

Proposed Amendments to Mount Vernon Land Use Ordinance Related to Affordable Housing Density- Sections 4 and 5 of LD 2003

1. Add the following definitions to Section 3, Definitions of the Mount Vernon Land Use Ordinance:

**Affordable housing development -**

A. For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs; and

B. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs.

C. For purposes of this definition, “majority” means more than half.

C. For purposes of this definition, “housing costs” means:

1. For a rental unit, the cost of rent and any utilities (and electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and
2. For an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner’s insurance, condominium fees, and homeowners’ association fees.

2. Add section C(50) to Section 5, Land Use Standards:

50. **Affordable Housing.** Multifamily housing developments that meet the definition of affordable housing must comply with minimum lot size, road frontage, shoreline frontage requirements, all provisions of this Land Use Ordinance, and must comply with all shoreland zoning requirements established by the Department of Environmental Protection under 38 M.R.S., chapter 3.. Affordable housing developments are not exempt from the requirements for site plan review (Section 6) and subdivision (Section 7) under this Ordinance and applicable state law. Affordable housing developments located in the Limited Commercial Zone or which are served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system are eligible for certain density bonuses as required by P.L. 2021, c. 672 (LD 2003) as follows:

- a) Notwithstanding any other provision of this ordinance, for affordable housing developments, no more than 2 off-street parking spaces are required for every 3 units, provided that if the number of parking spaces may be rounded up or down to the nearest whole number; and

b) In the Rural District, notwithstanding any other provision of this ordinance, for affordable housing developments, multi-family housing may contain up to 15 units. In those parts of the Village District that fall outside the Shoreland Zone, multi-family housing may contain up to 5 units.

c) The owner of an affordable housing development provide written verification to the municipality that each unit of the housing development is connected to adequate water and wastewater services before the municipality may certify the development for compliance pursuant to Section 11(G) of this Ordinance. Written certification must include:

i. If a housing unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system;

ii. If a housing unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under 30-A M.R.S. § 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under Title 22, section 42 and 10-144 C.M.R. ch. 241, Subsurface Wastewater Disposal Rules;

iii. If a housing unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit;

iv. If a housing unit is connected to a well, proof of access to potable water, including the standards outlined in 02-672 C.M.R. ch 10, section 10.25(J). Land Use District and Standards. Any test of an existing well or proposed well must indicate that the water supply is potable and accessible for domestic use. . Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

d) This section regarding affordable housing may not be construed to interfere or abrogate or annul the validity of any restrictive covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

3. Add to Section 6(E) of the Mount Vernon Land use Ordinance:

40. Additional Performance Standards for Affordable Housing Development. In addition to all other applicable requirements, the developer must establish:

1) that a majority of the units meet the definition of affordable.

2) the Limited Commercial Zone, as established in this Ordinance, which constitute Mount Vernon's designated growth area pursuant to 30-A M.R.S. § 4349-A(1)(A) or (B) or served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system;

3) is located in an area in which multifamily dwellings are allowed as of July 1, 2023;

4) complies with minimum lot size requirements in accordance with Title 12, chapter 423-A and the minimum lot size, road frontage, and set back requirements of this Ordinance.

3. Add to Section 5(B) of the Mount Vernon Land Use Ordinance:

9. Additional Density Allowed in the Village District. In the Village District, up to 4 dwelling units per lot shall be permitted if that lot does not contain an existing dwelling unit and the lot is served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system, provided minimum lot size, road frontage, shoreline frontage requirements, all provisions of this Land Use Ordinance, and all shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 are met. In the Village District, on a lot with one existing dwelling unit, the addition of up to two dwelling units, one additional dwelling unit within or attached to an existing structure, or one additional detached dwelling unit, or one of each is permitted, provided minimum lot size, road frontage, shoreline frontage requirements, all provisions of this Land Use Ordinance, and all shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 are met.

a) If more than one dwelling unit has been constructed on a lot as a result of the allowance under this provision (5(B)(9), the lot is not eligible for any additional increases in density.

b) If a lot becomes vacant as a result of a dwelling unit in existence after July 1, 2023 being torn down, the lot is not eligible for any additional increases in density.

c) Water and wastewater. The owner of a housing structure must provide written verification that the structure is connected to adequate water and wastewater services before the a certificate of occupancy may be issued. Written verification under this provision must include:

i. If a housing unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system;

ii. If a housing unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under 30-A M.R.S. § 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under Title 22, section 42 and 10-144 C.M.R. ch. 241, Subsurface Wastewater Disposal Rules;

iii. If a housing unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit;

iv. If a housing unit is connected to a well, proof of access to potable water, including the standards outlined in 02-672 C.M.R. ch 10, section 10.25(J). Land Use District and Standards. Any test of an existing well or proposed well must indicate that the water supply is potable and

accessible for domestic use. . Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

4. Add to Section 11(G) of the Mount Vernon Land Use Ordinance:

5. In addition to all other requirements, the Building Inspector shall not issue a Certificate of Compliance for an affordable housing development until the developer has satisfied all of the requirements of Section 5(C)(35) of this Ordinance.

5. Add footnote 14 to Table of Land Uses, Table 4-1, Village District Column

14. See Section 5(B)(9) of the Land Use Ordinance Additional Density in the Village District, for circumstances where additional density may be allowed in that district.

Explanation:

2021 P.L. ch. 672, Section 5 requires municipalities to allow up to 2-4 dwelling units per lot in designated growth areas if there is a comprehensive plan or in areas served by a centrally managed water/sewer system in municipalities without a comprehensive plan. Mount Vernon has a comprehensive plan and has two designated growth areas. The growth areas do not restrict the number of dwelling units on a single lot. Accordingly, no change is required in the Limited Commercial (growth) District. In the Rural District, up to six dwelling units are allowed on a single lot. No change is therefore required in the Rural District. In the Resource Protection District, residential housing is not permitted, so no change is required in the Resource Protection District. In the Stream Protection District, and Limited Residential Districts, there is no cap on the number of dwelling units per lot as long as the minimum lot size and shore frontage requirements are met. In the Village District, currently, up to 2 family dwelling units are allowed on a single lot. Under Section 5, Mount Vernon must allow up to 4 dwelling units per lot on lots that do not contain an existing dwelling unit and which are served by a public, special district or other centrally managed water and sewer system. In the Village District, on lots with an existing dwelling unit, Mount Vernon must allow up to two additional dwelling units, either one additional attached dwelling unit, one additional detached dwelling unit, or one of each. The additional dwelling units must meet the minimum lot size, road frontage, shore frontage and all other requirements of the Mount Vernon LUO. It appears that the additional density provisions of Section 5 only require changes to the density cap in the Village District. I did not find any cap on the number of units on a lot under the State Minimum Shoreland Zoning guidelines.