



Town Council - Meeting Agenda

Tuesday, December 5th, 2023 @ 6:30pm
Council Chambers - 1 Portland Avenue

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PLEDGE OF ALLEGIANCE:

ROLL CALL:

ACKNOWLEDGEMENTS:

GOOD & WELFARE:

ACCEPTANCE OF MINUTES:

Acceptance of minutes from the 11/20 Special and Inaugural Meetings, 11/21 Regular Town Council Meeting, and the 11/28 Town Council Workshop

Chair: Shawn O'Neill

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);
- 78-993 (1);

Continued on next page

- 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.

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**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.

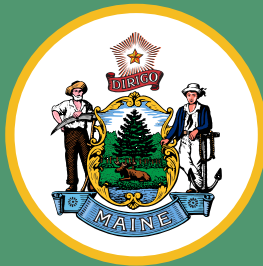
A True Copy

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](https://www.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

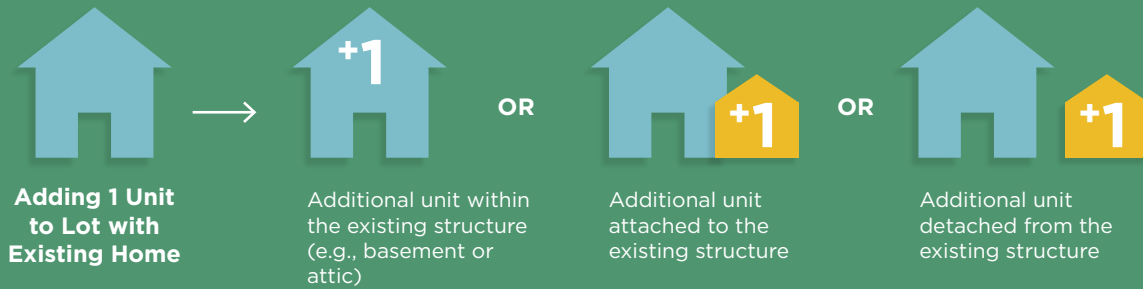


NOTE: The three and four units can be within one structure or multiple structures.

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

▶ In a growth area consistent with section 4349-A, subsection 1, paragraph A or B, with public water and sewer in municipality without a comprehensive plan



▶ Up to 4 dwelling units, detached or attached

▶ Outside growth area



▶ Up to 2 dwelling units

ON LAND WITH **ONE** EXISTING UNIT

▶ Up to 2 additional dwelling units



▶ Choose:
a. One unit within or attached
b. One unit detached
c. One of each

▶ 1 accessory dwelling unit



▶ Exempt from:
a. Rate of growth ordinances
b. Additional density area/standards
c. Additional parking requirements

ON LAND WITH **TWO** EXISTING UNITS

▶ No new structure may be built unless allowed under local ordinance

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

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.)

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)?

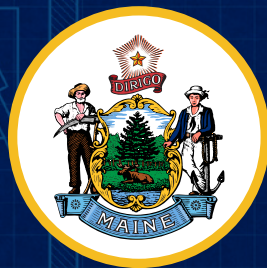
A municipality must allow an ADU to be built on a lot with an existing single-family unit. A municipality must allow a developer/homeowner the following three options for placement of this ADU regardless of density requirements: (1) within an existing structure; (2) attached or sharing a wall with an 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?**



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**MAINE DEPARTMENT OF
ECONOMIC AND COMMUNITY
DEVELOPMENT**

864
2700
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702
1242
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648
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918 1027 701 1350 2160 2484

PUBLIC HEARING – LIQUOR LICENSE & APPROVALS:

JJ's Eatery Too, David Nguyen, (306-5-1), 12 Old Orchard Street Unit B, m-s-v in a Class A restaurant/lounge.

Lone Pine Brewing Company, LLC, John Paul, (305-6-1), 32 East Grand Ave, m-s-v in a Class A restaurant/lounge.

Chair: Shawn O'Neill

PUBLIC HEARING – BUSINESS LICENSE & APPROVALS:

JJ's Eatery Too, David Nguyen, (306-5-1), 12 Old Orchard Street Unit B,
victualers with prep and alcohol.

Chair: Shawn O'Neill

PUBLIC HEARING – SPECIAL AMUSEMENT PERMITS & APPROVALS:

JJ's Eatery Too, David Nguyen, (306-5-1), 12 Old Orchard Street Unit B, jukebox Mon-Sun, open to close.

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.

Chair: Shawn O'Neill

TOWN MANAGER REPORT

NEW BUSINESS:

AGENDA ITEM #8054

Discussion with Action: Shall the Town approve a 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.

Chair: Shawn O'Neill

CONTRACT ZONE
AGREEMENT

This CONTRACT ZONE AGREEMENT is made this _day of _____, 2023, by 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 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; 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~~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 __,2023, 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 applicant, therefore, proposes the inclusion of “affordable” housing within the proposed development, which restricts the purchase price of each unit so that it is affordable, based on the most recent, at the time of sale, affordable homeownership guidelines, as prepared by the State of Maine, and to a household earning up to 120% of the Area Median Income limits the resale price by deed restriction for all future sales of the home to ensure that it remains affordable. ~~10% of 61 units is 6.1; accordingly, Seven (7) units will be offered at the affordable rate, as described.~~
- 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.
- F.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.

G.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.

H.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 on _____, 2023 are incorporated into this contract by reference and shown in Exhibit B. 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 ~~be comply~~ 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/Larry Mead	

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

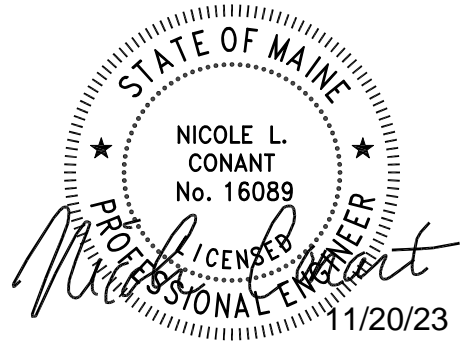
MAP AND PROPERTY
DESCRIPTION

EXHIBIT B
CONDITIONALLY APPROVED PLAN

Memorandum

230010

To: Kendra Ramsell, EI, Sebago Technics
From: Nikki Conant, P.E., Sebago Technics
Griffin Steinman, EI, Sebago Technics
Date: November 20, 2023



Subject: Traffic Impact Assessment, Condominium Development, Old Orchard Beach

Introduction

The purpose of this memorandum is to provide a Traffic Impact Assessment (TIA) for a proposed residential development located off E Emerson Cummings Boulevard in Old Orchard Beach, Maine. The development is proposed to consist of 61 condominiums. Access to the site is proposed via two (2) full movement drives to E Emerson Cummings Boulevard. This memorandum details the calculated trip generation for the development, provides a crash data review for roadways in the vicinity of the site, and evaluates sight distance for the proposed site accesses.

Trip Generation

Trip generation was completed utilizing the 11th edition of the Institute of Transportation Engineers (ITE), *Trip Generation Manual*. Land use code (LUC) 210 – Single-Family Detached Housing was utilized based on 61 dwelling units. ITE defines LUC 210 as a “single-family detached home on an individual lot.” Although the condominium development will not provide individual lots, trip generation is expected to operate in a similar manner to LUC 210. As such, estimated trip generation for the proposed development is outlined in Table 1.

**Table 1 – ITE Trip Generation
Land Use Code 210 – Single-Family Detached Housing
61 Dwelling Units**

<i>Time Period</i>	<i>Fitted Curve Equation</i>	<i>Trips</i>	<i>Entering</i>	<i>Exiting</i>
Weekday	$\text{Ln}(T) = 0.92 \text{Ln}(X) + 2.68$	640	320 (50%)	320 (50%)
AM Peak Hour – Adjacent Street (7 – 9 AM)	$\text{Ln}(T) = 0.91 \text{Ln}(X) + 0.12$	48	12 (25%)	36 (75%)
AM Peak Hour – Generator	$T = 0.71(X) + 7.23$	51	13 (26%)	38 (74%)
PM Peak Hour – Adjacent Street (4 – 6 PM)	$\text{Ln}(T) = 0.94 \text{Ln}(X) + 0.27$	62	39 (63%)	23 (37%)
PM Peak Hour – Generator	$\text{Ln}(T) = 0.93 \text{Ln}(X) + 0.36$	66	42 (64%)	24 (36%)
Saturday	$\text{Ln}(T) = 0.97 \text{Ln}(X) + 2.40$	594	297 (50%)	297 (50%)
Saturday Peak Hour	$T = 0.86(X) + 9.72$	62	34 (54%)	28 (46%)

As demonstrated in Table 1, the development is estimated to generate a total of 51 trips, 66 trips, and 62 trips during the AM, PM, and Saturday peak hours of the generator, respectively. Given this level of trip generation, a Traffic Movement Permit (TMP) is not required from the Maine Department of Transportation (MaineDOT) as project trip generation does not exceed the 100-trip threshold during a peak hour period.

