



## PLANNING BOARD REPORT TO TOWN COUNCIL

Amendments to Chapters 601, 701, 702, and 703 to Implement the Provisions of LD 2003

Town of Yarmouth, Applicant

Prepared by: Erin Zwirko, Director of Planning & Development

Report Date: June 22, 2023

## Introduction

LD 2003, officially *An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions*, was signed into law last year. 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. The legislation creates four new elements:

- Provisions for accessory dwelling units (ADUs);
- Provisions for affordable housing developments;
- Provisions for dwelling unit allowances; and
- Creation of statewide housing production goals and regional housing production goals.

Of the four items, the Town will be responsible for implementing all of the provisions except for the creation of statewide and regional housing production goals, which will be the responsibility of the state and the regional planning agencies. The Department of Economic and Community Development (DECD) staff maintain a website that provided links to the text of LD 2003, the rule implementing LD 2003, and additional guidance.<sup>1</sup> The staff are extremely helpful and knowledgeable about the law and the rule and have been excellent partners in assisting municipal staff in implementation.

It was anticipated that the Maine Legislature would alter portions of LD 2003 during the past legislative sessions, especially for implementation. In particular, the law, as adopted in 2022, established an effective date of July 1, 2023. Many cities and towns were not in a position to adopt amendments by that date, and the Legislature extended the effective date to January 1, 2024, for cities and towns that adopt zoning through municipal officers without further action or approval by the voters of the municipality, and to June 1, 2024, for towns that adopt zoning through other methods such as Town Meeting. Although the extension was the major element of this legislation (LD 1706), it also made some minor clarifications in the language to be clear on the intent. This was signed into law on June 16<sup>th</sup> by the Governor. There was a variety of other adjustments discussed by the Legislature's Joint Select Committee on Housing and at this time, it appears that there are no further adjustments to LD 2003 under consideration.

[The DECD staff previously released a guidance document that is very helpful in explaining the provisions that need to be locally implemented.](#) While it should be noted that this document is dated as it is based on the original law, the concepts have not changed and is easily understood by the layperson. Although planners had anticipated that this document

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<sup>1</sup> <https://www.maine.gov/decd/housingopportunityprogram>

would have been updated this spring, with the various legislation under consideration, it is understandable that the DECD staff did not update it until there was a firm understanding of what might change. The DECD staff will have to complete a limited scope rulemaking process to update the previously adopted rule, which is anticipated to happen in the next several weeks.

## Planning Board Review

The Planning Board held five meetings on the implementation of LD 2003 during April, May, and June. Each of the meetings focused on a specific element of the law, and the Department of Planning & Development made a presentation and offered a staff report:

- **Planning Board Meeting 1:** The first workshop with the Planning Board was held on April 12, 2023, where the Department presented an overview of LD 2003 and the ADU provisions. [The staff report and presentation are available on the Planning Board's website for review.](#) [The meeting was recorded and is available to watch on demand.](#)
- **Planning Board Meeting 2:** The second workshop with the Planning Board was held on April 26, 2023, where the Department presented the affordable housing development provisions. [The staff report and presentation are available on the Planning Board's website for review.](#) [The meeting was recorded and is available to watch on demand.](#)
- **Planning Board Meeting 3:** The third workshop with the Planning Board was held on May 10, 2023, where the Department presented the dwelling unit allowances. The Town's legal counsel was also in attendance to provide support for the Planning Board. [The staff report and presentation are available on the Planning Board's website for review.](#) [The meeting was recorded and is available to watch on demand.](#)
- **Planning Board Meeting 4:** The fourth meeting with the Planning Board was held on May 24, 2023, where the Planning Board reviewed the proposed amendments and the additional analysis relative to the dwelling unit allowances. The Board ultimately recommended amendments for ADUs and affordable housing developments. [The staff report and presentation are available on the Planning Board's website for review.](#) [The meeting was recorded and is available to watch on demand.](#)
- **Planning Board Meeting 5:** The fifth meeting with the Planning Board was held on June 14, 2023, where the Planning Board made its final recommendation on the dwelling unit allowances. [The staff report and presentation are available on the Planning Board's website for review.](#) [The meeting was recorded and is available to watch on demand.](#)

The Department provided two public engagement opportunities:

- **Informational Session:** The first information session was held on March 29, 2023, and was attended by twelve individuals. [The presentation and discussion were recorded and is available to view.](#)
- **Listening Session:** A listening session was held on May 15, 2023, and was attended by ten individuals joining in person and online. [The session was recorded and is available to view.](#)

For each of the provisions, the Planning Board was presented with the minimum requirements of the law; essentially those provisions that must be adopted. In addition, the Planning Board was presented with options to go beyond the minimum requirements. In some cases, the Planning Board agreed that there was value to go beyond the minimum requirements, but in other cases, the Planning Board identified that without greater participation by the public in the discussion and acknowledging that the comprehensive plan update is underway, significant changes to Yarmouth's land use ordinances could not be supported at this time.

