

**TOWN OF  
DENMARK, MAINE**  
*“Beautiful by Nature”*



**Proposed Amendments To The June 2023**  
**Zoning Ordinance of the Municipality of Denmark, Maine**

**SECTION 5.19.**

**HOUSING / ADU**

**PREPARED FOR THE TOWN OF DENMARK SELECT BOARD**  
**MARCH 26, 2024 PUBLIC HEARING**

**MARCH 08, 2024**

**Proposed addition of Section 5.19. Accessory Dwelling Units (ADU) to the Zoning Ordinance of the Municipality of Denmark, Maine, and amendments to related other Sections of the Ordinance. Synopsis is below:**

- Added Section 5.19 “Accessory Dwelling Units (ADU)” to conform to State of Maine mandates and provisions of LD 2003 “An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions”. The Act requires that every community in Maine amend their Zoning Ordinances relaxing standards so as to permit increased housing opportunities. Those mandates vary from community to community. The changes provided herein are as they apply to the characteristics of Denmark.
- Accessory Dwelling Units (ADU) are attached or detached dwelling units being 500 SF to 1,000 SF in size and on a lot with a principal dwelling unit.
- An ADU is permitted on almost every lot in Denmark without regard to some zoning ordinance provisions that would limit or prevent them.
- ADU rental periods must be at least 60 consecutive days and may not be used as a short term rental.
- Building permits are required for ADUs.
- The Use Table is modified to include ADUs.
- A second Single Family Dwelling Unit may be constructed on a lot that is at least twice the size of the zoning minimum lot size.
- Sanitary sewage disposal for all ADUs and Dwellings must conform to the requirements of the State Of Maine Subsurface Wastewater Disposal Rules
- Miscellaneous amendments are made throughout the Zoning Ordinance to conform to and are related to the provisions of the Act.
- Definitions are added and modified.

**CHAPTER 5 - PERFORMANCE STANDARDS, SPECIFIC ACTIVITIES  
AND LAND USES (Amended 6.3.236.1.24)**

**5.19. Accessory Dwelling Units (ADU).**

5.19.1. As an Accessory Use to a Single-Family Dwelling , the creation and renting of a separate portion within a Single Family Dwelling, attached to a Single Family Dwelling, or detached from Single Family Dwelling(s) shall be permitted, provided all the following conditions are met:

5.19.1.1. An ADU within or attached to a Single Family Dwelling must meet a minimum size of 500 square feet floor area and shall be no larger than 1,000 square feet floor area.

5.19.1.2. A detached ADU shall be a minimum size of 500 square feet floor area and shall be no greater than 1,000 square feet floor area.

5.19.1.3. The owner of an ADU connected to, or anticipated to be connected to a public, special district, or other centrally managed sanitary sewage and/or potable water system must provide written, satisfactory verification to the Town of Denmark, Maine Code Enforcement Officer of same before the Code Enforcement Officer may issue a Certificate of Approved Use. Written verification under this subsection must include:

5.19.1.3.1. Proof of adequate service to support any additional statutory sanitary sewer or potable water design flows attributable to the ADU and proof of payment, if any required, for the connection to the sanitary sewer and/or potable water system.;

5.19.1.3.2. All verifications and proof required above must be provided by specialists acceptable to the Code Enforcement Officer.

5.19.1.4. The owner of an ADU connected to, or anticipated to be connected to an existing private well or similar potable water system or private sanitary sewage system must obtain a Plumbing Permit from the Code Enforcement Officer prior to or at time of issuance of building permit and must provide to the Code Enforcement Officer an updated HHE 200 (series) form(s) and / or statement from a Maine licensed Site Evaluator that the existing subsurface disposal system is adequate to sustain the addition of the ADU. The sanitary sewage system design and installation (existing or proposed) shall conform to the requirements of the State Of Maine Subsurface Wastewater Disposal Rule 10-144 Code Of Maine Rules, Chapter 241, Department Of Health & Human Services, Maine Center For Disease Control & Prevention as amended or superseded.

