

**TOWN OF FREEPORT, MAINE**

Planning Department

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TO: SOPHIA WILSON, TOWN MANAGER
CC: FREEPORT TOWN COUNCIL
FROM: CECILIA SMITH, ASSISTANT TOWN PLANNER & CAROLINE PELLETIER, TOWN PLANNER
RE: PROPOSED AMENDMENTS TO CHAPTER 21 FREEPORT ZONING ORDINANCE RELATED TO COMPLIANCE WITH THE STATE'S PL 2021, Ch. 672 (LD 2003)
DATE: TUESDAY, JANUARY 2, 2024

Background: PL 2021, Ch. 672 (LD 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 Act, which was signed into law in April 2022 expands the ability to build housing in residential zones by loosening some zoning restrictions. Freeport must amend its ordinances to comply with the State’s laws (M.R.S. Title 30-A §4364; M.R.S. § 4364-A; M.R.S. §4364-B; and M.R.S. § 4364-C) by January 1st, 2024.

The laws resulting from the LD 2003 legislation cover many different elements related to reducing barriers to housing. Due to its complexity, the [Maine Department of Economic and Community Development \(DECD\)](#) has published a guidance document to help municipal officials and members of the public understand the new State rules (provided under separate cover). The major sections relevant to the recommended ordinance changes are:

- **The Affordable Housing Density Bonus** (M.R.S. Title 30-A §4364 Affordable housing density)
- **The Extra Dwelling Units Allowance** (M.R.S. Title 30-A §4364-A Residential areas, generally; up to 4 dwelling units allowed)
- **The Accessory Dwelling Units Allowance** (M.R.S. Title 30-A §4364-B Accessory Dwelling Units)

This memo briefly summarizes each of the above rules, the recommended policy decisions made by the Planning Board (as applicable to elements municipalities had flexibility in terms of how to apply the rules), and the recommended amendments to the Zoning Ordinance to comply with the rules. Please note that, in addition to the recommended amendments to the Zoning Ordinance, the Subdivision Ordinance and the Shoreland Zoning Ordinance also need to be updated (those memos are provided under separate cover).

As you read the summary of changes below, keep in mind that in most cases, the uses must still comply with zoning setbacks and other standards, such as shoreland zoning, subdivision and site plan requirements, water and wastewater requirements, applicable building codes and any other property-specific constraints, such as deed restrictions.

Zoning Amendments Pertaining to the Affordable Housing Density Bonus Requirement – M.R.S. 30-A § 4364:

M.R.S. 30-A § 4364 requires municipalities to allow a density bonus for Affordable Housing Developments of at least two and a half times (2 1/2) the base density that is otherwise allowed in that location and may not require more than two (2) off-street spaces for every three (3) units.

The affordable housing density bonus must be allowed in zoning districts as follows:

- 1) Allow multifamily dwellings, and
- 2) Be in a Designated Growth Area OR in an area served by water and sewer (including some privately owned systems)

A list of zoning districts that allow multifamily dwellings is as follows (link to Zoning Map can be found [here](#)):

- Village I-R
- Medium Density Residential I
- Medium Density Residential II
- Commercial IV
- Medium Density A
- Medium Density B
- Commercial I
- Commercial III
- Village I
- Village Commercial I
- Village Commercial II
- Village Commercial III
- Village Commercial IV
- Village Mixed Use I
- Village Mixed Use II

To comply with this component of the new State law, a summary of proposed amendments to the **Zoning Ordinance**, is as follows, and is including, but not limited to the following Sections:

- Section 104. Definitions – Adding new definitions, such as a definition for Affordable Housing Development that aligns with the State’s language. This include the stipulation that 51% of more of the units in an Affordable Housing Development must be affordable for household whose income don’t exceed 80% of the Area Median Income for rental housing, or 120% of the Area Median Income for owned housing;
- Adding Affordable Housing Development to the list of *permitted uses subject to site plan review* in all zoning districts that allow multifamily housing;
- Section 514. Off-Street Parking and Loading – Amendments to clarify that only 2 parking spaces are required for every 3 dwelling units in an Affordable Housing Development; and
- A new section in the Zoning Ordinance, Section 536. Affordable Housing Developments, containing specific standards for Affordable Housing Developments.

