

LD 2003

July 26, 2023

As with any new legislation, there is an inevitable amount of confusion around the changes implemented by LD 2003 and the Housing Opportunity Program and the process by which towns can receive funding and assistance. This memo is intended to provide clarity on this process.

Background:

L.D. 2003 is ***An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions***. The bill was passed by the State Legislature and signed by the Governor in April 2022. The law went into effect July 27, 2022; however, many of the bill's requirements were not to take effect until July 1, 2023. This law was designed to remove restrictive regulatory barriers to increase housing opportunities Maine, while preserving local ability to create land use plans and protect sensitive environmental resources.

Among other things, LD 2003 requires municipalities to:

- relax regulatory requirements for accessory dwelling units;
- allow for two-family dwellings in every zoning district where single-family dwellings are allowed;
- allow for there to be multiple dwelling units on residential lots; and
- allow developments that meet certain affordability thresholds to utilize relaxed parking requirements and additional density in certain instances.

The Maine Department of Economic and Community Development (DECD), which was charged with drafting guidance on how the new law should be interpreted and implemented, was delayed in finalizing its rules. They were ultimately finalized in late April. This delay in issuance of the rules left municipalities with little time to analyze and interpret the State's guidance, resulting in limited time to adopt ordinance amendments by the State's July 1, 2023, deadline.

On June 12, 2023, LD 1706 was enacted, which amended, among other things, a drafting error related to affordable housing density bonuses, and would **extend the deadline for municipalities to implement LD 2003 by six months to January 1, 2024**.

Overview:

The list below broadly summarizes the changes brought on by LD 2003:

- Updating and adding new definitions in land use ordinances to reflect definitions in LD 2003.
- Allow accessory dwelling units, by right, in all zoning districts currently zoned for single-family homes.
- Amending ADU-related regulations to adopt a minimum unit size, exempt ADUs from certain ordinance dimensional requirements, and exempt ADUs from annual growth caps.
- Eliminate single-family zoning restrictions in all residential zones across the State by allowing up to four residential units on all lots, in compliance with health and safety requirements such as minimum septic and lot sizes.
- Amending parking requirements for accessory dwelling units (ADUs) and affordable housing developments,
- Prohibit municipal growth caps on the production of new housing units.
- Create a system of priority development areas, where multifamily housing is permitted with limited regulatory barriers.
- Making consistent, in both the zoning district dimensional tables and in the nonconforming ordinance provisions, dimensional requirements for single-family and two-family dwellings.
- Creating a new “lot area per dwelling unit” requirement for two-family dwellings and lots with two single-family dwellings that are essentially twice the minimum lot size as a lot with only one single-family dwelling.
- Provide technical and financial assistance for all communities seeking support in making zoning improvements and in identifying housing opportunities for increasing affordable housing.

It is important to note that this legislation *does not* negate the need for compliance with mandatory Shoreland Zoning and the State’s subdivision requirements.

The Department of Economic and Community Development (DECD) released a Request for Application (RFA) and the Municipal Payment Distribution Schedule for P.L. 2021, ch. 672, in June 2023, detailing the application process for acquiring funding to implement the changes mandated by LD 2003.

The eligibility, application process, and availability of funding are different for Regional Planning Organizations (RPOs), such as KVCOG, and for municipalities.

Those differences are detailed in the table below:

KVCOG	Municipalities
<p>Service Provider: Regional planning organizations (councils of governments, regional planning commissions) and regional economic development organizations as referenced in Title 30-A, Chapter 119, county governments, non-profit organizations, academic institutions and cooperative extension programs, and for-profit enterprises. Municipalities are also eligible to apply as a service provider.</p>	<p>Municipality: A city or a town, excluding all unorganized and deorganized townships, plantations, townships, and towns that have delegated administration of land use controls to the Maine Land Use Planning Commission pursuant to 12 M.R.S. § 682(1)</p>
<p>Can apply for grant funding to assist municipalities that have Shoreland Zoning. <u>Municipalities with townwide zoning, in addition to Shoreland Zoning cannot be included in the Service Provider’s grant application for ordinance amendment/development.</u></p>	<p>If a municipality has townwide zoning beyond Shoreland Zoning, they <u>must</u> fill out an invoice template and email the completed form to housing.decd@maine.gov to receive funding for municipal ordinance development to comply with LD 2003. More information can be found here: www.maine.gov/decd/housingopportunityprogram</p>
<p>A service provider may use grant funds to assist a municipality that has townwide zoning and/or Shoreland Zoning with the following services: mapping; comprehensive plan review; master planning; identifying housing and land use priorities; assessment of infrastructure; assessment of future housing needs; assessment of potential sites; and facilitation of regional housing needs assessment.</p>	<p>Eligible municipalities with one or more designated growth areas or a public, special district, or other centrally managed water system, or a public, special district, or other comparable sewer system shall receive up to \$10,000.</p> <p>Eligible municipalities that do not have designated growth areas or a public, special district, or other centrally managed water system, or a public, special district, or other comparable sewer system shall receive up to \$5,000</p>
<p>Must complete a grant application form and include a <u>Letter of Support from each municipality</u> who will be receiving assistance, along with other application materials. If a Letter of Support is not obtained from a municipality, the Service Provider cannot use grant funds to assist that town. <u>Grant applications must be submitted by August 15, 2023.</u></p>	<p>To be considered eligible for funding, a municipality must have townwide zoning beyond just Shoreland Zoning, meaning that the municipality is divided into zones or districts in which differing regulations and uses apply.</p>
<p>Service providers are eligible to receive up to \$75,000 in grant funding to assist eligible communities.</p>	<p>A municipality that has townwide zoning and receives funding can use those funds from DECD to contract with a Service Provider for municipal ordinance amendment/development.</p>

