

NOTICE OF PUBLIC HEARING
MUNICIPAL OFFICERS OF THE TOWN OF
OLD ORCHARD BEACH

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on December 5th, 2023, (MOVED TO DECEMBER 19TH) at 6:30 p.m. to consider the following:

PUBLIC HEARING HAS BEEN MOVED TO DECEMBER 19TH, 2023

Shall the Town Council of the Town of Old Orchard Beach amend the Code of Ordinances, Chapter 78, Article I, Sec. 78-1; Article VI, Sec. 78-487 (6); 78-488 (1); 78-517 (8); 78-518 (9); 78-547 (7); 78-548 (1); 78- 577 (7); 78-578 (8); 78-607 (6); 78-608 (1); 78-717 (1) (p), (3) (d); 78-747 (1) (t), (3) (d); 78-802 (14); 78-803 (10); 78-832 (10); 78-833 (8); 78-868 (a) (1) (e), (2) (e), (3) (e), (4) (d); 78-869 (a) (1), (b) (1), (c) (1); 78-902 (10); 78-903 (7) (a), (b); 78-962 (9); 78-963 (1); 78-992 (1); 78-993 (1); 78-1002 (7); 78-1003 (1); 78-1022 (2); 78-1023 (21); 78-1133 (4); 78-1134 (11); Article VII, Sec. 78-1272; Article VIII, Sec. 78-1383, by adding the underscored language and deleting the strikethrough language below. These amendments propose changes to comply with the state housing opportunity program law (LD 2003) to allow for additional density for affordable housing developments in certain areas, multiple dwelling units on lots designated for housing, and one accessory dwelling unit located on the same lot as a single-family dwelling unit in any area housing is permitted:

Chapter 78, Section 1, Definitions:

Accessory dwelling unit means a ~~separate dwelling unit which is contained entirely within the confines of a building which otherwise retains the design and appearance of a detached, single-family dwelling~~ self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit located on the same parcel of land.

Dwelling, accessory, means a ~~separate dwelling unit which is contained entirely within the confines of a building which otherwise retains the design and appearance of a detached, single-family dwelling.~~

Ch 78 Amendments for Housing Opportunity Program - LD2003 (10/23)

Ordinance additions are underlined

Ordinance deletions are ~~struck through~~

Sec. 78-487. - Permitted uses. The following uses are permitted uses in the residential 1 district (R-1):

(6) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-488. - Conditional uses. The planning board may authorize the following conditional uses in the residential 1 district (R-1) provided that the conditions and requirements of article VII of this chapter are met:

~~(1) Accessory dwelling units.~~

(1) Housing Opportunity Program (see Sec. 78-1272): Dwelling Unit Increase Allowance.

Sec. 78-517. - Permitted uses. The following uses are permitted uses in the residential 2 district (R-2):

(8) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-518. - Conditional uses. The planning board may authorize the following conditional uses in the residential 2 district (R-2), provided that the conditions and requirements of article VII of this chapter are met:

(9) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-547. - Permitted uses. The following uses are permitted uses in the residential 3 district (R-3):

(7) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-548. - Conditional uses. The planning board may authorize the following conditional uses in the residential 3 district (R-3) provided that the conditions and requirements of article VII of this chapter are met:

~~(1) Accessory dwelling units.~~

(1) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-577. - Permitted uses. The following uses are permitted in the residential 4 district (R-4):

(7) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-578. - Conditional uses. The planning board may authorize the following conditional uses in the residential 4 district (R-4) provided that the conditions and requirements of article VII of this chapter are met:

(8) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-607. - Permitted uses. The following categories of use are permitted in the single-family private dwelling district (R-5):

(6) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-608. - Conditional uses. The planning board may authorize the following conditional uses in the single-family private dwelling district (R-5) provided that the conditions and requirements of article VII of this chapter are met:

~~(1) Accessory dwelling units.~~

(1) Housing Opportunity Program (see Sec. 78-1272): Dwelling Unit Increase Allowance.

Sec. 78-717. - Permitted uses. Permitted uses in the downtown district 1 (DD-1) shall be

classified as follows:

- (1) Primary uses. Primary uses are as follows:
 - p. Accessory dwelling unit (see Sec. 78-1383).

