



Town Council - Meeting Commentary

January 2nd, 2024 @ 6:30pm
Council Chambers - 1 Portland Avenue

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PLEDGE OF ALLEGIANCE:

ROLL CALL:

ACKNOWLEDGEMENTS:

GOOD & WELFARE:

PRESENTATION:

Jordan Miles, Finance Director – FY 2024 YTD Financial Status

ACCEPTANCE OF MINUTES:

Accept minutes of the 12/5/2023 Regular Town Council Meeting and the 12/12/2023 Town Council Workshop.

Chair: Shawn O'Neill

Tabled from 12/5/23

PUBLIC HEARING – ORDINANCE AMENDMENTS:

Shall the Town consider amending the Code of Ordinances,
Chapter 78, Article I,
Sec. 78-1; Article VI, Sections:

- 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);
- CONTINUED ON NEXT PAGE

- 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. 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.

Chair: Shawn O'Neill

**TO: Old Orchard Beach Town Council
Diana Asanza, Town Manager
Tim Fleury, Executive Assistant**
FROM: Planning Department
SUBJECT: Housing Opportunity Program Ordinance Amendments Workshop
DATE: 28 November 2023

I. The law and why we need to amend our ordinances:

What does the state law say?

- The law sets forth the provisions that require municipalities to create or amend local ordinances to allow for the following:
 - (1) Additional units on lots zoned for single-family homes.
 - (2) At least one accessory dwelling unit on lots with existing single-family homes; and
 - (3) Allow 2 1/2 times the currently allowed housing units, for developments where most of the units meet standard affordability definitions.
- The goal of the law is to alleviate housing affordability issues in Maine by increasing housing opportunities.
- If a municipality does not adopt ordinances to comply with the law, this legislation will preempt municipal home rule authority.

Why is this before us? What is the Town required to do?

- Since this is signed into state law we need to amend our ordinances to meet the requirements of the law.
- The implementation date is January 1, 2024 for municipalities that enact ordinances without approval of voters of the municipality.

II. History summary:

- State
 - LD 2003 was passed by the State Legislature and signed by the Governor in April 2022, and went into effect July 27, 2022. The original required implementation date was July 1, 2023
- Amendments/law changes
 - LD 1706, An Act to Clarify Statewide Laws Regarding Affordable Housing and Accessory Dwelling Units, became effective on June 16, 2023.
 - This legislation amended LD 2003 by extending the implementation date of July 1, 2023, to January 1, 2024, for municipalities that enact ordinances by municipal officer without further action, and July 1, 2024, for all other municipalities.
- PB process
 - This was first introduced to the PB at the May 11, 2023 meeting.
 - The PB had two workshops in June 2023.
 - The PB held two public hearings on July 13, 2023 and October 12, 2023
 - The PB made a recommendation at their November 9, 2023 meeting that the Town Council adopt the ordinances.
- Council
 - The first draft ordinance was introduced to council at the June 6, 2023 meeting.

III. Summary of ordinance amendments:

Affordable Housing Density Bonus

- Density: 2.5 x what is allowed in the base district
- Setbacks: Same as underlying districts
- Parking: Minimum 2 spaces for every 3 dwelling units
- Key Points:
 1. Must meet affordable housing definition
 2. In designated growth area or served by public water and public sewer
 3. Must be in district that allows multifamily
 - Districts that allow multifamily are R2, R3, R4, DD1, DD2, GB1, GB2, NC1, NC2, NC3, ID, BRD, RBD, PMUD, and HO
 4. Complies with state minimum lot size requirements (lots served by septic system only, minimum lot size is 20,000 sq ft)
 5. Provide documentation unit(s) are connected to adequate water and wastewater systems

Dwelling Unit Increase Allowance (Non-Affordable Housing, market-rate)

- Density: Same as underlying district
- Increase allowance:
 1. If lot has no existing dwelling units:
 - 4 units max in growth areas (growth areas include all regular zoning districts except RD)
 - no more than one single-family structure allowed. The structure arrangement can include duplexes, a triplex, or a quadplex.
 - 2 units max in non-growth areas
 2. Lot with 1 unit existing: 2 units max
 3. Lot with 2 units existing: 0 units
- Setbacks: Same as underlying districts
- Parking: Same as underlying districts
- Key Points:
 1. Dwelling units created under this section cannot be used for short term rentals.
 2. More than 1 unit constructed on lot using the Dwelling Unit Increase Allowance, the lot is no longer eligible for additional units or increases in density.
 3. Dwelling removed and results in vacant lot after date of ordinance adoption, lot shall be treated as if the dwelling still exists for the purposes of the Dwelling Unit Increase Allowance under this ordinance, unless prior authorization for the demolition and dwelling unit increase is given by the PB.
 - Provide documentation unit(s) are connected to adequate water and wastewater systems

Accessory Dwelling Unit (ADU)

- Density: ADUs outside of a shoreland zone are not considered to be a second dwelling unit for determining the required minimum lot area, or net residential density.
- 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
- Setbacks:
 1. If separate, stand-alone structure must meet accessory structure setbacks in underlying district
 2. If within or attached to existing structure must meet the principal structure setbacks for the underlying district
- Parking: Exempt from parking requirements
- Key Points:
 1. Does not allow an ADU to be permitted or licensed for short-term rentals
 2. ADU's can be within or attached to existing single family. Also, ADU's can be in a detached structure

3. Floor Area: Minimum 190 sq. ft., Maximum 1,000 sq. ft. or 50% of floor area of the existing single family
4. Height: Cannot exceed maximum principal building height of underlying district, and if detached, cannot exceed the maximum height allowed for an accessory structure.
5. If there is more than one dwelling unit on a lot, an ADU is not permitted
6. ADU cannot contain more than two bedrooms
7. Cannot be separately owned; single family and ADU must be in common ownership
8. Owner must reside (seasonal allowed) in ADU or single family
9. Built so design and orientation is compatible with neighborhood
10. Provide documentation unit(s) are connected to adequate water and wastewater systems
11. Does not require Planning Board review

IV. QA:

- **What happens if we don't comply?**
 - *This legislation will preempt municipal home rule authority, which means that any ordinance or regulation that is not consistent with the law may be challenged as invalid.*
- **Examples of how this works in districts w/ smaller lots (R2, Ocean Park, Homewood Park)**
 - **R2 District (Union Ave, Washington Ave areas)**
 - *Single-family and two-family are currently permitted in this district.*
 - *Multifamily is currently a conditional use so it is considered allowed.*
 - *Accessory Dwelling Units are not currently allowed.*
 - *Minimum lot size is 20,000 sq. ft. Minimum net lot area per family unit is 10,000 sq. ft.*
 - *Under the affordable housing density bonus a 20,000 sq. ft. lot could have 5 units*
 - *The dwelling unit increase allowance references underlying district density so units created under this allowance couldn't exceed what is currently allowed.*
 - *A lot with only a single-family dwelling could potentially add an ADU.*
 - **R3 District (Ocean Park area)**
 - *Single-family and two-family are currently permitted in this district.*
 - *Multifamily is currently a conditional use so it is considered allowed.*
 - *Accessory Dwelling Units are currently allowed as a conditional use.*
 - *Minimum lot size is 9,000 sq. ft., and minimum net lot area per family unit requirement is 5,000 sq. ft.*
 - *Under the affordable housing density bonus a 10,000 sq. ft. lot could have 5 units*
 - *The dwelling unit increase allowance references underlying district density so units created under this allowance couldn't exceed what is currently allowed.*
 - *A lot with only a single-family dwelling could potentially add an ADU.*
 - **R5 District (Homewood Park)**
 - *R5 District is currently considered a single-family private dwelling district.*
 - *Multifamily is not currently allowed in R5 so the affordable housing bonus density couldn't be used in this district.*
 - *Accessory Dwelling Units are currently allowed as a conditional use.*
 - *Minimum lot size is 20,000 sq. ft., and minimum net lot area per family unit requirement is 20,000 sq. ft.*

- *Many lots are 20,000 sq. ft. and couldn't use the dwelling unit increase allowance to add additional dwellings because the underlying district density still needs to be met.*
 - *A 40,000 sq. ft. lot with a single-family dwelling could add a second dwelling unit under this new ordinance, provided other requirements are met. Our current ordinance wouldn't allow a second dwelling unit in this district.*
 - *A lot with only a single-family dwelling could potentially add an ADU.*
- **How does proposed ADU differ from what exists?**
 - *Our current ordinance doesn't allow for the single-family dwelling or accessory dwelling unit to be rented.*
 - *This draft ADU ordinance prohibits the single-family dwelling or accessory dwelling unit from being used as a short-term rental.*
 - *There is still an owner occupancy requirement to occupy either the single-family dwelling or accessory dwelling unit.*
 - *The draft ordinance eliminates the family relation restriction for the ADU.*
 - *It also eliminates the requirement for a primary entrance via primary structure.*
 - *The minimal square footage requirement was reduced down to 190 square feet from the 500 square feet, to match the law (unless the Technical Building Code and Standards Board adopts a different minimum standard).*
 - *The requirement for additional parking is eliminated because the state law doesn't allow us to require additional parking for an ADU.*
- **Has this been reviewed by Town Attorney?**
 - *This has not been reviewed by the Town Attorney. During the drafting of the ordinance I did use the State guidance document, and reviewed legal presentations on the law.*
- **PB comments/concerns**
 - *There was some confusion early on over the dwelling unit increase allowance and how it worked in regards to density since it doesn't allow a greater density than the underlying district.*
 - *This was clarified by explaining that the law is essentially eliminating single family only zoning.*
 - *There was some discussion on short term rentals (STRs).*
 - *One concern with STRs was with the affordable housing density bonus and rental of those units' short term.*
 - *A restrictive covenant needs to be filed with the registry of deeds with specific affordability requirements, and restrictions on STRs could be included in the covenant if needed.*
 - *Another concern was maintaining the affordability, and the restrictive covenant is required to ensure that for at least 30 years after completion of construction the affordability guidelines are met.*
 - *The PB had some concerns on the 2.5 times density bonus for affordable housing, but most of the concern had to do with the parking reduction from the current standards.*
- **Which districts will allow Affordable Housing Density Bonus, Dwelling Unit Increase Allowance, and ADUs?**
 - Affordable Housing Density Bonus:
 - *Allowed in all districts where multifamily is allowed, that are either in a growth area, or area served by public water and sewer.*

- *Districts that allow multifamily are R2, R3, R4, DD1, DD2, GB1, GB2, NC1, NC2, NC3, ID, BRD, RBD, PMUD, and HO*
 - *Dwelling Unit Increase Allowance:*
 - *There are only four districts that currently restrict residential to single family only that would now need allow more than a single family.*
 - *R1, R5, NC4, and RD*
 - *R1, R5, and NC4 are growth areas.*
 - *RD is not a growth area.*
 - *ADUs*
 - *ADUs would be allowed on a lot containing one single family dwelling unit in any area residential uses are permitted. This essentially includes all zoning districts.*
- **Difference between requirements for affordable versus market rate?**
 - *A 3.7-acre lot in GB1 / R4 with a 5,000 sq. ft. per unit density requirement would allow the following:*
 - *Current density: 32 units and require 64 parking spaces.*
 - *Density under the affordable housing density bonus: 80 units and require 54 parking spaces.*
- **How do these changes handle parking?**
 - *Affordable Housing Density Bonus: requires two off-street parking spaces for every three dwelling units.*
 - *Dwelling Unit Increase Allowance: No changes; requires minimum number of off-street parking spaces as currently required by Ch. 78 (for residential in most cases it is two spaces per dwelling.*
 - *ADU: No additional parking can be required.*
- **Can approved subdivisions put in more units?**
 - *It depends if there are covenants, deed restrictions, or other agreements which would limit use of the lot to single family residential.*

V. Deadline / Next steps

- *Schedule a public hearing*
- *Adopt draft ordinances by January 1, 2024*

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, at 6:30 p.m. to consider the following:

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 noneonforming 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>0</u>	<u>Lot in designated growth area</u>	<u>Lot outside designated growth area</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.	Up to Two (2) within one structure or as two separate structures
<u>1</u>	Up to Two (2): one within or attached to existing structure, one detached from existing structure, or one of each	
<u>2</u>	Zero (0)	

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.

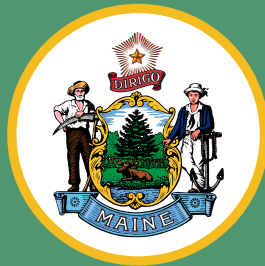
A True Copy

Attest:

s/Kim McLaughlin

Kim M. McLaughlin, Town Clerk

PL 2021, Ch. 672 (LD 2003) Guidance



MAINE DEPARTMENT OF
ECONOMIC AND COMMUNITY
DEVELOPMENT

PL 2021, Ch. 672 Guidance

PL 2021, Ch. 672, “An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions,” generally referred to by its legislative tracking name of LD 2003, was signed into law by Governor Mills on April 27, 2022. This law is designed to remove unnecessary regulatory barriers to housing

production in Maine, while preserving local ability to create land use plans and protect sensitive environmental resources. LD 2003 is based on the recommendations of the legislative commission named in the title, though not all those recommendations are included in the enacted legislation.

In June 2023, Governor Mills signed into law, LD 1706, An Act to Clarify Statewide Laws Regarding Affordable Housing and Accessory Dwelling Units. This legislation amended LD 2003 by extending the compliance date for municipalities, as well as making minor changes for clarity.

This guidance is the result of a collaborative effort by the Department of Economic and Community Development, the Governor’s Office of Policy Innovation and the Future, the Department of Agriculture, Conservation and Forestry; legislative staff, and several municipal lawyers and community planners. It is intended to provide information for local authorities to use in determining how LD 2003 affects their local zoning and land use codes, as well as what steps they can take if they wish to tailor their ordinances to avoid conflicts with state laws. This guidance is not legally binding or intended to serve as a substitute for the statutory language or the rule, 19-100 CMR Ch. 5, Housing Opportunity Program: Municipal Land Use and Zoning Ordinance Rule. It represents the interpretation of LD 2003 and LD 1706 and the rule, as well as its requirements by the state agencies that are responsible for its implementation.





PL 2021, ch. 672 has the following sections that are relevant to municipal government. The amended sections of state law are shown in the chart below. Among other things:

1. Section 4 allows for additional density for “affordable housing developments” in certain areas.
2. Section 5 generally requires that municipalities allow between two and four housing units per lot where residential uses are permitted.
3. Section 6 requires that municipalities allow accessory dwelling units to be located on the same lot as a single-family home, under certain conditions.
4. Sections 3 and 7 require that the state establish statewide and regional housing production goals and set forth ways in which local governments can coordinate with that goal.

WHILE PL 2021, CH. 672 WENT INTO EFFECT ON AUGUST 8, 2022, SOME ELEMENTS OF THE LAW ARE NOT REQUIRED TO BE APPLIED UNTIL JANUARY 1, 2024 OR JULY 1, 2024

<p>Effective Aug. 8, 2022</p> <p>Statewide Housing Production Goals</p> <p>(5 M RSA §13056, sub-§9)</p>	<p>Effective Aug. 8, 2022</p> <p>Municipal Role in Fair Housing/ Short Term Rentals</p> <p>(30-A M RSA §4364-C)</p>	<p>Effective Jan. 1, 2024 or July 1, 2024</p> <p>Accessory Dwelling Units</p> <p>(30 A M RSA §4364-B)</p>
<p>Effective January 1, 2024 or July 1, 2024</p> <p>Affordable Housing Density in Growth Areas Bonus</p> <p>(4 30-A M RSA §4364)</p>	<p>Effective January 1, 2024 or July 1, 2024</p> <p>Two to Four Units</p> <p>(30-A M RSA §4364-A)</p>	

January 1, 2024: Compliance date for municipalities for which ordinances may be enacted by the municipal officers without further action or approval by the voters of the municipality.

July 1, 2024: Compliance date for all other municipalities.

IN GENERAL, AS LONG AS THESE ACTIONS ARE CONSISTENT WITH PL 2021, CH. 672, MUNICIPALITIES MAY:

CONTINUE to develop Growth Management programs, including comprehensive plans and zoning consistent with those plans

ENFORCE local shoreland zoning ordinances consistent with state shoreland zoning law

REGULATE how many square feet of land are needed for each dwelling unit (other than accessory dwelling units)

CONDUCT site plan review, if authorized by local ordinances, of any residential development

REGULATE the maximum size of accessory dwelling units

REGULATE short-term rentals in their community

CREATE rate of growth ordinances so long as they do not limit the number of accessory dwelling units outlined in Section 6

CREATE local ordinances that are more permissive for residential housing development than the requirements of LD 2003

REGULATE housing development based on documented water and wastewater capacity constraints

IN GENERAL, UNDER THIS LAW, LOCAL GOVERNMENTS MAY NOT:

ENACT local ordinances that allow housing but limit it to one unit per lot

PROHIBIT one accessory dwelling unit per lot or count those units towards a rate of growth ordinance

LIMIT the affordable housing density bonuses allowed in LD 2003 in growth areas as defined in state law

Affordable Housing Density Bonus

30-A MRS § 4364

This section requires municipalities to allow an automatic density bonus for certain affordable housing developments. This section only applies to lots in zoning districts that have adopted density requirements. To qualify for this bonus, the development must:

1. Be approved after a municipality's implementation date
2. Include a certain number of rent or sales price restricted affordable housing units
3. Be in a growth area under section 4349-A, subsection 1, paragraph A or B, or served by water and sewer
4. Be in an area in which multifamily dwellings are allowed
5. Meet shoreland zoning requirements, meet minimum lot sizes if using subsurface waste disposal, and verify that water and sewer capacity is adequate for the development

BONUSES FOR AN AFFORDABLE HOUSING DEVELOPMENT

To take advantage of this density bonus, a development must qualify as "affordable" (as defined below). If eligible, the affordable housing development qualifies for the following exceptions to the zoning requirements in the community:

1. The number of units allowed will be 2.5 times the number allowed for a development not designated affordable
2. The off-street parking requirements may not exceed two spaces for every three units

So, for example, if a developer can build up to six units on a site under local rules, and designates the development as affordable, the developer would be eligible to build 15 units (6×2.5). The local off-street parking requirement for this development could not exceed ten spaces ($15 \times \frac{2}{3}$). In cases of fractional results, the number of units would generally be rounded down, but the municipality has discretion to round the number of parking spaces either up or down to the nearest whole number.



WHAT REQUIREMENTS DO AFFORDABLE HOUSING DEVELOPMENTS HAVE TO MEET TO RECEIVE THE DENSITY BONUS?

For rentals, a household with an income at no more than 80% of the area median income for the community, as defined by the U.S. Department of Housing & Urban Development, must be able to afford 51% or more of the units in the development. That means that rent and certain other housing expenses will not require more than 30% of the household's income.

For homeownership projects, a household with an income at no more than 120% of the area median income for the community, as defined by the U.S. Department of Housing & Urban Development, must be able to afford 51% or more of the units in the development. That means that mortgage payments (including mortgage insurance) and certain other housing expenses will not require more than 30% of the household's income.

