

**- PUBLIC MEETING -
Hope Select Board
Meeting at 6:30 p.m.
Tuesday, September 26, 2023
Hope Town Office**

-AGENDA-

Call to Order:

Agenda Adjustments/Approval:

Public Comment (*Please limit comments to 2-3 minutes*):

Board of Assessors:

- Suspend as Select Board/Convene as Assessors:
- Abatement Request Robert & Donna Winslow, 1 Head of the Lake Dr. \$44.25:
- Adjourn as Assessors/Reconvene as Select Board:

Minutes:

- September 12, 2023:

Warrants:

New Business:

- *Approval for Town Attorney Assistance with the Affordable Housing Ordinance Creation & Review (up to 4 hours):*

Old Business:

Other Business:

Town Administrator's Report:

Executive Session:

- Pursuant to 1 M.R.S. §405 (6)(A)(1) – Personnel Matter:

Adjournment:

September 21, 2023

To: Board of Assessors

From: Assessors' Agent

Re: Abatement for September 26, 2023 Meeting

Attached is an abatement form for consideration at your meeting on September 26, 2023. The abatement in the amount of \$44.25 is to Robert and Donna Winslow for their property at 1 Head of Lake Drive. Mr. Winslow was in the town office and requested that we look at his mortgage loan inspection sketch and deed and verify that he was assessed for the correct amount of land. I looked at the sketch he provided, his deed, the prior owner's deed and the recorded subdivision plan and all indicated that the site area is 3.07 acres. The Winslows were assessed for 4.07 acres. I have corrected the property record to 3.07 acres. Changing the acreage from 4.07 to 3.07 lowers the valuation by \$2,500 and results in a tax abatement of \$44.25.

Your signature on the abatement form that Samantha has will correct this error.

If you have any questions, please let me know.

Vern

MINUTES OF SELECT BOARD MEETING

Hope Select Board
Tuesday, September 12, 2023
6:30 p.m.
Hope Town Office

Board Members Present:

- Sarah Ann Smith, Charlie Weidman (*arrived later*), Mike Brown, Michael Schultz, and Wayne Luce

Others Present:

- Samantha Mank

Call to Order:

- The meeting was called to order at 6:30 p.m. by Sarah.

Agenda Adjustments/Approval:

The agenda was approved as written by consent.

Public Comment:

- None

Minutes:

- August 22, 2023: Mike made a motion to approve the August 22, 2023 minutes as written. It was seconded by Wayne.

Motion passed 3-0-1 (Mike)

Warrants 16, 17, & 18:

- The Select Board reviewed the warrants. Mike made a motion to approve and sign warrants 16, 17, and 18. It was seconded by Wayne.

Motion passed 4-0

New Business:

- FY 2023 Carry Forward, Administration - \$25,000: Mike made a motion to carry forward \$25,000 from the FY23 Administration Cost Center. It was seconded by Wayne.
Motion passed 4-0
- Create New Reserve Account for Vacation/Sick Time End of Employment Payouts: Michael made a motion to create a Reserve Account for administration payroll vacation and/sick time pay outs in accordance with the Town's Personnel Policy and to fund it using the \$25,000 from the carry forward from the previous vote. It was seconded by Wayne.
Motion passed 4-0
- Utilize \$40,650 from FY23 Public Works, Roads Budget for FY23 FEMA Reimbursement Difference for Emergency Road Repairs from Halloween Storm: Micheal made a motion to

utilize the remaining funds from the FY23 Public Works Cost Center, Roads Budget for the unplanned maintenance road repair that was not fully reimbursed by FEMA. It was seconded by Mike.

Motion passed 4-0

Old Business:

- None

Other Business:

- None

Town Administrator's Report:

- The Road Commissioner and I met with a team from FEMA for the Recovery Scoping Meeting from the May Day (2023) Storm. There is still quite a bit of paperwork to submit and a few additional meetings. However, since all of the work has already been completed and there are no pending projects with this particular disaster declaration, we are hopeful that it won't take as long to finish the process and receive the necessary reimbursement.
- John began the work on High St. today including replacing the large culvert. The street is expected to be closed throughout the week. Notices have been posted on the website and Facebook pages. Clarence has notified emergency provider personnel as well.
- Knox County signed a contract with Waldo County for dispatch services. As a result, every municipality within the county made the dispatch payment, including Hope.
- The CEO, Town Attorney, and I have developed some finalized terms for the Consent Agreement with Mr. Kelly. The Restoration Plan is acceptable to both parties and the DEP is working on some final permitting issues. Depending on our attorney's schedule, he will attend an executive session to review the document and terms with the Select Board.
- The Town Clerk is away on vacation for the next couple of weeks. It is our understanding that she will be getting married this Friday. Congratulations! In the meantime, Sarah, our new Deputy Town Clerk, has been handling the counter and clerk responsibilities very well.
- The Planning Board held a workshop regarding the metallic mining ordinance information last Thursday. They will be holding an Affordable Housing workshop this Thursday at 5:00 p.m. in order to begin developments of amendments to the Land Use Ordinance. The State has given municipalities a deadline of June 30, 2024 to update the ordinances.
- I am planning on taking 2½ to 3 weeks of vacation time during the second half of October.
- I have reached out to the Town's plowing contractor so that he can have a pre-winter preparedness meeting with the Select Board. We have yet to set a specific date but he said late October or the beginning of November would work best for him.
- There were 2 new building permits and 2 plumbing permits since the 8/22/23 Select Board meeting:
 - Francis Tax 135 Beaver Lodge Rd. Veg. clearing in the SZ
 - Chad Howard 8 Morton Ln. Stair access to shore & extension of deck

- There are 4 RE accounts for 2022, totaling \$19,258.63. Unpaid 2022 real estate taxes will automatically foreclose on February 27, 2024, if the accounts are not paid in full.
- There are 23 RE accounts for 2023, totaling \$47,535.64. Unpaid 2023 real estate taxes will automatically foreclose on February 11, 2025, if the accounts are not paid in full.
- There are 1,128 RE accounts for 2024, totaling \$3,218,183.89. The first half of the 2024 taxes are due on Tuesday, October 3rd.
- The cash has not been out of balance since the Select Board meeting on 8/22/23.

Adjournment:

- Charlie made a motion to adjourn at 8:00 p.m. It was seconded by Wayne.
Motion passed 5-0

TOWN OF HOPE

Office of Selectmen, Assessors, Town Clerk, Tax Collector and Treasurer

WE HEREBY CERTIFY, that the accounts listed, contain a list of the estates, real and personal, to be abated for the fiscal year 2023-2024 (July 1, 2023 to June 30, 2024) located within the Town of Hope; Under Title 36 MRSA sec. 841.

Acct. #	Name	Tax Abated	Reason
RE529	Robert G & Donna L Winslow	\$44.25	Error in Land

Total Abatements: \$44.25

IN WITNESS THEREOF, we have set our hands this Twenty-sixth day of September, 2023.

ASSESSORS OF

HOPE, MAINE

Tax Collector:	Initials _____	Date _____
Computer Adjustments:	Initials <u>CVZ</u>	Date <u>9/20/23</u>
Assessor's Adjustments:	Initials <u>CVZ</u>	Date <u>9/20/23</u>

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-TWO

—
H.P. 1489 - L.D. 2003

**An Act To Implement the Recommendations of the Commission To Increase
Housing Opportunities in Maine by Studying Zoning and Land Use
Restrictions**

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

Sec. 1. 5 MRSA §13056, sub-§7, as amended by PL 2003, c. 159, §3, is further amended to read:

7. Contract for services. When contracting for services, to the maximum extent feasible, seek to use the State's private sector resources in conducting studies, providing services and preparing publications; ~~and~~

Sec. 2. 5 MRSA §13056, sub-§8, as enacted by PL 2003, c. 159, §4, is amended to read:

8. Lead agency for business assistance in response to certain events. Be the lead agency for the State to provide information and business assistance to employers and businesses as part of the State's response to an event that causes the Department of Labor to carry out rapid-response activities as described in 29 United States Code, Sections 2801 to 2872 (2002); ~~and~~

Sec. 3. 5 MRSA §13056, sub-§9 is enacted to read:

9. Establish statewide housing production goals. Establish, in coordination with the Maine State Housing Authority, a statewide housing production goal that increases the availability and affordability of all types of housing in all parts of the State. The department shall establish regional housing production goals based on the statewide housing production goal. In establishing these goals, the department shall:

- A. Establish measurable standards and benchmarks for success of the goals;
- B. Consider information submitted to the department from municipalities about current or prospective housing developments and permits issued for the construction of housing; and
- C. Consider any other information as necessary to meet the goals pursuant to this subsection.

