

To: Ordinance Review Committee
From: Mark Eyerman
Subject: Tiny Homes
Date: Updated December 10, 2020

At the Committee's October meeting we discussed the possible treatment of "tiny homes". In November we seemed to reach consensus on the following approach as the basis for moving forward with the inclusion of limits on allowing tiny homes to be used as Accessory Dwelling Units (ADUs):

1. Create a definition for "tiny home" that includes units that meet either the MUBEC requirements or the state definition for tiny homes on wheels.
2. Allow tiny homes meeting this definition to be placed on a residential lot in the SL, SLR, R and CPD Districts subject to the dimensional requirements for a single-family home. Since this involves areas subject to shoreland zoning, any changes will need to be approved by DEP
3. Allow a tiny home to be used as an Accessory Dwelling Unit provided that it meets the other standards for ADUs and the lot has a minimum of 20,000 square feet.
4. Establish performance standards for tiny homes addressing foundation requirements for the two types of units, provisions for water supply and sewage disposal and separation distance from the principal and accessory structures when a tiny home is used as an ADU

In my August 14th memo I raised the issue of whether the City wants to have design standards for tiny homes as it does for other manufactured housing (see 10.17.1.7 & 8). The committee has not discuss that concept in any detail so I have not included it in the following sections. If the committee decides it wants to address design issues we can discuss that further.

Here is a draft of the possible ordinance amendments:

December 10, 2020

Proposed Amendments to the Land Use Ordinance
Addressing the Treatment of Tiny Homes

Proposed additions to the ordinance are underlined;
proposed deletions are ~~struck out~~.

1. Amend **Section 17. Definitions** to add a definition of a Tiny Home in proper alphabetical order to read:

Tiny Home: A dwelling unit that either complies with the standards of the Maine Uniform Building and Energy Code for a tiny home or the definition of a tiny home set forth in ~~Section 1. 29-A M.R.S.A. §101(-sub-§80-C).~~

Commented [PJ1]: JAP: Dwelling and dwelling unit are terms defined in the LUO; I read this to modify the remaining part of the definition. For example, 29-A M.R.S. section 80-C uses the term "living space", which is broader. That is perfectly fine, I just wanted to note. It also is consistent with the provisions stated below that focus on having a fixed structure for any tiny home, whether or not on wheels.

2. Amend the Land Use Table in Section 7.6 to add Tiny Homes as a separate category of use in Subsection 7.6.2 Residential Uses and to designate the zoning districts in which Tiny Homes are allowed to read as follows:

7.6.2 Residential Uses

Key to Land Use Table

Y = “Allowed”
 N = Not Allowed P = Permitted with Review
 C = Code Enforcement Officer Review SD = Subdivision Review

Legend

The legend at the top of the columns identifies the various zoning districts as follows:

- RP Resource Protection SLR Shoreland Overlay Limited Residential
- SL Shoreland RG Residential Growth
- R Rural HDR High Density Residential
- PR Professional/Residential TD Traditional Downtown
- PIC Planned Industrial/Commercial PD Planned Development
- CC Cobbossee Corridor ECR Education/Community Recreation
- MUV Mixed Use Village PHD Planned Highway Development
- IT Intown Commercial CPD Cobbossee Planned Development

Residential Uses																
	RP	SLR	SL	R	RG	HDR	PR	TD	PIC	PD	ECR	CC	MUV	PHD	IT	CPD
Accessory Dwelling Unit (ADU)	N	C	C	C	C	C	C	N	N	C	N	C	C	C ³	C	C
Boarding Home	N	N	N	P	P	P	P	P	N	P	N	P	P	N	P	P
Community Living Facility	N	C	C	C	C	C	C	C	N	C	N	C	C	C	C	C
Congregate Care Facility	N	N	P	P	P	P	P	P	N	P	N	P	P	P ²	P	P
Home Child Care	C	C	C	C	C	C	C	C	N	C	N	C	C	C	C	C

