

Chapter 170 Land Use

Article III Zoning Districts

§170-27 Schedule of uses.

- A. Activity categories. Land uses permitted in the town's zoning districts, in conformance with the performance standards contained in Article **IV**, are shown in a matrix in §170-27E...

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- E. Schedule of Uses.

[Amended 5-1-2000 by ATM Art. 40; 5-1-2000 by ATM Art. 41; 5-5-2003 by ATM Art. 20; 5-3-2004 by ATM Art. 73; 5-8-2010 by ATM Art. 68; 5-6-2011 by ATM Art. 26; 5-6-2011 by ATM Art. 27; 5-3-2019 by ATM Art. 3; 6-20-2020 ATM by Art. 20; 6-20-2022 by ATM Art. 28; 6-20-2022 by ATM Art. 30, [\[date if approved\]](#)]

	GR	SR	DB	LC/M	WW	GB	RP
Residential Uses							
Accessory structure	C	C	C	C	C	C	C
Residential association uses or structures	C	P	C	P		C	
Boardinghouses	C		C	C		C	
Duplexes	C		C	P		C	
Home occupations	P		C	C		C	
Manufactured housing exclusive of mobile homes (modular)	C	C	C	P		C	
Mobile homes	C					C	
Mobile home parks	p ²					P	
Multifamily dwellings ²¹	p ¹					P	
Planned unit/cluster developments	P					P	

Single-family dwellings	C	C	C	P		C	P
<u>Accessory dwelling units²⁰</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>		<u>C</u>	<u>P</u>

Notes to Schedule of Uses:

²⁰Accessory dwelling units shall be in accordance with §170-60

²¹Multifamily dwellings can be designated as Affordable Housing Developments according to section §170-31

§170-28 Schedule of Dimensional Requirements.

[Amended 8-6-2001 by STM Art. 2; 5-6-2002 by ATM Art. 20; 5-2-2005 by ATM Art. 78; 6-13-2007 by STM Art. 22; 6-13-2007 by STM Art. 24; 5-2-2009 by ATM Art. 90; 5-8-2010 by ATM Art. 69; 5-6-2011 by ATM Art. 28; 5-3-2013 by ATM Art. 31; 5-3-2013 by ATM Art. 32; 5-5-2018 by ATM Art. 25; 5-3-2019 by ATM Art. 3; 6-20-2022 by ATM Art. 27, [date if approved]]

	GR	SR	DB	WW and LC/M	GB	RP
Minimum Land Area per Dwelling Unit or Use (square feet) ^{L,M}						
With Town water and sewer ^{H,K}	10,000	10,000	Residential 10,000 All other 2,000	10,000	Residential 10,000 All other 40,000	4 acres
With Town water unsewered	20,000	20,000			Residential 20,000 All other 40,000	4 acres
No Town water, unsewered	Multi-family 20,000 All	40,000			Multi-family 20,000 All other 40,000	4 acres

	other 40,000					
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Notes to Schedule of Dimensional Requirements:

L Accessory Dwelling Units do not count towards the net residential density calculation.

M Multiple principal dwelling units are allowed on a single lot so long as all dimensional standards are met.

Commented [CT1]: Updated to remove reference to rural/growth areas and cap of "up to 2/4". This now allows multiple principal dwelling units (SFR, Duplex, Multifamily) on a single lot as long as they can meet the dimensional requirements.

Chapter 170 Land Use

Article IV Performance Standards

§170-31 Affordable housing; density bonus.

- A. Notwithstanding other provisions of this Land Use Code, there shall be a density bonus for affordable housing subdivisions and/or senior citizen housing (excluding mobile home parks) of 25%, to be calculated by subtracting the respective percentage from the lot size normally required in the district from the lot size requirement, to arrive at the overall density requirement of the development. This density bonus shall be available only to proposed developments served by public water and sewer where the developer submits evidence and the Planning Board determines that at least 25% of the housing units can be afforded by households at or below 80% of Boothbay Harbor's median household income (per figures published by the State Planning Office).
- B. Affordable housing developments are eligible for a density bonus of up to 250% of the base residential density for multifamily dwellings in §170-28 *Schedule of Dimensional Requirements* if the project meets the affordable housing development definitions of Title 30-A MRSA §4364, in the determination of the Planning Board, sewage disposal capacity exists, and the applicant agrees to market such lots or units within defined affordable guidelines. Deed restrictions or other binding provisions must be made that continue the affordability to future purchasers or renters.