Sec. 4. 30-A MRSA §4364 is enacted to read:

§4364. Affordable housing density

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

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

A. For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs; and

B. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs.

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

3. Long-term affordability. Before approving an affordable housing development, a municipality shall require that the owner of the affordable housing development have executed a restrictive covenant, recorded in the appropriate registry of deeds, for the benefit of and enforceable by a party acceptable to the municipality, to ensure that for at least 30 years after completion of construction:

A. For rental housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy; and

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

4. Shoreland zoning. An affordable housing development must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and municipal shoreland zoning ordinances.

5. Water and wastewater. The owner of an affordable housing development shall provide written verification to the municipality that each unit of the housing development is connected to adequate water and wastewater services before the municipality may certify the development for occupancy. Written verification under this subsection must include:

A. If a housing unit is connected to a public, special district or other comparable sewer system, 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 a housing unit 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 adopted under Title 22, section 42;

C. If a housing unit 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 unit, proof of payment for the connection and the volume and supply of water required for the unit; and

D. If a housing unit 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.

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

7. Restrictive covenants. This section may not be construed to interfere with, 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 section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

8. Rules. The Department of Economic and Community Development shall adopt rules to administer and enforce this section. The department shall consult with the Department of Agriculture, Conservation and Forestry in adopting rules pursuant to this subsection. The rules must include criteria for a municipality to use in calculating housing costs. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. 30-A MRSA §4364-A is enacted to read:

§4364-A. Residential areas, generally; up to 4 dwelling units allowed

1. Use allowed. Notwithstanding any provision of law to the contrary, except as provided in Title 12, chapter 423-A, for any area in which housing is allowed, a municipality shall allow structures with up to 2 dwelling units per lot if that lot does not contain an existing dwelling unit, except that a municipality shall allow up to 4 dwelling units per lot if that lot does not contain an existing dwelling unit and the lot is located in a designated growth area within a municipality consistent with section 4349-A, subsection 1, paragraph A or B or if the lot is served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system in a municipality without a comprehensive plan.

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

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

2. Zoning requirements. With respect to dwelling units allowed under this section, municipal zoning ordinances must comply with the following conditions.

A. If more than one dwelling unit has been constructed on a lot as a result of the allowance under this section or section 4364-B, the lot is not eligible for any additional increases in density except as allowed by the municipality.

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

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

4. Water and wastewater. The owner of a housing structure must provide written verification to the municipality that the structure is connected to adequate water and wastewater services before the municipality may certify the structure for occupancy. Written verification under this subsection must include:

A. 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;

B. 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 adopted under Title 22, section 42;

C. 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

D. 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.

5. Municipal implementation. In adopting an ordinance, a municipality may:

A. Establish an application and permitting process for housing structures;

B. Impose fines for violations of building, zoning and utility requirements for housing structures; and

C. Establish alternative criteria that are less restrictive than the requirements of subsection 4 for the approval of a housing structure only in circumstances in which the municipality would be able to provide a variance under section 4353, subsection 4, 4-A, 4-B or 4-C.

6. Shoreland zoning. A housing structure must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and municipal shoreland zoning ordinances.

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

8. Restrictive covenants. This section may not be construed to interfere with, 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 section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

9. Rules. The Department of Economic and Community Development may adopt rules to administer and enforce this section. The department shall consult with the Department of Agriculture, Conservation and Forestry in adopting rules pursuant to this subsection. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

Sec. 6. 30-A MRSA §4364-B is enacted to read:

§4364-B. Accessory dwelling units

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

2. Restrictions. An accessory dwelling unit may be constructed only:

A. Within an existing dwelling unit on the lot;

B. Attached to or sharing a wall with a single-family dwelling unit; or

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

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

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

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

B. If more than one accessory dwelling unit has been constructed on a lot as a result of the allowance under this section or section 4364-A, the lot is not eligible for any additional increases in density except as allowed by the municipality.

4. General requirements. With respect to accessory dwelling units, municipalities shall comply with the following conditions.

A. A municipality shall exempt an accessory dwelling unit from any density requirements or calculations related to the area in which the accessory dwelling unit is constructed.

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

C. 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.

5. Shoreland zoning. An accessory dwelling unit must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and municipal shoreland zoning ordinances.

6. Size requirements. An accessory dwelling unit must meet a minimum size of 190 square feet. If the Technical Building Codes and Standards Board under Title 10, section 9722 adopts a different minimum size, that standard applies. A municipality may impose a maximum size for an accessory dwelling unit.

7. Water and wastewater. The owner of an accessory dwelling unit must provide written verification to the municipality that the accessory dwelling unit is connected to adequate water and wastewater services before the municipality may certify the accessory dwelling unit for occupancy. Written verification under this subsection must include:

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

B. If an accessory dwelling unit 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 adopted under Title 22, section 42;

C. If an accessory dwelling unit 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 accessory dwelling unit, proof of payment for the connection and the volume and supply of water required for the accessory dwelling unit; and

D. If an accessory dwelling unit 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.

8. Municipal implementation. In adopting an ordinance under this section, a municipality may:

- A. Establish an application and permitting process for accessory dwelling units;
- B. Impose fines for violations of building, zoning and utility requirements for accessory dwelling units; and
- C. Establish alternative criteria that are less restrictive than the requirements of subsections 4, 5, 6 and 7 for the approval of an accessory dwelling unit only in circumstances in which the municipality would be able to provide a variance under section 4353, subsection 4, 4-A, 4-B or 4-C.

9. 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 as described in section 4360.

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

11. Restrictive covenants. This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid or enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

12. Rules. The Department of Economic and Community Development may adopt rules to administer and enforce this section. The department shall consult with the Department of Agriculture, Conservation and Forestry in adopting rules pursuant to this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

Sec. 7. 30-A MRSA §4364-C is enacted to read:

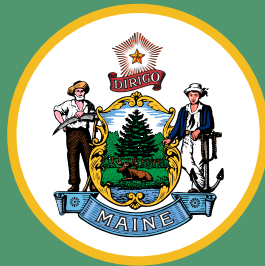
§4364-C. Municipal role in statewide housing production goals

This section governs the responsibilities and roles of municipalities in achieving the statewide and regional housing production goals set by the Department of Economic and Community Development in Title 5, section 13056, subsection 9.

1. Fair housing and nondiscrimination. A municipality shall ensure that ordinances and regulations are designed to affirmatively further the purposes of the federal Fair Housing Act, 42 United States Code, Chapter 45, as amended, and the Maine Human Rights Act to achieve the statewide or regional housing production goal.

2. Municipalities may regulate short-term rentals. A municipality may establish and enforce regulations regarding short-term rental units in order to achieve the statewide or regional housing production goal. For the purposes of this subsection, "short-term rental unit" means living quarters offered for rental through a transient rental platform as defined by Title 36, section 1752, subsection 20-C.