Crash Data

The MaineDOT Public Map Viewer was utilized to determine if there are any high crash locations (HCL) within the immediate vicinity of the site. An intersection or section of roadway is deemed an HCL if two criteria are met: a Critical Rate Factor (CRF) greater than 1.0 and a minimum of eight (8) crashes in a three-year period.

E Emerson Cummings Boulevard in the immediate vicinity of the proposed site driveways was reviewed for the three-year study period from 2020 to 2022. Based on the crash information E Emerson Cummings Boulevard between Dirigo Drive and Saco Avenue, is not designated as a high crash location. As such, no recommendations for improvements are currently provided in conjunction with this project.

Sight Distance Analysis

Sight distance was reviewed in the field on May 31, 2023 for the proposed site driveways.

Measurements were conducted from a point 10 feet behind the edge of the travel way, considering a height of eye of 3.5 feet and a height of object of 4.25 feet. The analysis was completed in accordance with the standards set forth in the *Old Orchard Beach Code of Ordinances: Section 74-309 – Subdivision Design Standards*, also shown in Table 2.

Table 2 – Old Orchard Beach Sight Distance Requirements

<i>Posted Speed (MPH)</i>	<i>Minimum Sight Distance (feet)</i>
30	300'
35	350'
40	400'
45	450'
50	500'
55	550'

E Emerson Cummings Boulevard does not provide a posted speed limit designation in the MaineDOT Public Map Viewer. Signage in the field indicated a speed limit of 30 MPH, corresponding to a required sight distance of 300 feet. Table 3 summarizes the measured results for the proposed driveways for the site.

Table 3 – Sight Distance Results

<i>Driveway</i>	<i>Sight Distance Left (feet)</i>	<i>Sight Distance Right (feet)</i>
West	100' (Image 1)	225' (Image 2)
East	170' (Image 3)	600'+ (Image 4)



Image 1: W. Drive Looking Left



Image 2: W. Drive Looking Right



Image 3: E. Drive Looking Left



Image 4: E. Drive Looking Right

As such, sight distance for both driveways are obstructed by vegetation abutting the roadway. Clearing and vegetation removal is recommended to increase sightlines to the required minimum.

Conclusion

Sebago Technics, Inc. has completed the traffic impact assessment for the residential development in Old Orchard Beach, Maine and provides the following conclusions:

- The proposed development consists of 61 condominiums and is calculated to generate a total of 51 trips, 66 trips, and 62 trips during the AM, PM, and Saturday peak hours of the generator, respectively. As such, a TMP is not required by the MaineDOT.
- E Emerson Cummings Boulevard between Dirigo Drive and Saco Avenue in vicinity of the site drives is not currently designated as a high crash location. As such, no recommendations for improvements are provided.
- Sight distance from the proposed accesses do not meet the required minimum for a 30 MPH roadway. Clearing and vegetation removal are recommended to obtain the required sightlines.



230010 B.dwg, TAB 24/30

SHEET 1 OF 1	DESIGNED	KJR
	DRAWN	BAM
	CHECKED	KJR
	DATE	02/26/2023
	PROJECT	230010

OOB CONDOMINIUM DEVELOPMENT
 OF
LOT 1-2, OOB TAX MAP 207
 E. EMERSON CUMMINGS BLVD.
 OLD ORCHARD BEACH, ME
 FOR
SEACOAST LAND ACQUISITIONS, LLC
 87 SMUTTY LANE
 SACO, ME 04072

SEBAGO
 TECHNICS
 WWW.SEBAGOTECHNICS.COM
 75 John Roberts Rd.
 Suite 1A
 South Portland, ME 04106
 Tel: 207-260-2100

3	KJR	08/28/23	REVISED PER PLANNING BOARD/STAFF COMMENT (CONTRACT ZONE APP)
2	KJR	07/24/23	SUBMITTED TO TOWN OF OOB (CONTRACT ZONE APP)
1	KJR	06/21/23	SUBMITTED TO CLIENT FOR REVIEW
REV: BY:	DATE:	STATUS:	

THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM SEBAGO TECHNICS, INC. ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO SEBAGO TECHNICS, INC.

NOT FOR
 CONSTRUCTION

PROGRESS
 PRINT

AGENDA ITEM #8055

Discussion with Action: Shall the Town approve a request from Atlantic Developers to accept title in fee simple and to accept and establish town ways those portions of Mary's Way and Kylie Lane, together with any storm water drainage systems located within the right of way of said Mary's Way and Kylie Lane; two 50' x 50' turnaround and snow storage easements located on subdivision plan lots 4 and 5; 12' wide easement off Ross Road, as shown on the _____ plan dated _____, for the purposes of accessing storm water drainage systems within the open space area; 50' wide water, gas, and public access easement across the remaining land of Beaulieu from the terminus of Mary's Way to the Eastern Trail; 5' wide public access easement from Ross Road to Kylie Lane, as shown on the _____ plan dated _____, through the open space area; fire hydrants; street signs; together with the responsibility for trash removal, plowing of roads within the travelled way and all responsibilities of maintaining public road or way, except and specifically excluding a 15' wide utility easement located on subdivision lot 18; 10' wide utility easements located along subdivision lots 5 - 18 and open space area; open space areas; lawn care and maintenance of 12' wide Ross Road access easement, 5' wide public access easement, and 50' wide water, gas and public access easement; mailboxes and snow removal of the mailbox area; sidewalks and sidewalk maintenance including plowing and repairs; landscaping and maintenance of the cul-de-sac on Kylie Lane; street lights; lighting facilities; lampposts; lighting electricity costs; street trees; lawn and yard maintenance within the right of way; lawn irrigation systems within the right of way; storm water drainage systems outside of the right of way; non-traffic control signage such as the development sign. As described in the Warranty Deed from Atlantic Developers to the Town of Old Orchard Beach, Maine, dated, _____.

Chair: Shawn O'Neill

WARRANTY DEED

ATLANTIC DEVELOPERS, a Maine corporation with a principal place of business located in Old Orchard Beach, County of York and State of Maine, for consideration paid, hereby grants to the TOWN OF OLD ORCHARD BEACH, a Maine municipal corporation, with a principal place of business and mailing address of 1 Portland Avenue, Old Orchard Beach, ME 04064, with WARRANTY COVENANTS, for highway purposes and without claim for damages, all of its right, title and interest in the following described real estate, namely:

A certain strip or parcel of land located on the westerly sideline of Ross Road, so-called, in the Town of Old Orchard Beach, County of York and State of Maine and shown as Mary's Way & Kylie Lane on the plan titled "Amended Final Plan, Eastern Trail Estates, Cluster Subdivision, Ross Road, Old Orchard Beach, Maine", prepared by BH2M, Inc. for Ross Road LLC, dated February 2019, approved by the Town of Old Orchard Beach Planning Board on June 13, 2019 and recorded in the York County Registry of Deeds in Plan Book 402, Page 30 to which Plan reference is hereby made for a more particular description of the premises hereby conveyed and establish town ways those portions of Mary's Way and Kylie Lane, together with any storm water runoff systems located within the right of way of said Mary's Way & Kylie Lane; two 50' x 50" turnaround and snow storage easements located on subdivision plan lots 4 and 5; 12' wide easement off Ross Road, as shown on the _____ plan dated _____ for the purpose of accessing storm water drainage systems within the open space area; 50' wide water, gas and public access easement across the remaining land of Beaulier from the terminus of Mary's Way to the Easter Tral; 5' wide public access easement from Ross Road to Kylie Lane, as shown on the _____ plan dated _____, through the open space area; fire hydrants; street signs; together with the responsibility for trash removal, plowing of roads within the travelled way and all responsibilities of a public road or way, except and specifically as excluded below.

