Housing Legislation Guidance

MARCH 2026 | MAINE OFFICE OF COMMUNITY AFFAIRS

Introduction

This guidance document provides information for municipalities about how to adapt municipal land use ordinances to comply with recent legislation aimed at advancing state and regional housing production. This guidance addresses the following pieces of enacted legislation: P.L. 2021, Ch. 672 (LD 2003), P.L. 2023, Ch. 192 (LD 1706), P.L. 2025, Ch. 385 (LD 1829), P.L. 2025, Ch. 374 (LD 427), P.L. 2025, Ch. 364 (LD 997), and P.L 2025, Ch. 495 (LD 1184).

The guidance is the result of a collaborative effort by the Maine Department of Economic and Community Development, the Maine Office of Community Affairs, the Governor's Office of Policy Innovation and the Future, the Department of Agriculture, Conservation and Forestry, legislative staff, several municipal lawyers, and community planners. It is intended to provide information for local authorities to use in determining how recent housing legislation affects their local zoning and land use codes and help them evaluate the need to amend their ordinances to avoid conflicts with state laws. This guidance is not legally binding or intended to serve as a substitute for the statutory language or the Maine Office of Community Affairs' rule.

This guidance document DOES NOT apply to towns, plantations, and townships overseen by the Land Use Planning Commission (LUPC). The laws discussed in this document are found in Title 30-A, which governs municipalities. Land use in the LUPC jurisdiction is governed separately under Title 12. If you are considering housing development in the unorganized and deorganized territories, call the LUPC at 207-287-2631 to learn more about the land use standards and permitting requirements.

Questions about this document should be directed to the Housing Opportunity Program (the Program) within the Maine Office of Community Affairs at housing.moca@maine.gov.

This guidance was published in March 2026. This guidance supersedes the PL 2021, Ch. 672 (LD 2003) Guidance last updated by the Maine Department of Economic and Community Development in October 2023.

LD 2173

The 132nd Maine Legislature is currently considering a bill (LD 2173) that proposes to make changes to many of the statutory sections that are discussed in this guidance document. This guidance document notes sections of law that may change if LD 2173 is enacted. The Housing Opportunity Program will make further amendments to this guidance document if LD 2173 is enacted.

HOUSING LEGISLATION SUMMARY (130TH THROUGH 132ND MAINE LEGISLATURES)

Legislation	Statutory References	Summary	Municipal Implementation Deadline
LD 2003 **P.L. 2021, Ch. 672**	5 MRS § 13056; 30-A MRS §§ 4364, 4364-A, 4364-B, 4364-C	Requires municipalities to update ordinances to permit accessory dwelling units, multiple dwelling units on a lot and allows a density bonus for affordable housing developments in certain areas	July 1, 2023
LD 1706 **P.L. 2023, Ch. 192**	30-A MRS §§ 4364, 4364-A, 4364-B	Amends LD 2003 to extend the implementation deadline and makes minor changes for clarity	January 1, 2024, for city/town council municipalities July 1, 2024, for town meeting municipalities
LD 1829 **P.L. 2025, Ch. 385**	25 MRS § 2463-B; 30-A MRS §§ 4301, 4360, 4364, 4364-A, 4364-B, 4364-C, 4401(1-C).	Omnibus housing bill addressing minimum lot size and density requirements, permitting of dwelling units, changes to subdivision law, fire suppression sprinklers in accessory dwelling units, and training of zoning and planning officials	July 1, 2026 for city/town council municipalities July 1, 2027 for town meeting municipalities
LD 997 **P.L. 2025, Ch. 364**	30-A MRS § 4364-E	Requires municipalities to permit housing in areas zoned for commercial use	July 1, 2027
LD 427 **P.L. 2025, Ch. 374**	30-A MRS § 4364-F	Prohibits municipalities from requiring more than one off-street parking space per dwelling unit in growth areas	September 24, 2025
LD 1143 **P.L. 2025, Ch. 263**	30-A MRS § 4354	Allows a municipality to adopt an ordinance permitting the board of appeals to grant a setback variance for dwelling units, instead of only single-family dwellings.	September 24, 2025
LD 1184 **P.L. 2025, Ch. 495**	5 MRS § 3241(5)	Requires municipalities with 4,000 or more residents to report building permit, demolition, and certificate of occupancy data	January 31 of each year
LD 2079 **(Proposed)**	5 MRS § 3241(5)	Amends municipal reporting categories and extends reporting deadline	March 31 of each year
LD 2173 **(Proposed)**	25 MRS § 2463-B; 30-A MRS §§ 4360, 4364, 4364-A, 4364-B, 4364-D, 4364-E, 4401, 4402	Legislation to clarify certain provisions of LD 1829	TBD

COMMONLY REFERENCED STATUTES AND STATE GOVERNMENT PROGRAMS

Statute Links

Accessory Dwelling Units: Title 30-A, §4364-B

Affordable Housing Density Bonus: Title 30-A, §4364

Dwelling Unit Allowance: Title 30-A, §4364-A

Municipal Role in Statewide Housing Goals: Title 30-A, §4364-C

Parking Requirements: Title 30-A, §4364-F

Rate of Growth Ordinance: Title 30-A, §4360

Residential Uses in Commercial Zones: Title 30-A, §4364-E

Housing Opportunity Program: Title 5, §3241

Shoreland Zoning: Title 38, Article 2-B

Sprinklers in Accessory Dwelling Units: Title 25, §2463-B

Subdivision Definition: Title 30-A, §4401

Subsurface Wastewater Minimum Lot Size: Title 12, Chapter 423-A

Tiny Homes: Title 30-A, §4363

Zoning Adjustment (Variances): Title 30-A, §4353

Government Websites

Housing Opportunity Program: Provides technical assistance, including land use ordinance development, to municipalities to support housing development. HOP also provides grant funding to municipalities and service providers to assist with community housing planning and implementation projects.

MaineHousing: Quasi-state agency providing decent, safe, affordable housing to low and moderate-income Maine people

Municipal Planning Assistance Program (MPAP): Provides land use planning expertise, guidance, and technical assistance to Maine municipalities, state agencies, and the public. MPAP administers Maine's Growth Management Law.

Office of the Maine State Fire Marshal: Provides information about fire sprinkler requirements in residential units

Regional Councils: This map provides information on Maine's regional councils.

Shoreland Zoning Unit: Assists municipalities with shoreland zoning related questions and issues, and provides technical assistance and training on the shoreland zoning rules.

Subsurface Wastewater Unit: Ensures subsurface wastewater disposal systems meet the requirements set forth in state and federal rules and statutes

The Division of Building Codes and Standards: Provides information about code enforcement, current building codes, and the Maine Uniform Building and Energy Code (MUBEC).

IN GENERAL, UNDER THESE LAWS, MUNICIPALITIES MAY

CONTINUE to develop Growth Management programs, including comprehensive plans and zoning consistent with those plans

ENFORCE local shoreland zoning ordinances consistent with state shoreland zoning law

CONDUCT site plan review, if authorized by local ordinances, of any residential development if authorized by local ordinance

REGULATE the maximum size of accessory dwelling units

REGULATE short-term rentals in their community

CREATE rate of growth ordinances subject to the requirements in 30-A MRS §§ 4360 and 4364-B

CREATE local ordinances that allow for more housing than the minimum requirements in state law

REGULATE housing development based on documented water and wastewater capacity constraints

IN GENERAL, UNDER THESE LAWS, LOCAL GOVERNMENTS MAY NOT

ENACT local ordinances that limit housing to one unit per lot

PROHIBIT one accessory dwelling unit per lot or count those units towards a rate of growth ordinance

LIMIT the affordable housing density bonuses allowed in 30-A MRS § 4364 in growth areas or areas with public water and public sewer (or comparable systems) as defined in state law

Affordable Housing Density Bonus

[30-A MRS § 4364]

30-A MRS § 4364 requires municipalities to establish a density bonus for the development of affordable housing in certain zoning districts. This section only applies to municipalities with zoning that have adopted density requirements in its zoning districts.

To qualify for this bonus, the development must:

- Meet the definition of affordable housing development in 30-A MRS § 4364;
- Be in a zone in which multifamily dwellings are permitted;
- Be in a designated growth area identified in the municipality's comprehensive plan OR be served by public water and public sewer (or comparable systems);
- Be approved after a municipality's implementation date of either January 1, 2024, or July 1, 2024; and
- Comply with shoreland zoning requirements, meet minimum subsurface wastewater lot sizes if using subsurface waste disposal, and demonstrate adequate water and wastewater capacity.

If the development meets the requirements above, the development qualifies for the following:

- The number of units allowed will be 2.5 times the number allowed for a development not designated affordable;
- A height bonus of 14 feet or one additional story above the height that is allowed for housing that is not designated affordable, subject to municipal fire official or designee review; and
- A parking requirement of two vehicle spaces for every three units.

EXAMPLE: The applicable municipal zoning ordinance allows for the construction of up to four units on a particular site under local rules. If a proposed housing development on that site meets the affordability requirements, then the bonus would allow for the construction of up to 10 units (4 x 2.5). At least six of those units must be affordable.

