

Land Use and Development Code Amendment: Accessory Dwelling Units

**Town of Gorham
Planning Board Meeting
November 7, 2022**

ITEM 3 - Land Use and Development Code – Discussion: – Accessory Dwelling Units – a proposed amendment to the Land Use and Development Code to bring the Town’s standards into conformance with the State of Maine’s LD 2003, regarding Accessory Dwelling Units.

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AMENDMENT TRACKING

DESCRIPTION	COMMENTS	STATUS
Town Council Meeting	Move the item to the PLBD for review and recommendations. (7 yeas)	October 4, 2022
Planning Board - Discussion		November 7, 2022

The Planning Board refers to staff notes during the review process; however, it shall be noted that staff recommendations are noncommittal and all final decisions are those of the Planning Board and not Town Staff.

Memo completed by Thomas Poirier, Director of Community Development.

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1. OVERVIEW

The Town Council is looking to pass the minimum amendment requirements for accessory apartments required under the State of Maine's Legislation titled LD2003. Staff is only recommending one change which is shown in red underlined and struck through. The change is due because staff original thought the minimum requirement was for 2 accessory apartments but later discovery the minimum requirement was only 1 accessory apartment.

The State of Maine's LD 2003 regulates the separate area: affordable housing density (30-A M.R.S.A. § 4364), housing density for areas in which housing is allowed (30-A M.R.S.A. § 4364-A), and accessory dwelling units (30-A M.R.S.A. § 4364-B). At this time the Town Council is only looking to make the changes necessary for accessory apartments but the other required changes regarding affordable housing and housing density would happen in the near future.

In Gorham's Land Use Code accessory dwelling units are called Accessory Apartments. Below are proposed changes to the Accessory Apartments definition and performance standards to bring the Town's standards in conformance the State of Maine's LD 2003. The proposed amendment edits are shown in black, underlined, and struck through. The Town Attorney has reviewed and approved the proposed amendment language.

At this point the proposed amendment is the minimum required under State Law. Town staff recommends this item be move to the December PLBD meeting for a public hearing and recommendation back to the Town Council.

Town Attorney: Below is Information from Jensen Baird regarding LD2003 Requirements and Applicability as it pertains to Accessory Dwelling Units.

Overview: LD 2003 was passed by the Legislature in its last session and approved by the Governor on April 27, 2022. The purpose of the law is to "increase housing opportunities in Maine." The statute establishes requirements for municipalities that will serve as a further limitation on municipal home rule authority as it relates to the issues set forth in the statute.

Effective date: The legislation was not passed as an emergency, so it will take effect 90 days after the adjournment of the session of the Legislature, on August 8. The density requirements established by the statute, however, have different effective dates. The changes to affordable housing density (30-A M.R.S.A. § 4364) apply to an affordable housing development "approved on or after July 1, 2023." The requirements for increased density for "any area in which housing is allowed" (30-A M.R.S.A. § 4364-A) are not required to be implemented by a municipality until July 1, 2023.

Other issues:

What does LD 2003 authorize? There are three separate areas that are regulated by LD 2003: affordable housing density (30-A M.R.S.A. § 4364), housing density for areas in which housing is allowed (30-A M.R.S.A. § 4364-A), and accessory dwelling units (30-A M.R.S.A. § 4364-B).

Accessory dwelling units.

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Allowed use	Where located	Zoning requirements	Size requirements	Water and wastewater	
At least one must be allowed on any lot where housing is permitted and a single-family dwelling exists	May be added to existing dwelling structure, attached to existing structure or in new structure	Exempt from density requirements	Minimum-109 square feet; municipality may establish a maximum size	If connected to public water or sewer, must show system has capacity to serve and proof of payment for connection; if served by septic, LPI must verify adequate system; licensed site evaluator must design system; must show evidence prior to c/o	
		No additional parking required for unit		For wells, owner must provide evidence of potability. Evidence	

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				must be shown prior to issuance of c/o	
		Subject to same setbacks as building in which unit is located			
		Must comply with Shoreland zoning			

Staff has also included an attachment information from the State Department of Economic and Community Development LD2003 Guidance as it pertains to Accessory Dwelling Units (identified as Accessory Apartments in Gorham LUC).

