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HOUSING AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
132ND LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1461, L.D. 2173, “An Act to Update the Laws Regarding Housing Developments and Accessory Dwelling Units”

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

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. This section may not be construed to exempt an accessory dwelling unit from fire protection requirements when the unit is located within or attached to a mixed-use or nonresidential building or when sprinkler protection is otherwise required based on occupancy classification, building use or hazard level under the National Fire Protection Association codes adopted pursuant to section 2452.

Sec. 2. 30-A MRSA §4351-A is enacted to read:
§4351-A. Definition

As used in this subchapter, unless the context otherwise indicates, "public sewer system" means a sewer system managed, owned or operated by a municipality or quasi-municipal entity that is a municipal sewer department, a sewer district as defined in Title 38, section 1032, subsection 3, a standard district as defined in Title 38, section 1032, subsection 4 or a sanitary district formed under Title 38, chapter 11.

Sec. 3. 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

COMMITTEE AMENDMENT

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

5 **1-A. Definition; common scheme of development.** As used in this section, unless
6 the context otherwise indicates, "common scheme of development" means a plan or process
7 of development that:

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

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

10 (1) Unified ownership, management or supervision;

11 (2) Sharing common equipment or labor; or

12 (3) Common financing.

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

18 **3. Ordinance requirements; growth areas.** A municipality may adopt a rate of
19 growth ordinance that applies to a designated growth area only if:

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

21 B. The ordinance sets the number of building or development permits for new
22 residential dwellings, ~~not including permits for affordable housing,~~ at 105% or more
23 of the mean number of total permits issued for new residential dwellings within the
24 municipality during the 10 years immediately prior to the year in which the number is
25 calculated. The mean is determined by adding together the total number of permits
26 issued, ~~excluding permits issued for affordable housing,~~ for new residential dwellings
27 for each year in the prior 10 years and then dividing by 10;

28 C. ~~In addition to the permits established pursuant to paragraph B, the ordinance sets~~
29 ~~the number of building or development permits for affordable housing at no less than~~
30 ~~10% of the number of permits set in the ordinance pursuant to paragraph B; and~~

31 C-1. The ordinance does not restrict the number of building permits or require a
32 development permit for affordable housing as defined in section 5246, subsection 1;

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

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

38 **4. Ordinance requirements; other areas.** A municipality may adopt a rate of growth
39 ordinance applicable to all other areas without limitation by this section.

40 **Sec. 4. 30-A MRSA §4364, first ¶**, as amended by PL 2023, c. 192, §1, is further
41 amended to read:

1 For an affordable housing development approved on or after the implementation date,
2 a municipality with density requirements shall apply density requirements and a
3 municipality with height restriction requirements shall apply height allowance
4 requirements in accordance with this section.

5 **Sec. 5. 30-A MRSA §4364, sub-§2,** as amended by PL 2025, c. 385, §4 and
6 affected by §23 and amended by c. 388, Pt. D, §36, is repealed and the following enacted
7 in its place:

8 **2. Density requirements.** A municipality shall allow an affordable housing
9 development where multifamily dwellings are allowed to have a dwelling unit density of
10 at least 2 1/2 times the base density that is otherwise allowed in that location and may not
11 require more than 2 off-street parking spaces for every 3 units. The development must be
12 in a designated growth area of a municipality as identified in a comprehensive plan adopted
13 pursuant to subchapter 2 or be served by a water system delivering water drawn from a
14 public water source as defined in Title 22, section 2641 and a public sewer system.

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

17 **2-A. Additional height allowance.** Except as otherwise prohibited under Title 38,
18 chapter 3 and municipal shoreland zoning ordinances, a municipality shall allow, ~~subject~~
19 ~~to review by a municipal fire official or designee,~~ an affordable housing development to
20 exceed any municipal height restriction by ~~no less than one story or~~ 14 feet but only up to
21 a total building height of 55 feet. To be eligible for the additional height allowance pursuant
22 to this subsection, an affordable housing development must be approved by the Office of
23 the State Fire Marshal or a municipality registered under Title 25, section 2448-A and must
24 be:

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

27 B. Served by a water system delivering water drawn from a public water source as
28 defined in Title 22, section 2641 and a public sewer system.

29 **Sec. 7. 30-A MRSA §4364, sub-§5, ¶A,** as enacted by PL 2021, c. 672, §4, is
30 amended to read:

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

34 **Sec. 8. 30-A MRSA §4364, sub-§5, ¶C,** as enacted by PL 2021, c. 672, §4, is
35 amended to read:

36 C. If a housing unit is ~~connected to a public, special district or other centrally managed~~
37 ~~water system~~ served by a water system delivering water drawn from a public water
38 source as defined in Title 22, section 2641, proof of adequate service to support any
39 additional flow created by the unit, proof of payment for the connection and the volume
40 and supply of water required for the unit; and

41 **Sec. 9. 30-A MRSA §4364, sub-§5,** as amended by PL 2025, c. 385, §6 and
42 affected by §23, is further amended by repealing the first blocked paragraph.

