

Title 30-A: MUNICIPALITIES AND COUNTIES

Part 2: MUNICIPALITIES

Subpart 6-A: PLANNING AND LAND USE REGULATION

Chapter 187: PLANNING AND LAND USE REGULATION

Subchapter 3: LAND USE REGULATION

§4364. Affordable housing density

For an affordable housing development approved on or after the implementation date, a municipality with density requirements shall apply density requirements in accordance with this section. [PL 2023, c. 192, §1 (AMD).]

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

- A.** For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs; and [PL 2023, c. 192, §2 (AMD).]
- B.** For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs. [PL 2023, c. 192, §2 (AMD).]

[PL 2023, c. 192, §2 (AMD).]

1-A. Implementation date. For purposes of 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 [PL 2023, c. 192, §3 (NEW).]
- B.** July 1, 2024 for all other municipalities. [PL 2023, c. 192, §3 (NEW).]

[PL 2023, c. 192, §3 (NEW).]

2. Density requirements. A municipality shall allow an affordable housing development where multifamily dwellings are allowed to have a dwelling unit density of at least 2 1/2 times the base density that is otherwise allowed in that location and may not require more than 2 off-street parking spaces for every 3 units. The development must be in a designated growth area of a municipality consistent with section [4349-A, subsection 1, paragraph A \(.../30-A/title30-Asec4349-A.html\)](#) or [B \(.../30-A/title30-Asec4349-A.html\)](#) or the development must be served by a public, special district or other centrally managed water system and a public, special district or other

comparable sewer system. The development must comply with minimum lot size requirements in accordance with Title 12, chapter 423-A (./12/title12ch423-Asec0.html), as applicable.

[PL 2021, c. 672, §4 (NEW).]

3. Long-term affordability. Before granting final approval of an affordable housing development, including but not limited to issuing an occupancy permit, a municipality shall require that the owner of the affordable housing development have executed a restrictive covenant, recorded in the appropriate registry of deeds, for the benefit of and enforceable by a party acceptable to the municipality, to ensure that for at least 30 years after completion of construction:

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

[PL 2021, c. 672, §4 (NEW).]

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

2021, c. 672, §4 (NEW).]

[PL 2023, c. 192, §4 (AMD).]

4. Shoreland zoning. An affordable housing development must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 (./38/title38ch3sec0.html) and municipal shoreland zoning ordinances.

[PL 2021, c. 672, §4 (NEW).]

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

A. If a housing unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system; [PL 2021, c. 672, §4 (NEW).]

B. If a housing unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under section 4221 (./30-A/title30-Asec4221.html). 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 (./22/title22sec42.html); [PL 2021, c. 672, §4 (NEW).]

C. If a housing unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit; and [PL 2021, c. 672, §4 (NEW).]

D. If a housing unit is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use. [PL 2021, c. 672, §4 (NEW).]

[PL 2021, c. 672, §4 (NEW).]

6. **Subdivision requirements.** This section may not be construed to exempt a subdivider from the requirements of [subchapter 4](#) ([./30-A/title30-Ach187sec0.html](#)).

[PL 2023, c. 192, §5 (AMD).]

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

[PL 2021, c. 672, §4 (NEW).]

8. **Rules.** The Department of Economic and Community Development shall adopt rules to administer and enforce this section. The department shall consult with the Department of Agriculture, Conservation and Forestry in adopting rules pursuant to this subsection. The rules must include criteria for a municipality to use in calculating housing costs. Rules adopted pursuant to this subsection are routine technical rules as defined in [Title 5, chapter 375, subchapter 2-A](#) ([./5/title5ch375sec0.html](#)).

[PL 2021, c. 672, §4 (NEW).]

9. **Exception.** This section does not apply to a lot or portion of a lot that is within the watershed of a water source that is located in the City of Lewiston or the City of Auburn and that is used to provide drinking water by a water utility that has received a waiver from filtration pursuant to 40 Code of Federal Regulations, Sections 141.70 to 141.76, as determined by the Department of Health and Human Services.

[PL 2023, c. 264, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 672, §4 (NEW). PL 2023, c. 192, §§1-5 (AMD). PL 2023, c. 264, §1 (AMD).