A 15' wide utility easement located on subdivision lot 18; 10' wide utility easements located along subdivision lots 5-18 and open space area; open space areas; lawn care and maintenance of 12' wide Ross Road access easement, 5' wide public access easement and 50' wide water, gas and public access easement; mailboxes and snow removal of the mailbox turnout area; sidewalks and sidewalk maintenance including plowing and repairs; landscaping and maintenance of the cul-de-sac on Kylie Lane; streetlights, lighting facilities, lampposts, lighting electricity costs; street trees; lawn and yard maintenance within the right of way; lawn irrigation systems within the right of way; storm water drainage systems outside of the right of way; non-traffic control signage such as the development sign. As described in the Warranty Deed from Atlantic Developers to the Town of Old Orchard Beach, Maine, dated _____.

Said Mary's Way and Kylie Lane being more particularly described by metes and bounds as follows:

BEGINNING at a granite monument set on the westerly sideline of said Ross Road at the corner of Open Space as shown on aforesaid plan;

THENCE S 21°-28'-53" W along said Open Space a distance of 89.30 feet to a granite monument set and Lot 18 as shown on aforesaid plan;

THENCE in a general northwesterly direction along Lot 18 and along a circular curve to the left (non-tangent to the last described line), circumscribed by a radius of 20.00 feet an arc length of 32.00 feet to a granite monument set; said granite monument set being N 26°-48'-42" W a tie distance of 28.69 feet from said previous granite monument set;

THENCE in a general westerly direction along said Lot 18 and along a circular curve to the left, circumscribed by a radius of 205.00 feet, an arc length of 40.21 feet to a pk nail set in pavement; said pk nail set being N 78°-15'-40" W a tie distance of 40.15 feet from said previous granite monument set;

THENCE N 83°-52'-49" W along said Lot 18, along Lot 17 and along Lot 16 a distance of 207.09 feet to a granite monument set;

THENCE in a general westerly direction along said Lot 16 and along a circular curve to the right, circumscribed by a radius of 255.00 feet, an arc length of 107.32 feet to a pk nail set in pavement; said pk nail set being N 71°-49'-23" W a tie distance of 106.53 feet from said previous granite monument set;

THENCE in a general westerly direction along said Lot 16 and along a circular curve to the left, circumscribed by a radius of 20.00 feet, an arc length of 29.53 feet to a granite monument set; said granite monument set being S 77°-55'-54" W a tie distance of 26.92 feet from said previous pk nail set;

THENCE S 35°-37'-45" W along said Lot 16 and along Lot 15 a distance of 281.59 feet to a granite monument set and Open Space as shown on aforesaid plan;

THENCE in a general southerly direction along said Open Space and along a circular curve to the left, circumscribed by a radius of 125.00 feet, an arc length of 109.70 feet to a granite monument set and Lot 14; said granite monument set being S 10°-29'-13" W a tie distance of 106.22 feet from said previous granite monument set;

THENCE S 14°-39'-19" E along said Lot 14 a distance of 101.14 feet to a granite monument set;

THENCE in a general southerly direction along said Lot 14 and along a circular curve to the right, circumscribed by a radius of 175.00 feet, an arc length of 135.57 feet to a granite monument set and Lot 13; said granite monument set being S 07°-32'-14" W a tie distance of 132.20 feet from said previous granite monument set;

THENCE S 29°-43'-46" W along said Lot 13 a distance of 80.18 feet to a capped iron rod set (PLS #2190);

THENCE in a general southerly direction along said Lot 13 and along a circular curve to the left, circumscribed by a radius of 25.00 feet, an arc length of 24.54 feet to a capped iron rod set (PLS #2190); said capped iron rod to be set being S 01°-36'-15" W a tie distance of 23.57 feet from said previous capped iron rod set;

THENCE in a general circular direction along said Lot 13, along Lot 12, along Lot 11, along Lot 10 and along a circular curve to the right, circumscribed by a radius of 65.00 feet, an arc length of 331.83 feet to a granite monument set; said granite monument set being N 60°-16'-14" W a tie distance of 72.22 feet from said previous capped iron rod set;

THENCE in a general northeasterly direction along said Lot 10 and along a circular curve to the left, circumscribed by a radius of 25.00 feet, an arc length of 24.54 feet to a granite monument set; said granite monument set being N 57°-51'-18" E a tie distance of 23.57 feet from said previous granite monument set;

THENCE N 29°-43'-46" E along said Lot 10 a distance of 80.18 feet to a pk nail set in pavement;

THENCE in a general northerly direction along said Lot 10, along Lot 9 and along a circular curve to the left, circumscribed by a radius of 125.00 feet, an arc length of 96.83 feet to a granite monument set; said granite monument set being N 07°-32'-14" E a tie distance of 94.43 feet from said previous pk nail set;

THENCE N 14°-39'-19" W along said Lot 9 a distance of 101.14 feet to a granite monument set and Lot 8 as shown on aforesaid plan;

THENCE in a general northerly direction along said Lot 8, along Lot 7 and along a circular curve to the right, circumscribed by a radius of 175.00 feet, an arc length of 153.59 feet to a granite monument set; said granite monument set being N 10°-29'-13" E a tie distance of 148.70 feet from said previous granite monument set;

THENCE N 35°-37'-45" E along said Lot 7, along Lot 6 and along Lot 5 a distance of 273.47 feet to a granite monument set;

THENCE in a general northerly direction along said Lot 5 and along a circular curve to the left, circumscribed by a radius of 20.00 feet, an arc length of 33.22 feet to a granite monument set; said granite monument set being N 11°-57'-01" W a tie distance of 29.53 feet from said previous granite monument set;

THENCE N 59°-31'-47" W along said Lot 5 and along Open Space a distance of 166.47 feet to a capped iron rod set (PLS #2190) and remaining land of Kevin L. & Steven N. Beaulieu;

THENCE N 36°-07'-12" E along the remaining land of said Beaulieu a distance of 50.24 feet to a capped iron rod set (PLS #2190) and Open Space;

THENCE S 59°-31'-47" E along said Open Space, along Lot 4 and along Lot 3 a distance of 250.76 feet to a granite monument set;

THENCE in a general easterly direction along said Lot 3, along Lot 2 and along a circular curve to the left, circumscribed by a radius of 205.00 feet, an arc length of 87.12 feet to a granite monument set; said granite monument set being S 71°-42'-18" E a tie distance of 86.47 feet from said previous granite monument set;

THENCE S 83°-52'-49" E along said Lot 2 and along Lot 1 a distance of 207.09 feet to a granite monument set;

THENCE in a general easterly direction along said Lot 1 and along a circular curve to the right, circumscribed by a radius of 255.00 feet, an arc length of 55.99 feet to a granite monument set and said Open Space; said granite monument set being S 77°-35'-23" E a tie distance of 55.88 feet from said previous granite monument set;

THENCE in a general northeasterly direction along said Open Space and along a circular curve to the left, circumscribed by a radius of 20.00 feet, an arc length of 30.45 feet to the point of beginning, said point of beginning being N 65°-05'-28" E a tie distance of 27.59 feet from said previous granite monument set;

The above described Mary's Way and Kylie Lane contain 81,921 s.f. (1.88 acres). All bearings refer to grid north.

WITNESS my hand this _____ day of November, 2023.

ATLANTIC DEVELOPERS

Witness

By: _____
Kevin Beaulieu, President

STATE OF MAINE
YORK, SS.

November ____, 2023

Personally appeared the above-named Kevin Beaulieu, President of Atlantic Developers, and acknowledged the foregoing instrument to be his free act and deed in said capacity.

Before me,

Notary Public / Attorney at Law

Printed Name: _____

AGENDA ITEM #8056

Discussion with Action: Shall the Town amend the Code of Ordinances, Chapter 54, Section 114, Milliken Street Parking Lot; Section 115, Memorial Park Parking Lot; Section 142, Parking at expired meters and overtime parking; Section 160, Motorcycles; Section 187, Restrictions and prohibitions, Town Hall, amending the effective date for parking permits and parking meters/kiosks from May 1st through September 30th to May 1st through Labor Day, and amending the \$300 overnight parking permit for the Milliken Street Parking Lot from May 1st through September 30th, to May 1st through October 31st.