(3) Conditional uses. Conditional uses are as follows:

- d. Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-747. - Permitted uses. Permitted uses in the downtown district 2 (DD-2) shall be classified as follows:

- (1) Primary uses. Primary uses are as follows:
 - t. Accessory dwelling unit (see Sec. 78-1383).

(3) Conditional uses. Conditional uses are as follows:

- d. Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-802. - Permitted uses. The following uses shall be permitted in the general business district 1 (GB-1):

- (14) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-803. - Conditional uses. The planning board may authorize the following uses in the general business district 1 (GB-1) provided that the conditions of article VII of this chapter are met:

- (10) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-832. - Permitted uses. The following uses shall be permitted in the general business district 2 (GB-2):

- (10) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-833. - Conditional uses. The planning board may authorize the following uses in the general business district 2 (GB-2), provided the conditions of article VII of this chapter are met:

- (8) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-868. - Permitted uses.

(a) Permitted residential uses. Permitted residential uses in the neighborhood commercial districts are as follows:

(1) NC-1 Ocean Park neighborhood commercial district. The following residential uses shall be permitted within the NC-1 district:

- e. Accessory dwelling unit (see Sec. 78-1383).

(2) NC-2 Union Avenue/West Grand neighborhood commercial district. The following residential uses are permitted within the NC-2 district:

- e. Accessory dwelling unit (see Sec. 78-1383).

- (3) NC-3 Washington Ave./campground neighborhood commercial district. The following residential uses are permitted within the NC-3 district:
 - e. Accessory dwelling unit (see Sec. 78-1383).
- (4) NC-4 Cascade Road commercial district. The following residential uses are permitted within the NC-4 district:
 - d. Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-869. - Conditional uses.

- (a) NC-1 and NC-2 district conditional uses. The planning board may authorize the following conditional uses within the NC-1 and NC-2 districts:
 - ~~(1) Accessory dwelling units.~~
 - (1) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.
- (b) NC-3 district conditional uses. The planning board may authorize the following conditional uses within the NC-3 district:
 - ~~(1) Accessory dwelling unit.~~
 - (1) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.
- (c) NC-4 district conditional uses. The planning board may authorize the following conditional uses within the NC-4 district:
 - ~~(1) Accessory dwelling units.~~
 - (1) Housing Opportunity Program (see Sec. 78-1272): Dwelling Unit Increase Allowance.

Sec. 78-902. - Permitted uses. The following uses in the industrial district (ID) are permitted, providing that the uses meet all applicable performance standards in this division and conform to all applicable state and federal regulations regarding the storage, handling, processing of materials and the disposal of solid, liquid, gaseous, and radiation waste:

- (10) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-903. - Conditional uses. The planning board may authorize the following conditional uses in the industrial district (ID):

- (7) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance, provided the following:
 - a. The planning board determines that site constraints, vehicle access, or character of the surrounding neighborhood precludes the use of the site for industrial uses as permitted in this zone;
 - b. Residential density shall be no less than one unit per 75,000 square feet of net residential area

Sec. 78-962. - Permitted uses. The following categories of uses are permitted in the rural district

(RD):

(9) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-963. - Conditional uses. The planning board may authorize the following uses in the rural district (RD), provided that the conditions of article VII are met:

~~(1) Accessory dwelling units~~

(1) Housing Opportunity Program (see Sec. 78-1272): Dwelling Unit Increase Allowance.

Sec. 78-992. - Permitted uses. The following uses are permitted in the beachfront resort district (BRD):

(10) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-993. - Conditional uses. The planning board may authorize the following uses in the beachfront resort district (BRD) provided that the conditions of article VII of this chapter are met:

~~(1) Accessory dwelling units.~~

(1) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-1002. - Permitted uses. The following uses are permitted in the residential beachfront district (RBD):

(7) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-1003. - Conditional uses.

The planning board may authorize the following uses in the residential beachfront district (RBD) provided that the conditions of article VII of this chapter are met:

~~(1) Accessory dwelling units.~~

(1) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-1022. - Permitted uses.

