



**A New Source for Housing
Inventory:
Navigating Opportunities
Enabled by LD 2003**

MAINE REAL ESTATE COMMISSION

This program has been approved by the Director of the Real Estate Commission for **3 clock hours** toward fulfillment of the educational requirements for activation or renewal of a real estate license. The Commission is interested in the quality and delivery of educational programs which are offered to licensees and, therefore, welcomes and encourages comments regarding program subject matter and quality of delivery of the program

Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions



Commission Recommendations

Recommendation 1

Allow ADUs by right in all zoning districts currently zoned for single-family homes.

Recommendation 4

Provide technical + financial assistance for communities making zoning changes to increase affordable housing.

Recommendation 7

Create a system of priority development areas, where multifamily housing is permitted with limited regulatory barriers.

Recommendation 2

Eliminate single-family zoning restrictions in all residential zones across the State.

Recommendation 5

Create density bonuses in all residential zones throughout the State.

Recommendation 8

Strengthen Maine's Fair Housing Act by eliminating the terms "character," "overcrowding of land," and "undue concentration of population" as legal bases for zoning regulations.

Recommendation 3

Prohibit municipal growth caps on the production of new housing.

Recommendation 6

Create a three-year statewide incentive program for municipalities.

Recommendation 9

Create a state-level housing appeals board to review denials of affordable housing projects made at the local level.

Compromise Reached

Recommendation 1

Allow ADUs by right in all zoning districts currently zoned for single-family homes. **Edited with Municipal Feedback.**

Recommendation 4

Provide technical + financial assistance for communities making zoning changes to increase affordable housing.

Recommendation 7

Create a system of priority development areas, where multifamily housing is permitted with limited regulatory barriers.

Recommendation 2

Eliminate single-family zoning restrictions in all residential zones across the State. **Edited with Planner Feedback.**

Recommendation 5

Create density bonuses in **some** zones. **Edited with Municipal Feedback.**

Recommendation 8

Strengthen Maine's Fair Housing Act by eliminating the terms "character" and "overcrowding of land," and "undue concentration of population" as legal bases for zoning regulations.

Recommendation 3

Prohibit municipal growth caps on the production of new housing **only for ADUs.**

Recommendation 6

Create a three-year statewide incentive program for municipalities.

Recommendation 9

Create a **state** level housing appeals board to review denials of affordable housing projects made at the local level.

LD 2003 – Zoning & Land Use Reform

ACCESSORY DWELLING UNITS

Allow ADUs in all zoning districts currently zoned for single-family homes and exempts them from any growth caps.

TECHNICAL SUPPORT

Provide technical + financial assistance for communities making zoning changes to increase affordable housing through the Department of Economic and Community Development.

MORE ATTAINABLE UNITS

In residential zones without existing structures, allow up to 4 units per lot, subject to conditions to ensure adequate utilities and sprawl reduction. In residential zones with existing structures, allow up to 2 additional units on a lot.

PROMOTING DENSITY

Create density bonuses to incentivize more affordable housing development and ensure long-term affordability. Often the biggest factor in a project not moving forward or not leading to affordable units is density.

EQUITY

Recommendation 8 was reimagined to align Maine zoning ordinances with the federal Fair Housing Act and the Maine Human Rights Act, specifically provisions related to housing. Connecticut has adopted a similar law.

HOUSING PRODUCTION GOALS

The Department of Economic and Community Development is tasked with creating regional housing production goals to ensure there is measurable housing production in regions throughout the state.



GOVERNOR'S OFFICE OF
Policy Innovation
and the Future



PL 2021, ch. 672 (LD
2003)

Housing Opportunity Program



Affordable Housing Density Bonus

30-A M.R.S.
§ 4364

Housing Opportunity
Program

- Creates an automatic density bonus for certain “affordable housing developments.”
- To qualify for bonus, development must
 - ✓ Be approved on or after a municipality's implementation date;
 - ✓ Designate more than 51% of the units in the development as affordable;
 - ✓ Be in a designated growth area as defined by Maine law or served by public water and sewer or a comparable system;
 - ✓ Be in an area in which multifamily dwellings are allowed;
 - ✓ Meet shoreland zoning requirements, meet minimum lots sizes if using subsurface waste disposal, and prove that water and sewer capacity is adequate for the development.