LD 2003 Guidance



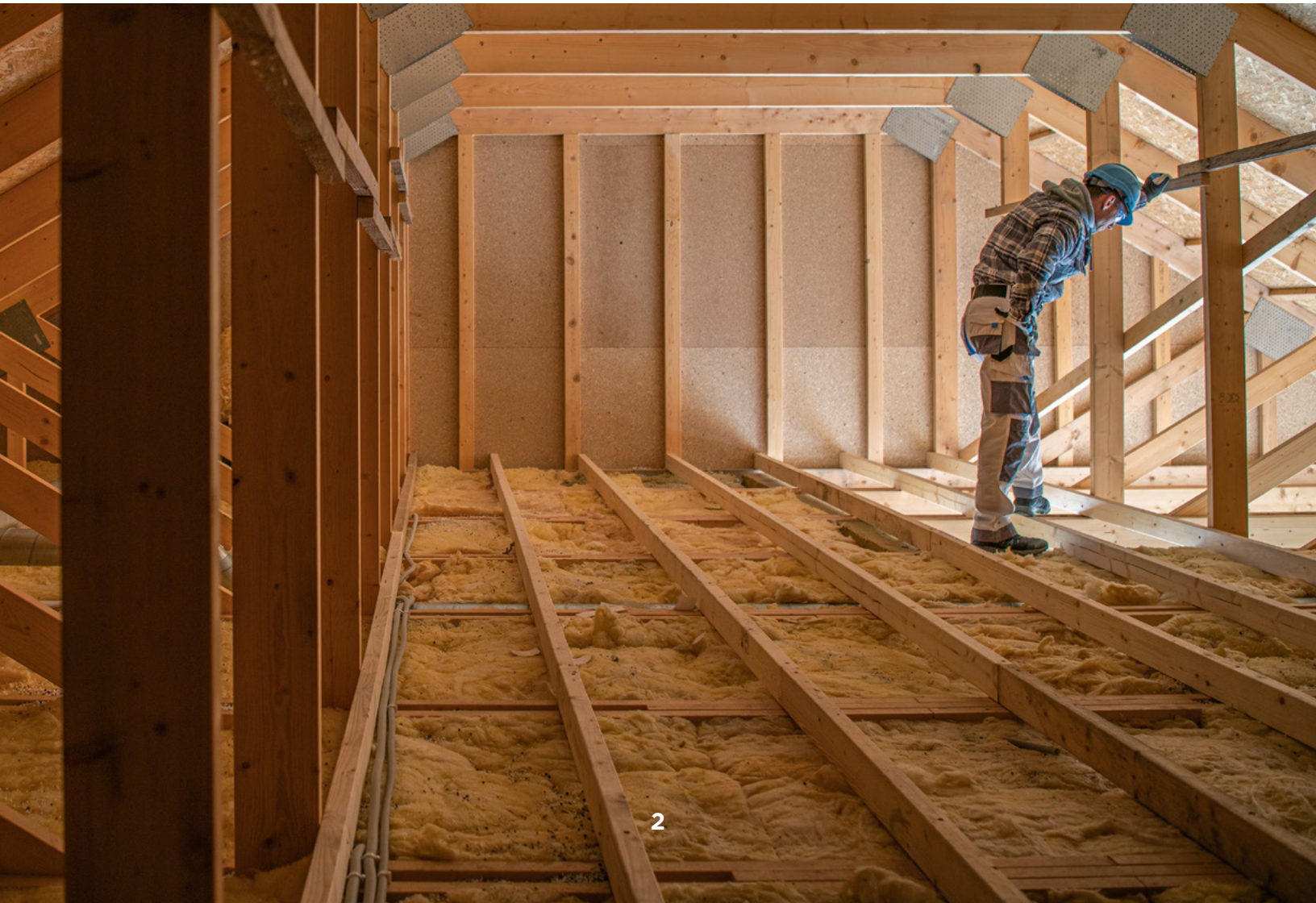
MAINE DEPARTMENT OF
ECONOMIC AND COMMUNITY
DEVELOPMENT

LD 2003 Guidance

“An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions,” generally referred to by its legislative tracking name of LD 2003, was signed into law by Governor Mills on April 27, 2022. This law is designed to remove unnecessary

regulatory barriers to housing production in Maine, while preserving local ability to create land use plans and protect sensitive environmental resources. LD 2003 is based on the recommendations of the legislative commission named in the title, though not all those recommendations are included in the enacted legislation.

This guidance is the result of a collaborative effort by the Department of Economic and Community Development, the Governor’s Office of Policy Innovation and the Future, the Department of Agriculture, Conservation and Forestry; legislative staff, and several municipal lawyers and community planners. It is intended to provide information for local authorities to use in determining how LD 2003 affects their local zoning and land use codes, as well as what steps they can take if they wish to tailor their ordinances to avoid conflicts with state laws. This guidance is not legally binding or intended to serve as a substitute for the language of LD 2003 or the rule that will be adopted. It represents the interpretation of LD 2003 and the proposed rule, as well as its requirements by the state agencies that are responsible for its implementation. This guidance may be updated once the rule is adopted.





LD 2003 has the following sections that are relevant to municipal government. The amended sections of state law are shown in the chart below. Among other things:

1. Section 4 allows for additional density for “affordable housing developments” in certain areas.
2. Section 5 generally requires that municipalities allow between two and four housing units per lot where housing is permitted.
3. Section 6 requires that municipalities allow accessory dwelling units to be located on the same lot as a single-family home, under certain conditions.
4. Sections 3 and 7 require that the state establish statewide and regional housing production goals and set forth ways in which local governments can coordinate with that goal.

WHILE LD 2003 WENT INTO EFFECT ON AUGUST 8, 2022, SOME ELEMENTS OF THE LAW ARE NOT REQUIRED TO BE APPLIED UNTIL JULY 1, 2023

LD 2003 in Brief			
<p>Effective Aug. 8, 2022</p> <p>Statewide Housing Production Goals</p> <p>(5 MRSA §13056, sub-§9)</p>	<p>Effective Aug. 8, 2022</p> <p>Municipal Role in Fair Housing/ Short Term Rentals</p> <p>(7 30-A MRSA §4364-C)</p>	<p>Effective July 1, 2023</p> <p>Accessory Dwelling Units</p> <p>(6 30 A MRSA §4364-B)</p>	
	<p>Effective July 1, 2023</p> <p>Affordable Housing Density in Growth Areas Bonus</p> <p>(4 30-A MRSA §4364)</p>	<p>Effective July 1, 2023</p> <p>Two to Four Units</p> <p>(5 30-A MRSA §4364-A)</p>	

IN GENERAL, AS LONG AS THESE ACTIONS ARE CONSISTENT WITH LD 2003, 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

REGULATE how many square feet of land are needed for each dwelling unit (other than accessory dwelling units)

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

REGULATE the maximum size of accessory dwelling units

REGULATE short-term rentals in their community

CREATE rate of growth ordinances so long as they do not limit the number of accessory dwelling units outlined in Section 6

CREATE local ordinances that are more permissive for residential housing development than the requirements of LD 2003

REGULATE housing development based on documented water and wastewater capacity constraints

IN GENERAL, UNDER THIS LAW, LOCAL GOVERNMENTS MAY NOT:

ENACT local ordinances that allow housing but limit it 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 LD 2003 in growth areas as defined in state law

Affordable Housing Density Bonus

30-A MRSA §4364

This section creates an automatic density bonus for certain affordable housing developments. To qualify for this bonus, the development must:

1. Be approved after June 30, 2023
2. Include a certain number of rent or sales price restricted affordable housing units
3. Be in a growth area under section 4349-A, subsection 1, paragraph A or B, or served by water and sewer
4. Be in an area in which multifamily dwellings are allowed
5. Meet shoreland zoning requirements, meet minimum lot sizes if using subsurface waste disposal, and verify that water and sewer capacity is adequate for the development

BONUSES FOR AN AFFORDABLE HOUSING DEVELOPMENT

To take advantage of this density bonus, a development must qualify as “affordable” (as defined below). If eligible, the affordable housing development qualifies for the following exceptions to the zoning requirements in the community:

1. The number of units allowed will be 2.5 times the number allowed for a development not designated affordable.
2. The off-street parking requirements may not exceed two spaces for every three units

So, for example, if a developer can build up to six units on a site under local rules, and designates the development as affordable, the developer would be eligible to build 15 units (6 x 2.5). The local off-street parking requirement for this development could not exceed ten spaces (15 x 2/3). 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.



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

For rentals, 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 more than half 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 more than half 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 units that will be affordable at these levels must be restricted 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 MaineHousing.org](#)

QUESTIONS AND ANSWERS ON AFFORDABLE HOUSING DENSITY BONUS

This guidance represents the interpretation of LD 2003 and the proposed rule language. This guidance may be updated once the rule is adopted.

What is meant by “multifamily dwellings?”

“Multifamily dwellings” is defined in rule.

What is a “base density that is otherwise allowed?”

Under a local zoning code, the “base density that is otherwise allowed” is the maximum number of units allowed based on dimensional requirements, such as lot area per dwelling unit. This is defined in rule.

If lot area per dwelling unit can be used as a measure of number of units permitted, do the limits on lot area per dwelling unit requirements in Section 5 apply?

No, Section 5’s provision about “lot area per dwelling unit,” 30-A M.R.S. § 4364-A(3), does not apply to Section 4. Therefore, municipalities have the discretion to designate lot area per dwelling unit when approving “affordable housing developments.” Municipalities, however, must comply with the minimum lot size requirements stated in Title 12, chapter 423- A, as applicable.

