Town of Hampden

Planning Board Workshop

**Tuesday, March 15, 2022, 6:30 PM**

**Municipal Building Council Chambers**

**Agenda**

1. Solar Ordinance Use Table
2. Affordable Housing Definitions:
    a. Tiny Homes (in response to LD 1530)
    b. Accessory Dwelling Units (in response to LD 2003)
3. Adjournment

Town of Hampden
Land & Building Services

# Memorandum
# Solar Ordinance Use Table

To: Planning Board
From: Clifton J. Iler, AICP, Town Planner
CC: Amy Ryder, Economic Development Director
Date: March 15, 2022
RE: Solar Ordinance Use Table

The Town of Hampden received an inquiry to amend the Solar Ordinance to permit large-scale ground-mounted solar in the Residential B district. The amendment would update §3.1 Use Table for such a use to require Major Site Plan review, as highlighted below:

**Table 3.1 Use Table**

**Permitting Required for Solar Energy Systems**

| | Rural | Res A | Res B | Seasonal | Rural Bus | Bus | Bus B | Town Center | Comm Service | Waterfront | Inter change | Ind Park | Ind | Ind2 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Rooftop SES | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| Small-Scale Ground-Mounted solar | MSP | MSP | MSP | MSP | MSP | MSP | MSP | MSP | MSP | MSP | MSP | MSP | MSP | MSP |
| Medium-Scale Ground-Mounted Solar | MJR | N | MJR | N | MJR | N | N | N | N | N | MJR | MJR | MJR | MJR |
| Large-Scale Ground-Mounted Solar | MJR | N | N | N | MJR | N | N | N | N | N | MJR | N | MJR | MJR |
| Y = allowed N=Prohibited MSP= Minor Site Plan Review MJR= Major Site Plan Review | | | | | | | | | | | | | | |

The Solar Ordinance is administered by the Town Council. At its workshop on February 22, 2022, the Town Council requested the Planning Board discuss and weigh in on this potential amendment at its next workshop meeting given the Planning Board has approval authority over any site plan applications for solar energy systems.

In consideration of the proposed amendment, Town staff has noted the following items:

- Dimensional Requirements:
    - Projects would be subject to Residential B dimensional requirements
    - Large-scale solar energy systems require a site greater than 2 AC in size
    - The Planning Board may require additional setbacks to mitigate visual and functional impacts per Section 5.b.ii
- Local Impacts:
    - Potential visual impact on adjacent residential uses
        - Projects would be subject to a Class II buffer (25 feet wide, 10 feet vegetated)
    - Potential glare impacts would require FAA approval
    - Projects would be located in areas where there is access to utilities and infrastructure
        - Would result in reduction of land available for future development
- Additional Questions:
    - Would the Town receive discounted electricity if the project is on private land?
    - Would the Town be responsible for maintenance of proposed projects?
    - Are private projects subject to the same guarantee structure as public projects?

Attachments:

- Solar Energy Ordinance
- Residential B District Map

# TOWN OF HAMPDEN, MAINE
# SOLAR ENERGY ORDINANCE

## TABLE OF CONTENTS



ADOPTED: Hampden Town Council December 7, 2020
Effective: January 6, 2021

CERTIFIED BY: Gayle C. Decker

Gayle C. Decker, Town Clerk

## 1. Purpose

a) Solar energy is a local, renewable, and non-polluting energy resource that can reduce fossil fuel dependence on emissions. Energy generated from solar energy systems can be used to offset energy demand on the grid, with benefits for system owners and other electricity customers.
b) The use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is an important component of the Town of Hampden's sustainability goals.
c) The standards that follow enable the accommodation of solar energy systems and equipment in a safe manner while still allowing the quiet enjoyment of property.
d) This ordinance is intended to balance the need for reasonable standards and expedited and streamline development review procedures.

## 2. Definitions

Solar Energy System: A device or structural design feature whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

Solar Energy System, Roof-Mounted: A Solar Energy System that is mounted on the roof of a building or structure.

Solar Energy System, Ground-Mounted: A Solar Energy System that is structurally mounted to the ground and is not roof-mounted.

1. Solar Energy System, Small-Scale is a ground-mounted system whose physical size based on total airspace projected over the ground is less than 15,000 square feet (approximately one-third of an acre):
2. Medium-scale Solar Energy system is on whose physical size based on total airspace projected over a roof or on the ground is equal to or greater than 15,000 square feet but less than 87,120 square feet (two acres); and
3. Large-scale Solar Energy System is one whose physical size based on total airspace projected over a roof or the ground is equal to or greater than 87,120 square feet (two acres).

## 3. Applicability

a) Notwithstanding the provisions of 1 M.R.S.A. section 302 or any other law to the contrary, the requirements of this ordinance shall apply to all roof-mounted and ground-mounted solar energy systems modified or installed after the date of its enactment.
b) All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and standards.
c) Any upgrade, modification or structural change that alters the size, placement or output of an existing solar energy system shall comply with the provisions of this ordinance.
d) For this ordinance, the Town of Hampden's zoning districts are mapped and categorized as follows:

**Table 3.1 Use Table**

**Permitting Required for Solar Energy Systems**

| | Rural | Res A | Res B | Seasonal | Rural Bus | Bus | Bus B | Town Center | Comm Service | Waterfront | Inter change | Ind Park | Ind | Ind2 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Rooftop SES | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| Small-Scale Ground-Mounted solar | MSP | MSP | MSP | MSP | MSP | MSP | MSP | MSP | MSP | MSP | MSP | MSP | MSP | MSP |
| Medium-Scale Ground-Mounted Solar | MJR | N | MJR | N | MJR | N | N | N | N | N | MJR | MJR | MJR | MJR |
| Large-Scale Ground-Mounted Solar | MJR | N | N | N | MJR | N | N | N | N | N | MJR | N | MJR | MJR |
| Y = allowed N=Prohibited MSP= Minor Site Plan Review MJR= Major Site Plan Review | | | | | | | | | | | | | | |

## 4. General Standards and Applicability

a) A solar energy system or device shall be installed or operated in the Town of Hampden provided it is compliant with this ordinance.
b) Permitting shall be determined by zone within the Town of Hampden, type of solar system, and proposed size. The Town of Hampden has designated the proper permitting process for each solar system in the above matrix entitled "Permitting Required for Solar Energy Systems."
c) All Solar Energy Systems, Roof-mounted and Ground-mounted are subject to the Dimensional Standards of Section 5 and the Performance Standards outlined in Section 6 of this ordinance.

## 5. Dimensional Standards

a) Solar Energy Systems, Roof-Mounted
    i. Height:
        1. In mixed-use and non-residential commercial/industrial zones, solar energy systems shall be mechanical devices and, for purposes

of height measurement, are restricted only to the extent consistent with other building-mounted mechanical devices.

2. In all other zoning districts, such systems shall conform to the maximum building height requirements of the zoning district in which they are located. See Article 3.4 Table 3.4.1 in the Town of Hampden's Zoning Ordinance for maximum building heights.

b) Solar Energy Systems, Ground-Mounted

i. Height standards for ground-mounted solar energy systems are dependent on location and zoning district. Height shall be measured from the lowest point of the structure above grade to the highest point of the facilities when oriented at maximum tilt.

1. In residential and mixed-use zoning districts, such systems shall not exceed sixteen (16) feet in height when oriented at maximum tilt.
2. In all other zoning districts, such systems shall conform to the building height requirements of the zoning districts in which they are located. See Article 3.4 Table 3.4.1 in the Town of Hampden's Zoning Ordinance for maximum building heights.

ii. Setbacks

1. Minimum setback shall conform to the requirements of the zoning district in which the system is located. Article 3.4.2. of the Town's Zoning ordinance for setback standards.
2. Additional setbacks may be required to mitigate visual and functional impacts.

