

Chapter 601, Subdivision

Amend Article I.C, Definitions:

Accessory Dwelling Unit (ADU): ~~A secondary dwelling unit that has been added onto, or created within a single family home or an associated Accessory Structure. One ADU is permitted per lot. A self-contained dwelling unit within or attached to a single-family dwelling or detached from the single-family dwelling located on the same parcel of land.~~ An ADU approved under the Site Plan Review Ordinance shall not be considered a separate unit for the purposes of applying the area and density requirements of this Ordinance. An ADU approved under the Site Plan Review Ordinance does not require review under this Ordinance or under 30-A M.R.S.A., Chapter 187, subchapter 4, the municipal reviewing authority having determined that review under the Site Plan Review Ordinance is at least as stringent as that required under subchapter 4.

Chapter 701, Zoning

Amend Article I.D, Definitions:

Accessory Dwelling Unit (ADU): ~~A secondary dwelling unit that has been added onto, or created within a single family home or an associated Accessory Structure. One ADU is permitted per lot. A self-contained dwelling unit within or attached to a single-family dwelling or detached from the single-family dwelling located on the same parcel of land.~~ An ADU approved under the Site Plan Review Ordinance shall not be considered a separate unit for the purposes of applying the area and density requirements of this Ordinance. An ADU approved under the Site Plan Review Ordinance does not require review under this Ordinance or under 30-A M.R.S.A., Chapter 187, subchapter 4, the municipal reviewing authority having determined that review under the Site Plan Review Ordinance is at least as stringent as that required under subchapter 4.

Amend Article IV.F, “RR” – Rural Residential, List of Permitted Uses

~~ADU-Accessory Dwelling Units (pursuant to Ch. 702)~~

Amend Article IV.I, “RPD” – Resource Protection District, Paragraph 3 Special Exceptions

Essential Services and Single Family residential Structures are allowed by special exception approval and shall conform to the special performance standards listed below: *[editor note: leaving this section unchanged]*

Amend Article IV.I, “RPD” – Resource Protection District, Paragraph 4.e Special Performance Standards

e. Single Family Home. In addition to the criteria specified in IV.R.12 excepting Structure setback requirements, the Planning Board may approve a permit for a single family residential Structure in a RPD provided that the applicant demonstrates that all of the following conditions are met: *[editor note: leaving this section unchanged]*

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Amend Article IV.P, “WOC I” – Water Oriented Commercial, List of Permitted Uses

o. Accessory Dwelling Units

Amend Article IV.T, “GD” – General Development District, List of Permitted Uses

ff. Accessory Dwelling Units

Amend Article IV.X, Village III District, Paragraph 1 Permitted Uses

o. Accessory Dwelling Units

Chapter 702, Site Plan Review

Amend Article I.J.13, Accessory Dwelling Unit

13. Accessory Dwelling Unit: any request shall include a plot/site plan showing the following:

- a. Lot boundaries and dimensions at scale.
- b. Zoning district.
- c. Date of plan.
- d. Property owner with deed reference.
- e. Lot area.
- f. Location and setback of all buildings.
- g. Date of construction of single-family dwelling.
- h. Separate floor layout of all finished levels.
- i. All plumbing facilities, kind and location.
- j. Use of all rooms.
- k. All entrances/exits.
- l. All partitions, temporary or permanent.
- m. Location and type of all appliances.
- n. Rights of way, public and private
- o. All easements
- p. Street names
- q. Sewerage facilities
- r. Off-street parking spaces

Purpose:

The purpose of this section is to promote the public health, safety and general welfare of the community by providing diverse housing choices and to help increase the supply of housing without new land acquisition costs.

In permitting an ADU, the Planning Director and/or CEO shall find that:

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- a. Exterior design of the ~~accessory unit~~ ADU is compatible with the existing residence on the lot through architectural use of building forms, height, construction materials, colors, landscaping, and other methods that conform to acceptable construction practices.
- b. The exterior design is in harmony with, and maintains the scale of the neighborhood.
- c. The accessory unit does not result in excessive noise, traffic or parking congestion.
- d. The primary residence and the ADU shall connect to public water and public sewer in compliance with all applicable Town of Yarmouth and Yarmouth Water District requirements and ordinances as well as the Maine Subsurface Wastewater Disposal rules. If the primary residence and the ADU cannot connect to public water and public sewer, the applicant shall demonstrate by competent third-party evidence that the supply of potable water and/or septic capacity is sufficient for the primary residence and ADU. Approval of an ADU shall be conditional on any required improvements.
- e. Major access stairs, deck entry doors, and major windows will generally be limited to the walls facing the primary residence. Windows that impact the privacy of the neighboring side or rear yard ~~have been~~ shall be minimized. The design of the accessory unit shall relate to the design of the primary residence and shall not visually dominate it or the surrounding properties.
- f. The orientation and location of the buildings, structures, open spaces and other features of the site plan are such that they maintain natural resources including heritage or significant trees and shrubs to the extent feasible and minimize alteration of natural land forms.
- g. Building profiles, location and orientation relate to natural land forms.
- ~~h. One parking space shall be provided on site for each a studio and or one bedroom accessory unit. Two parking spaces shall be provided on site for each a two bedroom accessory unit. Parking of the accessory unit is in addition to the required parking for the primary residence. Required parking spaces for the primary residence and the accessory dwelling unit may be provided in tandem on a driveway. A tandem arrangement consists of one car behind the other. No more than two cars in tandem may be counted towards meeting the parking requirement.~~
- i. A single-family dwelling exists on the lot or will be constructed in conjunction with the ~~accessory unit~~ ADU. Only one ADU is permitted per lot.
- j. ~~Accessory dwelling units~~ ADUs are not eligible for variances to setbacks.
- k. Before obtaining a building permit for an ADU the property owner shall file with the registry of deeds a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner and stating that:
 - a. The accessory unit shall not be sold separately.
 - b. The unit is restricted to the approved size.
 - ~~c. The use permit for the accessory unit shall be in effect only so long as either the main residence, or the accessory unit, is occupied by the owner of record as the principal residence.~~
 - c. The accessory unit shall not be leased for any period of less than 30 consecutive days.
 - d. The above declarations are binding upon any successor in ownership of the property;
 - e. The deed restrictions shall lapse upon removal of the accessory unit.
- ~~l. Units within an Accessory Structure shall not exceed 900 square feet. ADUs shall be at least the minimum size adopted by the Technical Building Code and Standards Board pursuant to 10 M.R.S. §9722 and shall not exceed 900 square feet. If an ADU occupies an entire single floor of a portion of an existing Structure either on a single floor or on multiple floors, or an existing detached Structure will be converted to an ADU, the Planning Department may~~

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- allow for an increase in the allowed size of the ADU up to 1,215 square feet in order to efficiently use all of the floor area, so long as all other standards of this section are met.
- ~~m. An ADU may have no more than two (2) bedrooms.~~
 - ~~n. The water and sewage facilities shall meet all existing laws and codes.~~
 - o. Approval of an ~~accessory apartment~~ ADU shall be conditional on obtaining applicable building, plumbing, electrical and any other necessary municipal permits.
 - p. The Fire Chief must review and sign off on the application.
 - q. Unless part of the design of an existing single family dwelling the dwelling(s) shall have only one (1) front entrance and all other entrances shall be on the side or in the rear of the dwelling. A front entrance leading to a foyer with entrances leading from the foyer to the two (2) dwelling units is permitted. Outside stairways (either open or enclosed), that service an ~~Accessory Dwelling Units~~ ADU on upper stories are not permitted.
 - r. For an ADU located within an existing garage or other outbuilding, the structure is not required to approximate the exterior features of the existing single family dwelling, but any exterior modifications should be consistent with the architectural style of that structure unless the building is upgraded per the requirement of new structures or unless the new structure is designed in a traditional New England form such as a barn.
 - s. An existing single family dwelling that is nonconforming solely due to lot size, lot width, lot frontage, lot coverage, height or setback requirements may be expanded to incorporate an ~~Accessory Apartment~~ ADU subject to the requirements of Chapter 701 of the Yarmouth Code Article III for the expansion of other non-conforming single family dwellings.
 - t. ADU's may be permitted on back lots.
 - u. ADU's are not permitted on a lot with a non-conforming use, unless that non-conforming use is a single-family dwelling, in which case the ADU shall be allowed.
 - v. ADU's are not permitted on a lot with mixed uses.
 - w. When an owner wishes to eliminate the ~~accessory apartment~~ ADU, proof of the removal of the second kitchen and the restoration of the apartment to its status before the conversion shall be submitted to the satisfaction of the Planning Department. The owner shall record a Release of the Declaration of Restrictions on the Land after inspection and confirmation by the Code Enforcement Officer.
 - x. ADUs are not permitted on lots where the number of dwelling units allowed on a lot has been increased under Chapter 701, Article II.EE, after July 1, 2023.
 - y. ADUs must comply with all of the standards of Chapter 701, Article IV.R.