1 **Sec. 10. 30-A MRSA §4364, sub-§9**, as enacted by PL 2023, c. 264, §1, is repealed
2 and the following enacted in its place:

3 **9. Exceptions.** This section does not apply to:

4 A. A lot or portion of a lot that is within the watershed of a water source that is located
5 in the City of Lewiston or the City of Auburn and that is used to provide drinking water
6 by a water utility that has received a waiver from filtration pursuant to 40 Code of
7 Federal Regulations, Sections 141.70 to 141.76, as determined by the Department of
8 Health and Human Services; or

9 B. A lot or a portion of a lot that is within an area identified as a coastal barrier in Title
10 38, section 1904; an area of special flood hazard as defined in Title 38, section 436-A,
11 subsection 1-C; or an area within a coastal sand dune system as defined in Title 38,
12 section 480-B, subsection 1 as long as a municipality exempts the lot or portion of the
13 lot in a duly adopted ordinance.

14 **Sec. 11. 30-A MRSA §4364-A**, as amended by PL 2025, c. 385, §§7 to 12 and
15 affected by §23 and amended by c. 388, Pt. D, §37, is further amended by amending the
16 section headnote to read:

17 **§4364-A. Residential areas; generally; ~~up to 4 dwelling units allowed~~**

18 **Sec. 12. 30-A MRSA §4364-A, sub-§1**, as repealed and replaced by PL 2025, c.
19 385, §7 and affected by §23 and amended by c. 388, Pt. D, §37, is repealed and the
20 following enacted in its place:

21 **1. Use allowed.** Notwithstanding any provision of law to the contrary, except Title
22 12, chapter 423-A, for any area in which residential uses are allowed, including as a
23 conditional use, the following are permitted uses:

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

26 B. At least 4 dwelling units, attached or detached, inclusive of accessory dwelling
27 units, per lot if the lot is located in a designated growth area, as identified in a
28 comprehensive plan adopted pursuant to subchapter 2, or the lot is served by a water
29 system delivering water drawn from a public water source as defined in Title 22,
30 section 2641 and a public sewer system.

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

33 **Sec. 13. 30-A MRSA §4364-A, sub-§1-B**, as enacted by PL 2023, c. 264, §2 and
34 reallocated by RR 2023, c. 1, Pt. A, §26, is repealed and the following enacted in its place:

35 **1-B. Exceptions.** This section does not apply to:

36 A. A lot or portion of a lot that is within the watershed of a water source that is located
37 in the City of Lewiston or the City of Auburn and that is used to provide drinking water
38 by a water utility that has received a waiver from filtration pursuant to 40 Code of
39 Federal Regulations, Sections 141.70 to 141.76, as determined by the Department of
40 Health and Human Services; or

41 B. A lot or a portion of a lot that is within an area identified as a coastal barrier in Title
42 38, section 1904; an area of special flood hazard as defined in Title 38, section 436-A,

1 subsection 1-C; or an area within a coastal sand dune system as defined in Title 38,
2 section 480-B, subsection 1 as long as a municipality exempts the lot or portion of the
3 lot in a duly adopted ordinance.

4 **Sec. 14. 30-A MRSA §4364-A, sub-§2-A**, as enacted by PL 2025, c. 385, §9 and
5 affected by §23, is repealed and the following enacted in its place:

6 **2-A. Limitations on municipal ordinances related to lot size and density allowance**
7 **for private property rights protection.** Notwithstanding any provision of law to the
8 contrary, except Title 12, chapter 423-A, this subsection applies to any area in which
9 residential uses are allowed, including as a conditional use.

10 A. If a lot is located in a designated growth area and is served by a water system
11 delivering water drawn from a public water source as defined in Title 22, section 2641
12 and a public sewer system, a municipal ordinance may not require a minimum lot size
13 that exceeds 5,000 square feet and may not require more than 1,250 square feet of lot
14 area per dwelling unit for the first 4 dwelling units.

15 B. If a lot is located outside a designated growth area and in an area served by a water
16 system delivering water drawn from a public water source as defined in Title 22,
17 section 2641 and a public sewer system, a municipal ordinance may not require a
18 minimum lot size that exceeds 10,000 square feet and may not require more than
19 10,000 square feet of lot area for the first dwelling unit or 20,000 square feet of lot area
20 for the first 2 dwelling units within a single structure.