## 6. Performance Standards

a) Solar Energy Systems (including Roof-Mounted and Small-Scale) must conform with the following standards:

i. Roof-mounted and building-mounted solar energy systems and equipment are permitted by right unless they are determined by the Code Enforcement Officer and Fire Chief to present one or more unreasonable safety risks, including, but not limited to the following:

1. Weight load;
2. Wind resistance;
3. Ingress or egress in the event of fire or another emergency; or
4. Proximity of a ground-mounted system relative to buildings.

ii. All solar energy system installations shall be installed in compliance with manufacturer's instructions and the photovoltaic systems standards.

iii. All wiring shall be installed in compliance with the manufacturer's instructions and NEC national electric code.

iv. Prior to operation, electrical connections must be inspected and approved by the Code Enforcement Officer and Fire Chief.

b) Medium-Scale and Large-Scale Ground Mounted Solar Energy Systems

In addition to the standards in Section 1, large-scale and medium-scale ground-mounted solar energy systems shall comply with the following:

i. Utility Connections:
    1. Utility connections shall be underground wherever possible.

ii. Safety:
    1. The solar system owner or project proponent shall provide a copy of the Site Plan Review application to the Planning Department for review and comment. The Planning Department shall base any recommendation for approval or denial of the application upon review of the safety of proposed system.

iii. Visual Impact:
    1. Reasonable efforts, as determined by the Planning Board, shall be made to minimize undue visual impacts by preserving native vegetation, screening abutting properties, or other appropriate measures, including adherence to height standards and setback requirements.

iv. Land Clearing, Soil Erosion, and Habitat Impacts:

    1. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of ground-mounted solar energy systems or as otherwise prescribed by applicable laws, regulations and bylaws/ordinances.
    2. Ground-mounted facilities shall minimize mowing to the extent practicable.
    3. Removal of mature trees shall be avoided to the extent possible.
    4. Native, pollinator-friendly seed mixtures shall be used to the extent possible.
    5. Herbicide and pesticide use shall be minimized. No prime agricultural soil or significant volume of topsoil shall be removed from the site for installation of the system.

v. Fencing:

1. Where fencing is used, fences should be elevated by a minimum of 5 inches to allow for passage of small terrestrial animals.

vi. Removal:
    1. Solar energy systems that have reached the end of their useful life or that have been abandoned consistent with this ordinance shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notice the Town of Hampden Planning Department of the proposed date of discontinued operations and plans for removal.
    2. Removal should consist of:
        a. Physical removal of all solar energy systems, structures, equipment, security barriers, and transmission lines from the site.
        b. Disposal of all solid and hazardous waste in accordance with local, state, and federal wasted disposal regulations.
        c. Stabilization or re-vegetation of the site to minimize erosion. Native, pollinator-friendly seed mixtures shall be used to the maximum extent possible.

vii. Abandonment:
    1. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, a medium or large-scale ground-mounted solar energy system shall be considered abandoned when it fails to operate for more than 150 days.

    2. A surety is required at the time of Planning Board review of a Site Plan application for the assumption of any debt, default, non-compliance with State and Federal laws or local ordinances, or failure of the array falls to the principal (contractor/developer/investor/solar company) and not the obligee (owner).

    3. At the time of Planning Board review of a Site Plan application and permit, the applicant for a medium or large-scale ground mount solar array system shall identify how it shall provide a performance guarantee payable to the benefit of the Town of Hampden, a municipal corporation, for all costs associated with the removal of an approved solar energy system that has been abandoned on public land. The performance guarantee shall be equal to one hundred fifty (150) percent of the estimated cost of removal. The performance guarantee can be in the form of a

Solar Contractor Surety Bond or Solar Decommissioning Bond and may be acceptable to the Town as determined by the planning board and legal counsel for the Town of Hampden. The financial guarantee shall include a provision granting and guaranteeing the Town the authority to access the funds and property and perform the decommissioning if the facility is abandoned and the owner or operator fails to meet their obligations to remove the solar energy system. The applicant shall provide the Town the identified performance guarantee prior to the issuance of a building permit by the Code Enforcement Officer for the solar energy system. The owner or operator shall also be responsible for notifying the Town in writing if the performance guarantee is revoked, and in such cases, shall provide the Town a replacement guarantee that is found acceptable by legal counsel for the Town within ninety (90) days, or the owner's or operator's permit to operate the system shall be revoked. The owner or operator shall be responsible to pay the Town's legal fees.

4. If the owner or operator of the solar energy system fails to remove the installation within 150 days of abandonment or the proposed date of decommissioning, the Town of Hampden or the obligee retains the right to use all available means to cause an abandoned, hazardous, or decommissioned medium and large-scale ground-mounted solar energy system to be removed.

5. If an owner or operator successfully removes a medium or large-scale solar energy system in accordance with requirements of this Section, and the Town's Code Enforcement finds that the removal was successfully completed, the owner or operator may apply to the Planning Department for the release of the performance guarantee identified in this Section. The Town shall not unreasonably withhold the release of a performance guarantee post a determination by the Code Enforcement Officer that an owner or operator has successfully removed a solar energy system.

...

viii. Large-scale ground mounted solar energy systems shall not be considered accessory uses.

ix. Operations and Maintenance Plan:

1. The project proponent shall submit a plan for the operation and maintenance of the medium and large-scale ground-mounted

solar energy system, which shall include measures for maintaining safe access to the installation as well as other general procedures for operational maintenance of the installation.

x. Signage:
    1. A sign shall be required to identify the owner and provide a 24-hour emergency contact phone number.

xi. Emergency Services:
    1. The Medium or Large-scale ground-mounted solar energy system owner or operator shall provide a copy of the project summary electrical schematic, and site plan to the Planning Department.
    2. Upon request, the owner or operator shall cooperate with Public Safety in developing an emergency response plan.
    3. All means of shutting down the system shall be clearly marked.
    4. The owner or operator shall provide to the Planning Department the name and contact information of a responsible person for public inquiries throughout the life of the installation.

**7. Site Plan Application and Review**

Please refer to the Town of Hampden Zoning Ordinance in Article 4.1.

a) Applicability:
    i. Roof-mounted systems are not subject to Site Plan Review.
    ii. Small-Scale ground-mounted solar energy systems are subject to Minor Site Plan Review.
    iii. Medium-Scale ground-mounted solar energy systems are subject to Major Site Plan Review.
    iv. Large-Scale ground-mounted solar energy systems are subject to Major Site Plan Review.

b) In addition to the Town of Hampden's site plan application requirements in Article 4.1., the Applicant shall submit the following supplemental information as part of a site plan application:
    i. A site plan showing:
        1. Property lines and physical features, including roads, for the project site;
        2. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
        3. Blueprints or drawings of the solar energy system showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all

property lines and existing on-site buildings and structures, and the tallest finished height of the solar collector;

4. Documentation of the major system components to be used, including the panels, mounting systems, and inverter(s);
5. Name, address, and contact information of the proposed system installer, the project proponent, project proponent agent, and all co-proponents or property owners, if any; and
6. A one-or three-line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods.
7. Locations of important plant and animal habitats identified by the Maine Department of Inland Fisheries and Wildlife or Town of Hampden, or rare and irreplaceable natural areas, such as rare and exemplary natural communities and rare plant habitat as identified by the Maine Natural Areas Program.
8. Locations of wetlands and waterbodies.
9. Location of floodplains.
10. Locations of local or National or Historic Districts.
11. A public outreach plan, including how the project proponent will inform abutters and the community.
12. A removal plan with a performance guarantee (Refer to Section 7.g. in this ordinance)
13. An Operations and Maintenance Plan

**8. Review Procedure and Process**

Please refer to Article 4 in the Town of Hampden's Zoning Ordinance for the Town's review process and approval standards.

**9. Fees.**

The Town may adopt administrative fees and technical review fees for site plan review. Refer to Town's Fees Ordinance Article 2.20.