Important Differences to Note:

If your municipality just has Shoreland Zoning and you would like assistance in amending/developing ordinances to comply with LD 2003, please contact KVCOG and supply a Letter of Support by August 4th to ensure there is time to complete the application.

If your municipality has townwide zoning beyond just Shoreland Zoning and would like assistance in amending/developing ordinances to be in compliance with LD 2003, fill out this invoice template: <https://www.maine.gov/decd/sites/maine.gov.decd/files/inline-files/Municipal%20Payment%20Invoice%20Template%20%281%29.docx>. Email the completed form to housing.decd@maine.gov. Contact KVCOG to schedule a meeting.

If your municipality has townwide zoning beyond just Shoreland Zoning and would like assistance in other areas besides ordinance amendments (mapping, comprehensive plan review, master planning, identifying housing and land use priorities, assessment of infrastructure, assessment of future housing needs, assessment of potential sites, and/or facilitation of regional housing needs assessment), fill out the invoice template found at <https://www.maine.gov/decd/sites/maine.gov.decd/files/inline-files/Municipal%20Payment%20Invoice%20Template%20%281%29.docx> and email the completed form to housing.decd@maine.gov. Contact KVCOG to discuss the service your community is seeking.

DETERMINING YOUR MUNICIPALITY'S NEXT STEP

My municipality is looking for assistance related to LD 2003.

My municipality **ONLY** has the required Shoreland Zoning and would like assistance in amending/developing ordinances to be in compliance with LD 2003 Ordinance

Contact KVCOG and Supply Letter of Intent as soon as possible

My municipality has ordinances beyond the required Shoreland Zoning would like assistance in:

amending/developing ordinances to be in compliance with LD 2003.

Send this completed [template](#) to housing.decd@maine.gov. Contact KVCOG to schedule a meeting.

other areas besides ordinance amendments (mapping, comprehensive plan review, master planning, identifying housing and land use priorities, assessment of infrastructure, assessment of future housing needs, assessment of potential sites, and/or facilitation of regional housing needs assessment

Send this completed [template](#) to housing.decd@maine.gov. Contact KVCOG to schedule a meeting.



CONTACT

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KVCOG's Approach in Helping Communities:

As all communities within the state will be affected by this legislation to varying degrees, KVCOG is currently implementing the first-come, first-serve approach. For this, KVCOG maintains a wait list of communities who have already requested assistance. To be placed on the wait list for assistance, the town manager or municipal staff member in a position of similar authority needs to contact KVCOG and request assistance for their community.

Due to the numerous intricacies of this project, KVCOG is not currently able to provide communities with a timeline; however, as things progress and the processes becomes more streamlined, it is anticipated that rough estimated timelines will become available for ordinance amendments.

Levels of Service KVCOG is Offering:

Since different communities have differing needs, KVCOG is working to address these needs on all levels by offering a tiered system. Due to the unique situation of addressing multiple ordinances across many different municipalities based on this legislation, there may be alterations to the levels of service available.

Tier One: Review and annotate areas in existing municipal ordinances that need to be amended to bring them into compliance with LD 2003. At this tier, KVCOG will only be highlighting and determining areas that need to be amended and will not actually amend the ordinance. The purpose of this is to assist municipalities by showing them where changes need to be made in their existing ordinances and allowing them to make the necessary changes.

Tier Two: Review a municipality's existing ordinances and enact amendments to bring all relevant municipal ordinances into compliance with LD 2003. In this tier, KVCOG will determine areas in ordinances that need to be amended and will craft language that aligns with LD 2003 and fits into the existing ordinances.

Tier Three*: Review a municipality's existing, relevant ordinances and enact amendments to bring all applicable municipal ordinances into compliance with LD 2003 (same as Tier Two above). In addition, this tier offers review of these ordinances for other areas that need to be updated or amended beyond just the required amendments for LD 2003. This tier offers revision of a municipality's relevant ordinance(s) in addition to the amendments required by LD 2003.

Tier Four*: This tier offers ordinance development for communities that do not have any zoning or land use ordinances, aside from Shoreland Zoning, but wish to create and enact these ordinances. The newly developed ordinances would comply with LD 2003 and could provide other regulatory provisions based on community input.

*Tier Three and Tier Four will require additional funding by the municipality as ordinance revision/development for areas outside of those affected by the requirements of LD 2003 are not funded through the State's Housing Opportunity Program.