21 C. If a lot is located in a designated growth area without a public sewer system, a
22 municipal ordinance may not require a minimum lot size that exceeds 20,000 square
23 feet or a density requirement or calculation that is more restrictive than required by
24 Title 12, chapter 423-A.

25 If 4 dwelling units have been constructed on a lot, the lot is not eligible for any additional
26 increases in density, including under section 4364, unless more units are allowed by the
27 municipality.

28 **Sec. 15. 30-A MRSA §4364-A, sub-§5-A**, as enacted by PL 2025, c. 385, §12 and
29 affected by §23, is amended to read:

30 **5-A. Planning board approval not required.** A For any area in which residential
31 uses are allowed, including as a conditional use, a municipality may not require planning
32 board approval for accessory dwelling units or solely because the project will establish 4
33 or fewer dwelling units within a single structure on a lot.

34 **Sec. 16. 30-A MRSA §4364-B, sub-§1**, as amended by PL 2025, c. 385, §13 and
35 affected by §23, is further amended to read:

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

40 **Sec. 17. 30-A MRSA §4364-B, sub-§2, ¶B**, as amended by PL 2025, c. 385, §14
41 and affected by §23, is further amended to read:

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

3 **Sec. 18. 30-A MRSA §4364-B, sub-§3, ¶A**, as amended by PL 2025, c. 385, §15
4 and affected by §23, is further amended to read:

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

8 **Sec. 19. 30-A MRSA §4364-B, sub-§8**, as amended by PL 2025, c. 648, §4, is
9 further amended to read:

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

12 ~~A. Establish an application and permitting process for accessory dwelling units that~~
13 ~~does not require planning board approval;~~

14 B. Impose fines for violations of building, zoning and utility requirements for
15 accessory dwelling units; ~~and~~

16 C. Establish alternative criteria that are less restrictive than the requirements of
17 subsections 4, 5, 6 and 7 for the approval of an accessory dwelling unit only in
18 circumstances in which the municipality would be able to provide a variance under
19 section 4353, subsection 4, 4-A, 4-B, 4-C or 4-D; ~~and~~

20 D. Exempt a lot or portion of a lot that is within an area identified as a coastal barrier
21 in Title 38, section 1904; an area of special flood hazard as defined in Title 38, section
22 436-A, subsection 1-C; or an area within a coastal sand dune system as defined in Title
23 38, section 480-B, subsection 1.

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

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

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

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

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

36 This section does not apply to areas allowing industrial uses.

37 **Sec. 23. PL 2025, c. 288, §3** is enacted to read:

38 **Sec. 3. Application; retroactivity.** That section of this Act that enacts the Maine
39 Revised Statutes, Title 30-A, section 4364-D applies to municipalities beginning July 1,
40 2027. This section applies retroactively to September 24, 2025.

1 density and lot size requirements for residential areas with the term "public sewer system"
2 and defines the term.

3 7. It replaces the phrase "public, special district or other centrally managed water
4 system" found in current law governing affordable housing density, accessory dwelling
5 units and density and lot size requirements with the phrase "water system delivering water
6 drawn from a public water source as defined in Title 22, section 2641."

7 8. It allows a municipality to adopt an ordinance to exempt, from the affordable housing
8 density requirements, accessory dwelling unit requirements and density and lot size
9 requirements for residential areas, lots or portions of lots within areas in the municipality
10 that are identified as areas in a coastal barrier, areas in a coastal sand dune system and areas
11 in a special flood hazard area.

12 9. It corrects conflicts in Title 30-A, section 4364, subsection 2 and section 4364-A,
13 subsection 1 created by Public Law 2025, chapters 385 and 388 by repealing the conflicting
14 provisions and replacing them with the chapter 385 versions, modified to remove the
15 requirement that an affordable housing development must comply with the minimum lot
16 size requirements in Title 12, chapter 423-A and to update terminology.

17 10. It changes the minimum lot size and density limits in certain areas in a municipality.

18 11. It clarifies that planning board approval is not required for accessory dwelling units
19 or solely because a project proposes to establish 4 or fewer dwelling units within a single
20 structure on a lot.

21 12. It limits when an accessory dwelling unit in a residential use area must be allowed
22 to situations in which the accessory dwelling unit is located on the same lot as a single-
23 family dwelling or a 2-unit or 3-unit residential structure.

24 13. It subjects a family child care provider or small child care facility and not all child
25 care facilities located in an area zoned for residential purposes to the same zoning
26 requirements as a single-family dwelling unit.

27 14. It delays until July 1, 2027 the application of this legislation and of Public Law
28 2025, chapters 288, 374 and 385. The provisions of this legislation that amend the
29 application dates of Public Law 2025, chapters 288, 374 and 385 apply retroactively to
30 September 24, 2025.