**10. Legal Action and Violations**

a) When any violation of any provision of this ordinance shall be found to exist, the Code Enforcement Officer is herby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Hampden. This Section shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this ordinance.

b) Any person, firm, or corporation, being the owner of, or having control of, or the use of any building or land or part thereof, who violates any of the provisions of this ordinance shall

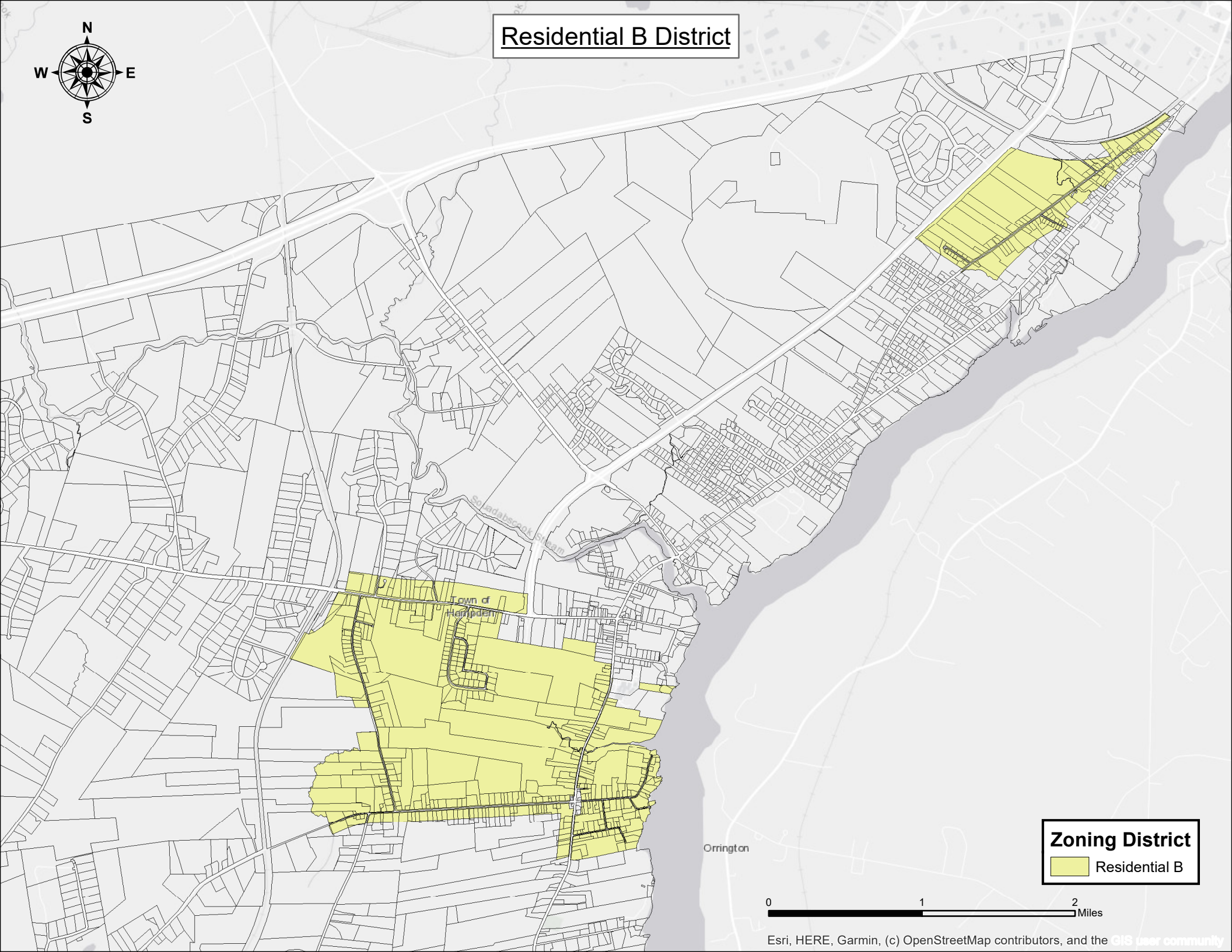
by guilty of a civil violation and upon conviction thereof shall be fined in accordance with the following:

i) The minimum penalty for starting construction or undertaking a land use activity without a required permit penalty shall be one hundred dollars ($100.00), and the maximum penalty shall be two thousand five hundred dollars ($2500.00).

ii) The minimum penalty for a specific violation shall be one hundred dollars ($100.00), and the maximum penalty shall be two thousand five hundred dollars ($2500.00).

c) All civil penalties imposed shall ensure to the benefit of the Town of Hampden. Each day any violation continues to exist after notification shall constitute a sperate offense.

# Residential B District



Town of Hampden
Land & Building Services

# Memorandum
# Affordable Housing Updates

To: Planning Board
From: Clifton J. Iler, AICP, Town Planner
CC: Paula Scott, Town Manager
Amy Ryder, Economic Development Director
Ryan Carey, Code Enforcement Officer
Date: March 15, 2022
RE: Affordable Housing Updates

In response to recent legislative efforts by the State of Maine, Town staff has proposed redefining some housing type definitions in order to be consistent with statute. Three statues have been discussed at great depth by the Planning Board and Town Council:[1]

> LD 1312, An Act To Remove Barriers to Accessory Dwelling Units and Allow Accessory Dwelling Units where Single-family Houses Are Allowed *(OTP-AM)*
>
> LD 1530, An Act To Allow People To Live in Tiny Homes as a Primary or Accessory Dwelling *(P)*
>
> LD 2003, An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions *(NRP)*

The following revisions to *§7.2 Definitions* are proposed:

> **[ADD]** *Accessory Dwelling Unit:* A self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit located on the same parcel of land; or as defined by M.R.S.A. Title 30-A §4301, Subsection 1-C.
>
> **[REMOVE]** *Accessory Apartment:* A separate housekeeping unit, complete with its own sleeping facilities, kitchen and sanitary facilities, that is contained within the structure of a single family dwelling or detached accessory structure on the premises.
>
> **[ADD]** *Tiny Home:* A living space permanently constructed on a frame or chassis and designed for use as permanent living quarters that meets the requirements defined by M.R.S.A. Title 29-A §101, Subsection 80-C.

[1] OTP-AM: Ought to Pass as Amended; P: Passed; NRP: Not Reported Out (in committee)

In order to accommodate the changes in *§7.2 Definitions*, the following changes to *§4.25 Accessory Apartments* are being proposed:

> **[UPDATE]** Replace instances of "Accessory Apartment" with "Accessory Dwelling Unit" and/or "ADU" as necessary.
>
> **[REMOVE]** ~~§4.25.2.6 There shall be at least one dedicated off-street parking space provided for the accessory apartment, and to the extent feasible it shall be located to the side or the rear of the structure.~~
>
> **[ADD]** *§4.25.2.6 Rental Period: An accessory dwelling unit may not be rented to a person for a period of less than 30 days.*

Attachments:

- LD 1312, An Act To Remove Barriers to Accessory Dwelling Units and Allow Accessory Dwelling Units where Single-family Houses Are Allowed
- LD 1530, An Act To Allow People To Live in Tiny Homes as a Primary or Accessory Dwelling
- LD 2003, An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions
- Tiny House Memorandum from the Office of State Fire Marshal

# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

**Legislative Document** **No. 1312**

H.P. 968 House of Representatives, March 30, 2021

**An Act To Remove Barriers to Accessory Dwelling Units and Allow Accessory Dwelling Units where Single-family Houses Are Allowed**

Reference to the Committee on State and Local Government suggested and ordered printed.

ROBERT B. HUNT
Clerk

Presented by Representative GEIGER of Rockland.
Cosponsored by Senator MIRAMANT of Knox and
Representatives: BAILEY of Gorham, DOUDERA of Camden, MORALES of South Portland, OSHER of Orono.

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

**Sec. 1. 30-A MRSA §3015** is enacted to read:

**§3015. Accessory dwelling units**

**1. Use permitted.** A municipality shall allow one accessory dwelling unit, as defined in section 4301, subsection 1-C, to be located on the same lot as a single-family dwelling unit.

**2. Prohibited requirements.** A municipality may not:

A. Require additional setbacks for an accessory dwelling unit that is within an existing single-family dwelling unit;

B. Require side and back setbacks greater than 5 feet for newly constructed accessory dwelling units;

C. Except as provided in paragraph E, require new or additional off-street parking spaces;

D. Except as provided in paragraph E, require the owner of the single-family dwelling unit to occupy either the single-family dwelling unit or the accessory dwelling unit;

E. Prohibit use of the single-family dwelling unit or the accessory dwelling unit as a short-term rental or vacation rental, as defined in Title 22, section 2491, subsection 17, except that a municipality may require additional off-street parking and that the owner occupy the dwelling unit not used as a short-term rental or vacation rental;

F. Prohibit inclusion of an accessory dwelling unit into a single-family dwelling unit that does not conform to existing land or building use ordinances as long as the inclusion does not increase the nonconformity and both units meet applicable fire safety and building codes;

G. Prohibit the conversion of a structure located on the lot of a single-family dwelling unit that does not conform to existing land or building use ordinances into an accessory dwelling unit as long as the conversion does not increase the nonconformity of the structure and the accessory dwelling unit created meets applicable fire safety and building codes; or

H. Require separate sewer or water connections for an accessory dwelling unit.

**3. Design standards.** Design standards for accessory dwelling units established by a municipality must be clear and objective.