## Accessory Dwelling Unit Provisions

Yarmouth currently regulates ADUs through an administrative minor site plan review process, as outlined in Chapter 702, that is carried out by the Department of Planning and Development in consultation with other Department Heads, such as the Fire Chief, the DPW Director, and the Town Engineer, among others. The regulations for ADUs were adopted in 2015 and were revised on several occasions since the original adoption. In February 2022, the Yarmouth Town Council adopted an amendment to remove the requirement for public water and public sewer as a minimum requirement for ADUs in Yarmouth.

Yarmouth needs to process amendments to be compliant with the law. These include allowing ADUs in certain zoning districts where single-family dwellings are allowed, as well as eliminating the requirement for additional parking beyond what is required for the single-family home. Further, a reference to the required minimum size (currently 190 square feet) must be added to the ordinance. Rather than adopt the current standard, the proposed amendments reference the statutory citation in case the minimum size changes in the future.

In addition to meeting the minimum requirements described above, the Planning Board recommends additional amendments following the deliberations at the public meetings on LD 2003. Those additional recommendations include:

- Deleting references to “accessory apartment” and replaced with ADU for consistent terms and language;
- Revising the provisions related to the maximum size of an ADU;
- Eliminating the prohibition on no more than 2 bedrooms;
- Eliminating the duplicative reference to compliance with all state and local requirements for water and sewerage;
- Adding a provision prohibiting “double-dipping” with the Dwelling Unit Allowances; and
- Adding an explicit reference to Shoreland standards.

The Planning Board heard calls from the public to also eliminate the requirement for owner occupancy of either the principal dwelling unit or the ADU. The ordinance requires a property owner that receives approval of an ADU must record in the Cumberland County Registry of Deeds a declaration indicating that one of the units will be owner occupied. In particular, the comments received by the Planning Board focused on the disparity between duplexes, where the ownership is not regulated, and single-family homes with an attached ADU, where the ownership is regulated. Visually, there is little to no difference between these housing typologies but creates a disparity in the regulations.

The Planning Board received guidance from the DECD staff and legal counsel that the Town can continue to require owner occupancy of either the principal dwelling unit or the ADU and not run afoul of LD 2003. The Planning Board acknowledged the comments made regarding the differences in regulation of two very similar housing typologies, but declined to recommend any amendments.

## Consistency with the Comprehensive Plan

Many Maine communities have identified ADUs as a viable housing option that does not dramatically change a community’s existing pattern of development and can serve multiple purposes for the owner over time. Having an ADU on a property can assist older homeowners in maintaining their independence by providing additional income to offset property taxes and maintenance and repair costs, or by providing housing for a caregiver. ADUs can also become the resident’s home if they wish to downsize, allowing them to rent out the main house or to have family move into it. Likewise, older children who may still be dependent on their parents but want independence could utilize the ADU to be close to their support system. Multigenerational living arrangements can be helpful in so many ways for older adults or young families and individuals.

Yarmouth adopted the ADU ordinance nearly 20 years ago. While ADUs are now being embraced by cities and towns across the country, adopting this ordinance years ago clearly shows that the Planning Board and the Town Council identified this housing option as a desirable and low-impact option for Yarmouth. The 2010 Comprehensive Plan when referring to the *Diversity of the Population* (page 26-27) notes that Yarmouth historically has been “home” to a wide range of people, and that to accommodate this population diversity and economic diversity new housing units should

include “*accessory dwelling units added to existing homes, small infill buildings in the Village, new affordable housing projects, and other creative approaches.*” Revising Yarmouth’s ordinance to be consistent with LD 2003 builds upon last year’s amendments removing the requirement to be on public water and public sewer, by adding some more flexibility for the type of household that would occupy an ADU, by not requiring any additional parking, and by allowing small increases in size.

## Recommendation

On May 24, 2023, the Planning Board made the following recommendation:

On the basis of the application, plans, reports and other information submitted, and the findings and recommendations contained in Planning Board Report dated May 18, 2023, for various amendments to implement the Accessory Dwelling Unit provisions of LD 2003 applicable to Chapter 601, Subdivision, Chapter 701, Zoning, Chapter 702, Site Plan Review, and Chapter 703, Character Based Development Code, Town of Yarmouth, Applicant, the Planning Board finds that the amendment **is in conformance** with the Yarmouth Comprehensive Plan, and therefore **recommends** that the Town Council adopt the proposed zoning text amendment.

**Such motion moved by Janet Hansen, seconded by Matt Schumacher, and voted 6 in favor, 0 opposed (Cromarty absent).**

## Affordable Housing Development Provisions

The law and the rule create a series of performance standards that must be met to capture the incentives that are outlined in the law (i.e., a density bonus and a parking reduction). To incorporate these standards in a single location, a new section is proposed to be added to Chapter 701, Article II.DD, titled “Affordable Housing Programs.”

