

CHAPTER 15

TOWN-WIDE RESIDENTIAL LAND USE STANDARDS

Section

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§15-101 SHORT TITLE AND PURPOSE

This Chapter shall be known and may be cited as “Jay Environmental Control and Improvement Ordinance--Town-Wide Residential Land Use Standards.” The purpose of this Chapter is to comply with “An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions,” codified at 30-A M.R.S. §§ 4364-4364-B, as may be amended.

§15-102 DEFINITIONS

A. In this Chapter, unless the context otherwise requires, the following words and phrases shall have the following meanings:

1. **Accessory dwelling unit:** A self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit located on the same parcel of land. An accessory dwelling unit must be a minimum of 190 square feet unless the Technical Building Code and Standards Board, pursuant to 10 M.R.S. § 9722, as may be amended, adopts different minimum standard; if so, that standard applies.
2. **Affordable housing development:**
 - (a) For rental housing, a development in 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 a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs; and

- (b) For owned housing, a development in 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 a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs.
- (c) For purposes of this definition, “majority” means more than half.
- (d) For purposes of this definition, “housing costs” means:
 - (i) For a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and
 - (ii) For an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner’s insurance, condominium fees, and homeowners’ association fees.
- 3. **Area median income:** The midpoint of a region’s income distribution calculated on an annual basis by the U.S. Department of Housing & Urban Development.
- 4. **Attached:** Connected by a shared wall to the principal structure.
- 5. **Base density:** The maximum number of units allowed on a lot not used for affordable housing based on dimensional requirements in Chapter 5 (Subdivision Ordinance) or the Shoreland Zoning Ordinance, as applicable.
- 6. **Centrally managed water system:** A water system that provides water for human consumption through pipes or other constructed conveyances to at least 15 service connections or serves an average of at least 25 people for at least 60 days a year as regulated by 10-144 C.M.R. Ch. 231, *Rules Relating to Drinking Water*. This water system may be privately owned.
- 7. **Comparable sewer system:** Any subsurface wastewater disposal system that discharges over 2,000 gallons of wastewater per day as regulated by 10-144 C.M.R. Ch. 241, *Subsurface Wastewater Disposal Rules*.
- 8. **Density requirements:** The maximum number of dwelling units allowed on a lot, subject to dimensional requirements.
- 9. **Designated growth area:** Any area that is designated in the Town’s Comprehensive Plan as suitable for orderly residential, commercial, or industrial development, or any combination of those types of development, and into which most development projected over ten (10) years is directed. Designated growth areas may also be referred to as priority development zones or other terms with a similar intent.
- 10. **Dimensional requirements:** Numerical standards relating to spatial relationships including, but not limited to, setback, lot area, shore frontage, road frontage, lot depth and height.
- 11. **Dwelling unit:** Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multi-family housing, condominiums, time-share units, and apartments.

12. **Existing dwelling unit:** A residential unit in existence on a lot at the time of submission of a permit application to build additional units on that lot. If a municipality does not have a permitting process, the dwelling unit on a lot must be in existence at the time construction begins for additional units on a lot.
13. **Housing:** Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multi-family housing, condominiums, time-share units, and apartments. For purposes of this rule, this does not include dormitories, boarding houses or other similar types of housing units. This also does not include transient housing or short-term rentals, unless these uses are otherwise allowed in local ordinance.
14. **Lot:** A single parcel of developed or undeveloped land described in a deed or other legal instrument.
15. **Multi-family dwelling:** A structure containing three (3) or more dwelling units.
16. **Potable:** Safe for drinking as defined by the U.S. Environmental Protection Agency's (EPA) Drinking Water Standards and Health Advisories Table.
17. **Principal structure:** A building or structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.
18. **Restrictive covenant:** A provision in a deed, or other covenant conveying real property, restricting the use of the land.
19. **Single-family dwelling unit:** A structure containing one (1) dwelling unit.
20. **Structure:** Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on or in the ground as defined in 38 M.R.S. § 436-A(12). The term includes structures temporarily or permanently located, such as decks, patios, steps, landings, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in 30-A M.R.S. § 4201(5); geothermal heat exchange wells as defined in 32 M.R.S. § 4700-E(3-C); or wells or water wells as defined in 32 M.R.S. § 4700-E(8).

§15-103 RESIDENTIAL DENSITY

The following provisions apply to allow multiple dwelling units on lots where housing is allowed as of July 1, 2024 and thereafter.

- A. Undeveloped Parcels as of July 1, 2024
 1. If the lot is located within a Designated Growth Area approved by the Town in its Comprehensive Plan OR is served by public water and sewer, or a centrally managed water system and a comparable sewer system, the owner of the lot is permitted to have up to four (4) dwelling units, notwithstanding the requirements of § 5-401(3) of Chapter 5 (Subdivision Ordinance). The third and fourth dwelling units may be located within a

structure or multiple structures. If the third and/or fourth dwelling units are created within a 5-year period, the project may be subject to subdivision review and approval.

2. If the lot is located outside a Designated Growth Area approved by the Town in its Comprehensive Plan, the owner of the lot is permitted to have up to two (2) dwelling units per lot, provided that the requirements in 12 M.R.S. Chapter 423-A, as may be amended, are met. The two (2) dwelling units may be within a single structure or two separate structures.

B. Developed Parcels as of July 1, 2024 Located in a Subdivision

1. If the lot contains one (1) existing dwelling unit, up to two additional dwelling units may be constructed, notwithstanding the requirements of § 5-401(3) of Chapter 5 (Subdivision Ordinance). The additional units may be located within, attached to, or detached from the existing structure. The owner may also choose to have one unit detached and one unit attached to the existing structure. If the third dwelling unit is created within a 5-year period, the project may be subject to additional subdivision review and approval.
2. If the lot contains two (2) or more existing dwelling units, no more additional units are allowed.