LD 2173

LD 2173 proposes to amend 30-A MRS § 4364 by:

- Establishing implementation deadlines of July 1, 2026, for town and city council municipalities and July 1, 2027, for town meeting towns specific to implementation of the height bonus;
- Amending the height bonus section to allow a height bonus of 14 feet, but only up to a total building height of 55 feet; and
- Clarifying that an affordable housing development must be reviewed by a fire official or designee during the development approval process, but that this requirement does not establish new standards for review of a development by a fire official or designee, other than the requirements established in Title 10, Ch. 1103 (MUBEC).

WHAT REQUIREMENTS DO AFFORDABLE HOUSING DEVELOPMENTS HAVE TO MEET TO RECEIVE THE DENSITY BONUS?

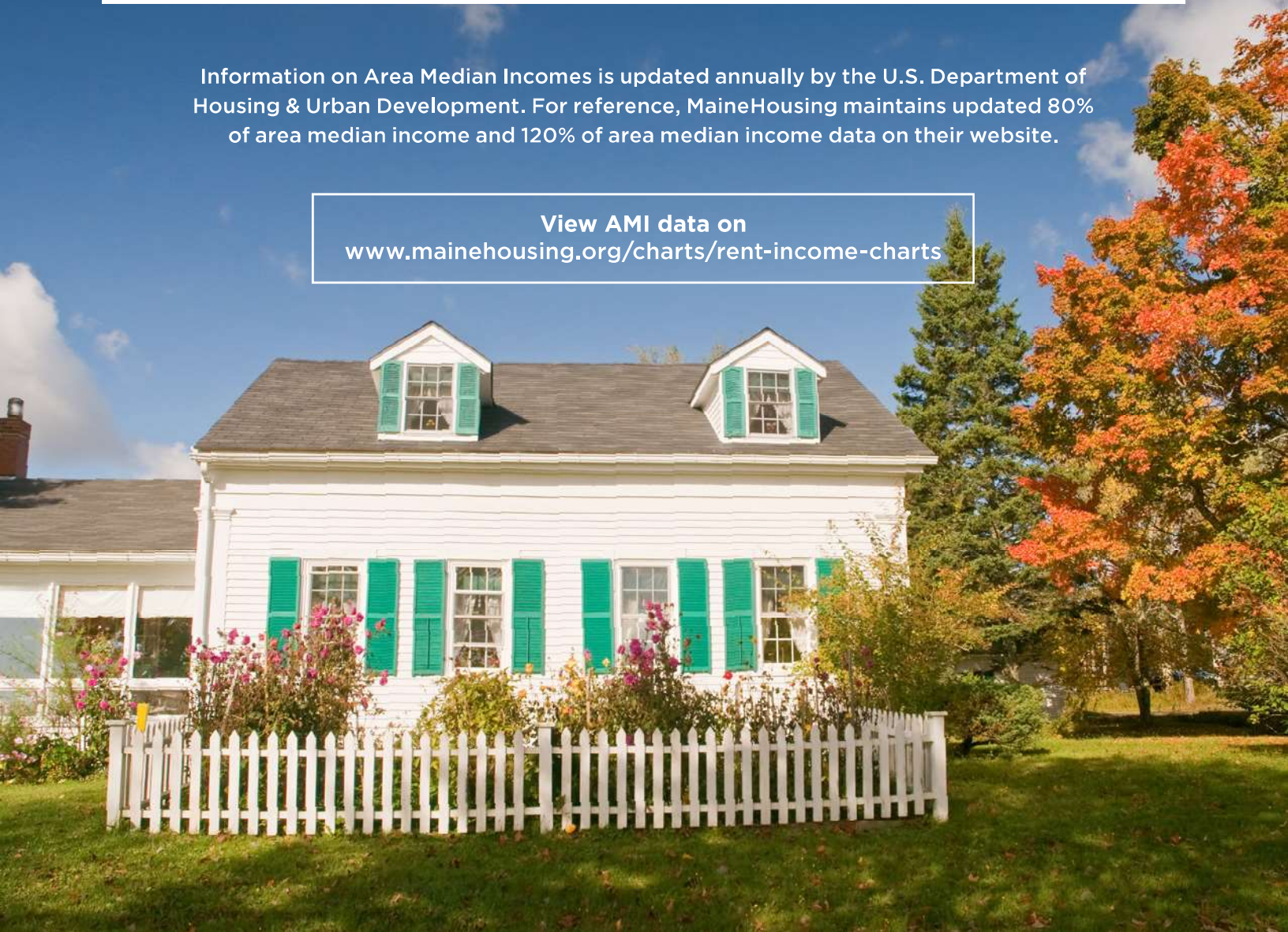
For rental projects, a household with an income at no more than 80% of the area median income for the community, as defined by the U.S. Department of Housing & Urban Development, must be able to afford 51% or more of the units in the development. That means that rent and certain other housing expenses will not require more than 30% of the household's income.

For homeownership projects, a household with an income at no more than 120% of the area median income for the community, as defined by the U.S. Department of Housing & Urban Development, must be able to afford 51% or more of the units in the development. That means that mortgage payments (including mortgage insurance) and certain other housing expenses will not require more than 30% of the household's income.

The affordability of units designated as affordable must be maintained through a restrictive covenant that is enforceable by a party acceptable to the municipality (which could be the municipality) for at least 30 years, and that states that the units must be restricted in rent or sales prices accordingly. Often these developments will be getting funding through MaineHousing, which typically requires a comparable covenant.

Information on Area Median Incomes is updated annually by the U.S. Department of Housing & Urban Development. For reference, MaineHousing maintains updated 80% of area median income and 120% of area median income data on their website.

View AMI data on
www.mainehousing.org/charts/rent-income-charts



QUESTIONS

May a municipality adopt a density bonus that exceeds the statutory minimum?

Yes. For example, a municipality could enact an ordinance providing for a density bonus of three times the base density for housing developments that meet the statutory criteria.

What are comparable public water and public sewer systems?

This document uses the term comparable systems as shorthand to stand in for the two terms used in 30-A M.R.S. § 4364: "centrally managed water system" and "comparable sewer system."

Those terms are defined in the Program's rule as the following:

"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.

"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.

What is meant by review by a municipal fire official?

A municipal fire official is a municipal fire chief as described in 30-A MRS § 3153. This review is intended to ensure that a local fire apparatus can serve a building based on the new height allowance.

What if fractional results occur when calculating the number of units allowed or the number of parking spaces allowed?

In cases of fractional results, the number of units would generally be rounded down but the municipality has discretion to round the number of parking spaces either up or down to the nearest whole number.

May a municipality be the party with standing to enforce the required affordability covenant?

Yes.

May a municipality define a story to be something other than 14 feet?

Yes, provided the definition does not conflict with applicable building and life safety codes and applies to all types of residential dwelling units.

What happens when a restricted affordable home ownership unit is sold?

The restrictive covenants should outline how this would work. MaineHousing has experience with this issue, as do communities that manage their own affordable housing programs. Reach out to the Housing Opportunity Program for more information.

Accessory Dwelling Units

[30-A MRS § 4364-B]

LD 2173

LD 2173 proposes to replace the term multi-unit structure with two-unit or three-unit residential structure to clarify that ADUs are permitted on a lot with a single-family home, a two-unit structure, or a three-unit residential structure.

30-A MRS § 4364-B allows at least one accessory dwelling unit (ADU) on any lot with a single-family dwelling or multi-unit structure in an area where residential uses are permitted, including as a conditional use.

ADUs may be within the existing structure, attached to it, or a new structure. Municipalities may also allow existing accessory structures to be converted into ADUs.

DENSITY AND DIMENSIONAL REQUIREMENTS

- One ADU on a lot is exempt from any density requirements or calculations.
- The dimensional requirements for an ADU within or attached to a single-family home must be the same as a single-family home. For ADUs within an accessory structure, the dimensional requirements for the accessory structure apply.
- A municipality may establish more permissive dimensional standards and setback requirements for an accessory dwelling unit.

SIZE REQUIREMENTS

- ADUs must meet the minimum size established by the Technical Building Code and Standards Board. The Board established a minimum size of 160 square feet in rule in March 2025.
- Municipalities may set a maximum size for ADUs in local ordinance.

PARKING

- An accessory dwelling unit may not be subject to any additional parking requirements beyond the parking requirements of the single-family dwelling unit on the lot where the accessory dwelling unit is located.

PLANNING BOARD APPROVAL

- A municipality may not require planning board approval 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.
- A permit issued by a municipality does not count as a permit issued toward a municipality's rate of growth ordinance established under 30-A MRS §4360.

OTHER REQUIREMENTS

- A municipality may not establish an owner occupancy requirement in local ordinance that requires the lot owner to reside in either the ADU or primary structure.
- An ADU is allowed on a lot that does not conform to the municipal zoning ordinance provided the ADU does not further increase the nonconformity. An ADU that was not built with municipal approval must be allowed if the ADU otherwise meets the requirements of accessory dwelling units in state law and local ordinance.
- An ADU must comply with state and municipal shoreland zoning requirements, except that a municipality may not categorically prohibit ADUs in the shoreland zone that would otherwise meet state and municipal shoreland zoning requirements. For more information, see the Shoreland Zoning News, March 2025.
- A municipal ordinance may not require fire suppression sprinklers for an accessory dwelling unit unless the accessory dwelling unit is within or attached to a structure with more than two dwelling units, inclusive of the ADU. For questions about fire suppression sprinklers in residential units, please contact the Maine State Plans Review and Fire Sprinkler Division within Office of the Maine State Fire Marshal at 207-626-3870.

