

**LAND USE PERMIT ORDINANCE  
TOWN OF OAKLAND**

**Section 1. Purpose**

The purpose of the Land Use Permit is to regulate the construction and placement of new dwelling units in the town of Oakland and to establish a minimum lot size for such dwellings to protect the health, safety, and general welfare. This Ordinance is established by and is in conformity with MRSA, Title 30, Section 1917.

**Section 2. Administration**

If a valid Shoreland Zoning Permit has already been obtained for the proposed placement, construction, or location of a dwelling unit(s), including mobile homes, then the applicant need not obtain a Land Use Permit.

No excavation or grading work may begin, nor may any utilities be connected before the applicant has obtained a valid Land Use Permit, reviewed and approved by the appropriate authority at the Town. A copy of the permit must be prominently displayed at the building site so as to be visible from the road.

**Section 3. Fee**

Fees to be based on Residential Fee Ordinance and Commercial and Industrial Fee Ordinance, established and amended by the Oakland Town Council.

**Section 4. Conditions for Approval**

The following requirements must be met before the Code Enforcement Officer can issue a Land Use Permit:

- A. Water/Wastewater: All dwelling units (Accessory Dwelling Units, single family dwelling units, multi-family dwelling units, additional houses on one lot, etc.) shall have proper sewage disposal and access to running, potable water in place before the dwelling unit is occupied, in conformance with the State Plumbing Code. Additionally, any requirements to obtain a permit under the State Plumbing Code shall be met prior to issuance of a Land Use Permit.

- B. The property owner of record must provide written verification that the proposed unit(s) can be connected to adequate water and wastewater services prior to the issuance of a Land Use Permit by the Town of Oakland. Written verification must include the following:
- i. If connected to the Town of Oakland Sewer District, or equivalent centralized system, proof of adequate capacity to accommodate the added wastewater created by an additional unit and proof of payment for the connection to the sewer system;
  - ii. If connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector pursuant to 30-A MRS §4221. Plans for a subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 CMR Ch.241, State of Maine *Subsurface Wastewater Disposal Rules*, as amended;
  - iii. If connected to Maine Water District, or equivalent centralized system, proof of adequate capacity to accommodate the added demand created by an additional unit, and proof of payment for the connection;
- If proposed to be connected to a well, the applicant must include proof that the water supply is potable, acceptable for domestic use, and can accommodate anticipated demand.
- C. Demonstrates proof that the lot conforms to the minimum lot size and frontage requirements specified in the Ordinance, or if the lot is located in a subdivision, demonstrates proof that the municipal reviewing authority has officially approved the subdivision, and
- D. All dwelling units shall have a proper septic system in place before the units is occupied. All dwelling units shall have running water and waste disposal and shall be in conformance with the State Plumbing Code. In addition, any structure which requires a permit under the State Plumbing Code shall obtain such permit prior to application for a Land Use Permit.
- E. Provides written certification that all other applicable State and Local ordinances have been complied with.

### **Section 5. Minimum Lot Standards**

Minimum lot standards shall apply to all residential dwelling units, including mobile, modular homes and multi-family dwellings, except in the Shoreland Zone, located on a single lot. Dwelling units located in a subdivision shall comply with the Subdivision Ordinance. No dwelling unit(s) may be constructed, located, or placed on any lot that does not conform to the following minimum area and dimensional requirements:

- A. For lots to be served by private, on site sewage disposal:
  - 1. Minimum lot size of 30,000 square feet
  - 2. Minimum road frontage of 150 lineal feet
  
- B. For lots to be served by the public sewerage system and public water service:
  - 1. Minimum lot size of 20,000 square feet
  - 2. Minimum road frontage of 100 lineal feet
  
- C. Lots located in the Shoreland Zone shall be developed in accordance with Chapter #29, Oakland Shoreland Zoning Ordinance**
  
- D. For land locked lots that are not part of a subdivision, A and B apply, but the road frontage requirement may be waived by the CEO if one dimension of said lot is at least 150 feet and a private vehicular road with right of way of not less than 24 feet in width is provided.