Chair: Shawn O'Neill

The \$300 permit is the permit that allows the holder to park their vehicle in the Milliken Street parking lot overnight. It begins and ends at the same date the other permits do, which is currently September 30th. The Town Council is considering amending the parking to run from May 1st to Labor Day. All the permits will expire on the same day. We have received several calls from the \$300 parking permit holders that they can stay in their housing unit until the end of October, or even November or all winter. The location they are renting does not have any parking. The Town Clerk's Office recommends moving the end date of the \$300 permit to October 31st. It gives the permit holder additional time to use the Milliken Street parking lot, but does not extend into the winter season where the Town will be responsible for plowing the lot if we allow permit holders to park through the winter.

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 November 21st, 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 54, Traffic and Vehicles, Section 114, Milliken Street Parking Lot; Section 115, Memorial Park Parking Lot; Section 142, Parking at expired meters and overtime parking; Section 160, Motorcycles; Section 187, Restrictions and prohibitions, Town Hall, amending the effective date for parking permits and parking meters/kiosks from May 1st through September 30th to May 1st through Labor Day, and amending the \$300 overnight parking permit for the Milliken Street Parking Lot from May 1st through September 30th, to May 1st through October 31st, by adding the underscored language and deleting the strikethrough language as follows:

Sec. 54-114. Milliken Street parking lot

- (a) No vehicle shall park in the Milliken Street parking lot without first paying for parking at a paystation, pay by app, or by obtaining a resident or non-resident parking permit from the town clerk. If paying by pay station, the parking slip shall be displayed on the dashboard of the vehicle for the allotted time that was paid for, and the valid parking slip obtained at the pay station in the Milliken Street parking lot shall be valid only for the Milliken Street parking lot. The vehicle license plate number must match the plate number entered on the app or paystation This section will be enforced between May 1 through ~~September 30~~ Labor Day except for subsection (b), that is in effect year-round and the overnight parking permit, which shall expire October 31st.
- (b) No parking shall be allowed in this lot between the hours of 2:00 a.m. and 6:00 a.m. unless authorized by Town of OOB Police Department.
- (c) Any vehicle in violation of subsection (a) of this section, the owner or operator shall be subject to a fine as described in section 54-37, Penalty.
- (d) Any vehicle in violation of subsection (b) of this section, the owner or operator shall be subject to a fine as described in section 54-37, Penalty.
- (e) Parking fee shall be an hourly rate as per the schedule of license, permit and application fees.
- (f) The provisions of subsection (a) in this section shall not apply on legal federal holidays to any motor vehicle that has a valid license plate signifying that the vehicle is registered to a veteran of the United States Armed Forces or registered to a Gold Star family member of a veteran.

Sec. 54-115. Memorial Park parking lot.

- (a) No vehicle shall park in the Memorial Park parking lot without first paying for parking at a paystation, pay by app, or by obtaining a resident parking permit from the town clerk. If paying by pay station, the parking slip shall be displayed on the dashboard of the vehicle for the allotted time that was paid for, and the valid parking slip obtained at the pay station in the Memorial Park parking lot shall be valid only for the Memorial Park parking lot. The vehicle license plate number must match the plate number entered on the app for the time entered on the app or paystation. This section will be enforced between May 1 through ~~September 30, Labor Day~~, except for subsection (d), that is in effect year-round.
- (b) Memorial Park parking lot will have two designated handicap spaces.
- (c) Memorial Park parking lot will have five free one-hour parking spaces for use of visitors to Memorial Park and the Dog park only.
- (d) No parking shall be allowed between the hours of 2:00 a.m. and 6:00 a.m. unless authorized by Town of OOB Police Department.
- (e) Any vehicle in violation of subsection (a) of this section, the owner or operator shall be subject to a fine as described in section 54-37, Penalty.
- (f) Any vehicle in violation of subsection (d) of this section, the owner or operator shall be subject to a fine as described in section 54-37, Penalty.
- (g) Any vehicle in violation of subsection (c) of this section, the owner or operator shall be subject to a fine as described in section 54-37, Penalty.
- (h) Parking fee to be determined by the chief of police or his/her authorized representative at an hourly rate as per the schedule of license, permit and application fees.
- (i) The provisions of subsection (a) in this section shall not apply on legal federal holidays to any motor vehicle that has a valid license plate signifying that the vehicle is registered to a veteran of the United States Armed Forces or registered to a Gold Star family member of a veteran.

Sec. 54-142. Parking at expired meters and overtime parking.

- (a) Parking of vehicles in parking spaces; (1) *Single space meter*. Except as provided herein, where a parking meter has been installed, every person shall park a vehicle, or motorcycle, adjacent to the curb and either immediately in front of or behind a single space meter and shall deposit the required amount of United States money in the meter or pay by parking app. (2) *Multi-space meter*. Except as provided herein, where a multi-space meter has been installed, every person shall park a vehicle adjacent to the curb and in a space controlled by a multispace meter and shall deposit the required amount of payment for the time the person intends to park, or pay by the parking app, up to the maximum time limit available. The foregoing shall apply from 10:00 a.m. to 11:00 p.m. from May 1 through ~~September 30, Labor Day~~ of each year. (3) Only electric vehicles shall be parked in an associated parking space designated for electric vehicles only. Vehicles must be actively charging while occupying an electric vehicle charger parking space, and may be parked in an associated space a maximum of three (3) hours. Electric vehicles are subject to all rules, regulations and fees associated with that parking zone.

- (b) No person shall park or stand any vehicle other than a motorcycle at or in a metered parking space which is designated by a sign or by notice posted on or near the parking meter as restricted to parking of motorcycles only.
- (c) It shall be unlawful for any person to cause, allow or permit any vehicle registered in the name of or operated by such person to:
 - (1) Be parked in any parking space where a single space parking meter is installed unless a deposit of the coin or coins indicated by the single space meter is made as herein provided, except that, in the event a single space parking meter indicates that unused time has been left in the meter by a previous occupant of the parking space, any such person shall not be required to deposit any such coin or coins so long as his or her occupancy of the space does not exceed the indicated unused parking time; or
 - (2) Remain in a parking space controlled by a multi-space parking meter or single space meter without paying for parking through the parking app beyond the allowed paid time.
 - (3) Remain in a parking space beyond the period of legal parking time established for such parking space as provided in the traffic ordinance, or to deposit in the adjacent single-space parking meter or a multi-space meter any payment for the purpose of parking beyond the maximum legal parking time designated by the parking meter or multi-space meter ("prolonged parking" or "feeding the meter");
 - (4) Remain in any parking space adjacent to any single-space parking meter or multi-space meter while the meter is displaying a signal indicating that the vehicle occupying such parking space has already been parked beyond the maximum legal parking time designated for such parking space.
 - (5) Be parked across any line or marking of a parking space or in such position that the vehicle shall not be entirely within the limits of the parking space or such that the parked vehicle otherwise impedes or obstructs the flow of traffic; the minimum fine for a violation of this section shall be \$50.00;
 - (6) Deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under the provisions herein; to deposit or cause to be deposited in any parking meter any slug, device, metallic substance or any other substitute for a coin of the United States.

In the event of a violation of the provisions of subsections (c)(1)—(7) above, the fact that a vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered, and the fact that a vehicle is in a metered parking space when the time signal on the parking meter for such space indicates no parking permitted without the deposit of United States money or when the vehicle is parked longer than the parking app is approved for. The provisions of subsection (a) and (c)(1)—(5) in this section shall not apply on legal federal holidays to any motor vehicle that has a valid license plate signifying that the vehicle is registered to a veteran of the United States Armed Forces or registered to a Gold Star family member of a veteran.

The provisions of subsection (a) and (c)(1)—(5) in this section shall not apply on legal federal holidays to any motor vehicle that has a valid license plate signifying that the vehicle is registered to a veteran of the United States Armed Forces or registered to a Gold Star family member of a veteran.

Sec. 54-160. Motorcycles.

- (a) Spaces shall be designated by suitable signs and marked for motorcycle parking.
- (b) This section shall be effective from May 1 through ~~September 30~~ **Labor Day**.

Sec. 54-187. - Restrictions and prohibitions

Town Hall. Upper lot and lower lot parking areas shall be limited to Town Hall business, Monday, Wednesday, Thursday and Friday from 8:00 a.m. to 4:00 p.m. and Tuesdays until 6:00 p.m. After Town Hall business hours, the lower lot parking area, the adjacent town-owned parking lot located at Veteran's Square (19 Imperial St. MBL: 205-3-3) and the upper lot parking area shall be limited to Town Hall business only, paid parking or by town-issued permit. The lower lot parking area, and the adjacent town-owned parking lot located at Veteran's Square (19 Imperial St. MBL: 205-3-3) will also be for paid parking after hours. The police chief or his designee has the right to reserve spaces for meetings being held at Town Hall. Parking restrictions during Town Hall business hours are in effect year round. Parking restrictions after Town Hall business hours are in effect May 1 through ~~September 30~~ **Labor Day** For paid parking, the parking fee shall be an hourly rate as per the schedule of license, permit and application fees.