C. Water and Wastewater

1. Prior to occupancy, the owner of a housing structure must provide written verification to the Code Enforcement Officer that the structure is connected to adequate water and wastewater services. Written verification under this subsection must include the following:
 - (a) If a housing structure is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the structure and proof of payment for the connection to the sewer system;
 - (b) If a housing structure is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by the Local Plumbing Inspector pursuant to 30-A M.R.S. § 4221, as may be amended. Plans for 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*;
 - (c) If a housing structure 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 structure, proof of payment for the connection and the volume and supply of water required for the structure; and
 - (d) If a housing structure is connected to a well, proof of access to potable water, including the standards outlined in 01-672 C.M.R. Ch. 10 § 10.25(J), *Land Use Districts and Standards*, as may be amended. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

D. Shoreland Zoning

This Section shall not be construed to exempt a property owner from the applicable provisions of shoreland zoning requirements established by the Maine Department of Environmental Protection under 38 M.R.S. Chapter 3 or the Town's Shoreland Zoning Ordinance.

E. Subdivision Requirements

This Section shall not be construed to exempt a property owner from the applicable provisions of the State subdivision statute, 30-A M.R.S. §§ 4401-4408, or Chapter 5 (Subdivision Ordinance) relating to division of a tract or parcel of land.

F. Restrictive Covenants

All residential units permitted after July 1, 2024 may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

§15-104 ACCESSORY DWELLING UNITS

A. Requirements

A lot where a single-family dwelling unit is the principal structure may establish one accessory dwelling unit. The accessory dwelling unit is exempt from any density requirements or lot area requirements related to the area in which the accessory dwelling unit is constructed, except that for any accessory dwelling unit within the Shoreland Zone, it may only be established on a lot where the accessory dwelling unit itself can meet the minimum lot area and minimum shore frontage requirements of Section 15(A) (e.g., for a single family residence and an ADU on a lot in the Shoreland Zone, the lot must have twice the minimum lot area and twice the minimum shore frontage). An accessory dwelling unit must meet the setback requirements set forth in Section 15(B) if located within the Shoreland Zone and the setback requirements set forth in § 5-101 of the Town Way Ordinance.

B. Size

The accessory dwelling unit must be at least 190 square feet in size, unless the Technical Building Code and Standards Board, pursuant to 10 M.R.S. § 9722, as may be amended, adopts different minimum standard; if so, that standard applies. Other size limitations apply if located within a subdivision.

C. Water and Wastewater

1. Prior to occupancy, an owner of an accessory dwelling unit must provide written verification to the Code Enforcement Officer that the accessory dwelling unit is connected to adequate water and wastewater services. Written verification under this subsection must include the following:
 - (a) If an accessory dwelling 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;

- (b) If an accessory dwelling unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by the Local Plumbing Inspector pursuant to 30-A M.R.S. § 4221, as may be amended. Plans for 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*;
- (c) If an accessory dwelling 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; and
- (d) If an accessory dwelling unit is connected to a well, proof of access to potable water, including the standards outlined in 01-672 C.M.R. Ch. 10 § 10.25(J), *Land Use Districts and Standards*, as may be amended. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

§15-105 AFFORDABLE HOUSING DEVELOPMENTS

A. Eligibility for Density Bonus

An automatic density bonus applies to certain affordable housing developments approved after July 1, 2024 as set forth herein.

1. The proposed development must be located within a Designated Growth Area as may be established in the Town's Comprehensive Plan and be in a location that permits multi-family dwellings as of July 1, 2024.
2. The proposed development must comply with the minimum lot size standards in accordance with the State Minimum Lot Size law, 12 M.R.S. Chapter 423-A, as may be amended.
3. The proposed development must be an affordable housing development, as defined in this Chapter, where a majority of the units are affordable and meet the following requirements:
 - (a) The owner of the affordable housing development executes a restrictive covenant that is enforceable by a party acceptable to the Town. This restrictive covenant must be recorded in the Franklin County Registry of Deeds to ensure that for at least thirty (30) years after the completion of construction:
 - (i) For rental housing, occupancy of all the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy; and

- (ii) For owned housing, occupancy of all the units designated affordable in the development will remain limited to the households at or below 120% of the local area median income at the time of initial occupancy.
4. Prior to occupancy, the owner of the affordable housing development must provide written verification to the Code Enforcement Officer that each unit of the affordable housing development is connected to adequate water and wastewater services. Written verification under this subsection must include the following:
 - (a) If a housing 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;
 - (b) If a housing unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by the Local Plumbing Inspector pursuant to 30-A M.R.S. § 4221, as may be amended. Plans for 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*;
 - (c) If a housing 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; and
 - (d) If a housing unit is connected to a well, proof of access to potable water, including the standards outlined in 01-672 C.M.R. Ch. 10 § 10.25(J), *Land Use Districts and Standards*, as may be amended. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.
 5. At least two off-street parking spaces for motor vehicles must be provided for every three dwelling units of an affordable housing development.

B. Density Bonus

If the requirements of §15-105(A) are met, the proposed development may have a dwelling unit density of not more than 2.5 times the base density that is otherwise allowed in that location. If fractional results occur when calculating the density bonus, the number of units is rounded down to the nearest whole number.

§15-106 APPEALS

Any aggrieved party may appeal a decision of the Code Enforcement Officer or Local Plumbing Inspector under this Chapter to the Board of Appeals in accordance with the procedures outlined in Chapter 3 of this Ordinance.

§15-107 VIOLATIONS AND PENALTIES

Any violation of this Chapter shall be subject to penalties in accordance with Chapter 4B of this Ordinance.