

## Section 532. Accessory ~~Apartments~~ Dwelling Units

~~An accessory apartment is a small dwelling unit that is accessory and subordinate to the principal use of a property as a single family dwelling. These standards are intended to allow the addition of one Accessory apartment Dwelling Unit to a single-family dwelling unit only if such addition will preserve the single family residential character of the property. in accordance to M.R.S. Section 30-A §4364-B.~~ The following standards shall be met to create and maintain an Accessory apartment Dwelling Unit (ADU):

1. One Accessory Dwelling Unit is allowed on any lot where a single-family dwelling unit is the principal structure. An Accessory apartment Dwelling Unit may be created in one of the following ways:

  - a) By using space within an existing or new single-family dwelling on the same lot;
  - b) By building an addition onto an existing single-family dwelling such that the addition is made part of the principal dwelling;
  - c) By using space within an existing ~~or proposed~~ accessory structure ~~is within 50 feet of the single family dwelling; in existence prior to July 1<sup>st</sup>, 2023;~~
  - d) ~~buildings existing prior to February 7, 2012 that are greater than 50 feet from the single family dwelling may be used for an accessory apartment provided no additions are added to the existing structure; {Amended, Effective 02/07/12}~~
  - d) By building a new detached structure on the lot for the primary purpose of creating an Accessory Dwelling Unit.

**Note:**

*Currently under LD 2003 at least one ADU must be allowed on any lot where a single-family dwelling unit is the principal structure, however, municipalities may choose to allow more than one ADU per lot or allow an ADU for two-family or multi-family dwellings.*

2. Accessory ~~apartments~~ Dwelling Units located in the Shoreland Zone must conform to the shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and Chapter 65: Town of Freeport Shoreland Zoning Ordinance. be connected to the public water and sewer system.
3. For the purposes of this section, Accessory Dwelling Units ~~apartments outside of a shoreland zone~~ shall not be considered to be a second dwelling unit for determining the required minimum lot area, or net residential density. *{Amended, Effective 10/03/17}*
4. Setback requirements. Accessory Dwelling Units must conform to the same setback requirements for single-family dwellings as stated for the applicable zoning districts, with the

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exception that Accessory Dwelling Units created by the conversion of an accessory structure, to which the setback requirements for such a structure apply.

~~4.5.~~ If the ~~A~~accessory ~~Dwelling Unit apartment~~ will be located in a building that doesn't conform to the setback requirements, the ~~Accessory Dwelling Unit apartment~~ must be constructed so that the building is not made more nonconforming. If the single-family dwelling unit is non-conforming with regard to use, the creation of an ~~A~~accessory ~~D~~welling Unit will not make the single-family dwelling unit more non-conforming,

~~5.6.~~ If the lot is served by public sewerage, both the single-family dwelling unit and the ~~A~~accessory ~~Dwelling Unit apartment~~ must be connected to the public sewer system. If the lot is served by subsurface sewage disposal, the owner must demonstrate that the use conforms to the State of Maine Minimum Lot Size law and that the sewage disposal system(s) for both the single-family dwelling unit and the ~~A~~accessory ~~Dwelling Unit apartment~~ complies with the Maine Subsurface Wastewater Disposal rules.

**Note:**

*Subsections 7 – 9 contain requirements that are still optional for municipalities under LD 2003. Planning staff is looking for policy guidance from the Planning Board and Town Council on whether there is a desire to remove or amend these requirements.*

~~6.7.~~ In all cases, the ~~A~~accessory ~~Dwelling Unit apartment~~ shall be no larger than 40% of finished and heated portion of the single-family dwelling unit home and have no more than one bedroom, nor no less than 190320 square feet. ~~{Amended, Effective 02/07/12}~~

~~7.8.~~ Either the single-family dwelling unit or the ~~A~~accessory ~~Dwelling Unit apartment~~ must be occupied by the owner of the property. At least one of the units shall be occupied as a primary residence.

~~8.9.~~ Any exterior alteration of the single-family dwelling unit or accessory buildings or construction of an accessory building shall preserve the single-family appearance, architectural style, and character of the original structure and shall be in harmony with the general appearance of the neighborhood. Any alteration shall preserve the front entrance of the original structure to preserve the single-family character. A separate entrance for the ~~A~~accessory ~~Dwelling Unit apartment~~ may be created but shall be clearly secondary to the main entrance, such as but not limited to an entrance that is setback further from the road than the primary entrance.

~~9.10.~~ ~~At least three off street parking spaces shall be provided on the property. At least one space shall be available for the occupant(s) of the accessory apartment. A garage bay may be counted as one space for meeting the parking requirement. The parking shall be located and designed to minimize the impact on adjacent properties and shall be buffered by landscaping~~

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~~and/or fencing from abutting residential uses if it is located in the side or rear yard. Where possible, a turn around shall be provided to avoid the need to back out of the driveway.~~

**Observations for discussion on Subsection 7:**

Maximum bedroom limit.

Under LD 2003 the Town may choose to keep the one-bedroom restriction. However, the limitation on the number of bedrooms to one limit the number of families with children that can potentially live in the ADU.

Maximum size of the ADU.

The maximum size consisting of 40% of the finished and heated portion of the single-family home has the benefit of ensuring that the ADU will remain smaller than the principal structure. Smaller ADUs are more likely to be more energy efficient and blend in with the existing single-family house. However, the 40% restriction can potentially make ADUs not feasible for property owners in existing smaller homes. For example, an existing home of 850 square feet would be limited to an ADU of 340 square feet. Meanwhile an existing 5,000 square feet house would be able to build a 2,000 square feet ADU. Another potential issue with the 40% restriction is that it may not work for situations where an ADU is being added to an existing basement, attic, or a portion of an existing home which is more suitable to ADU conversion.

**Observations for discussion on Subsection 8:**

The owner-occupancy requirement is a commonly used restriction that seeks to prevent “absent” landlords in single-family neighborhoods. The benefit of this restriction is that it disincentivizes the production of ADUs for the purpose of creating rental units as sources of income.

There are two potential issues with this provision: The first is that it is difficult to enforce. The second, is that it puts prospective homeowners interested in building ADU in a situation where they would need to leave the ADU vacant if they were to temporarily relocate. Thus, this requirement may result on less ADUs being produced as homeowners would not be able to count on renting the ADU when they move away.

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**Observations for discussion on Subsection 9:**

The benefit of this section is that it ensures that ADUs will not be built in a way that make them incompatible with the visual appearance of the neighborhood. One potential issue with this additional layer of scrutiny is that it may dissuade some homeowners from developing an ADU.

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