(2) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-1023. - Conditional uses. Notwithstanding article VII of this chapter, the following conditional uses may be permitted in the planned mixed use development (PMUD) zone:

(21) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-1133. - Permitted uses. The following uses shall be permitted in the historic overlay district (HO):

(4) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-1134. - Conditional uses. The planning board may authorize the following uses in the historic overlay district (HO), provided that the conditions of article VII of this chapter are met:

(11) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-1272. Accessory dwelling unit. (Being replaced by Housing Opportunity Program)

- (1) ~~*Purpose.* The purpose of the sections concerning accessory dwelling units is to provide a diversity of housing for residents while protecting the single-family character of residential neighborhoods. Accessory dwelling units are permissible as conditional uses provided they meet the performance standards described in this section.~~
- (2) ~~*Performance standards.*~~
- (a) ~~The owner of the lot on which the principal structure is located must reside in the principal structure or the accessory dwelling unit, either of which residence may be seasonal. An accessory dwelling unit may be located on a lot which the owner occupies as a seasonal residence, however, neither the accessory dwelling unit nor the single-family dwelling shall be rented.~~
 - (b) ~~The person occupying the accessory dwelling unit shall be a first, second, or third degree relation (parent, child, stepchild, sibling, aunt, uncle, niece, nephew, or grandparent) of the principal occupant of the single family dwelling by blood or by marriage and the burden of proof of this relationship shall be on the homeowner.~~
 - (c) ~~To ensure continued compliance by current and subsequent owners, the applicant shall provide and record in the York County Registry of Deeds a covenant in a form acceptable to the town that the existence of the accessory dwelling unit is predicated upon the occupancy of either the accessory dwelling unit or principal dwelling by a person who owns the property. It is also required that any owner of the property must notify a prospective buyer of the limitations of this section. Violations of the terms of this covenant shall result in the loss of the accessory dwelling unit permit. Said covenant shall be provided to the town prior to the issuance of an occupancy permit for the accessory dwelling unit.~~
 - (d) ~~The primary entrance into the accessory dwelling unit shall be via the living area of the primary structure. A secondary entrance may be permitted to the accessory dwelling unit provided it is not visible from the street view of the principal or accessory dwelling. The accessory dwelling units stairways shall not be constructed on the front or side of the principal or accessory dwelling unit.~~
 - (e) ~~To improve compatibility with single family neighborhoods, new accessory dwelling units shall be built with an orientation, scale, and architectural style that reflects the predominant pattern existing in the neighborhood, preserves privacy for neighbors and for the occupants of the primary and accessory dwelling units.~~
 - (f) ~~The accessory dwelling unit shall have at least 500 square feet of floor area but shall not exceed 50 percent of the floor area of the main dwelling unit. Floor area measurements shall not include unfinished attic, basement or cellar spaces nor public hallways or other common areas. The floor area of the accessory dwelling unit shall not exceed 1,000 square feet and the unit shall not contain more than two bedrooms. Total floor area of an accessory dwelling unit shall be measured from the interior faces~~

of the inside walls.

- ~~(g) Provisions for one additional off-street parking space shall be made, however, no additional curb cuts or driveways may be created to facilitate the creation of the accessory dwelling unit. Any expanded driveway entrance curb cut on the property shall not exceed 24 feet in width.~~
 - ~~(h) The dwelling shall be served by a single electrical and water service meter, if served by public water.~~
 - ~~(i) All accessory dwelling units on properties with private sewer shall comply with the State of Maine Subsurface Wastewater Disposal Rules for new or expanded systems, as applicable.~~
 - ~~(j) Only one accessory dwelling unit shall be permitted per lot. It shall be made part of the primary dwelling.~~
 - ~~(k) Accessory dwelling units shall not be permitted for any nonconforming use.~~
- ~~(3) *Definitions.* As used in this section, the terms listed below have meanings set forth below, whether or not such terms are otherwise defined elsewhere in this chapter. Terms not listed below have the same meanings as section 78-1 of this chapter.~~
- ~~(a) *Accessory dwelling unit* means a separate dwelling unit which is contained entirely within the confines of a building which otherwise retains the design and appearance of a detached, single-family home. The accessory dwelling unit shall have separate living, sleeping, sanitary and kitchen facilities for the exclusive use of the unit occupants. The accessory dwelling unit shall not be rented.~~
 - ~~(b) *Living area* means the interior habitable area of a dwelling unit including finished basements but does not include a garage or any accessory structure.~~
 - ~~(c) *Owner-occupied* means that either the principal dwelling unit or the accessory dwelling unit is occupied by a person who has the primary or residuary title to property.~~
 - ~~(d) *Seasonal use* means any three consecutive months during a twelve month period.~~

