



Planning & Code Enforcement

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PLANNING & CODE ENFORCEMENT

DATE: March 15, 2022

Senator Matthea Daughtry
Representative Mike Sylvester
Members of the Joint Standing Committee on Labor and Housing
Room 202 CB

RE: LD 2003 - An Act to Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions – **Speaker Fecteau REVISION 03.14.22**

Senator Daughtry, Representative Sylvester and Members of the Joint Standing Committee on Labor and Housing:

My name is Jennie Poulin Franceschi. I am the Director of Planning and Code Enforcement for the City of Westbrook, and I would like to provide testimony regarding the recently revised proposed LD 2003 with the recommendation of OUGHT NOT TO PASS. Though, we agree with those components that have been stricken in the amendment from the original document, the adjustments made have implications to the local level that are problematic.

In general, there are significant concerns at the local level with the current wording of the legislation and in some cases the amendment provides further confusion and potential conflict with the very intent of the legislation. I would reiterate our previous position that a draft should be provided to municipalities to review, in advance of any recommendation of the committee, to provide the committee the best possible information to make decisions by. It is very likely that most municipalities are unaware of this language and its potential impact at the local level.

Another broader comment before getting into specific concerns of the language is a question of why funds are being directed to the Department of Economic and Development instead of the Department that has Planning underneath it. This legislation is in the realm of the Planners to implement through ordinances vs Economic Development Directors. We would strongly recommend any additional resources be directed to the State Planning Office to work on ways to improve affordable housing.

Insertion of Section 1.5 MRSA Section 13056 Sub-Section 7

7. Contract for Services – Is this statement necessary to include if its not regulatory?

Sec 4. 5 MRSA Section 13056-J

This whole section is completely new and should be afforded time for review.

Section 9. 30-A MRSA Section 4364-B Affordable Housing Density

1. *The language as placed in the State Legislation has no tie to a specific area in a community where growth should be targeted. This is not responsible growth to allow for the density bonus to now occur in ANY zoning district in a community.*
 - We should be placing denser development where the community can provide those resources needed to support affordable housing. (public services, transit, neighborhood resources, etc.)
 - We should be placing denser development where public sewer and water could be available to allow for the density bonus to truly provide the density incentive that developers need to make projects feasible & affordable.
 - We should be avoiding Environmentally Sensitive areas of a community where development should be reduced as dense development could negatively impact these areas.

Growth/Rural areas are already differentiated in a community to determine where the community wishes to grow. This language supersedes those parameters for communities to make those wholistic determinations. The 2 ½ times the density and the parking requirement only make sense where services and transit are available. In more rural areas where transit options are not available, the parking standard would not be advisable as these residents would be car dependent.

There also needs to be a caveat for communities that already are providing density incentives in our growth areas to recognize those efforts were accomplished prior to the date of any adopted legislation.

2. The oversight of the 30-year criteria for affordable housing projects appears to fall to the municipality, yet a way to track these requirements or the repercussions to a municipality that does not know a project financing changed to eliminate the affordable rents is not defined. Who is held accountable? There does not seem like there is sufficient resources to track such items. The rules to administer this program should be known before this rulemaking goes into effect.

Section 10. 30-A MRSA Section 4364-C Residential Zones, generally; up to 4 dwelling units permitted

Creating mandates at the State level on land use details such as how many units can be on a parcel is too broad a rule to place on all communities. There are so many factors to be considered in determining allowable units on a parcel that creation of a state rule on this will only provide confusion and conflict. **The language now amended, could actually PREVENT a parcel from being developed in the manner that is permissible at the local level, as the statement below would prevent condominium projects of more than 4 dwelling units on newly subdivided parcels.** *“Prohibition on subdivision. A lot in any zone for which housing is permitted that is subdivided in accordance with section 4403 may not have up to 4 dwelling units per each plot arising from that subdivision.”*

This is an example of how legislating local land use from the State level can cause unintended consequences.

Additionally, the initial paragraph for this section where new language was added explaining how a lot “qualifies” for this state exemption is very confusing and open to many interpretations that will only bring about legal challenges to Municipalities in the future.

Section 11. 30-A MRSA Section 4364-D Accessory Dwelling Units

Under section 3.E of this document, the proposed language eliminates parking requirements for an additional dwelling unit. This use can occur in any of our residential districts, where transit or other forms of transportation are not necessarily available. As such, to never require an accessory dwelling unit to have their own off-street parking will create a problem for the municipality where cars could be forced to park in the streets and cause access issues or issues during snow bans where cars have nowhere to be parked. Trying to reduce parking requirements is a step municipalities should be working on, but it is also good practice to ensure adequate parking for uses depending on location. To outright eliminate the parking requirement though, we see as a problem for municipalities and ask the committee’s reconsideration of this item as the problem will fall back on municipalities.

Due to the speed at which this legislation has been provided, municipalities have not had a real opportunity to review the impacts to their communities and also to be able to provide meaningful feedback on the language. I would suggest the item be sent to municipal planners with a drop-dead date to provide comments back to this committee on as there are unintended consequences to the municipalities of Maine that will occur from the language as provided.

We thank you for your time and consideration of our comments.

Respectfully Submitted,

Jennie Poulin. Franceschi, P.E.
Director of Planning and Code Enforcement

Rebecca Spitella
Associate Planner

Jennie Franceschi
City of Westbrook
LD 2003

To the Honorable Senator Daughtry & Representative Sylvester,

Westbrook has been on the forefront of ordinance amendments to target growth in our downtown areas and the results are that it is working with our density bonuses.

These development projects have included affordable housing and market rate which provides the mix that the region needs.

We appreciate the work that the working committee has done, however we are concerned with State level Legislation on local land use processes and procedures and the unintended consequences of those well-meaning actions. Please find attached our response to the amendment proposed on 03.14.22.

If you have any questions, please let me know. If you wish to ask questions during the work session, we will be available to you.

Thank you for your time,

Jennie P. Franceschi, P.E.
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