located on a parcel, the parcel can have an additional two units added to the parcel townwide (not four if in the growth area) if the parcels meet the density requirements of the zone. Staff note: Planning Board review will be required as this would trigger a subdivision. The town will need to update language of the LUO to comply.

**If I have a single-family dwelling, can I “double dip” in adding an accessory apartment and then add three additional units to my property if I meet density?** State law addressed this issue and double dipping is not allowed. Either you can add one accessory apartment or add up to three additional units to a parcel if you meet density. This can be clarified in the ordinance amendment.

**If I have a duplex or multiplex aka apartment, can I add an accessory apartment to my lot?:** State law only requires accessory apartments for single-family dwellings. This is already addressed in the town's LUO.

### **Other questions asked and helpful in education/outreach**

**If I want to add an accessory apartment to my single-family dwelling, what will my requirements be for water/sewer:** The state wastewater requirements are reviewed by the Code Enforcement Officer when reviewing a building permit application for an accessory apartment. If an existing septic tank is at max capacity for existing bedrooms, a property owner will be required to upgrade the capacity of their existing septic tank or add a new septic tank to meet the wastewater requirements of the additional bedroom(s) that are part of the accessory apartment.

#### **Wastewater Flow Rates for septic tanks**

- 2 Bedrooms or less need 180 gallons/day
  - Add 90 gallons/day for each additional bedroom.
- 2 Bedrooms or less need 750 gallon septic tank
- 3-4 bedrooms require 1,000 gallon septic tank
- 5+ bedrooms require 1,000+250 gallon/bedroom septic tank

**With Affordable Housing Development planned for private homeownership, what safeguards are in place to protect a property to be affordable and not be flipped for a private rental or vacation home given the density bonus of LD 2003?**

Maine Housing and United State Housing Urban Development (HUD) have [specific income guidelines](#) for the area medium income for a household to qualify for their programs. In addition, Maine Housing has guidelines for homeownership that limit the purchase price not to exceed the 85% of the purchase price limit for the applicable county under MaineHousing's First Home Loan Program or its successor ("First Home Loan Program") and that the purchaser meets the applicable percentage of area median income in effect under the First Home Loan Program at the time of the sale of the Affordable Homeownership Unit. More details on this program can be found here: [https://mainehousing.org/docs/default-source/development/program-guides/affordable-homeownership-program-guide.pdf?sfvrsn=66da8715\\_12](https://mainehousing.org/docs/default-source/development/program-guides/affordable-homeownership-program-guide.pdf?sfvrsn=66da8715_12)

If an outside developer wants to provide affordable housing outside the HUD guidelines, they would need to record a deed restriction that is agreeable to the municipality that will protect the property for at least 30 years to qualify for the density.

**I am concerned about the increased density affordable housing development can have on stormwater runoff given recent storms and flooding. What can be done?**

Affordable housing developments while allowed a residential density are still required to meet the maximum lot coverage for a lot (20% in most zones outside Dock Square Zone). This is a combination of all structures (defined as “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 above, below or upon the surface of the ground or water”). Within the Shoreland Zone, lot coverage shall include driveways, parking lots, and other non-vegetated surfaces in addition to structures defined above.

In addition, with affordable housing the key to making these projects viable is density. This will lead to a trigger of subdivision review by the planning board which requires plans submitted by developers to address concerns to the surrounding environment including abutters.

Projects located in Shoreland Zones do not gain a bonus since multiples are not allowed in this area as permitted or conditional use.

**Actions to Consider**

The Selectboard heard the first presentation of the proposed changes drafted by staff and GPC members for LD 2003. Members should be prepared to discuss any additional changes or questions to help the selectboard in weighing their options before the town attorney makes final edits before the town vote.

Time permitting, 2-4 unit LUO amendment can be discussed.

*Enclosures*

Updated LD 2003 Amendments with comments from PB & Staff  
DECD Handout of Summary LD 2003 changes  
Understanding Affordable Housing Density Bonus Illustration  
Town Table of Dimensional Requirements  
Draft LUO Amendment 2-4 Units (Optional Review if Time Permits)

ARTICLE2  
Terminology

§ 240-2.2, Definitions.

In this chapter, the following terms shall have the following meanings:

AFFORDABLE HOUSING: Decent, safe and sanitary dwelling. Dwelling units that can be afforded by households in the following two categories:

- A. For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs; and

For rental housing, a development in which a household whose income does not exceed 80% of the AMI can afford a majority (51%) of the units that the developer designates as affordable, without spending more than 30% of the household's monthly income on housing costs; and

- B. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs.