§170-49 Multifamily dwellings.

- A. Prohibited location(s). In addition to other provisions of this chapter, multifamily dwellings shall be prohibited from the following:
 - (1) The Downtown Business District, including the Head of the Harbor.
 - (2) From St. Andrews Hospital to Roads End: all areas within 500 feet of the landward side of Western Avenue, West Street from Mill Cove to the intersection with Howard Street, Townsend Avenue north of Union Street to the Congregational Church, Oak Street from the General Business District to Union Street and Atlantic Avenue until its intersection with Roads End.
 - (3) Within 500 feet from the high-water mark in all areas of the coastline.
 - (4) The area of land within 75 feet of all freshwater bodies.
 - (5) The area within 300 feet of Route 27 north of the Routes 27/96 intersection.
 - (6) Special residential districts and islands.
- B. Density. In sewerred areas where multifamily units are permitted, the lot size requirement of 10,000 square feet may be reduced to six units per acre as a density bonus with the approval of the Planning Board. Planning Board approval shall be based upon a determination that the development meets all other

requirements of this chapter and that it will result in a benefit to the public, such as public waterfront access, a public boat ramp or additional public parking.

- C. Building size limitation. There shall be no more than four units per structure. This limitation may be increased to six units per structure with the approval of the Planning Board in accordance with the requirements of Subsection **B** above. This provision shall not apply to [affordable housing developments or](#) elderly housing projects, as defined.

§170-50 Parking Standards.

Parking Schedule	
Use	Number of Required Spaces
Apartments, condominiums	2 per dwelling unit
Art gallery, museum, library	5 per 1,000 square feet
Auto, truck repair	5 per service bay
Bank	4 per 1,000 square feet
Barber-, beauty shop	3 per chair
Bed-and-breakfast	1 per guest room
Campgrounds	1 per campsite
Car, truck dealers	5, plus 1 per 3,000 square feet of indoor or outdoor display
Child care	1 per 4 children licensed for care
Church	1 per 2 seats
Club, lodge	1 per 4 members
Convenience store	4 per 1,000 square feet
Convenience store with pumps	4 per 1,000 square feet; 1/2 of service spaces at the gas pumps may be applied to meet not more than 1/2 of total parking required
Fast-food restaurant	14 per 1,000 square feet or 1 per 2 seats
Funeral home	1 per 100 square feet
General offices	3 per 1,000 square feet

Governmental offices	4 per 1,000 square feet
Home improvement, hardware	3 per 1,000 square feet
Hospital/medical facility	1 per 3 beds and each 2 employees per shift
Industrial park	1.5 per 1,000 square feet
Library	6.5 per 1,000 square feet
Light industrial	1.5 per 1,000 square feet
Manufacturing	1.5 per 1,000 square feet
Marina	1 per 2 berths
Medical, dental office	4 per 1,000 square feet
Motel	1 per room
Nursing home	1 per 3 rooms
Retail store	4 per 1,000 square feet
Residential	2 per dwelling unit
<u>Residential, Multifamily dwelling designated as Affordable Housing Development under §170-31B.</u>	<u>2 per 3 dwelling units</u>
Restaurant	9 per 1,000 square feet or 1 per 3 seats
School, post-secondary	1 per student and 1 per faculty and staff member
School, primary	1.5 per classroom
School, secondary	8 per classroom
Senior citizen multifamily	1 per dwelling unit
Services	4 per 1,000 square feet
Shopping center	4 per 1,000 square feet
Sports club, health spa	5 per 1,000 square feet
Theater, auditorium, assembly	1 per 3 seats based on maximum capacity
Warehousing	1.5 per 1,000 square feet
Other uses	Sufficient spaces to accommodate the normal parking demand as

Commented [CT2]: State statute: "no more than 2 per 3 dwelling units". This allows for more/less with a waiver but doesn't create a hard cap.

	determined by the Planning Board
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§170-57 Multiple principal dwelling units in one lot.