Chapter 703, Character Based Development Code

Amend Article 5.H.6, Habitable Area of Accessory Dwelling Unit

The habitable area of an Accessory Dwelling Unit within a Principal Building, Backbuilding or Outbuilding shall be at least the minimum size adopted by the Technical Building Code and Standards Board pursuant to 10 M.R.S. §9722 and shall not exceed 900 square feet.

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Amend Table 5.J.1, Building & Lot Principal Use

Permitted Districts	CD4	CD4-C	SD1
RESIDENTIAL			
Single Detached Dwelling	Y	Y	Y
Accessory Dwelling Unit	Y	Y	<u>Y</u>
Attached Dwelling – Duplex	Y	Y	Y
Attached Dwelling – Multiplex (3-8)	Y	Y	
Attached Dwelling – Multifamily (>8)	Y	Y	
Attached Dwelling – Mixed Use	Y	Y	
Artist Live/Work Space	Y	Y	

Amend Table 5.K.1, Parking Requirements

PRINCIPAL USE	Parking maximum and minimum range:
Residential	1 per dwelling unit Min; 2 Max. ¹
Lodging	1 per 2 bedrooms Min; 1 per bedroom Max
Office	2 per 1,000 sf Min; 4 per 1,000 sf Max
Retail	2 per 1,000 sf Min; 4 per 1,000 sf Max
Restaurants	1 per 4 seats Min; 1 per 2.5 seats Max
Other	3 per 1,000 sf or as per use Parking Analysis

1. An Accessory Dwelling Unit does not require any additional parking beyond what is required for the single-family dwelling.

Amend Article 7, Definitions

Accessory Dwelling Unit (ADU): ~~an Accessory Dwelling Unit approved under the Site Plan Review Ordinance shall not be considered a secondary dwelling unit that has been added onto, or created within a single family home or an associated Accessory Structure. One ADU is permitted per lot. a self-contained dwelling unit within or attached to a single-family dwelling or detached from the single-family dwelling located on the same parcel of land.~~ An ADU approved under the Site Plan Review Ordinance does not require review under this Ordinance or under 30-A M.R.S.A., Chapter 187, subchapter 4, the municipal reviewing authority having determined that review under the Site Plan Review Ordinance is at least as stringent as that required under subchapter 4.

Chapter 701, Zoning

Amend Article I.D, Definitions by adding the following definitions:

Affordable: The percentage of income a household is charged in rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from rent or the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner’s insurance, condominium fees, and homeowners’ association fees does not exceed 30% of a household’s gross monthly income. This is not an exhaustive list of housing costs.

Affordable Homeownership Unit: A homeownership unit for 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 without spending more than 30% of the household's monthly income on housing costs.

Affordable Housing Development: A development where 51% or more of the total proposed and existing dwelling units on the same lot or within a common scheme of development are designated affordable to a household whose income does not exceed certain thresholds based on the tenure of the household.

Affordable Rental Unit: A rental unit for 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 without spending more than 30% of the household's monthly income on housing costs.

Amend Article II by adding the following section:

DD. AFFORDABLE HOUSING PROGRAMS

It is within the public interest to promote an adequate supply of housing that is affordable to a range of households at different income levels. This section outlines the Town of Yarmouth affordable housing programs.

1. Reserved.
2. Affordable Housing Developments Density Bonus
 - a. Purpose: The purpose of this section is to define the performance standards with which affordable housing developments must comply in order to be eligible for the incentives outlined in P.L. 2021, Chapter 672 and its implementing rules.
 - b. Affordability Standards:
 - i. Where 51% or more of the total proposed and existing dwelling units on the same lot or within a common scheme of development are designated as affordable rental units or affordable homeownership units.
 - ii. Prior to issuing a Certificate of Occupancy for an affordable housing development, the owner of the affordable housing development must execute a restrictive

