STATE OF MAINE
DEPARTMENT OF THE SECRETARY OF STATE

Notice of Agency Rulemaking Adoption

Agency: Maine Office of Community Affairs
Chapter Number and Rule Title: 08-001 C.M.R. Chapter 1, Housing Opportunity Program: Municipal Land Use and Zoning Ordinance Rule
Adoption Filing Number: 2026-001

Concise Summary:

The Housing Opportunity Program, within the Maine Office of Community Affairs, amended Chapter 1 to implement the statutory changes in PL 2025 Ch. 385. In addition, new sections were included to implement new legislation about residential unit vehicular parking and residential uses in commercial zones, PL 2025 Ch. 374 and PL 2025 Ch. 364.

Effective Date: Sunday, January 11, 2026

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08-001 MAINE OFFICE OF COMMUNITY AFFAIRS

Chapter 1: HOUSING OPPORTUNITY PROGRAM: MUNICIPAL LAND USE AND ZONING ORDINANCE RULE

Summary: This chapter sets forth the provisions which require municipalities to create or amend local ordinances to allow for (1) additional density for affordable housing developments in certain areas; (2) multiple dwelling units on lots designated for residential uses; (3) one accessory dwelling unit located on the same lot as a single-family dwelling unit or multi-unit residential structure in any area where residential uses are permitted; (4) residential uses in commercial zones; and (5) one off-street motor vehicle parking space per dwelling unit for a residential development in designated growth areas.

NOTE: This chapter incorporates by reference certain material. The Appendix lists the material that is incorporated by reference, the date for each reference, and the organization where copies of the material are available.

SECTION 1. PURPOSE AND DEFINITIONS

A. PURPOSE

1. This chapter sets forth the provisions which require municipalities to create or amend local ordinances to allow for (1) additional density for affordable housing developments in certain areas; (2) multiple dwelling units on lots designated for residential uses; (3) one accessory dwelling unit located on the same lot as a single-family dwelling unit or multi-unit residential structure in any area where residential uses are permitted; (4) residential uses in commercial zones; and (5) one off-street motor vehicle parking space per dwelling unit for a residential development in designated growth areas.

2. Municipalities need not adopt this rule language or the statutory language in 30-A M.R.S. §§ 4364, 4364-A, 4364-B, 4364-E, and 4364-F word for word. The Office encourages municipalities to consider local planning documents and other special local considerations, and to modify language into one that meets the needs of a particular community and the minimum requirements of legislation. Municipalities may wish to adopt ordinances that are more permissive, provided that such ordinances are equally or more effective in achieving the goal of increasing housing opportunities. If a municipality does not adopt ordinances to comply with 30-A M.R.S. §§ 4364, 4364-A, 4364-B, 4364-E and 4364-F this legislation will preempt municipal home rule authority.

3. These rules do not:

   a) Abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this rule, as long as the agreement does not abrogate

rights pursuant to the United States Constitution or the Constitution of Maine;

b) Exempt a subdivider from the requirements in Title 30-A Chapter 187 subchapter 4;

c) Exempt an affordable housing development, a dwelling unit, a mixed-use development, or an accessory dwelling unit from the shoreland zoning requirements established by the Department of Environmental Protection pursuant to Title 38 Chapter 3 and municipal shoreland zoning ordinances;

d) Abrogate or annul minimum lot size requirements under Title 12 Chapter 423-A; or

e) Apply to a lot or portion of a lot that is within the watershed of a water source located in Lewiston or Auburn and that is used to provide drinking water by a water utility that has received a waiver from filtration pursuant to 40 C.F.R. §§ 141.70 to 141.76, as determined by the Maine Department of Health and Human Services.

B. DEFINITIONS

All terms used but not defined in this chapter shall have the meanings ascribed to those terms in Chapter 187 of Title 30-A of the *Maine Revised Statutes*, as amended. Municipalities need not adopt the terms and definitions outlined below word for word. The Office encourages municipalities to consider local planning documents and other special local considerations, and to modify language into one that meets the needs of a particular community. Municipalities may wish to adopt terms and definitions that are more permissive, provided that such terms and definitions are equally or more effective in achieving the goal of increasing housing opportunities.

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 residential structure located on the same parcel of land.

Affordable housing development. “Affordable housing development” means

1. 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 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs; and

2. 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 51% or more of the units in the

development without spending more than 30% of the household's monthly income on housing costs.

3. For purposes of this definition, “housing costs” include, but are not limited to:

   a) For a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and

   b) 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.

Area median income. “Area median income” means the midpoint of a region’s income distribution calculated on an annual basis by the U.S. Department of Housing & Urban Development.

Attached. “Attached” means connected by a shared wall to the principal structure or having physically connected finished spaces.

Base density. “Base density” means the maximum number of units allowed on a lot not used for affordable housing based on dimensional requirements in a local land use or zoning ordinance. This does not include local density bonuses, transferable development rights, or other similar means that could increase the density of lots not used for affordable housing.

Centrally managed water system. “Centrally managed water system” means a water system that provides water for human consumption through pipes or other constructed conveyances to at least fifteen (15) service connections or serves an average of at least twenty-five (25) people for at least sixty (60) days a year as regulated by 10-144 C.M.R. Ch. 231, *Rules Relating to Drinking Water*. This water system may be privately owned.

Commercial use. “Commercial use” means the use of lands, buildings or structures the intent or result of which is the production of income from the buying or selling of goods or services. Commercial use does not include a home-based business, the rental of a single dwelling unit on a single lot or incidental sales of goods or services as may be allowed by permit or standard.

Comparable sewer system. “Comparable sewer system” means any subsurface wastewater disposal system that discharges over 2,000 gallons of wastewater per day as regulated by 10-144 C.M.R. Ch. 241, *Subsurface Wastewater Disposal Rules*.

Comprehensive plan. "Comprehensive plan" means a document or interrelated documents consistent with 30-A M.R.S. § 4326(1)-(4), including the strategies for an implementation program which are consistent with the goals and guidelines established pursuant to Title 30-A Chapter 187 Subchapter II.

Conditional use. “Conditional use” means a use permitted on a lot in a zoning district by a municipal legislative body, subject to certain conditions not generally applicable to other lots located in that zoning district.

Density requirements. “Density requirements” mean the maximum number of dwelling units allowed on a lot, subject to dimensional requirements.

Designated growth area. “Designated growth area” means an area that is designated in a municipality's or multi-municipal region's comprehensive plan as suitable for orderly residential, commercial, or industrial development, or any combination of those types of development, and into which most development projected over ten (10) years is directed.

Dimensional requirements. “Dimensional requirements” mean requirements which govern the size and placement of structures including building height, lot area, minimum frontage, lot depth, and setbacks. A municipality may modify the definition of dimensional requirements to meet local needs and considerations.

Duplex. “Duplex” means a structure containing two (2) dwelling units.

Dwelling unit. “Dwelling unit” means a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for one family or one or more persons, and contains cooking, sleeping, and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Land use ordinance. "Land use ordinance" means an ordinance or regulation of general application adopted by the municipal legislative body which controls, directs, or delineates allowable uses of land and the standards for those uses.

Lot. “Lot” means a single parcel of developed or undeveloped land.

Multifamily dwelling. “Multifamily dwelling” means a structure containing three (3) or more dwelling units.

Multi-unit residential structure. “Multi-unit residential structure” means a structure containing two (2) or more dwelling units.

Municipality. “Municipality” means a city or a town, excluding all unorganized and deorganized townships, plantations, and towns that have delegated administration of land use controls to the Maine Land Use Planning Commission pursuant to 12 M.R.S. § 682(1).

Municipal fire official. “Municipal fire official” means a municipal fire chief as described in 30-A M.R.S. § 3153.

Parking agreement. “Parking agreement” means a legally binding agreement between a property developer and the owner of an off-site parking facility to provide required parking spaces within 0.25 miles of a residential development site. The distance between a residential development and an off-site parking facility is measured in a straight, direct

line from the nearest edge of the parcel containing the residential development to any point on the parcel(s) that make up the parking facility.

Potable. “Potable” means safe for drinking as defined by the U.S. Environmental Protection Agency’s (EPA) Drinking Water Standards and Health Advisories Table and Maine’s interim drinking water standards for six different perfluoroalkyl and polyfluoroalkyl substances (PFAS), Resolve 2021 Chapter 82, *Resolve, To Protect Consumers of Public Drinking Water by Establishing Maximum Contaminant Level for Certain Substances and Contaminants*.

Principal structure. "Principal structure" means a structure in which the main or primary use of the structure is conducted.

Quadplex. “Quadplex” means a structure containing 4 (four) dwelling units.

Residential use. “Residential use” means a use permitted in an area by a municipal legislative body to be used for human habitation. Residential uses may include single-family, duplex, triplex, quadplex, and other multifamily housing; condominiums; time-share units; and apartments. For purposes of this rule, the following uses are not included under this definition, unless otherwise allowed in local ordinance: (1) Dormitories; (2) Congregate living facilities; (3) Campgrounds, campsites, hotels, motels, beds and breakfasts, or other types of lodging accommodations; and (4) Transient housing or short-term rentals.

Restrictive covenant. “Restrictive covenant” means a provision in a deed, or other covenant conveying real property, restricting the use of the land.

Setback requirements. “Setback requirements” mean the minimum horizontal distance from a lot line, shoreline, or road to the nearest part of a structure, or other regulated object or area as defined in local ordinance.

Single-family dwelling unit. “Single-family dwelling unit” means a structure containing one (1) dwelling unit.

Story. “Story” means the portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. A story is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

Structure. “Structure” means anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons as defined in 38 M.R.S. § 436-A(12).

Triplex. “Triplex” means a structure containing three (3) dwelling units.

Zoning ordinance. "Zoning ordinance" means a type of land use ordinance that divides a municipality into districts and that prescribes and reasonably applies different regulations in each district.

SECTION 2. AFFORDABLE HOUSING DENSITY

A. GENERAL

1. This Section requires municipalities to allow an automatic density bonus for certain affordable housing developments. This section only applies to lots in zoning districts that have adopted density requirements.

2. Municipalities must comply with the requirements of this Section by July 1, 2026, for municipalities for which ordinances may be enacted by the municipal officers without further action or approval by the voters of the municipality and July 1, 2027, for all other municipalities. Further action or approval by the voters of the municipality means municipalities that have a town meeting form of government.

B. ELIGIBILITY FOR DENSITY BONUS

1. For purposes of this section, a municipality shall verify that the development:

   a) Is an affordable housing development as defined in this chapter, which includes the requirement that 51% or more of the total units on the lot are affordable;

   b) Is in a designated growth area as identified in a municipality's comprehensive plan or served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system. A development is served by water and sewer when it abuts or is accessible to a sewer or drain and water system;

   c) Is located in an area in which multifamily dwellings are allowed per municipal ordinance;

   d) Complies with minimum lot size requirements in accordance with Title 12 Chapter 423-A; and

   e) Owner provides written verification that each unit of the housing development is proposed to be connected to adequate water and wastewater services prior to certification of the development for occupancy or similar type of approval process.

      i. If a housing unit is connected to a public, special district or other comparable sewer system, written verification includes 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, written verification includes proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector pursuant to 30-A M.R.S.

§ 4221. If the local plumbing inspector determines that a septic system is adequate, a municipality may not require additional review or documentation related to the adequacy of wastewater disposal prior to certifying for occupancy or similar type of approval process. Plans for a subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 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, written verification includes 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, written verification includes proof of access to potable water, including the standards outlined in 01-672 C.M.R. Ch. 10 section 10.25(J), *Land Use Districts and Standards*. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

2. Long-Term Affordability

Prior to granting final approval of an affordable housing development, including but not limited to issuing an occupancy permit, a municipality must require that the owner of the affordable housing development (1) execute a restrictive covenant that is enforceable by a party acceptable to the municipality; and (2) record the restrictive covenant in the appropriate registry of deeds to ensure that for at least thirty (30) years after completion of construction:

a) For rental housing, occupancy of all 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 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.