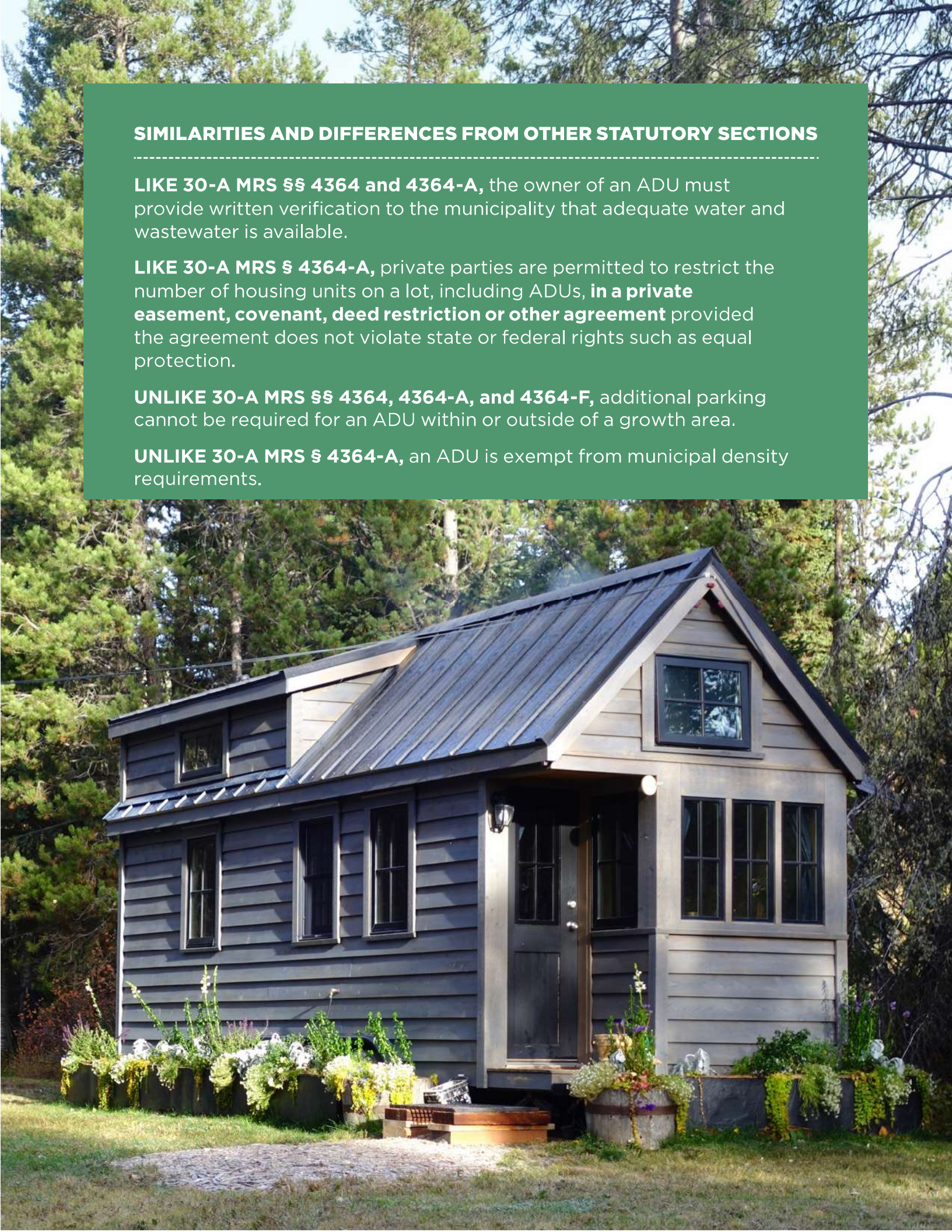
SIMILARITIES AND DIFFERENCES FROM OTHER STATUTORY SECTIONS

LIKE 30-A MRS §§ 4364 and 4364-A, the owner of an ADU must provide written verification to the municipality that adequate water and wastewater is available.

LIKE 30-A MRS § 4364-A, private parties are permitted to restrict the number of housing units on a lot, including ADUs, **in a private easement, covenant, deed restriction or other agreement** provided the agreement does not violate state or federal rights such as equal protection.

UNLIKE 30-A MRS §§ 4364, 4364-A, and 4364-F, additional parking cannot be required for an ADU within or outside of a growth area.

UNLIKE 30-A MRS § 4364-A, an ADU is exempt from municipal density requirements.



QUESTIONS

Some municipalities have ordinances that define accessory apartments, in-law apartments, or other terms similar to accessory dwelling units. Is this difference in terminology acceptable?

Yes. Municipalities need not adopt the definition of "Accessory Dwelling Unit" in rule verbatim. Municipalities may define ADU provided the definition is consistent with state law. The Housing Opportunity Program encourages municipalities to consider local planning documents and other special local considerations, and to modify language into one that meets the need of a particular community and the minimum requirements of the statutes.

How does Maine's tiny home statute, 30-A MRS § 4363, relate to 30-A MRS §§ 4364-A and 4364-B?

30-A MRS § 4363 permits a tiny home to be placed on a lot where single-family dwellings are allowed or as an accessory structure, subject to all municipal land use requirements for single-family homes or accessory structures. Therefore, a tiny home may serve as a dwelling unit or accessory dwelling unit for the purposes of 30-A MRS §§ 4364-A and 4364-B. The Housing Opportunity Program encourages municipalities to consult with legal counsel to ensure that ordinances are consistent with statutory requirements for tiny homes.

May a municipality impose owner occupancy requirements for ADUs or principal dwellings to discourage their use as short term rentals?

No. 30-A MRS § 4364-B prohibits a municipality from imposing owner occupancy requirements for ADUs. In other words, a municipality may not require the lot owner to live in either the primary structure or the ADU. However, the Housing Opportunity Program encourages municipalities to consider alternative methods for regulating short-term rentals (STRs). Please contact the Housing Opportunity Program for examples of how other municipalities have regulated STRs.

May a municipality require zoning or appeals board approval for ADUs?

No. A municipality may, however, still require the structure to undergo site plan and/or historic preservation review.

May a municipality establish requirements for ADUs that are less restrictive than those in 30-A MRS § 4364-B.

Yes. For example, a municipality may allow more than one ADU on a lot.

Residential Areas: Up to 4 Dwelling Units

[30-A MRS § 4364-A]

30-A MRS § 4364-A requires municipalities to allow multiple dwelling units on a lot where residential uses are allowed, including as conditional uses, provided evidence of sufficient water and wastewater capacity exists. Private parties are permitted to restrict the number of housing units on a lot by private easement, covenant, deed restriction or other agreement provided the agreement does not violate state or federal law such as equal protection. **Any dwelling unit under this section must comply with shoreland zoning requirements established by state law and local zoning ordinances.**

USES PERMITTED

The number of units allowed under this section depends on the following:

- **THREE UNITS:** On any lot where residential uses are permitted, a municipality must allow, at a minimum, a total of three dwelling units, attached or detached. An accessory dwelling unit may be included as one of the three units.

- **FOUR UNITS:** On a lot located in a designated growth area or served by both public water, special district, other centrally managed water system and a public, special district or other comparable sewer system, a municipality must allow, at a minimum, a total of four dwelling units, attached or detached. An accessory dwelling unit may be included as one of the four units.

LD 2173 proposes to remove the terms "centrally managed water system" and "comparable sewer system" from 30-A MRS § 4364-A.

DIMENSIONAL REQUIREMENTS

Dimensional requirements are regulations that govern the size and placement of single-family dwellings units including but not limited to, building height, lot area, minimum frontage, lot depth, lot coverage and setbacks. Municipalities may not establish dimensional requirements for multiple units allowed under 30-A MRS 4364-A that are greater than the dimensional requirements for single-family dwellings.

LD 1143 GRANTING A SETBACK VARIANCE:
A municipality MAY adopt an ordinance that permits a zoning board of appeals to grant a setback variance for a primary year-round dwelling unit when strict application of the zoning ordinance would cause undue hardship for the property owner. For more information on "undue hardship" and granting of a setback variance, see 30-A MRS § 4353(4-B).

EXAMPLE: If a municipality requires 50 feet of road frontage for one dwelling unit, a municipality may not require an additional 50 feet of road frontage (100 feet in total) for a duplex.

LOT SIZE AND DENSITY REQUIREMENTS

30-A MRS § 4364-A requires municipalities to establish lot size and density requirements in certain areas/zones. Municipal ordinances must comply with the following:

- 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,
  - A municipality's minimum **lot size** for that zone may not exceed 5,000 square feet.
  - A municipal **density** requirement may not exceed 1,250 square feet for the first four units. An additional 5,000 square feet of lot area per dwelling unit is required for subsequent units (only if a municipality permits more than 4 units).