The standards are organized as Affordability Standards, Location Standards, and Water and Wastewater Standards. The critical piece is that affordable housing developments must be allowed within the designated growth area of Yarmouth or in areas served by a public, special district or other centrally managed water system and a public, special district, or other comparable sewer system. In addition, these only apply where multifamily or multiplex are allowed uses. Only when all the performance standards are met are the incentives available.

Nothing in LD 2003 or in the rule exempts an Affordable Housing Development from complying with the requirements of Chapter 601, Subdivision, Chapter 701, Zoning, including the shoreland overlay district requirements, and Chapter 702, Site Plan Review.

The Planning Board discussed this topic at the April 26<sup>th</sup> workshop, following a presentation of the likely limited development potential for Affordable Housing Developments, primarily due to the rigidity of the multiplex use and the large amounts of land needed for multiplex developments. The Planning Board discussed how additional flexibility would be beneficial to allow the development of these types of projects (where more than half of the units, existing and proposed, are deed-restricted affordable per the definitions of the law) to proceed in appropriate locations in Yarmouth.

In addition to recommending the minimum requirements of LD 2003 on this topic, the Planning Board also recommends the following provisions:

- Added a provision for expedited permitting; and
- Added a provision where the Planning Board could modify minimum lot size, minimum lot area per unit, and setbacks, and the housing type, to permit innovative approaches to housing and environmental design. This language comes from the Open Space Residential Development section of the Zoning Ordinance and has been used successfully for recent subdivisions, such as McKearney I and II, Village Run, and Boston Post Road (Line Pine) subdivisions.

The Planning Board discussed the parking requirement for Affordable Housing Developers in order to best following additional guidance from the DECD staff. The law’s parking requirement is “no more than 2 spaces for every 3 units,” a

ratio of 0.67. This does not prevent an Affordable Housing Developer from proposing additional parking if they desire to provide additional parking. In cases where the project may be located within the CBDC character districts, the Planning Board would consider any additional parking through the waiver process outlined in the CDBC.

Further, there have been some comments about who would be responsible for monitoring Affordable Housing Developments and enforcing those restrictions. The DECD staff continues to work with partner agencies to develop best practices and recommendations for cities and towns as they pursue LD 2003 implementation. The Planning Board did not find it necessary for the specific entity to be listed in the recommended amendments, but rather as additional information becomes available, the Department, the Affordable Housing Committee, and the Town Council, as well as potential organizations in Yarmouth, could assess and offer those recommendations through a policy statement.

### Consistency with the Comprehensive Plan

In Yarmouth, the need for affordable housing has been well documented. The 1993 Comprehensive Plan included the lofty goal of creating 70 affordable homes in five years between 1991 and 1996. In describing this goal, the 1993 Comprehensive Plan states “Since affordable housing has not been built in Yarmouth under current zoning, it is necessary that the Town adopt land use policies and planning ordinances that provide developers with incentives to build affordable housing, and that the town provide assistance and support to developers in obtaining state monies and approvals for projects.” There were a series of action items associated with this goal, and ultimately 23 affordable homes were built, but the covenants allowed some flexibility where perhaps there should have been none, and those units have turned over to market rate units. The zoning that facilitated the construction of the few affordable homes sunsetted, and none of the other action items identified in the 1993 plan were acted upon.

The 2010 Comprehensive Plan again identified “diversity of population” as a major theme of the plan and stated this vision:

*Yarmouth will continue to be a community with a diverse population: young families with children, middle-aged couples, elderly residents, younger renters ranging from those with modest incomes to affluent households. To accommodate this population diversity, a wide range of housing choices will continue to be available in our community including housing that is affordable to households with modest income and a variety of rental housing. To help maintain an economically diverse population, at least 20% of newly created housing units will be units that are in housing other than single-family homes or that are affordable to households with modest incomes. (Page 26)*

Actions were included again that focus on addressing zoning and land use policies, but no actions to create deed-restricted affordable housing was advanced since the adoption of the 2010 Comprehensive Plan. The past two Comprehensive Plans have put a strong emphasis on being a community where many types of households can afford to live. However, over time the range of housing options has become more limited, in part because of the Zoning Ordinance, so by implementing the requirements of LD 2003, some steps will be taken consistent with the goals of the 2010 Comprehensive Plan.