2023

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Affordable Housing Density Bonus

30-A M.R.S.
§ 4364

Housing Opportunity
Program

- What is a designated growth area?
 - An area designated in a municipality's comprehensive plan that is suitable for development, especially over the next 10 years.
- If eligibility requirements are met, the affordable housing development qualifies for the following exceptions to zoning requirements:
 - The number of units allowed will be 2.5 times greater than the number allowed for a development not designated as affordable (**base density**).
 - The off-street parking requirements may not exceed 2 spaces for every 3 units.

2023

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30-A M.R.S. § 4364-A- Residential Areas; Up to 4 Dwelling Units

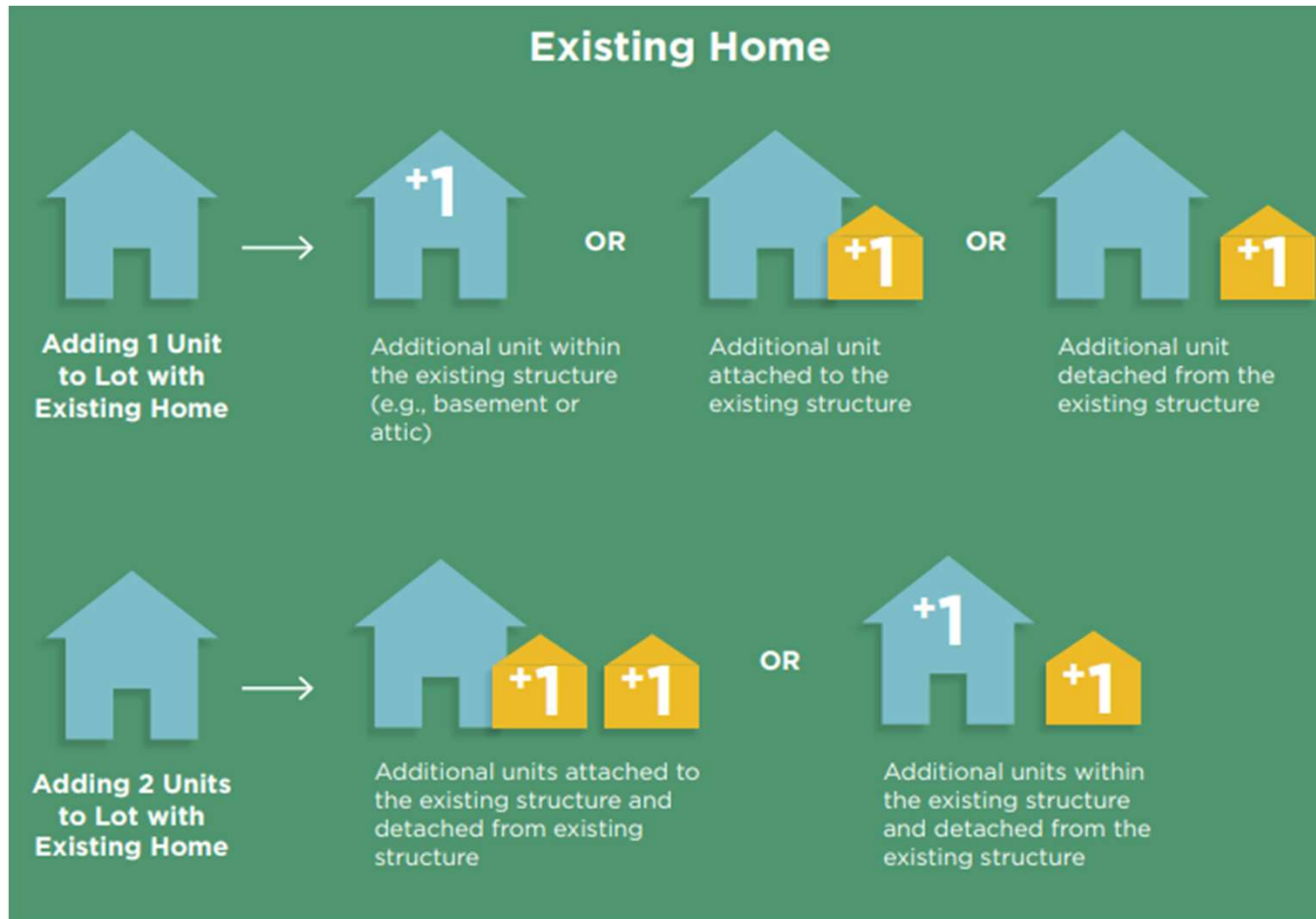
- Requires municipalities to allow between 2-4 dwelling units on lots where residential uses are allowed, with evidence of sufficient water and wastewater capacity.
- Municipalities may not apply different dimensional requirements to lots with more than one housing unit on them than they would to a lot with one housing unit.
- Exception: Minimum lot area per dwelling unit can be required, as long as the lot area required is not less for the first unit than for subsequent units.



