

Draft (7-31-2023/9-29-2023 TR)  
LD 2003 Required Changes to Cape Elizabeth Zoning Ordinance - Minimal Amendments

**SEC. 19-1-3. DEFINITIONS**

**Accessory Dwelling Unit:** ~~A self-contained dwelling unit located within, attached to or detached from a single-family unit located on the same parcel of land. An accessory dwelling unit must be a minimum of 190 square feet. A single subordinate dwelling unit accessory to and wholly contained within a principal building or structure and/or attached garage in which a single-family dwelling unit is the principal use.~~

**Affordable Housing:** Consists of either 1) single family dwelling unit lots Lots/units which may be purchased for occupancy by buyers with low and moderate incomes as established by the State Planning Office or the Greater Portland Council of Governments or 2) an affordable housing development with dwelling units available for rental or ownership pursuant in accordance with 30-A M.R.S.A. Sec. 4364.

**Dwelling Unit:** A room or group of rooms designed and equipped ~~exclusively for use as~~ permanent, seasonal, or temporary ~~human habitation living quarters~~ for only one (1) ~~household family at a time, and containing cooking, sleeping, and toilet facilities. An area configured for food preparation may be considered cooking facilities even if appliances are not present. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time period rented.~~ Recreational vehicles are not residential dwelling units.

**Lot:** A single parcel of developed or undeveloped land with ascertainable boundaries described in a recorded deed or shown on an approved subdivision plan and meeting zoning requirements at the time it was created.

**Multifamily Dwelling:** A building containing 2 or more dwelling units (excepting accessory dwelling units), or a mixed use building containing 1 or more dwelling units.

**Multiplex Housing:** ~~Multiplex housing is~~ Multiple unit housing consisting of containing two (2) or more attached or detached dwelling units and deemed to be a multifamily dwelling for purposes of 30-A M.R.S.A Sec. 4364, as may be amended from time to time. ~~(Effective November 14, 2015)~~

**Multiple Unit Housing:** Structure or structures located on a single lot, which structures are designed or used to house two (2) or more families in accordance with 12 M.R.S.A. Ch. 423-A.

**Principal Building:** Any building or structure containing the primary or main use of the lot on which it is located.

**Setback requirements:** The shortest distance from a building (or other point of measurement) to the nearest lot line, side line of a street right-of-way, or normal high water line. Where unknown, the width of a privately owned right-of-way shall be presumed to be twenty-five (25) feet.

## ARTICLE VI. DISTRICT REGULATIONS

### SEC. 19-6-1. RESIDENCE A DISTRICT (RA)

#### B. Permitted Uses

2. The following residential uses, [subject to any restrictive covenants](#):

- a. Single family dwelling-.
- b. Manufactured housing on an individual lot.
- c. Multiplex housing.
- d. Eldercare facility, subject to the provisions of Sec. 19-7-6, Eldercare Facility Standards.

4. The following accessory uses, [subject to any restrictive covenants](#):

~~k. Accessory dwelling unit~~

#### C. Conditional Uses

3. The following accessory uses:

- a. Home business
- ~~b. Accessory dwelling unit~~

#### E. Standards

MINIMUM LOT AREA	
(1) Boat repair facility for commercial purposes	200,000 sq. ft. (4.6 acres)
(2) Multiplex housing	10 acres
(3) Eldercare facilities	10 acres
(4) Golf Course (Effective February 12, 2003)	150 acres (Effective February 12, 2003)

<b>(5) Wind energy systems</b> (Effective October 8, 2008)	20,000 sq. ft.
<b>(6) Other uses</b>	80,000 sq. ft.
<b>MAXIMUM NUMBER OF DWELLING UNITS PER AREA</b>	
<b>(1) Multiplex housing</b>	1 unit per 66,000 sq. ft. of net residential area

## SEC. 19-6-2. RESIDENCE B DISTRICT (RB)

### B. Permitted Use

2. The following residential uses, [subject to any restrictive covenants](#):
  - a. Single family dwelling
  - b. Manufactured housing on an individual lot
  - c. Multiplex housing
  - d. Eldercare facility, subject to the provisions of Sec. 19-7-6, Eldercare Facility Standards.
4. The following accessory uses, [subject to any deed restrictions or covenants](#):
  - k. ~~Accessory dwelling unit~~

### C. Conditional Uses

3. The following accessory uses:
  - a. Home business
  - b. ~~Accessory dwelling unit~~

<b>MINIMUM LOT AREA</b>	
<b>(1) Eldercare facilities</b>	5 acres
<b>(2) Wind energy systems</b>	20,000 sq. ft. (Effective October 8, 2008)
<b>(3) Other uses</b>	80,000 sq. ft.

MAXIMUM NUMBER OF DWELLING UNITS PER AREA	
(1) In eldercare facilities	1 unit per 3,500 sq. ft. or 1 bed per 2,500 sq. ft. of net residential area, whichever is less
(2) <u>Multiplex housing</u> - Other uses	1 unit per 80,000 sq. ft. of gross lot area

In the event any dwelling unit in existence on or after July 1, 2023 is torn down and results in an empty lot, the lot shall not qualify for additional dwelling units pursuant to 30-A M.R.S.A. Sec. 4364-A, as may be amended from time to time.