Zoning Amendments Pertaining to the Additional Dwelling Units Allowance (ADUs) – M.R.S. § 4364-A:

In essence, M.R.S. § 4364-A eliminates the power of municipalities to continue to have zoning districts that only allow one single-family home per lot. To note, most zoning districts in Freeport currently allow *attached* two-family dwellings (but not two standalone single-family dwellings) to be built in a lot if the lot is large enough to meet the required lot area for two dwelling units.

M.R.S. § 4364-A stipulates that municipalities should allow up to two or four dwellings on lots that can meet zoning requirements, subdivision requirements, and any other property-specific requirements. In any area where housing is allowed, M.R.S. § 4364 requires more dwellings be allowed as follows:

- Two (2) houses per lot if the lot does not contain an existing dwelling unit and the lot **is not in** a designated growth area.
- Four (4) houses per lot if the lot does not contain an existing dwelling unit and the **lot is in** a designated growth area OR if the lot is served by water and sewer in municipalities without a comprehensive plan.

- Three (3) houses if there is already an existing house in the lot (either one additional attached dwelling unit, one additional detached unit, or one of each).

Policy direction from the Planning Board:

M.R.S. § 4364-A ties the number of permitted dwelling units to whether there is an existing unit on the lot, and the State does not require municipalities to allow lots with two existing dwelling units to take advantage of extra dwelling allowance. The Planning Board's direction is to be more permissive than the State and allow up to 3 dwelling units (or 4 dwelling units in Designated Growth Areas – see Attachment A) regardless of whether the lot contains two existing dwellings, and regardless of whether the lot is vacant or not. The reasoning for this more permissive approach is that in order to take advantage of the additional dwellings allowance a property would need to meet the underlying zoning district's minimal land area per dwelling unit (density requirements).

To comply with this component of the new State law, a summary of proposed amendments to the **Zoning Ordinance**, is as follows, and is including, but not limited to the following Sections:

- Section 201.General Restrictions - Removing the restriction stipulating that no more than one dwelling (and accessory buildings) can be built on a residential lot;
- Section 201.General Restrictions – Adding language stipulating the requirements for dwelling unit allowances (201.L) and adding language clarifying that sanitary and potable water standards are applicable to any dwelling unit (201.M).

Zoning Amendments Pertaining to the Accessory Dwelling Units – M.R.S. 30-A § 4364-B:

In essence, M.R.S. 30-A § 4364-B requires municipalities to allow one Accessory Dwelling Unit (ADU) in any lot with a single-family dwelling regardless of zoning density requirements and eliminates additional parking requirements for ADUs. To note, Freeport already allows ADUs in almost all residential zoning districts, as stipulated in Section 532. Accessory Apartments of the Zoning Ordinance.

Policy direction from the Planning Board:

In addition to complying with the State's rules the Planning Board wanted to further reduce barriers to ADU development. While the Planning Board indicated that they do not support allowing more than one ADU per lot, the Board indicated that, in addition to allowing ADUs in lots containing a single-family unit, the Board supports allowing lots that contain duplexes or two single-family homes to build an ADU.

The State stipulates a minimum size for ADUs but allows municipalities to stipulate the maximum size allowed. Under the current Zoning Ordinance, Freeport restricts the sizes of ADUs to a maximum size no larger than 40% of the single-family home. The recommendation of the Planning Board is to increase the size allowances for an ADU. The recommendation also includes removing the following municipal requirements: number of bedrooms; owner-occupancy; public utility connections in the Shoreland Zone; and removal of the requirement that any exterior alterations or new construction of ADU shall preserve the architectural style and character of the original structure and shall be in harmony with the general appearance of the neighborhood.

To comply with this component of the new State law, a summary of proposed amendments to the **Zoning Ordinance**, is as follows, and is including, but not limited to the following Sections:

- Section 104. Definitions – Amendments to update ADU definition nomenclature and clarify that ADUs are subordinate to both Single-Family dwellings and Duplex dwellings.
- Section 202. Non-Conformance - Amendments to clarify that the construction of an ADU will not increase the non-conformance in terms of extension of uses.
- Section 514. Off-Street Parking and Loading – Amendments to clarify that additional parking is not required for ADUs.
- Section 532. Accessory Apartments (Accessory Dwelling Units) – Several amendments to both comply with M.R.S. 30-A § 4364-B and to further remove regulatory barriers.

