

MEMORANDUM

TO: Kate Matthews, Code Enforcement Officer

CC: Kathy Eddy, Assistant to Code Enforcement & Planning
Jason Rogers, Town Manager
Randy Thurston, Code Enforcement Officer

From: Jamel Torres, Senior Planner, North Star Planning

RE: Ordinance modifications relative to LD 2003

Date: January 22, 2024

North Star Planning (NSP) staff has assisted the Ordinance Review Committee (ORC) with proposed modifications to the Town's Land Use Ordinance relative to the requirements of LD 2003, adopted into state law into the following state statutes:

- [30-A MRS §4364](#) – Affordable Housing Density Bonus
- [30-A MSRA §4364-A](#) – Multiple Dwelling Units on any property where housing is allowed
- [30-A MSRA §4364-B](#) – Accessory Dwelling Units

During the January 17, 2024 ORC meeting, the committee determined that they are comfortable with the proposed modifications to the Land Use Ordinance. NSP staff has provided the following documents for the Town leading up to the public hearing process –

- Redlined version of the proposed modifications to the Land Use Ordinance related to LD 2003 requirements
- Clean version of the proposed modifications to the Land Use Ordinance related to LD 2003 requirements.

Section 300 Nonconforming Provisions

302 Nonconforming Structures

1. Nonconforming Structure Expansion. A nonconforming structure may be expanded, repaired, maintained or improved subject to the provisions of this Section.
 - ~~a.~~ a.—The expansion shall be attached to the existing structure,
 - i. If an Accessory Dwelling Unit is proposed to be created or expanded within a nonconforming structure, the expansion must not make the nonconforming structure more nonconforming.
 - b. Nonconforming front, side or rear yard setback: A structure may be expanded within a nonconforming yard area so long as the expansion does not further extend into a nonconforming front, side or rear yard setback,
 - c. Nonconforming height limit: Where a structure contains a portion that is nonconforming in its height at the time of the adoption of this ordinance, the height of the remaining portion of the building may be increased so long as the expansion does not extend further than the existing height of the structure.
 - d. All other setback requirements in the appropriate zoning district shall be met.
 - e. An expansion of a nonconforming use within an expanded nonconforming structure must meet the standards of Section 203,
 - f. Expansion with a variance:
 - i. An applicant for an expansion that cannot meet the standards of Subsection a. or c., above must seek a variance from the Board of Appeals.
 - ii. The Board of Appeals shall use the appropriate variance standards of Section 208 for the review of applications under this Section.

Section 400 Definitions

In this chapter, the following terms shall have the following meaning unless a contrary meaning is required by the text or is specifically prescribed. In addition to the following definitions performance standards regulating specified land uses should be reviewed in the, “District Standards,” for each zoning district (Sec. 500) and the, “Performance Standards,” (Sec. 600) that apply to all zoning districts in the Town.

~~**Accessory Apartment:** A living area within a single family dwelling or within a structure accessory to a single family dwelling, such as a garage or barn, that is designed and equipped with housekeeping facilities so that it can be occupied by a person or persons living independently from the person(s) occupying the single family dwelling.~~

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. Refer to Section 507 Accessory Dwelling Units for applicable standards and regulations.

DRAFT

504 Zoning Districts

1. Rural Area.

a. Purpose.

Limited Residential Area. Home occupations and commercial activities in the rural area are grandfathered for their present use. Forestry, agricultural activities and residential uses except for mobile home parks are allowed in the rural area. Excessive growth and sprawl should be discouraged in the rural area.

b. Permitted Uses.

1. ~~Accessory Accessory Dwelling Unit Apartment~~
2. Agriculture
3. Boarding Stable
4. Cemetery
5. Commercial Tower
6. Community Living Facility
7. Contractor's Yard
8. Day Care Facility
9. Duplex
10. Essential Services
11. Home Occupation
12. Individual Private Campsite
13. Manufactured Housing
14. Medical Marijuana Registered Caregiver (subject to the provisions of Section 614)
15. Mineral Exploration
16. Mobile Home
17. Multi-family Dwelling
18. Municipal Facility
19. Place of Worship
20. Public Facility
21. Residential Dwelling Unit
22. School
23. Seasonal Dwelling
24. Solar Energy System, Accessory

- 25. Solar Farm, Medium
- 26. Solar Farm, Large
- 27. Timber Harvesting
- 28. Yard Sale

c. Dimensional Standards.

- 1. Minimum Lot Size: 40,000 sq ft
 - a. The minimum lot size is for the first single-family dwelling unit, with each additional single-family dwelling unit requiring an additional 40,000 sq ft.
 - 2. Net residential density:
 - a. Duplex Dwelling: 30,000 sq ft per dwelling unit
 - b. Multi-family Dwelling: 20,000 sq ft per unit, plus 10,000 sq ft per unit for common space (including roads)
 - 3. Minimum Road Frontage: 100 ft per lot
 - 4. Setbacks:
 - a. Minimum Front Setback measured from the right-of-way: 20 ft
 - b. Minimum Side and Rear Setback: 20 ft
 - c. The Code Enforcement Officer may allow for reductions from the Minimum Front, Side and Rear Setback requirements as set forth in Section 208.2 and 208.3.
 - 5. Maximum Height: 55 ft
 - 6. Back Lots – does not apply to subdivisions approved after 1986
 - a. Access via Right-of-Way: 20 ft minimum in width
 - b. Minimum Setbacks: 20 ft
 - c. Maximum Height: 55 ft
- d. District Standards.
- 1. [Reserved]

2. Critical Rural Area.

a. Purpose.

