

## 507 Accessory ~~Apartment~~Dwelling Units

Commented [JT1]: Settled on 9/27/23

The purpose of this Section is to encourage a diversity of housing options that help maintain a viable year round population; provide homeowners with a means of obtaining, through tenants in either the accessory ~~dwelling unit~~ ~~apartment~~ or the single family dwelling, rental income, companionship, security and services; develop housing units in single-family neighborhoods that are appropriate for people at a variety of stages in life; and protect neighborhood stability, property values and the single-family residential appearance of the property and the neighborhood by ensuring that accessory ~~dwelling units~~ ~~apartments~~ are installed under the conditions of this Section.

1. Within the Shoreland Zone: Accessory ~~dwelling units~~ ~~apartments~~ are prohibited in the Shoreland Zone.
2. Outside the Shoreland Zone: The Code Enforcement Officer may issue a permit for the installation/construction of an accessory ~~dwelling unit~~ ~~apartment~~ provided the following standards and criteria are met:
  - a. The single-family dwelling and the accessory ~~dwelling unit~~ ~~apartment~~ must be owned by the same person and may not be sold separately.
  - b. The owner must occupy either the single-family dwelling or the accessory ~~apartment~~ ~~dwelling unit~~ as his/her primary or legal residence. Continued occupancy of the accessory ~~dwelling unit~~ ~~apartment~~ upon sale or transfer of the property is conditioned upon the new owner agreeing to the owner occupancy requirement. Transfer of ownership requires a new accessory ~~apartment~~ ~~dwelling unit~~ permit be issued prior to occupancy if the new owner wants to continue the accessory ~~apartment~~ ~~dwelling unit~~ use.
  - c. The accessory ~~dwelling unit~~ ~~apartment~~ shall ~~contain a minimum total floor area of 190 square feet and~~ contain a maximum total floor area of six hundred (600) square feet.
  - ~~e.~~
  - ~~d. The accessory apartment shall have no more than one (1) bedroom.~~
  - ~~d. Accessory apartments are only allowed on conforming lots. The Code Enforcement Officer may require the lot area be established by a survey signed and sealed by a Maine licensed land surveyor.~~
  - ~~e. Accessory dwelling units shall be allowed on legal, non-conforming lots of record so long as they meet the standards set forth in Section 300 Nonconforming Provisions in the Land Use Ordinance.~~
  - e. ~~Accessory dwelling units may be constructed/located only:~~
    - i. ~~Within an existing dwelling on the lot;~~
    - ii. ~~Attached to or sharing a wall with a single-family dwelling unit; or~~
    - iii. ~~As a new structure on the lot for the primary purpose of creating an accessory dwelling unit.~~
  - f. Proper ingress and egress shall be provided to the accessory ~~dwelling unit~~ ~~apartment~~. ~~An entrance leading to a foyer with entrances leading from the foyer to the single-family dwelling and the accessory apartment is permitted.~~
  - g. Only one (1) accessory ~~apartment~~ ~~dwelling unit~~ is allowed per lot.
  - ~~g-h. Accessory dwelling units may not be leased/rented for a period of less than ninety (90) days. Evidence of such, such as a deed restriction recorded at the Cumberland~~

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County Registry of Deeds, shall be included with the required Registration of Accessory Dwelling Unit Form submitted to the Code Enforcement Officer.

h.i. An application to the Code Enforcement Officer for an accessory dwelling unit~~apartment~~ shall be accompanied by the Registration of Accessory Apartment Dwelling Unit Form available from the Code Enforcement Officer, filled in by all owners of the property. Upon approval of the application by the Code Enforcement Officer, the applicant shall record the Registration of Accessory Dwelling Unit Apartment Form in the Cumberland County Registry of Deeds within ninety (90) days after the Code Enforcement Officer's approval of the permit, with a copy of the recorded document provided to the Code Enforcement Officer within ten (10) days of it being recorded. Failure to do so shall void the accessory dwelling unit~~apartment~~ permit, and the approval can only be revived by submission and approval of a new application. If the property containing the accessory dwelling unit~~apartment~~ is transferred to another owner or if the owner to whom the accessory dwelling unit~~apartment~~ permit was issued ceases to occupy the property, the use of the accessory dwelling unit~~apartment~~ must cease. In the event of a change in ownership of the property, the new owner may continue or resume the use of the accessory dwelling unit~~apartment~~ by submitting a new Registration of Accessory Apartment Dwelling Unit Form to the Code Enforcement Officer and recording the new Registration of Accessory Apartment Dwelling Unit Form in the Cumberland County Registry of Deeds, with a copy of the recorded document provided to the Code Enforcement Officer within ten (10) days of it being recorded. A Registration of Accessory Apartment Dwelling Unit Form is valid for five (5) years from the date of recording. At the end of the five (5) years, the registration shall lapse, and the accessory dwelling unit~~apartment~~ permit shall expire unless:

- i. a new Registration of Accessory Dwelling Unit Apartment Form showing no changes from the previously recorded form is presented to and approved by the Code Enforcement Officer and recorded in the Cumberland County Registry of Deeds within ninety (90) days after the Code Enforcement Officer's approval of the permit, with a copy of the recorded document provided to the Code Enforcement Officer within ten (10) days of it being recorded; or
- ii. if any of the information on the form has changed, a new permit is obtained from the Code Enforcement Officer and a Registration of Accessory Dwelling Unit Apartment Form is recorded in the Cumberland County Registry of Deeds within ninety (90) days after the Code Enforcement Officers' approval of the permit, with a copy of the recorded document provided to the Code Enforcement Officer within ten (10) days of it being recorded.

h.j. In order for an accessory dwelling unit~~apartment~~ to be added to a lot, the lot must comply with the Town of Naples Minimum Lot Size Ordinance and the requirements of the State Minimum Lot Size law, 12 §§ 4807 – 4807-G for multiple unit housing, whichever minimum lot size requirement is larger. The applicant shall have the burden to establish the lot area. The Code Enforcement Officer may require the lot area to be established by a survey signed and sealed by a Maine licensed land surveyor. The wastewater disposal system on the property in question shall be functioning properly at the time of application. In addition, the applicant must submit

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a new HHE-200 form as documentation that the existing system can support the addition of an accessory ~~dwelling unit~~apartment. The HHE-200 form, after review and approval by the Local Plumbing Inspector, shall be recorded by the applicant at the Cumberland County Registry of Deeds at the same time that the Registration of Accessory ~~Dwelling Unit~~Apartment form is recorded, with a copy of the HHE-200 form as recorded provided to the Code Enforcement Officer within ten (10) days of it being recorded. Failure to provide a copy of the HHE-200 form to the Code Enforcement Officer within ten (10) days of it being recorded shall void the accessory ~~dwelling unit~~apartment permit.

~~j-k.~~ The applicant shall comply with all applicable zoning, building, plumbing, electrical and fire safety codes in effect at the time of permit application.

~~k. One (1) off-street parking space shall be provided for the accessory apartment or as many parking spaces deemed necessary by the Code Enforcement Officer to accommodate the actual number of vehicles used by occupants of both the single-family dwelling and the accessory apartment. There shall be no on-street parking associated with an accessory apartment.~~

l. No use, dimensional or other variances shall be granted for installation/construction of an accessory ~~dwelling unit~~apartment.

m. An accessory ~~dwelling unit~~apartment that complies with the requirements of this Section shall not be ~~counted towards net residential density, considered a dwelling unit.~~

n. If the property is found to be in non-compliance with the standards contained in this Section, the non-compliance shall be considered a violation of this Ordinance and may subject the owner and/or occupant to further enforcement action and possible civil penalties.

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