C. DENSITY BONUS

If the requirements in Section 2(B)(1) and (2) are met, a municipality must:

1. Allow an affordable housing development to have a dwelling unit density of at least 2.5 times the base density that is otherwise allowed in that location;

2. Allow an affordable housing development to exceed any municipal height restrictions by one story or 14 feet, subject to building permit review and review by municipal fire official or designee regarding the ability to serve with a fire apparatus; and

3. Require no more than two (2) off-street parking motor vehicle spaces for every three (3) dwelling units of an affordable housing development.

If fractional results occur when calculating the density bonus in this subsection, the number of units is rounded down to the nearest whole number. Local regulation that chooses to round up shall be considered consistent with and not more restrictive than this law. The number of motor vehicle parking spaces may be rounded up or down to the nearest whole number.

SECTION 3. DWELLING UNIT ALLOWANCE

A. GENERAL

1. This Section requires municipalities to allow multiple dwelling units on lots where residential uses are allowed, including as a conditional use, subject to the requirements below. The requirements listed in Section 3 apply to municipalities with and without zoning. Private, state or local standards such as homeowners' association regulations, deed restrictions, setback requirements, septic requirements, additional parking requirements, rate of growth ordinances permitted by 30-A M.R.S. § 4360, shoreland zoning and subdivision law, may also apply to lots.

2. Municipalities must comply with the requirements of this Section by July 1, 2026, for municipalities for which ordinances may be enacted by the municipal officers without further action or approval by the voters of the municipality and July 1, 2027, for all other municipalities. Further action or approval by the voters of the municipality means municipalities that have a town meeting form of government.

B. REQUIREMENTS

1. Use Allowed. A municipality must allow, at a minimum, the following, subject to the requirements of this Section and Section 4:

   a) A total of three (3) dwelling units, attached or detached, on lots where residential uses are permitted, including as a conditional use;

   b) A total of four (4) dwelling units, attached or detached, if a lot is located in a designated growth area or served by both public, special district, or other centrally managed water system and a public, special district or other comparable sewer system. A lot is served by water and sewer when the lot abuts or is accessible to a sewer or drain and water system, whether or not the lot is improved; and

   c) One of the units described in Section 3(B)(1)(a) and (b) to be an accessory dwelling unit (if applicable).

2. If applicable, the municipality must apply these requirements to a mixed-use development, subject to the requirements listed in Section 6.

3. A municipality may allow more dwelling units or accessory dwelling units than the minimum number of units required.

4. Lot Size and Density Allowances for Residential Lots

    a) If a lot is located in a designated growth area and is served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system:

        i. Four dwelling units must be an allowed use, attached or detached, inclusive of an accessory dwelling unit.

        ii. A municipality may not require a lot size of more than 5,000 square feet.

        iii. A municipal ordinance shall not require more than 1,250 square feet of lot area per dwelling unit for the first four (4) units.

        iv. If a municipality chooses to allow more than four (4) units on a lot as described in Section 3(B)(1)(b), a municipality must establish a lot area per dwelling unit requirement of 5,000 square feet of lot area or less for any additional units beyond the first four (4) units.

    b) If a lot is located outside of a designated growth area and is served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system:

        i. Four dwelling units shall be an allowed use, attached or detached, inclusive of an accessory dwelling unit.

        ii. A municipality's minimum lot size in that zone or area may not exceed 5,000 square feet.

        iii. A municipality's density requirement for that zone or area may not exceed 5,000 square feet of lot area for the first two (2) dwelling units contained within a single structure.

    c) If a lot is located in a designated growth area and is not served by a public, special district or other comparable sewer system:

        i. Four dwelling units shall be an allowed use, attached or detached, inclusive of an accessory dwelling unit.

        ii. A municipality's minimum lot size requirement may not exceed 20,000 square feet for a single-family dwelling unit as required by Title 12 Chapter 423-A and the density requirements may not be more restrictive than those required by Title 12 Chapter 423-A.

d) If a lot is located outside of a designated growth area and is not served by a public, special district or other comparable sewer system,

i. Three dwelling units shall be an allowed use, attached or detached, inclusive of an accessory dwelling unit.

ii. A municipality's minimum lot size requirement and density requirements for that area or zone must comply with the requirements in Title 12 Chapter 423-A. A municipality may establish minimum lot size and density requirements for these zones or areas that are more restrictive than the requirements in Title 12 Chapter 423-A.

e) If four (4) or fewer dwelling units have been constructed on a lot as a result of the allowances in Section 3 or Section 4, the lot is not eligible for any additional increases in density, unless a municipality is more permissive in local ordinance.

NOTE: Below are examples of how the lot size and density requirements in Section 3(B)(4) could apply to a lot.

- A lot owner with a 5,000 square foot lot in a designated growth area with public water and public sewer may construct the following unit types: a quadplex; a triplex; a triplex and an accessory dwelling unit; a duplex, a duplex and an accessory dwelling unit; a single-family dwelling unit; or a single-family dwelling unit and an accessory dwelling unit. Additional units may be built if the municipality, where the lot is located, establishes a minimum lot size smaller than 5,000 square feet and permits more than four units on one lot. Private, state or local standards such as homeowners' association regulations, deed restrictions, setback requirements, shoreland zoning and subdivision law, may also apply to this lot.

- A lot owner with a 10,000 square foot lot in a designated growth area with public water and public sewer may construct the following unit types: a quadplex; a triplex; a triplex and an accessory dwelling unit; a duplex, a duplex and an accessory dwelling unit; a single-family dwelling unit; or a single-family dwelling unit and an accessory dwelling unit. A fifth unit may be built if the municipality where the lot is located permits more than four units on a single lot. Private, state or local standards such as homeowners' association regulations, deed restrictions, setback requirements, shoreland zoning and subdivision law, may also apply to this lot.

- A lot owner with a 2,500 square foot lot in a designated growth area with public water and public sewer may not construct any type of dwelling unit, unless the municipality where the lot is located establishes a minimum lot size of less than 5,000 square feet.

- A lot owner with a 5,000 square foot lot with public water and public sewer (but outside a designated growth area) may construct the following unit types: a duplex; a duplex and an accessory dwelling unit; a single-family

dwelling unit; or a single-family dwelling unit and an accessory dwelling unit. Private, state or local standards such as homeowners' association regulations, deed restrictions, setback requirements, additional parking requirements, rate of growth ordinances permitted by 30-A M.R.S § 4360, shoreland zoning and subdivision law, may also apply to this lot.

- A lot owner with a 10,000 square foot lot with public water and public sewer (but outside a designated growth area) may construct the following unit types: a triplex; a triplex and an accessory dwelling unit; a duplex; a duplex and an accessory dwelling unit; a single-family dwelling unit; or a single-family dwelling unit and an accessory dwelling unit. Private, state or local standards such as homeowners' association regulations, deed restrictions, setback requirements, additional parking requirements, rate of growth ordinances permitted by 30-A M.R.S. § 4360, shoreland zoning and subdivision law, may also apply to the lot.

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5. Dimensional Requirements

A municipal ordinance may not establish dimensional requirements for multiple residential units on a lot that are greater than those required for single-family dwelling units.

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NOTE: For example, if a municipality requires 50 feet of road frontage for the construction of a single-family dwelling unit on a lot, a municipality may not require an additional 50 feet (100 feet in total) of road frontage for the construction of two residential units, attached or detached.

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6. Water and Wastewater

a) The municipality must require an owner of a proposed housing structure to provide written verification that each proposed structure is to be connected to adequate water and wastewater services prior to certification of the development for occupancy or similar type of approval process.

i. If a housing structure is connected to a public, special district or other comparable sewer system, written verification includes 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 structure is connected to a septic system, written verification includes proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector pursuant to 30-A M.R.S. § 4221. If the local plumbing inspector determines that a septic system is adequate, a municipality may not require additional review or documentation related to the adequacy of wastewater disposal prior to certifying for occupancy or similar type of

approval process. Plans for a subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. Ch. 241, *Subsurface Wastewater Disposal Rules*.

iii. If a housing structure is connected to a public, special district or other centrally managed water system, written verification includes 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 structure is connected to a well, written verification includes proof of access to potable water, including the standards outlined in 01-672 C.M.R. Ch. 10 section 10.25(J), *Land Use Districts and Standards*. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

C. MUNICIPAL IMPLEMENTATION

1. A municipality may not require planning board approval for four (4) or fewer residential dwelling units within a single structure. The term planning board applies to any appointed or elected board or committee that has been established by charter or ordinance. Planning board approval does not mean code enforcement officer review, site plan review, or other municipal staff review.

2. A municipality may impose fines for violations of building, site plan, zoning, and utility requirements for dwelling units.

3. A municipality may establish alternative criteria that are less restrictive than the requirements of Section 3(B)(4) for the approval of a dwelling units only in circumstances in which the municipality would be able to provide a variance pursuant to 30-A M.R.S. § 4353(4)(A), (B), or (C).

NOTE: The planning board restriction in Section 3(C)(1) is for the establishment and use of up to four dwelling units in one structure generally. This does not include, for example, a three- or four-unit building requiring planning board approval for locations within the shoreland zones, a historic district, or wellhead protection district.

SECTION 4. ACCESSORY DWELLING UNITS

A. GENERAL

1. A municipality must allow at least one (1) accessory dwelling unit to be located on the same lot as a single-family dwelling unit or multi-unit residential structure in any area in which residential uses are permitted, including as a conditional use, subject to the requirements outlined below. The requirements listed in Section 4 apply to municipalities with and without zoning. Private, state or local standards such as homeowners' association regulations, deed restrictions, setback

requirements, septic requirements, shoreland zoning, and subdivision law may also apply to lots.

2. A municipality may not categorically prohibit accessory dwelling units in the shoreland zone that would otherwise meet the shoreland zoning requirements established by the Department of Environmental Protection, Title 28 Chapter 3, and municipal shoreland zoning ordinances.

3. Municipalities must comply with the requirements of this Section by July 1, 2026, for municipalities for which ordinances may be enacted by the municipal officers without further action or approval by the voters of the municipality and July 1, 2027, for all other municipalities. Further action or approval by the voters of the municipality means municipalities that have a town meeting form of government.

B. REQUIREMENTS

1. Accessory Dwelling Unit Allowance

An accessory dwelling unit may be constructed only:

a) Within a single-family dwelling unit or multi-unit residential structure on the lot;

b) Attached to or sharing a wall with a single-family dwelling unit or multi-unit residential structure; or

c) As a new structure on the lot for the primary purpose of creating an accessory dwelling unit.

A municipality may allow an accessory dwelling unit to be constructed or established within an existing accessory structure, except the setback requirements of Section 4(B)(3)(b)(i) shall apply.

2. Zoning

With respect to accessory dwelling units, municipalities with zoning ordinances and municipalities without zoning must comply with the following conditions:

a) At least one (1) accessory dwelling unit must be allowed on any lot where a single-family dwelling unit or multi-unit residential structure is the principal structure; and

b) An accessory dwelling unit must be allowed on a lot that does not conform to the municipal zoning ordinance if the accessory dwelling unit does not further increase the nonconformity, meaning the accessory dwelling unit does not cause further deviation from the dimensional standard(s) creating the nonconformity, excluding lot area.

3. General Requirements

With respect to accessory dwelling units, municipalities must comply with the following conditions:

a) A municipality must exempt one (1) accessory dwelling unit on a lot from any density requirements or lot area requirements related to the area in which the accessory dwelling unit is constructed.

b) For an accessory dwelling unit located within or attached to a single-family dwelling unit or a multi-unit residential structure, the dimensional requirements, excluding lot area requirements, must be the same as the dimensional requirements of the single-family dwelling unit.

i. For an accessory dwelling unit permitted in an existing accessory building or secondary building or garage as of the implementation date, the required setback requirements in local ordinance of the existing accessory or secondary building apply.

c) A municipality may establish more permissive dimensional requirements for an accessory dwelling unit.

d) An accessory dwelling unit may not be subject to any additional motor vehicle parking requirements beyond the parking requirements of the single-family dwelling unit or multi-unit residential structure on the lot where the accessory dwelling unit is located.

e) 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.

f) A municipality must allow the construction of an accessory dwelling unit on a lot even if the owner where the accessory dwelling unit is located does not reside in any dwelling unit on that lot.