B. For owned housing, a development in which a household whose income does not exceed 120% of the AMI can afford a majority (51%) of the units that the developer designates as affordable, without spending more than 30% of the household's monthly income on housing.

AVERAGE MEDIAN INCOME - The Area Median Income (AMI) describes the midpoint of an area's income distribution, where 50 percent of households earn above the median figure while 50 percent earn less than the median. As required by the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, the Department of Housing and Urban Development (HUD) calculates AMI for U.S. metropolitan areas on an annual basis.

HOUSEHOLD - defines as any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.

Commented [GW1]: Vague meaning of adjectives. PB suggestion to remove section.

Commented [GW2]: E. Francis Proposed Amendment: Suggest clarifying the intent of definition instead of above.

Commented [GW3]: E. Francis Proposed Amendment: Suggested language to Clarify intent of subsection above. Make it easier to understand.

Commented [GW4]: E Francis Proposed Amendment: Suggested definition to clarify what is a household for affordable housing purposes. This definition is from US Code 42 (Public Health and Welfare)

- B. Each multiplex shall meet the following standards:
- (1) The design, layout, size, area, construction, and screening standards of §§ 240-7.11 and 240-10.7 shall be met.
  - (2) Parking spaces shall be provided to conform with the number required in the following schedule:
    - (a) One-bedroom units: one space per unit.
    - (b) Two-bedroom units: two spaces per unit.
    - (c) Three- and four-bedroom units: two spaces per unit.
    - (e)(d) Affordable Housing Developments: .66 spaces per unit.
- C. Off-street parking shall be provided for elder-care facilities in accordance with the following schedule:
- (1) One space for each employee on the shift with the greatest number of employees; plus
  - (2) One space for each independent living unit in which the occupant receives no supportive services; plus
  - (3) One space for every two congregate living or similar units in which the occupant receives only a basic level of supportive services; plus
  - (4) One space for every three assisted-living or similar units or beds in a nursing home in which the occupant receives a high level of supportive services.
- D. Parking spaces must be composed of sufficient impervious or semipervious material (e.g., asphalt, concrete, composites, gravel) to support a vehicle in all conditions. Semipervious materials such as "grass pavers" or similar materials can be used.
- E. Parking for residential components of residential mixed use shall be as follows:
- (1) One-bedroom unit: one parking space.
  - (2) Two-or-more-bedroom unit: two parking spaces.
- F. Parking for a residential rental accommodation shall include one additional off-street parking space per room rented, in addition to the minimum parking spaces required for the dwelling unit.

**§ 240-6.11. Sanitary provisions.**

- A. Connection to public facilities. All plumbing shall be connected to public collection and treatment facilities when required by other ordinances.
- B. Subsurface sewage disposal. No plumbing permit shall be issued for a subsurface disposal system unless:
- (1) The system meets the requirements of the State of Maine Subsurface Wastewater Disposal Rules, 10-144 CMR Chapter 241; a second disposal site that meets the state rules is not required unless mandated by other law. Any such site shall be shown on the permit application as a reserve area and be set aside on the plot plan for possible future use as a disposal site; and

## ARTICLE 7

## Performance Standards for Specific Activities, Land Uses and Zones

## § 240-7.1. Accessory apartments. [Amended 11-3-2020; 6-13-2023]

Accessory apartments may only be located in, attached to, or detached from a single-family dwelling, shall not be defined as a two-family or a multiplex, are allowed as a permitted use in all zones, except where otherwise noted in Subsection D, and are subject to the limitations below:

- A. A request for an accessory apartment requires submittal of a site plan that shall include the property owner with deed reference, lot boundaries and dimensions to scale and the location and setbacks of all buildings and parking areas.
- B. A request for an accessory apartment shall include a plan of the entire building showing a separate floor layout of all finished levels identifying the use of all rooms and the location of all entrances/exits. All Accessory Apartments either attached to the principal building or stand alone shall meet the design criteria in Article 240-Article 6 section 6.2 (Height Restrictions) where appropriate as well as 240 Article 7 section 7.1.C of this ordinance.
- C. The dwelling shall have only one front entrance and all other entrances shall be either on the side or in the rear of the dwelling. An entrance leading to a foyer with interior entrances leading from the foyer to the two dwelling units is permitted. The living area of an accessory apartment shall be a minimum of 190 square feet, and a maximum of 800 square feet. An accessory apartment may not have any living space on a third story unless it meets the minimum life safety requirements as defined in the Building Code.
- D. Accessory apartments are not permitted in the Shoreland Zone unless the lot on which it will be located has at least double the lot size for that zone, double the minimum lot size, and double the shore frontage for that zone.
- E. Only one accessory apartment shall be permitted per single-family dwelling. Only one accessory apartment shall be permitted per lot regardless of the number of single-family dwellings on a lot.
- F. An accessory apartment shall be occupied as a primary residence. ("Primary residence" shall be defined as more than six months per year.) An accessory apartment is not eligible to operate as a short-term rental.
- G. Accessory apartment located on properties connected to the Town's wastewater collection system must be approved by the Sewer Department. Properties utilizing subsurface waste system and private wells must meet the standards required in the Maine Subsurface Wastewater Disposal Rules. In addition:
  - (1) Existing septic systems must be evaluated for condition and capacity by a licensed site evaluator. A reserve is required for existing and new systems in the event that replacement is necessary. Biannual pump-outs of septic systems servicing the property are required and documentation must be provided to the Town upon request.
  - (2) Properties serviced by private wells must provide to the Code Enforcement Office a water quality test to ensure adequate water quality prior to issuance of a certificate of occupancy.

H. Any plan for a stand alone Accessory Apartment or an addition to the primary structure for an Accessory Apartment must provide a Drainage Plan which meets the following stormwater design standards:

- (1) The plan must demonstrate that the proposed improvements are designed to minimize

**Commented [GW1]:** Clarifies the cross reference and removes section below.

**Commented [GW2]:** GPC amendment to address design concerns

**Commented [GW3]: Suggested Staff Amendment:** In speaking with Code & Planning Staff, town staff recommend adding this language to help address potential double dipping with density changes in LD 2003...GLW

and location of improvements to minimize the total area of impervious surface on the site and stormwater management techniques to minimize both the volume and rate of runoff from the lot.

- (2) Any stormwater draining onto or across the lot in its pre-improvement state will not be impeded or redirected so as to create ponding on, or flooding of, adjacent lots; and
- (3) Any increase in volume or rate of stormwater draining from the lot onto an adjacent following the improvement can be handled on the adjacent lot, whether privately or publicly owned, without creating ponding, flooding or other drainage problems and that the owner of the lot being improved has the legal right to increase the flow of stormwater onto the adjacent lot.

The Drainage Plan must include a written statement demonstrating how the proposed addition for an Accessory Apartment or stand alone Accessory Apartment has been designed to meet the requirements of this subsection and must contain at least the following information:

- (1) The location and characteristics of any streams or drainage courses existing on the parcel and/or abutting parcels;
- (2) The existing and proposed grading of the site using one-foot contours;
- (3) The location and area of existing and proposed buildings and impervious surfaces on the site;
- (4) The existing pattern of stormwater drainage on the site, including points of discharge to public ways or adjacent properties; and
- (5) The proposed pattern of stormwater drainage after the improvements, including the location and design of any stormwater facilities.

I. An accessory apartment is allowed on a lot that does not conform to the municipal zoning ordinance if the accessory apartment does not further increase the nonconformity.

**Commented [GW4]: P. Hogan Amendment:** Addresses post-development concerns of stormwater impacting abutting properties or waterbodies.

**Commented [GW5]:** GPC concerned with nonconforming lots, state legislature addressed this with passage of LD 1706. This language will address concerns of detached ADU on non-conforming lot given setbacks and lot coverage

shall have code compliant smoke and carbon monoxide detectors in addition to complying with current building code requirements for primary and secondary means of escape;

- (5) The rooms occupied by the roomers do not have a separate entrance from the outside;
- (6) The rooms occupied by the roomers are within the principal structure;
- (7) The roomers use utilities which are not separately metered from those used by the remaining occupants of the dwelling unit;
- (8) One off-street parking space per room rented shall be required as per § 240-6.1OF; and
- (9) The owner of the residential rental accommodation shall remain in residence while rooms are being rented.