2. PROPOSED AMENDMENT

CHAPTER 1: ZONING REGULATIONS
SECTION 1-5 - DEFINITIONS

Accessory Apartment A separate dwelling unit that has been added on, or created within, a lot with a single family house for the purpose of providing separate living accommodations.

CHAPTER 2: GENERAL STANDARDS OF PERFORMANCE
SECTION 2-2 – PARKING, LOADING, AND TRAFFIC

A. OFF-STREET PARKING STANDARDS

Accessory Apartments 1 parking space per each accessory apartment

SECTION 2-4 - RESIDENTIAL

C. ACCESSORY APARTMENTS

Accessory apartments ~~are~~ is a permitted use in all the UR, SR, R zoning districts which allow single-family dwelling or a lot where a single-family exists, subject to the approval of the Code Enforcement Officer and adherence to the following standards:

1. The owner(s) of the lot principal structure must reside in the principal structure or in the accessory unit apartments.
2. The number of occupants of the any accessory unit apartment is limited to two.

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3. ~~The a~~ Accessory unit apartment shall contain up to a maximum of 800 square feet of living space and shall not be less than 190 square feet in area.
4. Accessory dwellings apartment on a lot with the ability to connect to public sewer shall be served by public sewer unless the Portland Water District determines that there is not capacity in the sewer main or treatment facility. For a ~~L~~ lots without the ability to connect to public sewer, ~~T~~the septic systems on the property lot in question shall be functioning properly at the time of application and ~~is~~ shall be sufficiently designed to meet the new anticipated capacity required under all State and local regulations for septic systems.
 - a. For accessory apartment attached to the existing single-family dwelling, ~~If~~ expansion of the septic system is required to meet the increased flow from the accessory apartment, the applicant shall submit an HHE-220 form to the Code Enforcement Officer for review and approval prior to the installation of the system. Any septic system expansions will need to be completed prior to the certificate of occupancy being issued for the accessory apartment.
 - b. Accessory apartment detached from the existing single-family dwelling are required to each have a separate and functioning septic system meeting all State and local regulations for septic systems. Clustered systems are prohibited as set forth in the Town of Gorham Waste Water Ordinance, Article IV – Private Wastewater Disposal Systems, Section 7 – Cluster Systems Prohibited.
5. The parking requirements of the Gorham Land use and Development Code shall be adhered to. For a lot served by private wells the owner(s) must show evidence that water is potable and acceptable for domestic use prior to issuance of a certificate of occupancy for the accessory apartment.
6. Proper ingress and egress shall be provided to the accessory ~~unit~~ apartment.
7. Should the owner(s) of the ~~principal structure or accessory apartment~~ lot be found in noncompliance of the standards contained in this section, the noncompliance shall be considered a violation of this code and subject to the fines and penalty section, and the accessory ~~unit~~ apartment(s) shall be discontinued, and the ~~structure~~ lot shall revert to single family use.
8. An accessory apartment which complies with the requirements of this subsection shall not be considered an additional dwelling unit when calculating lot area per family dwelling unit under the space and bulk regulations of the Code. Accessory apartment is required to meet the setbacks in the zoning district they are located in and if applicable Shoreland zoning requirements.

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9. Only ~~one~~ ~~two~~ accessory apartments ~~per principal structure~~ shall be permitted on a lot.

PROPOSED MOTIONS:

Move to send the proposed Zoning Amendment for Accessory Dwelling Units to the next available Planning Board meeting for a public hearing.

Or

Move to send the proposed Zoning Amendment for Accessory Dwelling Units to the Planning Board's (Ordinance Sub-committee or Comp Plan Implementation Sub- Committee for review and recommendation)