### Recommendation

On May 24, 2023, the Planning Board made the following recommendation:

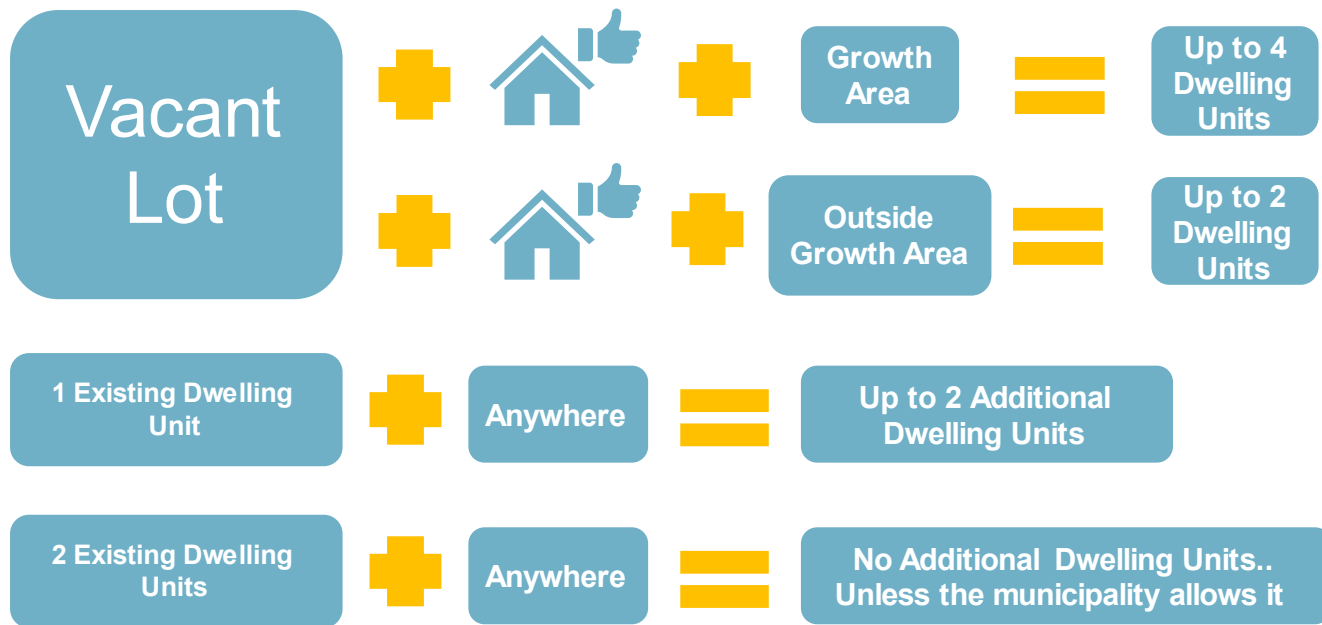
On the basis of the application, plans, reports and other information submitted, and the findings and recommendations contained in Planning Board Report dated May 18, 2023, for various amendments to implement the Affordable Housing Development provisions of LD 2003 applicable to Chapter 701, Zoning, Chapter 702, Site Plan Review, and Chapter 703, Character Based Development Code, Town of Yarmouth, Applicant, the Planning Board finds that the amendment **is in conformance** with the Yarmouth Comprehensive Plan, and therefore **recommends** that the Town Council adopt the proposed zoning text amendment.

**Such motion moved by Janet Hansen, seconded by Matt Schumacher, and voted 6 in favor, 0 opposed (Cromarty absent).**

## Dwelling Unit Allowance Provisions

Similar to how the Affordable Housing Development provisions are framed, the law and the rule create a series of performance standards that must be met in order to be eligible for the dwelling unit allowances that are outlined in the law. To capture these standards in a single location, a new section is added to Chapter 701, Article II.EE, titled “Dwelling Unit Allowances.”

This new section outlines the applicability of the Dwelling Unit Allowances. The main information that needs to be conveyed to readers of the Zoning Ordinance is the various mandated allowances depending on the location and how many units exist on the lot already. Note that where additional dwelling units are allowed where 1 dwelling unit already exists, the additional dwelling units must be allowed either within or attached to an existing structure, or as a detached dwelling unit, or one of each:



In addition, this section covers what is allowed on lots where a dwelling unit is demolished resulting in a vacant lot for the purposes of LD 2003. The law and the rule give municipalities discretion to address this condition. The Planning Board recommended amendments establishing that the condition where a vacant lot is created through demolition after January 1, 2024, each allowed dwelling unit must meet the minimum lot area per dwelling unit in the zoning district the lot is located in.

Further, the law and the rule enable municipalities to prevent “double dipping” between the ADU provisions and the Dwelling Unit Allowances. For example, the law allows municipalities the discretion to allow a property owner to take advantage of the allowances and then also allow each new unit an ADU. Conversely, municipalities have the discretion to not allow this as a multiplier. The recommended amendments prohibit any allowances in cases where an ADU exists as of or is added after the implementation date.

The new section also outlines the lot size standards that are applicable to the Dwelling Unit Allowances. Municipalities may not establish dimensional or setback requirements that are greater than what is otherwise required for a single-family home and municipalities may not establish lot area per unit requirements for the subsequent units that is greater than what is required for the first unit as shown in the next graphic. For example, Yarmouth requires a 1-acre minimum lot size in the Medium Density Residential District for one single-family home. Each subsequent dwelling unit added may be required to meet a minimum lot area per unit, but it cannot be greater than 1 acre. Determining what was reasonable was the key item that the Planning Board deliberated on relative to this section of the law and is discussed at length in the following sections.