LD 2173 proposes to remove the requirement that an additional 5,000 sq. ft. is needed for additional dwelling units beyond the first four units.

- If a lot is located **outside of a designated growth area** but is served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system,
  - A municipality's minimum **lot size** in that zone or area may not exceed 5,000 square feet.
  - A municipal **density** requirement may not exceed 5,000 square feet of lot area for the first two dwelling units in one structure.
- If a lot is located **in a designated growth area** without a public, special district or other comparable sewer system,
  - A minimum **lot size** requirement must be equal to 20,000 square feet, as required by the minimum lot size in Title 12, chapter 423-A (subsurface wastewater minimum lot size); and
  - The municipal **density** requirement or calculation may not be more restrictive than what is required by Title 12, chapter 423-A.

LD 2173 proposes to change the density requirements for areas outside of growth area but served by public water and public sewer. Under LD 2173, a municipality must allow one unit on 5,000 square feet and two units in one structure on 10,000 square feet.

- If a lot is located **outside of a designated growth area** and is not served by public, special district, or other comparable sewer system,
  - A municipality's minimum **lot size** must be at least 20,000 square feet for a single-family dwelling unit; and
  - The municipal **density** requirements may meet or exceed the calculations provided in Title 12, Ch. 423-A.

SUBSURFACE WASTEWATER MINIMUM LOT SIZE CALCULATIONS BY UNIT

Subsurface wastewater statutes and rules establish a formula to determine lot area to accommodate the wastewater needs of units beyond a single-family home on a lot.

THE FORMULA IS: Gallons per bedroom x number of bedrooms x 66.66 square ft/ gallon per day = lot size

EXAMPLE: Lot area required for three, two-bedroom units

120 gallons per bedroom x 6 bedrooms x 66.66 = ≥47,995 square feet (1.13 acres)

The minimum design flow of 120 gallons per bedroom is set in statute, 12 M.R.S. § 4807-A, and rule.

If a lot does not meet the lot area requirements, a minimum lot size waiver may be granted by the Subsurface Wastewater Program. For more information, please contact Alex Pugh at the Subsurface Wastewater Program, Alex.L.Pugh@maine.gov.

MINIMUM LOT SIZE AND DENSITY REQUIREMENTS

Applies in all areas that permit residential uses

Is the residential district/area in a growth area OR served by public water and public sewer (or comparable systems)

NO to both

YES to either

DWELLING UNITS ALLOWED

Municipality must allow three units per lot, inclusive of one ADU.

LOT AND DENSITY

Municipality must set a minimum lot size that is greater than or equal to 20,000 sq. ft. for one unit; Municipality may establish lot area per unit

DWELLING UNITS ALLOWED

Municipality must allow four units per lot, inclusive of one ADU.

LOT SIZE AND DENSITY

If lot is served by public water and public sewer AND in growth area

≤5,000 sq. ft. min. lot size

≤1,250 sq. ft. of lot area per unit for first four units

Subsequent units (if permitted) = 5,000 sq. ft. per unit

(LD 2173 proposes to remove the 5,000 additional sq. ft. requirement)

If lot is served by public water and public sewer but NOT in growth area

≤5,000 sq. ft. min. lot size

≤5,000 sq. ft. for a duplex

ADU permitted without additonal lot area

(LD2173 proposes to change these requirements)

If lot is in growth area but NOT served by public water and public sewer

20,000 sq. ft. for one unit; density for additional units determined by lot size formula in subsurface wastewater rule and statutes

QUESTIONS

May a municipality allow more units than the statutory minimum number required to be allowed on all lots that allow residential uses?

Yes.

May a municipality establish net lot area or lot coverage requirements in its zoning ordinances to govern the size and placement of structures?

Yes.

My town 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. Do the density and lot size requirements in LD 1829 apply in these areas?

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), regardless 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.

My town has a two-acre minimum lot size for a single home. Can my town, under LD 1829, still require four acres for two units and six acres for three units?

Establishing two acre per unit density requirement 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 and establish density requirements based on local considerations. This could result in a municipality maintaining a two-acre minimum lot size and a two-acre per dwelling unit requirement.

PLANNING BOARD APPROVAL (30-A MRS 4364-A(5-A))

- A municipality may not require approval from a planning board for the development of four or fewer dwelling units in one 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. This restriction is for the establishment and use of up to four dwelling units in one structure generally, such as duplexes, triplexes, and quadplexes. 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.**

LD 2173

LD 2173 proposes to amend this subsection of statute by clarifying that the prohibition on planning board approval to establish four or fewer units in one single structure (including ADUs) on a lot applies to any area in which residential uses are allowed, including as a conditional use.

QUESTIONS

May a municipality require other board, commission, or council approval for the development of four or fewer dwelling units in one structure as a use?

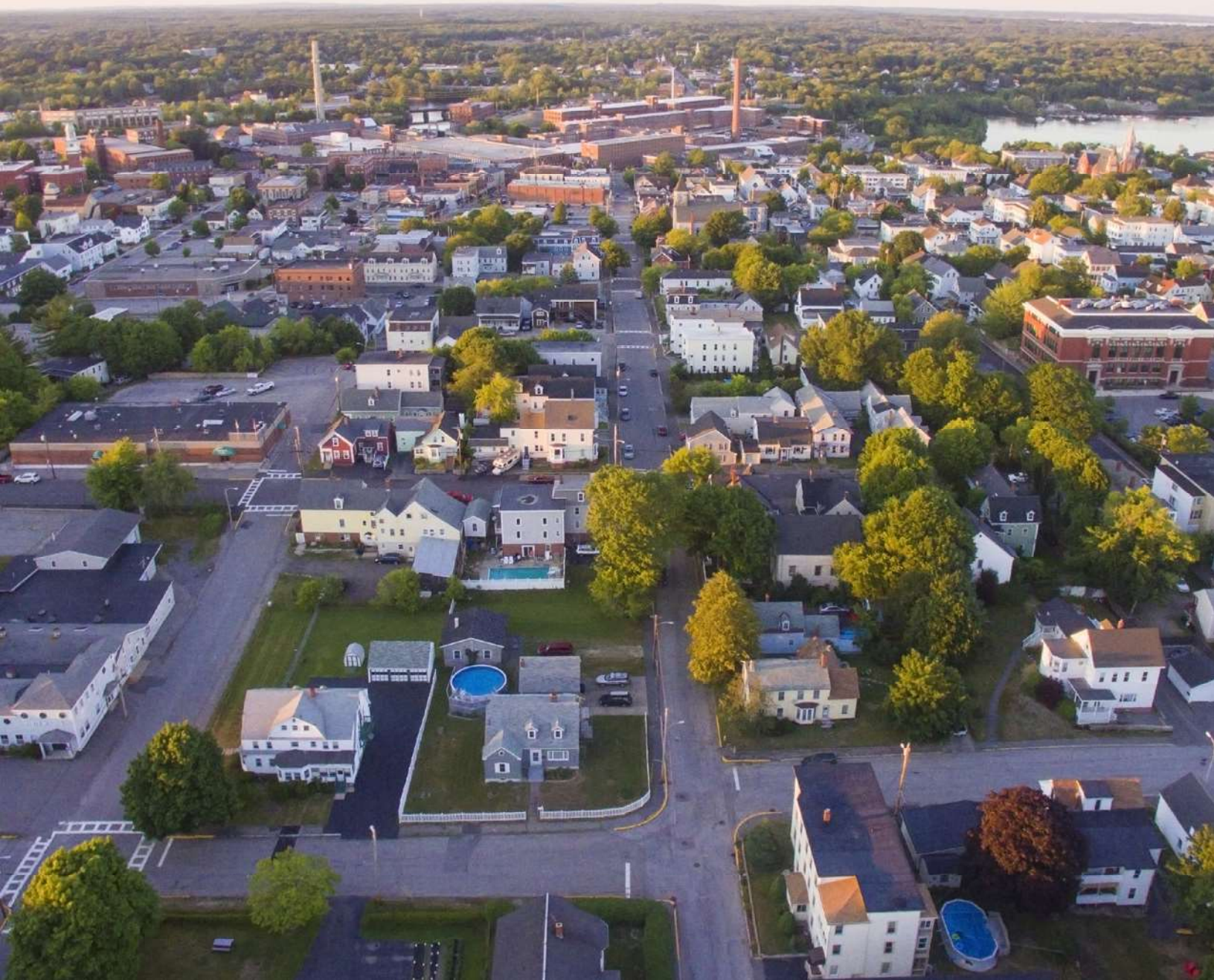
No. Although the statute does not explicitly identify those other bodies, the term planning board represents an approval process that requires public hearings before a board with discretionary review authority to permit one to four dwelling units as a use or change of use. The statute prohibits such discretionary review for use or a change of use. However, the development may still be subject to site plan review.

May a municipality require planning board review for dwelling units located in a shoreland zone?

Yes. Development in the shoreland zone must comply with requirements of state shoreland zoning laws and municipal shoreland zoning ordinances.

May a municipality require a residential development of four or fewer dwelling units to go through site plan review?

