[This paragraph is not part of the amendment. In this marked draft, language added to the Land Use Ordinance appears in underlined blue, and language deleted from the Land Use Ordinance appears in ~~struck-through red~~.]

AMENDMENT NO. 2
to
ST. GEORGE LAND USE ORDINANCE

Preliminary Statement

On May 8, 2023, the voters of St. George (the "Town") approved a new land use ordinance (the "Land Use Ordinance"). In April, 2023, the State of Maine adopted Public Law 2021, c. 672, as later amended (which is sometimes referred to as L.D. 2003), for the purpose of expanding the availability of affordable housing. The Maine Department of Economic and Community Development has adopted a rule (at 19-100 C.M.R. chapter 5) interpreting and implementing that legislation.

Among other things, the legislation added sections 4364 and 4364-B to title 30-A of the Maine Revised Statutes. Section 4364 requires municipalities to amend their land use ordinances to allow affordable-housing developments in certain designated areas that exceed the general density requirements in those ordinances. Section 4364-B requires municipalities to amend their land use ordinances to allow an accessory dwelling unit on a lot where housing is allowed even if it would not comply with the minimum lot size and certain other requirements in those ordinances. The purpose of this amendment is to amend the Land Use Ordinance to comply with those requirements.

Amendments

SECTION 1. Section 3101 of the Land Use Ordinance is amended by adding the following definitions in the appropriate alphabetical sequence:

" 'Accessory dwelling unit' means a self-contained residential dwelling unit that meets the requirements of section 913 and is located within, attached to, or detached from a residential dwelling unit on the same lot or located within an existing accessory structure on the same lot."

" 'Affordable-housing development' means—

"(1) for rental housing, a development in which a household whose income does not exceed 80 percent of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, § 8, as amended, can afford a majority of the units that

the developer designates as affordable without spending more than 30 percent of the household's monthly income on housing costs; and

"(2) for owned housing, a development in which a household whose income does not exceed 120 percent of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, § 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30 percent of the household's monthly income on housing costs.

"For purposes of this definition—

"(A) 'majority' means more than half of proposed and existing units on the same lot; and

"(B) 'housing costs' include, but are not limited to—

"(i) for a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and trash) that the household pays separately from the rent; and

"(ii) for an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner's insurance, condominium fees, and homeowners' association fees."

" 'Area median income' means the midpoint of a region's income distribution calculated on an annual basis by the United States. Department of Housing & Urban Development."

" 'Base density' means the maximum number of units allowed on a lot not used for affordable housing based on dimensional requirements in this ordinance, excluding local density bonuses, transferable development rights, or other similar means that could increase the density of lots not used for affordable housing."

" 'Density requirements' means the maximum number of residential dwelling units allowed on a lot, subject to dimensional requirements."

" 'Designated growth area' means an area that is designated as a 'growth area' in the Town's Comprehensive Plan."

"'Potable' means safe for drinking as defined by the United States Environmental Protection Agency's Drinking Water Standards and Health Advisories Table and Maine's interim drinking water standards for six different perfluoroalkyl and polyfluoroalkyl substances (PFAS), Resolve 2021, chapter 82, Resolve, To Protect Consumers of Public Drinking Water by Establishing Maximum Contaminant Level for Certain Substances and Contaminants."

SECTION 2. The Land Use Ordinance is amended by adding the following new sections immediately after section 912:

"**SECTION 913. ACCESSORY DWELLING UNITS.**

"(a) **ACCESSORY DWELLING UNITS ALLOWED.** Except as otherwise provided in subsection (f), but notwithstanding anything else in this ordinance, a single accessory dwelling unit that complies with the requirements of this section may be constructed on any lot on which this ordinance allows residential uses—

"(1) within a residential dwelling unit in existence on the lot at the time of submission of a permit application to build the accessory dwelling unit, or

"(2) attached to a single-family residential dwelling on the lot that either is in existence at the time of submission of a permit application to construct the accessory dwelling unit, or is to be constructed currently with the accessory dwelling unit as part of the application, or

"(3) within an accessory structure on the lot that is in existence at the time of submission of a permit application to construct the accessory dwelling unit, or

"(4) as a new structure not attached to an existing single-family dwelling unit on the lot for the primary purpose of creating an accessory dwelling unit.

"(b) **SIZE REQUIREMENTS.** An accessory dwelling unit must have a floor area of not less than 190 square feet and not more than 1,500 square feet.

"(c) **SHORT-TERM RENTALS PROHIBITED.** An accessory dwelling unit shall not be rented or leased at will or for a term shorter than one year. An owner of an accessory dwelling unit who violates this subsection shall be liable to the Town under section 715 for a civil penalty for each day that a violation continues, and for all attorneys' fees and expenses incurred by the town in enforcing this subsection and recovering the civil penalty.