Example 1: Empty Lot*



Example 2: Existing Home



Note: Orange units in diagram are intended to be dwelling units, not accessory dwelling units. 30-A M.R.S. 4364-A **ONLY** governs dwelling units, not accessory dwelling units.

Municipalities can define dwelling unit and accessory dwelling unit in local ordinance to differentiate between the two structures.

- Multiple single-family dwelling units
- Duplex: Structure with 2 units
- Multi-family: Structure with 3 or more units
 - Triplex
 - Quadplex



ADUs

30-A M.R.S. § 4364-B

- This section allows a lot with a single-family dwelling in an area where residential uses are allowed, including as a conditional use, to have one accessory dwelling unit.
- The ADU can be:
 - Within the existing home;
 - Attached to it; or
 - A new structure.
- An ADU is exempt from zoning density requirements but the dimensional requirements, including setback requirements, for a single-family home continue to apply unless the municipality makes them more permissive.

ADUs

30-A M.R.S. § 4364-B

- A municipality cannot require additional parking for the addition of an ADU (except those allowed for the single-family unit).
- ADUs must be at least 190 square feet in size. Municipalities can set a maximum size.
- Municipalities may establish an application and permitting process for ADUs that does not require planning board approval.
- An ADU is permitted on a lot that does not conform to the municipal zoning ordinance if the accessory structure does not further increase the nonconformity
- Municipalities may regulate short term rentals in local ordinance.

Other land use standards to consider

- Valid and enforceable easements, covenants, deed restrictions and other agreements or instructions between private parties still apply, as long as the agreement does not restrict constitutional rights.
- Subdivision law may still apply to lots .
- Shoreland zoning still applies to lots located within the shoreland zone.
 - Municipalities cannot categorically prohibit ADUs in the shoreland zone but municipal shoreland zoning ordinances *may* restrict the addition of an ADU.
- Developments must comply with minimum lot size requirements in accordance with Title 12, chapter 423-A, as applicable.
- All units must be connected to adequate water and wastewater services before the municipality may certify the development for occupancy.



Housing Opportunity Program

P.L. 2023, ch. 192 (LD 1706) An Act to Clarify Statewide Laws Regarding Affordable Housing and Accessory Dwelling Units

- This legislation changes the implementation date for municipal compliance to the following:
 - January 1, 2024, for municipalities for which ordinances may be enacted by the municipal officers without further action or approval by the voters of the municipality; and
 - July 1, 2024, for all other municipalities

2023



A detached accessory dwelling unit on lot with an existing single-family home for a parent or adult child.



A duplex on a lot with an existing single-family home for fair market rental income.



A quadplex on an empty lot located in a town's village center, which has been designated as a growth area.

Questions?

