

# Accessory Dwelling Units

## 30-A MRSA §4364-B

This section essentially allows any lot with a single-family dwelling in an area where housing is permitted to have one accessory dwelling unit (ADU) as well, effective July 1, 2023. 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 setback and dimensional requirements 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 setback and dimensional 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.

### **OTHER MUNICIPAL POWERS**

Municipalities may establish an application and permitting process for ADUs 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**, shoreland zoning still applies, as do requirements to verify adequate water and wastewater capacity.

**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.

# QUESTIONS AND ANSWERS ON ACCESSORY DWELLING UNITS

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**How is an ADU defined?**

The law does not define ADUs. There is a definition in 30-A MRSA §4301 and many communities define them in local ordinances. Rulemaking will clarify which definition to use.

**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?**

This will be addressed in rulemaking.

**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?**

This will be addressed in rulemaking.

**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 if a community does not use Certificates of Occupancy?**

Subsection 4 says that the municipality will “certify [a] structure for occupancy.” This requirement should be met for new housing developments under this section the same way they would be for any other housing, whether through a formal Certificate of Occupancy or otherwise.

**What is meant by “potable” water?**

This will be addressed in rulemaking.

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

Housing would be considered allowed in that area for the purposes of subsection 1. This will be further addressed in rulemaking.

**What does “attached to an existing structure” mean?**

Local ordinance can define “attached” but it would generally mean having physically connected finished spaces, not just connected via a common porch, breezeway or foundation.

**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.



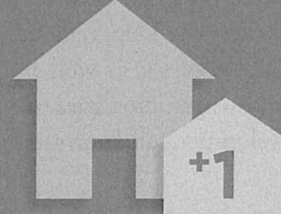
# Parking for ADUs

## Example Parking Requirement

### NOT PERMITTED



Single Family Home  
2 spaces minimum



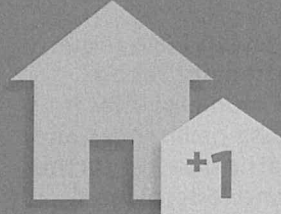
Single Family Home + ADU  
3 spaces minimum

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### 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

## MRSA §13056, sub-§9 AND 30-A MRSA §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.

### QUESTIONS AND ANSWERS ON SECTIONS 3 & 7

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**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.