5.19.1.5. An ADU shall not be subject to any additional parking requirements beyond the parking requirements of the Single Family Dwelling(s) on the lot where the ADU is located.

5.19.1.6. An ADU, except in a Shoreland District, shall be exempt from any Lot Coverage or density requirements or calculations occasioned by the addition of the ADU, although new ADU construction areas that would have been included in Lot Coverage shall be minimized to the greatest practical extent, as determined by the Code Enforcement Officer, while allowing parking for up to one vehicle.

5.19.1.7. An ADU within the Shoreline District shall be subject to all State Shoreland District requirements and Shoreland District requirements in this Ordinance.

5.19.1.8. The Single Family Dwelling associated with the ADU, and/or the ADU must be

owner-occupied.

5.19.1.9. The Single Family Dwelling associated with the ADU and that ADU must be in common ownership and not part of a homeowner's association or condominiumized or in separated ownership in any way.

5.19.1.10. The Single Family Dwelling associated with the ADU and that ADU may not be leased, rented, sub-leased, or otherwise used or occupied as a Short-Term Rental or for any time period of less than 60 consecutive days.

5.19.1.11. For an ADU located within the same structure as a Single Family Dwelling or attached to or sharing a wall with a Single Family Dwelling, the setback requirements and dimensional requirements must be the same as the setback requirements and dimensional requirements of the Single Family Dwelling, except for an ADU in an existing accessory building or secondary building or detached garage as of June 1, 2024, in which case the requisite setback requirements for such existing structures do not apply.

5.19.1.12. Should the Single Family Dwelling and/or associated ADU be found at any time to be in non-conformance with the provisions of this Ordinance or relevant State Statutes, the occupancy of the non-conforming Single Family Dwelling or the ADU shall immediately be discontinued, the ADU Certificate of Approved Use shall be suspended, and the property owner shall be subject to other enforcement actions.

5.19.1.13. If two Single Family Dwellings and an ADU have been constructed on a lot as a result of allowances under this Ordinance, and which, in aggregate, exceed density allowances of the underlying Zoning District, the lot is not eligible for any additional increases in density.

5.19.1.14. Proper ingress and egress must be provided to the ADU.

5.19.1.15. In addition to any other permits issued by the Code Enforcement Officer, an ADU Certificate of Approved Use shall be required prior to construction and/or prior to use of an ADU. An application shall be made on a form available from the Code Enforcement Office and shall include information and materials necessary for the Code Enforcement Officer to determine that the proposed ADU conforms to this Ordinance in all respects.

5.19.1.16. All required ADU permits must be obtained prior to the construction of the ADU.

5.19.1.17. An ADU in existence prior to June 1, 2024 may continue in use provided a Certificate of Approved Use is issued by the Code Enforcement Officer prior to June 1, 2025.

5.19.1.18. Only one ADU shall be permitted per any lot.

#### 1.4.3.2. A Structure Non-Conforming as to Use.

1.4.3.2.1. Except for ~~s~~Single ~~f~~Family ~~d~~Dwellings, a building or structure, non-conforming as to use, shall not be enlarged unless the non-conforming use is terminated. Except in a Resource Protection District, ~~s~~Single ~~f~~Family ~~d~~Dwellings, which are non-conforming uses, may be enlarged as long as the dimensional requirements of the District in which they are located are met. A non-conforming use of part of a building or structure shall not be extended throughout other parts of the building or structure unless those parts of the building or structure were manifestly arranged or designed for such use prior to the adoption of this Ordinance, or of any amendment making such use non-conforming.

#### 1.4.4.2. Principal and Accessory Structures.

All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance from the normal high-water line of great pond classified GPA and rivers that flow to great ponds classified GPA, and one hundred (100) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland. All Accessory Dwelling Units (ADU) shall meet the required setbacks, frontage, density and lot sizes for an ADU in the Shoreland District.