4. Size

a) An accessory dwelling unit must be at least 190 square feet in size, unless the Technical Building Code and Standards Board, pursuant to 10 M.R.S. § 9722, adopts a different minimum standard; if so, that standard applies.

b) Municipalities may set a maximum size for accessory dwelling units in local ordinances.

5. Water and Wastewater

A municipality must require an owner of an accessory dwelling unit to provide written verification that the proposed accessory dwelling unit is to be connected to adequate water and wastewater services prior to certification of the accessory dwelling unit for occupancy or similar type of approval process.

a) If an accessory dwelling unit is connected to a public, special district or other comparable sewer system written verification includes proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system.

b) If an accessory dwelling unit is connected to a septic system, written verification includes proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector pursuant to 30-A M.R.S. § 4221. If the local plumbing inspector determines that a septic system is adequate, a municipality may not require additional review or documentation related to adequacy of wastewater disposal prior to certifying for occupancy or similar type of approval process. Plans for a subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. Ch. 241, *Subsurface Wastewater Disposal Rules.*

c) If an accessory dwelling unit is connected to a public, special district or other centrally managed water system, written verification includes 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.

d) If an accessory dwelling unit is connected to a well, written verification includes proof of access to potable water, including the standards outlined in 01-672 C.M.R. Ch. 10 section 10.25(J), *Land Use Districts and Standards*. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

C. MUNICIPAL IMPLEMENTATION

1. A municipality may not require planning board approval for four (4) or fewer residential dwelling units within a single structure or for accessory dwelling units. The term planning board applies to any appointed or elected board or committee that has been established by charter or ordinance. Planning board approval does not mean code enforcement officer review, site plan review, or other municipal staff review.

2. A municipality may impose fines for violations of building, zoning and utility requirements for accessory dwelling units; and

3. A municipality may establish alternative criteria that are less restrictive than the above criteria in Section 4 for the approval of an accessory dwelling unit only in circumstances in which the municipality would be able to provide a variance pursuant to 30-A M.R.S. § 4353(4)(A), (B), or (C).

NOTE: The planning board restriction in Section 4(C)(1) is for the establishment and use of up to four dwelling units in one structure or accessory dwelling units generally. This does not include, for example, a three- or four-unit building requiring planning board approval for locations within the shoreland zones, a historic district, or wellhead protection district.

D. RATE OF GROWTH ORDINANCE

A permit issued by a municipality for an accessory dwelling unit does not count as a permit issued toward a municipality's rate of growth ordinance pursuant to 30-A M.R.S. § 4360.

SECTION 5. PARKING REQUIREMENTS FOR RESIDENTIAL DEVELOPMENTS

This Section applies to all municipalities, with or without zoning.

A. GENERAL PARKING SPACE REQUIREMENTS IN DESIGNATED GROWTH AREAS

1. A municipality may not require more than one (1) off-street motor vehicle parking space per dwelling unit for a residential development within a designated growth area of a municipality. Residential developments, for purposes of this Section, may include any structures containing residential uses. This Section does not apply to affordable housing developments as described by Section 2 or accessory dwelling units as described in Section 4.

2. A municipality may establish alternative maximum parking space requirements in designated growth areas, as long as those requirements do not require more than one (1) off-street motor vehicle parking space per dwelling unit.

3. A municipality may require additional motor vehicle parking spaces for residential developments outside of designated growth areas.

B. PARKING DEMAND STRATEGIES IN DESIGNATED GROWTH AREAS

1. A municipality may require parking demand management strategies in designated growth areas, as long as those strategies do not require more than one (1) off-street motor vehicle parking space per dwelling unit.

2. Parking demand management strategies may include, but are not limited to, timed spots or metered parking, shared parking, or shared vehicle access.

C. OFF-SITE PARKING AGREEMENTS WITHIN OR OUTSIDE DESIGNATED GROWTH AREAS FOR RESIDENTIAL DEVELOPMENTS

1. A municipality must allow a developer to satisfy municipal parking requirements through off-site parking agreements with existing parking facilities located with 0.25 miles of a residential development site located both within and outside of designated growth areas.

2. A developer engaged in an off-site parking agreement shall provide to the municipality documentation demonstrating the availability of sufficient capacity at the off-site parking facility, as determined by a professional parking study or similar

evidence acceptable to the municipality. A municipality may not impose additional barriers to the approval of such parking agreements beyond verifying the adequacy of the parking supply.

SECTION 6. RESIDENTIAL UNITS IN AREAS ZONED FOR COMMERCIAL USE

This Section applies to all municipalities that have zoning. Municipalities must comply with the requirements of this Section by July 1, 2027.

A. GENERAL

1. A municipality shall allow residential units in areas zoned for commercial use. This includes, but is not limited to, permitting (1) residential units in existing commercial structures that are vacant or partially vacant retail property, (2) new mixed-use structures; and (3) new stand-alone residential structures.

2. This Section does not override health or safety requirements applicable to residential units located in a municipality. Health and safety requirements may include local land use regulations, Maine Uniform Building and Energy Code regulations, National Fire Prevention Association State Adopted Standards, and state water and wastewater rules,

B. MUNICIPAL IMPLEMENTATION

1. A municipality may regulate the following in local ordinance:

   a) Determine that flooding or other natural hazards in the commercial zone makes a building located in an area zoned for commercial use unfit for residential use;

   b) Establish standards that prohibit residential units on the ground floor of a building in an area zoned for commercial use; and

   c) Regulate the siting and design of a residential or mixed-use development established in an area zoned for commercial if the siting and design requirements do not create unreasonable costs or delays. Fees related to municipal administrative costs do not constitute unreasonable costs for purposes of this Section.

   d) Establish requirements that limit the number of residential units in a commercial development.

2. A municipality may not establish requirements in local ordinance in commercial zones that are more stringent than the requirements contained in Sections 2, 3, and 4.

STATUTORY AUTHORITY:

PL 2021 Ch. 672, PL 2023 Ch. 192, PL 2023, Ch. 264, PL 2025, Ch. 364, PL 2025, Ch. 374, PL 2025, 385, codified at 30-A M.R.S. §§ 4364, 4364-A, 4364-B, 4364-E, 4364-F.

EFFECTIVE DATE:
April 18, 2023 – filing 2023-056

AMENDED
October 1, 2023—filing 2023-181

AMENDED
January 11, 2026 -- filing 2026-001

APPENDIX

List of Reference Material

Reference Material	Location to Obtain Document
U.S. Environmental Protection Agency's (EPA) Drinking Water Standards and Health Advisories Table, March 2018.	U.S. Environmental Protection Agency Office of Water Drinking Water Hotline 1-800-426-4791
10-144 C.M.R. Ch. 231, Rules Relating to Drinking Water, May 9, 2016	Maine Department of Health & Human Services Maine Center for Disease Control & Prevention 11 State House Station Augusta, Maine 04333 207-287-8016
Resolve 2021, Ch. 82, Resolve, To Protect Consumers of Public Drinking Water by Establishing Maximum Contaminant Levels for Certain Substances and Contaminants	Maine State Legislature Legislative Information Office- Document Room 100 State House Station Augusta, ME 04333 207-287-1408 webmaster_house@legislature.maine.gov
01-672 C.M.R. Ch. 10, Land Use Districts and Standards, May 13, 2025	Maine Department of Agriculture, Conservation & Forestry Bureau of Resource Information and Land Use Planning Land Use Planning Commission 22 State House Station Augusta, Maine 04333 207-287-2631
10-144 C.M.R. Ch. 241, Subsurface Wastewater Disposal Rules, September 23, 2023	Maine Department of Health & Human Services Maine Center for Disease Control & Prevention 11 State House Station Augusta, Maine 04333 207-287-8016

BASIS STATEMENT

Maine Office of Community Affairs

08-001 CMR Ch. 1: Housing Opportunity Program: Land Use and Municipal Zoning Rule

Introduction:

The Maine Legislature enacted LD 1829, LD 997, and LD 427 in June 2025. The Maine Office of Community Affairs has rulemaking authority over the following statutory sections in LD 1829, LD 997, LD 427: 30-A M.R.S. §§ 4364 to 4364-B, 4364-E, 4364-F.[1] This rule requires municipalities to create or amend local ordinances to allow for (1) additional density for affordable housing developments in certain areas; (2) multiple dwelling units on lots designated for residential uses; (3) one accessory dwelling unit located on the same lot as a single-family dwelling unit or multi-unit residential structure in any area where residential uses are permitted; (4) residential uses in commercial zones; and (5) one off-street motor vehicle parking space per dwelling unit for a residential development in designated growth areas.

Development of the Rule:

The Office held three informational sessions for the public to provide (1) an overview of what topics rulemaking will cover; (2) an anticipated rulemaking timeline; and (3) an opportunity for public feedback about what the rule should discuss. These sessions were held via Zoom on August 13, 15, and 19. These sessions were well attended by municipal staff, planning board members, and local planners, with between 50 and 100 participants at each session.

To assist with rule drafting, the Office relied upon the professional judgment of state government staff from the Maine Office of Community Affairs, the Governor's Office of Policy Innovation and the Future, and the Department of Health and Human Services. The Office also sought input from local planners and regional council staff.

Comment Period:

The comment period for the rule began on October 1, 2025. The Office held one public hearing on the rule on October 20, 2025. The comment period ended on October 31, 2025. The Office received comments from 20 commenters. The "Summary of Comments and Responses and List of Final Rule Changes" is below.

[1] 30-A M.R.S. §§ 4364 to 4364-B designate rulemaking authority to the Department of Economic and Community Development. The program amending these rules, The Housing Opportunity Program, recently moved from the Department of Economic and Community Development to the Maine Office of Community Affairs. *See* P.L. 2025, Ch. 388, Part D, sec. 47.

Fiscal and Economic Impact:

This rule requires municipalities to update land use and zoning ordinances which likely will result in costs to municipalities. To reduce the fiscal impact on municipalities, the Office will award grants to municipalities for municipal ordinance development.

The economic impact of this rule is positive. This legislation is primarily designed to encourage and support communities with housing development, including housing that is affordable for low-income and moderate-income individuals and housing targeted to community workforce housing needs. The allocated funds support communities to implement zoning and land use-related policies necessary to increase housing development. Furthermore, this rule will have a positive fiscal impact on businesses, including small-scale developers, because it removes land use barriers to housing development in municipalities.

SUMMARY OF COMMENTS AND RESPONSES

08-001 C.M.R. Chapter 1, Housing Opportunity Program: Municipal Land Use and Zoning Ordinance Rule

The Maine Office of Community Affairs' Housing Opportunity Program opened this rule for public comment on October 1, 2025. The Program held a virtual public hearing on October 20, 2025. Written comments were accepted through October 31, 2025. This document summarizes the comments that were received during this time, the Program's responses, and the changes that were made to the final rule because of the comments.

Commenters

1. Vicky Stoneman, Town of Arrowsic
2. Ed Libby, Town of Yarmouth
3. Eli Rubin, Community Planner, City of South Portland
4. Jenn Curtis, Director of Planning, City of Bath
5. Jeff Brubaker, Town Planner, Town of Eliot
6. DeCarlo Brown, Planning and Economic Development Director, Town of South Berwick
7. Mikala Jordan, Senior Planner, Southern Maine Planning Development Commission
8. Christine Bennett, Town of Eliot
9. Ethan Croce, Community Development Director, Town of Falmouth
10. Chris Bilodeau, Code Enforcement Officer, Town of Norway
11. Anja Collette, Planning Officer, City of Bangor
12. Bob Flint, Town of Baldwin
13. Bridget Perry, Director of Planning and Sustainability, Town of Cumberland
14. Kevin Kraft, Matt Grooms & Nell Donaldson, City of Portland

15. Members of the Nobleboro Selectboard, Planning Board, and Comprehensive Plan Implementation Committee.
16. Kirk Bellavance, President, Maine Transit Association
17. MJ Adams, Project Manager, Backyard ADUs
18. Brandon Leppanen, Town Manager, St. George
19. Jennie Franceschi and Rebecca Spitella, City of Westbrook
20. Tanya Emery, Advocacy Manager, Maine Municipal Association

Commenter 1:

1. Commenter asks the Program for clarification about the requirements for lot size and density for municipalities that do not have public water and public sewer, nor have designated growth areas.