Yes



Water and Wastewater Capacity

[30-A MRS §§ 4364(5), 4364-A(4), 4364-B(7)]

30-A MRS §§ 4364(5), 4364-A(4), 4364-B(7) require all dwelling units, housing structures, and accessory dwelling units to be connected to "adequate" water and wastewater services. The owner of a unit must provide written verification to the municipality that the unit is connected to adequate water and wastewater services before the municipality may certify the unit for occupancy. Written verification under this subsection must include:

- If a housing structure is connected to a public, special district or other comparable sewer system, the applicant must provide 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, the applicant must provide proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under 30-A MRS § 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, the applicant must provide 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, the applicant must provide 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.

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

The Housing Opportunity Program encourages municipalities to reach out to the Department of Health and Human Services' Subsurface Wastewater Unit for more information at (207) 287-2070.

LD 2173

LD 2173 proposes to amend 30-A MRS §§ 4364(5), 4364-A(4), 4364-B(7) to clarify that a municipal ordinance may not require minimum standards for subsurface wastewater disposal other than what is required by the Department of Health and Human Services rules overseeing subsurface wastewater.

Housing in Commercial Zones

[30-A MRS § 4364-E]

30-A MRS § 4364-E requires municipalities to allow residential dwelling units in any area zoned for commercial use. This section of law only applies to municipalities that have zoning (beyond shoreland zoning).

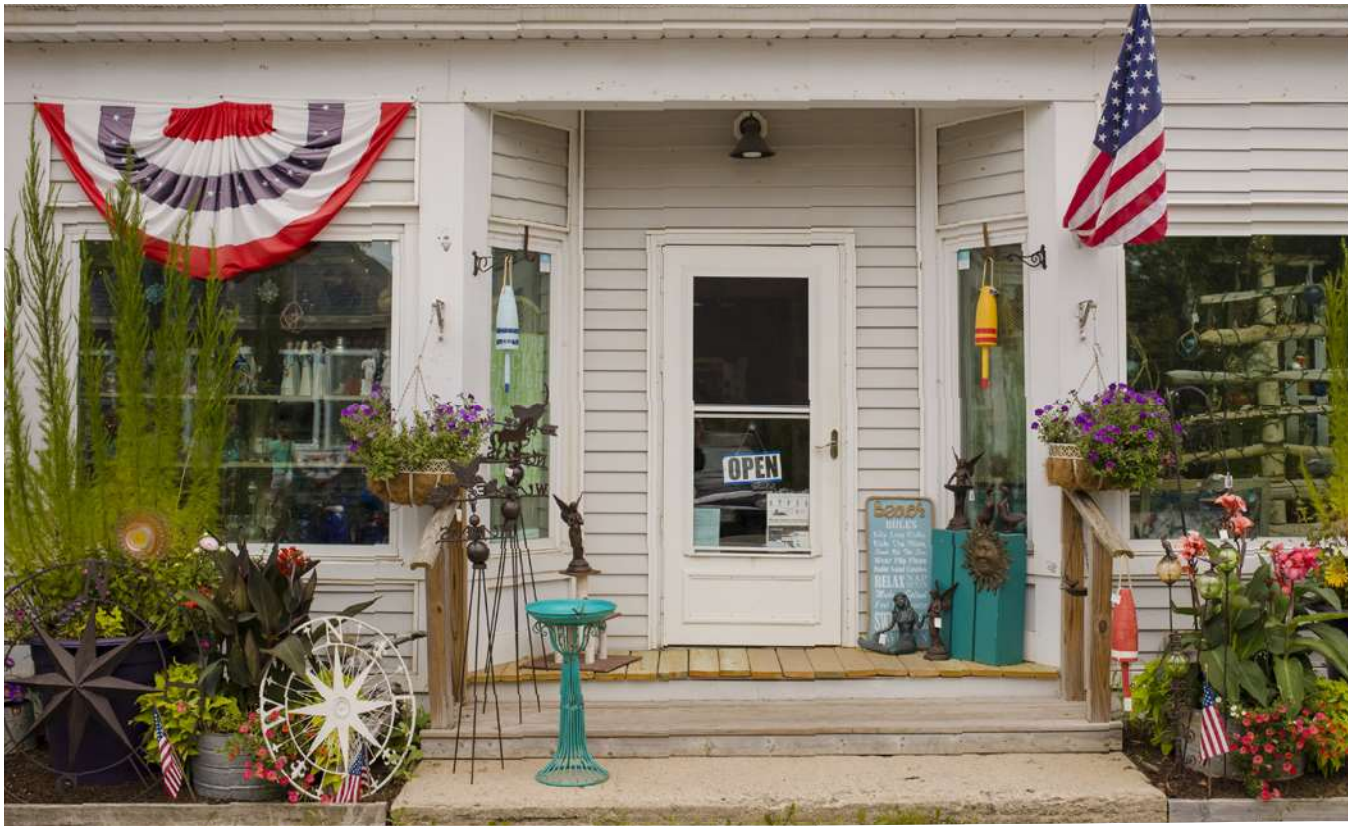
Commercial use is defined in state law as the use of lands, buildings, or structures the intent or result of which is the production of income from the buying or selling of goods or services. Commercial use does not include a home-based business, the rental of a single dwelling unit on a single lot or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

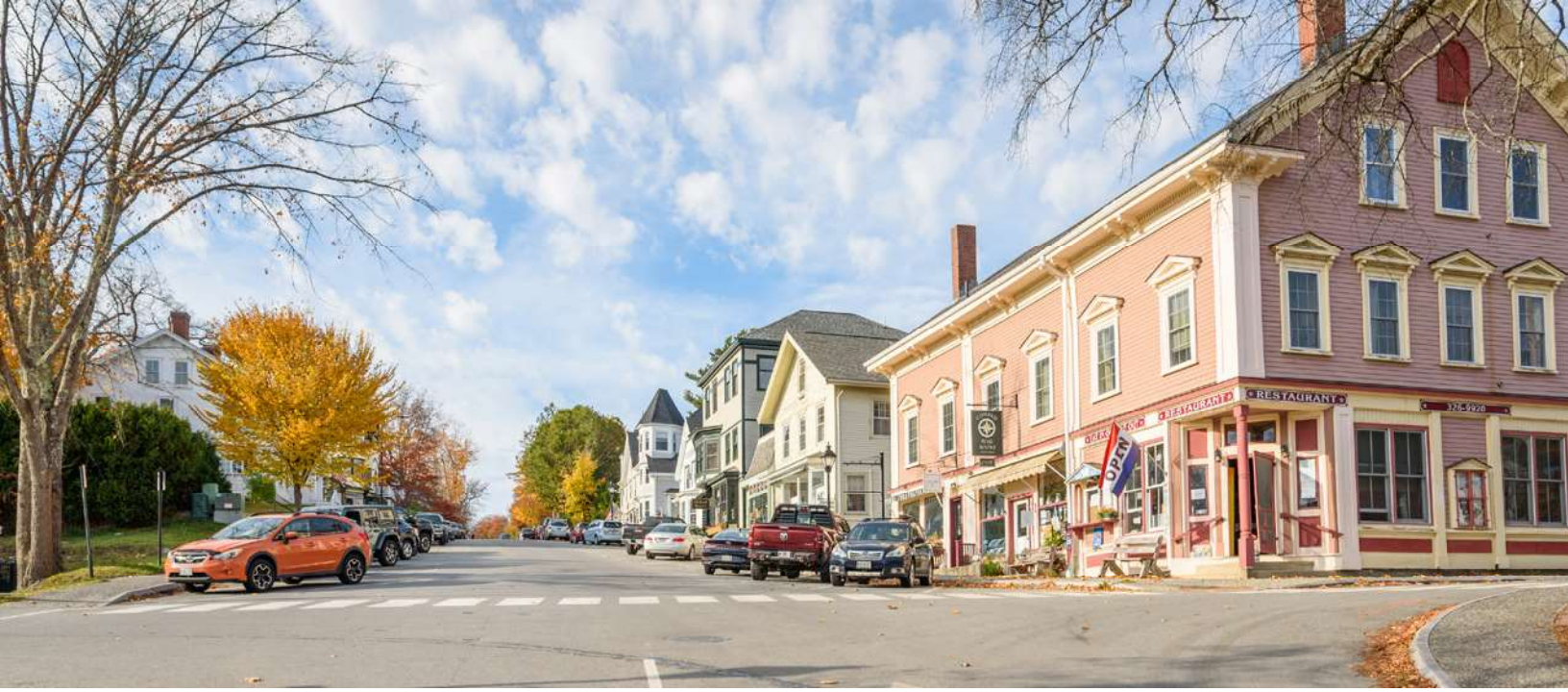
Residential uses, includes but is not limited to, existing commercial buildings that are vacant or partially vacant, new stand-alone residential structures, and mixed-use structures.

An ordinance adopted by a municipality that regulates residential development in an area zoned for commercial use may not contain restrictions or limitations more stringent than the restrictions or limitations contained in 30-A MRS §§ 4364, 4364-A or 4364-B.

A municipality may regulate the following to restrict residential development in commercial zones.

- Place limits on the number of residential units in a commercial development;
- Require the ground floor of a building in a commercial zone to be restricted to commercial use;
- Regulate the siting and design of residential or mixed-use developments in areas zoned for commercial use as long as the ordinance, alone or in combination with other siting and design ordinances, does not discourage residential development through unreasonable costs or delays; and
- Place health or safety requirements applicable to residential units.