Source: LD 2003 Guidance Document (updated February 2023). Retrieved from:  
<https://www.maine.gov/decd/housingopportunityprogram>

Other standards relate to written verification that the public or private sewer and water system is adequate for the proposed additional dwelling units.

Nothing in LD 2003 or in the rule exempts an affordable housing development from complying with the requirements of Chapter 601, Subdivision, Chapter 701, Zoning, including the shoreland overlay district requirements, and Chapter 702, Site Plan Review.

## 2010 Comprehensive Plan Growth Area and Constraints

The Dwelling Unit Allowance is strictly within the Growth Area or outside the Growth Area, so as a reminder, the following tables provides the listing of zoning and character districts within the Growth Area and outside of the Growth Area (see the attached graphic):

Growth Area	Outside Growth Area
Medium Density Residential (MDR) Village II and Village III CD4 and CD4-C North Yarmouth Academy's SD1 Commercial, Commercial II, and Commercial III Water Oriented Commercial Portion of General Development (within Village) Industrial	Low Density Residential (LDR) Rural Residential (RR) Water Oriented Commercial II and III Resource Protection Portion of General Development (along Cousins River)

While the Planning Board looked at numbers of lots that *may* be developable within the Growth Area and outside of the Growth Area, it is important to note that there are site-specific constraints that moderate development. The Shoreland standards also prevail, so residential lots within the Shoreland Overlay District and in the Resource Protection District are likely further limited by the Shoreland standards. Many existing subdivisions have Homeowner Association restrictions that limit the number of dwelling units on any given lot. The large recent subdivisions, including McKearney I and II, Village Run, and Boston Post Road (Lone Pine) have this limitation in their associated covenants. Within the Village, the provisions of Chapter 701 Article IX, Historic Building Alterations and Demolitions, and Article X, Historic Preservation Advisory Ordinance, and lot coverage requirements of the CBDC are applicable. Finally, construction is expensive, and for the average property owner, taking advantage of these allowances may not be financially or logistically feasible.

The Planning Board also acknowledged that the Comprehensive Plan update is underway, and the key exercise of the comprehensive plan is to set a growth area based on the Future Land Use Plan. The Planning Board agrees that it will be important for future Department staff, Planning Boards, and Town Councils to understand how these provisions of LD 2003 may alter the intent of future zoning policies.

## Outside the Growth Area

The LDR and RR Districts are outside of the Growth Area and housing is allowed, so our analysis focused on these districts. We did not analyze WOC II, WOC III, or RP as the Zoning and the Shoreland standards would likely significantly limit new buildings. Being located outside of the Growth Area, up to 2 dwelling units are allowed on vacant lots and up to 2 additional dwelling units are allowed on lots where there is 1 existing dwelling unit.

### Vacant Lots

The Planning Board recommended that each dwelling unit allowed (up to 2) have the minimum lot area for a dwelling unit consistent with the existing conditions. The Planning Board acknowledged that the rural context of the RR and LDR districts is important to the community and did not want to promote more intensive development than what is currently allowed by the Zoning Ordinance.

### Lots with 1 Existing Dwelling Unit

For the same reasons above, the Planning Board recommended that each additional allowed dwelling unit (up to 2) have the minimum lot area for a dwelling unit consistent with the existing conditions.

## Consistency with the Comprehensive Plan

The 2010 Comprehensive Plan indicates that *“the goal of the community is to preserve the rural character within this portion of Yarmouth while protecting the property rights and development potential for landowners... From a policy perspective, these are areas in which intensive development is discouraged.”* The Comprehensive Plan goes on to say that Open Space Residential Development should be used to encourage the preservation of the character of rural road corridors when development occurs. Open Space Residential Development has been used successfully throughout Yarmouth to protect important natural resources, as well as scenic vistas. It is also noted that although public water and public sewer extend beyond the Growth Area (see attached graphic) into the LDR and the RR, most of these areas are not served by public infrastructure.

## Within the Growth Area

The Growth Area is made up of the MDR, the Village districts, the Commercial districts, the Industrial districts, WOC I, a portion of the General Development District, and the CBDC's character districts. Being located within the Growth Area, up to 4 dwelling units are allowed on vacant lots and up to 2 additional dwelling units are allowed on lots where there is 1 existing dwelling unit.

For vacant lots, housing must also be a “permitted use” in the district, so this eliminates Industrial, Commercial II, and Commercial III districts. Further, note that DECD has provided guidance that a commercially zoned property (where



housing is also allowed) without a dwelling unit on the property would be considered a vacant lot for these purposes. In the Commercial District, that means that the units must be part of a mixed-use building.

Further, for both vacant lots and lots with 1 existing dwelling unit located within the CBDC's character districts, the CBDC's character districts have no minimum lot size or minimum lot area per unit requirements; other elements of the code regulate density. As such, the dwelling unit allowances are not applicable as the existing zoning exceeds the minimum requirements of the law.