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

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

Office of the Revisor of Statutes (mailto:webmaster_osi@legis.fare.maine.gov) / State House Station / State House Room 106 / Augusta, Maine 04333-0007

Title 30-A: MUNICIPALITIES AND COUNTIES

Part 2: MUNICIPALITIES

Subpart 6-A: PLANNING AND LAND USE REGULATION

Chapter 187: PLANNING AND LAND USE REGULATION

Subchapter 3: LAND USE REGULATION

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

1. Use allowed. Notwithstanding any provision of law to the contrary, except as provided in Title 12, chapter 423-A (. /12/title12ch423-Asec0.html), for any area in which residential uses are allowed, including as a conditional use, a municipality shall allow structures with up to 2 dwelling units per lot if that lot does not contain an existing dwelling unit, except that a municipality shall allow up to 4 dwelling units per lot if that lot does not contain an existing dwelling unit and the lot is located in a designated growth area within a municipality consistent with section 4349-A, subsection 1, paragraph A (. /30-A/title30-Asec4349-A.html) or B (. /30-A/title30-Asec4349-A.html) or if the lot is served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system in a municipality without a comprehensive plan.

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

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

[PL 2023, c. 192, §6 (AMD) .]

1-A. Implementation date. For purposes of this section, "implementation date" has the same meaning as in section 4364, subsection 1-A (. /30-A/title30-Asec4364.html).

[PL 2023, c. 192, §7 (NEW) .]

REVISOR'S NOTE: (Subsection 1-A as enacted by PL 2023, c. 264, §2 is REALLOCATED TO TITLE 30-A, SECTION 4364-A, SUBSECTION 1-B)

1-B. (REALLOCATED FROM T. 30-A, §4364-A, sub-§1-A) Exception. This section does not apply to a lot or portion of a lot that is within the watershed of a water source that is located in the City of Lewiston or the City of Auburn and that is used to provide drinking water by a water utility that has received a waiver from filtration pursuant to 40 Code of Federal Regulations, Sections 141.70 to 141.76, as determined by the Department of Health and Human Services.

[PL 2023, c. 264, §2 (NEW); RR 2023, c. 1, Pt. A, §26 (RAL) .]

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

A. If more than one dwelling unit has been constructed on a lot as a result of the allowance under this section or [section 4364-B \(.../30-A/title30-Asec4364-B.html\)](#), the lot is not eligible for any additional increases in density except as allowed by the municipality. [PL 2021, c. 672, §5 (NEW) .]

B. A municipal zoning ordinance may establish a prohibition or an allowance for lots where a dwelling unit in existence after the implementation date is torn down and an empty lot results. [PL 2023, c. 192, §8 (AMD) .]

[PL 2023, c. 192, §8 (AMD) .]

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

[PL 2023, c. 192, §9 (AMD) .]

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

A. If a housing structure is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the structure and proof of payment for the connection to the sewer system; [PL 2021, c. 672, §5 (NEW) .]

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 \(.../30-A/title30-Asec4221.html\)](#). 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 \(.../22/title22sec42.html\)](#); [PL 2021, c. 672, §5 (NEW) .]

C. If a housing structure is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the structure, proof of payment for the connection and the volume and supply of water required for the structure; and [PL 2021, c. 672, §5 (NEW) .]

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. [PL 2021, c. 672, §5 (NEW) .]

[PL 2021, c. 672, §5 (NEW) .]

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

A. Establish an application and permitting process for housing structures; [PL 2021, c. 672, §5 (NEW) .]

B. Impose fines for violations of building, zoning and utility requirements for housing structures; and [PL 2021, c. 672, §5 (NEW) .]

C. Establish alternative criteria that are less restrictive than the requirements of subsection 4 for the approval of a housing structure only in circumstances in which the municipality would be able to provide a variance

under [section 4353, subsection 4](#) ([./30-A/title30-Asec4353.html](#)), [4-A](#) ([./30-A/title30-Asec4353.html](#)), [4-B](#) ([./30-A/title30-Asec4353.html](#)) or [4-C](#) ([./30-A/title30-Asec4353.html](#)). [PL 2021, c. 672, §5 (NEW) .]

[PL 2021, c. 672, §5 (NEW) .]

6. Shoreland zoning. A housing structure must comply with shoreland zoning requirements established by the Department of Environmental Protection under [Title 38, chapter 3](#) ([./38/title38ch3sec0.html](#)) and municipal shoreland zoning ordinances.

[PL 2021, c. 672, §5 (NEW) .]

7. Subdivision requirements. This section may not be construed to exempt a subdivider from the requirements of [subchapter 4](#) ([./30-A/title30-Ach187sec0.html](#)).

[PL 2023, c. 192, §10 (AMD) .]

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

[PL 2021, c. 672, §5 (NEW) .]