Does LD 2003 apply to municipalities that do not use the term “designated growth area,” but instead use a different term for growth districts in comprehensive plans.

Yes. LD 2003 applies to a municipality that has adopted a different term to mean a “designated growth area” in its comprehensive plan.

What if a household exceeds the maximum income after living in the unit?

LD 2003 specifies that the income eligibility is based on household income “at the time of initial occupancy,” meaning that a household could be allowed to remain in an “affordable” unit if their income goes up after they occupy the unit. MaineHousing has experience with this issue, as do communities that manage their own affordable housing programs, so there may be best practices that can be adopted locally. The restrictive covenants should outline how this would work.

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, so there may be best practices that can be adopted locally.

How does this density bonus interact with any local density bonus that might exist?

A municipality may apply its local density bonus to “affordable housing developments” instead of the density bonus stated in 30-A M.R.S § 4364, as long as the municipality’s local density bonus is equally or more permissive. More permissive, for purposes of this comparison, means that a local density bonus must be more generous and permissive in regard to each of the requirements described in the LD 2003 density bonus. The density bonus also applies to “affordable housing developments” in municipalities that have not adopted density requirements, as long as the development meets the requirements of 30-A M.R.S. § 4364.



Residential Areas, Generally; Up to 4 Dwelling Units

30-A MRSA §4364-A

This section requires municipalities to allow multiple dwelling units on parcels where housing is allowed, provided evidence of sufficient water and wastewater capacity exists, beginning on July 1, 2023. Municipalities may not apply different dimensional requirements to lots with more than one housing unit on them than they would to a lot with one housing unit, with the exception that they may require a minimum lot area per dwelling unit. However, if the municipality chooses to require a minimum lot area per dwelling unit, the lot area required may not be less for the first unit than for subsequent units.

The number of units allowed under this section depends on a few factors:

- A lot without a dwelling unit already on it can have two units if it is not within a designated growth area under section 4349-A, subsection 1, paragraph A or B, served by water system and sewer in a municipality without a comprehensive plan.
- A lot with an existing dwelling unit may have up to two additional dwelling units, either one additional attached dwelling unit, one additional detached dwelling unit, or one of each.

- A lot without a dwelling unit already on it can have four units if it is either:
 - Within a designated growth area under section 4349-A, subsection 1, paragraph A or B, or
 - Served by water system and sewer in a municipality without a comprehensive plan.

Municipalities may allow more than the minimum number required to be allowed on all lots that allow housing, if they wish. In addition, private parties are permitted to restrict the number of housing units on a lot in a private easement, covenant, deed restriction or other agreement provided the agreement does not violate State or Federal rights such as equal protection.

Finally, a municipality may determine in local ordinance that if a property owner tears down an existing dwelling unit, the lot may be treated under this section as if the dwelling unit were still in existence.



Lot Area per Dwelling Unit

Additional units may not require more land area per unit than the first unit

NOT PERMITTED



One Unit Requires
10,000 sq ft



Two Units Require
30,000 sq ft



Three Units Require
50,000 sq ft

PERMITTED



One Unit
Requires
10,000 sq ft



Two Units
May Require Up
To 20,000 sq ft



Three Units
May Require Up
To 30,000 sq ft

QUESTIONS AND ANSWERS ON RESIDENTIAL AREAS, GENERALLY UP TO 4 DWELLING UNITS

This guidance represents the interpretation of LD 2003 and the proposed rule language. This guidance may be updated once the rule is adopted.

Subsection 2 (“Zoning Requirements”) says that municipal zoning ordinances “must” comply with certain conditions, but subsection B. says that they “may” regulate how this section applies to a lot where a dwelling unit is torn down. Is this a “must” or a “may”?

Municipalities have the option of taking the actions in subsection B but do not have to do so, in which case a lot where a dwelling unit was torn down would be viewed as a vacant lot.

Subsection 4 says that verification must be provided to “the municipality” of water and wastewater services. Who should that verification be provided to?

These capacity issues should be reviewed by the municipal staff or board that would normally review these issues as part of any housing development.

What if a municipality does not use Certificates of Occupancy?

Subsection 4 says that the municipality will “certify [a] structure for occupancy.” This requirement should be met for new housing developments under this section the same way they would be for any other housing.

Does LD 2003 establish minimum dimensional requirements for dwelling units under this section?

Yes, a municipality cannot establish dimensional requirements for additional dwelling units on a lot that are more restrictive than dimensional requirements for a single-family unit, except that a municipal ordinance may establish requirements for a lot area per dwelling unit as long as the required lot area for subsequent units on a lot is not greater than the required lot area for the first unit.

Section 5 requires a municipality to allow up to two dwelling units per lot if that lot contains an “existing dwelling unit.” What does “existing dwelling unit” mean?

“Existing dwelling unit” means a dwelling unit in existence on a lot at the time of submission of a permit application to build additional units on that lot. If a municipality does not have a permitting process, the dwelling unit on a lot must be in existence at the time construction begins for additional units on a lot.

What is meant by “potable” water?

This is addressed in rule.

What if housing is allowed in an area but only as a conditional use?

Housing would be considered allowed in that area for the purposes of subsection 1. A conditional use shall be viewed as a permitted use.

What does “attached to an existing structure” mean?

The rule defines the word “attached.” Municipalities are not required to adopt this definition in local ordinance, but must adopt a definition that is consistent with, and no more restrictive, than the definition in rule.

Does the language in subsection 1 mean that if a lot is served by water and sewer in a municipality without a comprehensive plan that it does not need to be vacant to allow up to 4 units?

No, that language still requires the lot not “contain an existing dwelling unit.”

What does “any area which housing is allowed” mean?

This phrase requires municipalities to allow multiple dwelling units on a lot located in any area allowing residential uses, regardless of zoning district designation. This does not include congregate living settings, lodging homes, residence halls, or other similar types of buildings.

Does LD 2003 apply to municipalities with comprehensive plans that have expired findings?

Yes. An expired finding does not invalidate a locally adopted comprehensive plan or invalidate ordinances, but it could provide an opening for a party to challenge the ordinance in court. Consultation with legal counsel is recommended.

Do the provisions of LD 2003 that mention “designated growth areas” apply to a municipality that does not use the term “designated growth area,” but instead uses a related term for growth districts in its comprehensive plan?

Yes. LD 2003’s provisions apply to a municipality that does not use the term “designated growth area” but instead uses a related term to mean growth districts in its comprehensive plan.

Residential Areas

Empty Lot Where Housing Is Already Allowed

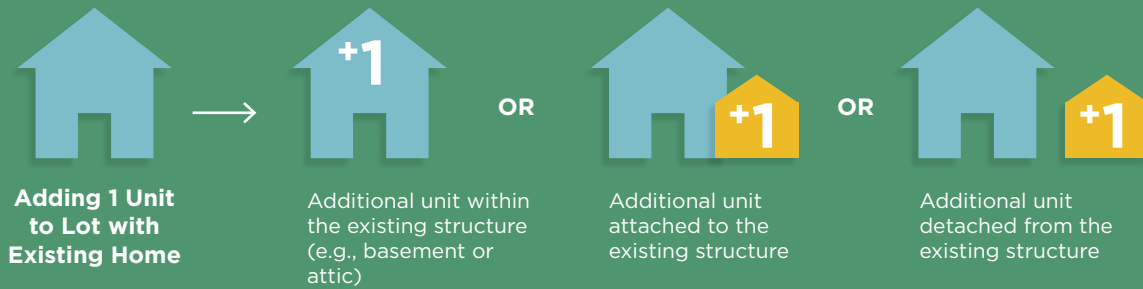


NOTE: The three and four units can be within one structure or multiple structures.

