



Town of Orono

**Testimony of the Town of Orono offered by Sophia L. Wilson, Orono Town Manager
In Opposition to LD 2003, An Act To Implement the Recommendations of the Commission To Increase
Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions**

March 7, 2022

Testimony Summary: The Town of Orono strongly supports the concept of increasing affordable housing opportunities; however, as presented, LD 2003 offers a one-size fits all approach that would have serious negative impacts in our community. It attacks the concept of community character which defines our state and undermines the Town Council's authority to address the unique issues of our community. While exclusionary zoning practices should absolutely be identified and removed, that process must continue to balance property rights and public benefits in a manner that supports planned, sustainable growth and efficient municipal service delivery. *(Pages 1-2 provides information about Orono and the rationale for Orono's position; pages 3-4 provide specific elements of the bill the Town opposes; and pages 4-5 provide general concepts of the bill that the Town would support.)*

Senator Daughtry, Representative Sylvester, and distinguished members of the Joint Standing Committee on Labor and Housing, in general, the proposed legislation is likely well intended; however, the Town questions the fast track this bill is on and strongly objects to the lack of transparency and single minded approach that cannot work equitably for all communities. It is also disheartened at the narrative being pushed by members of the legislature that this bill is necessary because cities and towns won't do anything to increase housing opportunities – simply because that isn't true.

The Town of Orono has been working on this issue for a long time – reducing minimum lot sizes, creating incentives for higher residential density in areas and ways that work for our community, and implementing accessory dwelling units. Land use regulations are, by their very nature, methodical as they attempt to balance individual property rights and the public interest. Also, unlike other types of regulation, if you move too fast and implement land use standards that don't work or have unintended negative impacts, correcting those standards takes a significant amount of time as property owner grandfathering rights exempt the property from meeting new standards until the property changes use. Understanding these high stakes, the Orono Town Council has been working methodically to ensure that it identifies and addresses unintended consequences of its proposed action and enacting land use ordinance changes incrementally to mitigate the long-term consequences if the approach negatively impacts the community.

This bill represents a dramatic departure from decades of municipal training and state expectations as outlined in the Growth Act. With density and development allowed everywhere, the State would be rolling back the priorities for efficient service delivery, increasing the cost borne by local taxpayers for public infrastructure and

services, and disrupting planned growth that supports public transit and walkability. As presented, this bill encourages sprawl and does not allow communities to support sustainable growth. With a “one size fits all”, “every parcel is equal” mindset, the community’s character and growth will be at the whim of market forces.

In Orono, student housing is, by far, our largest industry and we have seen that new rental units are taken by students (who usually qualify as low income adults) which poses all sorts of issues that are unique to Orono. We’ve added more dwelling units, per capita, than most Maine communities and have seen our 18-24 age demographic soar and a hollowing out of the 35-55 age group which is needed to support a functioning, well rounded and stable community. In Orono, experience tells us that the private sector sees the highest, best, and most profitable use of residential development being that which supports student housing. Orono added more than 700 dwelling units (many of which accommodate 3-5 bedrooms each) between 2010-2020. While we’ve welcomed a few new homes, the bulk of these additions were in larger scale residential complexes marketed and priced for college students. Orono leads Penobscot County in population growth and is often among the top growth communities for the state. Almost all of this growth has been to accommodate the growth in undergraduate student population at the University of Maine and the reduction in the availability of on-campus housing. Experience also shows us that mixing multi-unit (3-4 unit) non owner occupied student housing in neighborhoods with one and two unit owner occupied, family, and workforce housing creates conflicts in use. The Town is attempting to assuage complaints of an unlivable and unsafe environment in just this type of mixed residential use neighborhood.