### SEC. 19-6-3. RESIDENCE C DISTRICT (RC)

#### B. Permitted Uses

2. The following residential uses, subject to any deed restrictions or covenants:

- a. Single family dwelling
- b. Manufactured housing on an individual lot
- c. Manufactured housing park, subject to the provisions of Sec. 19-7-7, Manufactured Housing Parks
- d. Multiplex housing
- e. Eldercare facility, subject to the provisions of Sec. 19-7-6, Eldercare Facility Standards
- f. Rooming or boarding home

4. The following accessory uses, subject to any deed restrictions or covenants:

- j. Accessory dwelling unit

#### C. Conditional Uses

3. The following accessory uses:

- a. Home business
- ~~b. Accessory dwelling unit~~

#### E. Standards

### MINIMUM LOT AREA

(1)	Boat repair facility for commercial purposes	200,000 sq. ft. (4.6 acres)
(2)	Multiplex housing	5 acres
(3)	Eldercare facilities	5 acres
(4)	Wind energy systems	20,000 sq. ft. (Effective October 8, 2008)
(5)	Others	20,000 sq. ft.
<b>MAXIMUM NUMBER OF DWELLING UNITS PER AREA</b>		
(1)	Multiplex housing	1 unit per 15,000 sq. ft. of net residential area
(2)	In subdivisions	1 unit per 20,000 sq. ft. of net residential area
(3)	In subdivisions that conform to Sec. 19-7-2. Open Space Zoning	1 unit per 15,000 sq. ft. of net residential area
(54)	A single family home on a lot that is not part of a subdivision	1 unit per 20,000 sq. ft. of gross lot area
(5)	In eldercare facilities	1 unit per 2,500 sq. ft. or 1 bed per 2,100 sq. ft. of net residential area (Effective May 9, 2007)
(6)	Rooming or boarding home	1 bed per 5,000 sq. ft. of gross lot area
(7)	Other housing	1 unit per 20,000 sq. ft. of gross lot area

In the event any dwelling unit in existence on or after July 1, 2023 is torn down and results in an empty lot, the lot shall not qualify for additional dwelling units pursuant to 30-A M.R.S.A. Sec. 4364-A, as may be amended from time to time.

#### **SEC. 19-6-4. TOWN CENTER DISTRICT (TC)**

##### **B. Permitted Uses**

2. The following residential uses, subject to any deed restrictions or covenants:
  - a. Single family dwelling
  - b. Bed and breakfast

- c. Multifamily dwelling unit. (Effective May 12, 2010)
- d. Congregate housing, subject to the provisions of Sec. 19-7-6, Eldercare Facility Standards
- e. Rooming or boarding home
- f. Accessory dwelling unit

**D. Standards**

1. Performance Standards

- h. A multifamily dwelling unit shall be accessory to a nonresidential use and located in a building where more than fifty percent (50%) of the floor area of the structure is occupied by nonresidential uses. For multi-story buildings, more than fifty percent (50%) of the structure may be allocated for multifamily dwelling units as long as the first floor is nonresidential. (Effective May 12, 2010)

MINIMUM LOT AREA	
(1a) Single family <u>dwelling unit</u>	80,000 sq. ft.
(1b) Single family dwelling unit in the Town Center Core Subdistrict	10,000 sq. ft.
(2) Multifamily dwelling unit	7,500 sq. ft.
(3) Wind energy systems	20,000 sq. ft. (Effective October 8, 2008)
(4) Other uses	None
MAXIMUM NUMBER OF DWELLING UNITS PER AREA	
(1) Multifamily <u>dwelling units</u> in a mixed use building	1 unit per 3000 sq. ft. of gross lot area (Effective May 12, 2010)
(2) Rooming or boarding home	1 bed per 5,000 sq. ft. of gross lot area

In the event any dwelling unit in existence on or after July 1, 2023 is torn down and results in an empty lot, the lot shall not qualify for additional dwelling units pursuant to 30-A M.R.S.A. Sec. 4364-A, as may be amended from time to time.

