

# Housing Opportunity Program and LD 2003



# LD 2003 Overview



- Signed by Gov. Mills in April 2022 to increase housing opportunities in Maine by requiring municipalities to amend or create new zoning ordinances.
- Designed to remove unnecessary regulatory barriers to housing production, while preserving local ability to create land use plans.
- Broadly, LD 2003 allows:
  - For additional density for affordable housing developments;
  - the addition of between 2 and 4 dwelling units per lot where housing is permitted;
  - Accessory dwelling units on the same lot as a single-family home.
- Includes requirements that the
  - State establish housing production goals; and
  - Municipalities align ordinances with the federal Fair Housing Act and Maine Human Rights Act.
- Established the Housing Opportunity Program in DECD.

# Affordable Housing Density Bonus

30-A  
M.R.S. § 4364

- Creates an automatic density bonus for certain “affordable housing developments.”
- To qualify for bonus, development must
  - ✓ Be approved on or after July 1, 2023;
  - ✓ Designate more than half of the units in the development as affordable;
  - ✓ Be in a 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.
- 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.

# What does “affordable” mean?

- For rentals: a household with an income at no more than 80% of the area median income for the community, as defined by HUD, must be able to afford more than half of the units in the development.
- For homeowners: a household with an income at more than 120% of the area median income for the community, as defined by HUD, must be able to afford more than of the units in the development.
- Affordable units must be restricted through a restrictive covenant for at least 30 years.

Area Median Income:

- updated annually by HUD
- AMI data available on [MaineHousing's website](#)

# 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 housing is 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, with the exception that 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.



# Number of Units

## General Rule: Up to 2 Units

- Generally, a municipality must allow up to 2 dwelling units per lot if that lot does not contain an existing dwelling unit.
- A lot with an existing dwelling unit may have up to two additional dwelling units either attached, detached, or one of each.

## Exception: Up to 4 Units

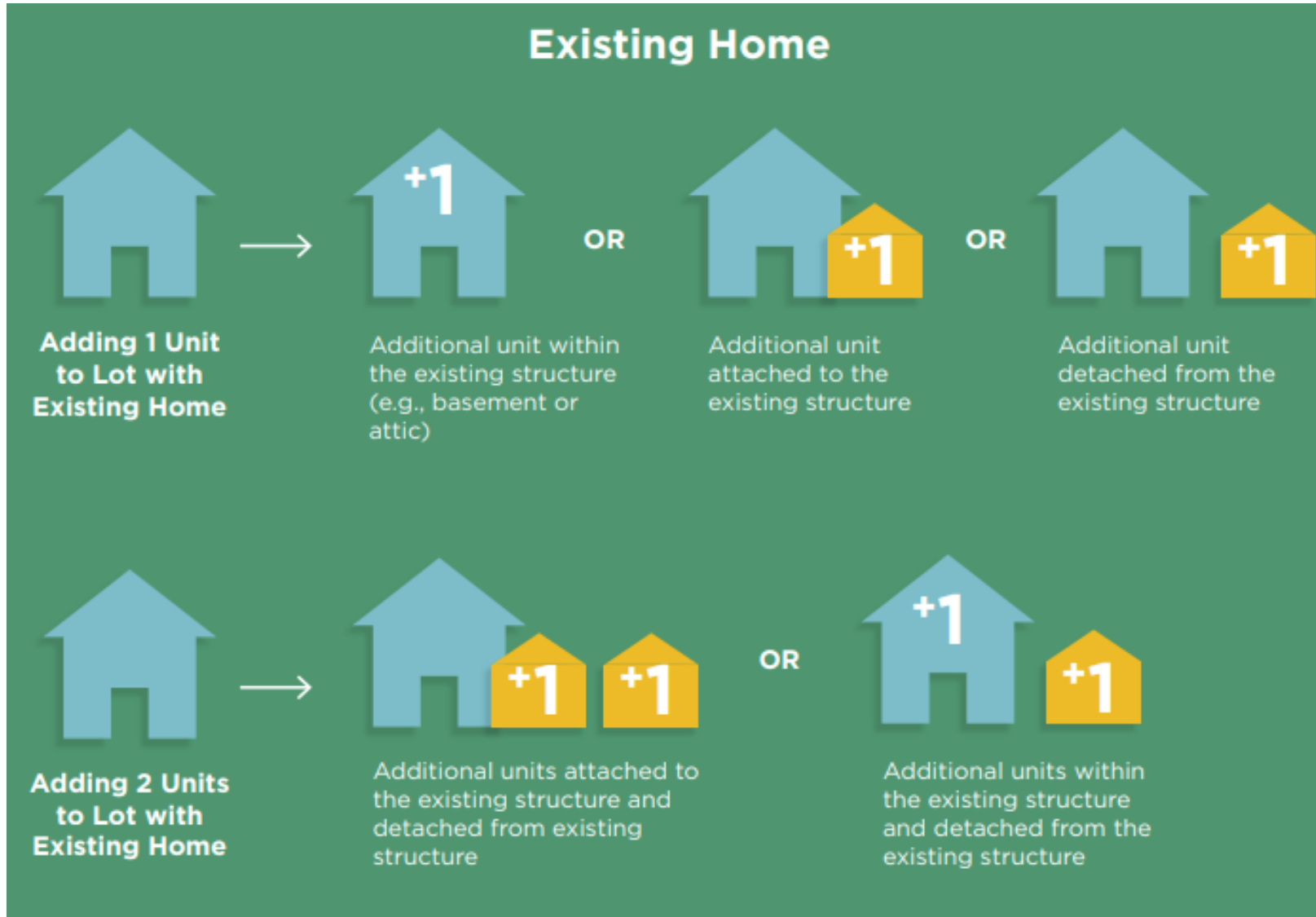
- A municipality must allow up to 4 units on a lot that allows housing if the lot does not contain an existing unit and:
  - Is located within a designated growth area; or
  - Is served by public water and sewer (or a comparable designation) in a municipality without a comprehensive plan.