**Section 6. Permit Requirements for Accessory Dwelling Units**

For the purposes of this Ordinance, Accessory Dwelling Units and Accessory Apartments will be referred to as ADUs. These standards apply to residential Accessory Dwelling Units for which a permit is sought after the adoption date of this Ordinance.

- A. The wastewater and water requirements outlined in **Section 4. Conditions for Approval** apply to all ADUs.
  
- B. Any lot where a single-family dwelling is the principal structure may establish one ADU.
  
- C. The lot owner of record must reside in either the primary dwelling unit or the ADU. The lot owner shall submit a signed written statement stating in which dwelling unit they will reside and submit the statement with the application materials.
  
- D. All ADUs must comply with Shoreland Zoning requirements (for example, in the Shoreland Zone, for a single-family residence to establish an ADU, the lot must have twice the minimum lot area and twice the minimum shore frontage).
  
- E. All ADUs must comply with property line setback requirements set forth in this Ordinance.
  
- F. An ADU is allowed on a non-conforming lot or in a non-conforming structure if the ADU does not further increase the non-conformity, meaning the ADU does not further increase deviation from the dimensional standard(s) creating the non-conformity.
  
- G. ADUs do not count towards the total number of dwellings pursuant to Oakland’s Subdivision Ordinance.

- H. All residential dwelling units, including ADUs, permitted after January 1, 2024, may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.
- I. An ADU may be constructed:
  - i. Within an existing dwelling unit on the lot;
  - ii. Attached to a single-family dwelling unit;
  - iii. As a new structure on the lot for the primary purpose of creating an ADU; or,
  - iv. Within an existing accessory structure if the setback requirements of this Ordinance are met.
- J. The ADU must be at least 190 square feet in size, unless the Technical Building Code and Standards Board, pursuant to 10 M.R.S. § 9722, as may be amended, adopts a different minimum standard; if so, that standard applies.
- K. The ADU may be no greater than 1,000 square feet or exceed 50% of the square footage of the primary dwelling unit, whichever is greater, on the lot on which it is situated. For example, if the primary dwelling is 1,200 square feet in size, the ADU cannot exceed 1,000 square feet, as 50% of the square footage of the primary dwelling is 600 square feet.
- L. Additional parking requirements for an ADU beyond those required for the single-family dwelling are not permitted.
- M. If an Accessory Dwelling Unit is constructed without first obtaining a Land Use Permit, an After-the-Fact Land Use Permit may be issued if the ADU otherwise meets the requirements set forth in this Ordinance, provided proper documentation has been submitted to the CEO. Twice the fee of the Land Use Permit shall be levied as a fine.

## **Section 7. Multiple Dwellings on a Single Lot**

- A. The wastewater and water requirements outlined in **Section 4. Conditions for Approval** apply.
- B. Undeveloped Parcels (no existing dwelling units on property):
  - i. If the parcel is in an area in Oakland served by a public, special district or other centrally managed water system, or if the parcel is in the town's designated growth area, pursuant to the Comprehensive Plan, the lot owner of record is permitted to have up to four (4) dwelling units. The third and fourth units may be located within a structure or multiple structures. If the third and/or fourth units are built within a five (5) year period, this may be subject to the subdivision process. Oakland's Subdivision Ordinance requirements still apply.

- ii. If the parcel is not in an area served by a public, special district or other centrally managed water system, or if the parcel is outside of the designated growth area pursuant to the Comprehensive Plan, the lot owner of record is permitted to have up to two (2) dwelling units per lot. The two dwelling units may be within a single structure or two separate structures. Oakland's Subdivision Ordinance requirements still apply.
- C. Developed Parcels (lots with existing dwelling units on property):
  - i. If the parcel contains one (1) existing dwelling unit, up to two additional dwelling units may be constructed (for a total of three dwelling units). The additional dwelling units may be located within, attached to, or detached from the existing structure. The lot owner may also choose to have one unit detached and one unit attached to the existing structure.
  - ii. If the parcel contains two (2) or more existing dwelling units, no additional units are allowed.
- D. All residential dwelling units must comply with the Shoreland Zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3, and Oakland's Shoreland Zoning Ordinance.
- E. All residential dwelling units permitted after January 1, 2024, may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.
- F. If more than one principal dwelling unit is constructed or established on a single lot, all dimensional requirements for land area shall be met for each additional dwelling unit and/or principal structure. For example, if the minimum lot size is one-acre per dwelling unit, the lot size requirement for a second principal dwelling would be two acres.
- G. No additional road frontage is required for additional principal dwelling units on one lot.
- H. This Section shall not be construed to exempt a property owner from the applicable provisions of the State subdivision statute, 30-A M.R.S. §4401-4408, or (Subdivision Ordinance) relating to division of a tract or parcel of land.
- I. If a dwelling unit is in existence after January 1, 2024, and is torn down after that date, that lot will not be treated as a vacant lot; it will be treated as if the dwelling unit was still standing (see Undeveloped Parcels versus Developed Parcels above).

