

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 7, 2022 to March 30, 2023

FIRST SPECIAL SESSION
April 5, 2023 to July 26, 2023

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NONEMERGENCY LAWS IS
JUNE 29, 2023

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NONEMERGENCY LAWS IS
OCTOBER 25, 2023

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2023

closing to encourage water to drain from areas containing water. Containers holding live baitfish for personal or commercial use are exempted from requirements in this subsection; and

B. May not allow drains to be opened in a way that allows water to enter any inland water body of the State pursuant to subsection 1, paragraph E.

For the purposes of this subsection, "watercraft" has the same meaning as in Title 12, section 13001, subsection 28.

Nothing in this subsection allows a person to directly or indirectly discharge pollutants into any inland water body of the State. This subsection does not apply to emergency response watercraft and their related equipment.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 16, 2023.

CHAPTER 191

H.P. 299 - L.D. 482

An Act to Extend the Time for Youth Deer Hunting

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation creates a 2-day youth deer hunting period in 2023; and

Whereas, the earliest date for the youth deer hunting period is expected to be October 20, 2023; and

Whereas, this legislation must take effect in time to prepare for the start of the 2023 deer hunting season; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. Commissioner of Inland Fisheries and Wildlife to establish 2-day youth deer hunting period. Notwithstanding the Maine Revised Statutes, Title 12, section 11402, subsection 4, paragraph C, for the 2023 deer hunting season only, the Commissioner of Inland Fisheries and Wildlife shall establish a 2-day youth deer hunting period beginning 8 days before the start of the 2023 regular deer hunting season.

Sec. 2. Examination. The Commissioner of Inland Fisheries and Wildlife shall examine the impact of an additional dedicated youth hunting day, as required by section 1, on the deer population including the impact on the antlerless deer population and the Department of Inland Fisheries and Wildlife's ability to meet its wildlife management goals.

Sec. 3. Report. By March 1, 2024, the Commissioner of Inland Fisheries and Wildlife shall submit a report to the Joint Standing Committee on Inland Fisheries and Wildlife that includes findings and recommendations of the examination pursuant to section 2, including any recommended legislation, if needed. After receiving the report, the committee may report out a bill relating to the examination to the Second Regular Session of the 131st Legislature.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 16, 2023.

CHAPTER 192

H.P. 1095 - L.D. 1706

An Act to Clarify Statewide Laws Regarding Affordable Housing and Accessory Dwelling Units

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, current law requires, beginning July 1, 2023, all municipalities to allow a certain number of dwelling units under certain circumstances and the construction of accessory dwelling units on the same lot as a single-family dwelling unit and to comply with certain other zoning requirements; and

Whereas, it is the intent of this legislation to extend the implementation date for certain municipalities; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

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

For an affordable housing development approved on or after ~~July 1, 2023~~ the implementation date, a municipality with density requirements shall apply density requirements in accordance with this section.

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

1. Definition. For the purposes of this section, "affordable housing development" means:

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 51% or more~~ 51% or more of the units ~~that the developer designates as affordable in the development~~ 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 51% or more~~ 51% or more of the units ~~that the developer designates as affordable in the development~~ without spending more than 30% of the household's monthly income on housing costs.

Sec. 3. 30-A MRSA §4364, sub-§1-A is enacted to read:

1-A. Implementation date. For purposes of this section, "implementation date" means:

A. January 1, 2024 for municipalities for which ordinances may be enacted by the municipal officers without further action or approval by the voters of the municipality; and

B. July 1, 2024 for all other municipalities.

Sec. 4. 30-A MRSA §4364, sub-§3, as enacted by PL 2021, c. 672, §4, is amended to read:

3. Long-term affordability. Before ~~approving granting final approval of~~ an affordable housing development, including but not limited to issuing an occupancy permit, a municipality shall require that the owner of the affordable housing development have executed a restrictive covenant, recorded in the appropriate registry of deeds, for the benefit of and enforceable by a party acceptable to the municipality, to ensure that for at least 30 years after completion of construction:

A. For rental housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 80% of the

local area median income at the time of initial occupancy; and

B. For owned housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy.

Sec. 5. 30-A MRSA §4364, sub-§6, as enacted by PL 2021, c. 672, §4, is amended to read:

6. Subdivision requirements. This section may not be construed to exempt a subdivider from the requirements ~~for division of a tract or parcel of land in accordance with~~ subchapter 4.