	RP	SLR	SL	R	RG	HDR	PR	TD	PIC	PD	ECR	CC	MUV	PHD	IT	CPD
Home Occupation	P	P	P	C	P	P	C	C	N	C	N	C	C	C ⁴	C	P
Home Occupation Minor	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	Y	Y	Y	Y	Y
Modular/Mobile less than 20 feet wide	N	N	C	C	C	N	N	N	N	C	N	N	C ⁵	N	N	C
Modular/Mobile 20 feet wide or more	N	N	C	C	C	C	C	N	N	C	N	C	C	N	N	C
Manufactured Home Park	N	N	N	Sd	Sd	N	N	N	N	Sd	N	N	Sd	N	N	Sd
Multi-Family Dwelling	N	P	P	P	P	P	P	P	N	P	N	P	P	P ²	P	P
Open Space Development	N	Sd	Sd	Sd	Sd	Sd	Sd	N	N	Sd	N	Sd	Sd	N	N	Sd
Senior Housing Development	N	N	N	P	P	P	P	P	N	P	N	P	P	P ²	P	P
Single & Two-Family Dwellings	N	C	C	C	C	C	C	N	N	C	N	C	C	C ³	C	C
Attached Single-Family Dwelling (Townhouse)	N	P	P	P	P	P	P	P	N	P	N	P	P	P ²	P	P
<u>Tiny Home</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>

3. Amend the performance standards for an Accessory Dwelling Unit in Section 10.28 to read:

10.28 Accessory Dwelling Units (ADUs)

An owner-occupied single-family home may include an accessory dwelling unit (ADU) provided that all of the following are met. The ADU shall not count as a dwelling unit for minimum lot size or density requirements.

10.28.1 The ADU shall be incidental and secondary to the use of the dwelling as a single-family residence.

10.28.2 Either the primary dwelling unit or the ADU shall be occupied by the owner of the property. For the purposes of this provision, this condition will be deemed to be satisfied if one unit is occupied by the beneficiary of a trust, life estate, or similar legal arrangement.

10.28.3 The ADU shall be provided with water supply and sewage disposal systems meeting the requirements of City and State ordinances and codes. If sewage disposal will be provided through a subsurface wastewater disposal system, the system shall be appropriately sized to handle the additional flow if any.

10.28.4 The size of the ADU is limited to a maximum floor area of forty percent (40%) of the useable floor area of the principal dwelling unit or one thousand (1000) square feet whichever is greater with not more than one bedroom.

10.28.5 The ADU may be located within the principal building or in an accessory building or structure. A tiny home may be used as an ADU provided that it meets all of the other standards of 10. 28 and is located on a lot that contains a minimum of twenty thousand (20,000) of lot area.

10.28.6 The inclusion of the ADU must maintain the residential character of the single-family home. If the ADU is located in the principal building, the entrance to the unit from the outside must be through an existing exterior door or through a door located on the side or rear of the building.

10.28.7 If the ADU is located in a new or expanded accessory building, the exterior appearance of that structure shall be compatible with appearance of the principal building.

10.28.8 One (1) off-street parking space shall be provided to serve the ADU. This space shall be in addition to the parking provided for the single-family home. If the home has less than the required off-street parking, only the one (1) additional space must be provided. If the single-family home has three or more existing parking spaces, no additional parking shall be required.

10.28.9 The parking for the ADU shall not be located in the area between the front wall of the building and the front property line except on a driveway.

4. Amend **Section 10 SPECIAL ACTIVITY PERFORMANCE STANDARDS** -by creating a new Section 10.29 Standards for Tiny Home to read as follows:

10.29 Standards for Tiny Homes

Commented [PJ2]: JAP: For clarification, in reference to the Schedule of Uses above, are tiny homes allowed as ADUs in any district that allows ADUs, or only those where tiny homes are allowed?

The reason I ask is the Schedule of Uses is different when comparing tiny homes as a use vs. ADUs.

If tiny homes as ADUs are only allowed in those districts that allow tiny homes, then the phrase "only in those districts that allow tiny homes" could be added.

Conversely, if it is intended to allow tiny homes as an ADU pegged to the districts that allow ADUs in the Schedule of Uses, then the phrase "in any district that allows an ADU" would be helpful to clarify.

Either way, I think the intent could be clarified with addition of either phrase above.

A tiny home may be used as a dwelling unit provided that all of the following are met.

10.29.1 The lot on which the tiny home is located is in a zoning district in which tiny homes are allowed as shown on the Land Use Table in 7.6.

10.29.2 The tiny home is located on a lot that conforms to the minimum lot area, minimum road frontage and minimum shore frontage requirements for the zoning district in which it is located as shown in the table of Dimensional Requirements in 7.7.

10.29.3 The tiny home is located on the lot so that it conforms to all setback requirements for the zoning district in which it is located as shown in the table of Dimensional Requirements in 7.7.