"(d) **WATER AND WASTEWATER.** The accessory dwelling unit shall comply with the Maine Minimum Lot Size Law and the Maine Minimum Lot Size Rules. The owner proposing to construct an accessory dwelling unit shall provide written verification that the proposed accessory dwelling unit is to be connected to adequate water and wastewater services prior to certification of the accessory dwelling unit for occupancy or similar type of approval process. The written verification must include the following:

"(1) If the accessory dwelling unit is connected to a septic system, proof that the septic system will provide adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by the Local Plumbing Inspector pursuant to 30-A M.R.S. § 4221. Plans for a subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. chapter 241, Subsurface Wastewater Disposal Rules.

"(2) If the accessory dwelling unit is to be connected to the Tenants Harbor Water District or the Port Clyde Water District, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection, and the volume and supply of water required for the unit.

"(3) If the accessory dwelling unit is to be connected to a well, proof of access to potable water, including the standards of 01-672 C.M.R. chapter 10 § 10.25(J), Land Use Districts and Standards. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

"(e) **CERTAIN REQUIREMENTS NOT APPLICABLE.** To the extent provided in sections 901(b) and (c), 902(a) and (c), 910, and 1106(a)(5) certain requirements relating to lot area and density, lot coverage, and parking do not apply to accessory dwelling units.

"(f) **SHORELAND ZONING.** If either an accessory dwelling unit or any other residential dwelling unit on the same lot is or will be located in whole or part in the shoreland zone, and if any provision of this section is inconsistent with any provision of chapter 13, the provision of chapter 13 shall control.

"**SECTION 914. AFFORDABLE HOUSING DENSITY.**

"(a) **DENSITY BONUS.** Except as otherwise provided in subsection (e), but notwithstanding anything else in this chapter, if the requirements in subsections (b), (c), and (d) are met, the Town shall—

"(1) allow an affordable-housing development to have a residential dwelling unit density of 2.5 times the base density that is otherwise allowed in that location; and

"(2) require no more than two off-street parking motor vehicle spaces for every three residential dwelling units of an affordable-housing development.

"If fractional results occur when calculating the density bonus in this subsection, the number of units shall be rounded down to the nearest whole number. The number of motor vehicle parking spaces shall be rounded up to the nearest larger whole number if the fractional amount is 0.5 or more and down to the nearest smaller whole number if the fractional amount is less than 0.5.

"(b) **ELIGIBILITY FOR DENSITY BONUS—GENERAL REQUIREMENTS.** A development shall be eligible for a density bonus under subsection (a) only if the Planning Board makes the following determinations:

"(1) The development meets the definition of "affordable-housing development," in section 3101, which includes the requirement that a majority of the total units on the lot are affordable within the meaning of that definition.

"(2) The development is in a designated growth area.

"(3) The development is located in an area in which multifamily residential dwellings are allowed under this ordinance.

"(4) The development complies with minimum lot size requirements in accordance with 12 M.R.S. chapter 423-A.

"(c) **ELIGIBILITY FOR DENSITY BONUS—WATER AND WASTEWATER.** A development shall be eligible for a density bonus under subsection (a) only if the owner of the lot provides written verification that each residential dwelling unit of the housing development is proposed to be connected to adequate water and wastewater services prior to certification of the development for occupancy or

similar type of approval process. The written verification must include the following:

"(1) If the residential dwelling units will be connected to a septic system, proof that the septic system to which each residential dwelling unit will be connected will provide adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by the Local Plumbing Inspector pursuant to 30-A M.R.S. § 4221. Plans for a subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. chapter 241, Subsurface Wastewater Disposal Rules.

"(2) If the residential dwelling units will be connected to the Tenants Harbor Water District or to the Port Clyde Water District, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit.

"(3) If the residential dwelling units will be connected to a well, proof of access to potable water, including the standards of 01-672 C.M.R. chapter 10 § 10.25(J), Land Use Districts and Standards. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

"(d) **ELIGIBILITY FOR DENSITY BONUS—LONG-TERM AFFORDABILITY.** Prior to the Town's grant of a certificate of occupancy or other final approval of an affordable-housing development, the owner of the affordable-housing development shall execute a restrictive covenant that is enforceable by the Maine State Housing Authority or another party selected by the Select Board or the Town Manager that is experienced in administering and enforcing restrictive covenants to ensure that for 60 years after completion of construction—

"(1) for rental housing, occupancy of all the units designated affordable in the development will remain limited to households at or below 80 percent of the local area median income at the time of initial occupancy; and

"(2) for owned housing, occupancy of all the units designated affordable in the development will remain limited to households at or below 120 percent of the local area median income at the time of initial occupancy.

"The owner shall record the restrictive covenant in the Knox County Registry of Deeds within 30 days after its execution. The restrictive covenant shall be satisfactory in form and substance to the Town Manager or the Select Board. If the Town engages legal counsel to prepare or review the restrictive covenant, the owner shall advance or reimburse the cost thereof pursuant to section 705(b).

"(e) **SHORELAND ZONING AND SUBDIVISION REQUIREMENTS.** If any portion of an affordable-housing development will be located in the shoreland zone, and if any provision of this section is inconsistent with any provision of chapter 13, the provision of chapter 13 will control. Compliance with this section does not relieve an affordable-housing development from complying with the Subdivision Ordinance if applicable."