The units that will be affordable at these levels must be restricted through a restrictive covenant that is enforceable by a party acceptable to the municipality (which could be the municipality) for at least 30 years, and that states that the units must be restricted in rent or sales prices accordingly. Often these developments will be getting funding through MaineHousing, which typically requires a comparable covenant.

Information on Area Median Incomes is updated annually by the U.S. Department of Housing & Urban Development. For reference, MaineHousing maintains updated 80% of area median income and 120% of area median income data on their website.

[View AMI data on MaineHousing.org](#)

QUESTIONS AND ANSWERS ON AFFORDABLE HOUSING DENSITY BONUS

What is meant by “multifamily dwellings?”

“Multifamily dwellings” is defined in rule.

What is a “base density that is otherwise allowed?”

Under a local zoning code, the “base density that is otherwise allowed” is the maximum number of units allowed based on dimensional requirements, such as lot area per dwelling unit. This is defined in rule.

If lot area per dwelling unit can be used as a measure of number of units permitted, do the limits on lot area per dwelling unit requirements in Section 5 apply?

No, Section 5’s provision about “lot area per dwelling unit,” 30-A M.R.S. § 4364-A(3), does not apply to Section 4. Therefore, municipalities have the discretion to designate lot area per dwelling unit when approving “affordable housing developments.” Municipalities, however, must comply with the minimum lot size requirements stated in Title 12, chapter 423- A, as applicable.

Does LD 2003 apply to municipalities that do not use the term “designated growth area,” but instead use a different term for growth districts in comprehensive plans.

Yes. LD 2003 applies to a municipality that has adopted a different term to mean a “designated growth area” in its comprehensive plan.

What if a household exceeds the maximum income after living in the unit?

LD 2003 specifies that the income eligibility is based on household income “at the time of initial occupancy,” meaning that a household could be allowed to remain in an “affordable” unit if their income goes up after they occupy the unit. MaineHousing has experience with this issue, as do communities that manage their own affordable housing programs, so there may be best practices that can be adopted locally. The restrictive covenants should outline how this would work.

What happens when a restricted affordable home ownership unit is sold?

The restrictive covenants should outline how this would work. MaineHousing has experience with this issue, as do communities that manage their own affordable housing programs, so there may be best practices that can be adopted locally.

How does this density bonus interact with any local density bonus that might exist?

A municipality may apply its local density bonus to “affordable housing developments” instead of the density bonus stated in 30-A M.R.S § 4364, as long as the municipality’s local density bonus is equally or more permissive. More permissive, for purposes of this comparison, means that a local density bonus must be more generous and permissive in regard to each of the requirements described in the LD 2003 density bonus.



Residential Areas, Generally; Up to 4 Dwelling Units

30-A MRS § 4364-A

This section requires municipalities to allow multiple dwelling units on parcels where residential uses are allowed, including conditional uses, provided evidence of sufficient water and wastewater capacity exists, beginning on the municipality's implementation date. Municipalities may not apply different dimensional requirements, including but not limited to setback requirements, to lots with more than one dwelling unit on them than they would to a lot with one dwelling unit, with the exception that they may require a minimum lot area per dwelling unit. However, if the municipality chooses to require a minimum lot area per dwelling unit, the lot area required may not be less for the first unit than for subsequent units.

The number of units allowed under this section depends on a few factors:

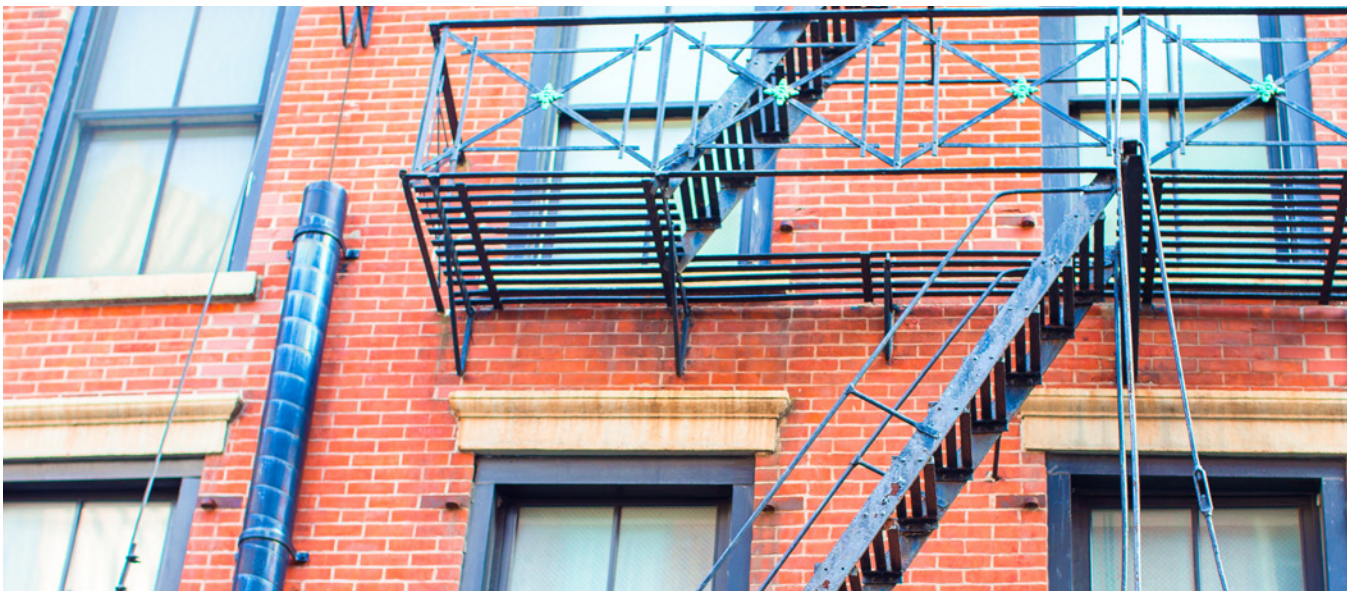
- A lot without a dwelling unit already on it can have two units if it is not within a designated growth area under section 4349-A, subsection 1, paragraph A or B, served by water system and sewer in a municipality without a comprehensive plan.
- A lot with an existing dwelling unit may have up to two additional dwelling units, either one additional attached dwelling unit, one additional

detached dwelling unit, or one of each.

- A lot without a dwelling unit already on it can have four units if it is either:
 - Within a designated growth area under section 4349-A, subsection 1, paragraph A or B, or
 - Served by water system and sewer in a municipality without a comprehensive plan.

Municipalities may allow more than the minimum number required to be allowed on all lots that allow residential uses, if they wish. In addition, private parties are permitted to restrict the number of housing units on a lot in a private easement, covenant, deed restriction or other agreement provided the agreement does not violate State or Federal rights such as equal protection.

Finally, a municipality may determine in local ordinance that if a property owner tears down an existing dwelling unit, the lot may be treated under this section as if the dwelling unit were still in existence.



Lot Area per Dwelling Unit

Additional units may not require more land area per unit than the first unit

NOT PERMITTED



One Unit Requires
10,000 sq ft



Two Units Require
30,000 sq ft



Three Units Require
50,000 sq ft

PERMITTED



One Unit
Requires
10,000 sq ft



Two Units
May Require Up
To 20,000 sq ft



Three Units
May Require Up
To 30,000 sq ft

QUESTIONS AND ANSWERS ON RESIDENTIAL AREAS, GENERALLY UP TO 4 DWELLING UNITS

Subsection 2 (“Zoning Requirements”) says that municipal zoning ordinances “must” comply with certain conditions, but subsection B. says that they “may” regulate how this section applies to a lot where a dwelling unit is torn down. Is this a “must” or a “may”?

Municipalities have the option of taking the actions in subsection B but do not have to do so, in which case a lot where a dwelling unit was torn down would be viewed as a vacant lot.

Subsection 4 says that verification must be provided to “the municipality” of water and wastewater services. Who should that verification be provided to?

These capacity issues should be reviewed by the municipal staff or board that would normally review these issues as part of any housing development.

Does LD 2003 establish minimum dimensional requirements for dwelling units under this section?

Yes, a municipality cannot establish dimensional requirements for additional dwelling units on a lot that are more restrictive than dimensional requirements for a single-family unit, except that a municipal ordinance may establish requirements for a lot area per dwelling unit as long as the required lot area for subsequent units on a lot is not greater than the required lot area for the first unit.

Section 5 requires a municipality to allow up to two dwelling units per lot if that lot contains an “existing dwelling unit.” What does “existing dwelling unit” mean?

“Existing dwelling unit” means a dwelling unit in existence on a lot at the time of submission of a permit application to build additional units on that lot. If a municipality does not have a permitting process, the dwelling unit on a lot must be in existence at the time construction begins for additional units on a lot.

What is meant by “potable” water?

This is addressed in rule.

What if residential uses are allowed in an area but only as a conditional use?

LD 1706 amended LD 2003 to clarify that dwelling units are allowed in any area in which residential uses are allowed, including as a conditional use.

What does “attached to an existing structure” mean?

The rule defines the word “attached.” Municipalities are not required to adopt this definition in local ordinance, but must adopt a definition that is consistent with, and no more restrictive, than the definition in rule.

Does the language in subsection 1 mean that if a lot is served by water and sewer in a municipality without a comprehensive plan that it does not need to be vacant to allow up to 4 units?

No, that language still requires the lot not “contain an existing dwelling unit.”

Does LD 2003 apply to municipalities with comprehensive plans that have expired findings?

Yes. An expired finding does not invalidate a locally adopted comprehensive plan or invalidate ordinances, but it could provide an opening for a party to challenge the ordinance in court. Consultation with legal counsel is recommended.

Do the provisions of LD 2003 that mention “designated growth areas” apply to a municipality that does not use the term “designated growth area,” but instead uses a related term for growth districts in its comprehensive plan?

Yes. LD 2003’s provisions apply to a municipality that does not use the term “designated growth area” but instead uses a related term to mean growth districts in its comprehensive plan.

Residential Areas

Empty Lot Where Housing Is Already Allowed

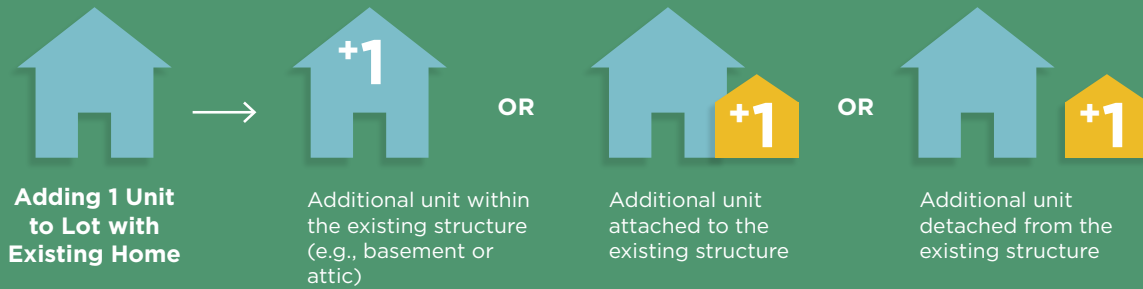


NOTE: The three and four units can be within one structure or multiple structures.

THREE AND FOUR UNITS ALLOWED IF:

- Located in "growth area" consistent with section 4349-A, subsection 1, paragraph A or B.
- Located in area with existing water/sewer capabilities in towns without comprehensive plans.

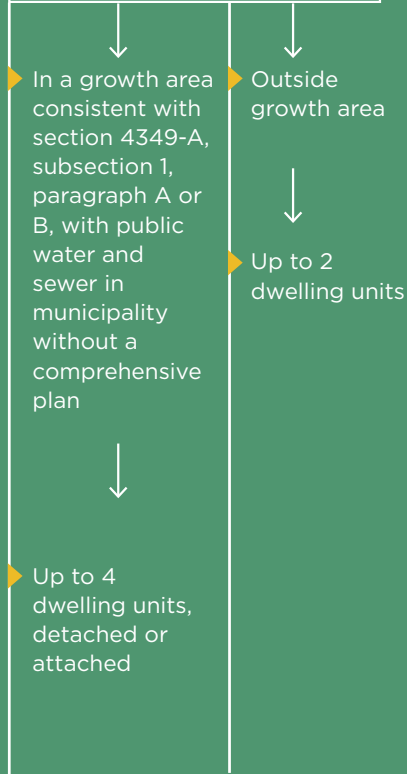
Existing Home



The additional units depicted in orange in this diagram are dwelling units, not accessory dwelling units.

What Can Be Built On This Lot?

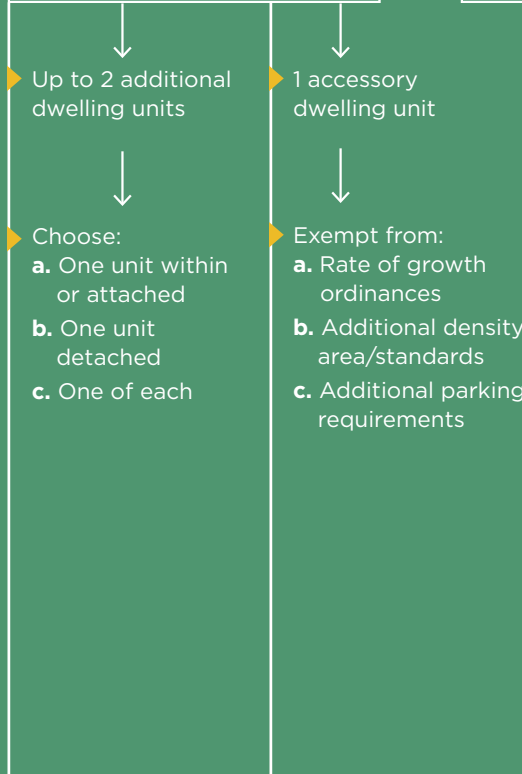
ON LAND WITH **ZERO** EXISTING UNITS



PRIVATE, STATE OR LOCAL STANDARDS SUCH AS THESE MAY APPLY:

- Home Owners Association regulations
- Deed restrictions
- Lot size, set back, density (not greater than single family)
- Septic requirements
- Minimum Lot Size
- Additional Parking requirement
- Growth ordinance permits
- Shoreland Zoning
- Subdivision Law

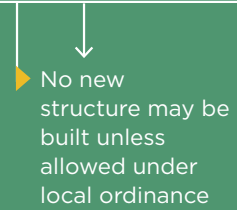
ON LAND WITH **ONE** EXISTING UNIT



PRIVATE, STATE OR LOCAL STANDARDS SUCH AS THESE MAY APPLY:

- Home Owners Association regulations
- Deed restrictions
- Lot size or set back requirements (not greater than single family/existing accessory structure)
- Septic requirements
- Shoreland Zoning
- Other locally determined ADU standards (e.g. maximum size, rules regarding short term rental, etc.)

ON LAND WITH **TWO** EXISTING UNITS



Accessory Dwelling Units

30-A MRSA §4364-B

This section allows any lot with a single-family dwelling in an area where residential uses are permitted, including as a conditional use, to have one accessory dwelling unit (ADU) as well, effective on a municipality's implementation date. That ADU can be within the existing home, attached to it, or in a new structure. Municipalities may also allow existing accessory structures to be converted into an ADU.

An ADU allowed under this law is exempt from zoning density requirements. In reviewing an ADU, the dimensional requirements, excluding lot area, for a single-family home continue to apply unless the municipality makes them more permissive for an ADU. For ADUs in an accessory structure, the dimensional requirements including setback requirements for such a structure apply.

ACCESSORY DWELLING UNIT PARKING

Additional parking requirements for the ADU beyond those required for the single-family dwelling are not permitted.

ACCESSORY DWELLING UNIT SIZE

ADUs must be at least 190 square feet in size. Municipalities may set a maximum size for ADUs in local ordinance.

SHORELAND ZONING

An ADU must comply with state and municipal shoreland zoning requirements, except that a municipality may not categorically prohibit ADUs in the shoreland zone that would otherwise meet state and municipal shoreland zoning requirements.

OTHER MUNICIPAL POWERS

Municipalities may establish an application and permitting process for ADUs that does not require planning board approval, provided it is consistent with in this section. Municipalities may also define ADUs, as long as the definition is consistent with state law in Title 30-A, §4301. 1-C. In addition, municipalities may establish requirements for ADUs that are less restrictive than those in this section, such as allowing more than one ADU on a lot or allowing an ADU for two-family or multifamily dwellings.

SIMILARITIES AND DIFFERENCES FROM OTHER SECTIONS

LIKE SECTIONS 4 AND 5, municipal requirements to verify adequate water and wastewater capacity still apply.

LIKE SECTION 5, private parties are permitted to restrict the number of housing units on a lot, including ADUs, in a private easement, covenant, deed restriction or other agreement provided the agreement does not violate State or Federal rights such as equal protection.

UNLIKE SECTION 5, one ADU for each single-family dwelling does not count towards any rate of growth ordinance as described in §4360.

UNLIKE SECTIONS 4 & 5, additional parking cannot be required for an ADU.

UNLIKE SECTION 5, a municipality may not establish requirements for minimum lot area for the addition of an ADU on a lot with an existing single-family home.

QUESTIONS AND ANSWERS ON ACCESSORY DWELLING UNITS

How is an ADU defined?

LD 2003 does not define ADUs. There is a definition in 30-A MRSA §4301 and many communities define them in local ordinances. This is addressed in rule.

Can an ADU be larger than a primary structure?

Yes, unless the municipality limits the maximum size of an ADU.

Can a previously illegal ADU be legalized under this section?

LD 1706 amended LD 2003 to clarify that an illegal accessory dwelling unit must be allowed by the municipality if the accessory dwelling unit otherwise meets the requirements for accessory dwelling units in municipal ordinance and state law.

If a pre-existing single-family dwelling is on a non-conforming lot (with respect to size, frontage, or similar characteristics) can an ADU be built on that lot?

LD 1706 amended LD 2003 to clarify that an accessory dwelling unit is allowed on a lot that does not conform to the municipal zoning ordinance if the accessory dwelling unit does not further increase the nonconformity, meaning the accessory dwelling unit does not further cause deviation from the dimensional standard(s) creating the nonconformity, excluding lot area.

Subsection 7 says that verification must be provided to “the municipality” of water and wastewater services. Who should that verification be provided to?

These capacity issues should be reviewed by the municipal staff or board that would normally review these issues as part of any housing development.

What is meant by “potable” water?

This is addressed in rule.

What if housing is allowed in an area but only as a conditional use?

LD 1706 amended LD 2003 to clarify that dwelling units are allowed in any area in which residential uses are allowed, including as a conditional use.

What does “attached to an existing structure” mean?

The rule defines the word “attached.” Municipalities are not required to adopt this definition in local ordinance, but must adopt a definition that is consistent with, and no more restrictive, than the definition in rule.

If a parcel has an existing two-unit structure, does subsection 1 allow an ADU to be built?

No, though a municipality would have the ability to allow that.

LD 2003 allows an ADU to be built that is “a new structure on the lot for the primary purpose of creating an accessory dwelling unit.” What does this mean?

