

# MAINE STATE LEGISLATURE

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# HOUSING AND ECONOMIC DEVELOPMENT

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## STATE OF MAINE HOUSE OF REPRESENTATIVES 132ND LEGISLATURE FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 1224, L.D. 1829, "An Act to Build Housing for Maine Families and Attract Workers to Maine Businesses by Amending the Laws Governing Municipal Land Use Decisions"

Amend the bill by striking out the title and substituting the following:

**'An Act to Build Housing for Maine Families and Attract Workers to Maine Businesses by Amending the Laws Governing Housing Density'**

Amend the bill by striking out everything after the enacting clause and inserting the following:

**'Sec. 1. 25 MRSA §2463-B** is enacted to read:

### **§2463-B. Fire protection in accessory dwelling units**

Fire suppression sprinklers are not required for an accessory dwelling unit unless the accessory dwelling unit is within or attached to a structure of more than 2 dwelling units, including accessory dwelling units. As used in this section, "accessory dwelling unit" has the same meaning as in Title 30-A, section 4301, subsection 1-C.

**Sec. 2. 30-A MRSA §4301, sub-§1-C**, as enacted by PL 2019, c. 145, §1 and reallocated by RR 2019, c. 1, Pt. A, §36, is amended to read:

**1-C. Accessory dwelling unit.** "Accessory dwelling unit" means a self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit or multi-unit structure located on the same parcel of land.

**Sec. 3. 30-A MRSA §4360, sub-§2**, as enacted by PL 2003, c. 127, §1, is amended to read:

**2. Differential ordinances.** A municipality may enact rate of growth ordinances that set different limits on the number of building or development permits that are permitted in designated rural areas ~~and designated growth areas~~. A municipality may not enact rate of growth ordinances that limit residential development in designated growth areas, as defined in section 4301, subsection 6-C, except as authorized by this chapter.

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1       **Sec. 4. 30-A MRSA §4364, sub-§2**, as enacted by PL 2021, c. 672, §4, is amended  
2 to read:

3       **2. Density requirements.** A municipality shall allow an affordable housing  
4 development where multifamily dwellings are allowed to have a dwelling unit density of  
5 at least 2 1/2 times the base density that is otherwise allowed in that location and may not  
6 require more than 2 off-street parking spaces for every 3 units. The development must be  
7 in a designated growth area of a municipality ~~consistent with section 4349-A, subsection~~  
8 ~~1, paragraph A or B~~ as identified in a comprehensive plan adopted pursuant to this  
9 subchapter or the development must be served by a public, special district or other centrally  
10 managed water system and a public, special district or other comparable sewer system. The  
11 development must comply with minimum lot size requirements in accordance with Title  
12 12, chapter 423-A, as applicable.

13       **Sec. 5. 30-A MRSA §4364, sub-§2-A** is enacted to read:

14       **2-A. Additional height allowance.** Except as otherwise prohibited under Title 38,  
15 chapter 3 and municipal shoreland zoning ordinances, a municipality shall allow, subject  
16 to review by a municipal fire official or designee, an affordable housing development to  
17 exceed any municipal height restriction by no less than one story or 14 feet.

18       **Sec. 6. 30-A MRSA §4364, sub-§5**, as enacted by PL 2021, c. 672, §4 is amended  
19 by enacting at the end a new first blocked paragraph to read:

20 Upon receipt of written verification from a local plumbing inspector that a housing  
21 structure meets the requirements of this subsection, additional review or documentation by  
22 a municipality related to waste and wastewater requirements before issuing a certificate of  
23 occupancy is prohibited.