QUESTIONS

Does the definition of commercial use include industrial uses?

The definition of commercial use does not exclude industrial uses as currently written, but LD 2173 proposes to clarify that this section of law does not apply to areas allowing industrial uses.

May a municipality require planning board approval for a mixed-use development that includes housing in an area zoned for commercial use?

Yes, but the board may not require a conditional use for the housing portion of the development.

In some of our commercial zones, we allow multifamily dwellings or mixed commercial residential uses, but not single standalone dwellings on a lot. Would the new requirements from LD 1829 require us to allow single-family homes in these zones since rulemaking states we must apply the same rules on density, etc. to commercial zones?

Yes. Standalone units must be allowed in commercial zones.

Some of my town's zones are not strictly commercial or industrial. For example, we have one zone that is intended primarily as an office/technology park zone. We also have another zone that allows an airport and related uses, schools, restaurants, some manufacturing and industrial uses, hotels, and offices. Would these zones now be required to allow residential uses?

If a use type in a zone meets the definition of commercial use, then those zones may need to allow residential uses, subject to the exceptions listed in 30-A MRS § 4364-E.

Municipal Parking Requirements

[30-A MRS § 4364-F]

PARKING REQUIREMENTS FOR DWELLING UNITS IN GROWTH AREAS

- Municipalities may not require more than one off-street parking space per dwelling unit.
- A municipality may specify parking demand management strategies provided those strategies do not require more than one off-street parking space per dwelling unit.
    - Parking demand management strategies are policies intended to reduce the demand for parking. Common strategies include:
        - Shared parking
            - For example, allowing a commercial use and a residential use to share the same spaces to meet minimum requirements because they will be used at different times of day
        - Demand-based parking pricing; and
        - Improving transit and active transportation options.

PARKING AGREEMENTS INSIDE AND OUTSIDE OF GROWTH AREAS

- A municipality must allow for off-street parking requirements to be met through off-site parking agreements in both growth areas and outside of growth areas.
- These agreements must be with existing off-street parking facilities within 0.25 mile of the subject dwelling units measured by the shortest straight line between the two parcel boundaries.
- The agreement must be a legally binding agreement between the developer of housing subject to any parking requirement and the owner of the off-site parking facility. The availability of off-site parking at the facility must be verified by a professional parking study or similar document.
- A municipality may not impose additional requirements beyond this verification.

QUESTIONS

Do accessible parking spaces required by the Americans with Disabilities Act (ADA) count towards municipal parking requirements?

Yes. Any accessible parking spaces required by the ADA count towards the municipal parking requirements. However, unless a municipality establishes parking maximums, the accessible parking spaces need not replace non-accessible spaces.

May municipalities establish parking minimums for mixed-use buildings?

Yes, to the extent that those minimums do not require more parking for the residential units than allowed by 30-A MRS § 4364-F.

EXAMPLE: A municipal ordinance requires one parking space for every 1000 square feet of retail space, one space per residential dwelling unit, and does not establish parking requirements for offices with less than 300 square feet. A mixed-use building with 1000 square feet of retail space on the first floor, four 250 square foot offices on the second floor, a three-bedroom apartment on the third floor, and two one-bedroom apartments on the fourth floor, would not require more than four parking spaces (which could also be satisfied with an off-site agreement). The fact that three uses are combined on one parcel or in one structure may not increase the total number of spaces required.

May a developer voluntarily provide additional parking spaces for a development that exceeds the number of spaces allowed per local municipal ordinance?

Yes, unless the municipality has established off-street parking maximums.

PARKING REQUIREMENTS FOR DWELLING UNITS, ACCESSORY DWELLING UNITS, AND AFFORDABLE HOUSING DEVELOPMENTS

Unit Type	Parking Requirement	Area/zone where this applies	Other Considerations
Accessory Dwelling Units	No parking requirement is permitted	Applies to all accessory dwelling units in all residential areas	Municipalities may still establish a parking requirement for a single-family home not to exceed one space in growth areas.
Affordable Housing Development	Municipalities may not require more than two parking spaces for every three dwelling units	Applies in (1) growth areas; OR (2) areas with public water or public sewer (or comparable systems)	If a fractional result occurs when calculating parking, a municipality may round the number of parking spaces up or down.
Dwelling unit	Municipalities may not require more than one space per dwelling unit	Applies to residential uses in ONLY designated growth areas.	A municipality may impose less restrictive parking requirements for dwelling units outside growth areas or establish parking demand strategies.

Parking Examples

Triplex located in growth area

Three parking spaces

Duplex outside growth area

Municipality may require any number of parking spaces per unit.

Single family home with detached accessory dwelling unit in growth area

One parking space

Subdivision Definition

[30-A MRS § 4401(4)]

LD 2173

LD 2173 proposes to change the implementation date for municipal implementation of the new subdivision definition. Municipalities with a definition of subdivision that conflicts with this revised definition as of September 24, 2025, shall comply by July 1, 2027, except that a municipality with a conflicting definition may file its conflicting definition in the county registry of deeds by July 1, 2026, and that definition will remain valid until January 1, 2028.

30-A MRS § 4401(4) defines the term subdivision. Some portions of the subdivision definition were amended by LD 1829 to increase the threshold for the creation of a subdivision for structures such that:

- The division of a new structure or structures on a tract or parcel of land into 5 or more dwelling units within a 5-year period;
- The construction or placement of 5 or more dwelling units on a single tract or parcel of land; and
- The division of an existing structure or structures previously used for commercial or industrial use into 5 or more dwelling units within a 5-year period.

The purpose of this amendment is to align the subdivision definition with the density allowances in 30-A MRS § 4364-A. Section 4364-A allows for up to four units on a lot in designated growth areas OR areas with public water and public sewer (or comparable systems) without triggering subdivision review.

The division of a tract or parcel of land into 3 or more lots within any 5-year period remains in the definition of subdivision in state law.

The Program encourages municipalities to reach out their local legal counsel with questions about implementing state subdivision law at the local level.

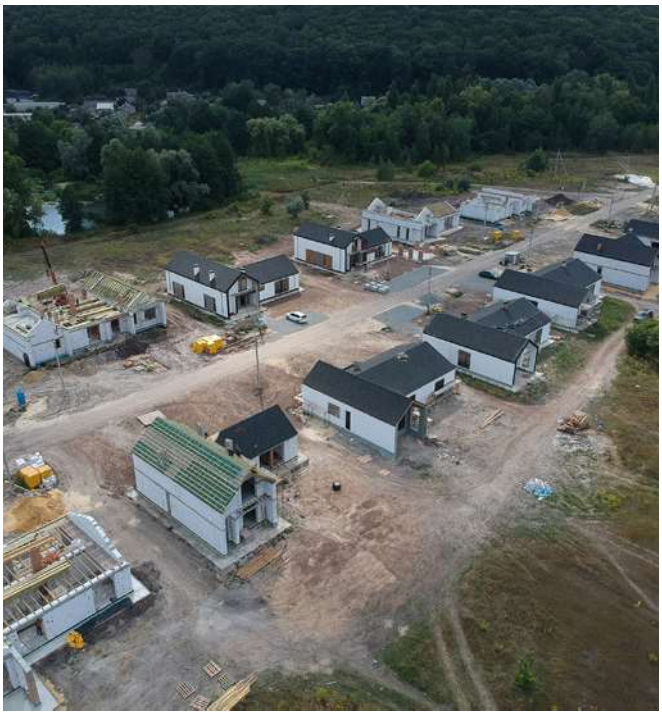
QUESTIONS

What is the implementation date for municipalities to amend local ordinance to reflect this change in the definition of subdivision?

The implementation date for municipalities that amend ordinances through town or city council is July 1, 2026. The implementation date for municipalities that amend ordinances at town meeting is July 1, 2027.

May a municipality establish private access road standards for the creation of additional housing units that do not trigger subdivision review?

Yes.



Rate of Growth Ordinances

[30-A MRS § 4360]

This section of law outlines the requirements if a municipality enacts a rate of growth ordinance to limit development.

Generally, a municipality:

- MAY establish a rate of growth ordinance that establishes different limits on the number of building or development permits that are permitted in rural areas as designated in a municipality's comprehensive plan.
- MAY NOT enact a rate of growth ordinance that limits residential development in designated growth areas.
- MAY NOT count an ADU towards its rate of growth ordinance.

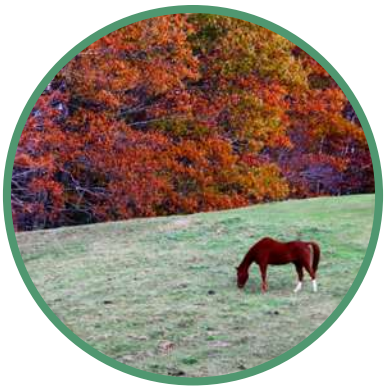
Municipalities may adopt a rate of growth ordinance only if:

- The ordinance is consistent with a municipality's comprehensive plan (See 30-A MRS § 4314(3))
- The ordinance sets the number of buildings or development permits for new residential dwelling (excluding affordable housing) at 105% or more of the mean number of permits issued for new residential dwelling within the municipality during the 10 years immediately prior to the year in which the number is calculated.
  - The mean is determined by adding together the total number of permits issued, excluding permits issued for affordable housing, for new residential dwellings for each year in the prior 10 years and then dividing by 10.
- The ordinance sets the number of building or development permits for affordable housing at no less than 10% of the number of permits set in the ordinance; and
- The number of building or development permits for new residential dwellings allowed under the ordinance is recalculated every three years.