This provision allows a new structure to be built on a lot with an existing single-family dwelling unit, as long as the main reason for building the structure is to support human habitation. Local ordinance can define primary purpose further.

Can a municipality require lot area requirements for the addition of an ADU on a lot with an existing single-family home?

No. A municipality must exempt an ADU from density and lot area requirements. The setback and other dimensional requirements, however, continue to apply unless the municipality makes this more permissive for an ADU.

Section 6 allows for the construction of an ADU within an “existing dwelling unit.” What does “existing dwelling unit” mean?

“Existing dwelling unit” means 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. If a municipality does not have a permitting process, the dwelling unit on a lot must be in existence at the time construction begins for an additional unit on a lot.

Parking for ADUs

Example Parking Requirement

NOT PERMITTED



Single Family Home
2 spaces minimum



Single Family Home + ADU
3 spaces minimum



PERMITTED



Single Family Home
2 spaces minimum



Single Family Home + ADU
2 spaces minimum



This example applies to towns with minimum parking requirements.
For towns without parking restrictions, no additional restrictions would be imposed.

Housing Goals & Fair Housing

5 MRS §13056, sub-§9 AND 30-A MRS §4364-C

Section 3 directs the Department of Economic & Community Development, in coordination with Maine-Housing, to develop a statewide housing production goal and regional production goals based on that statewide goal. In doing so, the section instructs the Department to set benchmarks for meeting those goals, as well as to consider information provided by municipalities on current and potential housing development and permits.

Section 7 outlines ways municipalities can play a role in achieving those state and regional goals. It states that municipalities must ensure that local ordinances and regulations are designed to affirmatively further the purposes of the Federal Fair Housing Act, as well as the Maine Human Rights Act, as part of meeting the housing goals. It also explicitly authorizes municipalities to establish and enforce regulations related to short-term rentals to help meet those goals.

For more information on the statewide housing goals, please contact housing.decd@maine.gov

QUESTIONS AND ANSWERS ON SECTIONS 3 & 7

What obligations do the affirmatively furthering fair housing provisions put on municipalities that didn't already exist before LD 2003 passed?

Until recently, the link between land use regulation and fair housing was often not recognized. Section 7 clarifies that municipalities must ensure that zoning and land use ordinances and regulations are designed to affirmatively further the purposes of these state and federal laws.

What happens if local, regional or statewide housing goals are not met?

These sections do not set forth any specific penalties for not meeting these goals.

How does this relate to local Growth Management programs and comprehensive plans?

Local comprehensive plans, while not regulatory documents, should not conflict with these sections. The regulations for comprehensive plans under Chapter 208 state that communities should “[s]eek to achieve a level of at least 10% of new residential development built or placed during the next decade be affordable.”

Do municipalities have to regulate short term rentals?

No.



GENERAL QUESTIONS

What happens if a municipality does not act to update local ordinances, or tries to act and the updates are not approved by the local legislative body?

LD 2003 is an express preemption on municipal home rule authority. Therefore, any ordinance or regulation that is not consistent with the law may be challenged as invalid. Municipalities are encouraged to contact legal counsel to discuss how the law will affect the enforcement of existing ordinances and regulations.

If a town does not have growth areas as defined by section 4349-A, subsection 1, paragraph A or B, and does not have any areas served by water or sewer, does it need to comply with LD 2003?

These communities would not be subject to the affordable housing density provisions in Section 4, and would not have areas that are required to allow up to four units on a residential lot as per Section 5. Other provisions of LD 2003 would apply.

How do LD 2003's requirements relate to municipal comprehensive plans?

Comprehensive plans seeking a finding of consistency under the regulations in Chapter 208 should meet those requirements. Since a comprehensive plan is not a regulatory document, LD 2003 would not create any additional requirements. However, zoning ordinances adopted in a municipality would have to be consistent with both a local comprehensive plan and LD 2003.

Is LD 2003 a model ordinance for use in local zoning?

LD 2003 is not a model ordinance. Communities will be able to seek funding from the Housing Opportunity Program to develop new ordinances.

Can developers “double count” bonuses from various sections?

This issue is outlined in §4364-A Section 2.A. and §4364-B Section 3.B. Developers may only “double count” bonuses from various sections on a lot if this is permitted by the municipality in which the lot is located.

Sections 4, 5, and 6 require written verification of “adequate water and wastewater services.” What about a municipal concern that while a specific housing development may not immediately threaten water quality, the cumulative impact of new development may do so in a way that it did not prior to LD 2003?

As was true prior to the passage of LD 2003, communities are free to take regulatory actions as appropriate for protection of natural resources or existing water systems. These can include changes to zoning districts to limit where housing is permitted; changes to lot size requirements; or the creation of an impact fee system consistent with state law to fund environmental or water quality protection.

What does section 4349-A, subsection 1, paragraph A or B say?

It directs the State to make growth-related capital investments only in:

A. A 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 4347A;

or

B. In the absence of a consistent comprehensive plan, an area served by a public sewer system that has the capacity for the growth-related project, an area identified in the latest Federal Decennial Census as a census-designated place or a compact area of an urban compact municipality as defined by Title 23, section 754; or [PL 1999, c. 776, §10 (NEW).]

Growth areas are defined in section 4301, subsection 6-C as:

An area that is designated in a municipality’s or multi-municipal region’s comprehensive plan as suitable for orderly residential, commercial or industrial development, or any combinations of those types of development, and into which most development projected over 10 years is directed.



RULEMAKING PROCESSES

Sections 4, 5 and 6 authorize rulemaking to be led by the Department of Economic & Community Development, in consultation with the Department of Agriculture, Conservation & Forestry. These rules are considered “routine technical” – meaning they “establish standards of practice or procedure for the conduct of business with or before an agency” and can be approved administratively. The Department’s adopted rule, 19-100 CMR Chapter 5, can be found on the Department’s website.

FUNDING FOR TECHNICAL ASSISTANCE

While not part of LD 2003, the supplemental budget for Fiscal Years 2022 and 2023 included Section U-1. 5 MRS §13056-J, providing funding for a new “Housing Opportunity Program.” That program will “encourage and support the development of additional housing units in Maine, including housing units that are affordable for low and moderate income people and housing units targeted to community workforce housing needs” by supporting “regional approaches, municipal model ordinance development, and ... policy that supports increased housing density where feasible to protect working and natural lands.”

The Housing Opportunity Program has a variety of funding opportunities for municipalities and service providers to encourage and support the development of additional housing units in Maine.

1. **Service Provider Grants:** These grants will provide eligible service providers with funding to support municipalities with technical assistance, ordinance development, and community housing planning services
2. **Municipal Payments:** The Department has funding for municipalities for the costs associated with complying with PL 2021, ch. 672
3. **Municipal Grants:** These grants will provide municipalities with funding to support ordinance development and community housing planning services.

For more information about these funding opportunities, please contact housing.decd@maine.gov.

ADDITIONAL FREQUENTLY ASKED QUESTIONS

GENERAL

My town uses “net lot area” in its zoning ordinances to determine lot size. Can my municipality continue to do that under PL 2012, ch. 672?

A municipality may continue to define lot size in terms of “net lot area.”

My town has an out-of-date comprehensive plan that does not accurately reflect designated growth areas. If this is the case, does PL 2021, ch. 672 still apply to my municipality? Also, what if my town’s comprehensive plan does not align with PL 2021, ch. 672?

PL 2021, ch. 672 still applies to municipalities with outdated comprehensive plans. The Department encourages municipalities to use their best judgment when determining where growth areas are. The Department also encourages municipalities to update comprehensive plans to better reflect housing goals for the future.

Can a municipality adopt definitions that are different from the definitions adopted in the Department’s rule?

The Department recognizes that municipalities have their own adopted definitions for common land use planning terms. To comply with P.L. 2021, ch. 672 municipalities need not adopt the rule language or the statutory language verbatim. The Department encourages municipalities to consider local planning documents and other special local considerations, and to modify language into one that meets the need of a particular community. Municipalities may wish to adopt definitions that are more permissive, provided that such ordinances are equally or more effective in achieving the goal of increasing housing opportunities.

Is a municipality required to allow development on nonconforming lots or nonconforming uses?

LD 1706 amended 30-A M.R.S. § 4364-B to clarify that a municipality must allow an accessory dwelling unit on a lot that does not conform to the municipal zoning ordinance only if the accessory dwelling unit does not further increase the nonconformity, meaning the accessory dwelling unit does not cause further deviation from the dimensional standard(s) creating the nonconformity, excluding lot area.

For 30-A MRS §§ 4364 and 4364-A, a municipality may allow development: on nonconforming lots; within nonconforming structures; or on lots/structures with nonconforming uses.

What happens if a municipality is unable to pass ordinances to comply with PL 2021, ch. 672 or does not have ordinances?

If a municipality is unable to pass ordinances to comply, the legislation preempts municipal home rule authority. The Department encourages that municipalities instead work to create ordinances that meet their own needs. Municipalities may be more permissive with ordinance language, as long as those ordinances meet the goals of P.L. 2021, ch. 672. Furthermore, the Department strongly encourages municipalities to speak with legal counsel with concerns about compliance to avoid potential litigation.

My municipality is concerned about the impact of increased development on local water supplies. Does PL 2021, ch. 672 allow municipalities to restrict development based on this concern?

PL 2021, ch. 672 requires that the owner of a housing structure or development provide written verification to the municipality that each unit or structure is connected to “adequate water and wastewater services” prior to certifying for occupancy (or equivalent

procedure). 30-A M.R.S. §§ 4364(5), 4364-A(4), 4364-B(7). Shoreland zoning, subsurface wastewater disposal rules, and state plumbing codes all still apply to developments. The Department encourages a municipality to work with their Code Enforcement Officer, if applicable, to determine that water and wastewater services meet all applicable state and local regulations for the proposed housing unit(s).

AFFORDABLE HOUSING DEVELOPMENT (30-A M.R.S. § 4364)

How does a municipality ensure long-term affordability of an affordable housing development?

PL 2021, ch. 672 states that “[b]efore granting final approval of an affordable housing development, including but not limited to issuing an occupancy permit, a municipality shall require 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 . . .” 30-A M.R.S. § 4364(3). A municipality may enforce the restrictive covenant to ensure long-term affordability, but it is not a requirement for a municipality to do so. The Department encourages municipalities to reach out to legal counsel or MaineHousing with questions about maintaining long-term affordability and restrictive covenants.

What if a municipality does not issue certificates of occupancy?

LD 1706 amended LD 2003 to clarify that certificates of occupancy are one way to approve an affordable housing development. However, a municipality does not have to issue certificates of occupancy to comply with 30-A MRS § 4364. Municipalities have discretion to determine how best to grant final approval for an affordable housing development.

Does the Affordable Housing Density section (30-A M.R.S. § 4364), apply only to municipalities that have adopted density requirements? What about municipalities that have adopted form-based codes?

The density bonus in 30-A M.R.S. §4364(2) only applies to lots in zoning districts that have density requirements. Lots in zoning districts that do not have density requirements, including lots in zoning districts that utilize a form-based code, are not subject to 30-A M.R.S. § 4364(2).

Does a municipality have to comply with parking requirements for an affordable housing development?

If a municipality is subject to the requirements listed in 30-A M.R.S. § 4364, it must comply with the parking requirements for an affordable housing development.

“UP TO 4 DWELLING UNITS” (30-A M.R.S. § 4364-A)

Does 30-A M.R.S. § 4364-A apply to small lots?

The applicability of this section is dependent upon a variety of factors. A municipality generally must allow between 2-4 units on a lot where housing is permitted. However, private, state or local standards such as homeowners’ association regulation, deed restrictions, lot size, set back, density, septic requirements, minimum lot size, additional parking requirements, growth ordinance permits, shoreland zoning and subdivision law, may apply resulting in a municipality prohibiting the addition of units on a lot. The Department recommends lot owners speak with their municipal code enforcement officer or municipal planner with specific questions about their lot.



30-A M.R.S. § 4364-A(2) allows the addition of “up to 4 dwelling units per lot if that lot does not contain an existing dwelling unit.” Does this mean that the lot must be vacant or can a commercial unit exist on the lot?

A lot does not have to be vacant for 30-A M.R.S. § 4364-A(2) to apply. A lot could contain a commercial unit or another type of structure and be eligible for additional units subject to the requirements of 30-A M.R.S. § 4364-A(2).

What is the difference between an ADU and dwelling unit? How can a municipality differentiate between constructing one ADU on a lot versus allowing an individual to build multiple dwelling units on a lot?

PL 2021, ch. 672 allows municipalities the discretion to determine the difference between an ADU and a dwelling unit, for the purposes of determining which statutory provisions of PL 2021, ch. 672 apply to a particular lot. Municipalities have the discretion to determine whether a proposed housing structure is an ADU or a dwelling unit.

Can a municipality allow a lot owner to take advantage of both the ADU section and the “Up to 4 Dwelling Unit” section on one lot?

A municipality may allow a lot owner to “double-dip” and build both an ADU and additional dwelling units on a lot. However, this is not a requirement.



ACCESSORY DWELLING UNIT (30-A M.R.S. § 4364-B)

Some towns have “Accessory Apartments” or other terminology similar to “Accessory Dwelling Unit”. Is this difference in terminology acceptable?

Municipalities need not adopt the definition of “Accessory Dwelling Unit” in rule verbatim. The Department encourages municipalities to consider local planning documents and other special local considerations, and to modify language into one that meets the need of a particular community and the minimum requirements of the statutes. Municipalities may wish to adopt definitions and terms that are more permissive, provided that such ordinance and definitions are equally or more effective in achieving the goals of this legislation of increasing housing opportunities. If a municipality does not adopt terms and definitions to comply with P.L. 2021, ch. 672, this legislation and rule will preempt municipal home rule authority.

How does recent “tiny home” legislation, LD 1530 (30-A M.R.S. § 4363), relate to PL 2021, ch. 672?

Municipalities can regulate tiny homes when creating or updating ordinances to comply with PL 2021, ch. 672. The Department encourages municipalities interested in regulating “tiny homes”, to create a separate provision for the regulation of “tiny homes” to differentiate “accessory dwelling unit” from “tiny homes” as defined in LD 1530. The Department encourages municipalities to reach out to legal counsel to better understand the state law requirements for tiny homes.

Can my municipality impose owner-occupancy requirements for ADUs?

PL 2021, ch. 672 does not establish an owner-occupancy requirement for accessory dwelling units but municipalities have discretion to establish owner-occupancy requirements. The Department encourages municipalities to think about regulating short-term rentals in a separate ordinance, however, to avoid restricting the development of accessory dwelling units on permitted lots.

Does a municipality have to comply with the parking requirements for the addition of an ADU?

30-A M.R.S. § 4364-B prohibits a municipality from establishing additional parking requirements for an ADU beyond the parking requirements of the single-family dwelling unit on the lot where the accessory dwelling unit is located. A municipality cannot require additional parking requirements for the addition of an ADU. If a municipality has a current ADU ordinance in place that has parking requirements, those parking requirements must be updated.

Does the ADU allowance only apply to a lot that already contains a single-family dwelling or can a town permit ADUs on vacant lots, lots with commercial structures or lots with multi-family units?

At a minimum, Section 4364-B requires municipalities to allow one ADU on the same lot as a single-family dwelling unit. Municipalities, however, can be more permissive by allowing, for example, multiple ADUs on one lot, an ADU on a lot with an existing multifamily structure, or an ADU on a lot with an existing duplex.

What is the difference between an ADU and dwelling unit? How can a municipality differentiate between constructing one ADU on a lot versus allowing an individual to build multiple dwelling units on a lot?

PL 2021, ch. 672 allows municipalities the discretion to determine the difference between an ADU and a dwelling unit, for the purposes of determining which statutory provisions apply to a particular lot. Municipalities have the discretion to determine whether a proposed housing structure is an ADU or a dwelling unit.

Can a municipality allow a lot owner to take advantage of or “double dip” on the ADU section and the “Up to 4 Dwelling Unit” section on one lot?

A municipality may allow a lot owner to “double-dip” and take advantage of both the ADU section and dwelling unit section. This is not a requirement.

Does a municipality have to allow all three placements of ADUs (within, attached to, or a new structure) to be built in its ADU ordinance per the language in 30-A M.R.S. 4364-B(2)?

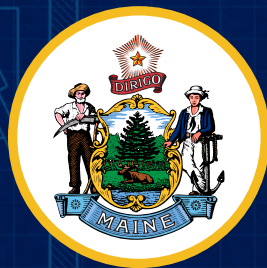
A municipality must allow an ADU to be built on a lot with an existing single-family unit. A municipality must allow a developer/homeowner the following three options for placement of this ADU regardless of density requirements: (1) within an existing structure; (2) attached or sharing a wall with an existing structure; or (3) as a new structure on a lot. A municipality, may, but is not required to, allow an accessory structure (such as a garage, shed, or barn) to be remodeled to include an ADU.



**Still have questions?
Need more information?**



VISIT: [MAINE.GOV/DECD/HOUSINGOPPORTUNITYPROGRAM](https://www.maine.gov/decd/housingopportunityprogram)



**MAINE DEPARTMENT OF
ECONOMIC AND COMMUNITY
DEVELOPMENT**

864
2700
324
702
1242
594
648
756
540
2970

918 1027 701 1350 2160 2484

PUBLIC HEARING – BUSINESS LICENSE & APPROVALS:

Carla and James Jennison, (206-28-25), 20 School Street, one (1) year-round, short-term rental.

Kierstead Properties LLC, Stephen Kierstead, (206-10-2), 15 Fern Park Ave., three (3) year-round, short-term rentals.

William Kelly, (310-6-1-410), 39 West Grand Ave #410, one (1) seasonal short-term rental.

Wavelet Group LLC, King Weinstein, (205-1-25), 14-20 Portland Ave, eleven (11) unit inn.

Richard and Elizabeth Annese, (321-25-8), 12 Tioga Avenue, one (1) seasonal short term rental.

Nina Farley and Steffen Lizier, (308-1-220), 12 Evergreen Avenue, one (1) year round short term rental.

Adamo Properties LLC, Jason Adamo, (103-1-418), 9 Bouchard Court, one (1) year round short term rental.

Anny Sanchez-Rossetto and Andrea Rossetto, (312-15-20), 18 Atlantic Avenue, one (1) year round short term rental.

Lorrie Lutz, (102-3-6), 15 Ross Road, retail shop.

Alexander and Benjamin Fabish, (304-2-1), 1 Roussin Street, twenty six (26) seasonal short term rentals to year round short term rentals and eight (8) to remain seasonal short term rentals.

Chair: Shawn O'Neill

PUBLIC HEARING – SPECIAL AMUSEMENT PERMITS & APPROVALS:

Patron Mexican Restaurant, Anel Sema, (206-27-13), 8 Heath Street, live music inside Friday and Saturday 6pm to 9pm and DJ inside Friday and Saturday 9pm to 1am. (tabled from 12/5/2023 meeting)

Oceanside Grille @ the Brunswick, HFY Enterprises Inc, Thomas J. Lacasse, (310-6-1), 39 West Grand Ave, live entertainment inside and outside 1:00 pm to 12:30 am.