Per Order of the Municipal Officers this 17th day of October, 2023.

A True Copy
Attest:

s/Kim McLaughlin
Kim M. McLaughlin, Town Clerk

AGENDA ITEM #8057

Discussion with Action: Amend the Parking Meters Days of Operation Policy 94-3, by changing the end date each year from September 30th to Labor Day.

Chair: Shawn O'Neill

TOWN OF OLD ORCHARD BEACH, MAINE
Town Council Policy
Parking Meters Days of Operation
Adopted: June 15, 1994 Policy Number 94-3

The Town Council has established the following policy concerning the placement and removal of the all parking meters and pay stations in on the Town of Old Orchard Beach public ways:

1. **Operational:** All parking meters and pay stations shall be operational by May 1st, and will not show an appearance of being operational before May 1st.
2. **Non-Operational:** All Parking meters and pay stations will continue to be operational up to and including Labor Day. The day after Labor Day, they will not show an appearance of being operational.
1. **Installation:** All parking meters and pay stations shall be installed and operational May 1st. The meters and pay stations may be put in earlier. However, in no circumstances shall any meter be installed, as to give the appearance of operation before May 1st.
2. **Removal:** All parking meters and pay stations will continue to be operational until September 30th and shall be removed the Monday after September 30th, not including September 30th. The meters shall be removed as close as possible after this date and in no case shall be in operation, or give the appearance of operational after September 30th.

Adopted 6/15/94

Amended 4/4/17 by adding pay stations

Amended 6/15/21 changing from Memorial Day Weekend to Labor to May 1st until Indigenous Peoples Day

Amended 03/01/22 by changing end date from Indigenous Peoples Day to September 30th

AGENDA ITEM #8058

Discussion with Action: Amend the Parking Permit Policy 23-1, removing the two-hour time allowed with the \$75 parking Permit on Old Orchard Street, and changing the four-hours allowed at all other meters to six hours.

Chair: Shawn O'Neill

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL POLICY 23-1
PARKING PERMITS**

The Town Council has established the following Policy for the issuance of and charges for Municipal Parking Permits.

Parking Permit types:

1. \$50 Residential Permit
2. \$75 Residential Permit
3. \$150 Non-Resident Permit
4. \$300 Non-Resident Permit
5. \$50 Temporary Permit
6. Staff Parking Permit

1) \$50 Residential Permit

Resident Eligibility:

- 1) Individuals who register their car in Old Orchard Beach, who presently live in town;
- 2) Individuals who register their car in Old Orchard Beach who pay real estate taxes;
- 3) Individuals who pay real estate taxes, and who live in their homes for the summer season.

Applicants must provide a driver's license, as well as a vehicle registration for each vehicle.

Parking:

Includes Milliken Street Municipal Parking lot; Memorial Park Municipal Parking Lot; front parking lot and back parking lot of Town Hall, including Veteran's Square. Parking at Town Hall is limited to after Town Hall business hours. Business hours are Monday, Wednesday, Thursday and Friday, 8 a.m. to 4 p.m. and Tuesday 8 a.m. to 6 p.m

Limit of two permits purchased per household, with two license plate numbers authorized per permit (total of four vehicles). If the resident did not add a second license plate number allowed per permit, at the time of purchase, they can go online to create a user name/password, and make the addition, or come into the Town Clerk's Office. Once the two license plate numbers are entered, it is non-transferable. Both vehicles on a permit may be parked in the municipal lots at the same time.

2) \$75 Residential Permit

Resident Eligibility:

- 1) Individuals who register their car in Old Orchard Beach, who presently live in town;
- 2) Individuals who register their car in Old Orchard Beach who pay real estate taxes;
- 3) Individuals who pay real estate taxes, and who live in their homes yearround.

Parking:

Includes Milliken Street Parking lot; Memorial Park Parking Lot; on-street parking meters on Old Orchard Street for two hours and all other parking meters six four hours, the front and back parking lots of Town Hall, including Veteran's Square. Parking at the Town Hall is limited to after Town Hall business hours. Business hours are Monday, Wednesday, Thursday and Friday, 8 a.m. to 4 p.m. and Tuesday 8 a.m. to 6 p.m.

Limit of two permits purchased per household, with two license plate numbers authorized per permit (total of four vehicles). If the resident did not add a second license plate number allowed per permit, at the time of purchase, they can go online to create a user name/password, and make the addition, or come into the Town Clerk's Office. These Parking Permits are interchangeable. Both vehicles on a permit may be parked in the municipal lots and parking meters at the same time.

3) \$150 Non-Resident Permit

No residency restrictions.

Parking: Milliken Street Municipal Parking Lot.

Each permit allows for one license plate number, but is interchangeable.

Applicants must provide a vehicle registration to purchase.

4) \$300 Non-Resident Permit

No residency restrictions.

Parking: Milliken Street Municipal Parking Lot, and includes overnight parking.

Each permit allows for one license plate number, but is interchangeable.

Applicants must provide a vehicle registration to purchase.

5) \$50 Temporary Permit

No residency restrictions.

Parking: Milliken Street Municipal Parking Lot, and includes overnight parking.

Each permit is purchased for seven consecutive days, and allows for one license plate number, but is interchangeable. Applicants must provide a vehicle registration to purchase.

6) Staff Permits:

Parking: Front and back of Town Hall, including Veteran's Square. Permit is valid during work hours only.

Each employee operating a motor vehicle or motorcycle to work shall give the Human Resource Director or Town Manager's Office their vehicle registration for the digital permit system.

Staff Permits are valid only while the individual is employed.

GENERAL INFORMATION:

- Permits shall be digital. All permits for which a fee is charged shall be issued by the Town Clerk's Office. Permits are valid from May 1st to September 30th through Labor Day of each year.

- Only the \$300 Non-Resident Parking Permit and the \$50 Temporary permit authorize overnight parking, and that is the Milliken Street Municipal Parking Lot only.
- All permits are non-refundable.
- All permits are subject to availability in the parking lots.
- The Town reserves the right to restrict parking for events approved by the Town Council, or meetings at Town Hall.
- Permits issued under this policy are personal and not transferable. If the Town Clerk determines that a permit has been sold or otherwise transferred, the Clerk shall immediately void the permit and the permit fee shall be forfeited to the Town.
- Parking Meters and Pay Stations shall be considered the same for the purposes of this policy.
- Permit holders are required to follow all traffic regulations.

Adopted 02/07/2023

AGENDA ITEM #8059

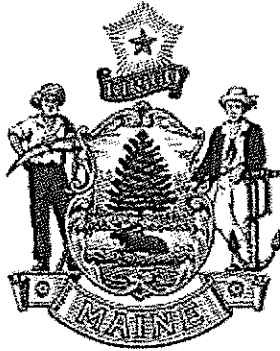
Discussion with Action: Grant the Blanket Letter of Approval for Beano/Bingo to C. Fayette Staples Post 57, American Legion, 14 Imperial Street, to expire 12/31/2025.

