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Legislative Document **No. 2173**

H.P. 1461 House of Representatives, January 27, 2026

An Act to Update the Laws Regarding Housing Developments and Accessory Dwelling Units

(EMERGENCY)

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

Reference to the Committee on Housing and Economic Development suggested and ordered printed.

ROBERT B. HUNT
Clerk

Presented by Representative COLLAMORE of Pittsfield.
Cosponsored by Senator CURRY of Waldo and
Representatives: Speaker FECTEAU of Biddeford, ROBERTS of South Berwick.

Printed on recycled paper

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 majority of the changes made by this legislation will become applicable to certain municipalities on July 1, 2026; and

Whereas, this legislation modifies recently enacted provisions of law that will become applicable to many municipalities without the modifications made by this legislation on July 1, 2026; and

Whereas, this legislation creates a grace period for certain municipalities to delay compliance with a recently enacted provision of law if the municipality makes a filing with the municipality's county register of deeds prior to July 1, 2026; and

Whereas, this legislation contains other critical changes that must go into effect as soon as possible to allow municipalities to implement the Legislature's intent and remain in compliance with the law; and

Whereas, this legislation will not go into effect prior to July 1, 2026 unless enacted as an emergency; 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. 25 MRSA §2463-B, as enacted by PL 2025, c. 385, §1, is amended to read:

§2463-B. Fire protection in accessory dwelling units

Fire suppression sprinklers are not required for an accessory dwelling unit unless the accessory dwelling unit is within or attached to a structure ~~of~~ that contains, or will contain upon completion of construction, more than 2 dwelling units, including accessory dwelling units. As used in this section, "accessory dwelling unit" has the same meaning as in Title 30-A, section 4301, subsection 1-C.

Sec. 2. 30-A MRSA §4360, as amended by PL 2025, c. 385, §3 and affected by §23, is further amended to read:

§4360. Rate of growth ordinances

1. Ordinance review and update. A municipality that enacts a rate of growth ordinance shall review and update the ordinance at least every 3 years to determine whether the rate of growth ordinance is still necessary and how the rate of growth ordinance may be adjusted to meet current conditions.

1-A. Definition; common scheme of development. For the purposes of this section, "common scheme of development" means a plan or process of development that:

A. Takes place on contiguous parcels or lots in the same immediate vicinity; and

B. Exhibits characteristics of a unified approach, method or effect, such as:

(1) Unified ownership, management or supervision;

(2) Sharing common equipment or labor; or

(3) Common financing.

2. Differential ordinances. A municipality may enact rate of growth ordinances that set different limits on the number of building or development permits that are permitted in designated rural areas. A municipality may not enact or enforce rate of growth ordinances that limit residential development in designated growth areas, as defined in section 4301, subsection 6-C, except as authorized by ~~this chapter~~ subsection 3.

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

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

B. The ordinance sets the number of building or development permits for new residential dwellings~~, not including permits for affordable housing,~~ at ~~105%~~ 130% or more of the mean number of total permits issued for new residential dwellings within the municipality during the ~~10~~ 5 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~~ 5 years and then dividing by ~~10~~ 5;

~~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~~

C-1. The ordinance does not require a development permit for affordable housing as defined in section 5246, subsection 1;

D. The number of building or development permits for new residential dwellings allowed under the ordinance is recalculated every 3 years~~.~~; and

E. Within a designated growth area, the ordinance does not limit the development permits allowed per project or per common scheme of development to a number that is less than 35% of the allocated permits for that area.

Sec. 3. 30-A MRSA §4364, first ¶, as amended by PL 2023, c. 192, §1, is further amended to read:

For an affordable housing development approved on or after the implementation date defined in subsection 1-A, a municipality with density requirements shall apply density requirements in accordance with this section, and, for an affordable housing development approved on or after the implementation date defined in subsection 1-B, a municipality with height restriction requirements shall apply additional height allowance requirements in accordance with this section.