### 3.1. General requirements.

3.1.1. A Plumbing Permit and Building or Use permit shall be required for all buildings, uses, and sanitary facilities, according to the provisions of Chapter 5 of this Ordinance.

3.1.2. For Accessory Dwelling Units (ADU) see Chapter 5 and other sections of this Ordinance.

3.1.~~32.~~ If more than one ~~Single Family Dwelling principal building~~ or ~~d~~Dwelling ~~u~~Unit is constructed on a single lot, the minimum lot area requirements of that zoning District shall be met for each ~~Single Family Dwelling principal building~~ or ~~d~~Dwelling ~~u~~Unit. A maximum of two Single Family Dwellings may be constructed on any one lot.

3.1.~~43.~~ No part of the yard or other open space required on any lot for any building shall be included as part of the yard or open space similarly required for another building or lot.

3.1.~~54~~ All corner lots shall be kept free from visual obstructions for a distance of 25 feet measured along the intersecting street lines.

3.1.~~65.~~ No structure shall exceed 40 feet in height with a habitable floor height not to exceed 30 feet -except that structures and features of buildings usually erected at a height greater than the main roofs of buildings and not intended for human occupancy, such as chimneys, towers, ventilators, flagpoles, tanks, and spires may exceed 40 feet in height, but no more than 75 feet, and shall be set back from the nearest lot line a distance not less than the height of such feature or structure, unless a greater setback is required by other provisions of this Ordinance. However, within the Shoreland District and outside the 100 foot Shoreline buffer, no structure shall exceed 35 feet in height as defined in the State of Maine ~~Shoreland Zoning Guide.~~ Revised Statutes, Title 38, Chapter 3.

|  | <b>Resource Protection</b> | <b>Shoreland</b> | <b>Village</b> | <b>Rural</b> | <b>Aquifer Protection</b> |
|--|----------------------------|------------------|----------------|--------------|---------------------------|
| Single <del>f</del> Family <del>d</del> Dwelling | N                          | P                | P              | P            | P                         |
| Two <del>f</del> Family <del>d</del> Dwelling    | N                          | P                | P              | P            | P                         |
| Multi- <del>f</del> Family <del>d</del> Dwelling | N                          | C                | C              | C            | C                         |
| <u>Accessory Dwelling Units ADUs*</u>            | N                          | P                | P              | P            | P                         |

3.3.2.1. The maximum number of lots or ~~d~~Dwelling ~~u~~Units shall be determined by dividing the minimum lot area of the zoning District in which the parcel is located into the net lot area of the parcel to be subdivided. If the parcel to be subdivided is located in more than one zoning District, the net lot area of each portion of the parcel in each zoning District shall be divided by the minimum lot area of the zoning District.

#### 4.1. Access to Lots.

4.1.1. No building permit shall be issued to erect any structure on a lot without frontage on a public way unless an access road meeting the following criteria has been constructed within a deeded right-of-way, a minimum of fifty feet in width. The access road shall be constructed to a minimum width of twelve feet if serving one ~~d~~Dwelling ~~u~~Unit, and fifteen feet if serving two ~~d~~Dwelling ~~u~~Units. The access road shall contain a minimum depth of fifteen inches of bank-run gravel and have drainage ditches and culverts at all appropriate points. Such an access road shall serve no more than two ~~d~~Dwelling ~~u~~Units. Any access road serving between three and eight ~~d~~Dwelling ~~u~~Units shall meet the road design and construction standards of the Denmark Planning Board Standards for Reviewing Land Subdivisions but need not be paved. Any access road serving more than eight ~~d~~Dwelling ~~u~~Units shall meet the road design and construction standards of the Subdivision Regulations, Town of Denmark.