### Vacant Lots

The Planning Board recommended that within the Growth Area, all vacant lots be able to utilize the dwelling unit allowances for up to 4 dwelling units without requiring any additional land area. Focusing on the MDR, which comprises the bulk of the land area in the Growth Area, there are fifteen vacant lots, nine of which are conforming. For the six vacant lots that are nonconforming in the MDR, any development on that lot would have to comply with Chapter 701, Article III.B.1, which lays out the rules for building on nonconforming lots. Assuming all these lots are legal lots of record and are not owned in common ownership with a contiguous parcel, a structure may be built so long as it meets all of the standards of the district, except for Lot Area, Lot Width, and Road and Shore Frontage.

The Planning Board noted that there is little risk to allow any existing vacant lot to develop up to four allowed units. This is consistent with the policy direction outlined in the Comprehensive Plan, which prioritizes infill development to create compact and walkable neighborhoods that offer a diversity of housing choices within the Growth Area, rather than sprawling development.

### Lots with 1 Existing Dwelling Unit

The Planning Board spent a significant amount of time deliberating on a recommendation for lots within the Growth Area with one existing dwelling unit. As noted above, the MDR occupies the most land area of the Growth Area, and as such there are 1,384 lots with 1 existing dwelling unit. The Planning Board recognized that the dwelling unit allowances of LD 2003 could result in significant changes in the Growth Area, and without significant engagement from the community as part of the process, it would be difficult to justify those changes. However, the Planning Board also acknowledged that the current standards of the Zoning Ordinance need to be modernized and refined, an exercise that also requires significant engagement.

The Planning Board first recalled that the additional dwelling units (up to 2) may be created within the existing structure or attached to the existing structure, or within a detached structure, or one of both. This requirement comes from the law and in simpler terms would only result in two detached structures on any lot. The Planning Board then took cues from the existing Zoning Ordinance in developing the recommendation. Because there would only ever be two detached structures per the law, the Planning Board recommended that a lot that has twice the minimum lot area for a dwelling unit be allowed up to two additional dwelling units, understanding that the third unit would be attached or within the one of the detached structures. Visually, the density would appear the same as existing development patterns in Yarmouth while allowing infill opportunities.

### Consistency with the Comprehensive Plan

The 2010 Comprehensive Plan indicates that the Growth Area includes *“those areas that are or can be conveniently served by public facilities and services, are physically suited for development, and promote a compact rather than sprawling pattern of development. From a policy standpoint, these are the areas in which much of the anticipated nonresidential and residential growth will be accommodated.”* Further, three of the core concepts of the Future Land Use Plan include:

- *Yarmouth has a well-defined, historic pattern of development with a compact, walkable village center surrounded by relatively dense older residential neighborhoods and a rural/coastal hinterland. While development on the fringe of the Village over the past thirty years has somewhat compromised this historic development pattern, future development must be guided and encouraged to emulate the historic pattern.*

- *Yarmouth has traditionally offered a diversity of housing opportunities that resulted in a somewhat diverse population in terms of age and income. That diversity has been threatened by escalating real estate values and the recent pattern of residential development. Creating the opportunity for the development of a wide range of housing types and sizes is essential if Yarmouth is going to remain a community with a somewhat diverse population.*
- *Returning to the historic pattern of development and providing a diversity of housing opportunities will require that the Town allow higher density/intensity of use in some areas especially within the Village area and area currently zoned MDR...*

The Planning Board's recommendations for the lot size requirements in areas within the Growth Area are grounded in these core land use concepts, which are similar to the intent of LD 2003.

## Other Areas of Municipal Discretion

LD 2003 also gives cities and towns discretion in how to handle demolition where the lot becomes vacant for the purposes of LD 2003 (i.e., no dwelling unit) and establishing a local permitting process.

## Demolition Resulting in a Vacant Lot

The Planning Board recommended that in cases where demolition occurs resulting in a vacant lot for purposes of the dwelling unit allowances, each allowed dwelling unit would need to have the minimum lot area per dwelling unit for the zoning district in which the lot is located. This requirement is effective on January 1, 2024, and existing lots that were vacant prior to January 1 would be addressed through the vacant lot provisions.

## Local Permitting Process

The law and the rule allow municipalities to establish a permitting process for the allowed dwelling units. Critical items that concern Department Heads when there are additional dwelling units being added to a property include how water and sewer will be connected and metered, compliance with private road standards, and E-911 addressing. As such, the Planning Board recommended that any dwellings allowed through these provisions be subject to Minor Site Plan. It is noted that if there are 3 or more units or new lots, the additional dwelling units or lots may also trigger Minor Subdivision.