Chair: Shawn O'Neill

TOWN MANAGER REPORT

NEW BUSINESS:

AGENDA ITEM # 8061

Discussion with Action: Approve the Mutual Aid MOU between the Old Orchard Beach Fire Department and the City of Biddeford Fire Department.

Chair: Shawn O'Neill



**CITY OF BIDDEFORD
FIRE DEPARTMENT**


152 Alfred Street
Biddeford, Maine 04005
Tel: 207-282-6632
Fax: 207-283-8243

Chief of the Department Lawrence Best

Assistant Chief Edward B. Dexter

Deputy Chief Kenneth Thorpe

MEMORANDUM

TO: John Gilboy, Old Orchard Beach Fire Chief
FROM: Larry Best, Chief of Department 
RE: Signature for Mutual Aid Memorandum of Understandings
DATE: 11/08/2023

I am writing to ask for your help with the attached "mutual aid agreement" MOU which outlines the mutual aid response expectations between the City of Biddeford Fire Department and our mutual aid fire department partner of Old Orchard Beach Fire Department.

Can you please pass this document on to your Town Manager/Administrator and ask them to review the MOU and sign the last page. Please return the signed MOU to my office at your earliest convenience.

Please let me know if you have any questions or concerns. Thank you.

Sent 7/14/23

**MEMORANDUM OF UNDERSTANDING
BETWEEN
CITY OF BIDDEFORD
AND
TOWN OF OLD ORCHARD BEACH**

WHEREAS, the City of Biddeford is a municipality under the laws of the State of Maine with a principal location at 205 Main Street, Biddeford, Maine 04005;

WHEREAS, the Town of Old Orchard Beach is a municipality under the laws of the State of Maine with a principal location at 1 Portland Ave Old Orchard Beach, Maine 04064.

WHEREAS, the purpose of this Memorandum of Understanding ("MOU") is to address mutual fire aid between Biddeford and Old Orchard Beach.

NOW THEREFORE, Biddeford and Old Orchard Beach hereby agree as follows:

1. **Definitions:**

Emergency Any incident, human-caused or natural, that requires responsive action to protect life, property or environment.

Emergency Response - Activities that address the short-term, direct effects of an incident of emergency. Response includes immediate actions to save lives, protect property, and meet basic human needs. Response also includes the execution of emergency operations plans and of mitigation activities designed to limit loss of life, personnel injury, property damage and other unfavorable outcomes.

Emergency Response Equipment -Emergency response organization's vehicles, tools and supplies as well as municipal vehicles and equipment which may be used in an emergency response.

Emergency Response Organization - Any organization approved by a state, county or local governmental organization to provide emergency response.

Emergency Response Personnel - Persons who are members in good standing of an emergency response organization, and who are trained and certified to provide specified emergency services, or who are under the supervision of a trained and certified person.

Fire Department - An emergency response organization with the responsibility of the protection of LIFE (First Priority), the preservation of PROPERTY (Second Priority) and the environment (Third Priority).

Incident Command System -A standard, on-scene, all hazards incident management system already in use by firefighters, law enforcement, hazardous material teams, rescuers and emergency medical teams. The ICS has been established by the **NIMS** (as defined below) as the standardized incident organizational structure for the management of all incidents.

Mutual Aid Emergency - Any emergency which is beyond the capabilities of the local emergency response organizations to resolve, or which by normal protocol requires the assistance of emergency response organizations based outside the town, municipality or locale in which the emergency occurs.

National Incident Management System (NIMS)-A comprehensive national approach to incident management utilizing best practices that have been developed over the years.

Unified Command - A command structure in which the ranking members from multiple emergency response organizations and or jurisdictions jointly determine objectives, plans and priorities, and then work together to execute them.

2. On an annual basis (prior to June 30th of each year) the Fire Chiefs of Old Orchard Beach and Biddeford will review the terms of this MOU and report in writing to each other regarding any recommended revisions, changes, additions or deletions to said terms.
3. The Old Orchard Beach and Biddeford Fire Departments shall assist each other as necessary in times of emergency, or in times of disaster by sending equipment and emergency response personnel at request, or by holding equipment or emergency response personnel in a standby status at request, to the extent that, in the opinion of the sending Fire Chief, Fire Chiefs designee, or person in charge, such equipment or personnel can be spared when a call for assistance is received.
4. Any request for assistance shall be made by the incident commander at the scene of an emergency or by the dispatch centers based on the location of the incident.
5. Command at an incident shall be structured in accordance with the Incident Command System (ICS) of the National Incident Management System (NIMS), and that if the emergency/disaster is multi-jurisdictional, a Unified Command will be employed when practical.
6. When any personnel or equipment are sent under the terms of this agreement, the ranking officer of the requested organization shall report to the requesting organization's incident commander. Emergency responders will respond with full turnout gear and personal protective equipment consistent with accepted practices of their respective disciplines. Orders by the incident commander will be given to the visiting ranking officer, his/her designee or person in charge who will then give orders to his/her personnel and then remain in communication with the incident commander. The visiting personnel may be under the direct control of an officer of

the requesting organization. The visiting ranking officer, his/her designee or person in charge shall have the right and responsibility to ensure that visiting personnel are asked to perform only those tasks or operations that are consistent with their training, and in accordance with their home protocols and accepted safe practices. Such personnel shall remain under the control of Command until the organization requesting assistance releases said personnel and equipment, or until said personnel and equipment are recalled by the organization providing assistance. Such personnel and equipment shall be released as soon as is reasonably possible and returned to the sending organization.

7. Assisting emergency response organizations under this MOU shall operate in accordance with their home district protocols and/or guidelines, and each emergency response person will operate according to the protocols and/or guidelines of his/her own organization, and within the scope of his/her own training and certification, or under the supervision of a person with the appropriate training and certification. In no event shall visiting personnel be required to perform in a way inconsistent with their home protocols and/or guidelines, or inconsistent with accepted safe practices.
8. It is further agreed that there will be no compensation for providing any mutual aid described in this MOU, unless other contractual agreements for services exist and/or become established; however, where a party or parties responsible for causing the emergency are liable for coverage of expenses, coverage of such expenses may be pursued from such parties. It is further agreed that during prolonged operations emergency response organizations receiving assistance may

provide assisting organizations with fuel and lubricants or reimbursement for said items.

9. Subject to the limitations and immunities provided in the Maine Tort Claims Act, Biddeford and Old Orchard Beach agree to be responsible for their own personnel and equipment and agree to indemnify, protect, and save harmless each other, in the absence of the other's negligence or misconduct, from any and all claims, demands, and liability for loss, damage, injury, or any other casualty to their own personnel and/or equipment.
10. Biddeford and Old Orchard Beach may terminate their participation under this MOU in their discretion and for their convenience upon no less than three (3) months' prior written notice to the other municipality;
11. This MOU constitutes the entire agreement between Biddeford and Old Orchard Beach with regard to the mutual aid described herein. If any clause, section or provision is held to be invalid or unenforceable, that shall not affect the entire agreement and the parties agree to meet and negotiate a new clause, section or provision. Amendments to this MOU shall be in writing and executed by both Biddeford and Old Orchard Beach. Biddeford and Old Orchard Beach each represent that they have the authority to enter into this memorandum of understanding and that it is being executed by its duly authorized representatives. This MOU shall be governed solely by the laws of the State of Maine.

Seen and agreed to this ____ day of ____, 2023

Witness

Town of Old Orchard Beach Town Manager

Witness

Shelly A. MacNeil

City of Biddeford City Manager

Janis Guntt

AGENDA ITEM # 8062

Discussion with Action: Approve the Mutual Aid MOU between the Old Orchard Beach Fire Department and the Town of Scarborough Fire Department.

Chair: Shawn O'Neill

MEMORANDUM OF UNDERSTANDING
BETWEEN
TOWN OF OLD ORCHARD BEACH
AND
TOWN OF SCARBOROUGH

WHEREAS the Town of Old Orchard Beach is a municipality under the laws of the State of Maine with a principal location at 1 Portland Avenue, Old Orchard Beach, Maine 04064 ("Old Orchard").

WHEREAS the Town of Scarborough is a municipality under the laws of the State of Maine with a principal location at 259 Route One, Scarborough, Maine 04074 ("Scarborough")

WHEREAS the purpose of this Memorandum of Understanding ("MOU") is to address mutual fire aid between Old Orchard and Scarborough.

NOW THEREFORE, Old Orchard and Scarborough hereby agree as follows:

DEFINITIONS:

EMERGENCY- Any incident, human-caused or natural, that requires responsive action to protect life, property, or environment.

EMERGENCY RESPONSE- Activities that address the short-term, direct effects of an Incident of emergency. Response includes immediate actions to save lives, protect property, and meet basic human needs. Response also includes the execution of emergency operations plans and of mitigation activities designed to limit loss of life, personnel injury, property damage and other unfavorable outcomes.

EMERGENCY RESPONSE EQUIPMENT- Emergency response organization's vehicles, Tools and supplies as well as municipal vehicles and equipment which may be used In an emergency response.

EMERGENCY RESPONSE ORGANIZATION- Any organization approved by a state, County or local governmental organization to provide emergency response.

EMERGENCY RESPONSE PERSONNEL- Persons who are members in good standing of an emergency response organization, and who are trained and certified to Provide specified emergency services, or who are under the supervision of a Trained and certified person.

FIRE DEPARTMENT- An emergency response organization with the responsibility Of the protection of LIFE (First Priority); the preservation of PROPERTY (Second Priority) and the ENVIRONMENT (Third Priority).

INCIDENT COMMAND SYSTEM- A standard, on scene, all hazards incident Management system already in use by firefighters, law enforcement, hazardous Materials teams, rescuers, and emergency medical teams. The ICS has been Established by the NIMS (as defined below) as the standardized incident. Organizational structure for the management of all incidents.

MUTUAL AID EMERGENCY- Any emergency which is beyond the capabilities of the local emergency response organization to resolve, or which by normal protocol requires the assistance of emergency response organizations based outside the town, municipality, or locale in which the emergency occurs.

NATIONAL INCIDENT MANAGEMENT SYSTEM(NIMS)- A comprehensive National approach to incident management utilizing best practices that have been developed over the years.

UNIFIED COMMAND- A command structure in which the ranking members from Multiple emergency response organizations and/or jurisdictions jointly Determine objectives, plans and priorities, and then work together to execute them.

On an annual basis (prior to June 30th of each year) the Fire Chiefs of Scarborough and Old Orchard will review the terms of this MOU and report

In writing to each other regarding any recommended revisions, changes, additions or deletions to said terms.

The Scarborough and Old Orchard Fire Departments shall assist each other As necessary in times of emergency, or in times of disaster by sending equipment And emergency response personnel at request, or by holding equipment or Emergency response personnel in a standby status at request, to the extent that, In the opinion of the sending Fire Chief, Fire Chief's designee, or person in Charge, such equipment or personnel can be spared when a call for assistance is received.

Any request for assistance shall be made by the incident commander at the Scene of an emergency or by the dispatch centers based on the location of the Incident.

Command at an incident shall be structured in accordance with the Incident Command System (ICS) of the National Incident Management System (NIMS) and that if the emergency/disaster is multi- jurisdictional, a Unified Command will be employed when practical.

When any personnel or equipment are sent under the terms of this agreement, the ranking officer of the requested organization shall report to the requesting organizations incident commander. Emergency responders will respond with full turnout gear and personal protective equipment consistent with the accepted practices of their respective disciplines. Orders by the incident commander will be given to the visiting ranking officer, his/her designee or person in charge who will then give orders to his/her personnel and then remain in communication with the incident commander. The visiting personnel may be under the direct control of an officer of the requesting organization. The visiting ranking officer, his/her designee, or person in charge shall have the right and responsibility to ensure that visiting personnel are

asked to perform only those tasks or operations that are consistent with their training, and in accordance with their home protocols and accepted safe practices. Such personnel shall remain under the control of Command until the organization requesting assistance releases said personnel and equipment, or until said personnel are recalled by the organization providing assistance. Such personnel and equipment shall be released as soon as reasonably possible and returned to the sending organization.

assisting emergency response organizations under this MOU shall operate in accordance with their home district protocols and/or guidelines, and each emergency response person will operate according to protocols and/or guidelines of his/her own organization, and within the scope of his/her own training and certification, or under the supervision of a person with the appropriate training and certification. In no event shall visiting personnel be required to perform in a way inconsistent with their home protocols and/or guidelines, or inconsistent with accepted safe practices.

It is further agreed that there will be no compensation for providing any mutual aid described in this MOU, unless other contractual agreements for service exist and/or become established; however, where a party or parties responsible for causing the emergency are liable for coverage of expenses, coverage of such expenses may be pursued from such parties. It is further agreed that during prolonged operations emergency response organizations receiving assistance may provide assisting organizations with fuel and lubricants or reimbursement for said items.

subject to the limitations and immunities provided in the Maine Tort Act, old Orchard and Scarborough agree to be responsible for their own personnel and equipment and agree to indemnify, protect, and save harmless each other, in the absence of the others negligence or misconduct,

from any and all claims, demands, and liability for loss, damage, injury, or any other casualty to their own personnel and/or equipment.

Old Orchard and Scarborough may terminate their participation under this MOU in their discretion and for their convenience upon no less than three (3) months prior written notice to the other municipality.

this MOU constitutes the entire agreement between Old Orchard and Scarborough with regard to the mutual aid described herein. If any clause, section or provision is held to be invalid or unenforceable, that shall not affect the entire agreement and the parties agree to meet and negotiate a new clause, section, or provision. Amendments to this MOU shall be in writing and executed by both Old Orchard and Scarborough. Old Orchard and Scarborough each represent that they have the authority to enter into this memorandum of understanding and that it is being executed by it's duly authorized representatives. This MOU shall be governed solely by the laws of the State of Maine

Seen and agreed to this on _____ day of _____, 2023.

WITNESS

TOWN OF SCARBOROUGH

WITNESS

TOWN OF OLD ORCHARD

AGENDA ITEM # 8063

Discussion with Action: Accept the quote from M.S. Babin Carpentry in the amount of \$8,300.00 for the repair of the Police Department garage mezzanine from account # 20131-50450 Police Department Building Repair with a balance of \$29,283.21.

Chair: Shawn O'Neill

M.S.Babin Carpentry Inc
General Contractor
16 Meadow Creek Ln.
North Yarmouth, Me. 04097
207-829-3037 / 838-4712

Old Orchard Beach Police Dept.
16 E. Cummings Blvd.
Old Orchard Beach, Maine. 04064
Att. Chief Elise Chard

12/08/23

The following proposal is for work to be performed on a mezzanine in the free-standing garage at the police dept. The work to be done is based on the recommendations of an Engineering study by Woodward & Curran.

Total of all labor & materials \$8,300.00

MCLAUGHLIN BUILDERS

30 Powersville Road
Medway, ME 04460
207-746-5406

February 13, 2023

Old Orchard Beach Police
Captain David Hemingway
16 E. Emerson Cummings Blvd.
Old Orchard Beach Maine 04064

REVISED PROPOSAL

The following is a proposal to do repair work to the mezzanine structure location in the garage. Work will be done according to the Memorandum put out by Woodard & Curran.

All labor and material	\$9,400.00
------------------------	------------

Approximately completion time one week.



MEMORANDUM

TO: Chief Dana Kelley – Old Orchard Police Department

CC: Diana Asanza – Old Orchard Beach Interim Town Manager

FROM: Colin MacNamee, E.I.T. & Sean Tarbox, P.E. - Woodard & Curran

DATE: August 2, 2021

RE: Police Station Mezzanine – Old Orchard Beach, Maine
Live Load Rating Storage

Introduction

The purpose of this memorandum is to summarize the results of the load rating analysis for the existing Police Station Garage mezzanine in Old Orchard Beach, Maine. The intended use of the mezzanine space is for storage. Woodard & Curran (W&C) was tasked with determining the structural live load capacity rating, so that the appropriate signage can be posted. As requested, both a visual inspection and structural live load capacity analysis have been completed. A site visit was conducted on July 16, 2021 by Colin MacNamee, Structural Engineer W&C, to observe the existing conditions, take photographs, and measure framing dimensions of the structure.

Existing Conditions

The storage mezzanine is located along the South wall of the garage and consists of 1/2" plywood over 2x10 wood joists spaced 16" on center supporting miscellaneous electrical items. The joists are supported on one end by a double 2x10 wood beam and a single 2x10 wood beam on the other side, both supported by pressure treated 4x4 wood posts. The general construction materials and techniques are similar to residential floor framing, which has a typical live load capacity of 40 psf.

Observations

The mezzanine structure and garage were open, allowing for an in-depth visual inspection and measurements. Based on our inspection, we observed a few shortcomings with the existing framing, which raise concerns about that structure. These shortcomings are summarized as follows:

- Nails connecting the joists to the supporting beams on the North side of the mezzanine missed the joists in some locations (See Photo 1);
- Inadequate positive connection from the beams to the 4x4 posts (See Photo 2).
- No mid-span blocking was installed between joists as required by the American Wood Council's National Design Specification.



Photo 1: Inadequate Face Nailing Connection



Photo 2: Inadequate Beam to Post Connection

Lumber species and grade have a significant effect on the load carrying capacity and the corresponding load rating for the wood framing. Grade stamps from the Northeastern Lumber Manufacturers Association



(NELMA) were found on the members. Grades were Spruce-Pine-Fir No. 2. In general, No. 2 Grade is most common for wood floor framing.

Inadequate end connections of the joists to the beams can limit Live Load Capacity. Framing connections varied between the North and South sides of the structure. Along the South side LUS210 joist hangers from Simpson Strong-Tie were used, these are very common in residential and commercial construction. Face nailing, used along the North side of the structure, is commonly used in most construction, however inadequate face nailing connections negatively affect the load capacity. Inadequate face nailing connections we seen in multiple places.

There are no record drawings of the garage available, therefore we were unable to determine the garage slab thickness or reinforcing. We were unable to perform calculations to determine if the slab was designed or intended for storage-type loading. No cracking was observed at post bearings and it appears the floor has not been negatively impacted by the presence of the mezzanine.

Analysis

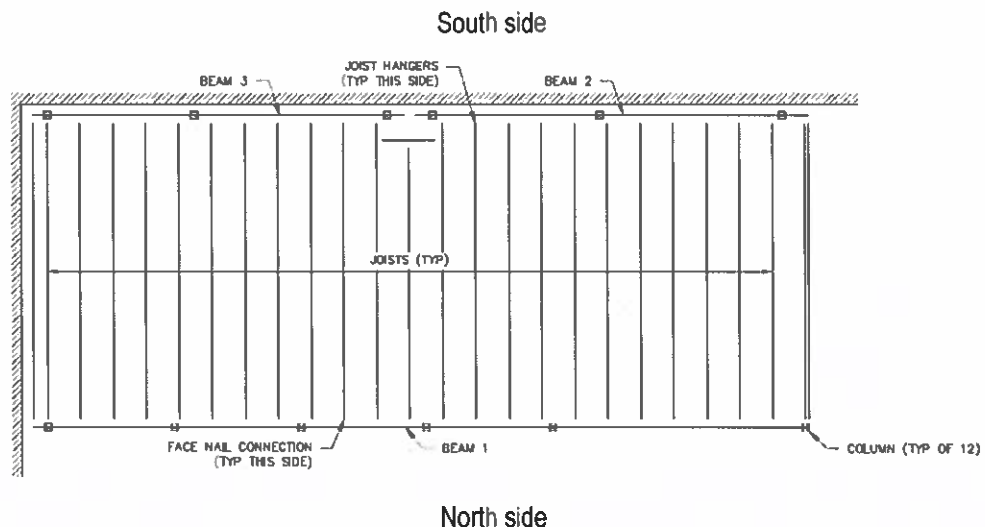
The table below summarizes the Live Load Capacities for each mezzanine member type. Values are based on design values for visually-graded lumber, modified for size and repetitive members according to the American Wood Council's National Design Specification for Wood Construction (2015). No. 2 grade lumber, normal temperature and moisture conditions were assumed for the structural analysis.