#### 4.2. Accessory Buildings.

4.2.1. No garage or other accessory building shall be located in a ~~required front yard minimum front, side, or rear setback and shall not be located within the 100' buffer zone within the Shoreland District.~~ ~~When located to the rear of the main building, the accessory building shall be set back at least 20 feet from the side or rear lot lines, provided that all accessory buildings shall be set back at least 100 feet from the normal high-water elevation of a waterbody.~~

#### 4.7.2. Schedule of Minimum Off-Street Parking Requirements.

4.7.2.1. Two (2) spaces per ~~d~~Dwelling ~~u~~Unit excepting an Accessory Dwelling Unit which shall not be subject to any additional parking requirements.

4.15.1. General.

4.15.1.1. Provision shall be made for vehicular access to the development and circulation upon the lot in such a manner as to safeguard against hazards to traffic and pedestrians in the road and within the development, to avoid traffic congestion on any road and to provide safe and convenient circulation on any road and within the development. More specifically, for uses other than ~~s~~Single ~~f~~Family ~~d~~Dwellings, access and circulation shall also conform to the following standards and the design criteria below.

Where a lot has frontage on two or more roads, the access to the lot shall be provided to the lot across the frontage and to the road where there is less potential for traffic congestion and for hazards to traffic and pedestrians.

5.3.2. There shall be no less than one parking space for each rental room in addition to the spaces required for any ~~d~~Dwelling ~~u~~Unit.

5.3.3. There shall be one bathroom provided for the rental rooms, in addition to the bathroom for the ~~d~~Dwelling ~~u~~Unit.

**5.9. Mobile Homes and Mobile Home Parks.**

5.9.1. Mobile Homes not in a Mobile Home Park.

5.9.1.1. Mobile homes not in a mobile home park shall meet all the requirements of this Ordinance for ~~s~~Single ~~f~~Family ~~d~~Dwellings. Any manufactured housing unit manufactured prior to June 15, 1976 shall meet the access, egress and ventilation standards of the National Fire Prevention Association, Life Safety Code 101, 2018 edition.

5.9.2.1.3. The overall density of any park served by any subsurface wastewater disposal system shall not exceed one ~~d~~Dwelling ~~u~~Unit per 20,000 square feet of total park area.

5.9.2.5.2. No ~~d~~Dwelling ~~u~~Unit other than a manufactured housing unit shall be located within the park.

**5.10. Multi Family Dwelling Units.**

5.10.1. Two-Family Dwelling Units.

Lots for ~~t~~Two-~~f~~Family ~~u~~Units shall meet all of the dimensional requirements for ~~s~~Single-~~f~~Family ~~d~~Dwelling ~~u~~Units, except that the lot area and shoreline frontage shall be equal to that required for an equivalent number of ~~s~~Single-~~f~~Family ~~d~~Dwelling ~~u~~Units, and the road frontage shall exceed by 50% the requirement for a ~~s~~Single-~~f~~Family ~~d~~Dwelling ~~u~~Unit.

5.10.2. Multi-Family Dwelling Units.

Multi-~~f~~Family (3 or more) ~~d~~Dwelling ~~u~~Units shall meet all of the following criteria:

5.10.2.1. Lot area and shoreline frontage shall be equal to that required for the equivalent number of ~~s~~Single-~~f~~Family ~~d~~Dwelling ~~u~~Units.

5.10.2.2. The minimum road frontage shall be 400 feet.

5.10.2.3. Lots for ~~m~~Multifamily ~~d~~Dwelling ~~u~~Units shall meet all other dimensional requirements for ~~s~~Single-~~f~~Family ~~d~~Dwellings.

5.10.2.4. No building shall contain more than five (5) ~~d~~Dwelling ~~u~~Units.

5.10.2.5. All ~~m~~Multi-~~f~~Family ~~d~~Dwellings shall be connected to a common water supply and distribution system, either public or private, at no expense to the Municipality.

5.10.2.6. Evidence of compliance with the *Maine Subsurface Wastewater Disposal Rules* shall be submitted. If the multifamily development is a change of use or expansion of use of an existing building, the provisions of the Maine Revised Statutes Annotated shall apply.