Hilary Gove and Benjamin Averill
Housing Opportunity Program
Coordinators

housing.decd@maine.gov

<https://www.maine.gov/decd/housingopportunityprogram>

- 5 MINUTE BREAK



PANEL DISCUSSION:

- **Milan Nevajda**, Planning Director, City of South Portland
- **Erin Zwirko**, Director of Planning & Development, Town of Yarmouth
- **Matt Panfil**, Planning Director, Greater Portland Council of Governments
- **Lee Jay Feldman**, Director of Land Use & Planning, Southern Maine Planning & Development Commission

Yarmouth Decisions & Implementation

- ADUs
 - Existing regulations allow detached and attached ADUs with SFH
 - Needed to update to be compliant; opportunity to clean up regulations
 - Town Council will also be voting on owner occupancy requirements
 - Have not pursued STR regulations to date
- Affordable Housing Developments
 - Multifamily is allowed in most of Town, even beyond growth area
 - Allowed as a specific use and created performance standards
 - Expanded on incentives outlined in the law
 - Have not pursued specific monitoring requirements

Yarmouth Decisions & Implementation

- Dwelling Unit Allowances:
 - Fundamental decision was made to not change underlying zoning and had to understand relationship with our Form Based Code
 - Created new section in Zoning Ordinance that outlines allowances
 - Utilized municipal discretion:
 - Went beyond minimum requirements in Growth Area but held back outside Growth Area
 - Did not allow “double dipping” with ADU provisions
 - Although may also trigger Subdivision, also required administrative site plan review

Advice on how to learn more

- What is the municipality's approach?
 - What are the goals?
 - Are there other planning processes underway to inform the approach?
 - What is the basic zoning framework?
 - Meeting minimum standards or going beyond?
- Other local requirements?
 - Local ordinances such as a sprinkler ordinance, private road standards
 - Local permitting requirements beyond Subdivision and Shoreland
 - Relationship with building codes
- Who should you be talking with?
 - Planners and CEOs
 - Depending on the answer to above, maybe engineers, designers, and attorneys

South Portland Implementation

- **ADUs**

- Exceeded LD2003
- Allowed on SFRs, Duplexes, and Triplexes
- Owner occupancy required
- STVR restricted
- Up to 1,200 sq. ft. but typically max is 800 sq. ft.
- Site requirements related to mechanical, noise, building spacing for fire separation, & ensuring “accessory” design
- Code Office review only (no public hearings)

South Portland Implementation

- **Density Bonus**

- Allowed phasing
- Allowed floating units to meet affordability %
- Allowed no bonus with parking benefit
- Clarified expenses that are controlled to income

- **Dwelling Allowances**

- Allowed density to rule the day
- No limit on units (exceeds LD2003) if density supports it
- Mapped opportunity sites



- Up to 2 Units Possible
- Up to 4 Units Possible
- Up to 3 Units Possible
- Council Districts

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South Portland Implementation

- **Housing Production Goals: 2030**

- 50 units of **Owner** Households for <60% of AMI
- 100 units of **Owner** Households for 61%-120% of AMI
- 400 units of **Renter** Households for <60% of AMI
- 760 units of **Renter** Households for 61%-120% of AMI