LIVE LOAD CAPACITY SUMMARY

Member*	Span (ft)	Allowable Live Load (psf)	Remarks
Joists	12'-10"	63	
Beam 1	31'-4"	43	
Beam 2	16'-5"	35	
Beam 3	15'-1"	36	
Posts	10'-0"	70	
Joist Hangers	N/A	108	
Nail Connection	N/A	29	Assuming connection is adequate

*Refer to Figure 1 for member locations

Figure 1: Mezzanine Plan View





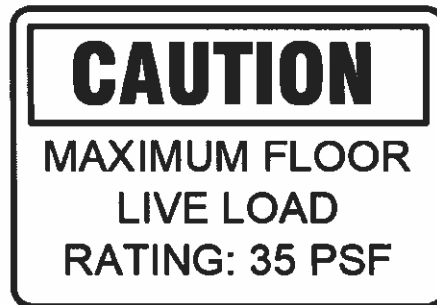
Recommendations

- Locations where joists have a face nailing connection to the supporting beams shall be structurally reinforced with joist hangers similar to the existing hangers used on the South side of the structure (LUS210).
- Provide A33 Simpson Strong-Tie angles to reinforce the beam to post connections.
- Install solid blocking or diagonal cross bracing between joists at their mid-span location.

These structural upgrades must be installed before the load rating below can be safely posted.

Based on our understanding of the existing framing and our inspection, W&C recommends that the mezzanine be posted for the lowest allowable live load of 35 pounds per square foot (psf) to prevent accidental overstressing of framing members. This load rating applies to the entire area of the mezzanine and can be used to determine the maximum weight allowed within a given area. For example, if a shelf is 2 feet wide by 4 feet in length, the total contents of the shelf should not exceed 2 feet x 4 feet x 35 psf = 280 pounds. Signage should be posted at the mezzanine in a clearly visible location using a "NOTICE" or "CAUTION" type sign with the words: MAXIMUM FLOOR LIVE LOAD RATING = 35 PSF (See Figure 2).

Figure 2: Sign Example



W&C greatly appreciates this opportunity to provide engineering services, please do not hesitate to contact us at (207) 774-2112 with any questions or comments.

AGENDA ITEM # 8064

Discussion with Action: Accept the quote from Casco Bay Ford in the amount of \$70,528.00 for a 2024 Ford F-550 truck cab chassis and the quote from Messer for an aluminum platform body, plow install, and a liftgate in the amount of \$24,135.50 for Public Works. The total purchase price of \$94,663.50 will be financed through a lease-purchase agreement with Gorham Leasing Group at 5.74% (tax exempt) with 5 annual payments in the amount of \$21,102.76 from account # 20197-50330 Debt Service Equipment Replacement with a balance of \$250,995.20.

Chair: Shawn O'Neill

Council Information

Department: Public Works

Meeting date: January 2, 2024

Subject: Purchase of new Ford F-550

Commentary: A replacement for the 2006 Chevrolet one ton four door pick up was approved in the FY24 budget development. This truck is a direct replacement for the 2006 Chevrolet. Both mechanics have said that this truck will not take an inspection sticker when it is due. The F-550 will be used for general transportation and will be the main truck when towing a trailer is required. This truck is not considered a main line plow truck but will be capable of plowing smaller roads. Separate quotes have been included to outfit the truck with a flat bed, plow and hydraulic lift gate. Quotes were requested from Casco Bay Ford, Yankee Ford and Rowe Ford. No bid was received from Rowe ford.

Information included: Quote from Casco Bay Ford for \$70,528.00 and quote from Yankee Ford for \$73,744.00. Complete quote from Messer for \$24,135.50 and partial quote from Hews for \$28,230.50 (plow supplied from Messer at \$8,335.50.).

Recommendation: Approve the quote from Casco Bay Ford for \$70,528.00 and quote from Messer for \$24,135.50 for a total package price of \$94,663.50.

Discussion with action:

Account #

Balance \$

Respectively submitted by,

Christopher White

Wastewater/Public Works Superintendent

CASCO BAY



December 12th, 2023
Town of Old Orchard Beach Maine
Public Works Department
1 Portland Ave.
Old Orchard Beach Me 04064

Attn: Chris White

Re: Bid Ford F-550 Crew cab 4x4 chassis

Casco Bay Ford is pleased to provide the following bid.

Per the attached specifications. Based on an ordered truck.

Sale price delivered \$70528.00.

Please feel free to contact me with any questions.

Sincerely,



Bob Berwick
Commercial Sales Manager
Casco Bay Ford



Preview Order O11B - W5H 4x4 Crew Chas Cab DRW: Order Summary Time of Preview: 11/29/2023 13:56:18 Receipt: NA

Dealership Name: Yankee Ford

Sales Code : F11209

Dealer Rep.	SCOTT BONNEY	Type	Retail	Vehicle Line	Superduty	Order Code	O11B
Customer Name	X XXXXX	Priority Code	03	Model Year	2024	Price Level	420

DESCRIPTION	MSRP	DESCRIPTION	MSRP
F550 4X4 CREW CHAS CAB DRW/179 ✓	\$59690	SPARE TIRE AND WHEEL ✓	\$350 ✓
179 INCH WHEELBASE ✓	\$0	HIGH CAPACITY TRAILER TOW PKG ✓	\$580 ✓
OXFORD WHITE ✓	\$0	CENTER HIGH MOUNT STOP LAMP	\$0
CLOTH 40/20/40 SEAT ✓	\$315	JACK	\$0
MEDIUM DARK SLATE ✓	\$0	40 GAL AFT OF AXLE FUEL TNK	\$0
PREFERRED EQUIPMENT PKG.660A ✓	\$0	410 AMP ALTERNATOR <i>SINULAR!</i>	\$0
.XL TRIM ✓	\$0	PAYLOAD PLUS PACKAGE UPGRADE ✓	\$1155 ✓
.AIR CONDITIONING -- CFC FREE ✓	\$0	EXTERIOR BACKUP ALARM ✓	\$175 ✓
.AM/FM STEREO MP3/CLK ✓	\$0	DUAL BATTERY	\$0
6.7L POWER STROKE V8 DIESEL ✓	\$9995	REAR VIEW CAMERA & PREP KIT ✓	\$415 ✓
10-SPEED AUTO TORQSHIFT	\$0	360 DUAL WARNING STROBE AMBER ✓	\$650 ✓
225/70R19.5G TRACTION TIRES ✓	\$190	PRIVACY GLASS	\$0
4.30 RATIO LIMITED SLIP AXLE ✓	\$395	XL CHROME PACKAGE ✓	\$225 ✓
RAPID HEAT SUPPLEMENTAL HEATER ✓ <i>ADD!</i>	\$250	.BACKGLASS DEFROST ✓	\$0
JOB #2 ORDER	\$0	.POWER SLIDING REAR WINDOW ✓	\$0
CV LOT MANAGEMENT	\$0	.FOG LAMPS ✓	\$0
FRONT LICENSE PLATE BRACKET	\$0	.REMOTE START SYSTEM	\$0
PLATFORM RUNNING BOARDS ✓	\$445	FUEL CHARGE	\$0
19500# GVWR PACKAGE ✓	\$0	PRICED DORA	\$0
50 STATE EMISSIONS	\$0	DESTINATION & DELIVERY	\$1995
SNOW PLOW PREP PACKAGE ✓	\$250		

TOTAL BASE AND OPTIONS

DIS TO **Rockland Ford** **YANKEE** **Tucker Ford**



SCOTT A. BONNEY
FLEET MGR. / COMM. ACCTS.

YANKEE FORD SALES
165 Waterman Dr.
South Portland, ME 04106
1-800-233-2548
207-799-5591 (PH)
207-699-6537 (CL)
scott@yankeeford.com



Bid: \$73,744

MSRP
~~\$77075~~
NA
~~\$77075~~

11/29/23
Scott Bonney

Customer Email:
Customer Phone:



Messer Truck Equipment
 170 Warren Ave.
 Westbrook, ME 04092
 207-854-9751
 info@messerte.com
 www.messertruckequipment.com

Quote

Date	Quote #
12/13/2023	9814

Quote valid for 30 days.

Name / Address
Town of Old Orchard Beach-Public Works 1 Portland Ave. Old Orchard Beach, ME 04064

Attention	Terms	P.O. Number	Acct. Rep	Sales Rep	
Chris	Net 30		DG	Dana	
Description			Qty	U/M	Total
Knapheide Aluminum Platform Body Model ALPB-93			1	ea	8,950.00
Price includes: Installation on a 60" CA DRW chassis 9.25" Length 95.75" width Military-grade aluminum extrusions construction Reinforced stake pockets Extruded aluminum channel longsills Extruded plank floor Integrated under body tie downs provide a reinforced location for attaching cargo tie down straps. LED marker lights Aluminum headboard 40" high Rear mud flaps Backup alarm Class V receiver hitch					
BLADE ASSY, 9FT 6IN, XV2 MS			1	ea	7,548.00
SN: INSTALL PLOW			1	Hr	787.50
MAXON 1600LB LIFTGATE			1	ea	6,850.00

Due to large increases in credit card processing fees, Messer would appreciate it if you would kindly keep credit card purchases to less than \$5,000.00. Checks, Cash or ACH wire are gladly accepted.



Messer Truck Equipment
 170 Warren Ave.
 Westbrook, ME 04092
 207-854-9751
 info@messerte.com
 www.messertruckequipment.com

Quote

Date	Quote #
12/13/2023	9814

Quote valid for 30 days.

Name / Address
Town of Old Orchard Beach-Public Works 1 Portland Ave. Old Orchard Beach, ME 04064

Attention	Terms	P.O. Number	Acct. Rep	Sales Rep
Chris	Net 30		DG	Dana

Description	Qty	U/M	Total
1600LB capacity 87"X37" platform with 6" taper Dual hydraulic cylinders Maintenance free components Fully enclosed hydraulics Installed on aluminum flatbed			

We propose to furnish material and labor, in accordance with the above specifications. All material is guaranteed to be as specified. All work is to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the quotation. Our workers are fully covered by worker's compensation insurance. Any applicable Federal Excise Tax is not included in the above quotation.

Sales Tax (0.0%)	\$0.00
Total	\$24,135.50

Due to large increases in credit card processing fees, Messer would appreciate it if you would kindly keep credit card purchases to less than \$5,000.00. Checks, Cash or ACH wire are gladly accepted.

Acceptance of Proposal - Sign and Return _____



Hews Company - SP
 190 Rumery Street
 South Portland ME 04106
 Phone: (207) 767-2136
 www.hewscosco.com

Quote

Quote ID: Q80956

Page 1 of 1

Customer: Old Orchard Beach Public Works
 1 Portland Road
 Old Orchard Beach ME 04064

Contact: Jarvis Grant
Phone: (207) 934-2250
Email: jgrant@oobmaine.com

Quote Date: 12/13/2023
Quote Valid Until: 1/12/2024
Salesperson: Matthew Hilse
Terms: NET 15
Customer #: 6287

- 1- 9.5' HEAVY DUTY ALUMINUM PLATFORM BODY MODEL: TB10195HD**
- Length: 9.5' (120.5" OA with rub rail; Deck Width: 96.5" (102" OA with rub rail)
 - Aluminum contour headboard.
 - Floor: Aluminum Extrusion.
 - 3/8" x 3" HD Stake pockets and rub rail sides only.
 - Long-sills: 2" x 6"x .25" box tube.
 - Cross sills: Heavy duty 2" x 3" box tube-12" O/C.
 - Liftgate prep.
 - LED Marker Lights, Reflectors.

1- THIEMAN TOPLIFTER MODEL TT20ETAL GALV (CAPACITY: 2000 LBS)

- Platform: 86"x 32"+ 6" ALUMINUM PLATFORM
- Bed height range: 30" - 50"
- Enclosed cylinders and power unit.
- Direct dual cylinder lift, no cables or chains.
- Electric hydraulic pump, built in relief valves.
- Galvanized liftgate frame.
- 150 amp circuit breaker, toggle switch control, Reflective tape.
- * (2) Buyers Round low profile LED warning lights mounted on the CS/SS of headboard with brackets and wired to in-cab up-fitter switch. (BYRSL551ALP)
- * New three-in-line and marker lights as needed.
- * ICC Bumper, plate light & bracket.
- * 2" receiver, D-Rings, plug.
- * Use existing chassis lights.
- * Rear flaps.
- * Install rear vision camera kit. (if equipped)

INSTALLED, FOB, SOUTH PORTLAND, ME

\$ 19,895.00

***BODY LEAD TIME: 22-24 WEEKS +/-

SALESPERSON: MATT HILSE

VIN		Year	Make		Model
		2024	FORD		F-550 DRW 4x4 CREW CAB
Transmission	Engine	GVW	CA	WB	Fleet ID
Auto	Gas	19500	60.00		Cab Chassis

Accepted by: _____

Date / PO#: _____ / _____

Sub Total:	\$19,895.00
FET:	\$0.00
Sales Tax:	\$0.00
Grand Total:	\$19,895.00

Final Pricing subject to change based on chassis arrival date

Plow from Messer = \$8335.50
 Total Hews quote \$28,230.50



December 27, 2023

Town of Old Orchard Beach
1 Portland Avenue
Old Orchard Beach, Maine 04064
ATTN: Jordan Miles, Finance Director

MUNICIPAL LEASE PURCHASE PROPOSAL

Lessee: Town of Old Orchard Beach

Equipment: New Ford F-550 plow truck

Cost of equipment: \$94,663.50

Amount financed: \$94,663.50

Lease term: 5 years

Interest rate: 5.74% fixed

No. of payments: 5 annual

Payment schedule: \$21,102.76

Commencement date: This lease shall commence on or about January 15, 2024.

First payment due: The first payment of principal and interest shall be due and payable January 15, 2024.

Purchase option: One dollar (\$1.00) at end of lease term.

Prepayment: There are no prepayment penalties.

Documentation Fees: There are no documentation fees.

Insurance: Prior to delivery of the leased assets, Lessee at its sole cost and expense, will provide all-inclusive physical damage and liability insurance in the joint names of the Lessor and Lessee, in amounts satisfactory to Lessor.

Title (if required): Lessee listed as owner and Lessor listed as lien holder.

Non-appropriation: The lease will contain a non-appropriation clause.

Confirmation: The anticipated total borrowing for 2024 will not exceed Ten Million dollars (\$10,000,000.) making this lease **"Bank Qualified"**.

Type of lease: This lease shall be considered a **Municipal Lease/Purchase** by all parties. Lessee is a state or a political subdivision thereof, within the meaning of Section 103 of the Internal Revenue Code of 1986.

Advances or deposits: If Lessor advances any deposits or pays any invoices prior to Delivery and Acceptance of the equipment by lessee, interest will accrue at the above rate and be due at closing.

Legal opinion: **Leases greater than \$100,000.00 require an Opinion of Counsel.** The opinion must include a statement that the lease represents a valid and binding obligation of the lessee and further that the lease is a "qualified tax exempt obligation" for the purposes of Section 265 (b) (3) (B) (ii) of the Internal Revenue Code of 1986, as amended.

Financial information: By awarding this lease transaction, lessee agrees to provide Gorham Leasing Group, with its most recent audited financial statements, current year budget, annual report, a copy of the meeting minutes or council order approving the transaction and any other supporting data including credit reports requested during the term of the lease.

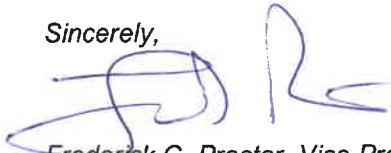
Lessor's proposal: This lease proposal is subject to final credit review and not binding until accepted by lessor. Lessor may withdraw the proposal at any time if any adverse information relating to the lessee's affairs is discovered prior to any lease closing.

Lease Rates: **This lease request will be closed within 30 days of the original proposal date or the rate will be subject to change based on the FHLBB amortizing advance rates at the time of closing.**

Expiration of proposal: This lease proposal shall expire if not accepted by a qualified official by 5:00 p.m. on January 31, 2024.

Thank you for the opportunity to present this lease proposal to you. If you are in agreement with the terms of the proposal, please sign and return it with the proper credit information. If you have any questions, please contact me at 222-1498.

Sincerely,



Frederick G. Proctor, Vice President
Gorham Savings Leasing Group LLC

AWARD ACKNOWLEDGMENT:

This proposal is accepted and this financing is awarded to Gorham Savings Leasing Group

Name and Title

Date: _____

Compounding Period: Annual

Nominal Annual Rate: 5.740%

Cash Flow Data - Leases and Lease Payments

Event	Date	Amount	Number	Period	End Date
1 Lease	01/15/2024	94,663.50	1		
2 Lease Payment	01/15/2024	21,102.76	5	Annual	01/15/2028

TValue Amortization Schedule - Normal, 365 Day Year

	Date	Lease Payment	Interest	Principal	Balance
Lease	01/15/2024				94,663.50
1	01/15/2024	21,102.76	0.00	21,102.76	73,560.74
2024 Totals		21,102.76	0.00	21,102.76	
2	01/15/2025	21,102.76	4,222.39	16,880.37	56,680.37
2025 Totals		21,102.76	4,222.39	16,880.37	
3	01/15/2026	21,102.76	3,253.45	17,849.31	38,831.06
2026 Totals		21,102.76	3,253.45	17,849.31	
4	01/15/2027	21,102.76	2,228.90	18,873.86	19,957.20
2027 Totals		21,102.76	2,228.90	18,873.86	
5	01/15/2028	21,102.76	1,145.56	19,957.20	0.00
2028 Totals		21,102.76	1,145.56	19,957.20	
Grand Totals		105,513.80	10,850.30	94,663.50	

Last interest amount increased by 0.02 due to rounding.

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments
The cost of your credit as a yearly rate.	The dollar amount the credit will cost you.	The amount of credit provided to you or on your behalf.	The amount you will have paid after you have made all payments as scheduled.
5.740%	\$10,850.30	\$94,663.50	\$105,513.80

AGENDA ITEM # 8065

Discussion with Action: Approve the quote from AC Electric in the amount of \$5,120.00 for the repair of pump #4 at the West Grand Pump Station from account # 20161-50330 Wastewater Equipment Replacement with a balance of \$14,990.70

Chair: Shawn O'Neill

Council Information

Department: Wastewater Department

Meeting date: January 2, 2024

Subject: Repair of pump #4 at West Grand pump station

Commentary: The department recently had pump #4 at West Grand pump station fail. It was discovered there is a seal leak in the motor. This pump has over 90,000 hours of running time so a seal like is not unexpected. This pump is the smallest of the four (4) pumps and handles the majority of the run time. Because we do not have the use of this pump the larger pumps must operate at lower flows. This is not ideal for electricity usage or operations. It is important we get this repaired. The price given by AC Electric is consistent with what we have seen for similar repairs in the past.