Sec. 78-1272 Housing Opportunity Program

1. Purpose

The purpose of this section is to meet the requirements of the State of Maine Housing Opportunity Program to allow for the following:

- A. Additional density for affordable housing developments in certain areas (Affordable Housing Density Bonus);
- B. Multiple dwelling units on lots designated for housing (Dwelling Unit Increase Allowance); and
- C. Dwelling units created under this section shall not be used for short-term rentals.

2. Applicability

The regulations in this ordinance apply to any affordable housing development or dwelling unit proposed to be developed under the Housing Opportunity Program, except as otherwise outlined in this section.

- A. Affordable housing developments and dwelling units proposed under this section shall not be allowed to be developed on nonconforming lots, within nonconforming structures, or on lots/structures with nonconforming uses.
- B. Affordable housing developments and dwelling units created under this section must meet all other applicable federal, state, and local, laws, codes, ordinances, and regulations.
- C. This section does not:
 - 1) 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 the State rule, as long as the agreement does not abrogate rights pursuant to the United States Constitution or the Constitution of Maine;
 - 2) Exempt a subdivider from the requirements in Title 30-A, Chapter 187, subchapter 4;
 - 3) Exempt an affordable housing development or dwelling units from the shoreland zoning requirements established by the Department of Environmental Protection pursuant to Title 38, Chapter 3 and local shoreland zoning ordinances; or
 - 4) Abrogate or annul minimum lot size requirements under Title 12, Chapter 423-A.

3. Definitions exclusive to the Housing Opportunity Program

As used in this section the terms listed below have meanings set forth below, whether or not such terms are otherwise defined elsewhere in this chapter. Terms not listed below have the same meanings as in section 78-1 of this chapter.

Accessory dwelling unit: a self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit located on the same parcel of land.

Affordable housing development:

- 1. 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 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs; and
- 2. 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 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs.

3. For purposes of this definition, “housing costs” include, but are not limited to:
 - a) For a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and
 - b) For an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner’s insurance, condominium fees, and homeowners’ association fees.

Area median income: The midpoint of a region’s income distribution calculated on an annual basis by the U.S. Department of Housing & Urban Development.

Attached: Connected by a shared wall to the principal structure or having physically connected finished spaces.

Base density: The maximum number of units allowed on a lot not used for affordable housing based on dimensional requirements in a local land use or zoning ordinance. This does not include local density bonuses, transferable development rights, or other similar means that could increase the density of lots not used for affordable housing.

Centrally managed water system: A water system that provides water for human consumption through pipes or other constructed conveyances to at least 15 service connections or serves an average of at least 25 people for at least 60 days a year as regulated by 10-144 C.M.R. Ch. 231, Rules Relating to Drinking Water. This water system may be privately owned.

Certificate of occupancy: The municipal approval for occupancy granted pursuant to 25 M.R.S. § 2357-A or the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103. Certificate of occupancy may also be referred to as issuance of certificate of occupancy or other terms with a similar intent.

Comparable sewer system: Any subsurface wastewater disposal system that discharges over 2,000 gallons of wastewater per day as regulated by 10-144 C.M.R. Ch. 241, Subsurface Wastewater Disposal Rules.

Comprehensive plan: A document or interrelated documents consistent with 30-A M.R.S. § 4326(1)-(4), including the strategies for an implementation program which are consistent with the goals and guidelines established pursuant to Title 30-A, Chapter 187, Subchapter II.

Density requirements: The maximum number of dwelling units allowed on a lot, subject to dimensional requirements.

Designated growth area: The area that is designated in a comprehensive plan as suitable for orderly residential, commercial, or industrial development, or any combination of those types of development, and into which most development projected over ten (10) years is directed.

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

Duplex: a structure containing two (2) dwelling units.

Dwelling unit: Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, time-share units, and apartments.

