

MEMORANDUM

TO: Kate Matthews, Code Enforcement Officer

CC: Kathy Eddy, Assistant to Code Enforcement & Planning  
Bill Giroux, Town Manager

From: Jamel Torres, Senior Planner, North Star Planning

RE: Ordinance review relative to LD 2003 requirements – Accessory Dwelling Units

Date: September 12, 2023

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You have requested a review of the current Naples Land Use Ordinance relative to the requirements of legislation from 2022 commonly referred to as LD 2003. Officially this legislation is called “An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions.” Ultimately there are three sections of this legislation that are relevant to the Town of Naples Land Use Ordinance –

- Affordable Housing Density Bonus ([30-A MRSA §4364](#))
- Multiple Dwelling Units on any property where housing is allowed ([30-A MSRA §4364-A](#))
- Accessory Dwelling Units ([30-A MSRA §4364-B](#))

North Star Planning (NSP) has provided notes and recommendations for the provisions related to multiple dwelling units on any property where housing is allowed at this time. We have already provided notes and recommendations related to the affordable housing density bonus and multiple dwelling units on any property where housing is allowed to the town.

Note that the requirements below are still subject to shoreland zoning restrictions, the verification of adequate water and wastewater capacity, and any private restrictions (like easements, covenants, or deeds) that would limit the number of dwelling units.

### Overview of LD 2003 Sections

#### **Affordable Housing Density Bonus ([30-A MRSA §4364](#))**

This section establishes an automatic density bonus of 2.5 times the base zoning for affordable housing developments that --

- Meet the definitions of affordable housing for rental or owner-occupied housing.
  - The majority of units have to be affordable to households whose income does not exceed 80% of median income for rentals or 120% of median income for owned housing.
- Are in a designated Growth Area in a state consistent Comprehensive Plan or are served by “public, special district or other comparable” sewer or water system.
  - Privately owned and operated engineered wastewater treatment and disposal systems serving a project may likely meet these definitions, as will private wells that meet the DEP requirements for Public Water Systems. Please see attached rules including markups of changes being considered by the Department of Economic and Community Development’s Housing Opportunity Program.
- Are located in an area where multifamily is allowed in town.
- See pages 5-7 on the attached “LD 2003 Guidance” document from the Maine Department of Economic and Community Development for additional information related to this portion of the legislation.

#### **Multiple Dwelling Units on any property where housing is allowed ([30-A MSRA §4364-A](#))**

This section requires towns to allow multiple dwelling units on a property where housing is allowed --

- Towns may not apply different dimensional standards to lots with more than one housing unit.

- The exception is that there may be differential net residential density requirements, but not more restrictive than those that were in place in August 2022. For example, if an existing ordinance stated one unit per 2 acres, a town could require a property to be up to 4 acres to locate a 2<sup>nd</sup> unit, but not more than that.
- The total number of dwelling units allowed on any given lot depends on if it is within a growth area and if there is a dwelling unit on the lot already.
- See pages 8-12 on the attached “LD 2003 Guidance” document from the Maine Department of Economic and Community Development for additional information related to this portion of the legislation.

**Accessory Dwelling Units ([30-A MSRA §4364-B](#))**

This section allows any lot with a single-family dwelling have an accessory dwelling unit (ADU). ADUs can be within a home, attached to a home, or in a new structure. ADUs are exempt from net residential density requirements.

- Towns may have less restrictive requirements, like allowing more than 1 ADU per property, or allowing duplex or multifamily units to also have ADUs.
- Towns may not have definitions or standards that are stricter than state requirements.
- See pages 13-15 on the attached “LD 2003 Guidance” document from the Maine Department of Economic and Community Development for additional information related to this portion of the legislation.

**Recommendations for Naples Ordinance – Accessory Dwelling Units**

NSP staff has reviewed the state statute (Title [30-A MSRA §4364-B](#)) and Section 507 of the Town of Naples Land Use Ordinance and offers the following required modifications and recommended modifications for the Town’s consideration --

- Required Modifications
  - Change the name of the section title to, “507 Accessory Dwelling Units” to be consistent with state standards.
  - Change “accessory apartment” to “accessory dwelling unit” throughout the ordinance language to be consistent with state standards.
  - Specify that such units are also allowed to be in a free-standing structure, separate from the principal dwelling, in addition to interior or attached to the principal dwelling structure.
  - Remove parking requirements.

- Add language requiring specifying that such units shall be at least 190 square feet in size.
- Remove the language noting that an accessory dwelling unit shall not be considered a dwelling unit and replace with a note that they shall not be counted towards net residential density.
- Remove the minimum lot size requirements.
- Recommended Modifications
  - Remove the occupancy requirements.
  - Remove the maximum number of bedrooms requirement.
  - Remove the standard related where the entrance to an accessory dwelling unit (i.e., foyer requirement) can be located.
  - Remove the requirement for accessory dwelling units to only be allowed on conforming lots, so long as the construction of a new accessory dwelling unit meets the standards set forth in Section 302 – Nonconforming Structures in the Land Use Ordinance.
  - Consider removal of annual permitting. The purpose of such permitting is eliminated with the removal of enforcement of any residency requirements and maintenance of binding agreements.