9. Rules. The Department of Economic and Community Development may adopt rules to administer and enforce this section. The department shall consult with the Department of Agriculture, Conservation and Forestry in adopting rules pursuant to this subsection. Rules adopted pursuant to this section are routine technical rules as defined in [Title 5, chapter 375, subchapter 2-A](#) ([./5/title5ch375sec0.html](#)).

[PL 2021, c. 672, §5 (NEW) .]

10. Implementation. A municipality is not required to implement the requirements of this section until the implementation date.

[PL 2023, c. 192, §11 (AMD) .]

SECTION HISTORY

PL 2021, c. 672, §5 (NEW) . PL 2023, c. 192, §§6-11 (AMD) . PL 2023, c. 264, §2 (AMD) . RR 2023, c. 1, Pt. A, §26 (COR) .

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

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

Office of the Revisor of Statutes | mailto:webmaster_ros@legislature.maine.gov | 7 State House Station • State House Room 108 • Augusta, Maine 04333-0007

Title 30-A: MUNICIPALITIES AND COUNTIES
Part 2: MUNICIPALITIES
Subpart 6-A: PLANNING AND LAND USE REGULATION
Chapter 187: PLANNING AND LAND USE REGULATION
Subchapter 3: LAND USE REGULATION

§4364-B. Accessory dwelling units

1. Use permitted. Except as provided in Title 12, chapter 423-A ([./12/title12ch423-AsecO.html](http://12/title12ch423-AsecO.html)), a municipality shall allow an accessory dwelling unit to be located on the same lot as a single-family dwelling unit in any area in which residential uses are permitted, including as a conditional use.

[PL 2023, c. 192, §12 (AMD).]

1-A. Implementation date. For purposes of this section, "implementation date" has the same meaning as in section 4364, subsection 1-A ([./30-A/title30-Asec4364.html](http://30-A/title30-Asec4364.html)).

[PL 2023, c. 192, §13 (NEW).]

REVISOR'S NOTE: (Subsection 1-A as enacted by PL 2023, c. 264, §3 is REALLOCATED TO TITLE 30-A, SECTION 4364-B, SUBSECTION 1-B)

1-B. (REALLOCATED FROM T. 30-A, §4364-B, sub-§1-A) Exception. This section does not apply to a lot or portion of a lot that is within the watershed of a water source that is located in the City of Lewiston or the City of Auburn and that is used to provide drinking water by a water utility that has received a waiver from filtration pursuant to 40 Code of Federal Regulations, Sections 141.70 to 141.76, as determined by the Department of Health and Human Services.

[PL 2023, c. 264, §3 (NEW); RR 2023, c. 1, Pt. A, §27 (RAL).]

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

- A. Within an existing dwelling unit on the lot; [PL 2021, c. 672, §6 (NEW).]
- B. Attached to or sharing a wall with a single-family dwelling unit; or [PL 2021, c. 672, §6 (NEW).]
- C. As a new structure on the lot for the primary purpose of creating an accessory dwelling unit. [PL 2021, c. 672, §6 (NEW).]

This subsection does not restrict the construction or permitting of accessory dwelling units constructed and certified for occupancy prior to the implementation date.

[PL 2023, c. 192, §14 (AMD).]

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

- A. At least one accessory dwelling unit must be allowed on any lot where a single-family dwelling unit is the principal structure; [PL 2023, c. 192, §15 (AMD).]
- B. If more than one accessory dwelling unit has been constructed on a lot as a result of the allowance under this section, the lot is not eligible for any additional increases in density except as allowed by the municipality; and [PL 2023, c. 192, §15 (AMD).]
- C. An accessory dwelling unit is allowed on a lot that does not conform to the municipal zoning ordinance if the accessory dwelling unit does not further increase the nonconformity. [PL 2023, c. 192, §15 (NEW).]

[PL 2023, c. 192, §15 (AMD).]

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

- A. A municipality shall exempt an accessory dwelling unit from any density requirements or calculations related to the area in which the accessory dwelling unit is constructed. [PL 2021, c. 672, §6 (NEW).]
- B. For an accessory dwelling unit located within the same structure as a single-family dwelling unit or attached to or sharing a wall with a single-family dwelling unit, the setback requirements and dimensional requirements must be the same as the setback requirements and dimensional requirements of the single-family dwelling unit, except for an accessory dwelling unit permitted in an existing accessory building or secondary building or garage as of the implementation date, in which case the requisite setback requirements for such a structure apply. A municipality may establish more permissive dimensional and setback requirements for an accessory dwelling unit. [PL 2023, c. 192, §16 (AMD).]
- C. An accessory dwelling unit may not be subject to any additional parking requirements beyond the parking requirements of the single-family dwelling unit on the lot where the accessory dwelling unit is located. [PL 2021, c. 672, §6 (NEW).]
- D. An accessory dwelling unit that was not built with municipal approval must be allowed if the accessory dwelling unit otherwise meets the requirements for accessory dwelling units of the municipality and under this section. [PL 2023, c. 192, §17 (NEW).]