Chair: Shawn O'Neill

FOR OFFICE USE ONLY

Check # _____

Amount \$ _____



Application to Register Beano/Bingo

MGCU - 5000

****The application (to include the house rules) and registration fee must be received by the Gambling Control Unit at least ten business days prior to the Bingo Occasion****

Beano/Bingo: \$5.00 Special Per Game Registration; \$12 Calendar Week (Monday through Sunday); \$36 Calendar Month; \$400 Calendar Year

Make check payable to Treasurer, State of Maine

Return the completed and signed application to:

**Department of Public Safety
Gambling Control Unit
Central Maine Commerce Center
87 State House Station
45 Commerce Drive, Suite 3
Augusta, Maine 04333-0087
(207) 626-3900 – Office
(207) 287-4356 – Fax**

1. Organization Name: AMERICAN LEGION POST #574 AUXILIARY

Organization Number (NPO or NCO): 2044 Federal Tax ID # (EIN): 01-6018568

Business Address: 14 IMPERIAL ST

City: OLD ORCHARD BEACH State: ME Zip Code 04064

Mailing Address: SAME AS ABOVE Phone: (207) 934-8724

City: _____ State: _____ Zip Code: _____

2. Current Officers:

NAME & TITLE	ADDRESS	CITY/ZIP	PHONE	DATE TERM EXPIRES
<u>COMMANDER</u> <u>NATHAN BAILEY</u>	<u>14 IMPERIAL ST</u>	<u>OOB 04064</u>	<u>934-4724</u>	<u>6-16-2024</u>

<u>ADJUTANT</u> <u>DAVID LA PIERRE</u>	<u>4 BURLEIGH LN</u>	<u>BIDDEFORD 04005</u>	<u>2823069</u>	<u>6-16-2024</u>
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<u>FINANCE OFFICER</u> <u>MICHAEL A. FILOSA</u>	<u>169 SACO AVE #43</u>	<u>OOB 04064</u>	<u>934-8956</u>	<u>6-16-2024</u>
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<u>BINGO OFFICER</u> <u>MICHAEL A. FILOSA</u>	<u>SAME AS ABOVE</u>	<u>CITY/ZIP</u>	<u>PHONE</u>	<u>DATE TERM EXPIRES</u> <u>9-4-2024</u>
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3. Location where Beano/Bingo is to be conducted:

<u>IRVIN W. MERRIHEW HALL</u>	<u>14 IMPERIAL ST</u>	<u>OOB 04064</u>
BUILDING	ADDRESS	CITY/ZIP

4. Person responsible for conduct of Beano/Bingo:

<u>MICHAEL A. FILOSA</u>	<u>BOTH 508-410-1837</u>
NAME	DAYTIME PHONE & EVENING PHONE

E-Mail Address: AMERICAN L 057@GMAIL.COM

5. Circle the day(s) of the week you will be conducting Beano/Bingo:

Mon Tue Wed Thu Fri Sat Sun

6. What time do the doors open? 3 PM What time does the game start? 6 PM

7. Dates – Please specify the dates of the Bingo Occasion(s). If more space is needed, please attach a separate sheet of paper with this information on it.

JANUARY 1, 2024 TO DEC 31, 2024

8. Does the organization own all the equipment used in operating Beano/Bingo? Yes No

If "NO", Attach a sheet of paper to this application explaining the circumstances under which the equipment was acquired. **Please write your organization name and number on the sheet.**

9. Has any current officer of the organization or association ever been convicted of or have any charges currently pending for violating the gambling or lottery laws of the United States or the State of Maine?

Yes No

If "YES" attach a sheet of paper to this application providing the person's name, address, and date and place of conviction or date and location of pending charge. **Please write your organization name and number on the sheet.**

10. Does the organization have any delinquent / outstanding Disposition of Funds Reports? Yes No

If "YES" include all reports with this application. If the reports are not included, this application is considered incomplete.

11. **Fair Association Only:** Attach a list of the names and home addresses of the persons operating or assisting in the registered activity. **Please write your organization name and number on the list.**

12. The following consent must be completed by the municipal officers of the city or town where the Beano/Bingo will take place unless a separate "Letter of Approval" is attached to this application.

Check here if you have attached a "Letter of Approval." Letters that have an expiration date of greater than five years from the issue date will not be accepted by this office.

Municipal Consent to Register

The undersigned municipal officers of the City/Town of _____ hereby certify that we consent to the registration by _____ to operate Beano/Bingo in accordance with the provisions of 17 M.R.S.A. Chapter 13-A and in accordance with the Rules promulgated by the State of Maine, Department of Public Safety, Gambling Control Unit governing the operation of Beano/Bingo.

Name: _____

Date: _____ Title: _____

Name: _____

Date: _____ Title: _____

Name: _____

Date: _____ Title: _____

Name: _____

Date: _____ Title: _____

13. The applicant agrees to obey Federal, State of Maine laws, and rules governing Beano/Bingo promulgated by the Department of Public Safety, Gambling Control Unit. The applicant warrants the truth of the foregoing statements on penalty of perjury.

Signed: Michael A. Filosa

Print Name: MICHAEL A. FILOSA Title: BINGO OFFICER

Date: 11/27/2023 Age 18 or older: Yes No

NOTE: Ensure a Copy of the House Rules for Bingo are attached to the application.

AGENDA ITEM #8060

Discussion with Action: Shall the Town enter into a Consent Agreement between Mr. Bryan W. Murphy of 165 Portland Avenue, Old Orchard Beach, Maine and the Town of Old Orchard Beach, for the purposes of securing compliance concerning the Notice of Violation and Order to Correct Violations of Old Orchard Beach Code of Ordinances.

Chair: Shawn O'Neill

ADJOURNMENT

Chair: Shawn O'Neill

**MURPHY ADMINISTRATIVE CONSENT AGREEMENT
(October 2023 Draft)**

This agreement is made as of this date _____ between Mr. Bryan W. Murphy of 165 Portland Avenue, Old Orchard Beach, Maine and the Town of Old Orchard Beach, Maine (hereinafter identified as “Town”) for the purposes of securing compliance concerning the Notice of Violation and Order to Correct Violations of Old Orchard Beach Code of Ordinances.

WHEREAS, Bryan Murphy (hereinafter identified as “Mr. Murphy”) has conducted several business operations on and from the properties located at 165 Portland Ave. (MBL: 103-6-4), and recently acquired a portion of property under the ownership of Kathleen Bayley, 27 Ross Rd, Scarborough, ME 04074 (MBL: 101-1-16). These business operations include: automobile repair facility and the operation of a hardscaping/landscaping business (Stonehenge Hardscapes) (hereinafter identified as “Businesses” when referring to both).

WHEREAS, the Town received several complaints concerning business activity at these properties. Complaints included, but were not limited to illegal operation of businesses, noise, cutting of buffers, junk vehicles, and loading and unloading of goods on a public way, and vehicle impacts to other nearby properties.

WHEREAS, upon on-site investigations and review of aerial photography, the Town found these businesses operating on the properties.

WHEREAS, after review of the Town’s electronic and hard copy permitting and business licensing files the Town found:

1. Operation of an illegal Automobile Graveyard/Junkyard;
2. Operation of a landscaping business selling landscaping materials without all Town approvals
3. Operation of an automobile repair facility and landscaping business without valid business license.
4. Automobile repair facility operating not in compliance with prior Town Conditional Use amended approval November 5, 1992;
5. Unloading and loading activity on a public way

WHEREAS, in regards to the illegal operation of an automobile graveyard/junkyard, the Town of Old Orchard Beach Code of Ordinances, Chapter 78 (Zoning), Sec. 78-1 defines automobile graveyard/junkyard as “a yard or field or other area used as a place of storage for three or more unserviceable, discarded, worn-out, or junked motor vehicles.” Based on the Town’s site inspections, aerial photography and Mr. Murphy’s own admission, the Town found more than three unserviceable, discarded, worn-out, or junked motor vehicles on 165 Portland Ave.

WHEREAS, furthermore, in regards to the illegal operation of an automobile graveyard/junkyard, the Town of Old Orchard Beach Code of Ordinances, Chapter 78 (Zoning), Secs. 78-962 and 963 identify permitted uses and conditional uses in the Rural Zoning District. 165 Portland Ave is in the Rural Zoning District. Automobile Graveyard/Junkyard is an “Omitted Use” because the use is not identified as a permitted or conditional use in the Rural Zoning District. Chapter 78, Sec. 78-148 (Omitted uses) states “any use not specifically allowed as either a permitted or a conditional use is specifically prohibited.” There is no license or permit approvals in-effect legally establishing the automobile graveyard/junkyard use.

WHEREAS, in regards to the noncompliant operations of the automobile repair facility, the automobile repair facility received its original conditional use approval from the Old Orchard Beach Planning board on April 11, 1991. The Planning Board approved a conditional use amendment on November 5, 1992. The November 5, 1992 Findings of Fact, 1.00, states: “No more than ten (10) vehicles will be located on the property at any one time. Of these ten vehicles, no more than two (2) can be unregistered.” Based on our site inspections, aerial photography and Mr. Murphy’s own admission, more than ten (10) vehicles and more than two (2) unregistered vehicles continue to exist on the property.

WHEREAS, in regards to the operation of the hardscaping/landscaping business, Site Plan approval was not secured. The Town of Old Orchard Beach Code of Ordinances, Chapter 78 (Zoning), Article IV (Site Plans), Sec. (a), site plan jurisdictional activities (1) states: “The construction or expansion of any nonresidential structure or building or the establishment of new nonresidential uses even where no buildings or structures are proposed.”