Existing dwelling unit: A dwelling unit in existence on a lot at the time of submission of a permit application to build an additional unit on that lot

Housing: Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, time-share units, and apartments. For purposes of this section, this does not include dormitories, boarding houses or other similar types of housing units. This also does not include transient housing or short-term rentals, unless these uses are otherwise allowed in local ordinance.

Land use ordinance: An ordinance or regulation of general application adopted by the municipal legislative body which controls, directs, or delineates allowable uses of land and the standards for those uses.

Lot: A single parcel of developed or undeveloped land.

Multifamily dwelling: A building containing three (3) or more dwelling units.

Potable: Safe for drinking as defined by the U.S. Environmental Protection Agency's (EPA) Drinking Water Standards and Health Advisories Table and Maine's interim drinking water standards for six different perfluoroalkyl and polyfluoroalkyl substances (PFAS), Resolve 2021 Chapter 82, Resolve, To Protect Consumers of Public Drinking Water by Establishing Maximum Contaminant Level for Certain Substances and Contaminants.

Principal structure: A structure in which the main or primary use of the lot is conducted. For purposes of this rule, principal structure does not include commercial buildings.

Quadplex: a structure containing 4 (four) dwelling units.

Restrictive covenant: A provision in a deed, or other covenant conveying real property, restricting the use of the land.

Setback requirements: The minimum horizontal distance from a lot line to the nearest point of a structure.

Short-Term Rental: Any building or structure, or portion thereof, that is offered or provided to a guest or guests to be used for living or sleeping for a fee for less than thirty (30) consecutive

days, with the exception of motels, hotels, bed and breakfast, inn's, overnight cabins, and campgrounds. Short-term rental units may be whole house, duplexes, multifamily, apartments, condominiums, condominium hotels/motels, and individual rooms or individual units in homes, duplexes, multifamily, apartments, condominiums, and condominium hotels/motels.

Single-family dwelling unit: A detached residence designed for or occupied by one family only. Only one such single-family dwelling shall be permitted per lot.

Structure: Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons as defined in 38 M.R.S. § 436-A(12).

Triplex: A structure containing three (3) dwelling units.

Zoning ordinance: A type of land use ordinance that divides a municipality into districts and that prescribes and reasonably applies different regulations in each district.

4. Housing Opportunity Program Performance Standards

The Housing Opportunity Program Performance Standards below apply to any dwelling units created under Section 78-1272:

A. Water and Wastewater Requirements

The owner of a proposed affordable housing development or dwelling units shall provide written verification that the affordable housing development or dwelling units are connected to adequate water and wastewater services prior to certification of the structure for occupancy. Written verification must include the following:

- 1) If an affordable housing development or dwelling unit is connected to a public sewer system, proof of adequate service to support any additional flow created by the unit(s) and proof of payment for the connection to the sewer system;
- 2) If an affordable housing development or dwelling unit 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 pursuant to 30-A M.R.S. § 4221. Plans for a subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. ch. 241, *Subsurface Wastewater Disposal Rules*.
- 3) If an affordable housing development or dwelling unit is connected to a public 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
- 4) If an affordable housing development or dwelling unit is connected to a well, proof of access to potable water, including the standards outlined in 01-672 C.M.R. ch. 10, section 10.25(J), *Land Use Districts and Standards*. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

B. Parking

Parking shall be provided as follows for units created under the Housing Opportunity Program:

<u>Housing Opportunity Program unit type</u>	<u>Parking requirement</u>
<u>Affordable Housing Development</u>	<u>Minimum of two (2) off-street parking spaces for every three (3) dwelling units. The number of parking spaces required shall be rounded up to the nearest whole number.</u>
<u>Dwelling unit increase allowance</u>	<u>Minimum number of off-street parking spaces as required by Ch. 78 Zoning.</u>

C. Addressing

The applicant shall show the road name(s) and address on the plan after consultation and approval by the town assessor, prior to any approval. The road name(s) and address shall be used for the purpose of E-911 addressing.