24       **Sec. 7. 30-A MRSA §4364-A, sub-§1**, as amended by PL 2023, c. 192, §6, is  
25 repealed and the following enacted in its place:

26       **1. Use allowed.** Notwithstanding any provision of law to the contrary, except Title  
27 12, chapter 423-A, for any area in which residential uses are allowed, including as a  
28 conditional use, a municipality shall allow at a minimum:

29       A. Three dwelling units, attached or detached, including accessory dwelling units, per  
30 lot; and

31       B. Four dwelling units, attached or detached, including accessory dwelling units, per  
32 lot if the lot is located in a designated growth area, as identified in a comprehensive  
33 plan adopted pursuant to this subchapter, or served by a public, special district or other  
34 centrally managed water system and a public, special district or other comparable sewer  
35 system.

36 A municipality may allow more units than the minimum number required by this  
37 subsection.

38       **Sec. 8. 30-A MRSA §4364-A, sub-§2**, as amended by PL 2023, c. 192, §8, is  
39 repealed.

40       **Sec. 9. 30-A MRSA §4364-A, sub-§2-A** is enacted to read:

ROS 1 **2-A. Lot size and density allowance for private property.** Notwithstanding any  
2 provision of law to the contrary, except Title 12, chapter 423-A, this subsection applies to  
3 any area in which residential uses are allowed, including as a conditional use.

4 A. If a lot is located in a designated growth area and is served by a public, special  
5 district or other centrally managed water system and a public, special district or other  
6 comparable sewer system, a minimum lot size requirement may not exceed 5,000  
7 square feet and a density requirement may not exceed 1,250 square feet of lot area per  
8 dwelling unit for the first 4 dwelling units and 5,000 additional square feet of lot area  
9 per dwelling unit for subsequent units.

10 B. If a lot is located outside a designated growth area and in an area served by a public,  
11 special district or other centrally managed water system and a public, special district  
12 or other comparable sewer system, a minimum lot size requirement may not exceed  
13 5,000 square feet and a density requirement may not exceed 5,000 square feet of lot  
14 area for the first 2 dwelling units contained within a single structure, not including  
15 accessory dwelling units.

16 C. If a lot is located in a designated growth area without a public, special district or  
17 other comparable sewer system, a minimum lot size requirement may not exceed the  
18 minimum lot size required by Title 12, chapter 423-A and the density requirement or  
19 calculation may not be more restrictive than required by Title 12, chapter 423-A.

20 If 4 or fewer dwelling units have been constructed on a lot as a result of the allowances  
21 under this section or section 4364-B, the lot is not eligible for any additional increases in  
22 density, including under section 4364, unless more units are allowed by the municipality.

23 **Sec. 10. 30-A MRSA §4364-A, sub-§3,** as amended by PL 2023, c. 192, §9, is  
24 repealed and the following enacted in its place:

25 **3. General requirements.** Except as provided in this section, a municipal ordinance  
26 may not establish dimensional requirements for multiple units allowed by this section that  
27 are greater than dimensional requirements required for single-family dwelling units. As  
28 used in this subsection, "dimensional requirements" means requirements that govern the  
29 size and placement of structures, including building height, lot area, minimum frontage, lot  
30 depth and setbacks.

31 **Sec. 11. 30-A MRSA §4364-A, sub-§4,** as enacted by PL 2021, c. 672, §5, is  
32 amended by enacting at the end a new first blocked paragraph to read:

33 Upon receipt of written verification from a local plumbing inspector that a housing  
34 structure meets the requirements of this subsection, additional review or documentation by  
35 a municipality related to waste and wastewater requirements before issuing a certificate of  
36 occupancy is prohibited.

37 **Sec. 12. 30-A MRSA §4364-A, sub-§5-A** is enacted to read:

38 **5-A. Planning board approval not required.** A municipality may not require  
39 planning board approval for 4 or fewer dwelling units within a structure.

40 **Sec. 13. 30-A MRSA §4364-B, sub-§1,** as amended by PL 2023, c. 192, §12, is  
41 further amended to read:

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1       **1. Use permitted.** Except as provided in Title 12, chapter 423-A, a municipality shall  
2 allow an accessory dwelling unit to be located on the same lot as a single-family dwelling  
3 unit or multi-unit structure in any area in which residential uses are permitted, including as  
4 a conditional use, in accordance with this section.

