

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2023

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Legislative Document

No. 1864

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H.P. 1194

House of Representatives, May 2, 2023

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**An Act to Increase Maine's Housing Supply by Prohibiting Certain  
Zoning Requirements in Areas Where Public Sewer and Water  
Infrastructure Are Available and in Designated Growth Areas**

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Reference to the Joint Select Committee on Housing suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative BOYLE of Gorham.  
Cosponsored by Senator LAWRENCE of York and  
Representatives: BELL of Yarmouth, DOUDERA of Camden, GERE of Kennebunkport,  
Senator: PIERCE of Cumberland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 30-A MRSA §4364-D** is enacted to read:

3 **§4364-D. Residential areas; municipal sewer and water; designated growth areas; lot**  
4 **sizes**

5 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
6 following terms have the following meanings.

7 A. "Dimensional standards" means ordinance provisions relating to lot coverage, road  
8 frontage and setback requirements.

9 B. "Dwelling unit" means a single-family or multifamily dwelling unit.

10 C. "Housing development" means a development constructed to provide one or more  
11 dwelling units.

12 **2. Residential areas where municipal sewer and water available.** This subsection  
13 applies to residential areas where municipal sewer and water are available.

14 A. If a housing development is served by a public, special district or other centrally  
15 managed water system and a public, special district or other comparable sewer system  
16 and is located in an area in which dwelling units are allowed, a municipality shall allow  
17 a dwelling unit on a lot with a minimum size of 5,000 square feet and may not require  
18 more than 2 off-street parking spaces for every 3 dwelling units in a housing  
19 development.

20 B. A municipal ordinance may not establish dimensional standards for dwelling units  
21 under this subsection that are more restrictive than dimensional standards for single-  
22 family dwelling units in effect on October 1, 2023, and a municipal ordinance may not  
23 establish:

24 (1) A road frontage requirement greater than 50 feet for dwelling units under this  
25 subsection; and

26 (2) Front, rear or side setback requirements greater than 10 feet for dwelling units  
27 under this subsection.

28 C. A developer of a housing development under this subsection shall provide written  
29 verification to the municipality that each dwelling unit in the housing development is  
30 connected to adequate water and wastewater services before the municipality may  
31 certify the housing development for occupancy. Written verification under this  
32 paragraph must include:

33 (1) For a dwelling unit that will be connected to a public, special district or other  
34 comparable sewer system, proof of adequate service to support any additional flow  
35 created by the dwelling unit; and

36 (2) For a dwelling unit that will be connected to a public, special district or other  
37 centrally managed water system, proof of adequate service to support any  
38 additional flow created by the dwelling unit, proof of payment for the connection  
39 and the volume and supply of water required for the dwelling unit.

40 D. A housing development that will be connected to existing water and sewer  
41 infrastructure under this subsection may not be charged an impact fee or sewer

1 connection fee greater than a pro rata amount based on the square footage of the new  
2 development when compared with residential connections in effect at the time.

3 **3. Residential areas where municipal sewer and water not available; located in**  
4 **designated growth area.** This subsection applies to residential areas where municipal  
5 sewer and water are not available and that are located in designated growth areas.

6 A. A municipality shall allow a dwelling unit on a lot with a minimum size of 20,000  
7 square feet and may not require more than 2 off-street parking spaces for every 3  
8 dwelling units if a housing development:

9 (1) Is located in a designated growth area in accordance with section 4349-A,  
10 subsection 1, paragraph A or B;

11 (2) Is not served by a public, special district or other centrally managed water  
12 system and a public, special district or other comparable sewer system;

13 (3) Complies with minimum lot size requirements in accordance with Title 12,  
14 chapter 423-A as applicable; and

15 (4) Is located in an area in which dwelling units are allowed.

16 B. A municipal ordinance may not establish dimensional standards for dwelling units  
17 under this subsection that are more restrictive than dimensional standards for single-  
18 family dwelling units in effect on October 1, 2023, and a municipal ordinance may not  
19 establish:

20 (1) A road frontage requirement greater than 65 feet for dwelling units under this  
21 subsection; and

22 (2) Front setback requirements greater than 10 feet, rear setback requirements  
23 greater than 20 feet or side setback requirements greater than 20 feet individually  
24 or 30 feet combined for dwelling units under this subsection.

25 C. A developer of a housing development under this subsection shall provide written  
26 verification to the municipality that each dwelling unit in the housing development is  
27 connected to adequate water and wastewater services before the municipality may  
28 certify the housing development for occupancy. Written verification under this  
29 paragraph must include:

30 (1) For a dwelling unit that will be connected to a septic system, proof of adequate  
31 sewage disposal for subsurface wastewater. The septic system must be verified as  
32 adequate by a local plumbing inspector under section 4221. Plans for subsurface  
33 wastewater disposal must be prepared by a licensed site evaluator in accordance  
34 with subsurface wastewater disposal rules adopted under Title 22, section 42; and

35 (2) For a dwelling unit that will be connected to a well, proof of access to potable  
36 water. Tests of an existing well or proposed well must indicate that the water  
37 supply is potable and acceptable for domestic use.

38 **4. Subdivision requirements.** This section may not be construed to exempt a housing  
39 development from the requirements for division of a tract or parcel of land under subchapter  
40 4.

41 **5. Restrictive covenants.** This section may not be construed to interfere with,  
42 abrogate or annul the validity or enforceability of any valid and enforceable easement.

1 covenant, deed restriction or other agreement or instrument between private parties that  
2 imposes greater restrictions than those provided in this section, as long as the easement,  
3 covenant, deed restriction or other agreement or instrument does not abrogate rights under  
4 the United State Constitution or the Constitution of Maine.

5 **6. Shoreland zoning.** A housing development under this section must comply with  
6 shoreland zoning requirements established by the Department of Environmental Protection  
7 under Title 38, chapter 3, article 2-B and municipal shoreland zoning ordinances.

8 **SUMMARY**

9 This bill provides restrictions on municipal ordinance requirements related to minimum  
10 lot size in areas where water and sewer infrastructure are available and in areas where water  
11 and sewer infrastructure are not available but that are within designated growth areas. For  
12 a housing development served by a public, special district or other centrally managed water  
13 system and a public, special district or other comparable sewer system and that is located  
14 in an area in which dwelling units are allowed, a municipality must allow a dwelling unit  
15 on a lot with a minimum size of 5,000 square feet. For a housing development located in  
16 a designated growth area that is not served by a public, special district or other centrally  
17 managed water system and a public, special district or other comparable sewer system, that  
18 complies with minimum lot size requirements in accordance with the Maine Revised  
19 Statutes, Title 12, chapter 423-A and that is located in an area in which dwelling units are  
20 allowed, a municipality must allow a dwelling unit on a lot with a minimum size of 20,000  
21 square feet. The bill also provides limits to ordinance provisions relating to lot coverage,  
22 road frontage and setback requirements.