Conservation land and easements, parks, critical habitat areas, significant wetlands and stream protection areas, lake and stream setbacks as shown on Shoreland Zoning Map, State of Maine Critical Wildlife Area Map, 100-year Floodplain Map (F.E.M.A.), National Wetlands Inventory Map, State, Regional and Local Public Land Trust Maps: this area shall remain undeveloped and not allow residential or commercial uses except for non-profit non-residential facilities. Campgrounds are prohibited in the Critical Rural zoning district.

b. Permitted Uses.

1. Essential Services

2. Medical Marijuana Registered Caregiver (subject to the provisions of Section 614)
3. Municipal Facility
4. Place of Worship
5. Public Facility
6. Timber Harvesting c.

Dimensional Standards.

1. Minimum Lot Size: 60,000 sq ft
2. Minimum Road Frontage: 100 ft per lot
3. Setbacks:
 - a. Minimum Front Setback measured from the right-of-way 20 ft
 - b. Minimum Side and Rear Setback: 20 ft
 - c. The Code Enforcement Officer may allow for reductions from the Minimum Front, Side and Rear Setback requirements as set forth in Section 208.2 and 208.3.
4. Maximum Height: 55 ft
5. Back Lots – does not apply to subdivisions approved after 1986
 - a. Access via Right-of-Way: 20 ft minimum in width
 - b. Minimum Setbacks: 20 ft
 - c. Maximum Height: 55 ft

d. District Standards.

1. [Reserved]

3. Commercial Area.

a. Purpose.

The area where future commercial development outside of the village district shall take place. Residential use, except for mobile home parks, will be allowed in the Commercial zoning district. All commercial uses or services must meet the land area of the minimum lot size for a single-family residence.

b. Permitted Uses.

1. ~~Accessory Accessory Dwelling Unit Apartment~~
2. Adult Entertainment Establishment (subject to the provisions of Section 601)
3. Agriculture
4. Amusement Facility

5. Automobile Sales
6. Automotive Repair Services and Garages
7. Bed and Breakfast
8. Boarding and Lodging Facility
9. Boarding Stable
10. Campground
11. Cemetery
12. Commercial School
13. Commercial Tower
14. Community Garden
15. Community Living Facility
16. Contractor's Yard
17. Convalescent or Rest Home
18. Day Care Facility
19. Duplex
20. Essential Services
21. Flea Market
22. Home Occupation
23. Hotel
24. Individual Private Campsite
25. Library
26. Light Manufacturing (subject to the limitations set forth in Section 508)
27. Kennel
28. Manufactured Housing
29. Marina
30. Medical Marijuana Registered Caregiver (subject to the provisions of Section 614)
31. Mineral Exploration
32. Mineral Extraction
33. Mobile Home
34. Mobile Vendor
35. Multi-family Dwelling
36. Municipal Facility
37. Museum
38. Nursing Home

- 39. Personal Services
- 40. Place of Worship
- 41. Private Utility Substation
- 42. Public Facility
- 43. Recreational Facility, Indoor
- 44. Recreational Facility, Outdoor
- 45. Recreational Facility, Public
- 46. Residential Dwelling Unit
- 47. Residential Institution
- 48. Restaurant
- 49. Retail Use
- 50. School
- 51. Seasonal Dwelling
- 52. Service Business
- 53. Solar Energy System, Accessory
- 54. Solar Farm, Medium
- 55. Solar Farm, Large
- 56. Timber Harvesting
- 57. Wholesale Sales
- 58. Yard Sale

c. Dimensional Standards.

1. Minimum Lot Size: 40,000 sq ft

- a. The minimum lot size is for the first single-family dwelling unit, with each additional single-family dwelling unit requiring an additional 40,000 sq ft.

2. Net residential density:

- a. Duplex Dwelling: 30,000 sq ft per dwelling unit
- b. Multi-family Dwelling: 20,000 sq ft per unit, plus 10,000 sq ft per unit for common space (including roads). In addition to the requirements and regulations set forth in this ordinance, Multi-Family Dwelling developments designated as affordable housing and intended to meet the requirements of Title 30-A MRSA §4364 are eligible for a density bonus. Refer to Section 611.11 for the affordable housing designation criteria and the associated density bonus.

3. Minimum Road Frontage: 100 ft per lot

4. Setbacks:

- a. Minimum Front Setback measured from the right-of-way:

20 ft

b. Minimum Side and Rear Setback: 20 ft

c. The Code Enforcement Officer may allow for reductions from the Minimum Front, Side and Rear Setback requirements as set forth in Section 208.2 and 208.3.

5. Maximum Height: 55 ft

6. Back Lots – does not apply to subdivisions approved after 1986

a. Access via Right-of-Way: 20 ft minimum in width

b. Minimum Setbacks: 20 ft

c. Maximum Height: 55 ft

d. District Standards

1. When the installation of a sidewalk is not practical at the time of application, the applicant may enter into an agreement with the Town opting to escrow the total cost of materials and installation in the name of the Town of Naples and as agreed to by the Road Commissioner. Escrowed funds would then be used at the Town's discretion for a future sidewalk installation when and where it may be more practical for the Town's needs. The agreement and escrow would satisfy the sidewalk construction requirement for development application approval.

4. Residential Growth Area.

a. Purpose.

The area of the town where residential growth shall be encouraged. The area will allow all types of residential development including mobile home parks.

b. Permitted Uses.