LD 2173

LD 2173 proposes to change the rate of growth ordinances statute in the following ways:

- The rate of growth ordinance must set the number of residential building or development permits at 130% or more of the mean number of total permits issued for new residential dwellings within a municipality during the five years immediately prior;
- The mean is determined by adding together the total number of permits issued for new residential dwellings for each year in the prior five years and then dividing by five;
- A municipal rate of growth ordinance does not require a development permit for affordable housing;
- Within a designated growth area, the ordinance does not limit the development permits allowed per project or per common scheme of development to a number that is less than 35% of the allocated permits for that area; and
- The term "common scheme of development" is defined in statute



Mandatory Municipal Land Use Planning Training

[30-A MRS § 4364-C]

LD 1829 established new land use planning training requirements for municipal reviewing authority and municipal zoning board of appeals members.

Existing members must attend a training on land use planning within 180 days of enactment of LD 1829 on September 24, 2025. If training is not available, a member may attend the next available training.

Newly appointed members must attend training on land use planning within 180 days of their appointment. If training is not available, a member may attend the next available training.

Potential training options include:

- Trainings provided by professional planning staff at the regional councils;
- Trainings provided by a municipality's legal counsel;
- Trainings provided by professional organizations or associations representing municipalities; or
- Trainings provided by the Maine Office of Community Affairs.

The Municipal Planning Assistance Program will provide additional guidance to municipalities on how to meet this new training requirement.

QUESTIONS

What is a municipal reviewing authority?

Municipal reviewing authority means the municipal planning board, agency or office, or if none, the municipal officers. 30-A MRS § 4301(12).

State Housing Production Goals, Housing Data, and Fair Housing

[5 MRS § 13056(9); 5 MRS § 3241(5); 30-A MRS § 4364-C(1)]

HOUSING PRODUCTION GOALS

5 MRS § 13056(9) directs the Department of Economic & Community Development (DECD), in coordination with MaineHousing, to develop a statewide housing production goal and regional production goals. In doing so, the section instructs DECD to set benchmarks for meeting those goals, as well as to consider information provided by municipalities on current and potential housing development and permits. The Housing Opportunity Program, formerly in DECD, established its first statewide and regional goals in the Fall of 2024. These goals will be updated periodically by the Housing Opportunity Program.

HOUSING DATA

5 MRS § 3241(5) requires municipalities with 4,000 or more residents to provide an annual report to the Housing Opportunity Program that includes:

- The number of residential building permit applications;
- The number of demolition permits for dwelling units;
- The number of occupancy or final approvals issued for dwelling units;
- The number of affordable housing units permitted.

The Housing Opportunity Program is working with Maine's 10 regional councils to help municipalities collect this data statewide using a standardized reporting template. This data will be used to update the statewide and regional housing production goals. Please reach out to your local regional council or the Program for more information about 5 MRS § 3241(5) and completing the yearly reporting template.

The Program has funding from the Legislature to reimburse municipalities with 4,000 or more residents for 90% of expenses incurred by a municipality to collect and report the data. For more information about reimbursement, please contact the Housing Opportunity Program.

LD 2079 proposes to change this statutory section in the following ways:

- Amend the municipal reporting categories to align with US Census building permit reporting; and
- Extend the deadline for annual reporting from January to March of each year.

QUESTIONS

My municipality has fewer than 4,000 residents. Is my municipality required to submit housing data to the Housing Opportunity Program?

Municipalities with fewer than 4,000 residents are not required to submit housing data. However, the Program strongly encourages municipalities to report this data. This data will help the state, regions, and municipalities track housing production. For more information on how to submit data, please contact the Program or your municipality's local regional council.

FAIR HOUSING

30-A MRS § 4364-C outlines how municipalities can play a role in achieving those state and regional goals. Municipalities must ensure that local ordinances and regulations are designed to affirmatively further the purposes of the Federal Fair Housing Act, as well as the Maine Human Rights Act.

QUESTIONS

What obligations do the affirmatively furthering fair housing provisions put on municipalities that did not already exist before LD 2003?

Until 2022, the link between land use regulations and fair housing was often not recognized. This section of law clarifies that municipalities must ensure that zoning and land use ordinances and regulations are designed to affirmatively further the purposes of these state and federal laws.

What happens if local, regional or statewide housing goals are not met?

Statute does not set forth any specific penalties for not meeting these goals.

Rulemaking, Technical Assistance, and Financial Assistance

RULEMAKING

The Housing Opportunity Program adopted rules to support municipalities with implementation of PL 2021, Ch. 672 (LD 2003), P.L. 2023, Ch. 192 (LD 1706), P.L. 2025, Ch. 385 (LD 1829,) P.L. 2025, Ch. 374 (LD 427), and P.L. 2025, Ch. 364 (LD 997) in January 2026. These rules are considered "routine technical" meaning they "establish standards of practice or procedure for the conduct of business with or before an agency" and can be approved administratively. The Program's rule may be found on the Secretary of State's website or the Program's website. The Housing Opportunity Program will amend its rule if LD 2173 is enacted.

TECHNICAL ASSISTANCE AND FUNDING

The Housing Opportunity Program, throughout 2026, will host regular in-person and virtual informational sessions about the recent housing legislation for municipal staff, planners, and planning board members. For a list of upcoming sessions, please contact the Program. The Program can also provide municipalities with a list of service providers that can support municipalities with implementation.

With funds appropriated by the Legislature, the Housing Opportunity Program has created three funding opportunities for municipalities and service providers focused on community housing planning and implementation to encourage and support the development of additional housing units in Maine.

- Municipal Payments: These grants provide one-time payments to municipalities to comply with P.L. 2025, Ch. 364 (LD 997), P.L. 2025, Ch. 374 (LD 427), and P.L. 2025, Ch. 385 (LD 1829). The Program will open three rounds in 2026.
- Service Provider Grants: These competitive grants provide eligible service providers with funding to support municipalities with technical assistance, ordinance development, and community housing planning and implementation services. Future grant rounds are anticipated as funding becomes available.
- Municipal Grants: These competitive grants provide municipalities with funding to support ordinance development and community housing planning and implementation projects. Future grant rounds are anticipated as funding becomes available.

ADDITIONAL FREQUENTLY ASKED QUESTIONS

GENERAL

Has the Housing Opportunity Program engaged in rulemaking to help with municipal implementation?

Yes. The Program's rule can be found on HOP's webpage. This rule will be updated if LD 2173 is enacted.

Is there funding available to support my municipality with ordinance amendments to comply with this legislation?

Yes. The Program anticipates opening three grant rounds in 2026. The Program highly encourages municipalities to apply early for this funding. For more information, contact the Program.

To prepare for implementation of these laws, what should my municipality do?

The Program encourages municipalities to review the rule and apply for funding. Also, municipalities should review any existing comprehensive plans to determine the availability of public water and public sewer (if applicable) and where designated growth areas are located (if applicable). This will help your municipality determine where additional density and certain parking requirements are allowed. Finally, if a municipality needs help finding a consultant to help with ordinance amendments, please reach out to the Housing Opportunity Program at housing.moca@maine.gov.

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?

LD 1829, LD 997 and LD 427 are also express preemptions on municipal home rule authority.

May a municipality consider transit when discussing housing changes within local land use and zoning frameworks?

LD 1829, LD 427 and LD 997 do not require municipalities to take transit into consideration when revising ordinances to increase housing. However, municipalities may consider transit when drafting local land use regulations based on local circumstances.

LD 1829 refers to designated growth areas, as identified in a comprehensive plan in a number of sections. What is the definition of designated growth area? What version of a municipal comprehensive plan must a municipality use to determine designated growth areas?

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.

A municipality should use their most recent adopted version of their comprehensive plan to determine where growth areas are. Comprehensive plans do not need to be found consistent per the Growth Management Program for purposes of LD 1829.

LD 1829

Does the building height allowance in LD 1829 only apply to municipal land use ordinance requirements? Would this also pertain to the requirements of the building code?

LD 1829 applies to municipal land use ordinances only and does not impact Maine Uniform Building and Energy Code requirements.

How does the affordable housing density bonus interact with the new lot and density requirements in LD 1829?

The affordable housing density bonus 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, 30-A MRS § 4364-A's base density requirements could intersect with 30-A MRS § 4364 because 30-A MRS § 4364-A 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 30-A MRS § 4364-A as medium-density housing (or a similar term) to differentiate triplexes and quadplexes from multi-family housing.

May a municipality establish a density bonus for other types of housing, such as workforce housing, missing middle housing, or attainable housing?

Yes, provided that the ordinance also provides for the minimum density bonus for housing developments that meet the criteria established by statute. For example, a municipal ordinance could allow a density bonus of 1.5 times the base number of units allowed for the development of rental housing in which 30% of the units are affordable to households earning no more than 120% of the area median income.

