

Part II – Zoning Ordinances
Chapter 240 – Land Use
Article 2. Terminology (regarding Accessory Apartments)

§ 240-2.2 Definitions

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

ACCESSORY USE OR STRUCTURE

A subordinate use or structure customarily incidental to and located on the same lot as the principal use or structure, such as a detached garage, workshop, or the like. Accessory uses, in the aggregate, shall not subordinate the principal use or structure on a 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 and may not be independently conveyed to the extent permitted by law.

APARTMENT, ACCESSORY

A separate dwelling unit which may be located within a single-family dwelling, attached to or sharing a wall with a single-family dwelling, or a detached accessory structure as permitted under § 240-7.1 of this chapter. An accessory apartment is an extension of use which and may not be independently conveyed except to the extent permitted by law. An accessory apartment may be considered an accessory dwelling unit under 30-A M.R.S.A. § 4364-B or an additional dwelling unit under 30-A M.R.S.A. § 4364-A, as determined by the municipal reviewing authority.

DWELLING

Any building or structure or portion thereof containing one or more dwelling units, but not including a motel, hotel, inn or similar use.

A. SINGLE-FAMILY DWELLING

A building designed or intended to be used exclusively for residential occupancy by one family only and containing only one dwelling unit, or one dwelling unit with an accessory apartment as permitted under § 240-7.1, including a modular home unit.

B. TWO-FAMILY DWELLING

A building designed or remodeled to be used exclusively for residential occupancy to two families living independently of one

another and containing two dwelling units. Each unit shall have not less than 650 square feet.

C. MULTIPLEX DWELLING

A building for residential occupancy by three or more families living independently of one another and containing three or more dwelling units, including apartment buildings and condominiums, but excluding single-family dwellings with accessory apartments.

DWELLING UNIT

One or more habitable rooms arranged, designed or intended to be used, or used as a complete housekeeping unit for one or more individuals living together as a family with independent living, cooking, sleeping, bathing and sanitary facilities. Recreational vehicles are not residential dwelling units. Within any Shoreland Zone, the term "dwelling unit" shall include seasonal rental units which meet the above definition, regardless of the time period rented.

§ 240-4.3 Village Residential Zone

| Permitted Uses | Conditional Uses Subject to Site Plan Review | Conditional Uses Subject to Zoning Board of Appeals Review |
|---------------------|--|--|
| Accessory apartment | Accessory apartment* | Animal husbandry |

~~*See § 240-7.1J~~

§ 240-4.4 Village Residential East Zone

| Permitted Uses | Conditional Uses Subject to Site Plan Review | Conditional Uses Subject to Zoning Board of Appeals Review |
|---------------------|--|--|
| Accessory apartment | Accessory apartment* | Animal husbandry |

~~*See § 240-7.1J~~

§ 240-4.5 Dock Square Zone

| Permitted Uses | Conditional Uses Subject to Site Plan Review | Conditional Uses Subject to Zoning Board of Appeals Review |
|---------------------|--|--|
| Accessory apartment | Accessory apartment** | Child-care center |

~~*Exceptions to the requirement for Planning Board Site Plan Review Approval are set forth in § 490-10.2B(3).~~

~~**See § 490-7.1J.~~

§ 240-4.6 Riverfront Zone

| Permitted Uses | Conditional Uses Subject to Site Plan Review | Conditional Uses Subject to Zoning Board of Appeals Review |
|---------------------|--|--|
| Accessory apartment | Accessory apartment* | Child-care center |

~~*See § 240-7.1J.~~

§ 240-4.7 Cape Arundel Zone

| Permitted Uses | Conditional Uses Subject to Site Plan Review | Conditional Uses Subject to Zoning Board of Appeals Review |
|---------------------|--|--|
| Accessory apartment | Accessory apartment* | Home occupation |

~~*See § 490-7.1J.~~

§ 240-4.8 Goose Rocks Zone

| Permitted Uses | Conditional Uses Subject to Site Plan Review | Conditional Uses Subject to Zoning Board of Appeals Review |
|---------------------|--|--|
| Accessory apartment | Accessory apartment* | Child-care center |

~~*See § 490-7.1J.~~

§ 240-4.9 Cape Porpoise East and Cape Porpoise West Zones

| Permitted Uses | Conditional Uses Subject to Site Plan Review | Conditional Uses Subject to Zoning Board of Appeals Review |
|---------------------|--|--|
| Accessory apartment | Accessory apartment* | Home occupation |

