

MEMORANDUM

TO: Cape Elizabeth Town Council
FROM: Ordinance Committee
DATE: September 26, 2022
SUBJECT: LD 2003 Amendments

Introduction

At the June 13, 2022 meeting, the Town Council referred to the Ordinance Committee preparation of ordinance amendments to implement LD 2003, “An Act to Implement the Recommendations of the Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions.” LD 2003 land use requirements take effect July 1, 2023.

Process

The Ordinance Committee met on July 18th, August 10th and September 14th when LD 2003 was discussed. The committee reviewed a gap analysis comparing LD 2003 text with existing Zoning Ordinance requirements. Building on that review, the committee reviewed draft LD 2003 Amendments to the Zoning Ordinance that would align Cape Elizabeth zoning regulations with LD 2003 requirements. The committee also received a summary of a webinar entitled, [“So You’ve Passed ADU Reform. Now What?”](#). The committee received emails and public comment.

Scope of draft amendments

The attached amendments are drafted to adhere to what is *required* to implement LD 2003. In a few cases, it might be interpreted that the draft amendment language expands beyond LD 2003. These items are explicitly called out for transparency as follows:

Page/Line	Description
11/25-26	The purpose statement is not required by LD 2003, but is good practice to help users understand the intention of the requirements. The proposed purpose statement has been updated to reflect LD 2003 requirements, to reference the goals in the Housing Chapter of the 2019 Comprehensive Plan, and to recognize expanded opportunities for private property owners.
11/38-12/26	The 19-7-5 requirements have been augmented with a heading for each paragraph for user friendliness.
14/42	The draft includes a purpose statement, which is good practice to help users understand the intention of the requirements. A purpose statement is not required by LD 2003.

Items listed below are not included in the draft amendments because they are not required by LD 2003, but are worthy of Town consideration for inclusion into the amendments package.

Page/line	Description
12/10	LD 2003 requires that accessory dwelling units (ADUs) be allowed where single family homes are allowed. In Cape Elizabeth, nonconforming lots may be developed with a single family home. Nonconforming lots must not exceed a maximum lot coverage requirement. This requirement may limit the opportunity for property owners on nonconforming lots to add an ADU and the Town may want to consider exempting ADU construction from the lot coverage requirement. All setback requirements remain in effect. (Nonconforming lots are predominantly located in areas with public sewer.)
12/24	The current ADU provisions establish a maximum size of 25% of the single family home or 600 sq. ft, whichever is less. This maximum has been deleted, but LD 2003 does allow a municipality to establish a maximum size. The maximum size was one of several requirements intended to preserve the single family character of a structure. The maximum size cap is one of the problematical requirements for residents who want to create an ADU. The Ordinance Committee has not included a size limit in the draft.
15/42	LD 2003 limits the minimum land area needed for one multifamily development unit to no more than the land area the town requires for a single family home. In fact, the current zoning ordinance requires a bit less per multifamily unit compared to single family homes. Nonetheless, low density is a principal barrier to multifamily development. The Metro Coalition Study designated any requirement larger than 5,000 sq. ft per multifamily unit as a barrier. The Housing Diversity Study includes recommendations for higher densities. A small step in this direction would be to allow the "Small multifamily development" minimum lot size (2-4 units) to be the same as the lot size for a single family home.

Because the Town Center Affordable Housing Amendments adoption is paused until the November, 2022 referendum vote, they are not included in the current zoning ordinance. The LD 2003 amendments draft will need to be revisited after the vote.

Recommendation

By consensus, the Ordinance Committee unanimously recommends that the Town Council review the LD 2003 amendments at a workshop.

Following the Town Council workshop, the amendments should be sent to the Planning Board in order to continue the process for potential adoption in time for the July 1, 2023 effective date. (Sec. 19-10-3 of the Zoning Ordinance requires that amendments to the Zoning Ordinance be sent to the Planning Board, that the Planning Board hold a public hearing, and that the Planning Board provide advice to the Town Council, before the Town Council may consider ordinance adoption.)

The amendments should also be forwarded to the Housing Diversity Study Committee for comments.