

Commission to Increase Housing Opportunities in Maine by Studying Land Use Regulations and Short-terms Rentals
Proposed ideas for discussion purposes
October 24, 2022

I. Short-term Rentals (STRs)	
A. STR Registry	
Require municipalities to have an STR registry.	Sutherland (Bar Harbor)
Require STRs to obtain a permit – not a license (LD 1588 from 129 th Legislature).	Dugal (HospitalityMaine)
Establish a state-wide registry of whole residential short-term rental units and prohibit more than one-third of multi-unit dwellings to be short-term rentals.	Commissioner Graham
Require localities with zoning ordinances to enact local ordinances (within 2 years) that require registration and licensing of STRs	Commissioner Clancy
B. Lodging Tax	
Redirect 50% of an STR’s portion of lodging tax revenue [from the General Fund] to the municipality of the STR.	Senator Pouliot
Revenue from the lodging tax on short-term rentals ¹ be allocated to a rental assistance program for tenants.	Commissioner McGovern
Create a taxable use category that shifts the assessment of properties, whole or in part, used as short-term rentals into a commercial category to reduce the impact on residential assessments. Create a distinction between owner-occupied rental units and whole residential units. This removes the investment use of property in a residential setting from driving your grandmother in the same neighborhood from her home because of disproportionate tax assessment.	Commissioner Graham
Home occupation business is already an allowable use in a residential area for owner occupied rentals such as ADU’s. To the extent that whole homes are used in this way, either make it allowable only under a community established short-term rental property cap limit when rented year-round and apply an exception to the cap limit only for property that is rented to local seasonal workforce members if the asset would be an additional property above the residential cap limit.	Commissioner Graham
Substantially increase the percentage of the transient [lodging] tax required for STR rentals that is remitted to localities to offset the cost of oversight and support affordable housing initiatives.	Commissioner Clancy
C. Property Tax Assessment	
Create a new zoning and assessing classification of “commercial/residential” for STRs that enable assessment based on the income approach and distinct zoning treatment where desired.	Commissioner Clancy
Create a category in State law for STRs for property valuation/assessing purposes.	Sutherland (Bar Harbor)
Differentiate between residential and commercial use in statute, including taxation.	Commissioner Smith

¹ “Short-term rental” is not defined in statute; “transient rental platform” is defined.

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Require a municipality that regulates STRs to include in the municipality’s ordinance: septic inspection requirement for STR permit applicants. The applicant shall pay a septic inspection fee and the municipality shall use the fee revenue to pay a third-party inspector to conduct septic inspections. Require existing STRs to have an annual or biannual septic inspection. Grant program for municipalities - funded by fee assessed on STR registration applicants.	Senator Pouliot
Require that STR ordinances regulate use covering the following topics: noise, parking, trash, water/sewer/septic, and number of people allowed.	Commissioner Clancy
Require that localities enacting STR ordinances consider limiting STRs by area and for the entirety to meet the overall objective.	Commissioner Clancy
We need to reasonably contain STRs.	Keller (Bath Housing)
II. Financial/Technical Assistance to Municipalities	
Investigate how the State can provide assistance and guidance to municipalities regarding solar [array] placement. ²	Senator Pouliot
Provide financial resources to municipalities to assist with regional planning generally, including STRs.	Sutherland (Bar Harbor)
Provide technical assistance to localities as they work to manage the growing STRs via staff or consultants in the appropriate Maine State office.	Commissioner Clancy
Invest in State planning resources to support towns and tie these resources to towns that are encouraging affordable housing development.	MAHC
Housing Infrastructure Bond to incentivize municipalities and developers to work to build new housing with a housing infrastructure bond.	MAHC
Allow local-option sales tax so municipalities can pay for infrastructure – particularly roads (improves transportation and water quality).	Sutherland (Bar Harbor)
When qualifying/competing for State grants (from MaineHousing, for example) a municipality should earn points if that community is statistically underserved in terms of affordable housing.	Rudy (Gray)
Establish that all low-income housing projects that receive state, local or federal incentives must remain as low to moderate income units for a minimum of 45 years to avoid developers selling “affordable housing” to communities	Commissioner Graham