5) **Affordable Housing Density Bonus**

The Affordable Housing Density Bonus allows a density bonus for certain affordable housing developments approved on or after January 1, 2024, as outlined below:

A. Eligibility for Affordable Housing Density Bonus

For purposes of the Affordable Housing Density Bonus an applicant/owner shall demonstrate that the development:

- 1) Is an affordable housing development as defined in this section, which includes the requirement that a majority of the units are affordable;
- 2) Is in a designated growth area pursuant to 30-A M.R.S. § 4349-A(1)(A) or (B) or served by a public or other centrally managed water system and a public or other comparable sewer system;
- 3) Is located in an area in which multifamily dwellings are allowed, as described in Chapter 78, Article VI - Districts;
- 4) Complies with minimum lot size requirements in accordance with Title 12, chapter 423-A.
- 5) Meets the zoning district space and bulk requirements, except for the density bonus provided pursuant to this section.

B. Long-Term Affordability

Prior to granting a certificate of occupancy or other final approval of an affordable housing development, the owner of the affordable housing development shall execute a restrictive

covenant that is enforceable by a party acceptable to the Town, to be decided at the time of planning board approval; and record the restrictive covenant in the appropriate registry of deeds to ensure that for at least thirty (30) years after completion of construction:

- 1) For rental housing, occupancy of all 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 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. Density Bonus for Affordable Housing

If the requirements for eligibility for density bonus outlined under the Affordable Housing Density Bonus above are met, the following density bonuses are allowed:

- 1) An affordable housing development can have a dwelling unit density of 2.5 times the base density of the zoning district in which the lot is located; and
- 2) If fractional results occur when calculating this density bonus, the number of units is rounded down to the nearest whole number.

6) Dwelling unit increase allowance

The Dwelling unit increase allowance allows for multiple dwelling units on lots where housing is allowed beginning on January 1, 2024, subject to the requirements below:

A. Applicability

- 1) If more than one dwelling unit has been constructed on a lot as a result of this allowance pursuant to Section 78-1272, the lot is not eligible for any additional units or increases in density. The planning board will determine if a dwelling unit or accessory dwelling unit has been constructed on the lot.
- 2) If a dwelling unit(s) in existence as of January 1, 2024 is torn down, resulting in an empty lot, for the purpose of the dwelling unit increase allowance in this section, the lot shall be treated as if the unit still existed, unless prior authorization for the demolition and dwelling unit increase allowance is given by the planning board, in which the board will determine the maximum number of dwelling units allowed, not to exceed the allowances in this section.
- 3) Dwelling units proposed under this section need to meet the Ch. 78, Article VIII, Performance Standards for Multifamily housing which includes access standards, landscaping, and buffering requirements.

B. Dimensional and setback requirements

Proposed dwelling units pursuant to Section 78-1272 shall meet the space and bulk requirements for the zoning district in which the lot is located.

1) The number of units allowed under the Dwelling Unit Increase Allowance are listed in the table below:

<u>Number of existing dwelling units on lot in area in which housing is allowed</u>	<u>Max number of dwelling units</u>	
	<u>Lot in designated growth area</u>	<u>Lot outside designated growth area</u>
<u>0</u>	<u>Up to Four (4), with no more than one single-family structure allowed. Under this section the structure arrangement can include duplexes, a triplex, or a quadplex.</u>	<u>Up to Two (2) within one structure or as two separate structures</u>
<u>1</u>	<u>Up to Two (2): one within or attached to existing structure, one detached from existing structure, or one of each</u>	
<u>2</u>	<u>Zero (0)</u>	

Sec. 78-1383 Accessory Dwelling Unit

5. Purpose

The purpose of this section is to meet the requirements of the State of Maine Housing Opportunity Program to allow for the following:

- D. One accessory dwelling unit to be located on a lot containing one single-family dwelling unit in any area where housing is permitted (Accessory Dwelling Unit - ADU).
- E. The ADU shall not be used for short-term rentals.

6. Applicability and Application Requirements

This ordinance applies to any ADU proposed to be developed after the date in which this ordinance is adopted.