THREE AND FOUR UNITS ALLOWED IF:

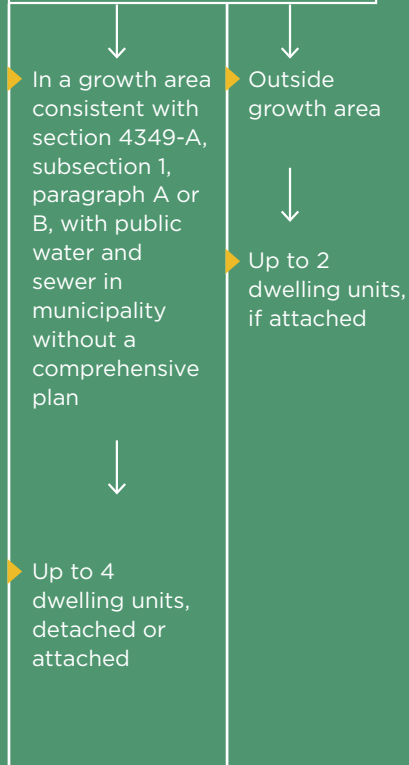
- Located in "growth area" consistent with section 4349-A, subsection 1, paragraph A or B.
- Located in area with existing water/sewer capabilities in towns without comprehensive plans.

Existing Home



What Can Be Built On This Lot?

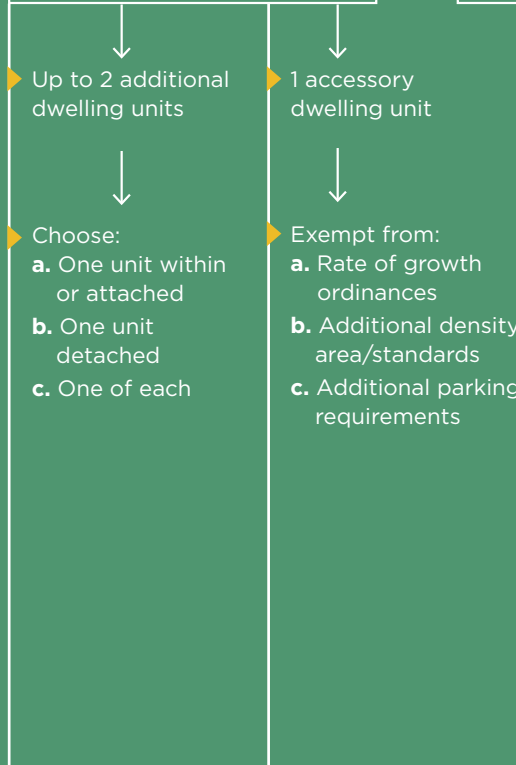
ON LAND WITH ZERO EXISTING UNITS



PRIVATE, STATE OR LOCAL STANDARDS SUCH AS THESE MAY APPLY:

- Home Owners Association regulations
- Deed restrictions
- Lot size, set back, density (not greater than single family)
- Septic requirements
- Minimum Lot Size
- Additional Parking requirement
- Growth ordinance permits
- Shoreland Zoning
- Subdivision Law

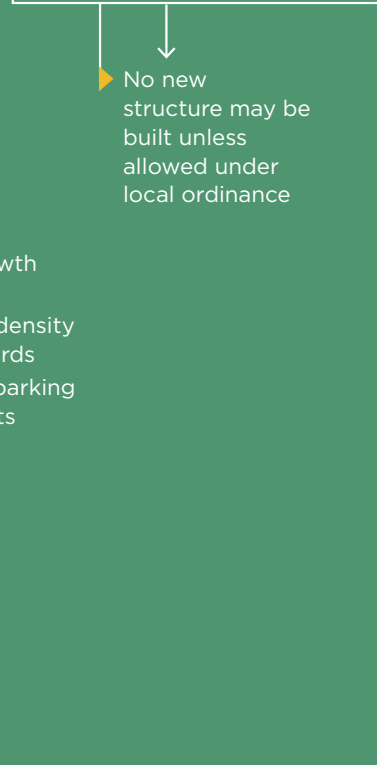
ON LAND WITH ONE EXISTING UNIT



PRIVATE, STATE OR LOCAL STANDARDS SUCH AS THESE MAY APPLY:

- Home Owners Association regulations
- Deed restrictions
- Lot size or set back requirements (not greater than single family/existing accessory structure)
- Septic requirements
- Shoreland Zoning
- Other locally determined ADU standards (e.g. maximum size, rules regarding short term rental, etc.)

ON LAND WITH TWO EXISTING UNITS



Accessory Dwelling Units

30-A MRSA §4364-B

This section essentially allows any lot with a single-family dwelling in an area where housing is permitted to have one accessory dwelling unit (ADU) as well, effective July 1, 2023. That ADU can be within the existing home, attached to it, or in a new structure. Municipalities may also allow existing accessory structures to be converted into an ADU

An ADU allowed under this law is exempt from zoning density requirements. In reviewing an ADU, the setback and dimensional requirements for a single-family home continue to apply unless the municipality makes them more permissive for an ADU. For ADUs in an accessory structure, the setback and dimensional requirements for such a structure apply.

ACCESSORY DWELLING UNIT PARKING

Additional parking requirements for the ADU beyond those required for the single-family dwelling are not permitted.

ACCESSORY DWELLING UNIT SIZE

ADUs must be at least 190 square feet in size. Municipalities may set a maximum size for ADUs in local ordinance.

OTHER MUNICIPAL POWERS

Municipalities may establish an application and permitting process for ADUs provided it is consistent with in this section. Municipalities may also define ADUs, as long as the definition is consistent with state law in Title 30-A, §4301. 1-C. In addition, municipalities may establish requirements for ADUs that are less restrictive than those in this section, such as allowing more than one ADU on a lot or allowing an ADU for two-family or multifamily dwellings.

SIMILARITIES AND DIFFERENCES FROM OTHER SECTIONS

LIKE SECTIONS 4 AND 5, shoreland zoning still applies, as do requirements to verify adequate water and wastewater capacity.

LIKE SECTION 5, 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 SECTION 5, one ADU for each single-family dwelling does not count towards any rate of growth ordinance as described in §4360.

UNLIKE SECTIONS 4 & 5, additional parking cannot be required for an ADU.

UNLIKE SECTION 5, a municipality may not establish requirements for minimum lot area for the addition of an ADU on a lot with an existing single-family home.

QUESTIONS AND ANSWERS ON ACCESSORY DWELLING UNITS

This guidance represents the interpretation of LD 2003 and the proposed rule language. This guidance may be updated once the rule is adopted.

How is an ADU defined?

LD 2003 does not define ADU. There is a definition in 30-A MRSA §4301 and many communities define them in local ordinances. This is addressed in rule.

Can an ADU be larger than a primary structure?

Yes, unless the municipality limits the maximum size of an ADU.

Can a previously illegal ADU be legalized under this section?

Yes, as long as an ADU owner follows the permitting procedures and life safety requirements outlined by their municipality (if applicable).

If a pre-existing single-family dwelling is on a non-conforming lot (with respect to size, frontage, or similar characteristics) can an ADU be built on that lot?

An accessory dwelling unit may be allowed on a lot regardless of whether the lot conforms to existing dimensional requirements of the municipality. Any new structure constructed on the lot as an accessory dwelling unit must meet the existing dimensional requirements as required by the municipality for an accessory structure.

Subsection 7 says that verification must be provided to “the municipality” of water and wastewater services. Who should that verification be provided to?

These capacity issues should be reviewed by the municipal staff or board that would normally review these issues as part of any housing development.

What does “in any area in which housing is permitted” mean?

This phrase requires municipalities to allow one accessory dwelling unit on any lot with a single-family dwelling unit located in an area allowing residential uses, regardless of zoning district designation. This does not include congregate living settings, lodging homes, residence halls, or other similar types of buildings.

If a parcel has an existing two-unit structure, does subsection 1 allow an ADU to be built?

No, though a municipality would have the ability to allow that.

What if a community does not use Certificates of Occupancy?

Subsection 4 says that the municipality will “certify [a] structure for occupancy.” This requirement should be met for new housing developments under this section the same way they would be for any other housing, whether through a formal Certificate of Occupancy or otherwise.

What is meant by “potable” water?

This is addressed in rule.

What if housing is allowed in an area but only as a conditional use?

Housing would be considered allowed in that area for the purposes of subsection 1. A conditional use shall be viewed as a permitted use.

What does “attached to an existing structure” mean?

The rule defines the word “attached.” Municipalities are not required to adopt this definition in local ordinance, but must adopt a definition that is consistent with, and no more restrictive, than the definition in rule.

LD 2003 allows an ADU to be built that is “a new structure on the lot for the primary purpose of creating an accessory dwelling unit.” What does this mean?

This provision allows a new structure to be built on a lot with an existing single-family dwelling unit, as long as the main reason for building the structure is to support human habitation. Local ordinance can define primary purpose further.