C. Approval; permit; appeal.

- (1) Approval to operate a residential rental accommodation shall be granted by the Code Enforcement Officer upon a successful property inspection and complete permit application. Such permit shall be issued to the property owner only, and is subject to sufficient evidence that the property is owner occupied. [Amended 11-8-2022]
- (2) A permit to operate a residential rental accommodation shall expire upon a change in ownership or a change in owner residency status.
- (3) A single-family dwelling approved to accommodate roomers prior to November 8, 2016, may continue to operate under the conditions of approval as specified by the Zoning Board of Appeals, including the Land Use Ordinance requirements and restrictions in effect at the time of such approval.
- (4) Pennit shall be revoked upon confirmation of a second confirmed noise or barking dog citation related to use of a dwelling unit by a roomer. Permit shall also be revoked upon any confirmed violation of the requirements contained within the definition of residential rental accommodation located in Article 2. Any such permit having been revoked shall not be reissued to the same property owner within one year (365 days) from the date of revocation, which shall require Code Enforcement Officer reapproval. [Amended 11-8-2022]
- (5) An appeal from any decision of the Code Enforcement Officer related to the issuance, non issuance, suspension or revocation of a residential rental accommodation permit shall be taken by-an aggrieved party to the Zoning Board of Appeals within 30 days of the decision.

240-7.15

Affordable housing density

For an affordable housing development approved on or after July 1, 2023, the town shall apply density requirements in accordance with this section.

- A. Affordable housing development shall be allowed where multifamily dwellings are allowed and have a dwelling unit density of at least 2 1/2 times the base density that is otherwise allowed in that location and may not require more than 2 off-street parking spaces for every 3 units. The development must be in a designated growth area and have 51% of the units designated as affordable under the Affordable Housing Development Definition meeting the following criteria:

1. The locally designated growth area, as identified in a comprehensive plan adopted pursuant to and consistent with the procedures, goals and guidelines of this subchapter or as identified in a growth management program certified under MRS 30-A section 4347-A; The development must comply with minimum lot size requirements in accordance with MRS Title 12, chapter 423- A, as applicable.

**B Long-term affordability.** Before approving an affordable housing development, the developer shall provide proof that the owner of the affordable housing development have executed a restrictive covenant, recorded in the appropriate registry of deeds, for the benefit of and enforceable by a party acceptable to the municipality, to ensure that for at least 30 years after completion of construction:

1. For rental housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy; and

2. For owned housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy.

**C. Shoreland zoning.** An affordable housing development must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and municipal shoreland zoning ordinances.

**D. Water and wastewater.** The owner/developer of an affordable housing development shall provide written verification to the municipality that each unit of the housing development is connected to adequate water and wastewater services before the municipality may certify the development for occupancy. Written verification under this subsection must include:

1. If a housing unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system;

2. If a housing unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit; and

3. If a housing unit is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

**E. Subdivision requirements.** This section may not be construed to exempt a subdivider from the requirements for division of a tract or parcel of land in accordance with the state & municipal subdivision regulations.

**F. Restrictive covenants.** This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

**G. Short-Term Rental License Prohibition.** No units created by an affordable housing development shall qualify for the Town's Short Term Rental License Program during the duration of the long-term affordability restriction in subsection B above.

**H. Growth Permit Requirements.** All affordable housing developments shall comply with Section 240-11.12 (Growth management permit required)

**Commented [GW1]:** This provision is added if a parcel is located in the growth area but public water is unavailable. SMPDC is in agreement this would be costly from a developer perspective for monthly testing requirements.

**Commented [GW2]:** GPC suggested change relating to short term rental prohibition concerns for new market rate units that are part of development.

**Commented [GW3]:** Suggested amendment by staff to clarify separation from LD 2003 ADU & Affordable house development provisions.

**Commented [GW4]:** PB suggestion for easy cross reference by the public.

# What is LD 2003?

## Affordable Housing Density Bonus

30-A M.R.S. 4364

**Density bonus for affordable housing developments of 2.5x base density; requirement of 2 parking spaces for every 3 units.**

To qualify for bonus:

- ✓ 51% or more of the units must be affordable;
- ✓ Development must be located in an area with zoning and multi-family housing; and
- ✓ Development must be located in a designated growth area or served by water/sewer or a comparable system.