Information included: Quote from AC Electric for \$5,120.00

Recommendation: Approve the quote from AC Electric for \$5,120.00

Discussion with action:

Account # *20161-50330*

Balance \$ *14,990.70*

Respectively submitted by,

Christopher White

Wastewater/Public Works Superintendent

A.C. Electric Corp.
 Bangor Shop
 PO Box 1508
 Auburn ME 04211-1508
 Phone: 207/945-9487 Fax: 207/945-0114



Mail Repair Estimate To:

Job: 157889 **Department:** 10 **Job Desc:** 3|19.4|6|460|250T||26|60|
 AUBURN MOTOR SHOP **Type:** P3 PUMP (OVER HAUL)
Cust #: OLD500 **Ship To #:** 000099 **Job Rcvd**
 OLD ORCHARD BEACH WASTE WATER OLD ORCHARD BEACH WASTE WATER 11/08/23
 24 MANOR RD 24 MANOR RD
 OCEAN PARK, ME 04063 OCEAN PARK, ME 04063

Cust P.O.#	P.O. Rel#	Misc #	Terms Cd	Slm
			NET 30 DAYS	AC1

Nameplate Data:
 PHASE:3, HORSEPOWER:19.4, POLES:6, VOLTAGE:460, FRAME:250T, AMPS:26, HERTZ:60,
 S.F.:1.15, DESGN CODE:B, TYPE:LK, MFG:FAIRBANKS, SERIAL #:1948316, EXP GROUP:D,
 EXP CLASS:1, INSUL CLAS:H, AMB TEMP:40C, RPM:1140

Special Instructions:

Description	Price
-------------	-------

AC Electric will rewind your 19.4hp pump to AC specs.

Work Scope:

Disassemble, clean and inspect, check all bearing fits for tolerance, rewind and process stator, machine journal SE, dynamically balance rotor, replace all seals, replace all bearings, replace O-rings, recertify UL, reassemble and final testing.

Total	5,120.00
-------	----------

4-6 week lead time

Total:	5,120.00
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Repair estimate valid for 15 calendar days from the above date.

Plus Freight, Tariffs, Duties and Sales Taxes, If Applicable.

By: _____ **Date:** _____
 Based Upon Our Standard Terms And Conditions.

AGENDA ITEM # 8066

Discussion with Action: Approve the quote from Peter Petit Excavating Inc. in the amount of \$24,450.00 for the emergency repair of the Rousin Street Sewer System from account #30181-50551 Sewer Reserve Fund Expense Account with a balance of \$963,037.84.

Chair: Shawn O'Neill

Peter Petit Excavating, Inc.
 20 Forest Street
 Biddeford, ME 04005 - 3833
 Tel: 207 282-9305

ESTIMATE

Name / Address
Town of Old Orchard Beach 1 Portland Avenue Old Orchard Beach, ME 04064

Date	Estimate #
12/19/2023	1737

Item	Description	Total
Pipe	Pipe, fittings	1,950.00
Cut	Saw Cut road	250.00
Stone	Stone	600.00
Sand	Clean sand	900.00
Gravel	Base & Finish Gravel	750.00
Concrete	Concrete trench back	3,000.00
Excavate	Excavation, labor	17,000.00
	Note: ledge & anything unforeseen could be an extra	

Total	\$24,450.00
--------------	--------------------

AGENDA ITEM # 8067

Discussion with Action: Approve the quote from Kevin Lessard and Sons in the amount of \$5,876.04 for repairs to the exterior lighting at the Public Works Building from account #20151-50450 Public Works Department Building Repair and Maintenance with a balance of \$14,156.55.

Chair: Shawn O'Neill

Council Information

Department: Public Works

Meeting date: January 2, 2024

Subject: Replace lights on public works building

Commentary: The lights on the public works building were recently cited for safety violations due to exposed conduit. Staff have reported that the lights will sometimes trip the breaker. In addition, we have had complaints from neighbors about the lights being too bright at night. This quote would convert the lights to LED lights and will not flood the area interfering with the neighbor's sleep.

Information included: Quote from Kevin Lessard and Sons for \$5,876.04

Recommendation: Approve the quote from Kevin Lessard and Sons for \$5,876.04.

Discussion with action:

Account #20151-50450

Balance \$14,156.55

Respectively submitted by,

Christopher White

Wastewater/Public Works Superintendent

Kevin Lessard & Sons Electric LLC

173 Temple Ave
Old Orchard Beach ME 04064

Estimate

Date	Estimate #
10/20/2023	1099

Name / Address
Old Orchard Beach Public Works 1 Portland Ave Old Orchard Beach ME 04064

Job name

Description	Qty	Rate	Total
Price includes Replacing all conduit for the outside wall lights and wire Install three new LED light fixtures for the front Install four new LED wall packs for the side of the office and one by the back garage door Disconnect the contactor for the outside lights JOB LOCATION : OOB PUBLIC WORKS <i>DPW - Safety Upgrades To Building</i>		5,876.04	5,876.04
		Subtotal	\$5,876.04
		Sales Tax (0.0%)	\$0.00
		Total	\$5,876.04

AGENDA ITEM # 8068

Discussion with Action: Approve the quote from Weirs GMC in the amount of \$7,300 to repair the transmission on the 2017 GMC Truck from account number 20151-50452 Public Works Department Operating Equipment with a balance of \$68,700.26.

Chair: Shawn O'Neill

Council Information

Department: Public Works

Meeting date: January 2, 2024

Subject: Replace transmission in truck #2

Commentary: Truck #2 which is assigned to the Deputy Director has had a transmission failure. The truck is a 2017 ¾ ton GMC. Weirs submitted a quote of \$7,398.21 and provided a three- year warranty. We received a verbal quote from another shop that was similar but did not provide a three-year warranty. Weirs Motors also had the transmission and shop time available to complete the job immediately.

Information included: Quote from Weirs for \$7,398.21.

Recommendation: Approve the quote from Weirs Motors of \$7,398.21.

Discussion with action:

Account #20151-50452

Balance \$48,726.53

Respectively submitted by,

Christopher White

Wastewater/Public Works Superintendent



1513 Portland Rd Arundel ME US 04046
 https://www.weirsgmc.com/
 +1(207) 600 - 1088
 rmartin@weirsbuickgmc.com
 1513 Portland Rd, Arundel, ME 04046

Customer
 TOWN OF OLD ORCHARD
 BEACH
 +1 - (207) 423 - 5407
 lwilson@oobmaine.com

Vehicle
 2017 Chevrolet Silverado
 2500HD - White
 VIN
1GC0KUEG6HZ286547
 License: 418-349
WT: Standard Cab Pickup
6.0L V8 2DR Naturally Aspirated GAS FI: 4WD:
AT: Standard Cab Pickup
 61,728 Mi In / 61,728 Mi Out

RO# : 344079
Tag# : 6547
 Technician
 10007

Pending Recommendation(s)

1. REC **Transmission replacement w/ new cooler and lines** **Customer Pay** **\$7,398.21**

Parts \$5,089.41

Name	Quantity	Unit Price	Sale Price
23280473 - PIPE	1	\$149.15	\$149.15
19431754 - REMANUFACTURED TRANSMISSION	1	\$4,386.55	\$4,386.55
22796286 - PIPE	1	\$14.80	\$14.80
84173162 - COOLER	1	\$339.39	\$339.39
84003884 - GASKET	1	\$11.00	\$11.00
15077362 - SEAL	1	\$27.14	\$27.14
20987829 - SEAL	1	\$35.48	\$35.48
15032594 - NUT	6	\$9.65	\$57.90
19421242 - FLUID	8	\$8.50	\$68.00

Labor \$2,308.80

Fee \$0.00

✓ **2. REC** **windshield** **Customer Pay** **\$400.00**

✓ **3. 4X4SERV C** **PERFORM FULL 4 WHEEL DRIVE SERVICE-FRONT DIFFERENTIAL DRAIN/REFILL TRANSFER CASE DRAIN/REFILL AND REAR DIFF SERV WITH COVER REMOVED** **Customer Pay** **\$399.95**

Parts \$186.50

Name	Quantity	Unit Price	Sale Price
88900401 - LUBRICANT	7	\$23.00	\$161.00
19421242 - FLUID	3	\$8.50	\$25.50

AGENDA ITEM # 8069

Discussion with Action: Approve the new private street name of Bogey Way for a two (2) single-family dwelling development on Dunegrass Hole #16 accessed from Ross Road.

Chair: Shawn O'Neill



Memories Start *Here*

Town Of Old Orchard Beach
1 Portland Ave, Old Orchard Beach, ME 04064
www.oobmaine.com

Diane J. Paul
Deputy Assessor
207.937.5612
dpaul@oobmaine.com

MEMO

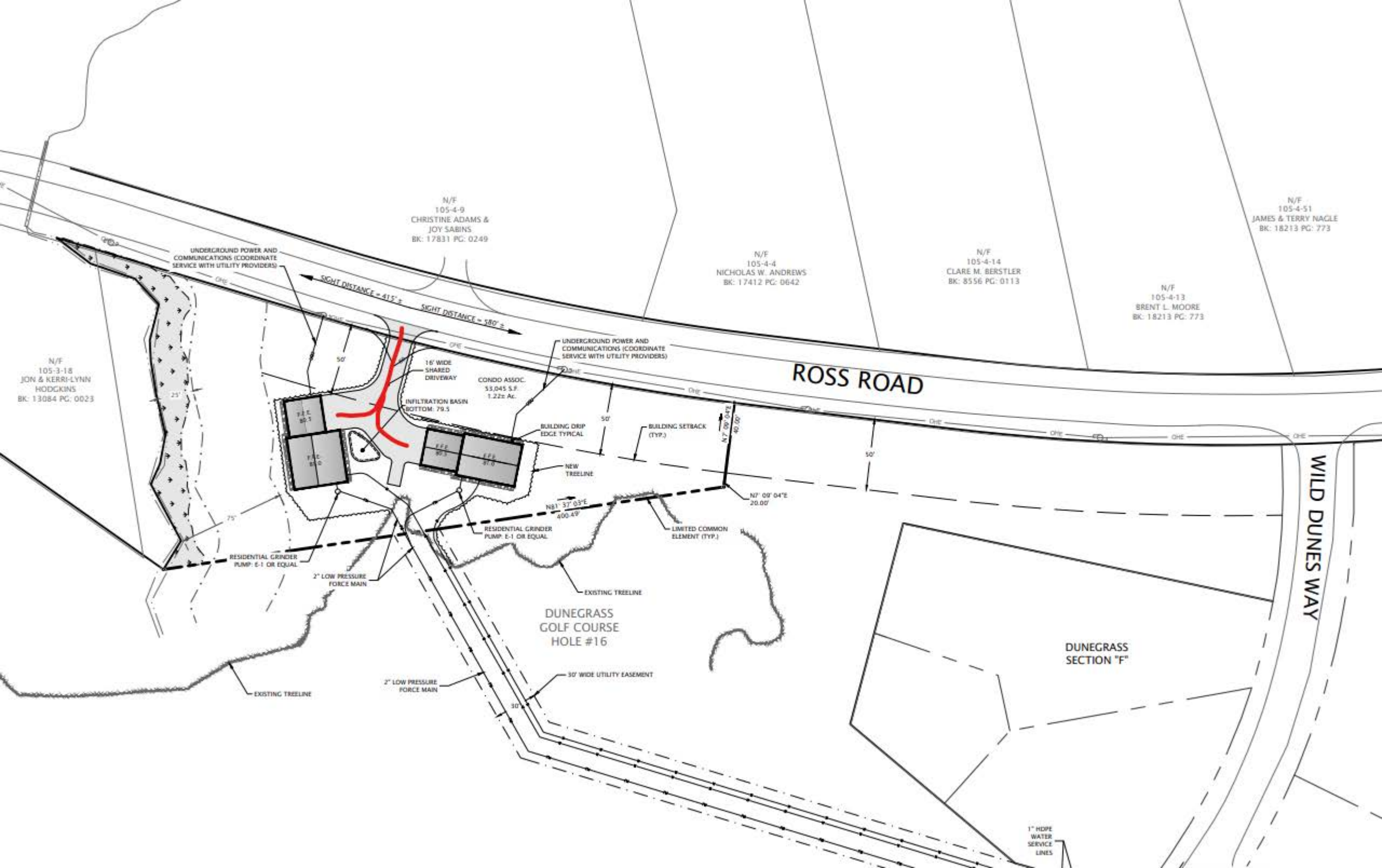
TO: Town Council
From: Diane J. Paul, CMA
Deputy Assessor / E911 Addressing Officer
DATE: 11/28/2023
RE: New Street Name - Bogey Way

DUNEGRASS Subdivision is a major subdivision continually developing each Section. The developer is approved for 2 single family dwellings on DUNEGRASS GOLF COURSE Hole 16, accessed from the Ross Road.

The proposed street name submitted by the developer is Bogey Way. Please see the following site plan with the street marked in red.

I, along with the police chief and fire chief, have reviewed this name and found them to be an acceptable name.

Therefore, it is recommended that the Town Council approve the street name, Bogey Way.



N/F
105-3-18
JON & KERRI-LYNN
HODGKINS
BK: 13084 PG: 0023

N/F
105-4-9
CHRISTINE ADAMS &
JOY SABINS
BK: 17831 PG: 0249

N/F
105-4-4
NICHOLAS W. ANDREWS
BK: 17412 PG: 0642

N/F
105-4-14
CLARE M. BERSTLER
BK: 8556 PG: 0113

N/F
105-4-13
BRENT L. MOORE
BK: 18213 PG: 773

N/F
105-4-51
JAMES & TERRY NAGLE
BK: 18213 PG: 773

ROSS ROAD

WILD DUNES WAY

DUNEGRASS
GOLF COURSE
HOLE #16

DUNEGRASS
SECTION "F"

UNDERGROUND POWER AND
COMMUNICATIONS (COORDINATE
SERVICE WITH UTILITY PROVIDERS)

UNDERGROUND POWER AND
COMMUNICATIONS (COORDINATE
SERVICE WITH UTILITY PROVIDERS)

RESIDENTIAL GRINDER
PUMP: E-1 OR EQUAL

RESIDENTIAL GRINDER
PUMP: E-1 OR EQUAL

2" LOW PRESSURE
FORCE MAIN

2" LOW PRESSURE
FORCE MAIN

50' WIDE UTILITY EASEMENT

LIMITED COMMON
ELEMENT (TYP.)

BUILDING DRIP
EDGE TYPICAL

EXISTING TREELINE

EXISTING TREELINE

CONDO ASSOC.
53,045 S.F.
1.22± Ac.

INFILTRATION BASIN
BOTTOM: 79.5

F.F.E.
80.3

F.F.E.
80.3

F.F.E.
80.3

F.F.E.
80.3

NEW TREELINE

RESIDENTIAL GRINDER
PUMP: E-1 OR EQUAL

RESIDENTIAL GRINDER
PUMP: E-1 OR EQUAL

RESIDENTIAL GRINDER
PUMP: E-1 OR EQUAL

RESIDENTIAL GRINDER
PUMP: E-1 OR EQUAL

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PUMP: E-1 OR EQUAL

RESIDENTIAL GRINDER
PUMP: E-1 OR EQUAL

RESIDENTIAL GRINDER
PUMP: E-1 OR EQUAL

SIGHT DISTANCE = 415' ±

SIGHT DISTANCE = 580' ±

N81° 37' 03"E
400.49'

N7° 08' 04"E
20.00'

N7° 08' 04"E
40.00'

1" HDPE
WATER
SERVICE
LINES

AGENDA ITEM # 8070

Discussion with Action: Accept the resignation, with regret, of Dawn-Marie Dunbar from the Conservation Commission and appoint Mary Pat Donnellon as an alternate member to the Conservation Commission, term to expire 12/31/2024.

Chair: Shawn O'Neill

AGENDA ITEM # 8071

Discussion with Action: Set a public hearing date of January 16th, 2024 to amend the Code of Ordinances, Section 54-187, Old Salt Road, from Temple Avenue to Spring Street and Spring Street, from Temple Avenue to Old Salt Road, restricting vehicles to a gross weight of 9,000 pounds or less, unless they are emergency or municipal vehicles.

Chair: Shawn O'Neill

Town of Old Orchard Beach, Maine



Police Department

*16 E Emerson Cummings Blvd.
Old Orchard Beach, Maine 04064
Tel: (207) 934-4911 Fax (207) 937-5899*

*Elise Chard - Chief of Police
David Hemingway-Deputy Chief of Police*

*TO: Diana Asanza and Council
From: Chief Elise Chard
Ref: Old Salt Road and Spring Street ordinance change proposal*

In an attempt to remedy the issues of large vehicles traveling and parking on Old Salt Road and Spring Street we would propose the following changes to Sec. 54-187, - Restrictions and Prohibitions.

Proposed Wording for old Salt Road and Spring Street – (No Current Wording Exists)

Sec 54-187. – Restrictions and prohibitions.

Old Salt Road. No Vehicle except emergency or municipal vehicles, having a registered gross weight in excess of 9,000 pounds shall be operated or caused to be operated on or over Old Salt Road from Temple Avenue to Spring Street.

Spring Street. No Vehicle except emergency or municipal vehicles, having a registered gross weight in excess of 9,000 pounds shall be operated or caused to be operated on or over Spring Street from Temple Avenue to Old Salt Road.

**Chief Elise Chard
Old Orchard Beach Police Department**

Town of Old Orchard Beach, Maine



Police Department

*16 E Emerson Cummings Blvd.
Old Orchard Beach, Maine 04064
Tel: (207) 934-4911 Fax (207) 937-5899*

*Elise Chard - Chief of Police
David Hemingway-Deputy Chief of Police*

To: Diana Asanza and Council Members

From: Chief Elise Chard

Ref: Commercial Vehicles traveling and parking on Old Salt Road

It has been reported to the police department that there are several large commercial vehicles traveling and at times parking in inappropriate locations on Old Salt Road and Spring Street. This is causing concern for area residents due to the size of the vehicles traveling through a condensed residential area and at times parking on the roadways causing traffic safety concerns.

In an attempt to remedy the issues of large vehicles traveling and parking on Old Salt Road and Spring Street we would propose the following changing Sec. 54-187, - Restrictions and Prohibitions to restrict vehicles with a gross weight of over 9,000 pounds from operating on Old Salt Road and Spring Street.





Below are some current existing restrictions and conditions for other similar roadways in Old Orchard Beach.