Can a municipality require lot area requirements for the addition of an ADU on a lot with an existing single-family home?

No. A municipality must exempt an ADU from density and lot area requirements. The setback and other dimensional requirements, however, continue to apply unless the municipality makes this more permissive for an ADU.

Section 6 allows for the construction of an ADU within an “existing dwelling unit.” What does “existing dwelling unit” mean?

“Existing dwelling unit” means a dwelling unit in existence on a lot at the time of submission of a permit application to build an additional unit on that lot. If a municipality does not have a permitting process, the dwelling unit on a lot must be in existence at the time construction begins for an additional unit on a lot.

Parking for ADUs

Example Parking Requirement

NOT PERMITTED



Single Family Home
2 spaces minimum



Single Family Home + ADU
3 spaces minimum



PERMITTED



Single Family Home
2 spaces minimum



Single Family Home + ADU
2 spaces minimum



This example applies to towns with minimum parking requirements.
For towns without parking restrictions, no additional restrictions would be imposed.

Housing Goals & Fair Housing

MRSA §13056, sub-§9 AND 30-A MRSA §4364-C

Section 3 directs the Department of Economic & Community Development, in coordination with Maine-Housing, to develop a statewide housing production goal and regional production goals based on that statewide goal. In doing so, the section instructs the Department to set benchmarks for meeting those goals, as well as to consider information provided by municipalities on current and potential housing development and permits.

Section 7 outlines ways municipalities can play a role in achieving those state and regional goals. It states that 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, as part of meeting the housing goals. It also explicitly authorizes municipalities to establish and enforce regulations related to short-term rentals to help meet those goals.

QUESTIONS AND ANSWERS ON SECTIONS 3 & 7

This guidance represents the interpretation of LD 2003 and the proposed rule language. This guidance may be updated once the rule is adopted.

What obligations do the affirmatively furthering fair housing provisions put on municipalities that didn't already exist before LD 2003 passed?

Until recently, the link between land use regulation and fair housing was often not recognized. Section 7 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?

These sections do not set forth any specific penalties for not meeting these goals.

How does this relate to local Growth Management programs and comprehensive plans?

Local comprehensive plans, while not regulatory documents, should not conflict with these sections. The regulations for comprehensive plans under Chapter 208 state that communities should “[s]eek to achieve a level of at least 10% of new residential development built or placed during the next decade be affordable.”

Do municipalities have to regulate short term rentals?

No.



GENERAL QUESTIONS

This guidance represents the interpretation of LD 2003 and the proposed rule language. This guidance may be updated once the rule is adopted.

What happens if a municipality does not act to update local ordinances, or tries to act and the updates are not approved by the local legislative body?

LD 2003 is an express preemption on municipal home rule authority. Therefore, any ordinance or regulation that is not consistent with the law may be challenged as invalid. Municipalities are encouraged to contact legal counsel to discuss how the law will affect the enforcement of existing ordinances and regulations.

If a town does not have growth areas as defined by section 4349-A, subsection 1, paragraph A or B, and does not have any areas served by water or sewer, does it need to comply with LD 2003?

These communities would not be subject to the affordable housing density provisions in Section 4, and would not have areas that are required to allow up to four units on a residential lot as per Section 5. Other sections of LD 2003 would apply.

How will LD 2003's requirements be related to municipal comprehensive plans?

Comprehensive plans seeking a finding of consistency under the regulations in Chapter 208 should meet those requirements. Since a comprehensive plan is not a regulatory document, LD 2003 would not create any additional requirements. However, zoning ordinances adopted in a municipality would have to be consistent with both a local comprehensive plan and LD 2003.

Is LD 2003 a model ordinance for use in local zoning?

LD 2003 is not a model ordinance. Communities will be able to seek funding from the Housing Opportunity Program to develop new ordinances.

Can developers “double count” bonuses from various sections?

This issue is outlined in §4364-A Section 2.A. and §4364-B Section 3.B. Developers may only “double count” bonuses from various sections on a lot if this is permitted by the municipality in which the lot is located.

Sections 4, 5, and 6 require written verification of “adequate water and wastewater services.” What about a municipal concern that while a specific housing development may not immediately threaten water quality, the cumulative impact of new development may do so in a way that it did not prior to LD 2003?

As was true prior to the passage of LD 2003, communities are free to take regulatory actions as appropriate for protection of natural resources or existing water systems. These can include changes to zoning districts to limit where housing is permitted; changes to lot size requirements; or the creation of an impact fee system consistent with state law to fund environmental or water quality protection.

What does section 4349-A, subsection 1, paragraph A or B say?

It directs the State to make growth-related capital investments only in:

- A. A locally designated growth area, as identified in a comprehensive plan adopted pursuant to and consistent with the procedures, goals and guidelines of this subchapter or as identified in a growth management program certified under section 4347A;*
- B. In the absence of a consistent comprehensive plan, an area served by a public sewer system that has the capacity for the growth-related project, an area identified in the latest Federal Decennial Census as a census-designated place or a compact area of an urban compact municipality as defined by Title 23, section 754; or [PL 1999, c. 776, §10 (NEW).]*

Growth areas are defined in section 4301, subsection 6-C as:

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 combinations of those types of development, and into which most development projected over 10 years is directed.



RULEMAKING PROCESSES

Sections 4, 5 and 6 authorize rulemaking to be led by the Department of Economic & Community Development, in consultation with the Department of Agriculture, Conservation & Forestry. 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.

FUNDING FOR TECHNICAL ASSISTANCE

While not part of LD 2003, the supplemental budget for Fiscal Years 2022 and 2023 included Section U-1. 5 MRSA §13056-J, providing funding for a new “Housing Opportunity Program.” That program will “encourage and support the development of additional housing units in Maine, including housing units that are affordable for low and moderate income people and housing units targeted to community workforce housing needs” by supporting “regional approaches, municipal model ordinance development, and ... policy that supports increased housing density where feasible to protect working and natural lands.”

The Housing Opportunity Program will consist of grants to service providers to encourage and support the development of additional housing units in Maine, including housing units that are affordable for low-income and moderate-income individuals and housing targeted to community workforce housing needs. These “Service Provider grants” will be awarded to experienced service providers to support municipal ordinance development, the creation of housing development plans, and public process and community engagement support, and may encourage regional coordination. Additional information regarding the Housing Opportunity Grant Program will be available in Spring of 2023.

Finally, the Housing Opportunity Program will be launching a municipal reimbursement program in the Spring of 2023 to assist municipalities with financial costs incurred from implementing ordinance amendments related to LD 2003. Limited funding is available for qualified expenses. For more information on this program reach out to the Housing Opportunity Program staff.

Housing Opportunity Program

The Housing Opportunity Program was established within the Department of Economic & Community Development to encourage and support the development of additional housing units in the State, including housing units that are affordable for low-income and moderate-income individuals.

The Housing Opportunity Program:

- Provides technical assistance to municipalities to support housing development, including support with municipal ordinance development to comply with P.L. 2021, ch. 672 (LD 2003);
- Provides funding to service providers and municipalities to support municipal ordinance development, planning board and public processes in communities to increase housing opportunities;
- Provides information to the public about housing development and opportunities; and
- Establishes statewide housing production goals.

P.L. 2021, ch. 672 (LD 2003)

On April 27, 2022, Governor Janet Mills signed into law [P.L. 2021, ch. 672 \(LD 2003\)](#) (<http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP1489&item=9&snum=130>), An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions.

LD 2003 focuses on removing regulatory barriers to increase housing production in Maine, while preserving municipal ability to create land use plans and protect environmental resources. This legislation requires municipalities to create or amend local ordinances to allow for:

- Additional density for affordable developments in certain areas;
- Multiple dwelling units on lots designated for residential use; and
- One accessory dwelling unit located on the same lot as a single-family dwelling unit in any area where residential uses are permitted.

P.L. 2023, ch. 192 (LD 1706)

Governor Mills signed into law [LD 1706 \(https://legislature.maine.gov/LawMakerWeb/summary.asp?ID=280088800\)](#), An Act to Clarify Statewide Laws Regarding Affordable Housing and Accessory Dwelling Units. This legislation became effective on June 16, 2023.