1. ~~Accessory Accessory Dwelling Unit Apartment~~
2. Agriculture
3. Bed and Breakfast
4. Boarding and Lodging Facility
5. Cemetery
6. Commercial Tower
7. Community Living Facility
8. Community Garden
9. Convalescent or Rest Home
10. Day Care Facility
11. Duplex
12. Essential Services
13. Home Occupation
14. Individual Private Campsite

15. Library
16. Manufactured Housing
17. Medical Marijuana Registered Caregiver (subject to the provisions of Section 614)
18. Mineral Exploration
19. Mobile Home
20. Mobile Home Park
21. Multi-family Dwelling
22. Municipal Facility
23. Museum
24. Nursing Home
25. Place of Worship
26. Public Facility
27. Residential Dwelling Unit
28. Residential Institution
29. School
30. Seasonal Dwelling
31. Solar Energy System, Accessory
32. Solar Farm, Medium
33. Timber Harvesting
34. Yard Sale

c. Dimensional Standards.

1. Minimum Lot Size: 40,000 sq ft
 - a. The minimum lot size is for the first single-family dwelling unit, with each additional single-family dwelling unit requiring an additional 40,000 sq ft.
2. Net residential density:
 - a. Duplex Dwelling: 30,000 sq ft per dwelling unit
 - b. Multi-family Dwelling: 20,000 sq ft per unit, plus 10,000 sq ft per unit for common space (including roads). In addition to the requirements and regulations set forth in this ordinance, Multi-Family Dwelling developments designated as affordable housing and intended to meet the requirements of Title 30-A MRSA §4364 are eligible for a density bonus. Refer to Section 611.11 for the affordable housing designation criteria and the associated density bonus.

3. Minimum Road Frontage: 100 ft per lot
 4. Setbacks:
 - a. Minimum Front Setback measured from the right-of-way: 20 ft
 - b. Minimum Side and Rear Setback: 20 ft
 - c. The Code Enforcement Officer may allow for reductions from the Minimum Front, Side and Rear Setback requirements as set forth in Section 208.2 and 208.3.
 5. Maximum Height: 55 ft
 6. Back Lots – does not apply to subdivisions approved after 1986 a. Access via Right-of-Way: 20 ft minimum in width b. Minimum Setbacks: 20 ft c. Maximum Height: 55 ft
5. Village District Area.
- a. Purpose.

The Village District area shall be a mixed residential, commercial and municipal service area. Architectural design matching the historical character and small-town image of the area shall be applied to all new construction and maintenance of existing buildings. Campgrounds, Flea Markets, and Gas Stations are prohibited in the Village Zoning District.
 - b. Permitted Uses.
 1. Residential Uses:
 - a. Single family detached dwellings, which may include manufactured housing, but shall not include mobile homes or doublewides.
 - b. Two family dwellings which may include manufactured housing, but shall not include mobile homes or doublewides.
 - c. Multi-family dwellings which may include manufactured housing but shall not include mobile homes or doublewides.
 2. Commercial Uses:
 - a. Retail businesses, street vendors with less than 64 square feet of sales area, pushcarts, service businesses, and professional offices.
 3. Municipal and Other Governmental Uses
 4. Institutional Uses
 5. Mixed Uses Including Home Occupations:
 - a. Residential use and non-residential use are permitted on the same lot in the Village District (this includes only those uses otherwise allowed in the Village District).
 6. ~~Accessory~~ Accessory Dwelling Unit Apartment

7. Amusement Facility
8. Aquaculture
9. Bed and Breakfast
10. Boarding and Lodging Facility
11. Cemetery
12. Community Living Facility
13. Day Care Facility
14. Duplex
15. Essential Services
16. Governmental Facility
17. Home Occupation
18. Hotel
19. Library
20. Manufactured Housing
21. Marina
22. Medical Marijuana Registered Caregiver (subject to Section 614)
23. Mineral Exploration
24. Multi-family Dwelling
25. Municipal Facility
26. Museum
27. Place of Worship
28. Public Facility
29. Residential Dwelling Unit
30. Restaurant
31. Retail Use
32. Seasonal Dwelling
33. Solar Energy System, Accessory
34. Timber Harvesting
35. Yard Sale

c. Prohibited Uses

1. All uses not specifically permitted in 504.5.b are prohibited. In addition, commercial towers, new and used motor vehicle sales, unlicensed massage businesses, street vendors utilizing more than 64 square feet of sales area, and any uses prohibited in the Naples Shoreland Zoning Section 15 G are not permitted in the Village District.

d. Dimensional Standards. The following space and bulk standards shall apply in the Village District:

1. Minimum Lot Size

a. Lots without access to public water and sewer: 40,000 sq ft

i. The minimum lot size is for the first single-family dwelling unit, with each additional single-family dwelling unit requiring an additional 40,000 sq ft.

b. Lots served by public water and sewer: 15,000 sq ft

2. Net Residential Density:

a. Duplex Dwelling: 30,000 sq ft per dwelling unit

b. Multi-Family Dwelling: 20,000 sq ft per unit, plus 10,000 sq ft per unit for common space (including roads). In addition to the requirements and regulations set forth in this ordinance, Multi-Family Dwelling developments designated as affordable housing and intended to meet the requirements of Title 30-A MRSA §4364 are eligible for a density bonus. Refer to Section 611.11 for the affordable housing designation criteria and the associated density bonus.