[PL 2023, c. 192, §§16, 17 (AMD).]

- 5. Shoreland zoning.** An accessory dwelling unit must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 ([../38/title38ch3sec0.html](#)) and municipal shoreland zoning ordinances, except that a municipality may not categorically prohibit accessory dwelling units in the shoreland zone that would otherwise meet requirements established by the Department of Environmental Protection under Title 38, chapter 3 ([../38/title38ch3sec0.html](#)) and municipal shoreland zoning ordinances.

[PL 2023, c. 192, §18 (AMD).]

- 6. Size requirements.** An accessory dwelling unit must meet a minimum size of 190 square feet. If the Technical Building Codes and Standards Board under Title 10, section 9722 ([../10/title10sec9722.html](#)) adopts a different minimum size, that standard applies. A municipality may impose a maximum size for an accessory dwelling unit.

[PL 2021, c. 672, §6 (NEW).]

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

- A. If an accessory dwelling unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the accessory dwelling unit and proof of payment for the connection to the sewer system; [PL 2021, c. 672, §6 (NEW).]
- 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](#) ([../30-A/title30-Asec4221.html](#)). 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](#) ([../22/title22sec42.html](#)); [PL 2021, c. 672, §6 (NEW).]
- C. If an accessory dwelling unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the accessory dwelling unit, proof of payment for the connection and the volume and supply of water required for the accessory dwelling unit; and [PL 2021, c. 672, §6 (NEW).]
- 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. [PL 2021, c. 672, §6 (NEW).]

[PL 2021, c. 672, §6 (NEW).]

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

- A. Establish an application and permitting process for accessory dwelling units that does not require planning board approval; [PL 2023, c. 192, §19 (AMD).]
- B. Impose fines for violations of building, zoning and utility requirements for accessory dwelling units; and [PL 2021, c. 672, §6 (NEW).]
- C. Establish alternative criteria that are less restrictive than the requirements of subsections [4](#) ([../30-A/title30-Asec4364-B.html](#)), [5](#) ([../30-A/title30-Asec4364-B.html](#)), [6](#) ([../30-A/title30-Asec4364-B.html](#)) and [7](#) ([../30-A/title30-Asec4364-B.html](#)) 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](#) ([../30-A/title30-Asec4353.html](#)), [4-A](#) ([../30-A/title30-Asec4353.html](#)), [4-B](#) ([../30-A/title30-Asec4353.html](#)) or [4-C](#) ([../30-A/title30-Asec4353.html](#)). [PL 2021, c. 672, §6 (NEW).]

[PL 2023, c. 192, §19 (AMD).]

9. Rate of growth ordinance. A permit issued by a municipality for an accessory dwelling unit does not count as a permit issued toward a municipality's rate of growth ordinance as described in section [4360](#) ([../30-A/title30-Asec4360.html](#)).

[PL 2021, c. 672, §6 (NEW).]

10. Subdivision requirements. This section may not be construed to exempt a subdivider from the requirements of subchapter [4](#) ([../30-A/title30-Ach187sec0.html](#)).

[PL 2023, c. 192, §20 (AMD).]

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

[PL 2021, c. 672, §6 (NEW).]

12. Rules. The Department of Economic and Community Development may adopt rules to administer and enforce this section. The department shall consult with the Department of Agriculture, Conservation and Forestry in adopting rules pursuant to this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in [Title 5, chapter 375, subchapter 2-A](#) ([./5/title5ch375sec0.html](#)).

[PL 2021, c. 672, §6 (NEW).]

13. Implementation. A municipality is not required to implement the requirements of this section until the implementation date.

[PL 2023, c. 192, §21 (AMD).]

SECTION HISTORY

PL 2021, c. 672, §6 (NEW) . RR 2021, c. 2, Pt. A, §110 (COR) . PL 2023, c. 192, §§12-21 (AMD) .
PL 2023, c. 264, §3 (AMD) . RR 2023, c. 1, Pt. A, §27 (COR) .

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public.
If you need legal advice, please consult a qualified attorney.

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