Sec. 6. 30-A MRSA §4364-A, sub-§1, as enacted by PL 2021, c. 672, §5, is amended to read:

1. Use allowed. Notwithstanding any provision of law to the contrary, except as provided in Title 12, chapter 423-A, for any area in which ~~housing is residential uses are~~ residential uses are allowed, including as a conditional use, a municipality shall allow structures with up to 2 dwelling units per lot if that lot does not contain an existing dwelling unit, except that a municipality shall allow up to 4 dwelling units per lot if that lot does not contain an existing dwelling unit and the lot is located in a designated growth area within a municipality consistent with section 4349-A, subsection 1, paragraph A or B or if 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 in a municipality without a comprehensive plan.

A municipality shall allow on a lot with one existing dwelling unit the addition of up to 2 dwelling units: one additional dwelling unit within or attached to an existing structure or one additional detached dwelling unit, or one of each.

A municipality may allow more units than the number required to be allowed by this subsection.

Sec. 7. 30-A MRSA §4364-A, sub-§1-A is enacted to read:

1-A. Implementation date. For purposes of this section, "implementation date" has the same meaning as in section 4364, subsection 1-A.

Sec. 8. 30-A MRSA §4364-A, sub-§2, ¶B, as enacted by PL 2021, c. 672, §5, is amended to read:

B. A municipal zoning ordinance may establish a prohibition or an allowance for lots where a dwelling unit in existence after ~~July 1, 2023~~ the implementation date is torn down and an empty lot results.

Sec. 9. 30-A MRSA §4364-A, sub-§3, as enacted by PL 2021, c. 672, §5, is amended to read:

3. General requirements. A municipal ordinance may not establish dimensional requirements ~~or, including but not limited to~~ setback requirements, for dwelling units allowed under this section that are greater than dimensional requirements ~~or, including but not limited to~~ setback requirements, for single-family housing units, except that a municipal ordinance may establish requirements for a lot area per dwelling unit as long as the required lot area for subsequent units on a lot is not greater than the required lot area for the first unit.

Sec. 10. 30-A MRSA §4364-A, sub-§7, as enacted by PL 2021, c. 672, §5, is amended to read:

7. Subdivision requirements. This section may not be construed to exempt a subdivider from the requirements ~~for division of a tract or parcel of land in accordance with~~ subchapter 4.

Sec. 11. 30-A MRSA §4364-A, sub-§10, as enacted by PL 2021, c. 672, §5, is amended to read:

10. Implementation. A municipality is not required to implement the requirements of this section until ~~July 1, 2023~~ the implementation date.

Sec. 12. 30-A MRSA §4364-B, sub-§1, as enacted by PL 2021, c. 672, §6, is amended to read:

1. Use permitted. Except as provided in Title 12, chapter 423-A, a municipality shall allow an accessory dwelling unit to be located on the same lot as a single-family dwelling unit in any area in which ~~housing is residential uses are permitted, including as a conditional use.~~

Sec. 13. 30-A MRSA §4364-B, sub-§1-A is enacted to read:

1-A. Implementation date. For purposes of this section, "implementation date" has the same meaning as in section 4364, subsection 1-A.

Sec. 14. 30-A MRSA §4364-B, sub-§2, as enacted by PL 2021, c. 672, §6, is amended by amending the first blocked paragraph to read:

This subsection does not restrict the construction or permitting of accessory dwelling units constructed and certified for occupancy prior to ~~July 1, 2023~~ the implementation date.

Sec. 15. 30-A MRSA §4364-B, sub-§3, as enacted by PL 2021, c. 672, §6, is amended to read:

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

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

B. If more than one accessory dwelling unit has been constructed on a lot as a result of the allowance under this section ~~or section 4364-A,~~ the lot is

not eligible for any additional increases in density except as allowed by the municipality; ~~and~~

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

Sec. 16. 30-A MRSA §4364-B, sub-§4, ¶B, as corrected by RR 2021, c. 2, Pt. A, §110, is amended to read:

B. For an accessory dwelling unit located within the same structure as a single-family dwelling unit or attached to or sharing a wall with a single-family dwelling unit, the setback requirements and dimensional requirements must be the same as the setback requirements and dimensional requirements of the single-family dwelling unit, except for an accessory dwelling unit permitted in an existing accessory building or secondary building or garage as of ~~July 1, 2023~~ the implementation date, in which case the requisite setback requirements for such a structure apply. A municipality may establish more permissive dimensional and setback requirements for an accessory dwelling unit.