23. Setbacks:

a. Minimum Front Setback measured from the right-of-way: 20 ft

b. Minimum Side and Rear Setbacks: 20 ft

c. The Code Enforcement Officer may allow for reductions from the Minimum Front, Side and Rear Setback requirements as set forth in Section 208.2 and 208.3.

34. Minimum Road Frontage: 100 ft per lot

45. Maximum Height: 55 ft

56. Maximum building coverage: 50%

67. Maximum impervious area: 75%

6. Causeway Overlay District. a.

Purpose.

The Causeway Overlay District shall be a mix of commercial uses on the ground level and residential and/or commercial uses on upper levels. The Causeway Overlay District overlays the Shoreland Zoning Limited Commercial District, as shown on the Official Shoreland Zoning Map.

b. See the Naples Shoreland Zoning Ordinance for Permitted Uses, Dimensional Standards and District Standard

507 Accessory ~~Apartments~~Dwelling Units

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~~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~~Accessory Dwelling Units apartments are installed under the conditions of this Section.

1. Within the Shoreland Zone: ~~Accessory~~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~~Accessory Dwelling Unit apartment provided the following standards and criteria are met:
 - ~~a. The single family dwelling and the accessory apartment must be owned by the same person and may not be sold separately.~~
 - a. The owner must occupy either the single-family dwelling or the ~~Accessory~~Accessory Dwelling Unit as his/her primary or legal residence. Continued occupancy of the ~~accessory~~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~~Accessory Dwelling Unit permit be issued prior to occupancy if the new owner wants to continue the accessory ~~apartment~~dwelling unit use.
 - ~~b. The accessory apartment shall have no more than one (1) bedroom. 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.~~
 - ~~b. The~~ ~~accessory~~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.
 - ~~c. The accessory apartment shall have no more than one (1) bedroom. 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.~~
 - ~~c. Accessory Dwelling Units shall not be allowed on legal, non-conforming lots of record.~~
 - ~~d. 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.~~
 - ~~e.e. Proper ingress and egress shall be provided to the accessory~~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.~~
 - ~~f. Only one (1) Accessory~~ ~~apartment~~Dwelling Unit is allowed per lot.

- ~~e.g.~~ Accessory Dwelling Units may not be leased/rented for a period of less than sixty (60) days. Evidence of such, such as a deed restriction recorded at the Cumberland County Registry of Deeds, shall be included with the required Registration Form submitted to the Code Enforcement Officer.
- ~~h.~~
- ~~e.~~ An application to the Code Enforcement Officer for an ~~accessory-Accessory Dwelling Unit~~apartment shall be accompanied by a the Registration ~~of Accessory Apartment~~ 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 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 (~~30~~10) days of it being recorded. Failure to do so shall void the ~~accessory-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 apartment is transferred to another owner or if the owner to whom the accessory apartment permit was issued ceases to occupy the property, the use of the accessory 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 apartment by submitting a new Registration of Accessory Apartment Form to the Code Enforcement Officer and recording the new Registration of Accessory Apartment 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 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 apartment permit shall expire unless:~~
- ~~f.~~ a new Registration of Accessory 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
- ~~g.~~ Officer within ten (10) days of it being recorded; or
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 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.i.~~ In order for an ~~accessory-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 a new HHE-200 form as documentation that the existing system can

support the addition of an ~~accessory~~ 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 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~~ Accessory Dwelling Unit ~~apartment~~ permit.

- ~~i.~~ i. The applicant shall comply with all applicable zoning, building, plumbing, electrical and fire safety codes in effect at the time of permit application.
- ~~j. 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.~~
- k. No use, dimensional or other variances shall be granted for installation/construction of an ~~accessory~~ Accessory Dwelling Unit ~~apartment~~.
- l. An ~~accessory~~ Accessory Dwelling Unit ~~apartment~~ that complies with the requirements of this Section shall not be ~~counted towards net residential density.~~ considered a dwelling unit.
- m. 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.

611 Multi-Family Dwelling

The construction of any new multi-family dwelling or the conversion of an existing single-family or two-family dwelling into a multi-family dwelling shall be done in accordance with the following standards:

1. Multi-family dwellings in developed areas shall retain and respect the existing streetscape and character of the neighborhood. This shall include the size and massing of structures, the relationship of buildings to the street and the use and treatment of front yard areas.
2. For new construction, utilities shall either be placed underground or, if above the ground, designed so as to be visually compatible with the overall development.
3. All required yard area shall be retained as open, landscaped areas which are not occupied by buildings, structures, parking lots, storage or similar uses. Access roads or drives and sidewalks may be located to allow vehicular and pedestrian traffic to cross yard areas.
4. A buffer shall be established between the multi-family housing and any abutting single-family or two-family dwellings. The buffering shall be sufficient to minimize any kind of potential nuisance, such as, but not limited to, headlights, noise, storage areas or waste collection and disposal areas. The buffering shall consist of landscaping, fencing, grading or a combination of features.
5. All private access roads shall be located within a 50-foot dedicated right-of-way. No off-street parking shall be located within this right-of-way.
6. Outdoor Space: The developer shall provide a minimum of 250 square feet of private, outdoor space for each dwelling unit.
7. The developer shall provide a minimum of 250 square feet of common, outdoor space for each dwelling unit which shall be developed with appropriate recreation facilities.
8. ~~All~~Any roads that are offered for public acceptance will be dedicated to the Town for public use shall meet the standards for public roads contained in Section 900 Subdivision. the subdivision regulations All roads shall remain private unless accepted by the legislative body of the Town at the annual Town Meeting. All private roads, drives, or access ways shall also meet the standards for private roads contained in the subdivision regulations.
9. All off-street parking and lighting must be adequately screened from view of public ways and from adjacent lots by buildings, topography, fencing or landscaping of reasonable opacity and at least four (4) feet high.
10. The number of dwelling units permitted on the site shall be determined by dividing the net residential acreage by the minimum lot area required per dwelling unit.
11. In accordance with Title 30-A MRSA §4364, Multi-Family Dwelling developments designated as affordable housing shall be allowed a density bonus of 2.5 times the number of units allowed for a development not designated as affordable. The off-street parking requirements may also not exceed two spaces for every three units. In order to be designated as affordable housing, the development shall meet the following criteria:

- a. For rental units, a household with an income at no more than 80% of the area median income for the community, as defined by the U.S. Department of Housing & Urban Development, must be able to afford more than half the units in a proposed development. That means that rent and certain other housing expenses will not require more than 30% of the household's income.
- b. For homeownership projects, a household with an income at no more than 120% of the area median income for the community, as defined by the U.S. Department of Housing & Urban Development, must be able to afford more than half of the units in a proposed development. That means that mortgage payments (including mortgage insurance) will not require more than 30% of the household's income.
- c. Units that will be affordable at these levels must be restricted through a restrictive covenant that is enforceable by a party acceptable to a municipality for at least 30 years, and states that the units must be restricted in rent or sales prices accordingly. The required covenant shall be recorded at the Cumberland County Registry of Deeds.

Section 300 Nonconforming Provisions

302 Nonconforming Structures

1. Nonconforming Structure Expansion. A nonconforming structure may be expanded, repaired, maintained or improved subject to the provisions of this Section.
 - a. The expansion shall be attached to the existing structure,
 - i. If an Accessory Dwelling Unit is proposed to be created or expanded within a nonconforming structure, the expansion must not make the nonconforming structure more nonconforming.
 - b. Nonconforming front, side or rear yard setback: A structure may be expanded within a nonconforming yard area so long as the expansion does not further extend into a nonconforming front, side or rear yard setback,
 - c. Nonconforming height limit: Where a structure contains a portion that is nonconforming in its height at the time of the adoption of this ordinance, the height of the remaining portion of the building may be increased so long as the expansion does not extend further than the existing height of the structure.
 - d. All other setback requirements in the appropriate zoning district shall be met.
 - e. An expansion of a nonconforming use within an expanded nonconforming structure must meet the standards of Section 203,
 - f. Expansion with a variance:
 - i. An applicant for an expansion that cannot meet the standards of Subsection a. or c., above must seek a variance from the Board of Appeals.
 - ii. The Board of Appeals shall use the appropriate variance standards of Section 208 for the review of applications under this Section.

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In this chapter, the following terms shall have the following meaning unless a contrary meaning is required by the text or is specifically prescribed. In addition to the following definitions performance standards regulating specified land uses should be reviewed in the, “District Standards,” for each zoning district (Sec. 500) and the, “Performance Standards,” (Sec. 600) that apply to all zoning districts in the Town.

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. Refer to Section 507 Accessory Dwelling Units for applicable standards and regulations.

DRAFT

504 Zoning Districts

1. Rural Area.

a. Purpose.

Limited Residential Area. Home occupations and commercial activities in the rural area are grandfathered for their present use. Forestry, agricultural activities and residential uses except for mobile home parks are allowed in the rural area. Excessive growth and sprawl should be discouraged in the rural area.

b. Permitted Uses.

1. Accessory Dwelling Unit
2. Agriculture
3. Boarding Stable
4. Cemetery
5. Commercial Tower
6. Community Living Facility
7. Contractor's Yard
8. Day Care Facility
9. Duplex
10. Essential Services
11. Home Occupation
12. Individual Private Campsite
13. Manufactured Housing
14. Medical Marijuana Registered Caregiver (subject to the provisions of Section 614)
15. Mineral Exploration
16. Mobile Home
17. Multi-family Dwelling
18. Municipal Facility
19. Place of Worship
20. Public Facility
21. Residential Dwelling Unit
22. School
23. Seasonal Dwelling
24. Solar Energy System, Accessory

- 25. Solar Farm, Medium
- 26. Solar Farm, Large
- 27. Timber Harvesting
- 28. Yard Sale

c. Dimensional Standards.

- 1. Minimum Lot Size: 40,000 sq ft
 - a. The minimum lot size is for the first single-family dwelling unit, with each additional single-family dwelling unit requiring an additional 40,000 sq ft.
- 2. Net residential density:
 - a. Duplex Dwelling: 30,000 sq ft per dwelling unit
 - b. Multi-family Dwelling: 20,000 sq ft per unit, plus 10,000 sq ft per unit for common space (including roads)
- 3. Minimum Road Frontage: 100 ft per lot
- 4. Setbacks:
 - a. Minimum Front Setback measured from the right-of-way: 20 ft
 - b. Minimum Side and Rear Setback: 20 ft
 - c. The Code Enforcement Officer may allow for reductions from the Minimum Front, Side and Rear Setback requirements as set forth in Section 208.2 and 208.3.
- 5. Maximum Height: 55 ft
- 6. Back Lots – does not apply to subdivisions approved after 1986
 - a. Access via Right-of-Way: 20 ft minimum in width
 - b. Minimum Setbacks: 20 ft
 - c. Maximum Height: 55 ft

d. District Standards.

- 1. [Reserved]

2. Critical Rural Area.

a. Purpose.