   Response: The Program thanks the commenter for this question. A municipality must establish *at least* a 20,000 square foot minimum lot size for zones or areas that fall outside growth areas and are not served by public water and public sewer (or comparable systems). This minimum lot size requirement aligns with the requirements in Title 12, chapter 423-A and the accompanying rule, 10-144 CMR Ch. 243. A municipality may exceed this minimum lot size in local ordinance for areas that are not served by public water and public sewer (or comparable systems) and that are not in growth areas. The Program encourages municipalities to reach out to the Department of Health and Human Services' Subsurface Wastewater Unit with specific questions on minimum lot sizes to align with statutory requirements in Title 12, chapter 423-A. Please contact Alex Pugh at Alex.L.Pugh@maine.gov. The Program did not make changes to the rule as a result of this comment.

2. The Commenter also asks about their municipality's two-acre minimum lot size and the number of units that are permitted on a lot in that area.

   Response: The Program thanks the commenter for this question. LD 1829 requires municipalities to permit a lot owner to construct three dwelling units on a lot without public water and public sewer (or comparable systems) outside of a designated growth area. However, several lot-specific factors may restrict the ability for a lot owner to construct three units. These factors may include: shoreland zoning requirements, setback requirements, minimum lot size rules for subsurface wastewater disposal, subsurface wastewater rules, and ability to connect to drinking water. The Program did not make changes to the rule as a result of this comment.

3. Commenter also asks about the water and wastewater requirements for dwelling units permitted under LD 2003 and now LD 1829.

Response: The Program thanks the commenter for this question. LD 2003 requires all dwelling units, housing structures, and accessory dwelling units to be connected to "adequate" water and wastewater services. LD 1829 did not change this requirement. Below are the specific requirements in statute organized by water and wastewater system.

- If a housing structure is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the structure and proof of payment for the connection to the sewer system.
- If a housing structure 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 section 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules.
- If a housing structure 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 structure, proof of payment for the connection and the volume and supply of water required for the structure; and
- If a housing structure is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

The Program did not make changes to the rule as a result of this comment.

Commenter 2:

4. Commenter asks the Program to consider including in rule minimum and maximum dimensional requirements for road frontage and setbacks, such as establishing a maximum of 50 feet of road frontage and 10 feet for front, rear, and side setbacks. The commenter states that excess road frontage requirements thwart the intent of LD 1829.

   Response: The Program thanks the commenter for this comment. The Program does not have authority in rule to create this new municipal requirement. Municipalities may, however, establish setback and frontage requirements based on local needs and considerations. The Program did not make changes to the rule as a result of this comment.

5. Commenter also asks the Program to consider requiring increased housing density in only areas that have both public water and public sewer and that are in designated growth areas.

   Response: The Program thanks the commenter for this comment. Statute requires municipalities to allow moderate increases in density (at least three units) in areas outside of designated growth areas without public water and public sewer (or comparable

systems). See 30-A M.R.S. § 4364-A(1). The Program does not have authority in rule to amend statute. The Program did not make changes to the rule as a result of this comment.

6. Commenter asks the Program to consider adding in rule in Section 5 the following: If there is a municipal or public parking lot within 0.25 miles then the municipality must allow parking in that lot to satisfy the requirement if parking is adequate as determined by a professional parking study.

   Response: The Program thanks the commenter for this comment. The Program does not have authority in rule to create a new municipal requirement. However, this is an option that municipalities may consider including in local ordinance. The Program did not make changes to the rule as a result of this comment.

7. Commenter asks the Program to amend rule to clarify that the 0.25 miles measurement for parking agreement is not a walking or driving measurement, but instead the shortest distance between two points without considering any obstacles ("as the crow flies").

   Response: The Program thanks the commenter for this comment. The Program amended the definition of parking agreement in Section 1(B) to clarify that the 0.25 measurement reflects the shortest distance between the housing development and the off-site parking facility.

Commenter 3

8. Commenter asks the Program to amend the definition of commercial use to include the following: "For purposes of this rule, this definition does not include areas allowing industrial uses unless a municipality allows residential in that area as a principal use." Commenter suggested this addition because most municipalities do not have areas zoned exclusively for industrial uses.

   Response: The Program thanks the commenter for this comment. 30-A M.R.S. § 4364-E defines "commercial use." This statutory definition does not exclude industrial uses. The Program did not make changes to the rule as a result of this comment.

9. Commenter asks the Program to amend Sections 3(C)(1) and 4(C)(1) by striking the following language: "A municipality must apply the same review process for a single-family dwelling unit to a duplex, a triplex, a quadplex, or an accessory dwelling unit." The reason behind removing this language is to ensure that municipalities have some ability to choose how multi-unit structures are approved. For example, a municipality may decide to only require a building permit for one- and two-family homes, while three and four family homes might require a site plan, stormwater plans, landscaping plan, or parking plans that will be reviewed and approved administratively.

Response: The Program thanks the commenter for this comment. The Program agrees with the commenter about the need for clarification, acknowledging that three- or four-unit structures may trigger different types of administrative review. The Program amended Sections 3(C)(1) and 4(C)(1) as a result of this comment.

10. Commenter asks the Program to add the following in Sections 3(C)(1) and 4(C)(1): The term planning board applies to any appointed or elected board or committee that has been established, pursuant to state law, as the municipal reviewing authority

    Response: The Program thanks the commenter for this comment. The Program agrees with the commenter about the need for further clarification. The Program amended Sections 3(C)(1) and 4(C)(1) as a result of this comment.

11. Commenter also states that it could be beneficial to include an explanation in rule that the planning board restriction in Sections 3(C)(1) and 4(C)(1) are for the establishment and use of up to four dwelling units generally. This does not include, however, a three unit building from needing planning board approval for locations within the shoreland zones, a historic district, or wellhead protection district.

    Response: The Program thanks the commenter for this comment. The Program agrees with the commenter about the need for additional clarification. The Program added notes in Sections 3(C)(1) and 4(C)(1) as a result of this comment.

12. Commenter states that the note in Section 4(C)(1) is not needed because there is no inconsistency between 30-A M.R.S. § 4364-A(5-A) and 30-A M.R.S.§ 4364-B(8)(A). Section 4364-B(8)(A) applies to attached and detached accessory dwelling units, while Section 4364-A(5-A) applies to a structure with four or fewer units, with the possibility that one of those units is an ADU.

    Response: The Program thanks the commenter for this comment. The Program agrees with the commenter and removed the note in Section 4(C)(1). The Program also added in Section 4(C)(1) that accessory dwelling units are exempt from planning board approval.

13. Commenter states that the law and rule reference "served by sewer" several times. Commenter asks the Program to include in rule that the phrase "served by sewer" may be defined by the municipality but may not be less restrictive than 38 M.R.S. § 1160.

    Response: The Program thanks the commenter for this comment. The Program agrees with the commenter that clarity is needed in rule to define what "served" means for

purposes of public water and public sewer access. However, based on guidance from the Department of Environmental Protection, citation to 38 M.R.S. § 1160 is too limiting because it refers to only "buildings in sanitary districts." The scope of this citation is too narrow based on LD 1829's broader applicability. Instead, the Program amended the rule to clarify that a lot is served by both public, special district, or other centrally managed water system and a public, special district or other comparable sewer system when a lot abuts or is accessible to a sewer, drain, or water system, whether or not the lot is improved. This language was based on statutory language in 38 M.R.S. § 1048(3), Readiness to serve.

Commenter 4:

14. Commenter asks the Program to add to the rule information about the type of training that meets the mandatory training requirement in LD 1829.

    Response: The Program thanks the commenter for this comment. The Housing Opportunity Program does not have rulemaking authority for this statutory section, 30-A M.R.S. § 4364-C. However, the Municipal Planning Assistance Program, in the Maine Office of Community Affairs, is working on guidance for municipalities on planning board processes and procedures. No changes to the rule were made as a result of this comment.

15. Commenter states that the combined effect of LD 997 and LD 1829 will increase density in commercial districts beyond what the bills may have intended.

    Response: The Program thanks the commenter for this comment. This comment goes beyond the scope of rulemaking. No changes to the rule were made as a result of this comment.

Commenter 5:

16. Commenter asks the Program to clarify in rule what is meant by 0.25 miles in the definition of parking agreement in LD 427. Is it 0.25 miles in terms of reasonable lines of access or the most direct route between the housing development and the off-site parking facility?

    Response: The Program thanks the commenter for this comment. The Program amended the rule as a result of this comment.

17. Commenter asks the following question: In a rural non-growth area, if a developer proposes a comparable sewer system, can the developer avail the project of the lower minimum lot size requirement (5,000 square feet)? If so, it seems like they could skirt around the requirements in Section 3(B)(4)(c)-(d).

Response: The Program thanks the commenter for this comment. The minimum lot size requirement is no more than 5,000 square feet or less in areas located outside of a designated growth area but in an area served by a public water system and a public sewer system (or centrally managed water system and comparable sewer system). Depending on the housing development that is proposed by a developer, however, subsurface wastewater minimum lot size rules may necessitate a larger lot size or a separate lot to accommodate the comparable sewer system. For questions about specific housing developments and subsurface wastewater requirements, please contact your local plumbing inspector or the Subsurface Wastewater Unit in the Department of Health and Human Services. The Program did not make changes to the rule as a result of this comment.

18. Commenter asks the Program for clarification about the 20,000 square foot minimum lot size requirement in Section 3(B)(4)(c). Is the 20,000 square feet minimum lot size intended to be the floor or the ceiling? Do municipalities have flexibility to establish a lot size higher than 20,000 square feet if that is consistent with their comprehensive plan?

    Response: The Program thanks the commenter for this comment. For lots that are in designated growth areas but are not served by public water and public sewer (or comparable systems), the minimum lot size requirement is 20,000 square feet. A municipality may not require more than 20,000 square feet of lot area for one unit.

    For lots located outside of designated growth areas, that are not served by public water and public sewer (or comparable systems), the 20,000 minimum lot size is the floor, meaning municipalities may exceed that lot size requirement in local ordinance. The Program did not make changes to the rule as a result of this comment.

Commenter 6:

19. Commenter asks the Program for clarification in rule about the role of a municipal reviewing authority and subdivision review. Can a municipality have multiple reviewing authorities for subdivision review? Can a planning office be designated as municipal reviewing authority?

    Response: The Program thanks the commenter for this comment. This comment is outside the scope of rulemaking. The Program did not make changes to the rule as a result of this comment.

20. Commenter asks the Program for clarity in rule about the necessity to amend municipal comprehensive plans because of the increases in density required by LD 1829. Will a

town be required to change its comprehensive plan in the next two years to ensure that its zoning ordinances are consistent with the comprehensive plan?

Response: The Program thanks the commenter for this comment. This question is outside the scope of this rulemaking. The Program encourages municipalities to consult with their municipal legal counsel about zoning ordinance consistency with comprehensive plans.

21. Commenter asks for clarification about the requirements in LD 1829 for lots that have public water and sewer and are also in designated growth areas, specifically referring to the second example on page 10. Commenter asks if this example conflicts with Section 3(B)(4)(a).

Response: The Program thanks the commenter for this comment. Section 3(B)(4)(a) requires municipalities to establish no more than a 5,000 square foot minimum lot size in areas that are in growth areas and are served by public water and public sewer (or comparable systems). Furthermore, the density requirement for these areas of a municipality may not exceed 1,250 square feet per dwelling unit for up to four units. Therefore, only if a municipality permits a minimum lot size that is smaller than 5,000 square feet could a lot owner place one or more units on a lot smaller than 5,000 square feet. The charts below provide two examples of how to conceptualize lot size and density requirements in local ordinance. The maximum residential density depends on the size of the lot. These charts are examples only and would change depending on a municipality's established minimum lot size and density requirements in local ordinance, assuming they are equal to or more permissive than the requirements listed in Section 3(B)(4)(a).

Maximum Residential Density

Growth areas with public water and public sewer (or comparable systems)

Example 1

Lot Size (square feet)	**Number of Units**
0-1,249	0
1,250-2,499*	1
2,500-3,749*	2
3,750-4,999*	3
5,000+	4 (or more if allowed in municipality)

*if a municipality permits a minimum lot size smaller than the minimum of 5,000.