**4. Historical districts.** Notwithstanding contrary provisions in subsections 2 and 3, an accessory dwelling unit in a historical preservation district must comply with the design standards applicable in the historical district.

## SUMMARY

This bill requires municipalities to allow one accessory dwelling unit to be included within or located on the same lot as a single-family dwelling unit. It prevents municipalities from imposing any of the following for accessory dwelling units: setback requirements on accessory dwelling units incorporated within an existing single-family dwelling unit; setback requirements of more than 5 feet for accessory dwelling units not included within

a single-family dwelling unit; off-street parking requirements; separate sewer or water systems; or owner occupancy of one of the units unless one of the units is being used for short-term or vacation rentals. A municipality may not restrict use of one of the units on a lot as a short-term or vacation rental. A municipality may not require correction of a nonconforming use when an accessory dwelling unit is incorporated into an existing single-family dwelling unit or of an existing structure converted into an accessory dwelling unit, but a municipality may require compliance with applicable building and fire safety codes for all accessory dwelling units. A municipality's design standards for accessory dwelling units must be clear and objective. Accessory dwelling units within historical preservation districts must comply with historical preservation standards.

L.D. 1312

Date: (Filing No. H- )

**LABOR AND HOUSING**

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE**

**HOUSE OF REPRESENTATIVES**

**130TH LEGISLATURE**

**FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT " " to H.P. 968, L.D. 1312, "An Act To Remove Barriers to Accessory Dwelling Units and Allow Accessory Dwelling Units where Single-family Houses Are Allowed"

Amend the bill in section 1 in §3015 in subsection 2 in paragraph C in the first line (page 1, line 12 in L.D.) by striking out the following: "Except as provided in paragraph E, require" and inserting the following: 'Require'

Amend the bill in section 1 in §3015 in subsection 2 in paragraph D in the first line (page 1, line 14 in L.D.) by striking out the following: "Except as provided in paragraph E, require" and inserting the following: 'Require'

Amend the bill in section 1 in §3015 in subsection 2 by striking out all of paragraph E (page 1, lines 16 to 19 in L.D.).

Amend the bill in section 1 in §3015 in subsection 2 by relettering the paragraphs to read alphabetically.

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment removes language specifying that a municipality may not prohibit the use of a single-family dwelling unit as a short-term rental or vacation rental and that a municipality may require additional off-street parking and that the owner occupy the dwelling unit not used as a short-term rental or vacation rental.

APPROVED
JUNE 15, 2021
BY GOVERNOR

CHAPTER
219
PUBLIC LAW

**STATE OF MAINE**

---

**IN THE YEAR OF OUR LORD**

**TWO THOUSAND TWENTY-ONE**

---

**H.P. 1134 - L.D. 1530**

# An Act To Allow People To Live in Tiny Homes as a Primary or Accessory Dwelling

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

**Sec. 1. 30-A MRSA §4363** is enacted to read:

**§4363. Regulation of tiny homes**

**1. Definition.** For the purposes of this section, "tiny home" has the same meaning as in Title 29-A, section 101, subsection 80-C.

**2. Location of tiny homes.** A municipality shall permit a tiny home to be placed or erected on an individual house lot where single-family dwellings are allowed or as an accessory structure, subject to all applicable land use requirements as single-family dwellings or as an accessory structure.

L.D. 1530

Date: (Filing No. H- )

**LABOR AND HOUSING**

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE**

**HOUSE OF REPRESENTATIVES**

**130TH LEGISLATURE**

**FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT " " to H.P. 1134, L.D. 1530, "An Act To Allow People To Live in Tiny Homes as a Primary or Accessory Dwelling"

Amend the bill by striking out everything after the enacting clause and inserting the following:

'**Sec. 1. 30-A MRSA §4363** is enacted to read:

**§4363. Regulation of tiny homes**

**1. Definition.** For the purposes of this section, "tiny home" has the same meaning as in Title 29-A, section 101, subsection 80-C.

**2. Location of tiny homes.** A municipality shall permit a tiny home to be placed or erected on an individual house lot where single-family dwellings are allowed or as an accessory structure, subject to all applicable land use requirements as single-family dwellings or as an accessory structure.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment, which is the majority report, replaces the bill. It requires municipalities to permit tiny homes to be placed or erected on individual lots where single-family dwellings are allowed or as an accessory structure, subject to all applicable land use requirements as single-family dwellings or as an accessory structure.

# 130th MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2021

**Legislative Document** **No. 1530**

H.P. 1134 House of Representatives, April 19, 2021

**An Act To Allow People To Live in Tiny Homes as a Primary or Accessory Dwelling**

Received by the Clerk of the House on April 15, 2021. Referred to the Committee on State and Local Government pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

ROBERT B. HUNT
Clerk

Presented by Representative McCREA of Fort Fairfield.
Cosponsored by Senator MAXMIN of Lincoln and
Representatives: COLLINGS of Portland, GERE of Kennebunkport, McCREIGHT of Harpswell, MILLETT of Cape Elizabeth, O'NEIL of Saco, PLUECKER of Warren, TALBOT ROSS of Portland, WARREN of Hallowell.

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

**Sec. 1. 30-A MRSA §4301, sub-§14-D** is enacted to read:

**14-D. Tiny home.** "Tiny home" has the same meaning as in Title 29-A, section 101, subsection 80-C.

**Sec. 2. 30-A MRSA §4363** is enacted to read:

**§4363. Tiny homes**

**1. Tiny homes.** Regulation of tiny homes is governed by this section. This section does not prohibit municipalities from establishing controls on tiny homes that are less restrictive than are permitted by this section.

**2. Location of tiny homes.** A municipality shall allow a tiny home to be placed or erected as a primary structure in a number of locations on an undeveloped house lot where a single-family dwelling is allowed or as a primary or accessory structure on property that already contains a structure. No more than one tiny home may be placed on a lot unless the combined square footage of multiple tiny homes does not exceed 400 square feet. A municipality may reduce the setback requirements for a tiny home from those required for a single-family home.

**3. Municipal inspection.** A tiny home may be placed on a property for 180 days without an inspection under this subsection. A tiny home may be used as a dwelling. A tiny home may be but is not required to be connected to a utility, including an electric service, a water service or, if the tiny home is connected to water service, a wastewater sewer or septic system of an adjoining structure. A municipality may inspect the following for a tiny home:

A. That the tiny home meets the requirements of Title 29-A, section 101, subsection 80-C;

B. That the tiny home is placed on a stable surface, ground or footing;

C. Any utility connection to the tiny home; and

D. If a tiny home is connected to a water service, all rules and requirements relating to wastewater.

**4. Municipal design criteria.** A municipality may establish design criteria for tiny homes, including a pitched, shingled roof and exterior siding or other exterior features that are residential in appearance, unless:

A. The criteria have the effect of circumventing the purposes of this section; and

B. The criteria are used to prevent the relocation of a tiny home that is legally sited as of January 1, 2021.

**5. Property tax.** A municipality may assess for and collect the tax under Title 36, Part 2 for a tiny home that is:

A. Affixed to the property, including by way of a utility connection;

B. In a state of completeness or permanency; and

C. Located on the property for more than 180 days.

If a tiny home has been removed from a property, it is the responsibility of the property owner to inform the municipality for purposes of reassessment of the tax under this subsection.