Conservation land and easements, parks, critical habitat areas, significant wetlands and stream protection areas, lake and stream setbacks as shown on Shoreland Zoning Map, State of Maine Critical Wildlife Area Map, 100-year Floodplain Map (F.E.M.A.), National Wetlands Inventory Map, State, Regional and Local Public Land Trust Maps: this area shall remain undeveloped and not allow residential or commercial uses except for non-profit non-residential facilities. Campgrounds are prohibited in the Critical Rural zoning district.

b. Permitted Uses.

- 1. Essential Services

2. Medical Marijuana Registered Caregiver (subject to the provisions of Section 614)
3. Municipal Facility
4. Place of Worship
5. Public Facility
6. Timber Harvesting c.

Dimensional Standards.

1. Minimum Lot Size: 60,000 sq ft
2. Minimum Road Frontage: 100 ft per lot
3. Setbacks:
 - a. Minimum Front Setback measured from the right-of-way 20 ft
 - b. Minimum Side and Rear Setback: 20 ft
 - c. The Code Enforcement Officer may allow for reductions from the Minimum Front, Side and Rear Setback requirements as set forth in Section 208.2 and 208.3.
4. Maximum Height: 55 ft
5. Back Lots – does not apply to subdivisions approved after 1986
 - a. Access via Right-of-Way: 20 ft minimum in width
 - b. Minimum Setbacks: 20 ft
 - c. Maximum Height: 55 ft

d. District Standards.

1. [Reserved]

3. Commercial Area.

a. Purpose.

The area where future commercial development outside of the village district shall take place. Residential use, except for mobile home parks, will be allowed in the Commercial zoning district. All commercial uses or services must meet the land area of the minimum lot size for a single-family residence.

b. Permitted Uses.

1. Accessory Dwelling Unit
2. Adult Entertainment Establishment (subject to the provisions of Section 601)
3. Agriculture
4. Amusement Facility

5. Automobile Sales
6. Automotive Repair Services and Garages
7. Bed and Breakfast
8. Boarding and Lodging Facility
9. Boarding Stable
10. Campground
11. Cemetery
12. Commercial School
13. Commercial Tower
14. Community Garden
15. Community Living Facility
16. Contractor's Yard
17. Convalescent or Rest Home
18. Day Care Facility
19. Duplex
20. Essential Services
21. Flea Market
22. Home Occupation
23. Hotel
24. Individual Private Campsite
25. Library
26. Light Manufacturing (subject to the limitations set forth in Section 508)
27. Kennel
28. Manufactured Housing
29. Marina
30. Medical Marijuana Registered Caregiver (subject to the provisions of Section 614)
31. Mineral Exploration
32. Mineral Extraction
33. Mobile Home
34. Mobile Vendor
35. Multi-family Dwelling
36. Municipal Facility
37. Museum
38. Nursing Home

39. Personal Services
40. Place of Worship
41. Private Utility Substation
42. Public Facility
43. Recreational Facility, Indoor
44. Recreational Facility, Outdoor
45. Recreational Facility, Public
46. Residential Dwelling Unit
47. Residential Institution
48. Restaurant
49. Retail Use
50. School
51. Seasonal Dwelling
52. Service Business
53. Solar Energy System, Accessory
54. Solar Farm, Medium
55. Solar Farm, Large
56. Timber Harvesting
57. Wholesale Sales
58. Yard Sale

c. Dimensional Standards.

1. Minimum Lot Size: 40,000 sq ft
 - a. The minimum lot size is for the first single-family dwelling unit, with each additional single-family dwelling unit requiring an additional 40,000 sq ft.
2. Net residential density:
 - a. Duplex Dwelling: 30,000 sq ft per dwelling unit
 - b. Multi-family Dwelling: 20,000 sq ft per unit, plus 10,000 sq ft per unit for common space (including roads). In addition to the requirements and regulations set forth in this ordinance, Multi-Family Dwelling developments designated as affordable housing and intended to meet the requirements of Title 30-A MRSA §4364 are eligible for a density bonus. Refer to Section 611.11 for the affordable housing designation criteria and the associated density bonus.
3. Minimum Road Frontage: 100 ft per lot
4. Setbacks:
 - a. Minimum Front Setback measured from the right-of-way:

20 ft

b. Minimum Side and Rear Setback: 20 ft

c. The Code Enforcement Officer may allow for reductions from the Minimum Front, Side and Rear Setback requirements as set forth in Section 208.2 and 208.3.

5. Maximum Height: 55 ft

6. Back Lots – does not apply to subdivisions approved after 1986

a. Access via Right-of-Way: 20 ft minimum in width

b. Minimum Setbacks: 20 ft

c. Maximum Height: 55 ft

d. District Standards

1. When the installation of a sidewalk is not practical at the time of application, the applicant may enter into an agreement with the Town opting to escrow the total cost of materials and installation in the name of the Town of Naples and as agreed to by the Road Commissioner. Escrowed funds would then be used at the Town's discretion for a future sidewalk installation when and where it may be more practical for the Town's needs. The agreement and escrow would satisfy the sidewalk construction requirement for development application approval.

4. Residential Growth Area.

a. Purpose.

The area of the town where residential growth shall be encouraged. The area will allow all types of residential development including mobile home parks.

b. Permitted Uses.