WHEREAS, in regards to operation of the automobile repair facility and hardscaping/landscaping business without valid business license approvals, both licenses expired on April 30, 2022. Town of Old Orchard Beach Code of Ordinances, Chapter 18 (Businesses), Sec. 18-31 (d) states: “Any person engaged in any business or activity listed in the schedule set forth in section 18-32 shall obtain a license for that business or activity even if such person also engages in some other business or activity not requiring a license” and (e): “No person shall operate or conduct any business or activity identified in the schedule set forth in section 18-32 without first obtaining a license therefor, nor shall any person operate or conduct any business or activity identified in the schedule set forth in section 18-32 except in compliance with the terms of this article and any conditions imposed upon the license issued.”

WHEREAS, because the Town found the violations mentioned above, the Town initiated Notice of Violation and Order to Correct Violations actions.

WHEREAS, the Code Enforcement Officer for the Town notified Mr. Murphy of the violations and corrective actions and issued a Notice of Violation on July 23, 2023.

WHEREAS, the Town of Old Orchard Beach Code of Ordinances, Chapter 78 (Zoning), Article II (Administration and Enforcement) authorizes the designee of the Town Council to institute any and all actions either legal or equitable that may be appropriate or necessary for the enforcement of this chapter, the action to be brought in the name of the Town, and violations under the Zoning Ordinance are punishable under 30-AM.R.S.A. § 4452.

WHEREAS, the Town of Old Orchard Beach Code of Ordinances, Chapter 18 (Businesses), Article II (Licenses), Sec. 18-28 (Violations and Penalties), (a) states: “Any person who operates or conducts any business or activity for which a license is required under this article without first obtaining such license commits a civil violation and shall be subject to a fine not to exceed \$100.00 for the first day the offense occurs. The second day the offense occurs, the fine amount shall not exceed \$250.00. The third day and subsequent days thereafter, the fine amount shall not exceed \$500.00. Each day such violation continues shall be considered a separate violation.”

WHEREAS, the Town and Mr. Murphy have been cooperating with each other in attempt to reach an out-of-court settlement.

WHEREAS, Mr. Murphy acknowledges the violations of the Town of Old Orchard Beach Code of Ordinances and that the Town and Mr. Murphy wish to enter into a consent agreement to resolve the violations.

NOW, THEREFORE, the Town and Mr. Murphy agree as follows:

1. The automobile repair facility and sale of hardscaping/landscaping businesses (hereinafter referred to as Businesses) shall comply with all applicable state and federal laws.
2. The Businesses shall comply with the Old Orchard Beach Code of Ordinances, and specifically the following:
 - a. Buffers must provide at least a 75% - 100% year-round visual obstruction (Ch. 78, Art. VIII, Division 7). All existing buffers shall remain and can only be removed if it presents a safety hazard. Any buffer that is removed must be reported to the Code Enforcement Office before the work is performed.
 - b. The Businesses' noise levels shall comply with the Residential Sound Pressure Level Limits identified in Ch. 26, Sec. 26-63.
 - c. On-site activity associated with operation of Businesses shall comply with Erosion and Sedimentation Control (Ch. 78, Sec. 78-1856).
 - d. Exterior lighting shall comply to Ch. 78, Sec. 78-965 (b).
 - e. Off-street loading shall comply with C. 78, Art. VIII, Division 4, Subdivision VII (Off-street loading).
 - f. The Businesses' egress onto Portland Ave shall maintain the minimum site distance identified in Ch. 78, Sec. 1466 (c).
 - g. Driveway's accessing businesses shall not exceed 26 ft. in width at the street (Ch. 78, Sec. 78-1492).
 - h. All material storage areas shall be visually blocked from both the street and abutting properties by a solid fence, earth barrier, and/or vegetative planting (Ch. 78, Sec. 78-1273 2).
3. On or before December 31, 2023, all unregistered or uninspected vehicles shall be removed from the above-mentioned properties. The only exceptions to this are vehicles registered as antiques and two unregistered vehicles associated with the auto service business.
4. Design Plans for the new off-street offloading area, pursuant to Section 78-1592 and approved by the Code Officer and Public Works Director, must be received by November 30, 2023, and must be constructed no later than June 30, 2024.
5. Systems shall be in place to contain dust and harmful or noxious odors created by the businesses, so it does not result in detectable dust and harmful or noxious odors that leave the above-mentioned properties and adversely impact adjacent properties. Decisions on system types acceptable to the Town shall be the responsibility of the Town of Old Orchard Beach Code Enforcement Officer.
6. The landscaping business hours of on-site operations shall be between 7:00 AM and 7:00 PM, Monday – Saturday. The automobile repair facility shall continue to operate within the hours and days allowed per the 1991 and amended 1992 conditional use approvals, which are Monday through Saturday, 8:00 a.m. to 6:00 p.m.
7. A site plan shall be submitted to the Town within thirty days after the date of signed approval of this consent agreement clearly showing the following:
 - Design plan for off-street loading and unloading
 - Building and structure locations
 - Parking areas
 - Material storage areas

- Equipment storage areas
 - Dumpster and waste receptacle area
 - Vehicular circulation on the site, including points of access to the site from public roads, loading and unloading areas, employee and customer parking.
 - Proposed buffer/screening
 - Existing tree line and buffer/screening
 - Exterior lighting, including location, fixtures and specifications
8. Materials associated with the Businesses shall not be stored or offered for sale in the front yard. The front yard is identified as the property between the front of the single-family dwelling on 165 Portland Avenue and edge of the paved portion of Portland Avenue.
 9. The Businesses' vehicles and equipment shall be stored in the side and rear yards only.
 10. The Business will not engage in storage container rentals anywhere on the surveyed site plan.
 11. Within thirty days after the date of signed approval of this consent agreement, a list identifying all equipment and vehicles used in the operation of the landscape business shall be submitted to the Town.
 12. The Businesses' owner shall secure applicable town business licenses within thirty days after the date of the signed approval of the consent agreement.
 13. Expansion of the Businesses shall not be permitted unless allowed under the Town of Old Orchard Beach Ordinances adopted at the time of the proposed expansion. For the purposes of this consent agreement expansion shall include new buildings or structures, new on-site areas not shown on the site plan associated with operations of businesses including but not limited to material storage areas, increase in the vehicle number identified on the list provided by the property owner, or breach of the terms within this consent agreement.
 14. These terms shall apply to business use, operations and the property on which they exist.
 15. In consideration for and upon the completion of the undertaking and continued compliance with items 1 - 13 set forth above, the Town releases the causes of action against Mr. Murphy arising from the violations identified in this Agreement. Except that, if Mr. Murphy fails to comply with the terms of this Agreement, the Town shall reserve the right to initiate further enforcement proceedings under Old Orchard Beach Code of Ordinances Chapter 18, Article II (Licenses) and Chapter 78, Article II (Administration and Enforcement) including the imposition of penalties on a per-day-basis and attorney's fees.