## SUMMARY

This bill establishes standards for municipalities to follow regarding tiny homes, which are structures no larger than 400 square feet constructed on a frame or chassis and designed for use as permanent living quarters. The bill allows municipalities to set rules for tiny homes that are less restrictive than state law, allows tiny homes on undeveloped and developed housing lots, allows municipal inspection of certain features of tiny homes and provides for tiny homes to be assessed for property tax purposes after 180 days in certain circumstances.

[PL 2019, c. 486, §3 (NEW).]

**80-C. Tiny home.** "Tiny home" means a living space permanently constructed on a frame or chassis and designed for use as permanent living quarters that:

A. Complies with American National Standards Institute standard A 119.5 on plumbing, propane, fire and life safety and construction or National Fire Protection Association standard 1192 on plumbing, propane and fire and life safety for recreational vehicles; [PL 2019, c. 650, §1 (NEW).]

B. Does not exceed 400 square feet in size; [PL 2019, c. 650, §1 (NEW).]

C. Does not exceed any dimension allowed for operation on a public way under this Title; and [PL 2019, c. 650, §1 (NEW).]

D. Is a vehicle without motive power. [PL 2019, c. 650, §1 (NEW).]

"Tiny home" does not include a trailer, semitrailer, camp trailer, recreational vehicle or manufactured housing.
[PL 2019, c. 650, §1 (NEW).]

**81. Tow dolly.** "Tow dolly" means a device towed by a motor vehicle and designed and used exclusively to transport another motor vehicle and on which the front or rear wheels of the towed motor vehicle are mounted, while the other wheels of the towed motor vehicle remain in contact with the ground.
[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

**82. Tractor.** "Tractor" means a motor vehicle used primarily off the highway for farming, forestry or other similar types of activities.
[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

**83. Traffic.** "Traffic" means pedestrians, ridden or herded animals, vehicles, bicycles and other conveyances either singly or together using public way for travel.
[PL 2013, c. 241, §1 (AMD).]

**84. Traffic control device.** "Traffic control device" means a sign, a signal, a marking or a device placed or erected by a public body or official to regulate, warn or guide traffic.
[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

**85. Traffic infraction.** "Traffic infraction" means any violation of any provision of this Title, or of any rules established under this Title, not expressly defined as a crime or as a civil violation and otherwise not punishable by incarceration.

The term "traffic infraction" as used in any public or private law of this State or in any rule adopted pursuant to any law of this State has this same meaning and effect.
[PL 2013, c. 482, §1 (AMD).]

**86. Trailer.** "Trailer" means a vehicle without motive power, designed to carry persons or property and to be drawn by a motor vehicle, not operated on railroad tracks, and so constructed that no part of its weight rests upon the towing vehicle. "Trailer" does not include tow dollies.
[PL 2013, c. 112, §4 (AMD).]

**86-A. Tri-axle semitrailer.** "Tri-axle semitrailer" means a semitrailer that contains one tri-axle unit.
[PL 2003, c. 166, §9 (NEW).]

**86-B. Tri-axle unit.** "Tri-axle unit" means 3 axles more than 8 feet and less than 12 feet apart, as measured between the centers of the first and 3rd axles. If the axle center of a single-axle unit is closer than 10 feet, or 9 feet in the case of a steering axle, to the axle center of the nearest axle of a tri-axle unit, the 4 axles are a tri-axle unit.
[PL 2003, c. 166, §9 (NEW).]

STATE OF MAINE
Department of Public Safety
Office of State Fire Marshal
52 State House Station
Augusta, ME 04333-0052

JANET T. MILLS
GOVERNOR

MICHAEL SAUSCHUCK
COMMISSIONER

JOSEPH E. THOMAS
STATE FIRE MARSHAL

**Tiny House – Code and Land Use Standards**
February 8, 2022

Tiny Houses have been included in several recent Maine laws that impact the construction and placement of such homes in the State. This memo is to provide clarification to Code Officials on code and land use standards associated.

**WHAT IS A TINY HOUSE** - There are two potential types of tiny home:

- constructed on a trailer that may be mobile and potentially moved from where it was constructed to a site for use as a "dwelling unit for human occupancy".
- constructed on a site in a more traditional stick-built manner, but meeting certain size standards established in the laws and codes adopted.

Tiny Homes is defined in Statute as:

**80-C. Tiny home.** "Tiny home" means a living space permanently constructed on a frame or chassis and designed for use as permanent living quarters that:
A. Complies with American National Standards Institute standard A 119.5 on plumbing, propane, fire and life safety and construction or National Fire Protection Association standard 1192 on plumbing, propane and fire and life safety for recreational vehicles; [PL 2019, c. 650, §1 (NEW).]
B. Does not exceed 400 square feet in size; [PL 2019, c. 650, §1 (NEW).]
C. Does not exceed any dimension allowed for operation on a public way under this Title; and [PL 2019, c. 650, §1 (NEW).]
D. Is a vehicle without motive power. [PL 2019, c. 650, §1 (NEW).]
"Tiny home" does not include a trailer, semitrailer, camp trailer, recreational vehicle or manufactured housing.
[PL 2019, c. 650, §1 (NEW).]

As defined, this applies to those constructed on a frame or chassis and considered within the Motor Vehicle regulations and will require a TITLE similar to an RV or other motor vehicle intended for use on public ways. This would assume that the unit would be constructed to and inspected to standards in ANSI A119.5 or NFPA 1192. These standards contain many regulations that address all components of the unit associated with a mobile unit served by

interior plumbing, heating, cooking, and living to be used as living quarters. This type of construction's interior layout, structural or rough in are not the responsibility of the LPI/Code Officer. These items will be covered under the titling requirements as identified above. The only task of an LPI/CEO is to assess the placement relative to local zoning and connection to on-site systems and utilities.

The second type of tiny home would be a structure constructed under the same codes and standards as a larger, more traditional dwelling and on a foundation, but still meeting the size limitation of less than 400 SF. This is identified in the MUBEC rules under the IRC (Chapter 5) which would be allowed the use of Appendix V (attached.) Appendix V provides some code exceptions that have been approved to accommodate the limited size and deemed to provide an acceptable level of safety for the occupants. This type of construction would be subject to all other utility codes adopted by the State of Maine, to include but not limited to, the Maine Internal Plumbing code, State Electrical codes and Fuel Gas codes.

The result of both types provides a completed unit intended for permanent occupancy and would be considered as a Single-Family Dwelling. In both cases, the units would be subject to all normally required on-site facilities and associated utilities to provide for permanent occupancy. This would include the provisions for connection to a potable water supply, sanitary facilities and any required utilities to provide for the safety of the occupants of the unit or structure. This would include compliance with appropriate municipal connections or on-site sanitation and drinking water.

As a result of confusion on placement of tiny homes relative to local zoning, the most recent legislation (below) addresses the issue. Tiny homes are now to be considered as permanent dwelling units subject to the same local zoning regulations as other single-family dwellings. The intent was to provide definition of the use of tiny homes. As stated in statute, all other aspects of local zoning would apply equally to tiny homes.

Please note that other questions about the new law relative to the condition of a home or its placement, may arise in the future, but the only significant change is to the recognition that either type should be considered the same as any other primary single family dwelling. The features of the structure regarding size and construction would be subject to the codes and standards above, but placement on site is based on your local zoning ordinance relative to setbacks and lot size. Before a community is asked to grant a permit for a tiny home you should consult with your local attorney relative to your specific ordinances and any further limitations they may contain.

***This memo is intended for informational purposes only and should not be considered a legal opinion.***



OFFICES LOCATED AT: 45 COMMERCE DRIVE, SUITE 1, AUGUSTA, MAINE 04330
(207) 626-3870 ADMINISTRATION/ INVESTIGATIONS (207) 287-3659 TDD
(207) 626-3880 INSPECTIONS/ PLANS REVIEW (207) 287-6251 FAX

**H.P. 1134 - L.D. 1530**

**An Act To Allow People To Live in Tiny Homes as a Primary or Accessory Dwelling**

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

**Sec. 1. 30-A MRSA §4363** is enacted to read:

**§4363. Regulation of tiny homes**

**1. Definition.** For the purposes of this section, "tiny home" has the same meaning as in Title 29-A, section 101, subsection 80-C.

**2. Location of tiny homes.** A municipality shall permit a tiny home to be placed or erected on an individual house lot where single-family dwellings are allowed or as an accessory structure, subject to all applicable land use requirements as single-family dwellings or as an accessory structure.