Process: The Planning Board met several times in 2023 to learn more about and discuss the State's LD 2003 rules. (3/2/2023, 4/5/2023, 6/13/2023, 8/2/2023, 9/12/2023). These meetings were open to the public and the public was invited to attend a workshop on 8/02/23. The workshop consisted of a presentation, questions and answers and an opportunity for members of the public to share their thoughts with the Planning Board.

The Planning Board held a public hearing on December 13th, 2023, and made a motion to recommend the proposed amendments to the Zoning Ordinance to the Town Council. Notice of the December 13th public hearing meeting was circulated to property owners as required per the Planning Board's notification policy. Approximately 3,795 property owners were notified via letters and an email with the agenda was sent to subscribers of the Planning Department email list. Required legal notice was published in the Times Record on 12/02/23 and on 12/05/23 (see Attachment B)












Recommendations from the Planning Board:

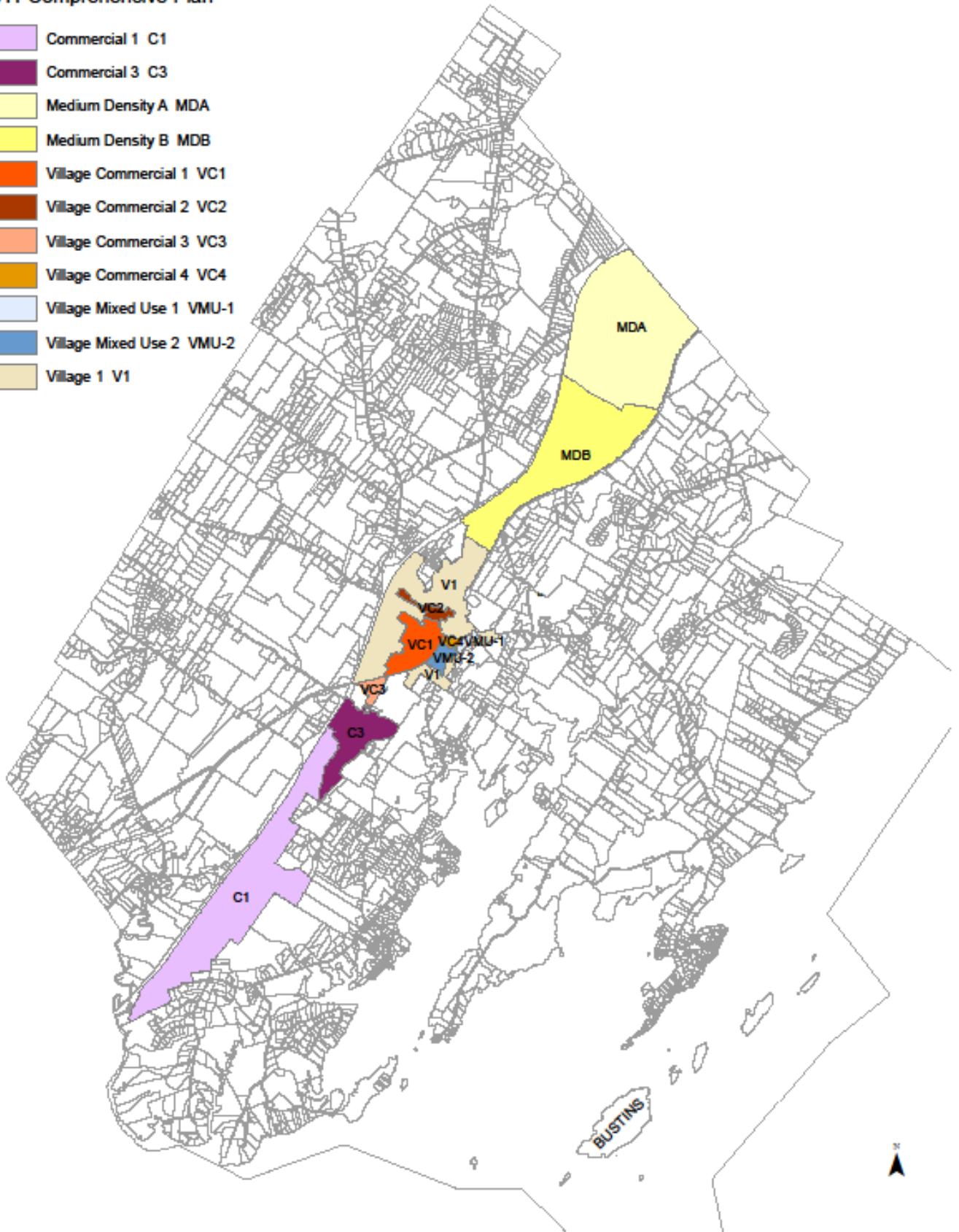
"BE IT ORDERED: that the Freeport Planning Board recommends that the Freeport Town Council adopt the proposed amendments to the Town of Freeport Zoning Ordinance pertaining to the implementation of the State of Maine's LD 2003 (Public Law 2021, chapter 672) requirements and pertaining to reducing barriers to the development of Accessory Dwelling Units, and additional non-substantive language clean-up and amendments made and read at this meeting.