1. Accessory Dwelling Unit
2. Agriculture
3. Bed and Breakfast
4. Boarding and Lodging Facility
5. Cemetery
6. Commercial Tower
7. Community Living Facility
8. Community Garden
9. Convalescent or Rest Home
10. Day Care Facility
11. Duplex
12. Essential Services
13. Home Occupation
14. Individual Private Campsite

15. Library
16. Manufactured Housing
17. Medical Marijuana Registered Caregiver (subject to the provisions of Section 614)
18. Mineral Exploration
19. Mobile Home
20. Mobile Home Park
21. Multi-family Dwelling
22. Municipal Facility
23. Museum
24. Nursing Home
25. Place of Worship
26. Public Facility
27. Residential Dwelling Unit
28. Residential Institution
29. School
30. Seasonal Dwelling
31. Solar Energy System, Accessory
32. Solar Farm, Medium
33. Timber Harvesting
34. Yard Sale

c. Dimensional Standards.

1. Minimum Lot Size: 40,000 sq ft
 - a. The minimum lot size is for the first single-family dwelling unit, with each additional single-family dwelling unit requiring an additional 40,000 sq ft.
2. Net residential density:
 - a. Duplex Dwelling: 30,000 sq ft per dwelling unit
 - b. Multi-family Dwelling: 20,000 sq ft per unit, plus 10,000 sq ft per unit for common space (including roads). In addition to the requirements and regulations set forth in this ordinance, Multi-Family Dwelling developments designated as affordable housing and intended to meet the requirements of Title 30-A MRSA §4364 are eligible for a density bonus. Refer to Section 611.11 for the affordable housing designation criteria and the associated density bonus.

3. Minimum Road Frontage: 100 ft per lot
 4. Setbacks:
 - a. Minimum Front Setback measured from the right-of-way: 20 ft
 - b. Minimum Side and Rear Setback: 20 ft
 - c. The Code Enforcement Officer may allow for reductions from the Minimum Front, Side and Rear Setback requirements as set forth in Section 208.2 and 208.3.
 5. Maximum Height: 55 ft
 6. Back Lots – does not apply to subdivisions approved after 1986 a. Access via Right-of-Way: 20 ft minimum in width b. Minimum Setbacks: 20 ft c. Maximum Height: 55 ft
5. Village District Area.
- a. Purpose.

The Village District area shall be a mixed residential, commercial and municipal service area. Architectural design matching the historical character and small-town image of the area shall be applied to all new construction and maintenance of existing buildings. Campgrounds, Flea Markets, and Gas Stations are prohibited in the Village Zoning District.
 - b. Permitted Uses.
 1. Residential Uses:
 - a. Single family detached dwellings, which may include manufactured housing, but shall not include mobile homes or doublewides.
 - b. Two family dwellings which may include manufactured housing, but shall not include mobile homes or doublewides.
 - c. Multi-family dwellings which may include manufactured housing but shall not include mobile homes or doublewides.
 2. Commercial Uses:
 - a. Retail businesses, street vendors with less than 64 square feet of sales area, pushcarts, service businesses, and professional offices.
 3. Municipal and Other Governmental Uses
 4. Institutional Uses
 5. Mixed Uses Including Home Occupations:
 - a. Residential use and non-residential use are permitted on the same lot in the Village District (this includes only those uses otherwise allowed in the Village District).
 6. Accessory Dwelling Unit

7. Amusement Facility
8. Aquaculture
9. Bed and Breakfast
10. Boarding and Lodging Facility
11. Cemetery
12. Community Living Facility
13. Day Care Facility
14. Duplex
15. Essential Services
16. Governmental Facility
17. Home Occupation
18. Hotel
19. Library
20. Manufactured Housing
21. Marina
22. Medical Marijuana Registered Caregiver (subject to Section 614)
23. Mineral Exploration
24. Multi-family Dwelling
25. Municipal Facility
26. Museum
27. Place of Worship
28. Public Facility
29. Residential Dwelling Unit
30. Restaurant
31. Retail Use
32. Seasonal Dwelling
33. Solar Energy System, Accessory
34. Timber Harvesting
35. Yard Sale

c. Prohibited Uses

1. All uses not specifically permitted in 504.5.b are prohibited. In addition, commercial towers, new and used motor vehicle sales, unlicensed massage businesses, street vendors utilizing more than 64 square feet of sales area, and any uses prohibited in the Naples Shoreland Zoning Section 15 G are not permitted in the Village District.

d. Dimensional Standards. The following space and bulk standards shall apply in the Village District:

1. Minimum Lot Size

- a. Lots without access to public water and sewer: 40,000 sq ft
 - i. The minimum lot size is for the first single-family dwelling unit, with each additional single-family dwelling unit requiring an additional 40,000 sq ft.
- b. Lots served by public water and sewer: 15,000 sq ft

2. Net Residential Density:

- a. Duplex Dwelling: 30,000 sq ft per dwelling unit
- b. Multi-Family Dwelling: 20,000 sq ft per unit, plus 10,000 sq ft per unit for common space (including roads). In addition to the requirements and regulations set forth in this ordinance, Multi-Family Dwelling developments designated as affordable housing and intended to meet the requirements of Title 30-A MRSA §4364 are eligible for a density bonus. Refer to Section 611.11 for the affordable housing designation criteria and the associated density bonus.

3. Setbacks:

- a. Minimum Front Setback measured from the right-of-way: 20 ft
- b. Minimum Side and Rear Setbacks: 20 ft
- c. The Code Enforcement Officer may allow for reductions from the Minimum Front, Side and Rear Setback requirements as set forth in Section 208.2 and 208.3.