**Below is the ADOPTED language from Chapter 5 of the Maine Uniform Building and Energy Codes to address specific exceptions related to the construction of Tiny Homes meeting the statute noted above:**



2015 International Residential Code
APPENDIX V TINY HOUSES
CHAPTER PART AV101— GENERAL
AV101.1 Scope. This appendix shall be applicable to tiny houses used as single dwelling units. Tiny houses shall comply with this code except as otherwise stated in this appendix.
CHAPTER PART AV102— DEFINITIONS
AV102.1 General. The following words and terms shall, for the purposes of this appendix, have the meanings shown herein. Refer to Chapter 2 of this code for general definitions.
EGRESS ROOF ACCESS WINDOW. A skylight or roof window designed and installed to satisfy the emergency escape and rescue opening requirements in Section R310.2.
LANDING PLATFORM. A landing provided as the top step of a stairway accessing a loft.
LOFT. A floor level located more than 30 inches (762 mm) above the main floor and open to it on at least one side with a ceiling height of less than 6 feet 8 inches (2032 mm), used as a living or sleeping space.
TINY HOUSE. A dwelling that is 400 square feet (37 m ) or less in floor area excluding lofts.
CHAPTER PART AV103— CEILING HEIGHT
AV103.1 Minimum ceiling height. Habitable space and hallways in tiny houses shall have a ceiling height of not less than 6 feet 8 inches (2032 mm). Bathrooms, toilet rooms, and kitchens shall have a ceiling height of not less than 6 feet 4 inches (1930 mm). Obstructions shall not extend below these minimum ceiling heights including beams, girders, ducts, lighting and other obstructions.
Exception: Ceiling heights in lofts are permitted to be less than 6 feet 8 inches (2032 mm).
CHAPTER PART AV104— LOFTS
AV104.1 Minimum loft area and dimensions. Lofts used as a sleeping or living space shall meet the minimum area and dimension requirements of Sections AV104.1.1 through AV104.1.3.
AV104.1.1 Minimum area. Lofts shall have a floor area of not less than 35 square feet (3.25 m ).
AV104.1.2 Minimum dimensions. Lofts shall be not less than 5 feet (1524 mm) in any horizontal dimension.
AV104.1.3 Height effect on loft area. Portions of a loft with a sloping ceiling measuring less than 3 feet (914 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.
2
2
Exception: Under gable roofs with a minimum slope of 6:12, portions of a loft with a sloping ceiling measuring less than 16 inches (406 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.
AV104.2 Loft access. The access to and primary egress from lofts shall be any type described in Sections AV104.2.1 through AV104.2.4.
AV104.2.1 Stairways. Stairways accessing lofts shall comply with this code or with Sections AV104.2.1.1 through AV104.2.1.5.
AV104.2.1.1 Width. Stairways accessing a loft shall not be less than 17 inches (432 mm) in clear width at or above the handrail. The minimum width below the handrail shall be not less than 20 inches (508 mm).
AV104.2.1.2 Headroom. The headroom in stairways accessing a loft shall be not less than 6 feet 2 inches (1880 mm), as measured vertically, from a sloped line connecting the tread or landing platform nosings in the middle of their width.
AV104.2.1.3 Treads and risers. Risers for stairs accessing a loft shall be not less than 7 inches (178 mm) and not more than 12 inches (305 mm) in height. Tread depth and riser height shall be calculated in accordance with one of the following formulas:
1. The tread depth shall be 20 inches (508 mm) minus 4/3 of the riser height, or
2. The riser height shall be 15 inches (381 mm) minus 3/4 of the tread depth.
AV104.2.1.4 Landing platforms. The top tread and riser of stairways accessing lofts shall be constructed as a landing platform where the loft ceiling height is less than 6 feet 2 inches (1880 mm) where the stairway meets the loft. The landing platform shall be 18 inches to 22 inches (457 to 559 mm) in depth measured from the nosing of the landing platform to the edge of the loft, and 16 to 18 inches (406 to 457 mm) in height measured from the landing platform to the loft floor.
AV104.2.1.5 Handrails. Handrails shall comply with Section R311.7.8.
AV104.2.1.6 Stairway guards. Guards at open sides of stairways shall comply with Section R312.1.

AV104.2.2 Ladders. Ladders accessing lofts shall comply with Sections AV104.2.1 and AV104.2.2.
AV104.2.2.1 Size and capacity. Ladders accessing lofts shall have a rung width of not less than 12 inches (305 mm) and 10 inches (254 mm) to 14 inches (356 mm) spacing between rungs. Ladders shall be capable of supporting a 200 pound (75 kg) load on any rung. Rung spacing shall be uniform within 3/8-inch (9.5 mm).
AV104.2.2.2 Incline. Ladders shall be installed at 70 to 80 degrees from horizontal.
AV104.2.3 Alternating tread devices. Alternating tread devices accessing lofts shall comply with Sections R311.7.11.1 and R311.7.11.2. The clear width at and below the handrails shall be not less than 20 inches (508 mm).
AV104.2.4 Ships ladders. Ships ladders accessing lofts shall comply with Sections R311.7.12.1 and R311.7.12.2. The clear width at and below handrails shall be not less than 20 inches (508 mm).
AV104.2.5 Loft Guards. Loft guards shall be located along the open side of lofts. Loft guards shall not be less than 36 inches (914 mm) in height or one-half of the clear height to the ceiling, whichever is less.
CHAPTER PART AV105— EMERGENCY ESCAPE AND RESCUE OPENINGS
AV105.1 General. Tiny houses shall meet the requirements of Section R310 for emergency escape and rescue openings.
Exception: Egress roof access windows in lofts used as sleeping rooms shall be deemed to meet the requirements of Section R310 where installed such that the bottom of the opening is not more than 44 inches (1118 mm) above the loft floor, provided the egress roof access window complies with the minimum opening area requirements of Section R310.2.1.

# 130th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2022

**Legislative Document** **No. 2003**

H.P. 1489 House of Representatives, March 2, 2022

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

(EMERGENCY)

---

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on February 28, 2022. Referred to the Committee on Labor and Housing pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Robert B. Hunt

ROBERT B. HUNT
Clerk

Presented by Speaker FECTEAU of Biddeford.
Cosponsored by Senator HICKMAN of Kennebec and
Representative: ARATA of New Gloucester.

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

**Whereas,** the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions published its final report in December 2021 and the information within that report indicates an urgent need to address the availability of affordable housing in Maine; and

**Whereas,** the recommendations within that report are essential to addressing the availability of affordable housing in Maine; and

**Whereas,** the provisions in this legislation are based upon the recommendations in that report; and

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

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

**Sec. 1. 5 MRSA §4581-A, sub-§3, ¶B,** as amended by PL 2021, c. 366, §10 and c. 476, §3, is further amended to read:

B. Discriminate in the granting of financial assistance, or in the terms, conditions or privileges relating to obtaining or the use of any financial assistance, against any applicant because of race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, national origin, familial status or any previous actions seeking and receiving an order of protection under Title 19-A, section 4007; ~~or~~

**Sec. 2. 5 MRSA §4581-A, sub-§4,** as enacted by PL 2011, c. 613, §11 and affected by §29, is amended to read:

**4. Receipt of public assistance.** For any person furnishing rental premises or public accommodations to refuse to rent or impose different terms of tenancy to any individual who is a recipient of federal, state or local public assistance, including medical assistance and housing subsidies, primarily because of the individual's status as recipient~~.~~; or

**Sec. 3. 5 MRSA §4581-A, sub-§5** is enacted to read:

**5. Housing development.** For any municipality or government entity to restrict the construction or development of housing accommodations in any area based upon criteria that refers to the character of a location, the overcrowding of land or the undue concentration of the population. For the purposes of this subsection, the following terms have the following meanings.

A. "Character of a location" means the unique characteristics of a municipality or specific area within a municipality or other political subdivision.

B. "Concentration of the population" means the density of the population within a municipality or specific area within a municipality or other political subdivision being too high.

C. "Overcrowding of land" means the density of residential dwellings or other development in a municipality or specific area within a municipality or other political subdivision being too high.