Some municipalities have residential areas in environmentally sensitive locations that are on public water and sewer and fall outside of the shoreland zone but are covered by a floodplain management ordinance. Do the lot size, density, and lot coverage provisions in 1829 supersede the floodplain management ordinance?

The Floodplain Management Program's model ordinances do not require a municipality to establish certain dimensional standards in the floodplain. Instead, these ordinances establish certain building development standards for structures in the floodplain.

For floodplain areas that fall within the shoreland zone, dimensional standards in local shoreland zoning ordinance apply.

If a municipality has environmental protection areas that permit residential uses, but that fall outside of the shoreland zone, then the minimum requirements of LD 1829 apply in those areas/zones, including LD 1829's dimensional standard requirements.

LD 2173 does propose to exempt certain hazard areas from increased density.

How do the requirements in LD 1829 related to dimensional requirements interact with the commercial building code?

LD 1829 requires municipalities to establish specific lot size and density requirements in certain zoning districts/areas of a municipality. LD 1829 applies to municipal land use ordinances only and does not impact Maine Uniform Building and Energy Code requirements.

Is the definition of "dimensional requirements" in rule meant to be exhaustive? Can a municipality include impervious surface, lot coverage, floor area ratios and buffers to this definition?

The definition of dimensional requirement in rule is not meant to be exhaustive. A municipality may amend the definition of dimensional requirements in local ordinance to include any other requirements that govern the size and placement of structures based on local needs and considerations.

To comply with LD 1829, can a municipality's minimum lot size exceed the 20,000 square foot minimum lot size as required in subsurface wastewater statutes, Title 12, Chapter 423-A?

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.

Do municipalities have to update their property tax assessing models to reflect different minimum lot sizes? If so, how does this happen, and how will new minimum lot sizes impact valuations?

Property assessment is managed at the local level by assessors. Individual assessors make decisions based on their knowledge of the local market.

It is possible that adjustments to minimum lot sizes could require a local assessor to adjust pricing tables for land values, but it is not mandatory that they do so. Any change to valuation based on the change would need to be market-driven. Making a change to a lot size might not necessarily result in a change in valuation, based on the site value. That would not include the addition of any dwelling units. Additional units would likely result in an increased valuation.

Increasing density in a residential neighborhood could negatively impact valuations but this would need to be proven in the market by looking at sales activity within the neighborhood.

Given the complex nature of market forces on real estate values, there is not one answer to this question. It is the responsibility of the assessor to respond to market forces, and the result of a change in minimum lot size could take some time to play out.

For more information about property tax assessments, please contact the Property Tax Division within Maine Revenue Services at Prop.Tax@maine.gov.

What are the water and wastewater requirements for dwelling units permitted under LD 2003 and now LD 1829?

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 30-A MRS § 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 encourages municipalities to reach out to the Department of Health and Human Services' Subsurface Wastewater Unit for more information at 207-287-2070.

How do towns determine adequate sewage disposal for ADUs? Do the subsurface wastewater disposal rules conflict with the definition of ADU in statute?

The State's subsurface wastewater rules do not have one standard formula for determining the maximum flow rate for all units that meet the statutory definition of an 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 at 207-287-2070.

LD 1829 removes the ability for a municipality to create an owner occupancy requirement for accessory dwelling units. Can municipalities regulate short-term rentals? What should a municipality consider if interested in regulating short-term rentals?

Municipalities may regulate short-term rentals. See 30-A MRS § 4364-C(2). Municipalities may approach short-term rental regulation differently depending on local considerations. Regulation may include requiring owners to register short-term rentals or prohibiting short-term rentals in accessory dwelling units. The type of regulatory approach a municipality takes depends on a variety of local factors, including the prevalence of short-term rentals, staff capacity to monitor short-term rentals, and the goals of a community. The Housing Opportunity can help point municipalities to resources about short-term regulations. Contact housing.moca@maine.gov.

LD 427

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?

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.

LD 997

Can a municipality set limiting factors to address the potential safety concerns with constructing residential housing in commercial areas?

Yes. LD 997 permits municipalities to limit residential development in commercial zones based on health and safety concerns.

Are self-standing residential units allowed in commercial zones because of LD 997?

Yes. Stand-alone residential units are permitted in commercial zones.

ADDITIONAL LOT AND DENSITY GRAPHICS

LD 1829 LOT SIZE AND DENSITY REQUIREMENTS APPLIES IN ALL AREAS THAT PERMIT RESIDENTIAL USES				
Lot location	**Served by public water and public sewer (or comparable systems)**	**Minimum lot size**	**Density (number of units permitted)**	**Use types permitted (if lot size is equal to municipal minimum lot size)**
Within growth area	Yes	≤5,000 square feet	Four units on 5,000 sq. ft. lot; ≤1,250 sq. ft. for each for first four units; 5,000 sq. ft. for subsequent units (if permitted)*	A quadplex; a triplex; a duplex; a single-family home. All but the quadplex may have an ADU. Units may also be detached
Within growth area	No	20,000 square feet	One unit on 20,000 square feet; additional units subject to lot size calculations in subsurface wastewater rules and statutes.	A single-family dwelling unit with ADU (attached or detached), subject to subsurface wastewater lot size calculations
Outside growth area	Yes	≤5,000 square feet	Two units on 5,000 square foot lot in one structure**	A duplex; a single-family home. Both unit types may have an ADU (attached or detached).
Outside growth area	No	≥20,000 square feet.	Up to three units per lot subject to lot area per dwelling unit requirements set by municipality	A single-family dwelling unit with ADU (attached or detached)

* LD 2173 proposes to remove the additional 5,000 sq. ft. requirement.

**LD 2173 proposes to amend the density requirements for areas outside of growth area but served by public water and public sewer by allowing one unit on 5,000 square feet and two units in one structure on 10,000 square feet.

If four or fewer dwelling units have been constructed on a lot as a result of the allowances of 30-A MRS § 4364-A or § 4364-B, the lot is not eligible for any additional increases in density, including under section 4364, unless more units are permitted by the municipality. (LD 2173 proposes to amend this provision by removing the phrase "or fewer.")

In Growth Area AND Served by Public Water and Public Sewer (or Comparable Systems)

Lot Size and Density Requirements

MINIMUM LOT SIZE: ≤5,000 sq. ft.

DENSITY: ≤1,250 sq. ft. for each four units; 5,000 sq. ft. for subsequent units (if permitted)

ADU: At least one ADU (attached or detached) is permitted on lot (up to four units total)

≤5,000 sq. ft.

≤four dwelling units attached or detached

5,000 sq. ft. lot

+one unit with each additional 5,000 sq. ft.

PRIVATE, STATE, AND LOCAL STANDARDS MAY APPLY:

- Homeowners association regulations
- Deed restrictions
- Setbacks, lot coverage, road frontage (no greater than requirements for single-family)
- Shoreland zoning
- Subdivision law

Outside Growth Area BUT WITH Public Water and Public Sewer (or Comparable Systems)

Lot Size and Density Requirements

MINIMUM LOT SIZE:	≤5,000 sq. ft.
DENSITY:	≤5,000 sq. ft. for two units in one structure (excluding ADU)
ADU:	One ADU (attached or detached) is permitted on the lot.

≤5,000 sq. ft.

+ one ADU attached or detached

PRIVATE, STATE, AND LOCAL STANDARDS MAY APPLY:

- Homeowners association regulations
- Deed restrictions
- Setbacks, lot coverage, road frontage (no greater than requirements for single-family)
- Shoreland zoning
- Subdivision law

In Growth Area WITHOUT Public Water and Public Sewer (or Comparable Systems)

Lot Size and Density Requirements

MINIMUM LOT SIZE: 20,000 sq. ft. (established by Title 12, ch. 423-A)

DENSITY: 20,000 for one unit; additional units subject to lot size calculations in Title 12, ch. 423-A

ADU: At least one ADU (attached or detached) is permitted on lot (up to four units total)

Example 1

One Unit

Example 2

4 (bedrooms) x 120 (gallons per day) x 66.66 = ≥ 31,997 sq. ft.

PRIVATE, STATE, AND LOCAL STANDARDS MAY APPLY:

- Homeowners association regulations
- Deed restrictions
- Setbacks, lot coverage, road frontage (no greater than requirements for single-family)
- Shoreland zoning
- Subdivision law

Outside Growth Area WITHOUT Public Water and Public Sewer (or Comparable Systems)

Lot Size and Density Requirements

MINIMUM LOT SIZE: ≥ 20,000 sq. ft. (established by Title 12, ch. 423-A)

DENSITY: Municipality can decide subject to Title 12, ch. 423-A (excluding ADU)

ADU: At least one ADU (attached or detached) is permitted on lot (up to 3 units total).

One Unit + One ADU (attached or detached)

PRIVATE, STATE, AND LOCAL STANDARDS MAY APPLY:

- Homeowners association regulations
- Deed restrictions
- Setbacks, lot coverage, road frontage (no greater than requirements for single-family)
- Shoreland zoning
- Subdivision law

Still have questions? Need more information?

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HOUSING-OPPORTUNITY-PROGRAM

EMAIL: housing.moca@maine.gov

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