## Recommendation

On June 14, 2023, the Planning Board made the following recommendation:

On the basis of the application, plans, reports and other information submitted, and the findings and recommendations contained in Planning Board Report dated June 8, 2023, for various amendments to implement the Dwelling Unit Allowance provisions of LD 2003 applicable to Chapter 701, Zoning, Chapter 702, Site Plan Review, and Chapter 703, Character Based Development Code, Town of Yarmouth, Applicant, the Planning Board finds that the amendment **is in conformance** with the Yarmouth Comprehensive Plan, and therefore **recommends** that the Town Council adopt the proposed zoning text amendment, as revised during the June 14<sup>th</sup> Public Hearing and conferring with Legal Counsel.

**Such motion moved by Matt Schumacher, seconded by Mary Lynn Engel, and voted 4 in favor, 0 opposed (Ginsberg, Hansen, and King absent).**

In regard to follow up consultation with Legal Counsel, I spoke with Phil Saucier on June 22 as directed by the Planning Board. Attorney Saucier recommended tweaks in the proposed recommended language, which have been incorporated into the recommended language presented to the Town Council. In particular, the Planning Board was seeking guidance on whether the recommended language on cases where a dwelling unit is demolished in order to create a vacant lot was inconsistent with the law. Attorney Saucier did not believe it was inconsistent with LD 2003.

## Housing Production Goals

The final piece of LD 2003 requires that statewide and regional housing production goals be established. DECD is required to consult with the Maine State Housing Authority and municipalities to develop production goals in order to increase the availability and affordability of all types of housing in all parts of Maine. Specifically, DECD is directed to:

- Establish measurable standards and benchmarks for success;
- Consider information submitted by municipalities regarding current and pipeline housing developments and permits issued for housing construction;
- Consider any other information necessary.

In support, municipalities must ensure that ordinances and regulations affirmatively further the purposes of the Fair Housing Act and the Maine Human Rights Act. Additionally, municipalities may also regulate short-term rentals in order to achieve the statewide or regional housing production goals.

This requirement would not identify town by town housing production goals, although regional goals could be used to approximate the share per municipality. The Planning Board, in consultation with Town Counsel, did not identify any zoning amendments that are necessary to comply with this section of LD 2003.

## Summary

The Planning Board and the Department of Planning & Development look forward to discussing implementation of this law with the Town Council over the next several months. In order to be compliant with the law, the Town should adopt zoning amendments before January 1, 2024.

## Attachments

1. Amendments to Chapters 601, 701, 702, and 703 to Implement ADU Provisions, as recommended May 24, 2023
2. Amendments to Chapters 701, 702, and 703 to Implement the Affordable Housing Development Provisions, as recommended May 24, 2023
3. Amendments to Chapters 701, 702, and 703 to Implement the Dwelling Unit Allowances, as recommended June 14, 2023
4. 2010 Comprehensive Plan Growth Area
5. Comparison of Growth Area to Public Water and Sewer

## LD 2003 – Amendments to Chapter 601, 701, 702, and 703 to Implement ADU Provisions

### 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, and detached Accessory Dwelling Units, are allowed by special exception approval and shall conform to the special performance standards listed below:

#### 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 or a detached Accessory Dwelling Unit in a RPD provided that the applicant demonstrates that all of the following conditions are met:

## **LD 2003 – Amendments to Chapter 601, 701, 702, and 703 to Implement ADU Provisions**

### **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:

## LD 2003 – Amendments to Chapter 601, 701, 702, and 703 to Implement ADU Provisions

- 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.
  - 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 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.~~



## LD 2003 – Amendments to Chapter 601, 701, 702, and 703 to Implement ADU Provisions

- ~~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.

## LD 2003 – Amendments to Chapter 601, 701, 702, and 703 to Implement ADU Provisions

### 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. <sup>1</sup>
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.

## LD 2003 – Amendments to Chapter 701, 702, and 703 to Implement Affordable Housing Provisions

## 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

- 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*

## LD 2003 – Amendments to Chapter 701, 702, and 703 to Implement Affordable Housing Provisions

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

## LD 2003 – Amendments to Chapter 701, 702, and 703 to Implement Affordable Housing Provisions

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. <sup>1</sup>
<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



## LD 2003 – Amendments to Chapter 701, 702, and 703 to Implement Affordable Housing Provisions

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)**.

## LD 2003 – Amendments to Chapter 701, 702, and 703 to Implement Dwelling Unit Allowances

## 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, 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.
  - b. The following density standards apply for lots located within the Growth Area:
    - i. Notwithstanding the minimum lot area or minimum lot area per unit requirements identified in Article III, for a lot that does not contain a dwelling unit, up to four dwelling units are allowed regardless of lot area per dwelling unit subject to the limitations of ARTICLE II.EE.3.c below.
    - ii. For a lot that contains one dwelling unit, the first 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. The second additional allowed dwelling unit is allowed without any additional lot area per dwelling unit.
  - c. If a dwelling unit in existence after January 1, 2024, is demolished resulting in a lot without a dwelling unit, each allowed dwelling unit must have at least the minimum lot minimum lot area per dwelling unit for the zoning district in which the lot is located.

