



## City of Auburn, Maine

Office of Planning & Permitting

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Is To: Auburn Planning Board

From: John Blais, Deputy Director

Re: Public Hearing on minimum dwelling size pursuant to Chapter 60, Article XVII, Division 2-Sec.60-2 Definitions

Date: October 10, 2023

- I. **PROPOSAL:** Currently, the existing ordinance definition requires a minimum of 700 SF of net floor space for single-family attached and detached dwelling. State Law (Chapter 219, Sec 1. 30-A MRSA §4363), provides provisions for tiny homes with no minimum size of up to 400 square feet. However, this leaves a gap in the allowable size of new dwelling units, where units ranging from 401 to 699 SF are in what is considered a “void in allowance” and is currently not allowed. Planning Board at the August 10, 2023, meeting requested additional clarifying information to include the following:

**A. Tiny Home Statute and Guidance from the State Fire Marshall**

**B. Density; Remains the same, but could see increase as LD 2003/1706/Chapter 5**

**C. Lending Specialist (Value vs. Square Footage)**

**D. Adopted Language by Department of Economic and Community Development LD 2003/1706/Chapter 5**

On the September 12, 2023, workshop, planning board asked to identify both accessory dwelling size and dwelling size to provide guidance for revised minimum standards that meet requirements under the tiny home provision and banking standards.

- A. A tiny house has two potential types of tiny homes; constructed on a trailer that may be mobile and potentially moved from where it was constructed to a site for use as a “dwelling unit for human occupancy” or constructed on a site in a more traditional stick-built manner but meeting certain size standards established in the laws and codes adopted. Maximum size is 400 SF. Construction is regulated under two standards; If the tiny home is constructed on a frame or chassis, it is considered within the motor vehicle regulations and will require a title similar to an RV intended for use in public ways. This unit construction type is regulated by ANSI A119.5 or NFPA 1192.  
The second type of tiny home would be a structure constructed under the same codes standards as a larger, more traditional dwelling on a foundation, but still meeting size requirements of less than 400 SF. This unit construction is identified in the Maine Uniform Building and Energy Code (MUBEC) rules under the International Residential Code (IRC), Chapter 5.
- B. Density is dependent upon the underlying zone, but LD 2003 and 1706 suggest the following language under the Department of Economic and Community Development guidelines under chapter 5. Dwelling Unit Allowance

If a lot does not contain an existing dwelling unit, municipalities must allow up to four (4) dwelling units per lot if the lot is located in an area in which housing is allowed, meets the requirements in 12 M.R.S. Ch. 423-A, and is:

- i. Located within a designated growth area consistent with 30-A M.R.S. §4349 A(1)(A)-(B); or
- ii. Served by both a public, special district or other centrally managed water system and a public, special district or other comparable sewer system in a municipality without a comprehensive plan.

C. Lending Rules and Value per Assessing/Appraiser: As a rule, lenders **will not mortgage** the typical dwelling that has a foundation and is stick built between 190 livable square feet (SF) and 500 SF as per the general lending rules followed by the banks underwriting team. They currently are not financing any home smaller than 500 SF. For lower income home buyers who utilize Maine State Housing Agency, (MSHA) won't finance smaller than 500 sq ft and most banks follow their policy since they do quite a few MSHA loans. In addition, for any purchase where the buyer can't put 20% down the loan will need Private Mortgage Insurance (PMI) and the insurers have a minimum home size of 500 sq ft. The typical RV intended tiny home that can be towed over the road will never be considered as separate mortgage, some tiny homes are being financed through home equity lending practices.

The appraisal does consider value in the finished basement but does not consider it actual SF therefore the value is diminished some. The lending institutions, as a rule would write a mortgage for a 500 SF home regardless of if part of the finished space is below grade if the home meets all the ordinance, building code and utility requirements.

D. D. REF: Chapter 5, An accessory dwelling unit must be at least 190 square feet in size, unless the Technical Building Code and Standards Board, pursuant to 10 M.R.S. §9722, adopts a different minimum standard; if so, that standard applies. To note: LD 2003/1706/Chapter 5 is silent on where the 190 SF is derived from the basement or above grade. The municipality has discretion to determine whether to consider finished basements as part of that 190 SF.

**As this smaller home movement gets momentum and policies at state and insurer level are updated, staff is guessing banks will make changes too, therefore is suggesting 190 SF above grade for minimum Square Feet.**

II. **PLANNING BOARD ACTION/STAFF SUGGESTIONS:** Staff suggest a planning board discuss the proposals and hold a public hearing. Staff then recommends that the Board forward a positive recommendation to the Council supporting the proposed changes to amend the 700 SF requirement for single family home minimum dwelling size to include the **dwelling unit** must be at least 400 square feet, above grade in size, unless the Technical Building Code and Standards Board, pursuant to 10 M.R.S. §9722, adopts a different minimum standard; if so, that standard applies for an **accessory dwelling unit** of 190 square feet, above grade in size, unless the Technical Building Code and Standards Board, pursuant to 10 M.R.S. §9722, adopts a different minimum standard; if so, that standard applies for an accessory dwelling.