Example 2

Lot Size (square feet)	**Number of Units**
0-1,249	0
1,250-2,499	0
2,500-3,749	0
3,750-4,999	0
5,000-9,999	4
10,000+	5 (if more than 4 units are permitted in a municipality)

22. Commenter asks for clarification in rule about municipal buffering requirements. Are buffers considered dimensional requirements for the purposes of LD 1829?

    Response: The Program thanks the commenter for this comment. Municipalities may include buffers as a type of dimensional requirement. Municipalities may amend the definition of dimensional requirement in local ordinance to reflect local considerations. The Program amended the definition of dimensional requirement in Section 1(B) to reiterate that municipalities may amend rule definitions to meet local needs.

23. Commenter questions if the Program has authority in rule to exclude industrial zones from the definition of commercial use in statute.

    Response: The Program thanks the commenter for this comment. The Program removed this sentence in rule.

24. Commenter asks the following question: Does a comparable sewer system include septic and shared wells? Does this apply in non-growth areas?

    Response: The Program thanks the commenter for this comment. The rule defines comparable sewer system as a "subsurface wastewater disposal system that discharges over 2,000 gallons of wastewater per day as regulated by 10-144 C.M.R. Ch. 241, Subsurface Wastewater Disposal Rules." Therefore, a shared septic (or community septic system) could be a comparable system if it discharges over 2,000 gallons of wastewater per day. For more information about the requirements for a specific housing development, municipalities and/or developers should consult with a local licensed plumbing inspector or contact the Subsurface Wastewater Unit.

    Comparable sewer systems do apply to areas outside of growth areas. See 30-A M.R.S. § 4364-A(2-A). The Program did not make changes to the rule as a result of this comment.

Commenter 7:

25. Commenter asks the Program to revise the definition of single-family dwelling unit to not exclude non-related individuals that are cohabitating together, such as roommates.

    Response: The Program thanks the commenter for this comment. The Program amended the definition of dwelling unit to reflect updated definitions of the term. The rule, does however, allow municipalities to adopt definitions that meet local needs and considerations. Municipalities do not need to adopt rule definitions verbatim.

26. Commenter asks the Program to remove the 0.25 mile distance from the definition of parking agreement in rule. By including the distance within the definition municipalities cannot make parking agreements in areas further away if they want to.

    Response: The Program thanks the commenter for this comment. Parking agreement is defined in statute. 30-A M.R.S. § 4364-F(1). The Program does not have authority to amend the statute to remove the 0.25 distance. The Program did not make changes to the rule as a result of this comment.

27. Commenter asks the Program to provide clarity in rule if self-standing residential units must be allowed in commercial zones.

    Response: The Program thanks the commenter for this comment. The Program amended the rule to clarify that stand alone residential units are permitted in commercial zones.

Commenter 8:

28. Commenter states that the allowance in LD 2003 (and LD 1829) that a comparable sewer system is sufficient to increase density on a lot overlooks environmental and health concerns of communities.

    Response: The Program thanks the commenter for this comment. The allowance for increased density if a comparable sewer system exists is a requirement in statute. The Program does not have authority to change the statute. The Program did not make changes to the rule as a result of this comment.

29. Commenter states that Eliot would like to keep its zoning ordinances and its comprehensive plan consistent. Eliot's comprehensive plan includes increasing the allowance of accessory dwelling units (ADUs) from one ADU to two ADUs. If Eliot adopts that allowance in local zoning ordinances would that meet LD 1829?

    Response: The Program thanks the commenter for this comment. LD 1829 now requires a municipality to allow ADUs on lots with multiple units, instead of only on lots with existing single-family homes as previously allowed in LD 2003. Increasing the allowance

of ADUs from one ADU to two ADUs would meet the requirements of LD 1829 assuming Eliot is permitting lots with multiple units to add accessory dwelling units.

The Program encourages municipalities to consult with their municipal legal counsel about zoning ordinance consistency with comprehensive plans. The Program did not make changes to the rule as a result of this comment.

30. Commenter asks the Program to clarify in rule if shared septic and well systems meet the definition of a comparable sewer system.

Response: Response: The Program thanks the commenter for this comment. The rule defines comparable sewer system as a "subsurface wastewater disposal system that discharges over 2,000 gallons of wastewater per day as regulated by 10-144 C.M.R. Ch. 241, Subsurface Wastewater Disposal Rules." Therefore, a shared septic (or community septic system) could be a comparable system if it discharges over 2,000 gallons of wastewater per day. For more information about the requirements for a specific housing development, municipalities and/or developers should consult with a local licensed plumbing inspector or contact the Subsurface Wastewater Unit. The Program did not make changes to the rule as a result of this comment.

Commenter 9

31. Commenter asks the Program to include in rule language that dwelling units on lots must be hooked up to water and sewer, as opposed to stating in rule that lots must be served by public water and public sewer.

Response: The Program thanks the commenter for this comment. Sections 2(B)(1)(e), 3(B)(6), and 4(B)(5) require all units to be connected to adequate water and wastewater. The Program did not make changes to the rule as a result of this comment.

32. Commenter questions the accuracy of Section 3(B)(4)(b). Commenter states that the statute only speaks to density requirements for the first two units in one structure (a duplex). The rule expands this section to allow 4 units. Commenter feels that this particular provision does not speak to density allowance for any other combination of dwelling units.

Response: The Program thanks the commenter for this comment. The commenter is correct that the statute, 30-A M.R.S. § 4364-A(2-A)(B), only speaks to density requirements for the first two units in a structure. For this subsection, a municipality's density requirement may not exceed 5,000 square feet of lot area for the first two dwelling units contained within a single structure, not including accessory dwelling units.

However, this section of statute does not include the use types allowed in zones/areas. 30-A M.R.S. § 4364-A(1) establishes the use types that are allowed in certain residential areas. For areas that are served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system, four units are allowed per lot, assuming municipal dimensional requirements are met. This could be a combination of a number of unit types, or one quadplex for instance. The Program did not make changes to the rule as a result of this comment.

33. Commenter feels that the statutory language in 30-A M.R.S. § 4364-A(5-A) is clear enough on its own and that the Program's inclusion of extra language in Section 3(C)(1) and Section 4(C)(1) adds more confusion and goes beyond the plain reading of the statute. Commenter suggests deleting all language that does not come from statute.

    Response: The Program thanks the commenter for this comment. The Program received comments from another commenter about the need for additional language in this section of rule to clarify how this section of rule operates. These comments included additional language that could help with clarity. See Comments 9, 10, and 11. The Program agrees that the statutory language alone is not sufficient to guide municipalities with implementation at the local level. Therefore, the Program amended these sections of rule to add further explanation.

34. Commenter questions the removal of the phrase "including but not limited to" from the definition of dimensional requirement in rule. Is the definition of dimensional requirement in rule intended to be a complete list?

    Response: The Program thanks the commenter for this comment. The definition of dimensional requirement in rule is not meant to be exhaustive. A municipality may amend the definition of dimensional requirement in local ordinance to include any other requirements that govern the size and placement of structures based on local needs and considerations. The Program amended the definition of dimensional requirements to reiterate this.

35. Commenter asks for clarity in Section 2(C) regarding the additional height allowance. This language could be interpreted to allow either one additional story or additional 14 feet, but not both. Is the intent that a municipality must allow both one additional story and allow an additional 14 feet of building height? Furthermore, this language could also be interpreted as not placing any height limit on the one additional story allowed.

    Response: The Program thanks the commenter for this comment. The height bonus in Section 2(C) requires an affordable housing development to be allowed to exceed any

municipal height restriction by one story or 14 feet, not both. Municipalities have discretion to determine the definition of one story in local ordinance. The Program did not make any changes to the rule as a result of this comment

36. Commenter asks the Program to amend Section 2(C)(2) to state that height additions for affordable housing are subject to building permit review as well as subject to municipal fire official review. Commenter felt that language in rule should mirror align with statute.

    Response: The Program thanks the commenter for this comment. The Program amended the rule as a result of this comment to align with statutory language.

37. Commenter asks the Program to amend multiple sections of the rule (such as Section 3(B)) to replace the words "a lot is" with "the dwelling units are." This revision helps to avoid situations where lots may be partially in a growth area or a lot is served by public water and public sewer, but where the units are not served by public and public sewer.

    Response: The Program thanks the commenter for this comment. To maintain consistency with the statutory language, the Program did not make this change in rule. However, the Program clarified in rule in Section 3(B)(2) what is meant by the term "served by" in relation to sewer and water.

38. Commenter suggests deleting Section 3(B)(4)(b)(iii) for two reasons. The first is that repeating this language is unnecessary. The second is that this language changes the meaning of the statute by requiring that 4 units are allowed on even nonconforming lots.

    Response: The Program thanks the commenter for this comment. To link the use types permitted with density requirements, the Program kept the language about the use types allowed in this section of the rule. The Program, did however, move Section 3(B)(4)(b)(iii) in rule and amend the language for clarity. The citation is now 3(B)(4)(b)(i). Furthermore, Section 3(B)(4)(b) of the rule does not require four units on nonconforming lots. Two units in one structure are permitted on 5,000 square foot lots, but municipalities may require additional lot area to accommodate additional units. The Program did not make changes to the rule as a result of this comment.

39. Commenter suggests mirroring the language in Section 3(B)(4)(d) with the language in Section 3(B)(4)(c) to provide consistency in rule language.

    Response: The Program thanks the commenter for this comment. The Program amended the rule as a result of this comment for consistency purposes.

Commenter 10

40. Commenter asks if the Program can clarify in rule about the requirements in Section 4(B)(3)(e). If an individual has an illegal ADU, does it mean that this structure needs an after-the-fact permit and a code enforcement officer cannot make the lot owner tear down the structure?

    Response: The Program thanks the commenter for this comment. If the accessory dwelling unit meets local ordinance requirements, a code enforcement officer cannot require the lot owner to tear down the structure. However, the municipality may require the lot owner to obtain the necessary permits and approvals. The Program did not make changes to the rule as a result of this comment.

Commenter 11

41. Commenter asks the Program to amend Section 3(C)(2)-(3) to specify whether a municipality may or may not (1) impose fines for violations of building requirements and (2) establish alternative criteria for variances.

    Response: The Program thanks the commenter for this comment. The Program amended the rule as a result of this comment to align with statutory language.

42. Commenter asks for clarification in Section 6. The rule states that a "municipality shall allow residential units within structures located in areas zoned for commercial use." Does this mean that the municipality must allow residential in all its commercial zones?

    Response: The Program thanks the commenter for this comment. A municipality must allow residential uses in all of its areas zoned for commercial zones. The Program did not make changes to the rule as a result of this comment.

43. Commenter asks the Program to remove the requirement in Section 3(C) that a municipality must apply the same review process for single-family dwelling units to a duplex, triplex, or quadplex. Commenter's municipality does not require staff review/minor site plan review of a single-family dwelling unit, but we may want to for a triplex or quadplex.

    Response: The Program thanks the commenter for this comment. The Program removed this sentence in the rule as a result of this comment to account for local considerations, especially for three- and four-unit buildings.

Commenter 12

44. Commenter states that LD 2003 required one ADU on all single-family home lots. Commenter asks if Section 3(B) of the rule now permits one more dwelling unit and an ADU, and/or two more dwelling units without one being an ADU on all lots?

Response: The Program thanks the commenter for this comment. LD 1829 permits up to three units on a lot where residential uses are permitted if that lot is not in a designated growth area and is not served by public water and public sewer (or comparable systems). Those units may be attached or detached. If applicable, LD 1829 also permits one of those three units to be an accessory dwelling unit. The Program did not amend the rule as a result of this comment.

45. Commenter requests clarity on Section 3(B)(4)(c) regarding subsurface wastewater and minimum lot size requirements. The Commenter asks the following questions:
    1. Is it assumed that this 20,000 square foot minimum lot area to dispose of subsurface waste for a single-family home includes the area for the home, septic system, and well?
    2. Is a 20,000 square foot lot sufficient to dispose of wastewater for three dwelling units or just one?
    3. How are existing lots that do not meet minimum density or dimensional requirements to be treated?
    4. Where can the town be more restrictive with minimum lot size requirements per subsurface wastewater rules?