## LD 2003 – Amendments to Chapter 701, 702, and 703 to Implement Dwelling Unit Allowances

- d. For each dwelling unit allowed by this section, the setback requirements of the zoning district in which the lot is located apply.
      - e. If applicable, the minimum lot size requirements in accordance with Title 12, Chapter 423-A, are required for any dwelling units allowed under this section.
  - 4. Water and Wastewater Standards
    - a. 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 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

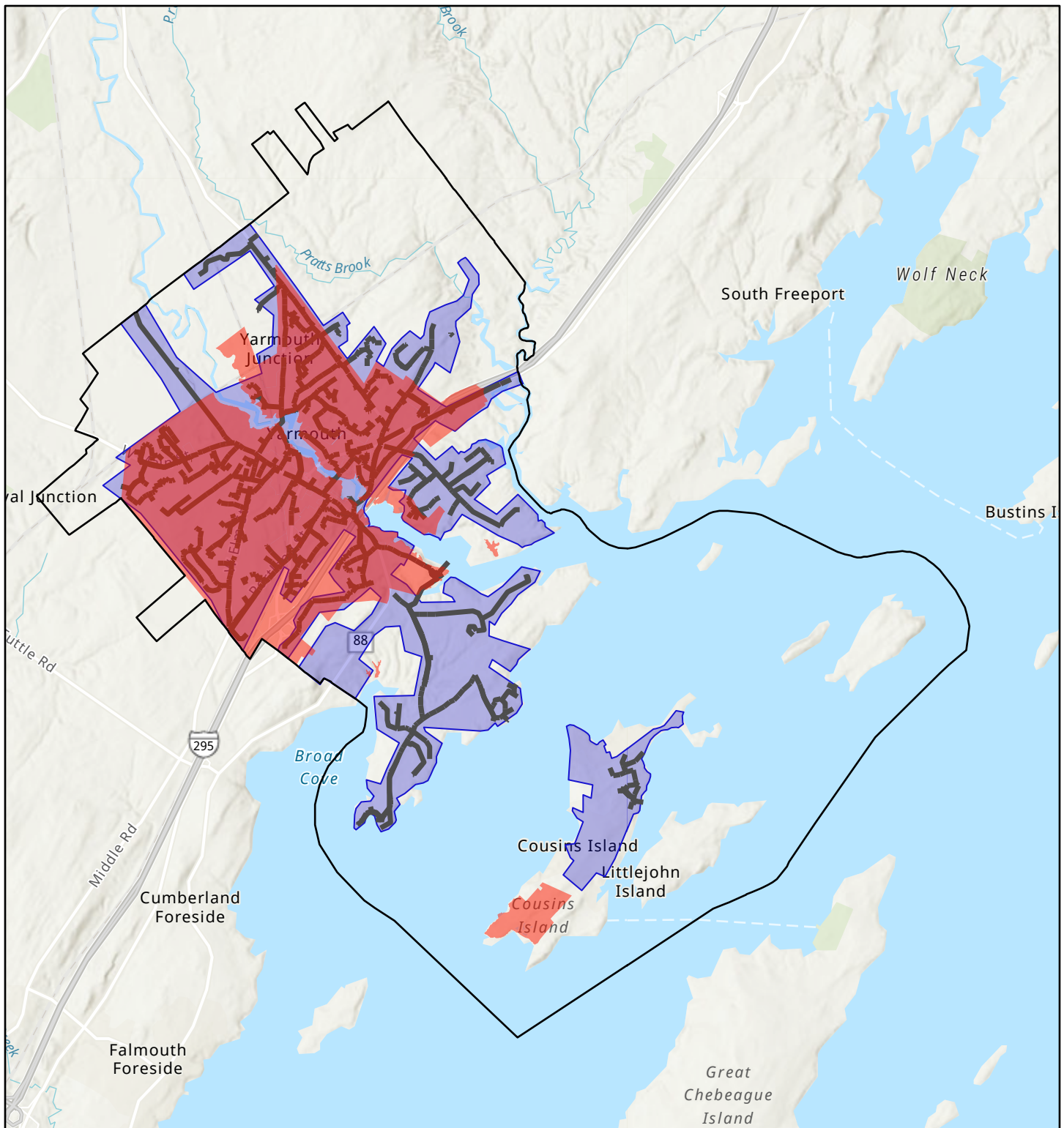
### Growth Areas Identified in the 2010 Comprehensive Plan:

Note that the zoning districts corresponding with the growth area have changed with the adoption of the Character Based Districts, and the growth area could change with the next update to the Comprehensive Plan.



*"Our Latchstring Always Out"*

# Comparison of Growth Area to Public Sewer and Water



4/20/2023

- Town Boundary
- YWD Service Area
- Growth Area
- World Hillshade
- Sewer Availability



1:95,000

0 0.5 1 2 mi

0 0.75 1.5 3 km

Esri, NASA, NGA, USGS, FEMA, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, USDA