

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 – Affordable Housing
Density Bonus

Date: September 12, 2023

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 multiple dwelling units on any property where housing is allowed and accessory dwelling units 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 2nd unit, but not more than that.

- The total number of dwelling units allowed on any given lot depends on if 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 – Affordable Housing Density Bonus

NSP staff has reviewed the state statute (Title [30-A MSRA §4364](#)), Section 504 – Zoning Districts and Section 611 – Multi-Family Dwelling in the Land Use Ordinance and offers the following modifications for the Town’s consideration --

- Section 504 – Zoning Districts
 - Section 504.3. – Commercial Area
 - Add the following language in Section 504.3.c.2.b. that states, “In addition to the requirements and regulations set forth in this ordinance, the provisions set forth in Title 30-A MSRA §4364, also apply to affordable housing developments.” Multi-Family Dwelling developments designated as affordable housing and intended to meet the requirements of Title 30-A MSRA §4364 are eligible for a density bonus. Refer to Section 611 Multi-Family Dwelling for this required density bonus. “

- Section 504.4. – Residential Growth Area
 - Add language in Section 504.4.c.2.b. that states, “In addition to the requirements and regulations within the ordinance, the provisions set forth in Title 30-A MSRA §4364, also apply to affordable housing developments. Multi-Family Dwelling developments designated as affordable housing and intended to meet the requirements of Title 30-A MSRA §4364 are eligible for a density bonus. Refer to Section 611 Multi-Family Dwelling for this required density bonus.
- Section 504.5. – Village District Area
 - In an effort to be consistent with the other zoning districts in Town, a new subsection, Section 504.5.d.2. – Net Residential Density, should be added that includes the following subsections –
 - Section 504.5.d.2.a. – Duplex Dwelling: 30,000 sq. ft. per dwelling unit.
 - Subsection 504.5.d.2.b. – Multi-Family Dwelling: 20,000 sq. ft. per unit, plus 10,000 sq. ft. per unit for common space (including roads).
 - Add language in the new Section 504.5.d.2.b. that states, “In addition to the requirements and regulations within the ordinance, the provisions set forth in Title 30-A MSRA §4364, also apply to affordable housing developments. Multi-Family Dwelling developments designated as affordable housing and intended to meet the requirements of Title 30-A MSRA §4364 are eligible for a density bonus. Refer to Section 611 Multi-Family Dwelling for this required density bonus.”
- Section 611 – Multi-Family Dwelling
 - Add a new subsection (Section 611.11) with the following language –
 - Section 611.11. – For Multi-Family Dwelling developments designated as affordable housing, intended to meet the requirements of Title 30-A MSRA §4364 and located within the Commercial Area, Residential Growth Area and Village District Area Zoning Districts, are eligible for the following net residential density bonus:

- Section 611.11.a. – Up to 5,000 sq. ft. per unit, plus 10,000 sq. ft. per unit for common space (including roads).
- Section 611.11.b. – Two off-street parking spaces for every three units are required.