**Sec. 4. 5 MRSA §12004-B, sub-§11** is enacted to read:

**11.**

| | | |
|---|---|---|
| Municipal Housing Development Permit Review Board | Expenses Only | 30-A MRSA §4364-E |

**Sec. 5. 30-A MRSA §4360, sub-§3,** as amended by PL 2007, c. 77, §§1 and 2 and c. 155, §1 and affected by c. 466, Pt. B, §§20 and 21, is further amended to read:

**3. Ordinance requirements.** A municipality may adopt a rate of growth ordinance only if:

A. The ordinance is consistent with section 4314, subsection 3; and

~~B. The ordinance sets the number of building or development permits for new residential dwellings, not including permits for affordable housing, at 105% or more of the mean number of permits issued for new residential dwellings 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;~~

~~C. In addition to the permits established pursuant to paragraph B, 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 pursuant to paragraph B; and~~

D. The number of building or development permits for ~~new~~ any kind of residential dwellings, including but not limited to building or development permits for affordable housing, allowed under the ordinance is ~~recalculated every 3 years~~ not restricted.

**Sec. 6. 30-A MRSA §4360, sub-§4** is enacted to read:

**4. Growth caps prohibited.** A municipality may not adopt an ordinance that caps the number of building or development permits each year for any kind of residential dwellings, including but not limited to building or development permits for affordable housing.

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

**§4364. Technical assistance to municipalities related to zoning and land use ordinances**

The Department of Economic and Community Development, referred to in this section as "the department," shall make technical assistance for the purposes of developing and implementing zoning ordinances and land use ordinances available to municipalities in accordance with this section.

**1. Technical assistance program.** The department shall develop a program to provide technical assistance to municipalities for the purposes of developing and implementing zoning ordinances and land use ordinances in accordance with this chapter, including but not limited to:

A. Ensuring that zoning ordinances and land use ordinances developed by municipalities conform with state and federal laws; and

B. Assisting in the formal review of municipal building and development permits.

**2. Grant program.** The department shall develop a program to provide grants from the Municipal Planning Assistance Grant and Incentive Program Fund established under subsection 3 to municipalities for the purposes of contracting for services and hiring staff to help administer municipal responsibilities under this chapter. The department shall adopt rules outlining the application process and criteria for a municipality to receive a grant under this subsection. Approved uses of grants issued under this subsection include but are not limited to the following:

A. Contracting for the services of a regional planning organization or other private entity for assistance in the development and implementation of zoning ordinances and land use ordinances under this chapter; and

B. Hiring municipal employees to oversee or assist in the development and implementation of zoning ordinances and land use ordinances under this chapter.

**3. Municipal Planning Assistance Grant and Incentive Program Fund.** The Municipal Planning Assistance Grant and Incentive Program Fund is established as an ongoing, nonlapsing General Fund program account within the department. The fund receives funds appropriated by the Legislature for the purposes of providing grants under subsection 2 and funding any staffing positions in the department necessary to administer this section.

**4. Rules.** The department shall adopt rules to administer this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 8. 30-A MRSA §4364-A** is enacted to read:

**§4364-A. Municipal incentive program**

The Department of Economic and Community Development, referred to in this section as "the department," shall develop a program to incentivize review of municipal zoning ordinances and land use ordinances. A municipality may participate in the program for up to 3 years.

**1. Municipal incentives.** The department shall provide a grant of up to $25,000 to a municipality for each year the municipality participates in the program. To be eligible for a grant under the program, a municipality must commit to:

A. In the first year, establishing a working group to review how the municipality's zoning ordinances and land use ordinances may impact the availability of housing in the municipality. A municipality may satisfy the requirements of this paragraph by creating a joint working group with one or more other municipalities;

B. In the 2nd year, adopting or amending the municipality's zoning ordinances and land use ordinances to promote the availability of housing in the municipality, based upon the recommendations of the working group described in paragraph A, as determined by the department; and

C. In the 3rd year, providing information to the department about current or prospective housing developments, or permits issued for the construction of housing, that resulted from the zoning ordinances or land use ordinances the municipality adopted or amended under paragraph B.

**2. Rules.** The department shall adopt rules to administer this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 9. 30-A MRSA §4364-B** is enacted to read:

**§4364-B. Affordable housing density**

For an affordable housing development approved on or after April 20, 2022, a municipality 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 with an income at 80% of the local area median income can afford a majority of the units 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 with an income at 120% of the local area median income can afford a majority of the units 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 to have a dwelling unit density of at least 2 1/2 times the density that is otherwise allowed in the zone where the affordable housing development is located and may not require more than 2 off-street parking spaces for every 3 units.

**3. Long-term affordability.** Before approving an affordable housing development, a municipality shall require that the person proposing the affordable housing development has agreed to ensure that for at least 30 years:

A. For rental housing, occupancy of the development will remain limited to households at or below 80% of the local area median income and, for owned housing, occupancy of the development will remain limited to households at or below 120% of the local area median income; and

B. A unit will not be rented to a person for less than a 30-day period.

**4. Rules.** The Department of Economic and Community Development shall adopt rules to administer and enforce this section. The rules must include criteria for a municipality to use in calculating local area median income and housing costs. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 10. 30-A MRSA §4364-C** is enacted to read:

**§4364-C. Residential zones, generally; up to 4 dwelling units permitted**

Notwithstanding any provision of law to the contrary, for any zone in which housing is permitted, a municipality shall permit structures with up to 4 dwelling units.

For any zone in which housing is permitted, municipal ordinances must comply with the following conditions.

**1. Dimensional and setback requirements.** Municipal ordinances may not establish dimensional size requirements or setback distances for multifamily housing structures that are greater than dimensional or setback requirements for single-family housing structures.

**2. Water and wastewater.** Municipal ordinances must provide that 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 the municipal sewer system, proof of adequate service to support any additional flow created by the structure and proof of payment for the connection to the municipal 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 water system, 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.

**3. 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 2 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.

**4. Shoreland zoning.** Municipal ordinances must require that housing structures comply with minimum shoreland zoning requirements set by the Department of Environmental Protection under Title 38, chapter 3.

**5. Implementation.** A municipality is not required to implement the requirements of this section until April 20, 2023.

**Sec. 11. 30-A MRSA §4364-D** is enacted to read:

**§4364-D. Accessory dwelling units**

**1. Use permitted.** A municipality shall allow an accessory dwelling unit to be located on the same lot as a single-family dwelling unit in any zone in which housing is permitted. For the purposes of this section, "accessory dwelling unit" has the same meaning as in section 4301, subsection 1-C.

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

A. Within an existing structure 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 April 20, 2023.

**3. Zoning.** 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 primary structure;

B. A lot where a single-family dwelling unit is the primary structure and an accessory dwelling unit has been constructed must be zoned as single-family;

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

D. For an accessory dwelling unit located within the same structure as 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;

E. 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;

F. An accessory dwelling unit must comply with minimum shoreland zoning requirements set by the Department of Environmental Protection under Title 38, chapter 3;

G. An accessory dwelling unit must meet the minimum size for a dwelling unit set by the Maine Uniform Building Code, adopted by the Technical Building Codes and Standards Board under Title 10, section 9722; and

H. An accessory dwelling unit may not be rented to a person for a period of less than 30 days. This paragraph does not apply to an accessory dwelling unit constructed or permitted prior to April 20, 2022.

**4. 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 the municipal 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 municipal 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 water system, 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.

**5. 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 subsection 3, paragraph C, D, E, F or G or subsection 4 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.

**6. Implementation.** A municipality is not required to implement the requirements of this section until April 20, 2023.

**Sec. 12. 30-A MRSA §4364-E** is enacted to read:

**§4364-E. Municipal Housing Development Permit Review Board**

The Municipal Housing Development Permit Review Board, established in Title 5, section 12004-I, subsection 30-C and referred to in this section as "the board," is responsible for the review of municipal housing development permit decisions.