Portland Avenue. No vehicle shall be parked on Portland Avenue from Cascade Road to Old Orchard Street. No vehicle, except emergency or municipal vehicles, having a registered gross weight in excess of 30,000 pounds shall be operated or caused to be operated on or over Portland Avenue, from the Scarborough line to the Cascade Road.

Smith Wheel Road. Except as identified in the exemptions below, no vehicle having a registered gross weight in excess of 9,000 pounds shall be operated or caused to be operated on or over Smith Wheel Road from Vallee Lane to the Ocean Park Road. Exemptions: Emergency vehicles; Municipal vehicles; Delivery vehicles for a distance of 310 feet, beginning at the Smith Wheel Road and Ocean Park Road intersection, continuing north along Smith Wheel Road.

Runnells Avenue. No vehicle, except emergency or municipal vehicles, having a registered gross weight in excess of 9,000 pounds, shall be operated or caused to be operated on or over Runnells Avenue.

School Street. No vehicle, except emergency or municipal vehicles, having a registered gross weight in excess of 9,000 pounds shall be operated or caused to be operated on or over School Street. No vehicle shall be parked on the lefthand side of School Street from Saco Avenue for the entire length of School Street.

Chief Elise Chard
Old Orchard Beach Police Department

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 January 2nd, 2024, at 6:30 p.m. to consider the following:

Shall the Town Council of the Town of Old Orchard Beach amend section 54-187, Restrictions and Prohibitions, Old Salt Road and Spring Street, by adopting the underscored language:

Sec. 54-187. - Restrictions and prohibitions.

Old Salt Road. No vehicle shall be parked on either side of Old Salt Road commencing at a point on West Grand Avenue and extending in a northerly direction to lot #12 on Connecticut Avenue, a distance of 300 feet more or less. No vehicle, except emergency or municipal vehicles, having a registered gross weight in excess of 9,000 pounds, shall be operated or caused to be operated on or over Old Salt Road from Temple Avenue to Spring Street.

Spring Street. No vehicle, except emergency or municipal vehicles, having a registered gross weight in excess of 9,000 pounds, shall be operated or caused to be operated on or over Spring Street from Temple Avenue to Old Salt Road.

Per Order of the Municipal Officers this _____ day of December 19th, 2023.

A True Copy

Attest:

Kim M. McLaughlin, Town Clerk

AGENDA ITEM # 8072

Discussion with Action: Consider the request from 24 LRR, LLC to accept title through a warranty deed a strip of land along Little River Road and to accept and establish that land as part of an expanded town way along Little River Road. As described in the Deed from 24 LRR, LLC to the Town of Old Orchard Beach, Maine dated _____.

Chair: Shawn O'Neill

After recording return to:
Shepard and Read
93 Main St.
Kennebunk, ME 04043

Space Above This Line For Recording Data

WARRANTY DEED

KNOW ALL PERSONS BY THESE PRESENTS, THAT **24 LRR, LLC**, a Maine limited liability company, with a mailing address of PO Box 685, Gorham, Maine 04038, for adequate consideration paid, GRANTS, CONVEYS and RELEASES to the Town of Old Orchard Beach, a body politic and corporate with a mailing address of 1 Portland Avenue, Old Orchard Beach, Maine 04064, with **WARRANTY COVENANTS**, certain real estate situated in the Town of Old Orchard Beach, County of York, State of Maine and being more particularly bounded and described as follows:

SEE EXHIBIT A ATTACHED HERETO AND
INCORPORATED HEREIN BY REFERENCE

The purpose of this conveyance is to comply with the conditions of a certain subdivision approval for The Seven Mile Beach Condominium Development, approved by the Old Orchard Beach Planning Board on May 12, 2022, as recorded in the York County Registry of Deeds at Plan Book 423 Page 31, as revised on Plan recorded at Plan Book 436 Page 50. This conveyance adds a small strip of land to add to the width of Little River Road.

Witness my hand and seal this _____ day of December, 2023.

24 LRR, LLC

By: _____
Scott Weymouth
Its: Authorized Manager

Witness

STATE OF MAINE
County of York

December____, 2023

Personally appeared the above named Scott Weymouth, as the authorized Manager of **24 LRR, LLC**, and acknowledged the foregoing instrument to be his free act and deed, and the free act and deed of the LLC.

Before me,

Notary Public

Exhibit A

A certain lot or parcel of land located at the intersection of Northwesterly sideline of East Grand Avenue and the Northeasterly sideline of Little River Road in the Town of Old Orchard Beach, County of York and state of Maine being bound and more particularly described as follows:

Beginning at an iron pipe located at the intersection of East Grand Avenue and Little River Road;

Thence running North 45° 59' 0" West along the Northeasterly sideline of Little River Road a distance of 106.82 feet to a point;

Thence turning and running North 30° 51' 40" West a distance of 125.50 feet to an iron pipe;

Thence turning and running North 41° 03' 20" West a distance of 120.23 feet to a point;

Thence turning and running South 63° 32' 20" East a distance of 45.20 feet to a point;

Thence turning and running South 35° 48' 35" East a distance of 79.68 feet to a point;

Thence turning and running South 30° 51' 40" East a distance of 125.07 feet to a point;

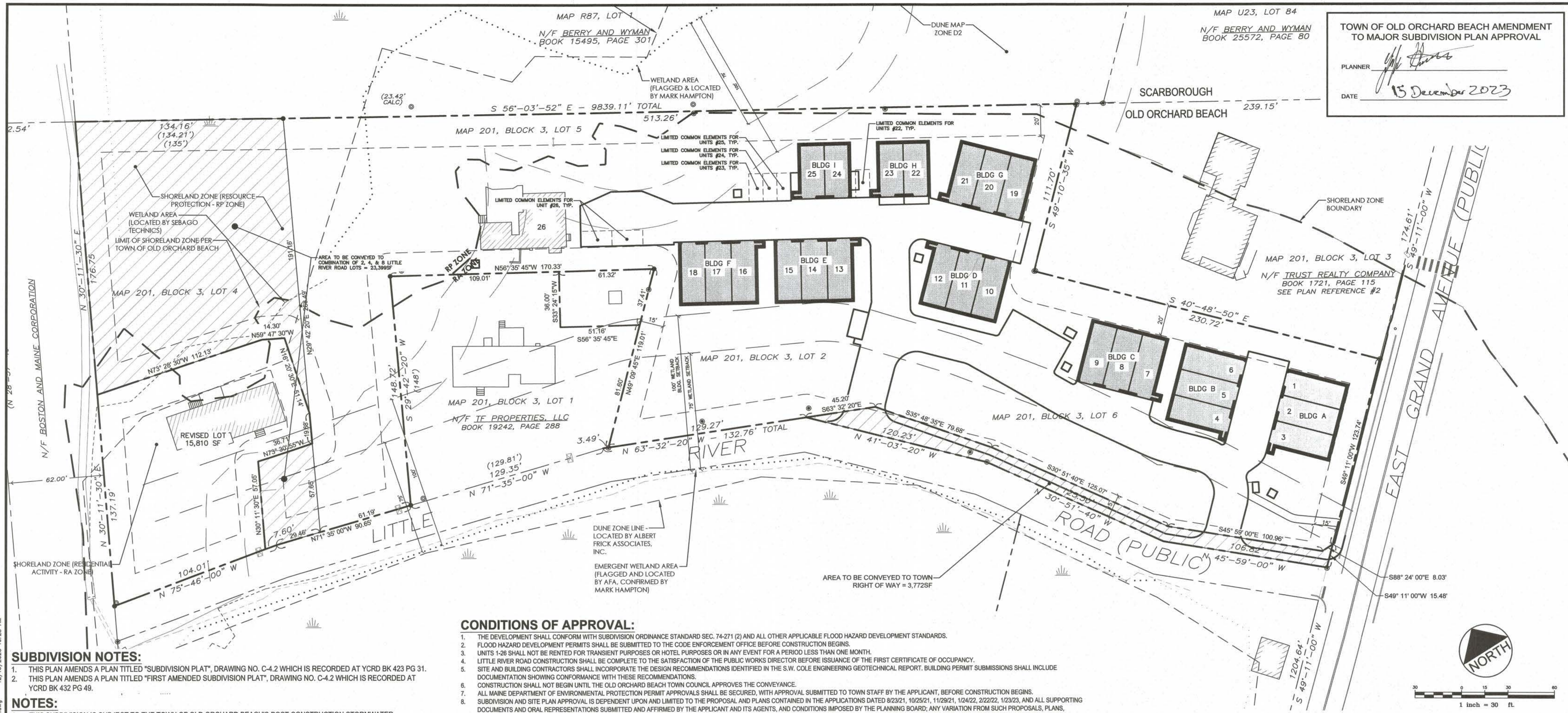
Thence turning and running South 45° 59' 00" East a distance of 100.96 feet to a point;

Thence running South 88° 24' 00" East a distance of 8.03 feet to a point along the Northwesterly sideline of East Grand Avenue;

Thence turning and running South 49° 11' 00" West along said sideline of East Grand Avenue a distance of 15.48 feet to an iron pipe and the point of beginning.

Reference is made to a Plan titled Second Amended Subdivision Plat, for The Seven Mile Beach Condominiums Development-Permit Plans, Drawing No. C-4.2, revised November 13, 2023, approved by the Town Planner on December 15, 2023 and recorded in the York County Registry of Deeds at Plan Book 436 Page 50. =

Being a portion of the property described in a deed dated May 18, 2023, and recorded in the York County Registry of Deeds at Book 19241 Page 916.



SUBDIVISION NOTES:

1. THIS PLAN AMENDS A PLAN TITLED "SUBDIVISION PLAT", DRAWING NO. C-4.2 WHICH IS RECORDED AT YCRD BK 423 PG 31.
2. THIS PLAN AMENDS A PLAN TITLED "FIRST AMENDED SUBDIVISION PLAT", DRAWING NO. C-4.2 WHICH IS RECORDED AT YCRD BK 432 PG 49.

NOTES:

1. THIS SUBDIVISION IS SUBJECT TO THE TOWN OF OLD ORCHARD BEACH'S POST CONSTRUCTION STORMWATER MANAGEMENT ORDINANCE, AND COMPLIANCE WITH A POST-CONSTRUCTION MANAGEMENT PLAN IS A CONDITION OF APPROVAL. ANY PERSON OR HOMEOWNER'S ASSOCIATION OWNING, OPERATING, LEASING OR HAVING CONTROL OVER STORMWATER MANAGEMENT FACILITIES REQUIRED BY THE POST-CONSTRUCTION MANAGEMENT PLAN MUST ADHERE TO THE REQUIREMENTS OF THE MAINTENANCE AGREEMENT FOR POST-CONSTRUCTION BMP'S WHICH WILL BE EXECUTED WITH THE TOWN.
2. THE WETLANDS AS SHOWN WERE DELINEATED BY MARK HAMPTON IN MARCH 2021. THE WETLANDS ON THE 10 LITTLE RIVER ROAD PROPERTY WERE DELINEATED BY SEBAGO TECHNICS IN NOVEMBER, 2019.
3. VERTICAL DATUM IS NGVD 1929
5. E-911 ADDRESSING FOR THE DEVELOPMENT IS 2 LITTLE RIVER ROAD, UNITS #1-26. INDIVIDUAL UNIT NUMBERS ARE LABELLED ON THE PLAN.

PLAN REFERENCES:

1. "PLAN SHOWING A BOUNDARY SURVEY AND TOPOGRAPHIC SURVEY MADE FOR PROPERTY PRESERVE LLC, PARCEL LOCATED AT 2 LITTLE RIVER ROAD, OLD ORCHARD BEACH, MAINE" DATED MAY 29, 2014, BY DOW & COULOMBE, INC.
2. "PLAN SHOWING A BOUNDARY SURVEY AND TOPOGRAPHIC SURVEY MADE FOR SACO BAY REALTY TRUST, PARCEL LOCATED AT 4 LITTLE RIVER ROAD, OLD ORCHARD BEACH, MAINE" DATED MAY 29, 2014, BY DOW & COULOMBE, INC.
3. "EXISTING CONDITIONS SURVEY OF LITTLE RIVER ROAD LOT, 10 LITTLE RIVER ROAD, OLD ORCHARD BEACH, MAINE, FOR RECORD OWNER: STEVEN TRASK AND ANTHONY FERNANDEZ" DATED DEC. 3, 2019, BY SEBAGO TECHNICS.
4. "EXISTING CONDITIONS PLAN FOR STEVE TRASK, 8 LITTLE RIVER ROAD, OLD ORCHARD BEACH, MAINE" DATED MAR. 25, 2021, BY PAUL P. GADBOIS
5. "MAINE DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP FOR STATE HIGHWAY '112', OLD ORCHARD BEACH, YORK COUNTY, FEDERAL AID PROJECT NO. STP-6516(01)X" DATED OCTOBER 1996, DOT FILE NO. 16-361
6. ONSITE RECONNAISSANCE PERFORMED BY GORRILL PALMER, AUGUST 2021.
7. "REVISED PLAN OF LITTLE RIVER ROAD SUBDIVISION, ON EAST GRANDE AVENUE, OLD ORCHARD BEACH, MAINE, FOR NEW ENGLAND HERALD DEVELOPMENT GROUP", BY OWEN HASKELL, INC., DATED DEC. 11, 1985, RECORDED IN Y.C.R.D. ON JAN. 15, 1986, IN PLAN BOOK 144, PAGE 14.

CONDITIONS OF APPROVAL:

1. THE DEVELOPMENT SHALL CONFORM WITH SUBDIVISION ORDINANCE STANDARD SEC. 74-271 (2) AND ALL OTHER APPLICABLE FLOOD HAZARD DEVELOPMENT STANDARDS.
2. FLOOD HAZARD DEVELOPMENT PERMITS SHALL BE SUBMITTED TO THE CODE ENFORCEMENT OFFICE BEFORE CONSTRUCTION BEGINS.
3. UNITS 1-26 SHALL NOT BE RENTED FOR TRANSIENT PURPOSES OR HOTEL PURPOSES OR IN ANY EVENT FOR A PERIOD LESS THAN ONE MONTH.
4. LITTLE RIVER ROAD CONSTRUCTION SHALL BE COMPLETE TO THE SATISFACTION OF THE PUBLIC WORKS DIRECTOR BEFORE ISSUANCE OF THE FIRST CERTIFICATE OF OCCUPANCY.
5. SITE AND BUILDING CONTRACTORS SHALL INCORPORATE THE DESIGN RECOMMENDATIONS IDENTIFIED IN THE S.W. COLE ENGINEERING GEOTECHNICAL REPORT. BUILDING PERMIT SUBMISSIONS SHALL INCLUDE DOCUMENTATION SHOWING CONFORMANCE WITH THESE RECOMMENDATIONS.
6. CONSTRUCTION SHALL NOT BEGIN UNTIL THE OLD ORCHARD BEACH TOWN COUNCIL APPROVES THE CONVEYANCE.
7. ALL MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION PERMIT APPROVALS SHALL BE SECURED, WITH APPROVAL SUBMITTED TO TOWN STAFF BY THE APPLICANT, BEFORE CONSTRUCTION BEGINS.
8. SUBDIVISION AND SITE PLAN APPROVAL IS DEPENDENT UPON AND LIMITED TO THE PROPOSAL AND PLANS CONTAINED IN THE APPLICATIONS DATED 9/23/21, 10/25/21, 11/29/21, 1/24/22, 2/22/22, 1/23/23, AND ALL SUPPORTING DOCUMENTS AND ORAL REPRESENTATIONS SUBMITTED AND AFFIRMED BY THE APPLICANT AND ITS AGENTS, AND CONDITIONS IMPOSED BY THE PLANNING BOARD; ANY VARIATION FROM SUCH PROPOSALS, PLANS, SUPPORTING DOCUMENTS AND REPRESENTATIONS ARE SUBJECT TO REVIEW AND APPROVAL BY THE TOWN PLANNER.
9. AN AGREEMENT THAT THE DEVELOPER WILL BUILD A 24' WIDE ROADWAY ACCORDING TO DESIGN STANDARDS SEC. 74-309 WITH A BIKE/PEDESTRIAN PATH INCLUDED NO LESS THAN 5' IN WIDTH (29 FEET TOTAL).

SPACE AND BULK REGULATIONS - RESIDENTIAL BEACHFRONT (RBD), SHORELAND RESIDENTIAL ACTIVITY (RA) & RESOURCE PROTECTION (RP)					
SPACE AND BULK REGULATION	REQUIRED RBD	REQUIRED RA	REQUIRED RP	PROVIDED (2,4,8& LRR)	PROVIDED (10 LRR)
MINIMUM LOT SIZE	10,000SF	SAME AS RBD	40,000SF	139,271SF	15,810SF
MINIMUM LOT FRONTAGE	100'	SAME AS RBD	SAME AS RBD	586.48'	104.01'
MINIMUM SHORE FRONTAGE	100'	150' TIDAL / 200' NON-TIDAL PER DWELLING UNIT	150' TIDAL / 200' NON-TIDAL PER DWELLING UNIT	N/A	N/A
MINIMUM SETBACKS : FRONT YARD REAR YARD SIDE YARD	15' 20' 15'	SAME AS RBD	50' 25' 25'	15.5' 20' 15'	19.00' 20.00' 15.61'
MAXIMUM BUILDING HEIGHT	35'	SAME AS RBD	35'	33.5'	<35'
MAXIMUM BUILDING COVERAGE	60%	SAME AS RBD	20%	13.86%	12.30%
MAXIMUM LOT COVERAGE	80%	SAME AS RBD	20%	39.40%	39.58%

OWNER OF RECORD:
 STEVEN TRASK, SCOTT WEYMOUTH, ANTHONY FERNANDEZ
 128 OAK LANE
 DAYTON, MAINE 04005
 YCRD BK 18580, PG 362; BK 18580, PG 358; BK 18898, PG 745; BK 18625, PG 903

NET RESIDENTIAL ACREAGE

CALCULATIONS PER THE SPACE AND BULK PROVISIONS AND DEFINITIONS FOR THE APPLICABLE ZONES IN THE TOWN'S ORDINANCE.