## Up to Four Dwelling Units

30-A M.R.S. 4364-A

**Allows between 2-4 dwelling units on residential lots.**

- ✓ Lots without an existing unit:
  - Up to 2 units allowed
  - Exception: up to 4 units if lot is in designated growth area or has water/sewer in a municipality without a comprehensive plan.
- ✓ Lots with 1 existing dwelling unit:
  - Up to 2 units allowed (within, detached, or attached)

## Accessory Dwelling Unit

30-A M.R.S. 4364-B

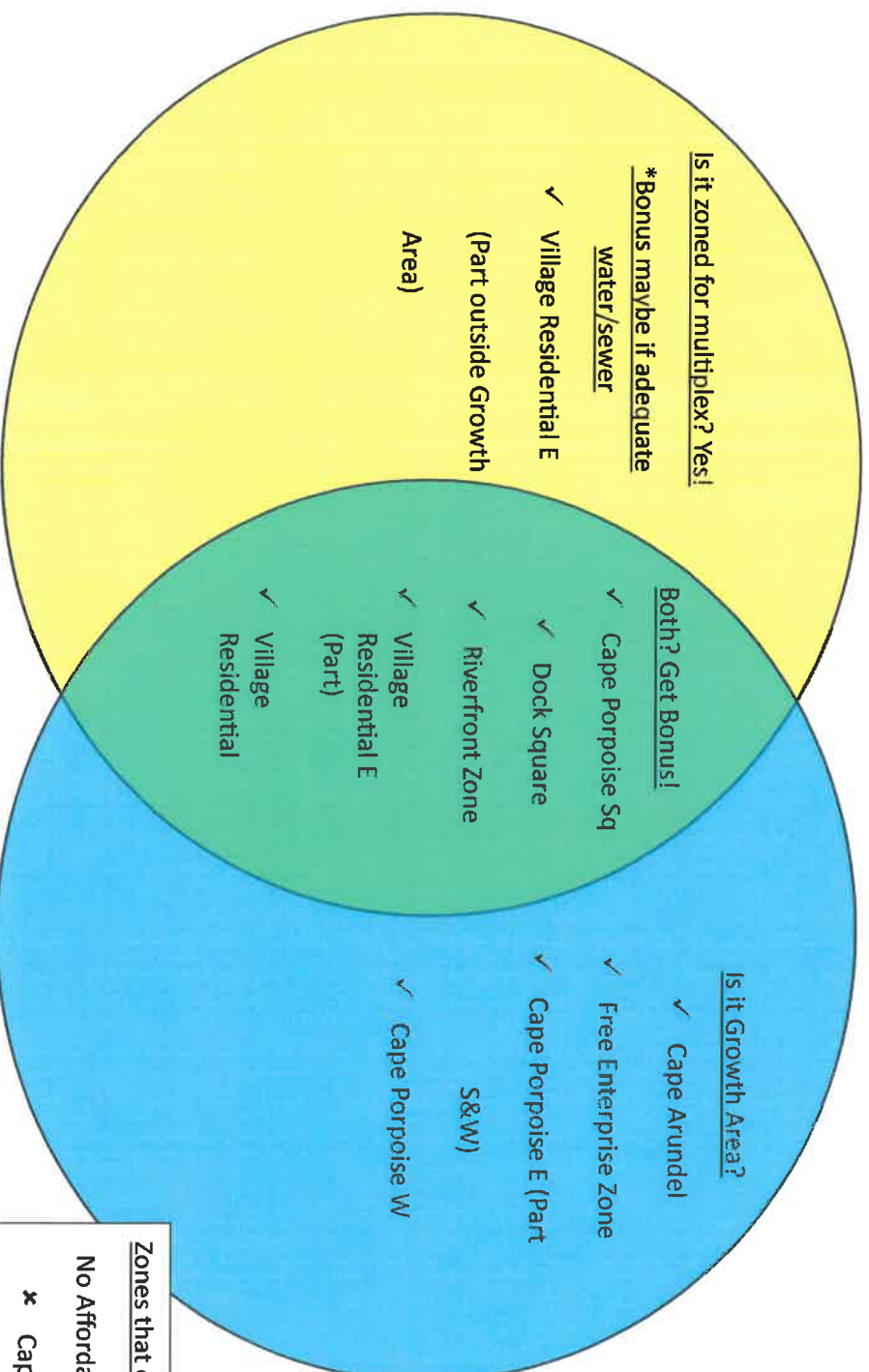
**Allows 1 ADU on a lot with an existing single-family home within home, attached to it, or detached.**

- ✓ Exempt from zoning density requirements and rate of growth ordinances.
- ✓ No additional parking
- ✓ 190 square feet min; max can be set by municipality

For more information, contact [housing.decd@maine.gov](mailto:housing.decd@maine.gov) or visit <https://www.maine.gov/decd/housingopportunityprogram>

## Affordable Housing Density Bonus Allowed

\* For illustrative and general educational purposes only. Full determination is site specific and determined based on overlays and zoning standards specific to site of proposed development. See staff for a more accurate assessment of a proposed project.