This legislation amends LD 2003 by extending the implementation date of July 1, 2023, to January 1, 2024, for municipalities that enact ordinances by municipal officer without further action or approval by voters of the municipality and July 1, 2024, for all other municipalities. This legislation also makes some minor changes to LD 2003 for clarity.

LD 2003 Resources

- Municipal Payment Information
 - [July 27 Informational Session PowerPoint \(https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/HOP%20municipal%20payments%20Informational%20Session.pdf\)](https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/HOP%20municipal%20payments%20Informational%20Session.pdf) (PDF)
 - July 27 Informational Session Recording
 - [Part 1 \(https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/Part%201.mp4\)](https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/Part%201.mp4)
 - [Part 2 \(https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/Part%202.mp4\)](https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/Part%202.mp4)
 - [Municipal Payment Distribution Schedule \(https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/Municipal%20Payment%20Distribution%20Schedule%20September%202023.docx\)](https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/Municipal%20Payment%20Distribution%20Schedule%20September%202023.docx), Revised September 2023 (Word)
 - [Municipal Payment Invoice Template \(https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/Municipal%20Payment%20Invoice%20Template%20%281%29.docx\)](https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/Municipal%20Payment%20Invoice%20Template%20%281%29.docx) (Word)
- Rule and Guidance Document
 - [LD 2003 Guidance Document \(https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/DECD_LD%202003_digital-%20Feb%202023%20update%20website_0.pdf\)](https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/DECD_LD%202003_digital-%20Feb%202023%20update%20website_0.pdf) (Updated February 2023) (PDF)
 - [Proposed Rule \(https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/100c005%20redline%20July%2024%2C%202023.%20docx.docx\)](https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/100c005%20redline%20July%2024%2C%202023.%20docx.docx): 19-100 C.M.R. ch. 5, Housing Opportunity Program: Municipal Land Use and Zoning Ordinance Rule (Word)
 - [MAPA 3 \(https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/19-100%20CMR%20ch.%205%20MAPA%20_0.docx\)](https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/19-100%20CMR%20ch.%205%20MAPA%20_0.docx)
 - [MAPA 3 \(https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/19-100%20CMR%20ch.%205%20MAPA%20.docx\)](https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/19-100%20CMR%20ch.%205%20MAPA%20.docx) (Word)
- LD 2003 Q&A Zoom Recordings
 - [Session 1: April 18 \(https://mainestate.zoom.us/rec/share/D5KISjhkThCPSwRaV-67QJ7AI2FS5_eHSwgsWQ-b-goCP-NMFSe4yepsw2aJTLmR.YWUxfzjKJLkLjzr5\)](https://mainestate.zoom.us/rec/share/D5KISjhkThCPSwRaV-67QJ7AI2FS5_eHSwgsWQ-b-goCP-NMFSe4yepsw2aJTLmR.YWUxfzjKJLkLjzr5)

ADDITIONAL RESOURCES

Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions

[December 2021 Report](#)

[November 2022 Report](#)

[Maine Housing Rent & Income Charts](#)

[Maine's Service Centers](#)

Contact:

housing.decd@maine.gov

- [Session 2: April 25 \(https://mainestate.zoom.us/rec/share/e-Kx9n--DfW1oTmZtgn1EoZBXhrTclae1CaTu0XJT16vuy17yYgVjSLaOUWwyDfi.YdNTBaQer3-3Mh7t\)](https://mainestate.zoom.us/rec/share/e-Kx9n--DfW1oTmZtgn1EoZBXhrTclae1CaTu0XJT16vuy17yYgVjSLaOUWwyDfi.YdNTBaQer3-3Mh7t)
- [Session 3: May 9 \(https://mainestate.zoom.us/rec/share/pqQsq1Cg4x-FJiWbWJ-SetsPzBezANDk7CMXhj4JYIAAz8oOnF9gFdGelwg0Grw.9prOuOwUyplhk9sc\)](https://mainestate.zoom.us/rec/share/pqQsq1Cg4x-FJiWbWJ-SetsPzBezANDk7CMXhj4JYIAAz8oOnF9gFdGelwg0Grw.9prOuOwUyplhk9sc)
- [Session 4: May 16 \(https://mainestate.zoom.us/rec/share/q9CmFTIOOy7QQc9rR5r6EtZbuh1Nu5N4TSgClh39C_5zhrD8f2SR6T62HlvRiehJ.Qi3dCMruy5XwTqcN\)](https://mainestate.zoom.us/rec/share/q9CmFTIOOy7QQc9rR5r6EtZbuh1Nu5N4TSgClh39C_5zhrD8f2SR6T62HlvRiehJ.Qi3dCMruy5XwTqcN)
- [Session 5: May 23 \(https://mainestate.zoom.us/rec/share/5_3bJwww0m1H3qXThITgUhQvPYjRcj_kiDOT8b-YkCYjhu1c1krzHP5jcxAaiwJi.tcPS8La3EPxzdKhF\)](https://mainestate.zoom.us/rec/share/5_3bJwww0m1H3qXThITgUhQvPYjRcj_kiDOT8b-YkCYjhu1c1krzHP5jcxAaiwJi.tcPS8La3EPxzdKhF)
- [Session 6: May 30 \(https://mainestate.zoom.us/rec/share/Ux3pKhpzoeM3riBOFvgEVf7u6d9zQkRoACyLexYkxOuhYQ88yLzVROo0G7JZEO.0BLU3bBHh3NW2o\)](https://mainestate.zoom.us/rec/share/Ux3pKhpzoeM3riBOFvgEVf7u6d9zQkRoACyLexYkxOuhYQ88yLzVROo0G7JZEO.0BLU3bBHh3NW2o)

HUD PRO Housing Grants

The Housing Opportunity Program is in the process of applying for grant funding from the United States Department of Housing and Urban Development. This grant opportunity, known as [PRO Housing Grants \(https://www.hud.gov/program_offices/comm_planning/pro_housing\)](https://www.hud.gov/program_offices/comm_planning/pro_housing), appropriates \$85 million in grant funding for the identification and removal of barriers to affordable housing production and preservation.

The Housing Opportunity Program will host a virtual stakeholder engagement session on its proposed projects on Thursday, September 28th at 9:30am.

Zoom link to attend: <https://mainestate.zoom.us/j/88248141733> (<https://mainestate.zoom.us/j/88248141733>)

Housing Opportunity Program Grants

The Housing Opportunity Program has grant funding available for service providers and municipalities to support municipal ordinance development, community housing planning services, and community housing implementation services.

The 2023 Service Provider Grants **are now closed**. Please visit the [Division of Procurement Services' website \(https://www.maine.gov/dafs/bbm/procurementservices/vendors/grants\)](https://www.maine.gov/dafs/bbm/procurementservices/vendors/grants) for additional information.

Grant Resources

- [Final Rule \(https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/100c004%20%282%29.docx\)](https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/100c004%20%282%29.docx): 19-100 C.M.R. ch. 4, Rule Regarding Housing Opportunity Program Grants (Word)
 - [Summary of Comments and Responses \(https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/Summary%20of%20Comments%20Ch.%204.docx\)](https://www.maine.gov/decd/sites/maine.gov/decd/files/inline-files/Summary%20of%20Comments%20Ch.%204.docx). (Word)

If you have questions about the Housing Opportunity Program or would like to sign up for the listserv, please email housing.decd@maine.gov

Credit

Information

Business in Maine

DECD Offices

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Housing Opportunity Program Municipal Payments

PL 2021, ch. 672 (LD 2003)

INFORMATIONAL SESSION

MAINE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

JULY 27, 2023

Overview

The Housing Opportunity Program within the Maine Department of Economic and Community Development has funding available to support municipalities with PL 2021, ch. 672 (LD 2003) compliance.

Municipalities can either receive funding to:

- Reimburse qualifying expenses; or
- Cover future qualifying expenses.

Eligibility

- Municipalities with zoning are eligible to receive funding from the Department.
 - Zoning means the municipality is divided into zone or districts in which differing regulations and uses apply.
 - Municipalities that only have shoreland zoning are not eligible for funding.