Municipalities may allow more than the minimum number of units described above.

# Example 1: Empty Lot\*



# Example 2: Existing Home





# ADUs

## 30-A

## M.R.S.

## § 4364-B

- This section allows a lot with a single-family dwelling in an area where housing is permitted to have one ADU.
- 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 setback and other dimensional requirements for a single-family home continue to apply unless the municipality makes them more permissive.
- A municipality cannot require additional parking requirements for the 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.

# Other land use standards to consider

- Valid and enforceable easements, covenants, deed restrictions or other agreements from private parties that impose greater restrictions than the legislation are still valid, as long as the agreement does not restrict constitutional rights.
- Maine subdivision law still applies
- Maine shoreland zoning law or municipal shoreland zoning ordinances still apply.
- Minimum lot size requirements under Title 12, Chapter 423-A still apply.

# Does LD 2003 apply to my municipality?

## Affordable Housing Density Bonus

30-A M.R.S. 4364

Applies to municipalities with:

- (1) Adopted density requirements and
- (2) Designated growth areas OR public water/sewer

## Up to Four Dwelling Units

30-A M.R.S. 4364-A

Applies to all municipalities.

Number of allowed units on a lot will depend on whether:

- (1) a lot is within a designated growth area OR
- (2) a lot has public water/sewer in a municipality without a comprehensive plan

## ADU

30-A M.R.S. 4364-B

Applies to all municipalities

# Action Steps

- 1) Review LD 2003 guidance document
- 2) Review DECD's LD 2003 Rule
- 3) Connect with local resources:
  - MCOG or LCRPC
  - Legal counsel
- 4) Update or create ordinances and town permits, as needed
  - Municipalities with zoning must update or create zoning ordinances to comply with LD 2003. A municipality with zoning is encouraged to review any applicable land use regulations and/or permitting procedures. In order to comply with L.D. 2003 updates to the zoning code may need to be made on both a zoning district and parcel basis.
  - Municipalities without zoning are not required to establish zoning districts to comply with LD 2003. However, LD 2003 does still apply to municipalities without zoning. A municipality without zoning is encouraged to review any applicable land use regulations and/or permitting procedures. Updates or trainings may be required to ensure compliance with LD 2003.

# Rulemaking

The Department adopted two rules to implement LD 2003 and the Housing Opportunity Program Grants: 19-100 CMR Chapters 4 and 5.

Public Comment	Summary of Comments	Adoption
February 8-March 13	End of March/Early April Includes OAG Final Review	April 18, 2023

# Housing Opportunity Program Grants

## Service Provider Grants & Municipal Grants

- Municipal ordinance development;
- Technical assistance to encourage public participation and community engagement in the process of increasing housing;
- Technical assistance in support of the creation of municipal housing development plans, including ordinances, and policy amendments to support those plans; and
- Community housing implementation service grants

DECD submitted service provider grant application to Division of Procurement Services for its review.

The Legislature also appropriated funding to DECD to give to municipalities for the costs of LD 2003 compliance. More information will be available later this month.

# Legislative Updates

LD #	Summary	HOU Committee Vote
1706	-Amends deadline provisions -Revisions for clarity	<i>Majority:</i> OTP-A (July 1, 2024, for town meeting towns; Jan. 1, 2024, for municipalities without town meetings) <i>Minority A:</i> OTP-A (July 1, 2024, for town meeting towns; July 1, 2023, for municipalities without town meetings) <i>Minority B:</i> OTP-A (July 1, 2025, for all municipalities)
214	- Excludes towns with populations ≤10K	<i>Majority:</i> ONTP <i>Minority:</i> OTP-A
1154	- Removes mandate that towns must allow ADUs	ONTP
1358	-Removes following phrase from definition of AHD: “developer designates as affordable”	ONTP (LD 1706 amendments also remove this language)
665	- Extends deadline to July 1, 2025	ONTP (minority report for 1706 has this language)
1593	-Removes minimum lot size requirements for multiple units -Removes minimum size requirements for ADUs -Municipalities can't prohibit residential housing in any zoning district	<i>Majority:</i> ONTP <i>Minority:</i> OTP-A
1265	-Concept draft	ONTP

# Questions?

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