**SEC. 19-6-5. BUSINESS DISTRICT A (BA)**

**B. Permitted Use**

2. The following residential uses, subject to any deed restrictions or covenants:
- a. Single family detached dwelling existing as of April 1, 2008 (Effective July 8, 2009)
  - b. Multifamily dwelling units (Effective July 8, 2009)
  - c. Congregate housing, subject to the provisions of Sec. 19-7-6. Eldercare Facility Standards (Effective July 8, 2009)
  - d. Rooming or boarding home
  - e. Accessory dwelling unit

**D. Standards**

1. Performance Standards
- I. Multifamily dwelling units shall be accessory to a nonresidential use and located in a building more than fifty percent (50%) of the floor area of the structure is occupied by nonresidential uses. For multi-story buildings, more than fifty percent (50%) of the structure may be allocated for multifamily dwelling units as long as the first floor is nonresidential. (Effective July 8, 2009)

MINIMUM LOT AREA	
(1) Single family dwelling unit	
i. adjacent to the RA District	80,000 sq. ft.
ii. Adjacent to the RC District	20,000 sq. ft. (Effective July 8, 2009)
(2) Multifamily dwelling unit	15,000 sq. ft.
(3) Wind energy systems	20,000 sq. ft. (Effective October 8, 2008)
(4) Other uses	None
MAXIMUM NUMBER OF DWELLING UNITS PER AREA	
(1) Multifamily <del>dwelling units</del> housing in a mixed use building or multiplex housing	1 unit per 7,500 sq. ft. of net residential area (Effective July 8, 2009)

**(32) Rooming or boarding home**

1 bed per 5,000 sq. ft.  
of gross lot area

In the event any dwelling unit in existence on or after July 1, 2023 is torn down and results in an empty lot, the lot shall not qualify for additional dwelling units pursuant to 30-A M.R.S.A. Sec. 4364-A, as may be amended from time to time.

#### **SEC. 19-7-4. MANDATORY AFFORDABLE HOUSING PROVISIONS**

##### **E. Affordable Housing Development Density Bonus**

1. An affordable housing development shall be eligible for an automatic affordable housing development density bonus upon demonstration to the Town that the development is in conformance with 12 M.R.S.A. Ch. 423-A and 30-A M.R.S.A. Sec. 4364, as may be amended from time to time.
2. The automatic affordable housing development density bonus shall be two and one-half (2.5) times the base density allowed for multifamily dwellings in the applicable Zoning District or area served by a centrally managed water system and a public sewer system pursuant to 30-A M.R.S.A Sec. 4364, as may be amended from time to time.

#### **SEC. 19-7-5. CREATION OF ACCESSORY DWELLING UNIT**

##### **A. Purpose**

~~The purpose of this provision shall be to permit the creation of a single, one subordinate dwelling unit within and incidental to an existing single family dwelling. The creation of a subordinate accessory dwelling unit within a new single family dwelling shall also be permitted. An accessory dwelling unit is intended to be a separate suite of rooms within a home where the unit is occupied by one or two people who have a close, personal relationship with the residents of the main dwelling. Accessory dwelling units shall only be created where the single family character of the principal building is maintained.~~

##### **B. Requirements [Repeal existing Section B. and replace it with the following text.]**

The following requirements shall apply to the creation of an accessory dwelling unit and be in addition to other requirements of the Zoning Ordinance and subject to any applicable deed restrictions or covenants.

1. Single-Family Parity. An accessory dwelling unit shall be allowed on any lot where a single-family dwelling is the principal structure.

2. Attached/Detached. An accessory dwelling unit may be constructed only:



1        a.        Within an existing dwelling unit on the lot;

2        b.        Attached to or sharing a wall with a single-family dwelling unit; or

3        c.        As a new structure on the lot for the primary purpose of creating an accessory  
4        dwelling unit.

5        3.        Density. An accessory dwelling unit shall be exempt from density or lot size requirements  
6        that are in addition to the requirements for the single-family dwelling on the lot.

7        4.        Setbacks. For an accessory dwelling unit located within the same structure as a single-  
8        family dwelling unit or attached to or sharing a wall with a single-family dwelling unit,  
9        the setback requirements and dimensional requirements must be the same as the  
10       setback requirements and dimensional requirements of the single-family dwelling unit.  
11       For an accessory dwelling unit permitted in an existing accessory building or secondary  
12       building or garage as of July 1, 2023, the originally required setback requirements in the  
13       Zoning Ordinance for that building apply.

14       5.        Parking. An accessory dwelling unit shall not be subject to any additional motor vehicle  
15       parking requirements beyond the parking requirements of the single-family dwelling  
16       unit on the lot where the accessory dwelling unit is located.

17       6.        Size. An accessory dwelling unit must meet a minimum size of 190 square feet, unless  
18       the Technical Building Codes and Standards Board, pursuant to 10 M.R.S Sec. 9722,  
19       adopts a different minimum standard; if so, that standard applies. The accessory  
20       dwelling unit size shall not exceed 600 sq. ft. and must be a smaller size than the  
21       primary dwelling unit. Size shall be measured in compliance with the Floor area of a  
22       Structure definition.

23       **SEC. 19-7-11. MULTIPLE PRINCIPAL BUILDINGS ON A LOT**

24  
25       If more than one (1) principal building is located on a lot, the lot size and location of each building  
26       shall be such that a separate lot conforming to the provisions of this Ordinance could be created  
27       for each building. The potential creation of a separate lot shall be demonstrated by submitting a  
28       plan to the Code Enforcement Officer showing how the land could be divided to create  
29       conforming lots. This provision shall not apply to Accessory Dwelling Units.