4. Minimum Road Frontage: 100 ft per lot

5. Maximum Height: 55 ft

6. Maximum building coverage: 50%

7. Maximum impervious area: 75%

6. Causeway Overlay District. a.

Purpose.

The Causeway Overlay District shall be a mix of commercial uses on the ground level and residential and/or commercial uses on upper levels. The Causeway Overlay District overlays the Shoreland Zoning Limited Commercial District, as shown on the Official Shoreland Zoning Map.

- b. See the Naples Shoreland Zoning Ordinance for Permitted Uses, Dimensional Standards and District Standard

507 Accessory Dwelling Units

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 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 are installed under the conditions of this Section.

1. Within the Shoreland Zone: Accessory Dwelling Units 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 provided the following standards and criteria are met:
 - a. The owner must occupy either the single-family dwelling or the Accessory Dwelling Unit as his/her primary or legal residence. Continued occupancy of the Accessory Dwelling Unit 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 Dwelling Unit permit be issued prior to occupancy if the new owner wants to continue the accessory dwelling unit use.
 - b. The Accessory Dwelling Unit shall contain a minimum total floor area of 190 square feet and contain a maximum total floor area of six hundred (600) square feet.
 - c. Accessory Dwelling Units shall not be allowed on legal, non-conforming lots of record.
 - d. 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.
 - e. Proper ingress and egress shall be provided to the Accessory Dwelling Unit.
 - f. Only one (1) Accessory Dwelling Unit is allowed per lot.
 - g. Accessory Dwelling Units may not be leased/rented for a period of less than sixty (60) days. Evidence of such, such as a deed restriction recorded at the Cumberland County Registry of Deeds, shall be included with the required Registration Form submitted to the Code Enforcement Officer.
 - h. An application to the Code Enforcement Officer for an Accessory Dwelling Unit shall be accompanied by a Registration 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 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 thirty (30) days of it being recorded. Failure to do so shall void the Accessory Dwelling Unit permit, and the approval can only be revived by submission and approval of a new application.

- i. In order for an Accessory Dwelling Unit 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 a new HHE-200 form as documentation that the existing system can support the addition of an Accessory Dwelling Unit. 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 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 permit.
- j. The applicant shall comply with all applicable zoning, building, plumbing, electrical and fire safety codes in effect at the time of permit application.
- k. No use, dimensional or other variances shall be granted for installation/construction of an Accessory Dwelling Unit.
- l. An Accessory Dwelling Unit that complies with the requirements of this Section shall not be counted towards net residential density.
- m. 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.

611 Multi-Family Dwelling

The construction of any new multi-family dwelling or the conversion of an existing single-family or two-family dwelling into a multi-family dwelling shall be done in accordance with the following standards:

1. Multi-family dwellings in developed areas shall retain and respect the existing streetscape and character of the neighborhood. This shall include the size and massing of structures, the relationship of buildings to the street and the use and treatment of front yard areas.
2. For new construction, utilities shall either be placed underground or, if above the ground, designed so as to be visually compatible with the overall development.
3. All required yard area shall be retained as open, landscaped areas which are not occupied by buildings, structures, parking lots, storage or similar uses. Access roads or drives and sidewalks may be located to allow vehicular and pedestrian traffic to cross yard areas.
4. A buffer shall be established between the multi-family housing and any abutting single-family or two-family dwellings. The buffering shall be sufficient to minimize any kind of potential nuisance, such as, but not limited to, headlights, noise, storage areas or waste collection and disposal areas. The buffering shall consist of landscaping, fencing, grading or a combination of features.
5. All private access roads shall be located within a 50-foot dedicated right-of-way. No off-street parking shall be located within this right-of-way.
6. Outdoor Space: The developer shall provide a minimum of 250 square feet of private, outdoor space for each dwelling unit.
7. The developer shall provide a minimum of 250 square feet of common, outdoor space for each dwelling unit which shall be developed with appropriate recreation facilities.
8. Any roads that are offered for public acceptance shall meet the standards for public roads contained in Section 900 Subdivision. All roads shall remain private unless accepted by the legislative body of the Town at the annual Town Meeting. All private roads, drives, or access ways shall also meet the standards for private roads contained in the subdivision regulations.
9. All off-street parking and lighting must be adequately screened from view of public ways and from adjacent lots by buildings, topography, fencing or landscaping of reasonable opacity and at least four (4) feet high.
10. The number of dwelling units permitted on the site shall be determined by dividing the net residential acreage by the minimum lot area required per dwelling unit.
11. In accordance with Title 30-A MRSA §4364, Multi-Family Dwelling developments designated as affordable housing shall be allowed a density bonus of 2.5 times the number of units allowed for a development not designated as affordable. The off-street parking requirements may also not exceed two spaces for every three units. In order to be designated as affordable housing, the development shall meet the following criteria:

- a. For rental units, a household with an income at no more than 80% of the area median income for the community, as defined by the U.S. Department of Housing & Urban Development, must be able to afford more than half the units in a proposed development. That means that rent and certain other housing expenses will not require more than 30% of the household's income.
- b. For homeownership projects, a household with an income at no more than 120% of the area median income for the community, as defined by the U.S. Department of Housing & Urban Development, must be able to afford more than half of the units in a proposed development. That means that mortgage payments (including mortgage insurance) will not require more than 30% of the household's income.
- c. Units that will be affordable at these levels must be restricted through a restrictive covenant that is enforceable by a party acceptable to a municipality for at least 30 years, and states that the units must be restricted in rent or sales prices accordingly. The required covenant shall be recorded at the Cumberland County Registry of Deeds.