10.29.4 The tiny home shall be served by a sewage disposal system meeting the requirements of the Maine State Plumbing Code and the Subsurface Wastewater Disposal Rules if applicable.

10.29.5 The tiny home shall be served by a potable water system capable of providing a supply of at least sixty (60) gallons per day.

10.29.6 If the tiny home is constructed in accordance with the standards for tiny homes of the Maine Uniform Building and Energy Code (MUBEC), the home shall be located on a permanent foundation meeting the requirements of MUBEC.

10.29.7 If the tiny home is constructed in-meets the definition of “tiny home” as set forth in 29-A M.R.S. § 101(80-C), as amended, then such ~~accordance with the standards set forth in Section 1. 29-A M.R.S.A. §101, sub §80-C, the tiny home shall be installed on the lot in accordance with the provisions of the following subchapters of 02-385 C.F.R. Ch. 890, as amended: Subchapters B – Pre-Installation Considerations, Subchapter C – Site Preparation, Subchapter D – Foundations, and Subchapter E – Anchorage Against Wind of the “Manufactured Home Installation Standard” developed by the State of Maine Manufactured Housing Board (collectively, the “Installation Standards”). These standards shall apply to tiny homes as defined under 29-A M.R.S. § 101(80-C) as though they are manufactured homes as that term is used in the Installation Standards, and the Installation Standards are hereby incorporated by reference in this manner. The Code Enforcement Officer is authorized to grant a waiver or partial waiver of these provisions to reflect potential differences in the design and size between manufactured housing and a tiny home, so long as such waiver or partial waiver is not inconsistent with the purpose and intent of the Installation Standards. shall apply the provisions of the Installation Standard to reflect the differences in the design and size between manufactured housing and a tiny home.~~

Commented [PJ3]: JAP: Suggested language edits here to include specific citation to regulations, to make clear they apply notwithstanding the regulations are for manufactured housing, and to give the CEO authority to grant a waiver or partial waiver so long as it meets the purpose and intent.

Regarding the last item, if the CEO is going to have the authority to waive or partially waive standards, it would be prudent to either (i) codify this provision so it is clear it is not a zoning ordinance; or (ii) have a companion ordinance amendment with this language, with cross-references between the LUO and the other ordinance code where the language would reside. The reason for this is to make clear any waiver or partial waiver is not a “variance”, as only the Board of Appeals has that authority. This may be questioned if the language solely resides in the LUO, which contains a mixture of ordinance provisions that are “zoning” and “land use, but not zoning”. Variances are a concern with zoning ordinances. So, for example, the Gardiner Code of Ordinances under Title 3 “Buildings” could be amended to include provisions on tiny homes. That would also help clarify whether building permits or c/o are needed for their placement.

First Policy/LUO Clarification comment: Under the draft LUO amendment, I understand that tiny homes on wheels that meet the definition of Title 29-A would need to be installed, regardless of whether they are temporarily or permanently placed in Gardiner. If this is the intent, it may be helpful to make this clear by adding the phrase “whether temporarily or permanently placed” in Gardiner in terms of the installation requirements.

If, however, there is some intent to allow tiny homes on wheels as defined in 29-A to be placed in Gardiner on a temporary basis without having to be installed (e.g., less than 30 days), then that could be made clear as well. It may be the case that temporary placement would simply not be a “tiny home” as defined, since that definition uses the term dwelling unit, but I still think clarifying language may be helpful to signal either way.

Second Policy/LUO Clarification comment: Related to some degree to the first comment, the LUO currently allows “campgrounds” in specific zoning districts. A “campground” is defined as “Any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to, tents, recreational vehicles or shelters.

The definition of campgrounds is broad enough to, at least potentially, include a tiny home on wheels that may not fall within the State definition in Title 29-A, and maybe within (depending on how the terms temporary and permanent are used in the LUO and state law). If the intent is to exclude tiny homes on wheels from campgrounds, then the definition of campground could be modified accordingly. If the intent is to allow tiny homes on wheels, or certain types of tiny homes on wheels, then that could be clarified as well. I do recognize that use of the term dwelling unit in the above definition may make this a separate issue, but I wanted to flag.

Related to this is whether a tiny home on wheels, or certain types of tiny homes on wheels, would be allowed on Individual Private Campsites, which are also defined in the LUO and listed in the Schedule of Uses. This could be clarified as well in the definitions.