## **Section 8. Nonconforming Lots of Record**

A single lot of record which existed at the effective date of this Ordinance or after its' adoption and does not meet the area or frontage requirements may be used for a residential dwelling, as defined in Section 5. Minimum Lot Standards, provided that such lot is in separate ownership and that such lot satisfies all other provisions of this Ordinance.

If two (2) or more contiguous lots of which at least one is a nonconforming lot, are in single ownership of record at the time of adoption of this Ordinance or after its' adoption, the lots shall be considered a single parcel for the purposes of this Ordinance. No portion of said parcel shall be built upon or sold which does not meet the area or frontage requirements of this Ordinance.

## **Section 9. Enforcement**

Any building constructed or work performed in violation of the provisions of the Ordinance shall be considered a nuisance and a civil violation pursuant to 30 MRSA, Section 4966. Any person found guilty of violating any provision of this Ordinance shall be subject to a fine of not less than \$100.00 nor more than \$2,500.00 and other penalties provided for pursuant to 30 MRSA, Section 3966, for each offense. Each day in which a violation is proved to exist shall constitute a separate offense under this section.

The Town Council and/or the Code Enforcement Officer (CEO) are authorized and directed to institute any action or proceedings that may be required to enforce the provisions of this Ordinance.

## **Section 10. Validation Period**

Any permit issued under this Ordinance is not transferable and shall expire if the work is not initiated within twelve (12) months of the date of issuance. Failure to initiate construction prior to the twelve (12) month expiration shall require reapplication. No fee for reapplication shall be required.

## **Section 11. Amendments**

This Ordinance may be amended by a majority vote of the Town Council. Amendments may be initiated by the Town Council, a majority vote of the Planning Board, or written petition by a number of voters equal to at least 10% of the number of votes cast in the municipality in the last gubernatorial election.

## **Section 12. Validity and Severability**

Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this ordinance. The effective date of this Ordinance is March 12, 1986. The revised date of this ordinance is September 13, 1995.

## **Section 13. Appeals**

- A. An appeal may be made to the Board of Appeals within fifteen (15) days from the date of decision. The appeals shall be limited to issues of ordinance interpretation, except in the case of a request of variance. An appeal may be made within thirty (30) days by an aggrieved party, including the Code Enforcement Officer, to Superior Court in accordance with the Maine Rules of Civil Procedure.
  
- B. A request for a variance shall be limited to relief from the following requirements:
  - 1. Minimum Lot Standards

## Section 14. Definitions

**Accessory Dwelling Unit (ADU):** A self-contained dwelling unit located within, attached to, or detached from a single-family dwelling unit located on the same parcel of land. An Accessory Dwelling Unit shall be subordinate to the principal dwelling unit on the lot. An accessory dwelling unit must be a minimum of 190 square feet unless the Technical Building Code and Standards Board, pursuant to 10 M.R.S. § 9722, as may be amended, adopts a different minimum standard; if so, that standard applies. An accessory dwelling unit can be no greater than 1,000 square feet or exceed square footage of the primary dwelling unit on the lot on which it is situated.

**Attached:** Connected by a shared wall to the principal structure or having physically connected finished spaces.

**Centrally Managed Water System:** A water system that provides water for human consumption through pipes or other constructed conveyances to at least 15 service connections or serves an average of at least 25 people for at least 60 days a year as regulated by 10-144 C.M.R. Ch. 231, Rules Relating to Drinking Water. This water system may be privately owned.