Due to the rapid influx of very high density student housing, a whole host of challenges in terms of traffic movement, sanitary sewer capacity, and service demands (particularly in police, EMS, and code enforcement) arose. These challenges led the Town to decrease the allowable density within the C-2 (smaller scale commercial) zoning district that abuts the University of Maine in an effort to reduce the scale of residential housing complexes and additional impacts on Town infrastructure and services. If density caps are removed, the available area for residential development along Park Street in Orono will be developed as high density residential housing for college students. The challenges that we have identified and invested considerable time and money to address will be exacerbated to a level that will negatively impact travel along Rt 2 (a primary regional and campus commuter route), necessitate extremely large investments in sanitary sewer infrastructure, and will, once again, create considerable conflicting residential use with other adjacent (non-student) housing.

The Town of Orono has long been known for its ability to blend a significant student population and still maintain a community “feel”. As proposed, this legislation threatens all of the Town Council’s considerable effort to encourage infill development and welcome more families to Town while maintaining a very sensitive balance with the longer term, but still transient student housing market. Those who drafted this bill appear to believe that all residential uses are the same, except for short term rentals; however, in Orono, our experience tells us that student housing is a very different type of residential use. For the last several decades, the Town Council has been working to address the host of unique challenges and conflicts that stem from blending off-campus student housing, which is transient by nature, with more permanent housing types. Beyond the recommendations of our previous Comp Plan that have been implemented, the Town is already considering and looking into the feasibility of multiple other possible approaches/changes to parking minimums, dimensional requirements for lots, and allowing small-scale multifamily in certain areas as a means to address these issues with the expectation that much of the focus of the upcoming Comp Plan would be centered around these issues.

Elements of LD 2003I that the Town of Orono opposes:

- **Prohibition of the term “character”.** Although the term “character” may be twisted and used in an elitist or entitled way to promote exclusionary development practices, the character of a community is what makes us meaningfully unique and allows elected municipal officers the ability to promote vibrancy and address problems that are unique to their community. Simply put, it is the qualities of character that differentiate communities just as they differentiate neighborhoods. The Orono Town Council devotes a great deal of time and effort addressing very real concerns of longer-term residents living in areas historically characterized as one and two unit owner-occupied dwellings that are now reaching a tipping point as rental properties, primarily for individuals between the ages of 18-25 who are generally unrelated. This shifting of neighborhood character has created a great deal of conflict that has required significant response from various Town services and driven young families, needed to balance and grow our community and support vibrant and highly valued schools, away from staying in or buying into Orono. Talking with our year-round more permanent residents, the character of neighborhoods is important.
- **Insufficient time for transparent and well thought out rulemaking.** While the Town of Orono applauds the concept of reducing barriers to affordable housing and incentivizing developers to build affordable housing, the proposed legislation makes the changes to affordable housing density allowances and affordability effective in approximately six weeks which is not sufficient time to revise local ordinances or for the Department of Economic and Community Development to reasonably engage stakeholders and the public in transparent rulemaking needed to implement the section.
- **Blanket increased residential density in all zoning districts.** On one hand, the proposed legislation appears to acknowledge the municipal legislative process and begins to develop general goals that communities should meet – evaluate the community; review existing land use ordinances; develop/revise ordinances to eliminate exclusionary zoning practices; identify and appropriately zone areas for higher density, lower cost housing; and incentivize affordable housing development. On the other hand, it seeks to immediately enact a requirement that multi-family, up to 4 units, is allowed in any zone that housing is permitted, and prohibits requirements for setbacks and lot size that are any more restrictive than that of a single family house. In Orono, while housing is allowed in most every zone within the growth area, the medium-density residential zone allows single and two family dwellings and has a number of grandfathered multi-family units. The blanket allowance of up to four units within the current lot requirements could easily lead to lots with 20 college students (5 students each in 4 units) next to single family homes. We don’t have to guess what this means - the Town Council and staff have been working to address the conflict that this type of mixed use (multi-unit and single/two unit structures) has in a neighborhood. Just as all municipalities are not the same, the impact of multi-units is directly related to the type of use. Orono’s proximity to the University of Maine means that most rental units are rented by college students – increasing the density of transient student housing has led to neighborhood conflicts that require intensive police and law enforcement response.