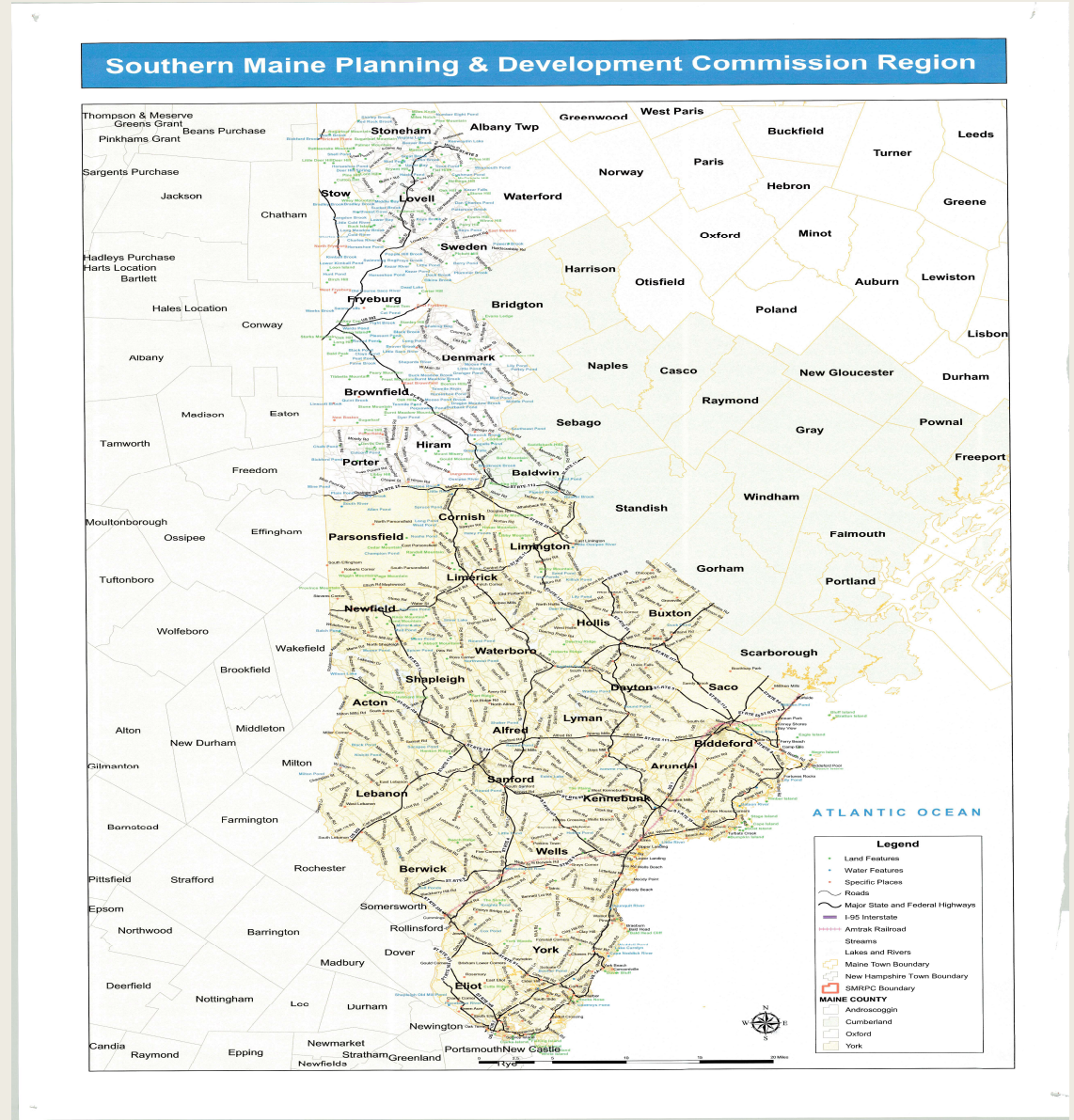
- **Next:**

- More efficient cluster housing
- Expanded density bonus
- By-right 4-plexes with no public hearings

Southern Maine Planning and Development Commission Planning Area



SMPDC
SOUTHERN MAINE PLANNING & DEVELOPMENT COMMISSION





Takeaways from LD 2003

- Most every community already had some form of an ADU allowance.
- Now every community will have an ADU allowance BUT standards may be different from town to town be sure to check with the Code Officer in the community to verify those standards
- Every community will allow at least 2 primary homes on a parcel that can meet the lot density standards
- Look to the larger communities with capacity (city planning staff) if you are seeking to do an Affordable Housing Development
- Do not assume that every zone in the community will allow an Affordable Housing Development
- Not every Community has capacity! Check with the community you are working in! Those with capacity will be able to serve you better than other communities
- **DO your research DONOT Assume the community has developed the requisite requirements**

5 MINUTE BREAK



PANEL DISCUSSION:

- **Erin Cooperrider,**
NewHeight Group
- **Sam Lebel,** Acorn
Engineering, Inc.
- **Parlin Meyer,**
BrightBuilt Home