5       **Sec. 14. 30-A MRSA §4364-B, sub-§2, ¶B,** as enacted by PL 2021, c. 672, §6, is  
6 amended to read:

7       B. Attached to or sharing a wall with a single-family dwelling unit or multi-unit  
8 structure; or

9       **Sec. 15. 30-A MRSA §4364-B, sub-§3,** as amended by PL 2023, c. 192, §15, is  
10 further amended to read:

11       **3. Zoning requirements.** With respect to accessory dwelling units, municipal zoning  
12 ordinances must comply with the following conditions:

13       A. At least one accessory dwelling unit must be allowed on any lot where a single-  
14 family dwelling unit is the principal structure; and

15       ~~B. If more than one accessory dwelling unit has been constructed on a lot as a result~~  
16 ~~of the allowance under this section, the lot is not eligible for any additional increases~~  
17 ~~in density except as allowed by the municipality; and~~

18       C. An accessory dwelling unit is must be allowed on a lot that does not conform to the  
19 municipal zoning ordinance if the accessory dwelling unit does not further increase the  
20 nonconformity.

21       **Sec. 16. 30-A MRSA §4364-B, sub-§4, ¶A,** as enacted by PL 2021, c. 672, §6, is  
22 amended to read:

23       A. A municipality shall exempt ~~an~~ one accessory dwelling unit on a lot from any  
24 density requirements or calculations related to the area in which the accessory dwelling  
25 unit is constructed.

26       **Sec. 17. 30-A MRSA §4364-B, sub-§4, ¶E** is enacted to read:

27       E. A municipality shall allow the construction or occupancy of an accessory dwelling  
28 unit on a lot even if the owner of the lot where the accessory dwelling unit is located  
29 does not reside in a dwelling unit on that lot.

30       **Sec. 18. 30-A MRSA §4364-B, sub-§7,** as enacted by PL 2021, c. 672, §6, is  
31 amended by enacting at the end a new first blocked paragraph to read:

32       Upon receipt of written verification from a local plumbing inspector that a housing  
33 structure meets the requirements of this subsection, additional review or documentation by  
34 a municipality related to waste and wastewater requirements before issuing a certificate of  
35 occupancy is prohibited.

36       **Sec. 19. 30-A MRSA §4364-C, sub-§4** is enacted to read:

37       **4. Mandatory training.** The municipal reviewing authority and the municipal body  
38 hearing zoning appeals, if applicable, shall attend a training on land use planning offered  
39 by a state agency or a statewide association representing municipalities or a regional  
40 council or municipality within 180 days of appointment or, if a training is not available

within the 180-day period, the municipal reviewing authority member and the municipal body hearing zoning appeals must attend the next available training.

**Sec. 20. 30-A MRSA §4401, sub-§4**, as amended by PL 2023, c. 79, §1, is further amended to read:

**4. Subdivision.** "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

(1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or

(2) The division of the tract or parcel is otherwise exempt under this subchapter.

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

C. A lot of 40 or more acres must be counted as a lot, except:

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance.

D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter or avoid other applicable municipal requirements, including, but not limited to, road standards and safety.

D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

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D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph ~~can not~~ cannot be given for consideration that is more than 1/2 the assessed value of the real estate.

D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection.

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

H-2. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than ~~January 1, 2021~~ July 1, 2027. ~~Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2020 for the definition to remain valid for the grace period ending January 1, 2021. A filing required under this paragraph must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located.~~

I. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs D-1 to D-6, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. A mortgage, pledge or other instrument of hypothecation against a dwelling unit or other smaller portion of real property within a parcel that is otherwise defined by this section as a lot does not itself constitute a subdivision for purposes of this section.