- D. ADUs approved by the town of Old Orchard Beach and constructed before the adoption of this ordinance shall be allowed to continue.
- E. An ADU can be located on the same lot where a single-family dwelling unit is the principal structure and only existing dwelling unit in any area in which housing is allowed, provided the ADU requirements and performance standards outlined in this section are met, and shall be constructed only:
 - 1) Within the existing single-family dwelling unit or accessory structure on the lot;
 - 2) Attached to the single-family dwelling unit; or
 - 3) As a new structure on the lot for the primary purpose of creating an ADU

- F. This section does not:
- 5) 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 the State rule, as long as the agreement does not abrogate rights pursuant to the United States Constitution or the Constitution of Maine;
 - 6) Exempt a subdivider from the requirements in Title 30-A, Chapter 187, subchapter 4;
 - 7) Exempt an ADU from the shoreland zoning requirements established by the Department of Environmental Protection pursuant to Title 38, Chapter 3 and the Town of Old Orchard Beach shoreland zoning ordinance; or
 - 8) Abrogate or annul minimum lot size requirements under Title 12, Chapter 423-A.
 - 9) Allow an ADU to further increase a lot nonconformity, meaning the ADU cannot cause further deviation from the dimensional standard(s) creating the nonconformity, excluding lot area.
- G. Applications for ADUs will be reviewed by the Code Enforcement Officer through building permit review and must contain the following in addition to meeting the requirements and standards in this section:
- 1) A mortgage loan inspection plan prepared by a Maine licensed land surveyor and drawn to scale showing the boundaries of the lot; any existing improvements on the lot, including buildings, structures, and paving; and any existing easements. This requirement may be waived by the Code Enforcement Officer if the proposed construction is entirely internal to the principal dwelling structure on the subject property.
 - 2) A separate copy of the mortgage loan inspection plan prepared by a Maine licensed land surveyor that is marked up to scale by either the applicant or the surveyor to include the following additional information: the proposed improvements to the lot, including buildings, structures, paving, landscaping, easements, and utilities; a safe path of travel for access to the ADU; a title block with the property address approved by the assessor and map, block, and lot identification; the name of the record owner of the property; north arrow; date; total square footage of the principal dwelling; total square footage of the ADU; percentage of the ADU total square footage in relation to the principal dwelling total square footage; and the number and location of parking spaces provided.
 - 3) For any ADU involving new construction (interior or exterior), a set of building plans, photographs or drawings that show the following: existing and proposed principal and accessory buildings; the floor plan of the principal building and the ADU; elevations for all sides of the existing and proposed buildings; and the architectural treatment of the principal building and the ADU.

7. Definitions exclusive to the Accessory Dwelling Unit

As used in this section the terms listed below have meanings set forth below, whether or not such terms

are otherwise defined elsewhere in this chapter. Terms not listed below have the same meanings as in section 78-1 of this chapter.

Accessory Dwelling Unit (ADU): a self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit located on the same parcel of land.

Attached: means connected by a shared wall to the principal structure or having physically connected finished spaces.

Certificate of occupancy: The municipal approval for occupancy granted pursuant to 25 M.R.S. § 2357-A or the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103.

Short-Term Rental: Any building or structure, or portion thereof, that is offered or provided to a guest or guests to be used for living or sleeping for a fee for less than thirty (30) consecutive days, with the exception of motels, hotels, bed and breakfast, inn's, overnight cabins, and campgrounds. Short-term rental units may be whole house, duplexes, multifamily, apartments, condominiums, condominium hotels/motels, and individual rooms or individual units in homes, duplexes, multifamily, apartments, condominiums, and condominium hotels/motels.

Single-family dwelling unit: A detached residence designed for or occupied by one family only. Only one such single-family dwelling shall be permitted per lot.

8. Standards and Requirements for Accessory Dwelling Units

D. Water and Wastewater

The owner of an ADU shall provide written verification that the ADU is connected to adequate water and wastewater services prior to certification of the ADU for occupancy. Written verification must include the following:

- 7) If the lot is served by public sewer, both the single-family dwelling and the ADU must be connected to the public sewer system. If being connected to a public sewer system, proof of adequate service to support any additional flow created by the ADU and proof of payment for the connection to the sewer system;
- 8) If the lot is served by subsurface sewage disposal, the owner must demonstrate that the use conforms to the State of Maine Minimum Lot Size law and that the sewage disposal system(s) for both the single-family dwelling and the ADU complies with the Maine Subsurface Wastewater Disposal rules. If an ADU 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 pursuant to 30-A M.R.S. § 4221. Plans for a subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. ch. 241, *Subsurface Wastewater Disposal Rules*.
- 9) If an ADU is connected to a public 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
- 10) If an ADU is connected to a well, proof of access to potable water, including the standards outlined in 01-672 C.M.R. ch. 10, section 10.25(J), *Land Use Districts and Standards*. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

E. Parking

An ADU is not subject to any additional motor vehicle parking requirements beyond the parking requirements of the single-family dwelling unit on the lot where the ADU is located.