    Response: The Program thanks the commenter for this comment. 20,000 square feet is the minimum lot size for a single-family home with a septic system. 12 M.R.S. § 4807-A. This does not include multiple dwelling units on one lot. It is assumed that a well will fit on a 20,000 square foot lot in addition to the septic system, but this is not always the case based on certain lot characteristics like dimensions or the physical features of a lot.

    If a lot does not meet a municipality's dimensional requirements listed in its land use ordinance, a municipality may restrict development on that lot. Separately, there is also a waiver for minimum lots pursuant to the subsurface wastewater minimum lot size rules. For more information, please contact Alex Pugh at alex.l.pugh@maine.gov.

    A municipality may be more restrictive by requiring a larger setback between the disposal field and a lake, a water supply, or a property line. Another example is that a town can dictate an absolute minimum lot size. This is related to minimum lots for properties on sewers or 10,000 square feet in some cities in Maine (by ordinance). For more information on subsurface wastewater minimum lot size rules, please contact Alex L. Pugh at alex.l.pugh@maine.gov. The Program did not make changes to the rule as a result of this comment.

46. Commenter asks if a town has a two-acre minimum lot size for a single home, can it require four acres for two units and six acres for three units?

    Response: The Program thanks the commenter for this comment. Establishing lot area per dwelling unit in this manner is acceptable only if a zone/area meets the following criteria:

(1) located outside of a designated growth area; AND (2) not served by a public, special district or other comparable sewer system. If the area/zone does meet the above two criteria, a municipality may establish a greater than 20,000 square foot minimum lot size per unit. This could result in a municipality maintaining a two-acre minimum lot size and a two-acre per dwelling unit requirement. However, LD 1829 does require smaller minimum lot size requirements and specific lot area per dwelling unit standards for lots served by public water and public sewer (or comparable systems) and lots in growth areas. For more information on how this section of law applies to your municipality, please contact the Housing Opportunity Program at housing.moca@maine.gov.

47. Commenter asks the following questions: If a lot is not large enough to meet the state's separation requirements between water supplies and wastewater disposal, can the project be denied?

    Response: The Program thanks the commenter for this comment. All housing developments must meet the requirements in the state's subsurface wastewater rules and have "adequate" water and wastewater services as defined in statute and rule. Owners of a development are required to submit written verification to the municipality that a housing structure is connected to "adequate" water and wastewater services. The Program encourages municipalities to reach out to its local plumbing inspector or the Subsurface Wastewater Unit for assistance with a specific housing development. The Program did not make changes to the rule as a result of this comment.

48. Commenter states that the increased housing density will negatively impact the water table and create problems with sufficient well water. The higher density mandates are likely to cause big problems for rural communities. LD 2003 has not yet taken effect and this change is being forced on municipalities.

    Response: The Program thanks the commenter for this comment. The Program does not have authority to amend the statute. The Program did not make changes to the rule because of this comment.

Commenter 13

49. Commenter asks the Program to clarify if Section 3(B)(1) applies to all lots within existing and future subdivisions.

    Response: The Program thanks the commenter for this comment. Section 3(B)(1) applies to existing and future subdivisions, unless there is a private agreement (deed restriction, covenant, easement etc.) that limits residential development in a subdivision. The Program did not make changes to the rule as a result of this comment.

50. Commenter states that Cumberland's town boundary includes lots outside growth areas with public water and a force main sewer line. Since this type of sewer system is not available without installing a pump station, does it fall under Section 3(B)(4)(b)?

    Response: The Program thanks the commenter for this comment. A force main sewer line likely falls under the requirements in Section 3(B)(4)(b). Furthermore, LD 1829 requires housing units to be connected to "adequate" water and wastewater. A developer may need to install a pump to meet LD 1829's requirement that units are connected to "adequate" wastewater as determined by a licensed plumbing inspector. For more information on specific developments and sewer systems, please contact your local plumbing inspector or the Subsurface Wastewater Unit.

51. Commenter asks the Program to clarify in rule if a municipality's minimum lot size can exceed the 20,000 square foot minimum lot size as required in Title 12, Chapter 423-A.

    Response: The Program thanks the commenter for this comment. A municipality's minimum lot size may exceed the 20,000 square foot minimum lot size for one unit if a lot is: (1) located outside of a designated growth area; AND (2) not served by a public, special district or other comparable sewer system. The Program did not make changes to the rule as a result of this comment.

52. Commenter states that Cumberland has rural areas identified and designated in its comprehensive plan as defined in 30-A M.R.S. § 4301(14-B). In some of these designated rural areas, there is sewer and water available. Cumberland's compliance with Section 4301(14-B) seems to contradict Section(B)(4)(b). Can the state clarify this inconsistency as LD 1829 is silent on designated rural areas.

    Response: LD 1829 requires municipalities to establish smaller lot sizes and increased density in areas that have access to public water and public sewer (or comparable systems), irrespective of whether a municipality has deemed this area a designated rural area in its comprehensive plan. Municipalities may amend comprehensive plans to adjust designated growth areas and designated rural areas. The Program did not make changes to the rule as a result of this comment.

Commenter 14

53. Commenter states that the proposed implementation date for town/city council towns is unrealistic and risks eroding public trust in the policy making process.

    Response: The Program thanks the commenter for this comment. The Program does not have authority to amend implementation dates in statute. The Program did not make any changes to the rule as a result of this comment.

54. Commenter asks for clarification on “areas zoned for commercial use.” Commenter states that it may be helpful to establish a distinct definition for “areas zoned for commercial use.”

    Response: The Program thanks the commenter for this comment. The Program included in rule a definition of “commercial use.” Section 6 applies to all zones of a municipality that permit the use types defined in the phrase “commercial use.” The Program did not make changes to the rule as a result of this comment.

55. Commenter states that it is unclear why the Program included the following in Section 6(A): “For purposes of this Section, a municipality may permit residential uses in areas exclusively zoned for industrial uses.”

    Response: The Program thanks the commenter for this comment. As a result of multiple comments, the Program removed this sentence from rule.

56. Commenter asks the Program to clarify how a municipality should apply the requirements in Section 6 to areas where commercial uses are allowed but residential may be less appropriate- such as airport business zones or working waterfronts? How are locally driven policy choices treated under this Section?

    Response: Section 6 requires municipalities to permit residential uses in commercial zones. However, municipalities may limit this allowance in certain circumstances. For instance, municipalities may determine that flooding or other natural hazards make residential development not feasible in a certain area. Section 6 also does not override municipal safety or health requirements. The Program did not make changes to the rule as a result of this comment.

57. Commenter asks if Section 6 applies to only existing commercial structures.

    Response: The Program thanks the commenter for this comment. Section 6 does not only apply to existing commercial structures. This Section applies to mixed-use structures, new residential structures, and future commercial structures. The Program amended Section 6 to clarify.

58. Commenter asks for clarification in law about overlapping geographies. For instance, what are the requirements for areas served by water and sewer but are outside of growth areas? How does this interact with Section 3(B)(1)? Does Section 3(B)(4)(b) only apply to two units?

    Response: The Program thanks the commenter for this comment. Section 3(B)(1) establishes the use types allowed in areas/zones, while Section 3(B)(4) establishes minimum lot size and density requirements.

For lots outside of growth areas with public water and public sewer (or comparable systems), a municipality must establish a minimum lot size of no more than 5,000 square feet in those areas. A municipality must allow a maximum of four units to be constructed in this area, as long as other requirements are met such as the state's subsurface minimum lot size requirements, shoreland zoning, subdivision requirements, and other local dimensional requirements. These units may be attached or detached.

Section 3(B)(4)(b) does not strictly apply to two units as a use type. The reference to two attached units in Section 3(B)(4)(b) establishes the lot area per dwelling unit density requirements for two units. However that is not the only use type permitted on the lot. The Program did not make changes to the rule because of this comment.

59. Commenter asks what is the purpose and intent behind requiring municipalities to adopt minimum lot size of 5,000 square feet outside growth areas? Requiring minimum lot sizes broadly across a municipality outside of a designated growth area could encourage sprawl and place additional demands on utilities. It also could create tensions with other state requirements for natural resource protection.

    Response: The Program thanks the commenter for this comment. This question is outside the scope of rulemaking. The Program did not make changes to the rule because of this comment.

60. Commenter asks how the State intends to support municipalities in addressing infrastructure needs?

    Response: The Program thanks the comment for this comment. This falls outside the scope of rulemaking. The Program did not make changes to this comment because of this comment.

61. Commenter asks for clarity on Section 3(B). Is a municipality required to allow both attached and detached units?

    Response: The Program thanks the commenter for this comment. Municipalities must allow the construction of both detached and attached dwelling units. For instance, this could mean allowing up to four single-family homes or allowing a four-unit building. The configuration of units, however, depends on the lot dimensions, shoreland zoning requirements, and the State's subsurface wastewater rules.

62. Commenter asks how ADUs factor into the total number of units allowed in Section 3(B)?

Response: The Program thanks the commenter for this comment. ADUs are part of the total number of units permitted on a lot. If four units are permitted on a lot, an ADU would count as one of the four units. The Program did not make changes to the rule because of this comment.

63. Commenter asks for the intent behind Section 3(B)(1)(c). What is the intent behind requiring one of the units to be an ADU?

    Response: The Program thanks the commenter for this comment. This question is outside the scope of rulemaking. The Program did not make changes to the rule because of this comment.

64. Commenter asks the Program to include in rule an example of what must be allowed on a 5,000 square foot lot located in a growth area and in an area served by water and sewer.

    Response: The Program thanks the commenter for this comment. The Program added an example on page 10 of the rule because of this comment.

65. Commenter states that there are locations outside of designated growth areas that are served by water and sewer but face significant natural resource, infrastructure and utility capacity constraints. What is the intent behind requiring 5,000 square foot lots outside of growth areas? Were unique contexts like islands considered when drafting broad language?

    Response: The Program thanks the commenter for this comment. This comment falls outside the scope of rulemaking. The Program did not make a changes to this rule because of this comment.

66. The Commenter asks for clarification how the requirements in Section 3(B) intersect with the base zoning requirements in Section 2.

    Response: The Program thanks the commenter for this comment. The affordable housing density bonus, described in Section 2, allows a developer to take advantage of an affordable housing density bonus if a lot is (1) in a designated growth area or (2) is served by public water and public sewer (or comparable systems). The lot also must be in an area zoned for multi-family housing. The density bonus allows a proposed affordable housing development to have a dwelling unit density of at least 2.5 times the base density that is otherwise allowed in that location. Base density in rule means the maximum number of units allowed on a lot not used for affordable housing based on dimensional requirements in a local land use or zoning ordinance. This does not include local density bonuses, transferable development rights, or other similar means that could increase the density of lots not used for affordable housing.

    Multi-family housing is commonly defined as three or more dwelling units in one structure. Therefore, Section 3(B)'s base density requirements could intersect with

Section 2 because Section 3(B) allows multi-family housing (as commonly defined) across all areas of a municipality that permit residential uses.

To limit the applicability of the affordable housing density bonus section, a municipality may adopt a different definition of multi-family housing to restrict multi-family housing to certain sections of a municipality that are in growth areas or have access to public water and public sewer (or comparable systems). A municipality, for instance, could define multi-family housing as five or more units in one structure. In addition, municipalities could define the type of housing permitted in Section 3(B) as medium-density housing (or a similar term) to differentiate triplexes and quadplexes from multi-family housing.

The Program did not make changes to the rule because of this comment.

67. The Commenter asks for clarification about the affordable housing density bonus. Do municipalities need to allow the density bonus in areas with water and sewer AND areas that are in growth areas?

    Response: The Program thanks the commenter for this comment. The affordable density bonus, described in Section 2, applies to lots in designated growth areas OR lots that have access to public water and public sewer (or comparable systems). The Program did not make changes to the rule because of this comment.

Commenter 15

68. Commenter states that this legislation takes away the town's ability to determine what it will look like as it pertains to rural and village character. Language throughout the legislation, which used to apply only to single-unit dwellings, now applies to multi-unit dwellings within the same structure. This is a significant change in how a rural community addresses housing.

    Response: The Program thanks the commenter for this comment. This comment is beyond the scope of rulemaking. The Program did not make changes to the rule because of this comment.

69. The Commenter states this legislation will require a much higher level of knowledge and time investment on the part of a town's CEO.

