

Land Use and Development Code Amendment: Accessory Dwelling Units

**Town of Gorham
Planning Board Meeting
December 5, 2022**

ITEM 4 – Public Hearing - Land Use and Development Code – Accessory Dwelling Units: a proposed amendment to the Land Use and Development Code regarding Accessory Dwelling Units.

INDEX OF PACKET ENCLOSURES	
DESCRIPTION	PAGE NUMBER
1. Overview	2
2. Portland Water District Comments	2-4
3. Public Comment	4
4. Proposed Amendment	4-7

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	Moved to Planning Board Public Hearing (6 yeas, 1 absent)	November 7, 2022
Planning Board – Public Hearing		December 5, 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.

Land Use and Development Code Amendment: Accessory Dwelling Units

1. OVERVIEW

At this meeting the Planning Board needs to open the item up for a public hearing on the proposed item. Once the public hearing is completed then the Planning Board should discuss whether to forward the item on with a recommendation for the Town Council.

As a reminder 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.

Town staff have received comments from the Portland Water District about the proposed amendment for accessory apartments. Staff has included their comments under ITEM 2. Staff has also proposed some draft language shown in blue, bold, and underlined to address the PWD comments for connection to public sewer and water mains.

Town staff has also received one comment regarding the item from the public. The comment is located under item 3.

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.

2. PORTLAND WATER DISTRICT COMMENTS

Portland Water District:

Water – Robert Bartels: 11/30/2022

November 30, 2022

Thanks Tom for the opportunity to contribute to the code language. I know there was some follow up with the Fire Department in terms of the impacts of an NFPA 13D sprinkler system on an ADU and the ability of an existing service to support the fire sprinkler system. I'd like to see that conversation included as it will be very important to show the impact a new ADU with fire sprinklers will have on the existing water service to the property. I can tell you that any property that is currently served with a ¾" water service, which is a majority of the existing properties, will not be able to supply enough water solely from the public water system to operate an NFPA 13D sprinkler system. All properties that have

Land Use and Development Code Amendment: Accessory Dwelling Units

¾” water services and new ADU’s that require NFPA 13D sprinkler systems will either need to a) install a new larger water service line that can support the flow demand of the sprinkler system (typical size is 1”), or b) install a tank and pump system within the facility to support the NFPA 13D sprinkler system; the ¾” water service can still be used since it is not directly supplying water to the system. At no time shall a ¾” water service be approved by PWD to directly support an NFPA 13D fire sprinkler system.

Any one wishing to construct an ADU, either attached or detached, should consult with the Portland Water District first thing to determine if their existing water service has the capacity to provide enough water for domestic water use and fire sprinkler operation. It would be most effective if this requirement was part of the Town permit that approves the construction of an ADU. Check box that says “I’ve consulted with PWD and here is my Ability to Serve letter”.

Where this is going to fail is when we get first knowledge of an ADU when the owner is asking for a meter set, or some other action at the very end of the process after the ADU is already constructed. We do not want to be telling people that we will not set a new meter until they install a new service line to their already constructed ADU.

Please let me know if you have questions or wish to discuss further.

Thanks,

Sewer – Charlene Poulin: 11/30/2022

November 30, 2022

Speaking for the sewer side. For lots that are detached from the main house – they should have their own sewer service to the main and not go through the main house.

Portland recently changed theirs and this is their new language.

- . Accessory Dwelling Units (ADU) sewer laterals

2.6.9.1 Per Chapter 24 of the City Code of Ordinance “A separate and independent building sewer shall be provided for every new building, and a separate connection shall be made for each building sewer.” The Department of Public Works recognizes the following scenarios for the successful connection of the proposed ADU to the public sewer system. See Figure II-21 for additional information.

A. The proposed ADU is connected to the primary residence. In this scenario, the ADU may be connected to the primary residence sewer lateral internal to the primary residence.

B. The proposed ADU is a separate standalone building: In this scenario, a separate and independent sewer lateral will be

Land Use and Development Code Amendment: Accessory Dwelling Units

provided from both buildings with independent connections to the sewer.

C. The proposed ADU is a separate standalone building: In this scenario, a separate and independent sewer lateral will be provided from both buildings with a connection of the two laterals into a sewer manhole at the property line. The sewer manhole will be a minimum two-foot (2') size providing access to each sewer lateral. The sewer manhole may be placed on the existing sewer lateral from the primary residence with the ADU sewer lateral being fed into it.

3. PUBLIC COMMENT

SMITH, JONATHAN - 11/28/2022

Please see below for my comments/questions regarding the proposed accessory dwelling unit ordinance:

1. The chart on page 3 calls out the minimum allowable size to be 109sf, on page 5, item number 3 calls out a minimum allowable size to be 190sf. Which sf is intended?
2. Under number 4a, the last sentence says "any septic system expansions will need to be completed prior to the certificate of occupancy being issued for the accessory apartment." Currently, if adding 1 bedroom, it is an acceptable path forward to design a replacement system and record that design at the registry for future installation if it becomes necessary. Is it the intent to remove that option? If not, is it possible to wordsmith it a bit in order to minimize mis interpretation?
3. Under 4b, my interpretation of the cluster system definition looks like it allows up to 2 dwelling units on a system. If that is accurate, it seems like a detached accessory dwelling unit would be allowed to connect to an existing system and not be in violation of the cluster system ordinance. Is that how you interpret the ordinance?

In my opinion, if the purpose is truly to increase housing opportunity in Maine, allowing an ADU attached or detached shouldn't automatically trigger a new septic system. It should only trigger a new system if its more than a one bedroom expansion which is consistent with current code and practice.

Thanks ,Jon

Jonathan Smith
Great Falls Construction
20 Mechanic Street
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4. PROPOSED AMENDMENT

Land Use and Development Code Amendment: Accessory Dwelling Units

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.
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. a. 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 (PWD) determines that there is not capacity in the sewer main or treatment facility. The PWD sewer connections shall meet the following requirements:
 - 1) The proposed accessory apartment is connected to the primary residence. In this scenario, the accessory apartment may be connected to the primary residence internal PWD sewer lateral to the primary residence.
 - 2) The proposed accessory apartment is a separate standalone building: In this scenario, a separate and independent PWD sewer lateral will be provided to serve the accessory apartment. The detached accessory apartment and the single-family house shall have independent connections from each structure to the PWD's sewer main. The independent sewer laterals will be provided from both buildings with a

Land Use and Development Code Amendment: Accessory Dwelling Units

connection of the two laterals into a sewer manhole at the property line. The sewer manhole will be a minimum two-foot (2') size providing access to each sewer lateral. The sewer manhole may be placed on the existing sewer lateral from the single-family residence with the accessory apartment sewer lateral being fed into it.

b. For a ~~L~~ lot~~s~~ without the ability to connect to public sewer, ~~T~~he 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.

- 1) For accessory apartment attached to the existing single-family dwelling, ~~I~~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.
- 2) 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.
9. Only ~~one two~~ accessory apartments ~~per principal structure~~ shall be permitted on a lot.

Land Use and Development Code Amendment: Accessory Dwelling Units

10. Accessory apartments on a lot with the ability to connect to a public water main shall be connected into the public water main unless the Portland Water District determines that there is not capacity in the PWD water main to serve the lot. Accessory apartments being constructed on a lot with public water supply shall provide a PWD ability to serve letter prior to issuance of a building permit for the accessory apartment.

PROPOSED MOTIONS:

Move to recommended adoption by the Town Council of the Amendments to Accessory Dwelling units as amended by the Planning Board.