The Board finds that the proposed amendments are in general harmony with the Comprehensive Plan and consistent with the Plan's Vision that Freeport allow a variety of neighborhoods and housing types at a variety of prices ensuring that workers in Freeport can afford to live in Freeport. (Rouda & Burwell) **VOTE:** (6 Ayes) (1 Excused: Myles) (0 Nays)"

ATTACHMENT A

Designated Growth Areas 2011 Comprehensive Plan

-  Commercial 1 C1
-  Commercial 3 C3
-  Medium Density A MDA
-  Medium Density B MDB
-  Village Commercial 1 VC1
-  Village Commercial 2 VC2
-  Village Commercial 3 VC3
-  Village Commercial 4 VC4
-  Village Mixed Use 1 VMU-1
-  Village Mixed Use 2 VMU-2
-  Village 1 V1



ATTACHMENT B

PLANNING BOARD – PUBLIC HEARINGS

The Freeport Planning Board will hold public hearings on Wednesday, December 13th, 2023 at 6:00pm in the Freeport Town Hall Council Chambers (Zoom option available) at 30 Main Street, Freeport, Maine, to discuss the following items:

1) Proposed Amendments to Chapter 21 Freeport Zoning Ordinance

The Board will hold a Public Hearing to discuss proposed amendments to the Freeport Zoning Ordinance related to municipal compliance with 30-A M.R.S. §§ 4364 – 4364-C (including LD 2003, “An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions”). The proposed amendments will potentially allow more housing in almost all zoning districts; add a new section, Section 536. Affordable Housing Density Bonus; and also include amendments to lower barriers to the development of Accessory Dwelling Units (Accessory Apartments). Additional non-substantive text amendments are also proposed.

2) Proposed Amendments to Chapter 25 Freeport Subdivision Ordinance

The Board will hold a Public Hearing to discuss proposed amendments to the Freeport Subdivision Ordinance. The majority of the changes are related to municipal compliance with 30-A M.R.S.A. §§ 4364 – 4364-C (including LD 2003, “An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions”). Additional proposed amendments include adding and/or amending standards to comply with State subdivision approval standards (M.R.S. 30-A § 4404) and as previously discussed by the Planning Board); several non-substantial text amendments to update reference documents used throughout the Ordinance; and non-substantial text amendments for clarification purposes.

3) Proposed Amendments to Chapter 65 Freeport Shoreland Zoning Ordinance

The Board will hold a Public Hearing to discuss proposed amendments to the Freeport Shoreland Ordinance related to municipal compliance with 30-A M.R.S. §§ 4364 – 4364-C (including LD 2003, “An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions”). The intent of the proposed changes is to keep consistency with the proposed amendments in the Freeport Zoning Ordinance and to clarify that Accessory Dwelling Units are still subject to Shoreland Zoning Space Standards.

Meeting materials will be available for public viewing prior to the meeting and will be posted on the Town’s website as soon as they are complete. The public is also welcome to come to the Freeport Town Office anytime during normal business hours to view a paper copy, as due to the size, limited shared printed copies will be available at the meeting.

The public is welcome to attend the meeting. Information on how to participate (including information on how to join on Zoom) can be found on the meeting agenda posted on the meeting calendar of the Town’s website at www.freeportmaine.com. Please contact the Planning Office at Freeport Town Hall at (207) 865-4743, option 5, if you have any questions.