5.10.2.7. No parking area shall be located within the required yard areas.

5.10.2.8. Multi-~~f~~Family ~~d~~Dwelling ~~u~~Units shall meet all the requirements for a residential subdivision including Planning Board approval.

5.11.2.4. In no case shall shore frontage be reduced below the minimum shore frontage normally required in the District. No easements for use of shoreline shall be granted except for ~~d~~Dwelling ~~u~~Units contained within the project.

5.11.2.9. All ~~d~~Dwelling ~~u~~Units in a planned unit development or cluster development shall be connected to common water supply and distribution system, either public or private, at no expense to the Municipality.

6.7.3.2.2. For lots created after the effective date of this Section, the maximum number of lots or ~~d~~Dwelling ~~u~~Units permitted shall be determined by dividing the minimum lot area of the zoning District in which the parcel is located into the net lot area of the lot.

6.7.3.1.1.1. The maximum number of lots or ~~d~~Dwelling ~~u~~Units, excepting ADUs, shall be determined by dividing the minimum lot area of the zoning District in which the parcel is located into the net lot area of the parcel to be subdivided. If the parcel to be subdivided is located in more than one zoning District, the net lot area of each portion of the parcel in each District shall be divided by the minimum lot area of the District.

6.7.3.7. Common Areas on the Shorefront for Lots not having Frontage on the Water.

6.7.3.7.1. Any lot with shore frontage which is used to grant access to the water body to other lots (Common Area) shall have the minimum shore frontage required for a lot in that District. For each lot granted use of this ~~e~~Common ~~a~~Area, and for each ~~d~~Dwelling ~~u~~Unit in excess of one on the lot, and for each ADU on the lot granted use of this ~~e~~Common ~~a~~Area, 50 feet additional frontage shall be required.



6.9.12.6. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential ~~d~~Dwelling ~~u~~Units.

## 9.2. Definitions. (~~6.3.236.1.24~~)

In this Ordinance the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed:

**Accessory Dwelling Unit (ADU):** A separate Dwelling Unit added on to or created within a Single-Family Dwelling, or a separate detached structure, both for the purpose of providing living accommodations accessory to the Single Family Dwelling and constructed on a Permanent Foundation (not a frame or wheels, for instance). A deck or similar extension of the Single Family Dwelling or a garage attached to the Single Family Dwelling by a roof, or a common wall is considered part of the Single Family Dwelling.

**Dwelling:** A fixed structure, containing one or more ~~d~~Dwelling ~~u~~Units.

***Dwelling; Multi-Family:*** A single ~~d~~Dwelling, containing three or more ~~d~~Dwelling ~~u~~Units.

***Dwelling; Single-Family (or Single Family Dwelling):*** A single Dwelling containing one Dwelling Unit.

***Dwelling; Two Family (or Two Family Dwelling):*** A single ~~d~~Dwelling, containing two ~~d~~Dwelling ~~u~~Units.

***Dwelling Unit:*** A room or group of rooms designed and equipped exclusively for use as living quarters for only one or two persons or a family, including provisions for living, sleeping, cooking and eating. The term shall include mobile homes but shall not include trailers or recreational vehicles.

***Floor Area, ~~Gross~~ (also Floor Space):*** Excepting within the 100 foot buffer in the Shoreland District (see MDEP Chapter 1000), ~~the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, not including basements, in square feet, of the floor areas of all roofed portions of a building, as measured from the interior faces of the exterior walls,~~ plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

***Permanent Foundation:*** Any structural system capable of transferring loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil.

**Short-Term Rental:** A residential property that is rented for a day, a week, typically less than 30 consecutive days, but not more than an entire summer or winter season. The residential property may include but not limited to a Dwelling Unit, an ADU, mobile unit, tent, cottage or similar residential property in nature. A Short Term Rental is either owner occupied or non-owner occupied. Not included are conventional hotels/ motels or campgrounds.