    Response: The Program thanks the commenter for this comment. To help municipalities with the costs of implementing this new legislation, the Housing Opportunity Program will be creating a new grant program. The Program did not make changes to the rule because of this comment.

70. Commenter asks how the subdivision section that changes how subdivision lots can be divided affects the town's rural character?

Response: The Program thanks the commenter for this comment. This rulemaking does not include recent statutory changes to subdivision law because the Housing Opportunity does not have rulemaking authority for the subdivision statutes. The Program did not make changes to the rule because of this comment.

71. Commenter asks if their town should propose cluster subdivisions? Should new types of zoning be considered within rural communities where growth overlays are the norm rather than specific zones?

    Response: The Program thanks the commenter for this comment. Proposing cluster developments and overlay districts are potential options for a community to consider when thinking about increasing housing opportunities in their municipality. However, these specific suggestions are not required in LD 1829. For additional support and financial assistance with zoning and land use ordinance changes, please contact the Housing Opportunity Program at housing.moca@maine.gov.

72. Commenter asks the Program if a municipality will be able to enact limiting factors to address the potential safety concerns with constructing residential housing in commercial areas? How does this legislation impact historical districts?

    Response: The Program thanks the commenter for this Comment. Section 6 permits municipalities to limit residential development in commercial zones based on health and safety concerns. This legislation also does not override state and local regulations pertaining to historical districts. The Program did not make changes to the rule because of this comment.

73. Commenter states that the summary section of the rule is too vague. What is meant by increasing density in "certain areas"? Does Section 2 explain what is meant by "certain areas?" Does Section 2 apply to areas that have limited growth areas and no zoning?

    Response: The Program thanks the commenter for this comment. The summary at the beginning of the rule is intended to be a very high-level overview of what the rule discusses. Each section of the rule goes into greater detail about how to apply the rule in a municipality. Section 2 describes in detail where the affordable housing density bonus applies. The affordable housing density bonus does not apply to municipalities without zoning. See Section 2(B) for additional information. The Program did not make changes to the rule as result of this comment.

74. Commenter states that if Section 3 and Section 4 of the rule apply to the shoreland zones it could have far reaching impacts on water quality.

    Response: The Program thanks the commenter for this comment. Sections 3 and 4 do not override the requirements in state shoreland zoning law or a municipality's local

shoreland zoning ordinance. The Program did not make changes to the rule because of this comment.

Commenter 16

75. Commenter advocates for the inclusion of transit considerations when discussing housing changes within local land use and zoning frameworks.

    Response: The Program thanks the commenter for this comment. LD 1829, LD 427 and LD 997 do not require municipalities to take transit into consideration when revising ordinances to increase housing. The Program does not have authority to include new municipal requirements in rule. However, municipalities may consider transit when drafting local land use regulations based on local circumstances. The Program did not make changes to the rule because of this comment.

76. Commenter requests the following additions to rule in the summary section: "Where appropriate, municipalities shall consider opportunities for housing located near existing or potential public transit, mobility hubs, and active transportation corridors. These transit-oriented approaches shall be applied where feasible and available, recognizing that access to public transit varies significantly across Maine's rural, suburban, and urban communities."

    Response: The Program thanks the commenter for this comment. LD 1829, LD 427 and LD 997 do not require municipalities to take transit into consideration when revising ordinances to increase housing. The Program does not have authority to include new municipal requirements in rule. However, municipalities may consider transit when drafting local land use regulations based on local circumstances. The Program did not make changes to the rule because of this comment.

77. Commenter requests the following additions to rule in in Section 1(A): "Municipalities shall consider access to public transit, active transportation, and other low-emission travel options when identifying designated growth areas and siting new housing. [Transit-supportive land use and mixed-use development can help meet housing, transportation, and climate goals concurrently.] Municipalities shall promote transit-oriented development (TOD) where feasible by locating higher-density housing, services, and amenities within transit-accessible areas."

    Response: The Program thanks the commenter for this comment. LD 1829, LD 427 and LD 997 do not require municipalities to take transit into consideration when revising ordinances to increase housing. The Program does not have authority to include new municipal requirements in rule. However, municipalities may consider transit when drafting local land use regulations based on local circumstances. The Program did not make changes to the rule because of this comment.

78. Commenter requests the following additions to rule in Section 1(B): “Transit-accessible area. Transit-accessible area means an area located within one-half mile of a fixed-route public transit stop, mobility hub, or other shared transportation corridor, or planned future service area, as defined by the municipality or regional transit provider.”

    Response: The Program thanks the commenter for this comment. LD 1829, LD 427 and LD 997 do not require municipalities to take transit into consideration when revising ordinances to increase housing. The Program does not have authority to include new municipal requirements in rule. However, municipalities may consider transit when drafting local land use regulations based on local circumstances. The Program did not make changes to the rule because of this comment.

79. Commenter requests the following additions to rule in Section 1(B): “Transit Oriented Design: Transit oriented design means a pattern of moderate- to higher-density, mixed-use development located within a walkable distance of a public transit stop, mobility hub, or shared transportation corridor. Transit-oriented development is designed to maximize access to public transit, support walking and bicycling, and reduce dependence on private motor vehicles. Municipalities may apply TOD principles where transit service currently exists or is planned as part of a regional or local transportation plan.”

    Response: The Program thanks the commenter for this comment. LD 1829, LD 427 and LD 997 do not require municipalities to take transit into consideration when revising ordinances to increase housing. The Program does not have authority to include new municipal requirements in rule. However, municipalities may consider transit when drafting local land use regulations based on local circumstances. The Program did not make changes to the rule because of this comment.

80. Commenter requests the following additions to rule in the In Section 2(B)(1): “Municipalities shall consider proximity to fixed-route or on-demand public transit, where available, as a criterion for designating affordable housing density bonus areas, or may offer additional incentives for developments located within one-half mile of existing or planned transit stops.”

    Response: The Program thanks the commenter for this comment. LD 1829, LD 427 and LD 997 do not require municipalities to take transit into consideration when revising ordinances to increase housing. The Program does not have authority to include new municipal requirements in rule. However, municipalities may consider transit when drafting local land use regulations based on local circumstances. The Program did not make changes to the rule because of this comment.

81. Commenter requests the following additions to rule in Section 3(C): “Municipalities shall prioritize permitting, or provide additional density flexibility, for lots within designated growth areas that are located near transit corridors, mobility hubs, or active transportation networks. In applying these provisions, municipalities shall align housing development with regional transit access and multimodal connections.”

    Response: The Program thanks the commenter for this comment. LD 1829, LD 427 and LD 997 do not require municipalities to take transit into consideration when revising ordinances to increase housing. The Program does not have authority to include new municipal requirements in rule. However, municipalities may consider transit when drafting local land use regulations based on local circumstances. The Program did not make changes to the rule because of this comment.

82. Commenter requests the following additions to rule in Section 5: “Municipalities shall further reduce or eliminate minimum parking requirements for developments located within one-quarter mile of a public transit stop or that include measures to reduce vehicle dependence, such as providing transit passes, carshare memberships, or secure bicycle parking for residents.”

    Response: The Program thanks the commenter for this comment. LD 1829, LD 427 and LD 997 do not require municipalities to take transit into consideration when revising ordinances to increase housing. The Program does not have authority to include new municipal requirements in rule. However, municipalities may consider transit when drafting local land use regulations based on local circumstances. The Program did not make changes to the rule because of this comment.

83. In Section 6(B): “When allowing residential units in areas zoned for commercial use, municipalities shall coordinate with regional or local transit providers, where available, to ensure adequate service and to incorporate transit access, pedestrian connectivity, and bicycle infrastructure into site design standards.”

    Response: The Program thanks the commenter for this comment. LD 1829, LD 427 and LD 997 do not require municipalities to take transit into consideration when revising ordinances to increase housing. The Program does not have authority to include new municipal requirements in rule. However, municipalities may consider transit when drafting local land use regulations based on local circumstances. The Program did not make changes to the rule because of this comment.

Commenter 17:

84. Commenter states that the use of the term multi-unit residential structure in the summary section of the rule is confusing because the definition of multifamily dwelling is defined as three or more units.

Response: The Program thanks the commenter for this comment. The Program defined multi-unit residential structure in rule to distinguish from multi-family housing.

85. Commenter asks the Program to include an example in rule of how four units can be put on a 5,000 square foot lot.

    Response: The Program thanks the commenter for this comment. The Program included an example on page 10.

86. Commenter states that there is an inconsistency with Section 3 and Section 4 with ADUs being exempt from the density limit.

    Response: The Program thanks the commenter for this comment. Section 3(B)(1) and (2) allow either three or four units on a lot depending on where it is located. One of these three or four units can be an ADU, which is exempt from density requirements. Therefore, if a developer would like to put three dwelling units and one ADU on a lot in a designated growth area or area with public water and public sewer (or comparable systems), the first three dwelling units must meet the municipality's density requirements, but the 4th unit (the ADU) is exempt from density requirements. The Program did not make changes to the rule because of this comment.

Commenter 18:

87. Commenter states that St. George has received conflicting information about what "adequate" sewage disposal means in 30-A M.R.S. § 4364-B from different sources including the Housing Opportunity Program, the state plumbing inspector, the subsurface wastewater rules, and from their regional council. To help clarify these conflicts, the commenter has the following questions: Is there a statewide distinction between ADU and in-law apartment? Or is this decision left to town ordinances?

    Response: The Program thanks the commenter for this comment. State law defines accessory dwelling unit in 30-A M.R.S. § 4301. This definition is repeated in the Program's 08-001 CMR Ch. 1 rule. The term in-law apartment is not defined in rule or state law. For purposes of the Program's 08-001 CMR Ch. 1 rule, municipalities may wish to adopt a different term for an accessory dwelling unit. If a municipality adopts a different term for an accessory dwelling unit such terms and definitions must be equally or more effective in achieving the goal of increasing housing opportunities. Therefore, if a municipality includes the term in-law apartment in local ordinances, the municipality must apply the minimum requirements listed in Section 4 to in-law apartments as they do for an ADU.

88. Commenter also asks how do towns determine adequate sewage disposal for ADUs? Do the subsurface wastewater disposal rules conflict with the definition of ADU in statute?

Response: The Program thanks the commenter for this comment. The State's subsurface wastewater rules do not have one standard formula for determining maximum flow rate for all units that meet the statutory definition of accessory dwelling unit in Title 30-A. Instead, the State's subsurface wastewater rules apply different design flows to units based on the anticipated usage of a proposed unit. This anticipated usage may be based on a variety of factors including the number of bedrooms in a unit, whether the ADU has separate appliances, or whether the unit is attached or detached. For example, subsurface wastewater rules establish different requirements for accessory dwelling units that are attached to or carved out of the primary dwelling unit. These are referred to in rule as "in-law apartments." These units have a design flow of 120 gallons per day because they are considered to have one-bedroom and a minor expansion of the existing design flow. In the alternative, another accessory dwelling may have a design flow of 180 gallons per day because it is considered a self-contained structure that is not incorporated into the primary structure on the lot. In this instance, subsurface wastewater rules treat this unit as a two-bedroom unit (whether it is or not) for purposes of determining design flow. To determine the design flow for a specific proposed unit, please contact your local plumbing inspector or the Subsurface Wastewater Unit.

Commenter 19

89. Commenter states that Westbrook has concerns on blanket mandates for residential in all commercial areas where that may not be the highest and best use of land. This law is written too broadly and needs refinement to avoid negative consequences.

    Response: The Program thanks the commenter for this comment. This Program does not have authority to amend statutory requirements. The Program did not make changes to the final rule because of this comment.

90. Commenter states that Westbrook has significant concerns with LD 1829 and how it was explained in committee versus how the wording is being interpreted. For instance, lot sizes outside the growth area should not be mandated because this conflicts with comprehensive plans. Lot size requirements of 5,000 square feet outside growth areas should be removed from the legislation.

    Response: The Program thanks the commenter for this comment. The Program does not have authority to remove requirements in statute. The Program did not make changes to the final rule because of this comment.