OF DWELLING UNITS PER LOT AREA: 1 UNIT / 3,750SF (RBD/RA) / 1 UNIT / 40,000SF (RP)
 TOTAL LOT AREA OF 2 LITTLE RIVER ROAD = 139,271SF (PRIOR TO CONVEYANCE OF LAND TO TOWN RIGHT OF WAY)
 TOTAL LOT AREA OF 10 LITTLE RIVER ROAD = 15,810SF

	2 LITTLE RIVER ROAD RBD/RA 102,766SF	RP 36,505SF	10 LITTLE RIVER ROAD RBD/RA 14,299SF	RP 1,511SF
AVAILABLE LOT AREA	102,766SF	36,505SF	14,299SF	1,511SF
UNITS SUBTOTAL	27.40	0.91	3.81	0.04
MAX. DWELLING UNITS	28.31 UNITS		3.85 UNITS	

STATE OF MAINE
 YORK COUNTY REGISTRY OF DEEDS
 RECEIVED Dec 16 2023
 AT 12 h 50 m P M. AND RECORDED IN
 PLAN BOOK 436 PAGE 50
 ATTEST
Nancy E. Hammond REGISTER

STATE OF MAINE
 MICHAEL J. COULOMBE
 No. 12933
 REGISTERED PROFESSIONAL ENGINEER
 STATE OF MAINE
 STEPHEN R. BUSHEY, P.E.
 LIC. #7429

Rev.	Date	Revision
18	12.12.2023	RESUBMITTED TO TOWN
17	11.13.2023	REVISED PLANS FOR CONSTRUCTION
16	07.20.2023	REVISED PLANS FOR CONSTRUCTION
15	06.29.2023	SUBMITTED TO TOWN PER CONDITIONS OF APPROVAL
14	06.23.2023	SUBMITTED TO TOWN FOR REVIEW
13	01.23.2023	SUBMITTED TO TOWN FOR MINOR AMENDMENT
12	06.27.2022	SUBMITTED TO DEP FOR PBR REVIEW
11	05.02.2022	SUBMITTED TO TOWN PER CONDITIONS OF APPROVAL

Rev.	Date	Revision
10	04.18.2022	SUBMITTED TO DEP FOR PBR REVIEW
9	03.09.2022	SUBMITTED TO DEP FOR PBR REVIEW
8	02.22.2022	SUBMITTED TO TOWN FOR REVIEW
7	01.27.2022	SUBMITTED TO DEP FOR PBR REVIEW
6	11.24.2021	RESUBMITTED TO TOWN FOR REVIEW
5	11.23.2021	RESUBMITTED TO TOWN FOR REVIEW
4	10.25.2021	RESUBMITTED TO TOWN FOR PRELIMINARY PLAN REVIEW
3	08.23.2021	RESUBMITTED TO TOWN FOR PRELIMINARY PLAN REVIEW

Design: KAB Draft: CDD Date: OCT. 2020
 Checked: SRB Scale: AS NOTED Job No.: 3739.01
 File Name: 3739-LITTLE RIVER RD-SITE.dwg
 This plan shall not be modified without written permission from Gorrill Palmer. Any alterations, authorized or otherwise, shall be at the user's sole risk and without liability to Gorrill Palmer.



Relationships. Responsiveness. Results.
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 207.772.2515

Drawing Name: SECOND AMENDED SUBDIVISION PLAT
 Project: THE SEVEN MILE BEACH CONDOMINIUMS DEVELOPMENT - PERMIT PLANS
 Little River Road, Old Orchard Beach, Maine
 Client: Steven Trask / Anthony Fernandez / Scott Weymouth
 128 Oak Lane, Dayton, Maine 04005

Drawing No. C-4.2

U:\3739.01_2-4_Little River Rd Resubmittal Dev-Old Orchard Beach, ME.Z - CAD\DWG\3739-LITTLE RIVER RD-SITE.dwg 12/15/2023 10:23 AM

AGENDA ITEM # 8073

Discussion with Action: Shall the Town approve a revised Contract Zone Agreement between Seacoast Land Acquisitions, LLC and the Town of Old Orchard Beach, for the property located at 63-91 E. Emerson Cummings Blvd, MBL: 207-1-2, in the PMUD district, pursuant to 30A M.R.S.A., Section 4352 (8), Chapter 78, Section 78-31 and Chapter 78, Article IX of the Old Orchard Beach Zoning Ordinance, and Section 410 of the Old Orchard Beach Charter. The purpose of the Contract Zone is to allow the establishment of a 61-unit single-family condominium project. The revisions change from the warranty deed reference to a purchase and sale agreement reference and change language to ensure future planning board plan approvals are incorporated into the agreement.

Chair: Shawn O'Neill

**TO: Old Orchard Beach Town Council
Diana Asanza, Town Manager
Tim Fleury, Executive Assistant**

FROM: Planning Staff

SUBJECT: Revised 61 Unit Contract Zoning Proposal at 63 -91 E. Emerson Cummings Blvd

DATE: 2 January 2024

At the 5 December 2023 meeting, Council approved a contract zone agreement for a 61-unit single-family development located at 63-91 E. Emerson Cummings Blvd. After approval, we found two sentences in the agreement should be revised. The sentences in the approved agreement and proposed changes are as follows:

1. Approved agreement (see p 5): “WHEREAS, at the time of application for a contract zone, Seacoast has purchased the Property and a copy of a Warranty Deed as recorded in the York County Registry of Deeds at Book ____, Page ____ has been presented to the Old Orchard Beach Town Council as evidence of right, title or interest in the Property.”

Change: A Purchase and Sale Agreement, not a Warranty Deed, was presented to the Town for right, title or interest in the property. Deed related language is removed and replaced with Purchase and Sale language.

2. Approved agreement (see p 8): “B. All details shown on the plans conditionally approved by the Old Orchard Beach Planning Board on-----, 2023 are incorporated into this contract by reference and shown in Exhibit B.”

Change: A specific Planning Board approval date is not identified and Exhibit B not included because Site Plan and Subdivision approvals were not secured before Council’s final vote on the agreement. To ensure Site Plan and Subdivision approvals are incorporated, the adopted language above is changed to: “All details shown on the plans conditionally approved by the Old Orchard Beach Planning Board are incorporated into this contract by reference.”

In my opinion, these are non-substantive changes that do negatively impact the Town or abutters and do not change the substance of the agreement. The Town Planner or Planning Board may approve changes associated with a agreement but because they are not changes to a plan or document approved by the Planning Board, it seemed appropriate to have Council consider and vote on these particular amendments because it is language in the agreement.

CONTRACT ZONE
AGREEMENT

This CONTRACT ZONE AGREEMENT is revised this 2nd day of January, 2024, and between SEACOAST LAND ACQUISITIONS, LLC, a Maine limited liability company with a principal place of business in the City of Saco, in the County of York and State of Maine, (hereinafter "Seacoast"), and THE TOWN OF OLD ORCHARD BEACH, a municipal corporation located in York County, Maine.

WHEREAS, Seacoast proposes to construct a single-family condominium development containing sixty-one (61) units on 19.23 acres of land located in Old Orchard Beach, 63-91 E Emerson Cummings Boulevard (hereinafter referred to as the "Project"); and

WHEREAS, the parcel to be developed is shown as Tax Map 207, Block 1, Lot 2 on the Town of Old Orchard Beach Tax Maps, more specifically described on Exhibit A attached (the "Property"), and is located within the Planned Mixed Use District (the "PMU District"); and

WHEREAS, at the time of application for a contract zone, Seacoast has a purchase and Sales Agreement dated May 26, 2022 which has been presented to the Old Orchard Beach Town Council as evidence of right, title or interest in the Property; and

WHEREAS, residential dwellings are permitted as a conditional use within the PMU District, and the rezoning to permit the construction of the Project is consistent with the Old Orchard Beach Comprehensive Plan (the "Comprehensive Plan") and with existing uses within the PMU District; and

WHEREAS, Seacoast has petitioned for a contract zone to amend the Old Orchard Beach Zoning Ordinance (the "Zoning Ordinance") to allow the Project to be developed, for the following reasons:

- A. The proposed Project would provide sixty-one (61) units on 19.23 acres. The minimum lot area requirement within the PMU District for general residential uses with sewer is 20,000 square feet of buildable area per unit. Given the buildable area of the subject property after subtracting the wetland area that will remain protected, the Project would be restricted to 19 general residential units and would not be viable without the Contract Zone.
- B. The required front, side, and rear setbacks within the PMU District for a site with public sewer are equal to 35 feet (25 feet plus 10 feet per additional story above the 1st story – the proposed condominiums have two floors). Given the significant acreage of wetland area on-site, which is located generally to the southwest and covers nearly half of the property, development is restricted to upland areas to the north/northeast. The abutting parcel to the south of the subject property is zoned Residential 4 (R-4),

which requires 20-foot front/rear setbacks and 15-foot side setbacks. With reduced setbacks that are in keeping with the neighboring zone, the project will result in less wetland impact and will allow for more open space, which will contain these natural resources and be protected from further development in perpetuity.

- C. The proposed Project use will be entirely single-family residential. Although the Distribution of Uses standard set forth in Section 78-1025 of the Zoning Ordinance states that no single use shall exceed 75 percent of the total building square footage permitted in the PMU District, the nature of the site and surrounding properties is more suitable for a solely residential development. Existing residential developments occupy general areas to the south and west of the project site and abutting parcels to the north and east have educational uses. Residential developments, such as the one proposed, provide living opportunities for families; with close proximity to two schools, a fully residential use meets the intent of the Comprehensive Plan.
- D. Per Section 78-1027: Performance Standards – Site Amenities, residential neighborhoods containing in excess of 50 units in the PMU District shall provide neighborhood facilities designed to service the recreational needs of the residents. Such facilities may be designed for indoor or outdoor use and for passive or active recreational activities. An indoor facility is not feasible due to the limited amount of upland area on-site, however, walking trails within the dedicated Open Space area would allow for outdoor recreation for residents of the development, as well as general members of the public.
- E. Per Section 78-1027: Performance Standards – Site Amenities, pedestrian travel, safety, and convenience for PMUD residents is encouraged; sidewalks shall be provided along all residential streets and between recreational site amenities. The applicant proposes that the roadway be designated as an internal drive, as it will not have its own Right of Way and the surrounding land will be considered common, outside of the individual condo plats for each unit. This being the case, the applicant proposes to construct a 24-foot-wide road, which will consist of two (2) 10-foot-wide travel lanes, and a 4-foot-wide painted pedestrian path. This design allows for maneuverability of a ladder truck/other emergency vehicles and enhances pedestrian safety, without requiring the road to be widened, which would result in further wetland impacts. A 24-foot-wide paved road also meets the design criteria outlined within the street design standards for a “collector street”. The applicant also notes that a traditional curbed sidewalk would require 61 breaks for individual driveways along the travel way, which is not feasible from a design perspective, due to the close proximity of each driveway.

NOW, THEREFORE, pursuant to the authority found in 30-A M.R.S.A, Section 4352(8), and Article IX of the Zoning Ordinance (the "Contract Zoning Ordinance"), and by vote of the Old Orchard Beach Town Council on January 2, 2024, the following findings are hereby adopted:

- A. The Property is a large, undeveloped 19.23-acre parcel located in Old Orchard Beach, in an existing residential area, with access to existing public water and sewer, and extensive wetland area existing on a large portion of the site. Single-family dwellings are permitted as a conditional use within the PMU District. In keeping with the Comprehensive Plan, the proposed contract zone will allow the development of the Property to be maximized for residential use, while preserving roughly 9.5 acres of existing forested wetland area.
- B. The proposed rezoning is further consistent with one of the goals identified as most important to the Town, as set forth in Section IV of the Comprehensive Plan, which is to direct growth to areas with economical access to existing sewer and water facilities.
- C. The Comprehensive Plan has an overall theme of promoting desirable development, which includes providing a benefit to the public. The project must include “affordable housing” within the proposed development and include deed restrictions for all future sales of the home to ensure that it remains affordable. No less than 7 units will be offered at the affordable rate, as described. For the purposes of this Agreement, "affordable housing" means a decent, safe and sanitary dwelling for 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. This shall also be applicable to long term rentals for 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.
- D. As an added benefit the applicant also proposes the creation of trails throughout the open space, which will be available for resident and general public use. These trails will be constructed with as little disturbance as possible to preserve the natural resources, terrain, and forested areas within the Open Space. Thirteen (13) parking spaces have been added to the layout for use by visitors/guests and those who wish to use the trails.
- E. The proposed rezoning is further consistent with Section IV(D) of the Comprehensive Plan, which provides that development should work to protect, preserve and enhance the wetlands of the community. The Property is a total of 19.23 acres, 9.5 acres of which will be preserved forested area, with at least 5.36 of that being wetlands. The wetlands will be protected from development in perpetuity and places within a conservation easement. The applicant proposes to convey this land to the Town of Old Orchard Beach.
- F. Short Term Rentals, as defined by the town of Old Orchard Beach Code of Ordinances, of any unit, including the entire unit or portion of a unit, shall be prohibited.
- G. The Project shall not exceed sixty-one (61) Dwellings, as defined by the Town of Old

Orchard Beach Zoning Ordinance, throughout the life of this project. For the purposes of this condition, Dwellings shall include Accessory Dwelling Units, as Defined by the Town of Old Orchard beach Zoning Ordinance.

- H. The roadway serving the development shall remain private and roadway improvements, maintenance, and snow plowing/removal shall be the responsibility of the condominium association.
- I. Seacoast shall add two crosswalks with rapid flashing beacon signage at the proposed development's two road access points, proceeding across E. Emerson Cummings Blvd, then connecting with the existing sidewalk on the high school property.
- J. The conditions hereinafter set forth in this contract and by the Old Orchard Beach Planning Board are sufficient to meet the intent of the Contract Zoning Ordinance.

WHEREFORE, based on the findings above set forth, the Old Orchard Beach Town Council hereby agrees that this contract shall modify the Space & Bulk Requirements in the PMU District to allow a reduction in the minimum lot size per dwelling unit to allow 61 residential units to be constructed on the Property and to allow for a 20-foot front/rear and 15-foot side setback; however, that this agreement shall be subject to the conditions and restrictions as follows:

- A. Except as set forth herein, the applicant shall adhere to all other applicable provisions of the PMU District, the Zoning Ordinance and Subdivision Ordinance.
- B. All details shown on the plans conditionally approved by the Old Orchard Beach Planning Board are incorporated into this contract by reference. The Property shall be developed substantially in conformance with those plans. Revisions to the Site Plan may be administratively approved by the Town Planner and Code Enforcement Officer in accordance with applicable provisions of the Zoning Ordinance. Any changes determined by the Planning Staff to require Planning Board approval shall be submitted for such review. If the Planning Board determines that any proposed revisions to the approved plans would not comply with the provisions in this Agreement, Seacoast shall be required to obtain an amendment of the Agreement from the Town Council before the Planning Board can review and approve the revised plans.
- C. These amendments affect only the parcel of land identified as Tax Map 207, Block 1, Lot 2 on the Town of Old Orchard Beach tax maps as more particularly described on Exhibit A.
- D. This contract and its provisions shall specifically and exclusively apply to the contract zone request submitted by Seacoast. Approval of this contract

zone is in part based on the technical qualifications of Seacoast as submitted to the Town. Accordingly, without the prior written consent of the Town Council, which consent shall not unreasonably be withheld, this contract and the contract zone it creates shall not be transferable by Seacoast except that this contract shall be binding upon, and shall inure to the benefit of, future owners of the Property, or any part thereof, provided, however, that Seacoast may (1) transfer this contract and the contract zone it creates to a Maine limited partnership in which the general partner thereof is controlled by _____ without any need for written consent of the Town Council and (2) this contract and the contract zone it creates may be assigned or pledged to lenders providing financing secured by the Property and the Project. In the event of a transfer to such a limited partnership, all references in this agreement to Seacoast shall thereafter be deemed to refer to such limited partnership.

- E. Failure of Seacoast to secure the required Site Plan and Subdivision approvals from the Planning Board, and any and all other permits or approvals that may be required by the Town or other regulatory agencies including but not limited to the Maine Department of Environment Protection and/or Department of Transportation within one year of the approval of this Contract by the Town Council shall render this Contract null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of Seacoast, this one year deadline may be extended by one (1) year upon written request to the Town Council submitted by Seacoast prior to the expiration of the original one-year period, and in the event the final permits or approvals are delayed due to the pendency of an appeal, the one- year deadline shall start to run from the date the appeal(s) are determined and such permits or approvals become final.
- F. Failure of Seacoast to initiate construction of the Project within two (2) years from the date of final approval of this contract zone by the Town Council, or within two (2) years from the date the permits and approvals referred to in Subparagraph E above become final, whichever shall last occur, shall render this contract null and void. In the event that permits or approvals are delayed due to circumstances beyond control of Seacoast, this two-year deadline may be extended by one year upon written request to the Town Council submitted by Seacoast prior to the expiration of the original applicable two-year period.
- G. In the event that Property Owner and/or its successors and assigns fail to develop or operate the Property in accordance with this Agreement or in the event of any other breach of any conditions set forth in this Agreement, the Town Council shall have the authority, after written notice to Seacoast and/or its successors and assigns, and reasonable opportunity to cure, to terminate this Agreement or to re-zone the Property to the current zone or any successor zone. In the event of such a re-zoning, the Property shall then be used for only such uses or otherwise allowed by law. The Town

can also enforce any breach of this Agreement or any other violation of the Zoning Ordinance through the provisions of 30-A M.R.S.A. § 4452.

- H. Seacoast shall record this Contract Zone Agreement in the York County Registry of Deeds within thirty (30) days of the date on which Seacoast receives an executed original of this Contract Zone Agreement from the Town. The purpose of this requirement is to provide record notice of all of the requirements of the Contract Zone Agreement.
- I. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the Property and shall be amended only upon further written agreement of the Town and Seacoast and/or its heirs, successors and assigns to the Property. Any variation from the Contract Zoning Agreement, plans, supporting documents and representations are subject to review and approval by the Planning Board, provided that de minimis variation is subject to review and approval by the Town Planner. If it is determined by the Planning Board or Town Planner that the changes constitute a change in the contract, then Seacoast and/or its heirs, successors and assigns to the Property shall also be required to obtain Town Council approval of the changes.
- J. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property and shall bind Seacoast and/or its heirs, successors and assigns of the Property or any party in possession or occupancy of the Property or any part thereof and shall inure to the benefit of and be enforceable by the Town.

If any of the restrictions, provisions, conditions or portions of this Agreement is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portions shall be deemed as separate, distinct and independent provisions and such determination shall not affect the validity of the remaining portions hereof.

Based on the above findings, conditions and restrictions, the Town Council hereby incorporates this contract zoning agreement into the Zoning Ordinance by reference. By signing this contract, both parties agree to abide by the conditions and restrictions contained herein. The above restrictions, provisions, and conditions are an essential part of the rezoning of the Property, shall run with the land, and shall bind and inure to the benefit of Seacoast.

The Town of Old Orchard Beach	Seacoast Land Acquisitions, LLC
bys/Shawn O’Neill, Chairman	bys/Jason Labonte, Owner

bys/Kenneth Blow, Vice-Chair	
bys/Michael Tousignant	
bys/V. Louise Reid	
bys/Connor Rague	

STATE OF

)

) ss

MAINE COUNTY

)

OF

On _____, 2023, before me personally appeared Jason Labonte, Owner of Seacoast Land Acquisitions, LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity.

NOTARY PUBLIC, signature

Print Notary Name

My Commission

Expires:

EXHIBIT A

MAP AND PROPERTY
DESCRIPTION

EXHIBIT B
CONDITIONALLY APPROVED PLAN

AGENDA ITEM # 8074

Discussion with Action: Renew the liquor license for the Oceanside Grille @ the Brunswick, HFY Enterprises INC, Thomas Lacasse, (310-6-1) 39 West Grand Avenue, m-s-v in a class A restaurant/lounge.

Chair: Shawn O'Neill

AGENDA ITEM # 8075

Discussion with Action: Council to communicate to Town Manager guidance regarding the FY25 Municipal Budget pursuant to Charter, Article VII, Sec 702.

Chair: Shawn O'Neill

ADJOURNMENT

Chair: Shawn O'Neill