**Comparable Sewer System:** Any subsurface wastewater disposal system that discharges over 2,000 gallons of wastewater per day as regulated by 10-144 C.M.R. Ch. 241, Subsurface Wastewater Disposal Rules.

**Comprehensive Plan:** A document or interrelated documents consistent with 30-A M.R.S. §4326(1)-(4), including the strategies for an implementation program which are consistent with the goals and guidelines established pursuant to Title 30-A Chapter 187 Subchapter II.

**Designated Growth Area:** An area that is designated in a municipality's or multi-municipal region's comprehensive plan as suitable for orderly residential, commercial, or industrial development, or any combination of those types of development, and into which most development projected over ten (10) years is directed. Designated growth areas may also be referred to as priority development zones or other terms with a similar intent. If a municipality does not have a comprehensive plan, "designated growth area" means an area served by a public sewer system that has the capacity for the growth-related project, an area identified in the latest Federal Decennial Census as a census-designated place or a compact area of an urban compact municipality as defined by 23 M.R.S. §754.

**Dimensional Requirements:** Numerical standards relating to spatial relationships including, but not limited to, setback, lot area, shore frontage, road frontage, lot depth and height.

**Duplex:** A structure containing two (2) dwelling units.

**Dwelling Unit:** Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, time-share units, and apartments.

**Existing Dwelling Unit:** A residential unit in existence on a lot at the time of submission of a permit application to build additional units on that lot. If a municipality does not have a permitting process, the dwelling unit on a lot must be in existence at the time construction begins for additional units on a lot.

**Housing:** Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multi-family housing, condominiums, time-share units, and apartments. For purposes of this Ordinance, this does not include dormitories, boarding houses, or other similar types of housing units. This also does not include transient housing or short-term rentals unless these uses are otherwise allowed in this Ordinance.

**Land Use Ordinance:** An ordinance or regulation of general application adopted by the municipal legislative body which controls, directs, or delineates allowable uses of land and the standards for those uses.

**Lot:** A single parcel of developed or undeveloped land.

**Lot of Record:** A parcel of land, of which the legal description, or the dimensions, are recorded on a document or map on file with the County Registry of Deeds.

**Multifamily Dwelling:** A structure containing three (3) or more dwelling units.

**Municipality:** A city or a town, excluding all unorganized and deorganized townships, plantations, and towns that have delegated administration of land use controls to the Maine Land Use Planning Commission pursuant to 12 M.R.S. § 682(1).

**Potable:** Safe for drinking as defined by the U.S. Environmental Protection Agency's (EPA) 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.

**Principal structure:** Also known as a primary structure. A structure in which the main or primary use of the structure is conducted. For the purposes of this Ordinance, principal structure does not include commercial buildings.

**Quadplex:** A structure containing 4 (four) dwelling units.

**Residential Use:** Buildings, structures, land, or portions thereof, used, designed, or intended for use as a home or residence for one or more individuals. Residential uses may include single-family (principal and ADUs), duplex, triplex, quadplex, and other multifamily housing; condominiums; time-share units; and apartments. For purposes of this Ordinance the following uses are not included under this definition: (1) Dormitories; (2) Congregate living facilities; (3) Campgrounds, campsites, hotels, motels, beds and breakfasts, or other types of lodging accommodations; and (4) Transient housing or short-term rentals, as these are considered commercial uses.

**Restrictive Covenant:** A provision in a deed, or other covenant conveying real property, restricting the use of the land.

**Setback Requirements:** The minimum horizontal distance from a lot line, shoreline, or road to the nearest part of a structure, or other regulated object or area as defined in local ordinance.

**Single-family Dwelling Unit:** A structure containing one (1) dwelling unit.

**Structure:** Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on or in the ground as defined in 38 M.R.S. § 436-A(12). The term includes structures temporarily or permanently located, such as decks, patios, steps, landings, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in 30-A M.R.S. § 4201(5); geothermal heat exchange wells as defined in 32 M.R.S. § 4700-E(3-C); or wells or water wells as defined in 32 M.R.S. § 4700-E(8).

**Triplex:** A structure containing three (3) dwelling units.