~~*See § 490-7.1J.~~

§ 240-4.10 Cape Porpoise Square Zone

| Permitted Uses | Conditional Uses Subject to Site Plan Review | Conditional Uses Subject to Zoning Board of Appeals Review |
|---------------------|--|--|
| Accessory apartment | Accessory apartment* | Child-care center |

~~*See § 490-7.1J.~~

§ 240-4.11 Free Enterprise Zone

| Permitted Uses | Conditional Uses Subject to Site Plan Review | Conditional Uses Subject to Zoning Board of Appeals Review |
|---------------------|--|--|
| Accessory apartment | Accessory apartment* | Child-care center |

~~*See § 490-7.1J.~~

§ 240-4.12 Farm and Forest Zone

| Permitted Uses | Conditional Uses Subject to Site Plan Review | Conditional Uses Subject to Zoning Board of Appeals Review |
|---------------------|--|--|
| Accessory apartment | Accessory apartment* | Child-care center |

~~*See § 490-7.1~~

§ 240-7.1 Accessory apartments

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 ~~F~~ 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.
- 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 the dwelling must be at least 1,625 square feet, including basement and attic spaces that have a ceiling height greater than seven feet. The living area of an accessory apartment shall be a minimum of 600 square feet, and a maximum of 40% of the living area of the dwelling or 800 square feet, whichever square footage is less. 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 ~~lot~~ single-family dwelling.
- F. ~~Either the primary residence or converted accessory apartment shall be occupied by the owner of the property as the owner's primary residence. An accessory apartment shall be occupied as a primary residence ("primary residence" shall be defined as more than six months per year). Both the primary residence and accessory apartment shall be occupied as primary residences. When requesting an accessory apartment, the property owner must provide proof of primary residency, to include possession of a State of~~

~~Maine driver's license, current registration of a motor vehicle in Maine, and current registration to vote in Maine. If the property owner does not have a valid motor vehicle license in Maine or any other political jurisdiction, or does not have a motor vehicle currently registered in Maine or any other political jurisdiction, alternative evidence of primary residency may be accepted subject to the discretion of the Zoning Board of Appeals or the Code Enforcement Officer. An accessory apartment is not eligible to operate as a short-term rental.~~

~~G. In the Free Enterprise and Farm and Forest Zones only, a home occupation is allowed in either the primary dwelling or the accessory apartment, but not in both. Such home occupation shall be subject to approval as a conditional use. [Amended 11-3-2020]~~

~~H. No permit for an accessory apartment shall be legal until the owner files the following notice with the Code Enforcement Officer and in the Registry of Deeds: "A permit for an accessory apartment has been issued to the owner of this property. This permit does not run with the land, and is automatically invalidated by the sale, grant, devise, conveyance or transfer of this property."~~

I. G. Accessory apartments 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 area 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.

~~J. An accessory apartment located in a detached accessory structure that conforms to property setback requirements is allowed as a permitted use subject to all requirements below. An accessory apartment constructed within or detached of an existing structure that is legally nonconforming due to setbacks~~

is subject to ~~Planning Board review per Article 10. The following requirements must be met, in addition to the requirements of Subsections A through I above:~~

- ~~(1) Calculation of floor area for the detached accessory apartment's living space is based on 40% of the living space of the primary structure to include the basement and attic spaces that have a ceiling height greater than seven feet.~~
- ~~(2) If the primary dwelling is located on a nonconforming lot, at least 50% of the floor area of the detached accessory structure must be devoted to uses other than living space which are accessory to the principal structure, such as storage or parking, and must be available for use by the occupants of the principal structure.~~

§ 240-6.10 Accessory apartments

- A. Each single-family dwelling shall be provided with two off-street parking spaces. ~~Accessory apartments shall be provided with parking in accordance with Subsection B(2) below~~ Accessory apartments are not required to have additional off-street parking.
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§ 240-6.19 Dwellings

- 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.
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§ 240-8.7 Nonconforming lots

- A. A nonconforming lot of record, not adjoined by any other lot in common ownership, may be built upon, as a matter of right for a single-family dwelling, and permitted accessory uses, and without the need for a variance, subject to all the requirements of this chapter for the zone where located, except for those area and frontage requirements which made the lot nonconforming, provided that the owner can demonstrate that there is reasonable access to the site by emergency vehicles.
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§ 240-11.12 Growth management permit required

C. Exemptions. The following are exempt from the provisions of this section:

1. The repair, replacement, reconstruction or alteration of any existing building or structure not resulting in additional dwelling units;
2. Housing for the elderly which is constructed, operated, subsidized or funded, in whole or in part, by an agency of the state or federal government;
3. The construction or alteration of a nonresidential building or structure; and
4. The construction or alteration of a new accessory apartment.