

## **Ordinance changes on housing as required by state law**

**3/21/2023**

Scott Hastings, Town Planner

Last year the state passed a law LD2003 that added the following statutes to state law;

- Title 30-A §4364 Affordable housing density.
- Title 30-A §4364-A Residential areas, generally; up to four dwelling units allowed.
- Title 30-A §4346-B Accessory dwelling units.

We are required to adopt changes such that our ordinance is in compliance with these new statutes by July 1<sup>st</sup>.

Two orders are being proposed in order to bring our ordinance into compliance with these statutes: one addressing the affordable housing development requirements of Title 30-A §4364 and one addressing the density and ADU requirements of Title 30-A §4364-A and B

### **Title 30-A §4364 Affordable housing:**

The purpose of this section is pretty straight forward: the state is requiring towns to allow developments meeting their definition of “affordable housing developments” to build to a density that is at least 2.5 times that which is allowed by the base zone.

The proposed changes presented here are taken almost verbatim from the state law. They will allow affordable housing developments as defined by the state, and provided they are located in the town’s growth areas, to have 2.5 times the zoning allowed by the base zone and to have a minimum of 1.5 parking spaces per unit.

### **Title 30-A §4364-A and Title 30-A §4364-B Density and accessory dwelling units:**

I combined these sections because they require some overlapping amendments to the ordinance and might be more confusing separately.

**Title 30-A §4364-A** requires the town to allow structures containing two dwelling units in all zones that allow single family residential and structures containing up to 4 units on lots in zones that allow single family residential and are within the town’s growth areas. Importantly we are still allowed to have a minimum lot area per dwelling unit.

We already allow 2 units in all zones that allow single family homes **except** the Business Commercial zone and the Water Oriented Commercial zone. **The presented language adds 2 unit buildings as an allowed use in these zones.**

To allow 4 units in growth areas the presented language adds a section §181-28.3 which states that for properties located in growth areas as identified in the comprehensive plan and that are in zones allowing any residential uses buildings with 3 or 4 units are allowed with site plan review even if the zones use list does not include that as an allowed use.

To ensure that these changes **do not** open up any area of town to developments of **more** than 4 units that are not already zoned for them residential housing definitions are proposed to be adjusted. Currently we have use tiers of one, two, three, and four or more units. These changes would give us use tiers of one, two, three or four, and more than four.

We also must allow multiple dwelling units in separate buildings provided they meet the ordinance requirements. We already allow this in general but some language about the siting of primary buildings has to be removed. Also we as a town can no longer restrict subdivisions to single family uses and so some language is being removed from the cluster and conservation subdivision regulations.

It is my understanding that the state statutes allow us to retain a land area per dwelling unit requirement and that nothing in the state statutes requires us to permit non-ADU units on a lot that does not have sufficient land to meet those requirements.

**Title 30-A §4364-B** requires the town to allow accessory dwelling units wherever single family residential is allowed and states that we cannot require additional land area or parking for ADU's

We mostly meet these requirements already in that we currently allow ADU in most places. Some minor tweaks to our standards in §181-35.5 are needed to meet the particulars of the state language but they are minimal. Also as above we cannot forbid ADU's in cluster or conservation subdivisions so language in those sections must be removed.

This statute requires us to permit accessory dwelling units on non-conforming lots, which we currently do not allow and so that change has been made. We currently allow "family apartments" on non-conforming lots. "family apartments" are effectively a restricted version of an accessory apartment that must be occupied by a "direct family member". This is a very difficult provision to enforce and in the long term, as properties change hands, ultimately results in unpermitted accessory dwelling units. Now that we must allow unrestricted accessory dwelling units on non-conforming lots this use is redundant so it is being removed entirely from the ordinance.