Sec. 4. 30-A MRSA §4364, sub-§1-A, as enacted by PL 2023, c. 192, §3, is amended to read:

1-A. Implementation date; density requirements. For purposes of this section, with respect to applying density requirements under this section, "implementation date" means:

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

B. July 1, 2024 for all other municipalities.

Sec. 5. 30-A MRSA §4364, sub-§1-B is enacted to read:

1-B. Implementation date; height allowances. For purposes of this section, with respect to applying additional height allowances under this section, "implementation date" means:

A. July 1, 2026 for municipalities for which ordinances may be enacted by the municipal officers without further action or approval by the voters of the municipality; and

B. July 1, 2027 for all other municipalities.

Sec. 6. 30-A MRSA §4364, sub-§2-A, as enacted by PL 2025, c. 385, §5 and affected by §23, is amended to read:

2-A. Additional height allowance. Except as otherwise prohibited under Title 38, chapter 3 and municipal shoreland zoning ordinances, a municipality shall allow~~, subject to review by a municipal fire official or designee~~, an affordable housing development to exceed any municipal height restriction by ~~no less than one story or~~ 14 feet but only up to a total building height of 55 feet. To be eligible for an additional height allowance pursuant to this subsection, an affordable housing development must be reviewed by a fire official or designee during the development approval process; must comply with minimum lot size requirements in accordance with Title 12, chapter 423-A, as applicable; and must:

A. Be in a designated growth area of a municipality as identified in a comprehensive plan adopted pursuant to subchapter 2; or

B. Be served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system.

This subsection may not be construed to provide additional authority to a fire official or designee or to establish new standards for the review of an affordable housing development by a fire official or designee other than the requirements established in the Maine Uniform Building and Energy Code, adopted pursuant to Title 10, chapter 1103.

Sec. 7. 30-A MRSA §4364, sub-§5, as amended by PL 2025, c. 385, §6 and affected by §23, is further amended by repealing the first blocked paragraph and enacting the following in its place:

A municipal ordinance may not require minimum standards for subsurface wastewater disposal systems other than what is required pursuant to rules adopted by the Department of Health and Human Services governing subsurface wastewater disposal pursuant to Title 22, section 42.

Sec. 8. 30-A MRSA §4364-A, as amended by PL 2025, c. 385, §§7 to 12 and affected by §23 and amended by c. 388, Pt. D, §37, is further amended by amending the section headnote to read:

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

Sec. 9. 30-A MRSA §4364-A, sub-§1, as repealed and replaced by PL 2025, c. 385, §7 and affected by §23 and amended by c. 388, Pt. D, §37, is repealed and the following enacted in its place:

1. Use allowed. Notwithstanding any provision of law to the contrary, except Title 12, chapter 423-A, for any area in which residential uses are allowed, including as a conditional use, the following are permitted uses:

A. At least 3 dwelling units, attached or detached, inclusive of accessory dwelling units, per lot; and

B. At least 4 dwelling units, attached or detached, inclusive of accessory dwelling units, per lot if the lot is located in a designated growth area, as identified in a comprehensive plan adopted pursuant to subchapter 2, or the lot is served by a public water system and a public sewer system.

A municipality may allow more units than the minimum number required by this subsection.

Sec. 10. 30-A MRSA §4364-A, sub-§1-A, as enacted by PL 2023, c. 192, §7, is amended to read:

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

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

B. July 1, 2024 for all other municipalities.

Sec. 11. 30-A MRSA §4364-A, sub-§2-A, as enacted by PL 2025, c. 385, §9 and affected by §23, is amended to read:

2-A. ~~Lot~~ Limitations on municipal ordinances related to lot size and density ~~allowance for private property~~ requirements. Notwithstanding any provision of law to the contrary, except Title 12, chapter 423-A, this subsection applies to any area in which residential uses are allowed, including as a conditional use.

A. If a lot is located in a designated growth area and is served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system, a municipal ordinance may not require a minimum lot size ~~requirement may not exceed~~ that exceeds 5,000 square feet and ~~a density requirement may not exceed 1,250 square feet of lot area per dwelling unit for the first 4 dwelling units and 5,000 additional square feet of lot area per dwelling unit for subsequent units~~ may not require more than 1,250 square feet of lot area per dwelling unit for the first 4 dwelling units.

B. If a lot is located outside a designated growth area and in an area served by a public~~, special district or other centrally managed~~ water system as defined in Title 22, section 2601, subsection 8 and a public~~, special district or other comparable~~ sewer system, a municipal ordinance may not require a minimum lot size ~~requirement may not exceed~~ that exceeds 5,000 square feet and ~~a density requirement may not exceed 5,000 square feet of lot area for the first 2 dwelling units contained within a single structure, not including accessory dwelling units~~ may not require more than 5,000 square feet of lot area per dwelling unit for one dwelling unit or 10,000 square feet of lot area for 2 dwelling units within a single structure.