**1. Organization.** The board consists of 7 members appointed by the Governor for terms of 5 years. A member may continue to serve on the board after the end of the member's term until the member's replacement is designated. In making appointments under this subsection, the Governor shall make 2 appointments based upon recommendations from the President of the Senate and 2 appointments based upon recommendations from the Speaker of the House of Representatives. After all members have been appointed, the board shall convene an initial meeting to elect a chair by majority vote. If a vacancy occurs on the board, the Governor may appoint a replacement to serve the remainder of the term.

**2. Meetings.** The chair shall convene meetings of the board as necessary. A majority of the board's members constitutes a quorum. The chair shall preside at all meetings of the board and is the official spokesperson of the board.

**3. Review of municipal decisions.** A person that has received a final decision from a municipality denying an application for a housing project may file a complaint to the board requesting review of that decision. Upon receipt of a complaint, the board shall set a time and place to convene and hold a hearing. The board shall give written notice of the hearing at least 20 days in advance of the hearing to the person that submitted the complaint and the municipality that denied the application. During the hearing, the board shall invite the

person that submitted the complaint and representatives from the municipality to provide testimony regarding the project under review. After the hearing, the board shall issue an opinion determining whether the project should have been approved. The board shall issue the opinion in writing to the person that submitted the complaint and to the municipality. If the board determines that a project should have been approved, the municipality that denied the project shall approve the project. A determination issued under this subsection is a final agency action as defined in Title 5, section 8002, subsection 4.

**4. Staff.** The chair may hire one full-time staff person to assist the board in performing its duties under this section. The primary responsibilities of that staff person include, but are not limited to, performing administrative tasks and conducting research.

**Sec. 13. 30-A MRSA c. 206, sub-c. 7** is enacted to read:

## SUBCHAPTER 7

## PRIORITY DEVELOPMENT ZONES

### §5250-U. Priority development zones required

A municipality shall designate an area within the municipality as a priority development zone. A priority development zone must be located in an area that has significant potential for housing development and is located near community resources, as determined by the Department of Economic and Community Development. A priority development zone must comply with the requirements of this section and any rules adopted under subsection 3.

**1. Definitions.** For the purposes of this section, the following terms have the following meanings.

A. "Community resources" means services available to the community within a municipality, including but not limited to transportation, schools, recreational opportunities and any other services provided by the municipality. "Community resources" also includes business and employment opportunities within the municipality.

B. "Priority development zone" means a zone in which owned or rented multifamily housing composed of both market rate units and units that meet the definition of "affordable housing" under section 4301, subsection 1 is permitted at a specified density that is greater than the density allowed in other zones within the municipality.

**2. Review.** Prior to adopting an ordinance designating a priority development zone, a municipality shall submit a draft ordinance for review to the Department of Economic and Community Development. Upon receipt of a draft ordinance, the department shall conduct a review to ensure compliance with this section and any applicable rules adopted under subsection 3.

**3. Rules.** The Department of Economic and Community Development shall adopt rules to administer the requirements of this section. Rules adopted under this subsection must include but are not limited to:

A. Criteria to evaluate whether an area has significant potential for housing development;

B. Criteria to evaluate whether an area is located near community resources;

C. Minimum density requirements for an area to qualify as a priority development zone; and

D. Minimum criteria to evaluate whether an ordinance incentivizes the development of multifamily housing within a priority development zone, including but not limited to establishing reduced parking requirements.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**4. Application; compliance.** A municipality is not required to comply with the requirements of this section until 2 years following the adoption of rules under subsection 3.

**Sec. 14. Initial appointments; staggered terms.** Notwithstanding the Maine Revised Statutes, Title 30-A, section 4364-E, subsection 1, with regard to the initial appointments to the Municipal Housing Development Permit Review Board, the Governor shall appoint 2 members for a term of one year, 2 members for a term of 3 years and 3 members for a term of 5 years.

**Sec. 15. Appropriations and allocations.** The following appropriations and allocations are made.

**ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF**

**Municipal Housing Development Permit Review Board N414**

Initiative: Provides ongoing funds for one Planning and Research Assistant position to provide assistance to the Municipal Housing Development Permit Review Board including performing administrative tasks and conducting research.

| **GENERAL FUND** | **2021-22** | **2022-23** |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $72,262 |
| All Other | $0 | $7,500 |
| GENERAL FUND TOTAL | $0 | $79,762 |

**Municipal Land Use and Zoning Ordinances Review Incentive Program N412**

Initiative: Provides ongoing funds for one Public Service Coordinator I position to implement a municipal land use and zoning ordinances review incentive program and to provide technical assistance to municipalities.

| **GENERAL FUND** | **2021-22** | **2022-23** |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $82,260 |
| All Other | $0 | $7,500 |
| GENERAL FUND TOTAL | $0 | $89,760 |

**Municipal Land Use and Zoning Ordinances Review Incentive Program N412**

Initiative: Provides ongoing funds for grants to municipalities to review municipal land use and zoning ordinances.

| GENERAL FUND | 2021-22 | 2022-23 |
|---|---|---|
| All Other | $0 | $3,000,000 |
| GENERAL FUND TOTAL | $0 | $3,000,000 |

**Municipal Planning Assistance Grant and Incentive Program Fund N411**

Initiative: Provides ongoing funds for one Public Service Coordinator II position to serve as a municipal planning coordinator providing expertise in zoning and land use ordinances to municipalities.

| GENERAL FUND | 2021-22 | 2022-23 |
|---|---|---|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| Personal Services | $0 | $108,060 |
| All Other | $0 | $7,500 |
| GENERAL FUND TOTAL | $0 | $115,560 |

**Municipal Planning Assistance Grant and Incentive Program Fund N411**

Initiative: Provides ongoing funds to assist municipalities in the development and implementation of zoning and land use ordinances. Funding appropriated for this purpose does not lapse but must be carried forward into the next fiscal year to be used only for the purpose for which it was provided.

| GENERAL FUND | 2021-22 | 2022-23 |
|---|---|---|
| All Other | $0 | $1,294,680 |
| GENERAL FUND TOTAL | $0 | $1,294,680 |

| ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF DEPARTMENT TOTALS | 2021-22 | 2022-23 |
|---|---|---|
| **GENERAL FUND** | **$0** | **$4,579,762** |
| **DEPARTMENT TOTAL - ALL FUNDS** | **$0** | **$4,579,762** |

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

## SUMMARY

This bill makes changes to zoning and land use laws based upon the recommendations in the report of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions. The bill:

1. Amends the fair housing provisions of the Maine Human Rights Act to define the terms "character of a location," "overcrowding of land" and "concentration of the population" and to prohibit municipalities and government entities from using these criteria to restrict the construction or development of housing accommodations in any area;

2. Establishes the Municipal Housing Development Permit Review Board, which is responsible for the review of municipal housing development permit decisions;

3. Prohibits municipalities from adopting any ordinance that caps the number of building or development permits each year for any kind of residential dwellings;

4. Requires the Department of Economic and Community Development to develop a program to provide technical assistance to municipalities for the purposes of developing and implementing zoning and land use ordinances;

5. Requires the Department of Economic and Community Development to implement a program to provide grants to municipalities for the purposes of contracting for services and hiring staff to help administer municipal responsibilities in developing and implementing zoning and land use ordinances and appropriates $1,294,680 for that program in fiscal year 2022-23;

6. Requires the Department of Economic and Community Development to create an incentive program that a municipality may participate in for up to 3 years and receive grants of up to $25,000 per year for fulfilling certain requirements related to reviewing how its zoning and land use ordinances may impact the availability of housing;

7. Defines "affordable housing development," requires municipalities to allow affordable housing developments to be built at certain densities and sets certain criteria to ensure that an affordable housing development remains affordable for at least 30 years;

8. Requires, for any zone in which housing is permitted, that a municipality permit structures with up to 4 dwelling units and creates general requirements for municipal ordinances governing residential zones;

9. Beginning April 20, 2023, requires municipalities to allow the construction of accessory dwelling units and sets out specific requirements for the permitting and construction of accessory dwelling units; and

10. Requires that a municipality designate an area within the municipality as a priority development zone, which is defined as a zone in which multifamily housing is permitted at a greater density, and requires the priority development zone to be located in an area that has significant potential for housing development and is located near community resources. Municipalities are not required to designate a priority development zone until 2 years following adoption of rules by the Department of Economic and Community Development.