Municipalities Without Zoning

- Municipalities without zoning, including municipalities with only shoreland zoning, are not eligible to receive funding from the Department's municipal payments.
- However, there are two funding opportunities for municipalities without zoning to receive financial support with PL 2021, ch. 672 compliance:
 - Service Provider Grants: Now open
 - Municipal Grants: More information to come in 2024

Payment Amount

- Eligible municipalities that have (1) one or more designated growth areas or (2) a public, special district, or other centrally managed water system and a public, special district, or other comparable sewer system shall receive **up to \$10,000**.
- Eligible municipalities that do not have (1) designated growth areas or (2) a public, special district, or other centrally managed water system and a public, special district or other comparable sewer system shall receive **up to \$5,000**.

Qualifying Expenses

The funding must be used for the following zoning ordinance related qualifying expenses:

- Attorney's fees to research, draft and revise zoning ordinances;
- Attorney's fees associated with development of legal opinions regarding local regulations;
- Staff and contractor time for research and drafting zoning ordinances, including staff time and board/town meetings;
- Fees associated with providing notice of election and public meetings; and
- Staff time, including overtime and stipends, and other associated expenses, for the conduct of town meetings and elections.

Payment Process

- To receive funding, municipalities must fill out an invoice template and email to housing.decd@maine.gov.

INVOICE

Date	Invoice #
	Town 1

Municipality Name
Municipality Contact Person
Municipality Mailing Address
Municipality Email Address

Bill To
DECD Attn: Housing Opportunity Program 59 State House Station Augusta, ME 04333-0059 housing.decd@maine.gov

Description	Amount
Municipal payment to fund costs associated with P.L. 2021, ch. 672 compliance	
Vendor Code (if known):	
	TOTAL:

Don't know your town's vendor code?
Contact housing.decd@maine.gov.

Municipal Responsibilities

- Any municipality that receives funding from the Department to comply with P.L. 2021, ch. 672 must send the Department:
 - Updated ordinances following adoption; and
 - Accounting documentation that is detailed enough for the Department to determine whether the funds spent are qualifying expenses as described above in Section D(3). Accounting documentation should provide, at a minimum: the goods and/or services paid for; the amount paid for goods and/or services; and the date of payment(s).
- Adopted ordinances and accounting documentation must be emailed to the Housing Opportunity Program at housing.decd@maine.gov.

Municipal Responsibilities

- Municipalities may request reimbursement for staff time in multiple ways. A municipality may provide a narrative statement or chart about staff time used for research, drafting, public hearings, or town meetings.

Staff Member	Date/Time	Amount of Time	Hourly Rate	Total
Clerk	9/2022, Public Hearing	2 hours	\$25	\$50
Clerk	1/2022-9/2022 - 20 weeks	5 hours/week	\$25	\$2500
Town Manager	9/2022, Public Hearing	2 hours	\$30	\$60
Town Manager	1/2022-9/2022 - 20 weeks	5 hours/week	\$30	\$3,000
Staff Planner	Research	15 hours	\$30	\$450
				\$6,060

Unexpended Funds

- If a municipality does not expend all the funds allocated pursuant to this payment schedule, the municipality must return the unexpended funds to the Department. To initiate a return of the funding, please email housing.decd@maine.gov.

Deadline

- At this time, the Department has not set a deadline to submit invoices to receive a municipal payment.
- However, the Department anticipates that most municipalities will be asking for funding and providing accounting documentation around July 1, 2024.
- When the Department intends to close the program, ample notice will be provided.

Appeal Process

- In accordance with the Maine Administrative Procedure Act, a municipality may appeal the number, amount, and timing of payments to the Department.
- If a municipality desires to appeal, the appeal must:
 - Be in writing;
 - Addressed to the Commissioner of the Department;
 - Be emailed to the following designated email box: housing.decd@maine.gov;
 - Label the subject line of the email “Municipal Payment Schedule Appeal”; and
 - Explain the basis for the appeal.
- Decisions on appeal from the number, amount, and timing of payments awarded pursuant to this payment schedule constitute final agency action for judicial review purposes pursuant to the Maine Administrative Procedure Act, 5 M.R.S. § 11001(1).

Questions?

Housing Opportunity Program
Maine Department of Economic and Community Development
housing.decd@maine.gov

Title 1: GENERAL PROVISIONS
Chapter 13: PUBLIC RECORDS AND PROCEEDINGS
Subchapter 1: FREEDOM OF ACCESS

§405. Executive sessions

Those bodies or agencies falling within this subchapter may hold executive sessions subject to the following conditions. [PL 1975, c. 758 (NEW).]

1. Not to defeat purposes of subchapter. An executive session may not be used to defeat the purposes of this subchapter as stated in section 401 (../title1sec401.html).

[PL 2009, c. 240, §2 (AMD).]

2. Final approval of certain items prohibited. An ordinance, order, rule, resolution, regulation, contract, appointment or other official action may not be finally approved at an executive session.

[PL 2009, c. 240, §2 (AMD).]

3. Procedure for calling of executive session. An executive session may be called only by a public, recorded vote of 3/5 of the members, present and voting, of such bodies or agencies.

[PL 2009, c. 240, §2 (AMD).]

4. Motion contents. A motion to go into executive session must indicate the precise nature of the business of the executive session and include a citation of one or more sources of statutory or other authority that permits an executive session for that business. Failure to state all authorities justifying the executive session does not constitute a violation of this subchapter if one or more of the authorities are accurately cited in the motion. An inaccurate citation of authority for an executive session does not violate this subchapter if valid authority that permits the executive session exists and the failure to cite the valid authority was inadvertent.

[PL 2003, c. 709, §1 (AMD).]

5. Matters not contained in motion prohibited. Matters other than those identified in the motion to go into executive session may not be considered in that particular executive session.

[PL 2009, c. 240, §2 (AMD).]

6. Permitted deliberation. Deliberations on only the following matters may be conducted during an executive session:

A. Discussion or consideration of the employment, appointment, assignment, **duties,** promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of **an individual** or group of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or **complaints against a person or persons subject to the following conditions:**

(1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the individual's reputation or the individual's right to privacy would be violated;

(2) Any person charged or investigated must be permitted to be present at an executive session if that person so desires;

(3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against that person be conducted in open session. A request, if made to the agency, must be honored; and

(4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion must be permitted to be present.

This paragraph does not apply to discussion of a budget or budget proposal; [PL 2009, c. 240, §2 (AMD).]

B. Discussion or consideration by a school board of suspension or expulsion of a public school student or a student at a private school, the cost of whose education is paid from public funds, as long as:

(1) The student and legal counsel and, if the student is a minor, the student's parents or legal guardians are permitted to be present at an executive session if the student, parents or guardians so desire; [PL 2009, c. 240, §2 (AMD).]

C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency; [PL 1987, c. 477, §3 (AMD).]

D. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators. The parties must be named before the body or agency may go into executive session. Negotiations between the representatives of a public employer and public employees may be open to the public if both parties agree to conduct negotiations in open sessions; [PL 1999, c. 144, §1 (RPR).]

E. Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's or agency's counsel to the attorney's client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the State, municipality or other public agency or person at a substantial disadvantage; [PL 2009, c. 240, §2 (AMD).]

F. Discussions of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute; [PL 1999, c. 180, §1 (AMD).]

G. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes; consultation between a body or agency and any entity that provides examination services to that body or agency regarding the content of an examination; and review of examinations with the person examined; and [PL 1999, c. 180, §2 (AMD).]

H. Consultations between municipal officers and a code enforcement officer representing the municipality pursuant to Title 30-A, section 4452, subsection 1, paragraph C ([./30-A/title30-Asec4452.html](http://30-A/title30-Asec4452.html)) in the

prosecution of an enforcement matter pending in District Court when the consultation relates to that pending enforcement matter. [PL 1999, c. 180, §3 (NEW).]

[PL 2009, c. 240, §2 (AMD).]

SECTION HISTORY

PL 1975, c. 758 (RPR). PL 1979, c. 541, §A3 (AMD). PL 1987, c. 477, §§2,3 (AMD). PL 1987, c. 769, §A1 (AMD). PL 1999, c. 40, §§1,2 (AMD). PL 1999, c. 144, §1 (AMD). PL 1999, c. 180, §§1-3 (AMD). PL 2003, c. 709, §1 (AMD). PL 2009, c. 240, §2 (AMD).

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public.

If you need legal advice, please consult a qualified attorney.

[Office of the Revisor of Statutes \(mailto:webmaster_ros@legislature.maine.gov\)](mailto:webmaster_ros@legislature.maine.gov) · 7 State House Station · State House Room 108 · Augusta, Maine 04333-0007

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