C. If a lot is located in a designated growth area without a public, special district or other comparable sewer system, a municipal ordinance may not establish minimum lot size ~~requirement may not exceed the minimum lot size required by Title 12, chapter 423-A and the density requirement or calculation may not be more restrictive than required by Title 12, chapter 423-A~~ requirements, density requirements or requirements for other calculations related to dwelling units per lot area other than what is required pursuant to rules adopted by the Department of Health and Human Services governing subsurface wastewater disposal pursuant to Title 22, section 42.

If 4 ~~or fewer~~ dwelling units have been constructed on a lot as a result of the allowances under this section or section 4364-B, the lot is not eligible for any additional increases in density, including under section 4364, unless more units are allowed by the municipality.

Sec. 12. 30-A MRSA §4364-A, sub-§4, as amended by PL 2025, c. 385, §11 and affected by §23, is further amended by repealing the first blocked paragraph and enacting the following in its place:

A municipal ordinance may not require minimum standards for subsurface wastewater disposal systems other than what is required pursuant to rules adopted by the Department of Health and Human Services governing subsurface wastewater disposal pursuant to Title 22, section 42.

Sec. 13. 30-A MRSA §4364-A, sub-§5-A, as enacted by PL 2025, c. 385, §12 and affected by §23, is amended to read:

5-A. Planning board approval not required. ~~A~~ For any area in which residential uses are allowed, including as a conditional use, a municipality may not require planning board approval ~~for~~ to establish 4 or fewer dwelling units within a single structure on a lot or for accessory dwelling units.

Sec. 14. 30-A MRSA §4364-B, sub-§1, as amended by PL 2025, c. 385, §13 and affected by §23, is further amended to read:

1. Use permitted. Except as provided in Title 12, chapter 423-A, a municipality shall allow an accessory dwelling unit to be located on the same lot as a single-family dwelling unit or ~~multi-unit~~ 2-unit or 3-unit residential structure in any area in which residential uses are permitted, including as a conditional use, in accordance with this section.

Sec. 15. 30-A MRSA §4364-B, sub-§1-A, as enacted by PL 2023, c. 192, §13, is amended to read:

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

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

B. July 1, 2024 for all other municipalities.

Sec. 16. 30-A MRSA §4364-B, sub-§2, ¶B, as amended by PL 2025, c. 385, §14 and affected by §23, is further amended to read:

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

Sec. 17. 30-A MRSA §4364-B, sub-§3, ¶A, as amended by PL 2025, c. 385, §15 and affected by §23, is further amended to read:

A. At least one accessory dwelling unit must be allowed on any lot where ~~a single-family dwelling unit is~~ the principal structure is a single-family dwelling unit or 2-unit or 3-unit residential structure; and

Sec. 18. 30-A MRSA §4364-B, sub-§7, as amended by PL 2025, c. 385, §18 and affected by §23, is further amended by repealing the first blocked paragraph and enacting the following in its place:

A municipal ordinance may not require minimum standards for subsurface wastewater disposal systems other than what is required pursuant to rules adopted by the Department of Health and Human Services governing subsurface wastewater disposal pursuant to Title 22, section 42.

Sec. 19. 30-A MRSA §4364-B, sub-§8, ¶A, as amended by PL 2023, c. 192, §19, is repealed.

Sec. 20. 30-A MRSA §4364-D, sub-§1, ¶C is enacted to read:

C. "Small child care facility" has the same meaning as in Title 22, section 8301-A, subsection 1-A, paragraph E.

Sec. 21. 30-A MRSA §4364-D, sub-§2, as enacted by PL 2025, c. 288, §2, is amended to read:

2. Location of child care. A child care facility or a family child care provider ~~is~~ must be a permitted use in a municipal area that is zoned for residential purposes~~.~~. A family child care provider or small child care facility located in an area zoned for residential purposes must be subject to the same zoning requirements ~~for other residential property~~ as a single-family dwelling unit.

Sec. 22. 30-A MRSA §4364-E, as enacted by PL 2025, c. 364, §2 and reallocated by RR 2025, c. 1, Pt. A, §42, is amended by enacting after the first paragraph a new paragraph to read:

This section does not apply to areas allowing industrial uses.