- ***Impact of increased, unplanned residential density growth on critical infrastructure.*** While this bill attempts to address water and wastewater services, albeit in a very convoluted manner, it does not acknowledge or address the fact that the municipality might not have infrastructure to support the increased development or density. It also fails to address stormwater impacts of greater development or lack of appropriate infrastructure, especially in MS4 communities. The current impact and connection fees do not adequately reflect the cost of upsizing or extending water and sewer infrastructure. Increased development usually equates to increased impervious lot coverage which can drastically tax already overtaxed and aging separated storm sewer systems. Along with impact to hard infrastructure, as presented, the allowance of multi-unit housing everywhere also encourages more auto dependency if housing is built further away from services/businesses. This leads to more plowing and road maintenance and is another reason to support planned, specific areas to increase density instead of a blanket approach.
- ***Limiting regulation on accessory dwelling units.*** The Town agrees that accessory dwelling units can be an effective way to increase housing opportunities with existing structures; however, allowing ADUs as a right while stripping authority to establish more restrictive standards would have an extremely negative impact in Orono. Many years ago, the Town Council adopted ordinance language that allows accessory dwelling units (both internal to the primary dwelling and as stand alone structures); however, in keeping with the challenges Orono faces, the Town only allows accessory dwelling units where the primary dwelling is owner occupied. The Town clearly sees a difference in the behavior and compatibility with the neighborhoods when rental properties contain an owner occupied unit. In our community an ADU in a purely rental dwelling creates a duplex and increases density in a fashion that begets poor behavior that significantly impacts the neighbors' peaceful enjoyment of their property.
- ***Creation of the Municipal Housing Development Permit Review Board is simply an overreach of state powers into what has historically been a locally regulated arena.*** Municipalities are currently required to have Zoning Boards of Appeal for this purpose. Additionally, the powers granted to the State in this permit review are inherently partisan and subject to change based on the outcome of State elections, whereas at the local level the process is intentionally nonpartisan.

Concepts in the bill that the Town of Orono supports:

- The **concept of increasing the availability of housing in Maine** is laudable and one that the Town of Orono strongly supports. The Town Council has been working diligently to implement ordinance changes aimed at meeting Comprehensive Plan (2014) goals related to attracting families to Orono - many of which center around increasing housing opportunities that are suitable for young families.
- The Town would support the **designation of a priority development zone**, much like the designated growth, transition, and rural zones required through existing statute/rule. Unlike other elements of this bill, this approach allows municipal legislative bodies to identify an area, likely within its growth area, that could reasonably support higher density, sustainable residential development. While incremental, this approach would be an extension of existing practice and could be monitored by the State through its review of municipal comprehensive plans.

- The **technical assistance offered to municipalities** in this proposed legislation harkens back to the former State Planning Office which offered technical assistance, training, and overarching long-term planning expertise for both state and municipal functions. This type of Office would likely be helpful and could assist municipalities in the longer term with a variety of planning and enforcement related issues.
- In general, the Town would support the concept of a **municipal incentive program** and appreciate what appears to be an understanding that evaluating and revising land use ordinances takes careful consideration and time; however, the proposed legislation provides very little description of how the grant funds would/could be used. For a community like Orono, whose taxpayers currently fund full-time planning expertise, the additional costs associated with reviewing ordinances would be very small and, likely limited to legal review.

The Town of Orono vigorously supports and is currently directing considerable local efforts and resources in efforts to increase opportunities for attainable housing; however, as presented, LD 2003 offers a one-size fits all approach that would have serious negative impacts in our community. Orono's concerns are not a red herring. We've experienced the impact of allowing the market to drive development and, for Orono, it has clearly demonstrated that not all residential uses impact the community in the same manner. On behalf of Orono, I hope that you will consider the implications that this bill would have across the state and defer local decision making to those elected officials who are best poised to understand the needs of their communities. The Town of Orono strongly opposes this bill as presented and urges you to vote ought not to pass.

And, if you are not able to agree with voting ONTP, it would be critical for significant wordsmithing of this legislation to bring greater clarity as to what the bill actually says and how it will be implemented since professionals are reading the same document and arriving at conflicting understandings of what several elements actually mean or require.