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

D. An accessory dwelling unit that was not built with municipal approval must be allowed if the accessory dwelling unit otherwise meets the requirements for accessory dwelling units of the municipality and under this section.

Sec. 18. 30-A MRSA §4364-B, sub-§5, as enacted by PL 2021, c. 672, §6, is amended to read:

5. Shoreland zoning. An accessory dwelling unit must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and municipal shoreland zoning ordinances, ~~except that a municipality may not categorically prohibit accessory dwelling units in the shoreland zone that would otherwise meet requirements established by the Department of Environmental Protection under Title 38, chapter 3 and municipal shoreland zoning ordinances.~~

Sec. 19. 30-A MRSA §4364-B, sub-§8, ¶A, as enacted by PL 2021, c. 672, §6, is amended to read:

A. Establish an application and permitting process for accessory dwelling units that does not require planning board approval;

Sec. 20. 30-A MRSA §4364-B, sub-§10, as enacted by PL 2021, c. 672, §6, is amended to read:

10. Subdivision requirements. This section may not be construed to exempt a subdivider from the requirements ~~for division of a tract or parcel of land in accordance with~~ subchapter 4.

Sec. 21. 30-A MRSA §4364-B, sub-§13, as enacted by PL 2021, c. 672, §6, is amended to read:

13. **Implementation.** A municipality is not required to implement the requirements of this section until July 1, 2023 the implementation date.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 16, 2023.

**CHAPTER 193
S.P. 324 - L.D. 765**

**An Act to Establish an
Exception to the Hearsay Rule
for Forensic Interviews of a
Protected Person**

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

Sec. 1. 16 MRSA §358 is enacted to read:

§358. Recordings of protected person

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

- A. "Forensic interview" means a fact-finding conversation conducted by a forensic interviewer using an evidence-based practice.
- B. "Forensic interviewer" means an individual who meets the qualifications in subsection 2.
- C. "Protected person" means a person who at the time of a recording of a forensic interview:
 - (1) Has not attained 18 years of age; or
 - (2) Is an adult who is eligible for protective services pursuant to the Adult Protective Services Act.

2. Qualifications of forensic interviewer. In order to be qualified as a forensic interviewer, an individual must:

- A. Be employed by a child advocacy center or affiliated with a child advocacy center;
- B. Have completed a minimum of 32 hours of specialized instruction on an evidence-supported interview protocol; and
- C. Participate in ongoing education in the field of child maltreatment or forensic interviewing.

3. Exception to hearsay rule. This section establishes an exception to the hearsay rule under the Maine Rules of Evidence, Rule 802, for the recording of a forensic interview of a protected person. A party seeking

to offer all or a portion of a recording of a forensic interview of a protected person into evidence shall file a motion in limine. After providing all parties the opportunity to be heard on the motion, the court shall determine whether, in addition to satisfying all of the other requirements of this section, the following criteria have been met:

- A. The interview was conducted by a forensic interviewer;
- B. Statements made by the protected person during the forensic interview were not made in response to suggestive or leading questions;
- C. A relative of the protected person was not present in the room during the substantive phase of the interview;
- D. An attorney for any party in a proceeding with the protected person was not present in the room with the protected person during the interview;
- E. The recording is both visual and audio;
- F. The recording is a fair and accurate representation of the statements made by the protected person and has not been altered except for purposes of admissibility;
- G. In a criminal matter, the protected person is available to testify or be cross-examined by any party and is called as a witness by the party offering the recording in evidence immediately following the presentation of the recording to the trier of fact and made available for cross-examination, unless all other parties expressly waive the requirement that the witness testify; and
- H. The portion of the interview to be admitted in evidence is relevant pursuant to the Maine Rules of Evidence, Rule 401, and is not otherwise inadmissible under the Maine Rules of Evidence.

In the event that the protected person was the subject of more than one forensic interview, the exception to hearsay established under this subsection does not apply to statements from more than one forensic interview related to the same event or incident.

4. Recordings of protected persons preserved. A recording of a protected person that is made part of the court record must be preserved under a protective order of the court in order to protect the privacy of the protected person. The court shall maintain a copy of the recording as part of the court file for 20 years.

Sec. 2. 22 MRSA §4019, sub-§1, ¶B, as enacted by PL 2013, c. 364, §1, is amended to read:

B. "Child advocacy center" or "center" means a community-based center that provides multidisciplinary services for children and families affected by child sexual abuse and other child abuse and neglect, including a center in another jurisdiction.