



City of Auburn, Maine

Office of Planning & Permitting

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Auburn Planning Board

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Subject: Staff Report on L.D. 2003 Priorities

I. **Proposal: Workshop on L.D. 2003 Ordinance Updates Priorities:**

Discuss priority amendments to Chapter 60 of the zoning ordinance to become compliant with L.D. 2003.

- II. **Background:** L.D. 2003 has been effective as of the first of January, 2024 pursuant to state law, but Chapter 60 of Auburn's Code of Ordinances still requires additional amendment to fully comply. In what follows, the staff has set forth sections of the Code of Ordinances that are inconsistent with L.D. 2003 or need clarification. To address these inconsistencies, the Planning Board or the City Council will need to initiate zoning text amendments to become compliant with L.D. 2003.

Summary of L.D. 2003: L.D. 2003, An Act to Implement the Recommendations of the Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions, Sponsored by Speaker Ryan Fecteau, was signed into law by Governor Mills on April 27th, 2022. The law, in summary, requires that: 1.) Towns and cities with a comprehensive plan allow at least four units on a vacant lot in the designated growth area, and towns and villages without a comprehensive plan allow at least 4 units on vacant lots in areas served by sewer and water; 2.) Lots with an existing dwelling unit may have two additional dwelling units either one attached dwelling, one detached dwelling, or one of each; and 3.) "Affordable" housing developments must be allowed to be built at 2.5 times the density of market-rate units if they meet the conditions listed above (availability of sewer and water or within a designated growth area).

Summary of L.D. 1473: L.D. 1473 An Act to Protect Certain Unfiltered Drinking Water Sources, approved as public law on June 22, 2023, amends 30-A MRSA §4364, sub-§9, 30-A MRSA §4364-A, sub-§1-A, and 30-A MRSA §4364-B, sub-§1-A to exempt parts of Auburn which are in the Lake Auburn Watershed from the requirements of L.D. 2003 to protect the lake as an unfiltered drinking water source.

Summary of L.D. 1706: L.D. 1706, An Act to Clarify Laws Regarding Affordable Housing and Accessory Dwelling Units, approved as public law on June 16th, 2023, among other accomplishments, adds that the implementation date for L.D. 2003 must be January 1, 2024, for municipalities with ordinances, and July 1, 2024, for all other municipalities.

What does L.D. 2003 NOT address or NOT apply to?

- **Four units not permitted outside the growth zone:** Four units per vacant lot is not mandated outside of the City's growth zone or where housing is otherwise not permitted. This means that four units will not be permitted in the AGRP zone, the Industrial Zone, or anywhere else not within the boundaries of the City's growth zone.
- **No additional units in Lake Auburn Watershed, etc.:** L.D. 2003 requires that vacant lots not in the growth zone must allow at least two units and up to three on lots that already have a dwelling unit in areas *where housing is allowed*. L.D. 1473 allows for an exemption from the requirements of L.D. 2003 in the Lake Auburn Watershed and is already referenced to apply the exemption in the Lake Auburn Overlay Ordinance. Therefore, additional housing may be prohibited in the Lake Auburn Watershed in Auburn, the Industrial zone, and perhaps only conditionally in the AGRP zone (see issues & questions guiding zoning text amendments).
- **Not much change with Accessory Dwelling Units:** The City of Auburn already allows an additional dwelling unit in areas that allow two-family dwellings, and a single-family dwelling already exists. All of Auburn's residential zones allow two-family dwellings.

What does it mean to apply a “density bonus” to affordable housing developments?

- **Definitions:** “Affordable housing development” means two things: 1.) for rental housing, a development in which a household whose income does not exceed 80% of the median income for the area can afford most of the units that the developer designates as affordable without spending more than 30% of the household's monthly income; and 2.) For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area can afford most of the units that the developer designates as affordable without spending more than 30% of the household's monthly income. At least 51% of the units in any given development must meet the above definitions for the development to be considered affordable.
- **Where the density bonus applies:** For housing developments that meet the above definition (including long-term affordability by recording these conditions in the registry of deeds), municipalities must allow for increased unit density of 2.5 times what is allowed in the underlying zone in growth areas where multifamily housing is allowed. In these areas, the municipality may not require more than two on-site parking spots per three units. The developer must ensure that public water and sewer services are available where affordable units are developed under this definition.

- **Where does the density bonus NOT apply?** The density bonus multiplies the maximum density in the underlying zone by 2.5 times if it is an affordable housing development. For example, in the Suburban Residence District, the density maximum is currently not more than two dwelling units per half acre. Multiplying this density by 2.5 times would yield not more than 5 units per half acre. This would not apply to any part of the city outside the growth area including the AGRP zone, the Lake Auburn Watershed or the Industrial zone because these areas do not allow housing, allow housing only conditionally, and/or are outside of the City's growth zone. The density bonus also would not apply to any of the Form-Based Code zoning districts because they do not have maximum density established. One cannot multiply a maximum density by 2.5 if a maximum density does not exist.

III. **Issues & Questions Guiding Zoning Text Amendments:** The following questions about the interaction between Auburn's Zoning Ordinance and L.D. 2003 will need to be addressed. Representatives from the Planning Board will serve on an ad-hoc committee to answer these questions **in bold**.