J. Unless the intent of a transferor is to avoid the objectives of this subchapter, the division of a tract or parcel of land accomplished by the transfer of any interest in the land to a holder does not create a lot or lots for purposes of this definition if:

(1) The transferred interest, as expressed by conservation easement, binding agreement, declaration of trust or otherwise, is to be permanently held for one or more of the following conservation purposes:

(a) Retaining or protecting the natural, scenic or open space values of the land;

(b) Ensuring the availability of the land for agricultural, forest, recreational or open space use;

(c) Protecting natural resources; or

(d) Maintaining or enhancing air quality or water quality; and

(2) The transferred interest is not subsequently further divided or transferred except to another holder.

As used in this paragraph, "holder" has the same meaning as in Title 33, section 476, subsection 2.

**Sec. 21. 30-A MRSA §4402, sub-§6**, as amended by PL 2019, c. 174, §2, is further amended to read:

**6. Division of new or existing structures.** Beginning ~~July 1, 2018~~ January 1, 2026, a division of a new or existing structure into 3 or more dwelling units whether the division is accomplished by sale, lease, development or otherwise in a municipality where the project is subject to municipal site plan review.

A. For the purposes of this subsection, "municipal site plan review" means review under a municipal ordinance that sets forth a process for determining whether a development meets certain specified criteria, which must include criteria regarding stormwater management, sewage disposal, water supply and vehicular access and which may include criteria regarding other environmental effects, layout, scale, appearance and safety.

B. The municipal reviewing authority in each municipality shall determine whether a municipal site plan review ordinance adopted by the municipality meets the requirements of paragraph A.

**Sec. 22. Training of current members.** Notwithstanding the Maine Revised Statutes, Title 30-A, section 4364-C, subsection 4, a member of a municipal reviewing authority or municipal body hearing zoning appeals holding office on the effective date of this Act shall attend a training as described in Title 30-A, section 4364-C, subsection 4 within 180 days of the effective date or, if a training is not available within the 180-day period, must attend the next available training.

**Sec. 23. Application.** Notwithstanding any provision of law to the contrary, except for those sections of this Act that enact the Maine Revised Statutes, Title 25, section 2463-B, amend Title 30-A, section 4301, subsection 1-C and enact Title 30-A, section 4364-C, subsection 4, this Act applies to municipalities for which ordinances may be enacted by the municipal officers without further action or approval by the voters of the



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municipality beginning July 1, 2026 and applies to all other municipalities beginning July 1, 2027.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

### SUMMARY

This amendment replaces the bill and changes the title. The amendment makes the following changes in the laws governing municipal land use decisions.

1. It requires a municipality to allow a certain number of dwelling units per lot depending on whether the lot is in a designated growth area or is served by public water and sewer.

2. It establishes lot size and density allowances for residential dwelling units based on whether the lot is in a designated growth area and served by public water and sewer, outside a designated growth area and served by public water and sewer or within a designated growth area but not served by public water and sewer.

3. It prevents a municipality from establishing dimensional requirements for multiple residential units that are greater than the requirements for single-family dwelling units.

4. It exempts the creation of 4 or fewer dwelling units within a structure from planning board review.

5. It prevents a municipality from requiring the owner of a lot where an accessory dwelling unit is located to reside on the lot.

6. It clarifies that a municipality is prohibited from requiring additional review or documentation about the adequacy of the water and wastewater service connection to a housing structure beyond a written verification from a local plumbing inspector.

7. It requires a municipality to allow an affordable housing development to exceed height restrictions by no less than one story or 14 feet, subject to review by a municipal fire official or designee.

8. It amends the definition of a subdivision of a structure from a division into 3 or more units to a division into 5 or more units within a 5-year period.

9. It requires individuals who serve on a municipal reviewing authority or a municipal body that hears zoning appeals to attend a training on land use planning.

The amendment enacts a provision that fire suppression sprinklers are not required for an accessory dwelling unit unless the unit is within or attached to a structure of more than 2 dwelling units.

The provisions of the amendment that require a municipality to amend or adopt an ordinance to effectuate the changes proposed in the bill become applicable July 1, 2026, if the ordinance may be enacted by the municipal officers without further action or approval of the voters, and July 1, 2027 for all other municipalities.