91. Commenter states that the lot and density changes in LD 1829 in areas that are outside of growth areas but have access to water and sewer are not represented correctly in rule. The intent behind statutory amendment in 30-A M.R.S. § 4364-A(2-A) was to allow a duplex to get a reduction to the 5,000 square feet unit language, meaning that a lot of 10,000

square feet could build a duplex. After the duplex, municipal densities remain. The 5,000 square foot density standard only applies to the first two units of a duplex.

Response: The Program thanks the commenter for this comment. The statutory language as currently written does not support the commenter's interpretation. 30-A M.R.S. § 4364-A(2-A) states that for lots outside designated growth areas but with water and sewer, "a minimum lot size requirement may not exceed 5,000 square feet and a density requirement may not exceed 5,000 square feet of lot area for the first two dwelling units contained within a single structure." The Program did not make changes to the rule because of this comment.

92. Commenter states that LD 427 does not provide any flexibility to multiple bedroom dwelling units. This law should be clarified to only apply to studios and one-bedroom units.

    Response: The Program thanks the commenter for this comment. The Program does not have the authority to change requirements in statute. The Program did not make changes to the final rule because of this comment.

Commenter 20

93. Commenter states that the State should develop a set of standard definitions to ensure consistency across all land use statutes.

    Response: The Program thanks the commenter for this comment. The Development Ready Advisory Committee was established in 2025 to develop and maintain best practices for municipalities in infrastructure, land use, housing, economic development, conservation and historic preservation policy. 5 M.R.S. § 3235. The Maine Office of Community Affairs will convene this committee of government departments, municipal representatives, and regional council staff. As part of this process, the Advisory Committee will address the types of concerns and suggestions mentioned by the commenter. The Program did not make changes to the rule because of this comment.

94. Commenter asks if the definition of "dimensional requirements" is meant to be exhaustive. Can a municipality include impervious surface, lot coverage, floor area ratios and buffers to this definition?

    Response: The Program thanks the commenter for this comment. The definition of dimensional requirement in rule is not meant to be exhaustive. A municipality may amend the definition of dimensional requirement in local ordinance to include any other requirements that govern the size and placement of structures based on local needs and considerations. The Program amended the definition of dimensional requirement in

Section 1(B) to reiterate that municipalities may amend rule definitions to meet local needs.

95. Commenter states that the definition of dwelling unit incorporating single family housing is an outdated definition. The commenter suggests instead adopting the international build code definition of dwelling unit.

    Response: The Program thanks the commenter for this comment. The Program amended the definition of dwelling unit because of this comment.

96. Commenter asks how the 0.25 miles distance in the definition of parking agreement is calculated.

    Response: The Program thanks the commenter for this commenter. The Program amended the rule because of this comment.

97. Commenter states that the Department of Economic and Community Development's LD 2003 guidance states that LD 2003 "is an express preemption on municipal home rule authority" and that "any ordinance or regulation that is not consistent with the law may be challenged as invalid." Does the same guidance apply to these new laws? Is there another remedy contemplated if a town cannot get the votes necessary to pass these reforms.

    Response: The Program thanks the commenter for this comment. LD 1829, LD 997 and LD 427 are also express preemptions on municipal home rule authority. The Program did not make changes to the rule because of this comment.

98. Commenter notes that the sewer system and lot sizes in LD 1829 are proving to be a challenge for interpretation. Additional rule language or technical assistance documents are needed to provide guidance.

    Response: The Program thanks the commenter for this comment. To provide additional examples and visualizations-- that are not appropriate for regulatory language--the Program is updating its LD 2003 guidance document to incorporate the statutory changes in LD 1829, LD 997, and LD 427. The Maine Office of Community Affairs is also in the process of creating a pre-qualified vendor list for the purpose of creating new technical assistance materials to assist municipalities with housing legislation.

99. Commenter asks the Program to clarify in rule the requirements listed in Section 3(C). Commenter asks the Program to amend Section 3(C)(2)-(3) to specify whether a municipality may or may not (1) impose fines for violations of building requirements and (2) establish alternative criteria for variances.

Response: The Program thanks the commenter for this comment. The Program amended the rule because of this comment.

100. Commenter states that Section 4(B)(1) does not expressly state that ADUs can be in detached structures such as garages.

Response: The Program thanks the commenter for this comment. The rule states that "a municipality may allow an accessory dwelling unit to be constructed or established within an existing accessory structure, except the setback requirements of Section 4(B)(3)(b)(i) shall apply." This is not a requirement in 30-A M.R.S. § 4364-B. The Program did not make changes to the rule because of this comment.

101. Commenter states that Section 4(B)(3)(f) requires municipalities to allow the construction of ADUs even if they are not owner occupied, removing the ability of local bodies to decide if or what restrictions are best for their community.

Response: The Program thanks the commenter for this comment. This comment goes beyond the scope of rulemaking. The Program did not make changes to the rule because of this comment.

102. Commenter states that Section 5 would benefit from additional rule language or technical assistance to help municipalities with questions about mixed-use structures, interaction with ADA parking requirements, implementation of off-site parking agreements and maximum parking requirements in towns without zoning.

Response: The Program thanks the commenter for this comment. To provide additional examples and visualizations-- that are not appropriate for regulatory language--the Program is updating its LD 2003 guidance document to incorporate the statutory changes in LD 1829, LD 997, and LD 427. The Maine Office of Community Affairs is also in the process of creating a pre-qualified vendor list for the purpose of creating new technical assistance materials.

103. Commenter states that Section 5(B) would benefit from additional explanation about parking demand strategies.

Response: The Program thanks the commenter for this comment. To provide additional examples and visualizations-- that are not appropriate for regulatory language--the Program is updating its LD 2003 guidance document to incorporate the statutory changes in LD 1829, LD 997, and LD 427. The Maine Office of Community Affairs is also in the process of creating a pre-qualified vendor list for the purpose of creating new technical assistance materials.

104. Commenter states that section 5(C) would benefit from further detail about off-site parking agreements. Municipalities may struggle to verify sufficient capacity and/or assess the requirements for the level and type of documentation needed. Consideration should be given to offering municipalities to opt out of this requirement at the local level.

    Response: The Program thanks the commenter for this comment. To provide additional examples and visualizations-- that are not appropriate for regulatory language--the Program is updating its LD 2003 guidance document to incorporate the statutory changes in LD 1829, LD 997, and LD 427. The Maine Office of Community Affairs is also in the process of creating a pre-qualified vendor list for the purpose of creating new technical assistance materials.

105. Commenter states that rule includes the following language: "a municipality may permit residential uses in areas exclusively zoned for industrial uses." Is this a requirement or an allowance?

    Response: The Program thanks the commenter for this comment. Based on the other comments received during the comment period, the Program removed the following language from rule: "A municipality may permit residential uses in areas exclusively zoned for industrial uses."

106. Commenter asks if Section 6 requires residential units in existing structures or new construction.

    Response: The Program thanks the commenter for this comment. Section 6 requires an allowance for residential units in both existing structures and in new construction. The Program amended the rule because of this comment.

107. Commenter states that the Section 6(A)(2)(c) uses the term "unreasonable costs or delays." What is the determination of reasonable costs or delays?

    Response: The Program thanks the commenter for this comment. There is not a uniform standard to determine unreasonable costs or delays. This is assessed on a case-by-case basis. The Program did not make changes to the rule because of this comment.

LIST OF CHANGES TO THE FINAL RULE

Section 1:

1. The Revisor's Office changed some of the statutory section numbers while the rule was open for comment. The Program amended the statutory citations in Section 1(A)(2) to reflect this change.
2. Pursuant to Comments 22, 34, and 94, the Program amended the definition of "dimensional requirements" in Section 1(B) to reiterate that municipalities may modify definitions to fit local needs.
3. Pursuant to Comment 23, the Program deleted the following from the definition of "commercial use" in 1(B): A municipality may permit residential uses in areas exclusively zoned for industrial uses.
4. Pursuant to Comments 25 and 95, the Program amended the definition of "dwelling unit" in Section 1(B) to include non-related individuals.
5. Pursuant to Comment 84, the Program added the definition of "multi-unit residential structure."
6. Pursuant to Comments 7, 16, and 96, the Program amended the definition of parking agreement in Section 1(B) as follows: The distance between a residential development and an off-site parking facility is measured in a straight, direct line from the nearest edge of the parcel containing the residential development to any point on the parcel(s) that make up the parking facility.

Section 2:

7. Pursuant to Comment 13, the Program amended Section 2(B)(b) to include the following: A development is served by water and sewer when it abuts or is accessible to a sewer or drain and water system.
8. Pursuant to Comment 36, the Program amended Section 2(C)(2) to remove the term "consideration" and replace with "review."

Section 3:

9. Pursuant to Comment 13, the Program amended Section 3(B)(1)(b) by adding the following: A lot is served by water and sewer when the lot abuts or is accessible to a sewer or drain and water system, whether or not the lot is improved.
10. To maintain consistency in format with the changes made as a result of Comment 38, the Program added a new subsection to connect use type allowed with density requirements. This new subsection is Section 3(B)(4)(a)(i).
11. Pursuant to Comment 38, the Program moved Section 3(B)(4)(b)(iii) in rule. The citation is now 3(B)(4)(b)(i).

12. Pursuant to Comment 39, the Program amended language in Section 3(B)(4)(c) to remove the word "without" and replace with "and is not served by" in reference to public water and public sewer requirements.
13. To maintain consistency in format with the changes made as a result of Comment 38, the Program added a new subsection to connect use type allowed with density requirements. This new subsection is Section 3(B)(4)(c)(i).
14. To maintain consistency in format with the changes made as a result of Comment 38, the Program added a new subsection to connect use type allowed with density requirements. This new subsection is Section 3(B)(4)(d)(i).
15. Pursuant to Comments 21 and 64, the Program added in an additional example on page 10 to illustrate a 5,000 square foot lot with 4 dwelling units.
16. Pursuant to Comment 9, the Program amended Section 3(C)(1) by removing the following language: "A municipality must apply the same review process for a single-family dwelling unit to a duplex, a triplex, a quadplex, or an accessory dwelling unit."
17. Pursuant to Comment 10, the Program amended Section 3(C)(1) by adding the following language: "The term planning board applies to any appointed or elected board or committee that has been established by charter or ordinance."
18. Pursuant to Comments 41 and 99, the Program amended Section 3(C)(2)-(3) to specify that a municipality may impose fines for violations of building requirements and establish alternative criteria for variances.
19. Pursuant to Comment 11, the Program added the following note following Section 3(C): The planning board restriction in this section is for the establishment and use of up to four dwelling units generally. This does not include, for example, a three-or four-unit building requiring planning board approval for locations within the shoreland zones, a historic district, or wellhead protection district.

Section 4:

20. Pursuant to Comment 12, the Program amended Section 4(C)(1) by adding the phrase "or for accessory dwelling units."
21. Pursuant to Comment 9, the Program amended Section 4(C)(1) by removing the following language: "A municipality must apply the same review process for a single-family dwelling unit to a duplex, a triplex, a quadplex, or an accessory dwelling unit."
22. Pursuant to Comment 10, the Program amended Section 4(C)(1) by adding the following language: "The term planning board applies to any appointed or elected board or committee that has been established by charter or ordinance."
23. Pursuant to Comment 12, the Program removed the following note: **NOTE**: To address any inconsistencies about accessory dwelling unit municipal review and approval between 30-A M.R.S. § 4364-A(5-A) and 30-A M.R.S. § 4364-B(8)(A), the Office applied the newest statutory language in 30-A M.R.S. 4364-A(5-A) to Section 4(C)(1).

24. Pursuant to Comment 11, the Program added a note following Section 4(C): The planning board restriction in Section 4(C)(1) is for the establishment and use of up to four dwelling units in one structure or accessory dwelling units generally. This does not include, for example, a three- or four-unit building requiring planning board approval for locations within the shoreland zones, a historic district, or wellhead protection district.

Section 6:

25. Pursuant to Comment 27, the Program amended Section 6(A)(1) to clarify that stand alone residential units are permitted in commercial zones.
26. Pursuant to Comment 106, the Program amended Section 6(A)(1) to clarify that residential units are permitted in existing structures and new construction.
27. Pursuant to Comment 23, the Program deleted the following language in Section 6(A)(1): For purposes of this Section, a municipality may permit residential uses in areas exclusively zoned for industrial uses.