F. Addressing

The applicant shall show the road name(s) and address on a plan after consultation and approval by the town assessor, prior to any approval. This will be used for the purpose of E-911 addressing.

G. Space and Bulk

- 1) Any new accessory structure constructed on the lot to be an ADU shall meet the setback requirements as required for an accessory structure in that zoning district.
- 2) An ADU located within the same structure as a single-family dwelling or attached to a single-family dwelling, shall meet the setback requirements and not exceed the maximum height, as required for a single-family dwelling in that zoning district;
- 3) A detached ADU shall not exceed the maximum height allowed for an accessory building.
- 4) For an ADU permitted in an existing accessory structure or garage as of January 1, 2024, the setback requirements of the existing accessory structure or garage shall apply.
- 5) For the purposes of this section, ADUs outside of a shoreland zone shall not be considered to be a second dwelling unit for determining the required minimum lot area, or net residential density.
- 6) The ADU and single-family dwelling shall not exceed the maximum building coverage allowed for the zoning district in which the lot is located.

H. Size

- 1) An ADU must be a minimum of 190 square feet and shall not exceed 50 percent of the floor area of the single-family dwelling unit, up to a maximum total floor area of 1,000 square feet, or whichever is less.
- 2) The ADU shall not contain more than two bedrooms.
- 3) Floor area measurements of the single-family dwelling shall not include unfinished attic, basement or cellar spaces.
- 4) Total floor area of an ADU shall be measured from the interior faces of the inside walls.

I. Performance standards

- 1) ADUs established under this section must meet the performance standards below, as part of the permitting requirements, and the applicant must provide a narrative describing conformance with each:

- (a) The construction of any ADU must be in conformity with all applicable federal, state and local laws, codes, ordinances, and regulations.
- (b) The ADU cannot be permitted or licensed for short-term rentals.
- (c) Only one ADU is permitted per lot.
- (d) If there is more than one dwelling unit on a lot, an ADU is not permitted.
- (e) An ADU must remain in common ownership with the single-family dwelling unit.
- (f) An ADU must not be sold separately from the single-family dwelling.
- (g) The owner of the lot on which the ADU is located must reside in that unit or the single-family dwelling, either of which residence may be seasonal, or occupied seasonally by the owner.
- (h) To ensure continued compliance by current and subsequent owners, the applicant shall provide and record in the York County Registry of Deeds a covenant in a form acceptable to the town that the existence of the ADU is predicated upon the occupancy of either the ADU or principal dwelling by a person who owns the property. It is also required that any owner of the property must notify a prospective buyer of the limitations of this section. Violations of the terms of this covenant shall result in the loss of the ADU permit. Said covenant shall be provided to the town prior to the issuance of an occupancy permit for the ADU.
- (i) If an owner is unable or unwilling to fulfill the owner occupancy requirement, the owner must remove the features of the ADU that make it a dwelling.
- (j) A safe path of travel shall be provided from the ADU to the nearest public sidewalk or right-of-way. The path must be a minimum of three (3) feet wide and remain clear and passable at all times.
- (k) Above-ground exterior mechanical and utility equipment associated with the accessory dwelling unit should not be located within any required structure setbacks and shall be shielded to protect neighboring properties.
- (l) A detached ADU is not permitted to have a rooftop deck.
- (m) To improve compatibility with neighborhoods, ADUs must be built with an orientation, scale, and architectural style that reflects the predominant pattern existing in the neighborhood, preserves privacy for neighbors and for the occupants of the single-family dwelling.

Per Order of the Municipal Officers this 21st day of November, 2023.

A True Copy

Attest:

s/Kim McLaughlin

Kim M. McLaughlin, Town Clerk