Sec. 23. 30-A MRSA §4401, sub-§4, ¶H-2, as amended by PL 2025, c. 385, §20 and affected by §23, is further amended to read:

H-2. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection ~~at the time this paragraph takes effect~~ on September 24, 2025 shall comply with this subsection no later than July 1, 2027, except that if a municipality that has a conflicting definition files its conflicting definition in the county registry of deeds applicable to that municipality by July 1, 2026, that definition remains valid until January 1, 2028. A filing made pursuant to this paragraph must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located.

Sec. 24. 30-A MRSA §4402, sub-§6, as amended by PL 2025, c. 385, §21 and affected by §23, is further amended to read:

6. Division of new or existing structures. ~~Beginning January 1, 2026, a~~ A division of a new or existing structure into ~~3~~ 5 or more dwelling units whether the division is accomplished by sale, lease, development or otherwise in a municipality where the project is subject to municipal site plan review.

A. For the purposes of this subsection, "municipal site plan review" means review under a municipal ordinance that sets forth a process for determining whether a development meets certain specified criteria, which must include criteria regarding stormwater management, sewage disposal, water supply and vehicular access and which may include criteria regarding other environmental effects, layout, scale, appearance and safety.

B. The municipal reviewing authority in each municipality shall determine whether a municipal site plan review ordinance adopted by the municipality meets the requirements of paragraph A.

Sec. 25. Application. Notwithstanding any provision of law to the contrary, those sections of this Act that amend the Maine Revised Statutes, Title 30-A, sections 4364, 4364-A, 4364-B and 4364-E apply to municipalities for which ordinances may be enacted by the municipal officers without further action or approval by the voters of the municipality beginning July 1, 2026 and apply to all other municipalities beginning July 1, 2027.

Sec. 26. Effective date; growth ordinances. That section of this Act that amends the Maine Revised Statutes, Title 30-A, section 4360 takes effect January 1, 2028.

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

SUMMARY

This bill modifies provisions of law related to housing development and regulation in the following ways.

1. It clarifies requirements related to fire protection in accessory dwelling units.

2. It modifies provisions governing rate of growth ordinances to require that such an ordinance set the number of building or development permits for new residential dwellings at 130% or more of the mean number of total permits issued for new residential dwellings within a municipality during the 5 years immediately prior. It also provides that a municipality may not enforce certain growth ordinances and that a growth ordinance may not require a development permit for affordable housing. It also establishes requirements related to the limit a municipality may place on the number of development permits issued per project or per common scheme of development in a designated growth area.

3. It modifies the provision of law that allows certain affordable housing developments to exceed municipal height restrictions and establishes a new implementation date by which municipalities must apply the requirements with respect to height restrictions as modified by this legislation. It also clarifies that the implementation date established in Public Law 2023, chapter 192 now applies only to density requirements, not height restrictions. The

changes to these implementation dates do not apply until July 1, 2026 for municipalities for which ordinances may be enacted by the municipal officers without further action or approval by the voters of the municipality and July 1, 2027 for all other municipalities. The bill replaces cross-references to the implementation date in current law.

4. It provides that municipalities may not require minimum subsurface wastewater disposal standards for housing structures, affordable housing developments and accessory dwelling units other than what is required by the Department of Health and Human Services rules for subsurface wastewater disposal.

5. It modifies provisions of law that place limitations on municipal ordinances that establish minimum lot sizes and density requirements for certain residential property.

6. It clarifies that planning board approval is not needed for accessory dwelling units. It also limits the structures in which a municipality is required to allow an accessory dwelling unit to a single-family dwelling unit or 2-unit or 3-unit residential structure instead of a single-family dwelling unit or multi-unit residential structure as in current law.

7. It provides that a small child care facility or a family child care provider located in an area zoned for residential purposes must be subject to the same zoning requirements as a single-family dwelling unit.

8. It clarifies that the provision of law that requires municipalities to allow residential units within buildings located in an area zoned for commercial use does not apply to areas allowing industrial uses.

9. It creates a grace period from the deadline for updating a municipal ordinance with a definition of "subdivision" that is not in compliance with current law by allowing a municipality to keep its noncompliant definition in force until January 1, 2028 if the municipality files its current noncompliant definition in the applicable county registry of deeds by July 1, 2026.

10. It changes an exception to the law regarding subdivisions for divisions of new or existing structures by making the exception applicable to the division of a new or existing structure into 5 or more dwelling units instead of 3 or more.