The distance between dwelling units in separate principal structures on one lot or parcel shall be at least equal to the minimum side yard setback for the district in which the dwellings are to be located.

§170-60 Accessory dwelling units (ADUs).

- A. Accessory dwelling units (ADUs) shall be accessory to the use of the premises as a single-family and be on the same lot as a single-family dwelling unit. Only one ADU shall be permitted per lot.
- B. ADUs must comply with all local dimensional standards and other applicable zoning district requirements except the following:
 - (1) Minimum land area per dwelling unit or use in §170-28 Schedule of Dimensional Requirements. An ADU shall not be counted as a unit when calculating density or minimum lot area per dwelling unit.
 - (2) Minimum parking requirements in §170-50 Parking Standards. No additional parking spaces shall be required for ADUs.
- C. In zoning districts where ADUs are allowed, the reviewing authority according to §170-27 Schedule of Uses shall approve an ADU upon a determination that the following conditions are met:
 - (1) ADUs shall be at least 190 square feet, but no larger than 800 square feet.
 - (2) ADUs shall not alter the single-family character of the property.
 - (3) If the ADU's primary entrance is not the same as that for the principal dwelling unit, the ADU shall have a separate front, rear, or side entrance to the outside and comply with applicable code standards for egress.
 - (4) ADUs must be connected to adequate water and wastewater services.
 - a. ADUs must demonstrate adequate capacity in areas served by municipal or private sewers.
 - b. ADUs in areas not served by municipal or private sewers shall be treated as a separate dwelling unit for the purposes of septic design. Subsurface sewage disposal shall comply with all provisions of the State of Maine Subsurface Wastewater Disposal Rules.
 - (5) ADUs shall comply with all applicable building, plumbing, electrical, and fire safety codes in effect at the time of application.
- D. ADUs shall not be rented or leased for a duration of less than four months.

Commented [CT3]: Updated following 8/12 discussions. If the ADU does not share, it requires a separate front rear or side AND comply with applicable egress codes.

Commented [CT4]: Cleaned up and updated for clarity. Now includes sewers and septic

Commented [CT5]: Short-term rental carve out w/o defining short term rental. CoO condition gives fairly simple enforcement mechanism.

(1) A certificate of occupancy issued for an ADU reviewed and approved pursuant to §170-60 shall contain the following condition: "This accessory dwelling unit shall not be rented or leased for a period less than four months under any circumstances. The owner of the ADU must provide a copy of the executed lease or rental agreement, upon request by the Town, to verify compliance with this condition."

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Article XI Definitions and Word Usage

- A. Except where specifically defined in this Land Use Code, all words/terms used in this Land Use Code must carry their customary meanings unless the context clearly implies otherwise. The word "must" or "will" is always mandatory. The word "may" is permissive. The singular shall include the plural.
- B. As used in this Land Use Code, the following terms shall have the meanings indicated:

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. Accessory dwelling units are designed to be occupied by a person or person living independently from the person(s) occupying the principal dwelling.

ACCESSORY STRUCTURE OR USE

A use or structure which is customarily incidental and/or subordinate to the principal use or structure and located on the same lot. Accessory uses, when aggregated (formed by collection into a mass or sum), shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or garage attached to the principal structure by a roof or a common wall is considered part of the principal structure. For accessory dwelling uses, see Accessory Dwelling Unit.

AFFORDABLE HOUSING

Those units meeting the requirements set forth or defined by the Maine State Housing Authority and the Department of Economic and Community Development. Affordable housing includes government-assisted or -subsidized housing; and low-income housing.

AFFORDABLE HOUSING DEVELOPMENT

Affordable Housing Developments as defined by Title 30-A MRSA §4364.

DUPLEX

A residential structure containing two dwelling units. A duplex does not include a single-family home and an accessory dwelling unit located within or attached to the single-family dwelling.

MULTIFAMILY DWELLING

Commented [CT6]: Updated to match multifamily dwelling definition (see below)

A residential structure containing three or more dwelling units, such structures being designed exclusively for residential use and occupancy by three or more families living independently of one another, with the number of families not exceeding the number of units.

NET RESIDENTIAL DENSITY

The number of dwelling units per net residential acre. Net residential density does not include accessory dwelling units.