### Zones that do not allow Multiplex?

#### No Affordable Housing Bonus Allowed

- \* Cape Arundel
- \* GRB
- \* Cape Porpoise E
- \* Cape Porpoise W
- \* Free Enterprise Zone
- \* Farm & Forest
- \* Shoreland

# LAND USE

## 240 Attachment 1

### Town of Kennebunkport

Table of Dimensional Requirements

	Minimum Lot Area <sup>1</sup> (square feet)	Minimum Lot Width (feet)	Maximum Lot Coverage	Minimum Net Residential Area per Dwelling Unit (square feet)	Minimum Setbacks			Coastal Wetland Setback (feet)	Minimum Open Space	Maximum Building Height (feet)
					Front (feet)	Side (feet)	Rear (feet)			
§ 240-4.3 Village Residential Zone										
Single-family dwelling (1 per lot) or other use § 240-4.16	40,000	100	20%	40,000	20	15	15		20%	35
Two-family dwelling	40,000	100	20%	20,000	40	20	20		20%	35
Multiplex	60,000	150	20%	20,000	25	50	50		20%	35
Public libraries	40,000	100	75%		20	15	15		5%	35
§ 240-4.4 Village Residential East Zone										
Single-family dwelling (1 per lot) or other use § 240-4.16	40,000	100	20%	40,000	20	15	15		20%	35
Two-family dwelling	40,000	100	20%	20,000	40	20	20		20%	35
Multiplex	90,000	150	20%	30,000	40	50	50		20%	35
§ 240-4.5 Dock Square Zone										
Single-family dwelling (1 per lot) or other use § 240-4.16	20,000	100	70%	20,000	20	15	15	25	20%	30
Two-family dwelling	20,000	100	70%	10,000	40	20	20	25	20%	30
Multiplex	30,000	150	70%	10,000	40	20	20	25	20%	30
§ 240-4.6 Riverfront Zone										
Single-family dwelling (1 per lot) or other use § 240-4.16	20,000	100	20%	20,000	20	15	15	75	20%	30
Two-family dwelling	20,000	100	20%	10,000	40	20	20	75	20%	30
Multiplex	60,000	150	20%	20,000	25	50	50	75	20%	30

# KENNEBUNKPORT CODE

	Minimum Lot Area <sup>1</sup> (square)	Minimum Lot Width (feet)	Maximum Lot Coverage	Minimum Net Residential Area per Dwelling Unit	Minimum Setbacks			Coastal Wetland Setback	Minimum Open Space	Maximum Building Height
					Front (feet)	Side (feet)	Rear (feet)			
§ 240-4.7 Cape Arundel Zone										
Single-family dwelling (1 per lot) or other use § 240-4.16	40,000	100	20%	40,000	20	15	15		20%	35
Two-family dwelling	40,000	100	20%	20,000	40	20	20		20%	35
§ 240-4.8 Goose Rocks Zone										
Single-family dwelling (1 per lot) or other use § 240-4.16	40,000	100	20%	40,000	20	15	15		20%	30
Two-family dwelling	40,000	100	20%	20,000	40	20	20		20%	30
§ 240-4.9 Cape Porpoise East and Cape Porpoise West Zones										
Single-family dwelling (1 per lot) or other use § 240-4.16	20,000	100	20%	20,000	20	15	15		20%	30
Two-family dwelling	30,000	100	20%	15,000	40	20	20		20%	30
§ 240-4.10 Cape Porpoise Square Zone										
Single-family dwelling (1 per lot) or other use § 240-4.16	20,000	100	20%	20,000	20	15	15		20%	30
Two-family dwelling	20,000	100	20%	10,000	40	20	20		20%	30
Multiplex	60,000	150	20%	20,000	25	50	50		20%	30
§ 240-4.11 Free Enterprise Zone										
Single-family dwelling (1 per lot) or other use § 240-4.16	40,000	100	20%	40,000	20	15	15		20%	35
Two-family dwelling	40,000	100	20%	20,000	40	20	20		20%	35
§ 240-4.12 Farm and Forest Zone										
Single-family dwelling (1 per lot) or other use § 240-4.16	3 acres/ 130,680 square feet	200	10%	130,680	20	15	15		20%	35
Two-family dwelling	3 acres/ 130,680 square feet	100	20%	65,340	40	20	20		20%	35

## **NOTE:**

<sup>1</sup> Land use activities within the Shoreland Zone shall conform to the minimum lot size and shore frontage requirements set forth in § 240-4.16.