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- covenant that is enforceable by a party acceptable to the Town and record the restrictive covenant in the Cumberland County Registry of Deeds to ensure affordability for at least 30 years after completion of construction.
- iii. The restrictive covenant shall require that occupancy of all of the affordable rental units in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy through the term of the restrictive covenant.
 - iv. The restrictive covenant shall require that occupancy of all of the affordable homeownership units in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy through the term of the restrictive covenant.
 - v. The restrictive covenant shall outline sales prices, resale prices, initial rents and rent increases, and income verification processes, for affordable units to ensure affordability for the entire affordability term to the extent legally possible. The deed restriction shall also outline marketing and tenant selection for the affordable units consistent with state and federal fair housing laws. The deed restriction shall also identify a monitoring agent for the affordable units.
 - vi. Affordable homeownership units, if converted to affordable rental units, or vice versa, shall become subject to the income limits and other requirements of such units.
- c. Location Standards
- i. The affordable housing development is located in a designated growth area of the Town of Yarmouth Comprehensive Plan or served by a public, special district or other centrally managed water system and a public, special district, or other comparable sewer system.
 - ii. The affordable housing development is located in an area in which multifamily or multiplex dwellings are allowed by this ordinance or Chapter 703, Character Based Development Code.
 - iii. If applicable, complies with the minimum lot size requirements in accordance with Title 12, Chapter 423-A.
- d. Water and Wastewater Standards. Prior to the issuance of a Certificate of Occupancy, written verification that each unit of the affordable housing development is connected to adequate water and wastewater services shall include the following:
- i. If a unit is connected to a public, special district, or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system.
 - ii. If a 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*.
 - iii. If a unit is connected to a public, special district, or other centrally managed 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.
 - iv. If a 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*

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Standards. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

- e. Incentives. If the requirements of this section are met, the following incentives are allowed for the affordable housing development:
 - i. A dwelling unit density bonus of 2.5 times the base density that is otherwise allowed in that location. Where the density bonus results in a fraction, the number of units is rounded up to the nearest whole number. In areas where there are no base density requirements, there is no density bonus.
 - ii. No more than two off-street parking spaces are required for every three dwelling units in the affordable housing development. Where the maximum off-street parking spaces results in a fraction, the total number of parking spaces may be rounded up or down to the nearest whole number.
 - iii. The Planning Board, in reviewing proposed Affordable Housing Developments, may modify said provisions related to minimum lot size, minimum lot area per unit, and setback size, as well as to allow stacked units, to permit innovative approaches to housing and environmental design.
 - iv. The Town shall perform its review of Affordable Housing Developments in as expedited a manner as is practical, without impairing the scope of thoroughness of its review. The expedited review shall consist of a pre-application meeting with Town of Yarmouth staff and Yarmouth Water District staff, and two Planning Board public hearings consisting of a preliminary review and a final review. Additional meetings with the Planning Board may only be scheduled upon mutual agreement by the Planning Board and the applicant.
- f. Nothing in this section exempts an affordable housing development to comply with the requirements of Chapter 601, Subdivision, the applicable provisions of this ordinance, including Chapter 701, Article IV.V, and Chapter 702, Site Plan Review.

Amend Article IV.F, “RR” – Rural Residential, List of Permitted Uses

Affordable Housing Development

Amend Article IV.G, “LDR” – Low Density Residential, List of Permitted Uses

Affordable Housing Development

Amend Article IV.H, “MDR” – Medium Density Residential, List of Permitted Uses

Affordable Housing Development

Amend Article IV.K, “C” – Commercial, List of Permitted Uses

hh. Affordable Housing Development

Amend Article IV.O – Village - II District, Paragraph 1 Permitted Uses

e. Conversion of a structure in existence prior to February 12, 1981, to a maximum of three (3) dwelling units. No conversion shall result in a total of more than three (3) dwelling units per lot. Density requirements do not apply. Where three dwelling units result from a conversion, the provisions for

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Affordable Housing Development may apply. Where a portion of the structure is in office use only, two (2) dwellings are permitted.

Amend Article IV.T, “GD” – General Development District, List of Permitted Uses

gg. Affordable Housing Development

Amend Article IV.X, Village III District, Paragraph 1 Permitted Uses

p. Affordable Housing Development

Chapter 702, Site Plan Review

Amend Article I.B.1, Major Development

g. Affordable Housing Development.