SECTION 3. Section 304(2) and (7) of the Land Use Ordinance is amended to read as follows:

"**SECTION 304. APPROVING AUTHORITIES.** The 'approving authority' for permit applications under this ordinance is—

. . .

"(2) the Planning Board for applications for affordable-housing developments and applications that require site plan review under section 1106.

. . .

"(7) the Code Enforcement Officer in all other cases, including (A) applications for alterations and improvements that are described in section 302(a)(6) and do not change the footprint ~~of~~ or floor area of a structure, the cost of which does not exceed $50,000, unless the Code Enforcement Officer elects to refer such application to the Planning Board, ~~and~~ (B) applications for the installation of equipment or the construction of structures necessary for access to or egress from the dwelling of the person with a disability and (C) applications for the construction of accessory dwelling units."

SECTION 4. Section 502(b)(4) of the Land Use Ordinance is amended to read as follows:

"(b) The application shall include the following information in the body of the form or on attachments as necessary, except to the extent waived under section 505:

. . .

"(4) A written description of the proposed project including whether any part of it consists of the construction of an accessory dwelling unit;".

SECTION 5. Section 901(b) and section 901(c) of the Land Use Ordinance are amended to read as follows:

"**SECTION 901. LOT AREA AND DENSITY.**

. . .

"(b) **TWO-FAMILY RESIDENTIAL USES.** A lot on which there are exactly two residential dwelling units shall have a lot area of at least—

"(1) two acres, unless one of the residential dwelling units is an accessory dwelling unit and neither unit is located in the shoreland zone, in which case the required lot area is one acre, or

"(2) 100,000 square feet if both units are located in the shoreland zone, even if one of the units is an accessory dwelling unit, or

"(3) 50,000 square feet if one of the units is an accessory dwelling unit and only one of the units on the lot is located in the shoreland zone."

"(c) **MULTI-UNIT RESIDENTIAL USES.** A lot used for multi-unit residential purposes shall have a lot area of one acre for each residential dwelling unit but not less than five acres, except that an accessory dwelling unit not located in the shoreland zone shall not be counted as a residential dwelling unit for this purpose. Each building on such a lot shall be not less than 25 feet from each other building, but residential dwelling units that are considered to be separate buildings under the definition of 'building' in section 3101 solely because they are separated by a party wall need not comply with this sentence with respect to other residential dwelling units located in the same structure."

SECTION 6. Section 902(a) of the Land Use Ordinance is amended to read as follows:

"**SECTION 902. LOT COVERAGE.**

"(a) Except as provided in subsection (c) or in section 1316(b), the ~~The~~ portion of a lot covered by non-vegetated surfaces shall not exceed—

"(1) 70 percent of lot area in a commercial fisheries/maritime activities district in the shoreland zone;

"~~(2) 50 percent of lot area in a limited commercial district in the shoreland zone;~~ or

"~~(3)~~ (2) 20 percent of lot area elsewhere."

SECTION 7. Section 902 of the Land Use Ordinance is amended by adding the following new subsection (c):

"SECTION 902. LOT COVERAGE.

. . .

"(c) Except in the shoreland zone, subsection (a) shall not apply to any increase in lot coverage caused by the construction of an accessory dwelling unit."

SECTION 8. Section 910 of the Land Use Ordinance is amended to read as follows:

"**SECTION 910. PARKING.** There shall be at least two off-street parking spaces for each residential dwelling unit, except that (1) no additional parking spaces shall be required for an accessory dwelling unit, and (2) the parking requirement for an affordable-housing development shall be as provided in section 914(a)(1)."

SECTION 9. Section 1102(a)(9) of the Land Use Ordinance is amended to read as follows:

"**SECTION 1102. WHEN SITE PLAN APPROVAL IS REQUIRED.**

"(a) Except as provided in subsection (b), approval of a site plan is required for any of the following:

. . .

"(9) An increase in the number of residential dwelling units at an existing multi-unit residential use by the modification or expansion of an existing residential building or the construction of an additional residential building; but this paragraph does not require site plan approval for the construction of a single accessory dwelling unit on a lot."

SECTION 10. The portion of section 1106(a)(5)(A) of the Land Use Ordinance that relates to dwellings is amended to read as follows:

"SECTION 1106. REVIEW STANDARDS.

"(a) **IN GENERAL.** Except as provided in subsection (b), the Planning Board shall use the following standards in judging an application for site plan review, which shall serve as minimum requirements for approval of the site plan. The site plan shall be approved, unless in the judgment of the Planning Board, the applicant has not met one or more of these requirements. In all instances the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary for the Planning Board to review the application.

. . .

"(5) **PARKING AND PEDESTRIAN CIRCULATION.**

"(A) The proposed site layout shall include parking adequate for the proposed use, determined as follows:

"Use	**"Requirement**
"Dwellings	"Two parking spaces per residential dwelling unit, except that (A) no additional parking spaces shall be required for an accessory dwelling unit, and (B) the parking requirement for an affordable-housing development shall be as provided in section 914(a)(1)".

SECTION 11. This amendment shall take effect when it is approved by a majority of the votes cast by the registered voters of the Town present at a regular or special town meeting.

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