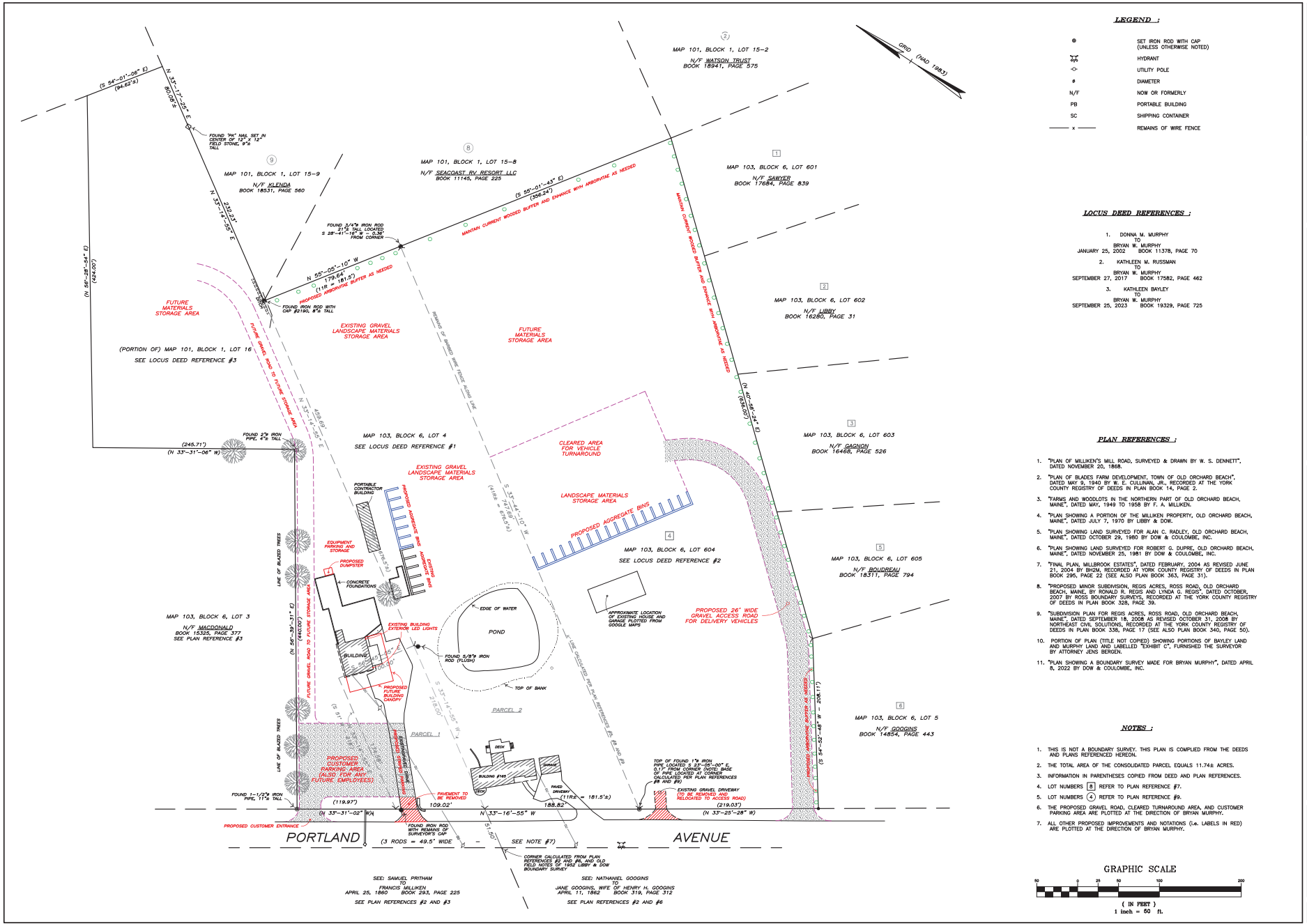
SEEN AND AGREED:

Town of Old Orchard Beach

By its Town Manager
Duly Authorized

Bryan W. Murphy

Bryan W. Murphy
Duly Authorized

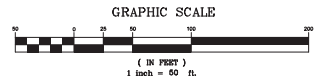


- LEGEND :**
- SET IRON ROD WITH CAP (UNLESS OTHERWISE NOTED)
 - ⊕ HYDRANT
 - UTILITY POLE
 - ⊕ DIAMETER
 - N/F NOW OR FORMERLY
 - PB PORTABLE BUILDING
 - SC SHIPPING CONTAINER
 - x — REMAINS OF WIRE FENCE

- LOCUS DEED REFERENCES :**
1. DONNA M. MURPHY TO BRYAN W. MURPHY JANUARY 25, 2002 BOOK 11378, PAGE 70
 2. KATHLEEN M. RUSSELMAN TO BRYAN W. MURPHY SEPTEMBER 27, 2017 BOOK 17582, PAGE 462
 3. KATHLEEN BAILEY TO BRYAN W. MURPHY SEPTEMBER 25, 2003 BOOK 19328, PAGE 725

- PLAN REFERENCES :**
1. "PLAN OF MILLIKEN'S MILL ROAD, SURVEYED & DRAWN BY W. S. DENNETT", DATED NOVEMBER 20, 1868.
 2. "PLAN OF BLADES FARM DEVELOPMENT, TOWN OF OLD ORCHARD BEACH", DATED MAY 5, 1940 BY R. E. COLLINGS, JR., RECORDED AT THE YORK COUNTY REGISTRY OF DEEDS IN PLAN BOOK 14, PAGE 2.
 3. "FARMS AND WOODLOTS IN THE NORTHERN PART OF OLD ORCHARD BEACH, MAINE", DATED MAY, 1898 TO 1938 BY F. A. MILLIKEN.
 4. "PLAN SHOWING A PORTION OF THE MILLIKEN PROPERTY, OLD ORCHARD BEACH, MAINE", DATED JULY 7, 1970 BY LIBBY & DOW.
 5. "PLAN SHOWING LAND SURVEYED FOR ALAN C. HADLEY, OLD ORCHARD BEACH, MAINE", DATED OCTOBER 29, 1980 BY DOW & COULOMBE, INC.
 6. "PLAN SHOWING LAND SURVEYED FOR ROBERT G. DUPRE, OLD ORCHARD BEACH, MAINE", DATED NOVEMBER 25, 1981 BY DOW & COULOMBE, INC.
 7. "FINAL PLAN, MILLBROOK ESTATES", DATED FEBRUARY, 2004 AS REVISED JUNE 21, 2004 BY BIRM, RECORDED AT YORK COUNTY REGISTRY OF DEEDS IN PLAN BOOK 295, PAGE 22 (SEE ALSO PLAN BOOK 363, PAGE 31).
 8. "PROPOSED MAJOR SUBDIVISION, REGIS ACRES, ROSS ROAD, OLD ORCHARD BEACH, MAINE, BY RONALD R. REGIS AND LYNDA G. REGIS", DATED OCTOBER, 2007 BY ROSS BOUNDARY SURVEYS, RECORDED AT THE YORK COUNTY REGISTRY OF DEEDS IN PLAN BOOK 328, PAGE 39.
 9. "SUBDIVISION PLAN FOR REGIS ACRES, ROSS ROAD, OLD ORCHARD BEACH, MAINE", DATED SEPTEMBER 18, 2008 AS REVISED OCTOBER 31, 2008 BY NORTHEAST CIVIL SOLUTIONS, RECORDED AT THE YORK COUNTY REGISTRY OF DEEDS IN PLAN BOOK 338, PAGE 17 (SEE ALSO PLAN BOOK 343, PAGE 50).
 10. PORTION OF PLAN (FILE NOT COPIED) SHOWING PORTIONS OF BAILEY LAND AND MURPHY LAND AND LABELLED "EXHIBIT C", FURNISHED THE SURVEYOR BY ATTORNEY JESSE BERGEN.
 11. "PLAN SHOWING A BOUNDARY SURVEY MADE FOR BRYAN MURPHY", DATED APRIL 8, 2022 BY DOW & COULOMBE, INC.

- NOTES :**
1. THIS IS NOT A BOUNDARY SURVEY, THIS PLAN IS COMPILED FROM THE DEEDS AND PLANS REFERENCED HEREIN.
 2. THE TOTAL AREA OF THE CONSOLIDATED PARCEL EQUALS 11.744 ACRES.
 3. INFORMATION IN PARENTHESES COPIED FROM DEED AND PLAN REFERENCES.
 4. LOT NUMBERS [] REFER TO PLAN REFERENCE #1.
 5. LOT NUMBERS [] REFER TO PLAN REFERENCE #2.
 6. LOT NUMBERS [] REFER TO PLAN REFERENCE #3.
 7. ALL OTHER PROPOSED IMPROVEMENTS AND NOTATIONS (I.E. LABELS IN RED) ARE PLOTTED AT THE DIRECTION OF BRYAN MURPHY.



No.	Revision	Date



COMPOSITE PLAN OF LAND PREPARED FOR
BRYAN MURPHY
 (MAILING ADDRESS AND PARCEL LOCATION: 165 PORTLAND ROAD
 OLD ORCHARD BEACH MAINE)



Dow & Coulombe, Inc.
 Land Surveyors & Land Planners Since 1864
 13 Park Street, Seacoast, Maine 04072
 Telephone: (207)284-1821 • Fax: (207)284-4622
 info@dowcoulombe.com • www.dowcoulombe.com

Date: **NOVEMBER 16, 2023**
 H. Scale: Drawn by: **MJC**
 1" = 50' MJC
 Chk'd by: App'r'd by: **PDD**
 PDD MJC
 SHEET 1 OF 1

ZONE-27
 (See Maine Code of Regulations - Chapter 100)