- A. Single-family dwellings. A single-family dwelling and any accessory apartment located therein shall be constructed on one continuous foundation and under one continuous roof; no part of the dwelling unit shall be located in a detached building or structure. Detached accessory apartment units shall be exempt from this requirement. [Amended 6-13-2023]
- B. Two-family dwellings. Each unit in a two-family dwelling shall have not less than 650 square feet. The two-family dwelling shall have only one front entrance, and all other entrances shall be on the side or in the rear of the dwelling. An entrance leading to a foyer with entrances leading from the foyer to the two dwelling units is permitted. One dwelling shall be subordinate in size. A home occupation shall not be permitted in the subordinate unit. A two-family dwelling shall be constructed on one continuous foundation and under one continuous roof; no part of the dwelling units shall be located in a detached building or structure.
- C. ~~For any area in which housing is allowed there shall be up to 2 dwelling units per lot if that lot does not contain an existing dwelling unit and meets the minimum net residential area per dwelling unit within the table of dimensional requirements (240 Attachment 1) for the lot's zone, except that it shall allow up to 4 dwelling units per lot if that lot does not contain an existing dwelling unit and the lot is located in a the designated growth area as noted below: for the Town of Kennebunkport (See town's comprehensive plan for the growth area).~~
- ~~If a single-family dwelling is demolished after July 1, 2024, that lot shall not be defined as a vacant lot for section C above.~~
- ~~1. The locally designated growth area, as identified in a comprehensive plan adopted pursuant to and consistent with the procedures, goals and guidelines of this subchapter or as identified in a growth management program certified under section 4347 A;~~
- D. ~~A lot with an existing dwelling unit may have up to two additional dwelling units, either one additional attached dwelling unit, one additional detached dwelling unit, or one of each townwide if the lot meets the minimum net residential area per dwelling unit within the table of dimensional requirements (240 Attachment 1) for the lot's zone. On a lot with one existing dwelling unit the addition of up to 2 dwelling units: one additional dwelling unit within or attached to an existing structure or one additional detached dwelling unit, or one of each.~~

**Commented [GW1]:** Made edits to this section to clarify only in the Growth Area located in the Comp Plan shall be afforded the 4 units on a vacant lot if they meet density.

**Commented [GW2]: Optional Amendment:** Allows municipality the option of prohibiting lots with a SFD to demolish to qualify for 4 units in the growth area.

**Commented [GW3]:** Reworded SMPDC draft to understand

~~If more than one dwelling unit has been constructed on a lot as the result of the allowance of subsections D above, the lot is not eligible for any additional increases in density.~~

~~Additional units may be be allowed by this subsection provided the appropriate lot areas can be provided.~~

**Commented [GW4]: Optional Amendment:** State law allows municipalities to add a one and done rule... If you can construct up to 2 more units and only construct one, you can't return to add another in the future.

~~The owner of a housing structure must provide written verification to the municipality that the structure is connected to adequate water and wastewater services before the municipality may certify the structure for occupancy. Written verification under this subsection must include:~~

**Commented [GW5]: Optional Change:** State allows communities to allow more density above the 2-4 unit requirement on the lot. Staff suggest removal to avoid complex issues with multiplex uses in not permitted zones.

~~1. If a housing structure is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the structure and proof of payment for the connection to the sewer system;~~

~~2. If a housing structure is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under section 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under Title 22, section 42;~~

3. If a housing structure is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the structure, proof of payment for the connection and the volume and supply of water required for the structure; and

4. If a housing structure is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

**Commented [GW6]:** This section pertains to wastewater and water supply requirements which are reviewed by the CEO for compliance during the building permit application process.

**E. Restrictive covenants.** This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section.

**Commented [GW7]:** State law section that allows for restrictive covenants which can be enforced in civil court between private parties.