- The City of Auburn must allow four units on vacant lots in the growth zone where housing is allowed. The Low-Density Country Residence Zone, the Rural Residence Zone, the Suburban Residence Zone, and the Urban Residence Zone all only allow single-family and two-family dwellings units. **How can Auburn's Code of Ordinances be amended to allow four units at least in each of these zones?**
- The City of Auburn must allow at least two dwelling units in a vacant lot in areas that are not in the growth zone (four are to be allowed in the growth zone). The City of Auburn also must allow for an ADU to be added to a lot which already has single-family dwelling in areas where housing is permitted. Housing is conditionally permitted in the AGRP zone. **Therefore, should a second and/or third unit be permitted also conditionally in the AGRP zone where the first dwelling unit already exists pursuant to L.D. 2003?**
- L.D. 2003 has given some guidance on whether municipalities may require additional road frontage and lot area to develop more housing. The law specifies that a municipality may not require that additional units must have more land area than the first unit. **The question remains whether the City of Auburn would like to require the same density for each subsequent unit (one unit requires 10,000 square feet, two units require 20,000 square feet, etc.), or if Auburn instead wants to require the same land area for the first and all subsequent units (one unit requires 10,000 square feet, two units also require 10,000 square feet, etc.)**
- L.D. 2003 requires a municipality to allow a density bonus in the growth zone for affordable housing development. **Especially in the case of Multifamily Suburban and General Business zoning, how should the city address possible restrictions due to lot size (considering required setbacks) and height restrictions?**

- Related to the previous consideration, **what guidance should the City of Auburn give related to road frontage required for the first and subsequent dwelling units?**
- L.D. 2003 required a municipality to allow different unit number permissions based on the existing development or undeveloped status of a parcel. **Do we want to craft regulations that allow 4 units on vacant land but restrict an existing home site to one or two additional units? Or be more permissive and treat each lot in the growth area equally (up to 4 units)? And each lot outside the growth area equally (up to 3)?**
- **Does the Board want review oversight on 3-4 unit buildings? Should those be allowed with a staff review inside the growth area? There is an L.D. pending that would exempt certain multifamily dwellings from subdivision review and allow a staff level site plan review if it passes.**

Appendix A: Model L.D. 2003 Text Amendments:

The staff has laid out example ordinance text language in red, underlined text. Issues and questions to be addressed:

- Add **Sec. 60- XX** to allow for an automatic density bonus of 2.5 times the number of dwelling units permitted in the underlying zone for certain affordable housing developments as defined under 30-A MRSA §4364 (L.D. 2003 Public Law).

- **Sec. 60-34-Bulidings per lot.**

No more than one principal building shall be erected on any lot in residential zoning districts except for:

- 1) Multifamily buildings and/or developments approved under division 9 of article IV of this chapter.
- 2) An additional one-family detached dwelling in a zoning district where two-families are permitted, and a single-family dwelling currently exists on the lot.
- 3) Four dwellings may be constructed on a vacant lot in the growth area as defined under 30-A MRSA §4364 (L.D. 2003 Public Law).
- 4) A lot in the growth area with an existing dwelling may add one attached dwelling unit, one detached dwelling unit, or one of each for a total of three dwelling units.

- **Sec. 60-35 – Conversion of one-family dwellings.**

In all residential, general business and form-based code districts, one-family dwellings erected prior to January 1, 1958, may be converted to two-family dwellings provided that:

- 1) Any floor space created by additions to the existing structure after January 1, 1958, shall not be converted to a second dwelling.
- 2) There will not be less than one accessible off-street parking place of 200 square feet in area, exclusive of driveways, per dwelling unit resulting from such conversion.

- 3) Stairways leading to any floor above the first floor will be enclosed within the exterior walls of the dwelling and any fire escapes required will be on the rear or one side of the dwelling and not on any wall facing a street.
- 4) After such conversion, the building converted will retain substantially the appearance and character of a one-family dwelling.
- 5) If any of provision 1 through 4 are not met, one family dwellings may be converted into two family dwellings inf located within the growth zone and pursuant to 30-A MRSA §4364 (L.D. 20023 Public Law).

- **Sec. 60-201. Use regulations.**

Add Multifamily dwellings up to 4 units if in the growth area pursuant to Sec. 60-1336 (Special Exception and Subdivision Conditions) to Division 3- Low Density Country Residential District

- **Sec. 60-229. Use regulations.**

Add Multifamily dwellings up to 4 units if in the growth area pursuant to Sec. 60-1336 (Special Exception and Subdivision Conditions) to Division 4.- Low Density Rural Residence District.

- **Sec. 60-255. Use regulations.**

Add Multifamily dwellings up to 4 units if in the growth area pursuant to Sec. 60-1336 (Special Exception and Subdivision Conditions) to Division 5- Suburban Residence District

- **Sec. 60-277. Use regulations.**

Add Multifamily dwellings up to 4 units if in the growth area pursuant to Sec. 60-1336 (Special Exception and Subdivision Conditions) to Division 6- Urban Residence District

- **Sec. 60-608. Parking requirements.**

A minimum number of off-street parking spaces shall be provided with each residential use permitted, erected, altered or changed, in accordance with the following standards:

Off-street land use	Minimum number of parking spaces
Residential	
Single-family; farm	1 dwelling per unit
Multifamily; two-family	1 dwelling per unit
Elderly**	One-half per dwelling unit
<u>Affordable housing development pursuant to 30-A MRSA §4364 (L.D. 2003 Public Law)</u>	<u>Off-street parking requirements may not exceed two spaces for every three units. This also applies to affordable housing developments in the form-based code zoning districts.</u>
**Applies to elderly housing as constructed under special local, state or federal guidelines restricting occupancy to elderly persons.	