Chapter 703, Character Based Development Code

Amend Article 1.C.3.d to add:

xiv. Chapter 701, Article II.DD, Affordable Housing Programs

Amend Table 5.J.1, Building & Lot Principal Use

Permitted Districts	CD4	CD4-C	SD1
RESIDENTIAL			
Single Detached Dwelling	Y	Y	Y
Accessory Dwelling Unit	Y	Y	<u>Y</u>
Attached Dwelling – Duplex	Y	Y	Y
Attached Dwelling – Multiplex (3-8)	Y	Y	
Attached Dwelling – Multifamily (>8)	Y	Y	
Attached Dwelling – Mixed Use	Y	Y	
Artist Live/Work Space	Y	Y	
<u>Affordable Housing Development</u>	<u>Y</u>	<u>Y</u>	

Amend Table 5.K.1, Parking Requirements

PRINCIPAL USE	Parking maximum and minimum range:
Residential	1 per dwelling unit Min; 2 Max. ¹
<u>Affordable Housing Development</u>	<u>2 per 3 dwelling units Max.</u>
Lodging	1 per 2 bedrooms Min; 1 per bedroom Max
Office	2 per 1,000 sf Min; 4 per 1,000 sf Max
Retail	2 per 1,000 sf Min; 4 per 1,000 sf Max
Restaurants	1 per 4 seats Min; 1 per 2.5 seats Max
Other	3 per 1,000 sf or as per use Parking Analysis

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1. An Accessory Dwelling Unit does not require any additional parking beyond what is required for the single-family dwelling.

Amend Article 7, Definitions

Affordable Housing Development: A development where more than half of the total proposed and existing dwelling units on the same lot or within a common scheme of development are designated affordable to a household whose income does not exceed certain thresholds based on the tenure of the household. See Chapter 701, Article I.D (Definitions) and Article II.DD (Affordable Housing Programs).

Chapter 701, Zoning

Amend Article II by adding the following section:

EE. DWELLING UNIT ALLOWANCES

1. Purpose: Additional dwelling units may be allowed on lots where housing is allowed beginning on January 1, 2024, subject to the following standards.
2. Applicability
 - a. If a lot does not contain an existing dwelling unit, up to four dwelling units per lot are allowed if the lot is located in an area in which housing is permitted and is located in the designated growth area of the most recently adopted Town of Yarmouth Comprehensive Plan.
 - b. If a lot does not contain an existing dwelling unit, up to two dwelling units per lot are allowed if the lot is located in an area in which housing is permitted and is located outside the designated growth area of the most recently adopted Town of Yarmouth Comprehensive Plan. The two dwelling units may be in one structure or two separate structures.
 - c. If a lot contains one existing dwelling unit, up to two additional dwelling units per lot are allowed, subject to the following:
 - i. One within the existing structure or attached to the existing structure; or
 - ii. One detached from the existing structure; or
 - iii. One of each.
 - d. If a lot contains two existing dwelling units, one additional dwelling unit per lot is allowed subject to the following:
 - i. The lot must be located in the designated growth area of the most recently adopted Town of Yarmouth Comprehensive Plan, and
 - ii. No more than two structures containing dwelling units are allowed.

This provision is not applicable to any lot where an accessory dwelling unit exists on the lot as of or is added after January 1, 2024. ~~If a lot contains two existing dwelling units, no further allowances are granted under this section. This includes any lot where an accessory dwelling unit exists on the lot as of or is added after January 1, 2024.~~
3. Density and Dimensional Standards
 - a. The following density standards apply for lots located outside the Growth Area:
 - i. For a lot that does not contain a dwelling unit, each allowed dwelling unit must have at least the minimum lot area per dwelling unit for the zoning district in which the lot is located.
 - ii. For a lot that contains one dwelling unit, each additional allowed dwelling unit must also have at least the minimum lot area per dwelling unit for the zoning district in which the lot is located.
 - iii. If a dwelling unit in existence as of January 1, 2024, is demolished resulting in a lot without a dwelling unit, each allowed dwelling unit must have at least the minimum lot area per dwelling unit for the zoning district in which the lot is located.
 - b. The following density standards apply for lots located within the Growth Area:

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Standards. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

5. Nothing in this section exempts compliance with the requirements of Chapter 601, Subdivision, the applicable provisions of this ordinance, including Chapter 701, Article IV.V, and Chapter 702, Site Plan Review.

Chapter 702, Site Plan Review

Amend Article I.B.1.a, Major Development

1. Major Development:
 - a. The construction of any new structure(s) except as provided in Section 1.B.1.a and Section I.C;

Amend Article I.B.1.b, Minor Development

o. Any development utilizing the Dwelling Unit Allowances of Chapter 701, Article II.EE.

Chapter 703, Character Based Development Code

Amend Article 1.C.3.d to add:

xv. Chapter 701, Article II.EE. Dwelling Unit Allowances