² 130th Legislature, 1st Regular Session: LD 820 – Resolve, To Convene a Working Group To Develop Plans To Protect Maine’s Agricultural Lands When Siting Solar Arrays - directed the Department of ACF to develop plans and consider ways to discourage the use of land of higher agricultural value and encourage and encourage the use of more marginal agricultural lands when siting solar arrays. DACF submitted a report to ACF, ENR and EUT Committees in January 2022. A copy of the report can be found at the following link: <https://legislature.maine.gov/doc/7908>

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and receive TIF incentives quickly being converted into market rate units or condos once TIF restrictions are expired, evicting tenants.	
Create a non-lapsing fund within Maine Housing and directly finance fully government funded housing development in areas of need with a 25% local match and keep rents at no more 30% of tenant income and use rental proceeds to reinvest and rehabilitate the same units, and fund building additional properties in other areas. Include rehabilitated residential units as eligible properties to allow small communities in rural areas to provide affordable housing that is attractive to a wide variety of tenants.	Commissioner Graham
Technical assistance part of LD 2003 is going to be very valuable in helping communities create smart policies.	Keller (Bath Housing)
III. Land Use/Zoning	
<p>GrowSmart Maine Policy Action 2023</p> <p>Maine’s current uncoordinated approach to building places is causing real, unintended and significant social, environmental, financial, economic and cultural challenges and requires the creation of a cohesive approach to land development, redevelopment and placemaking. The following policy actions (relevant to the work of the Housing Commission) are recommendations for potential legislation:</p> <p>#1: Increase coordination/collaboration among local, State, regional government to support development in the right places.</p> <p>#4: Rewrite Growth Management Law to create a more flexible and effective framework for all communities.</p> <p>#5: Strengthen State Historic Tax Credit to fully realize the benefits throughout Maine.</p> <p>#6: Update subdivision regulations to encourage development in the right places.</p> <p>#7: Explore fiscal policies to incentivize development in downtowns and villages, while reducing sprawl.</p> <p>#8: Move toward carbon neutral buildings to advance State climate goals.</p>	Commissioner Smith
<p>Look at alternative uses for aging commercial strip malls; the value of allowing housing as a component of bringing these places back to life. Encouraging this sort of development will increase options for workforce housing across Maine. We need to encourage municipalities to change their ordinances to allow it.</p> <p>White Paper produced by GrowSmart Maine “Implementing the Vision: First Steps – Practical Steps to Transform Commercial Strips into Mixed-used Centers”</p>	Commissioner Smith
<p>Provide residential housing in commercial zones; allow new apartment condominium developments to be built in commercial and mixed-use zones – ideally with 20% of the homes affordable to low-income households.</p> <p>Revitalization zones.</p>	MAHC

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Housing is critical infrastructure that is lacking in Maine; we need to rethink the meaning of what “highest and best use” is for our land; it’s to house people in Maine; everyone deserves a home. That is one way to reimagine land use. Encourage municipalities to consider highest and best use of land as residential, not commercial.	MAHC
Increase cooperation between regional and State approaches.	Commissioner Smith
IV. Rental Assistance/Tenant Rights	
Preserving and making permanently affordable for the life of the property all currently subsidized properties including Section 515 rural rental housing ³ .	Commissioner Ladoka
The risk of the 515 properties, despite them being originally financed with 50-year mortgages, is that a substantial amount of them are going to hit 50 years; and once the mortgages are paid off, the properties will be available to go on the market; these are very small properties (12, 24 and up to 40 units) – currently considerable efforts to get nonprofit owners to purchase these properties before they expire so we can do rehab through the State’s affordable housing tax credit and allocation of CBDG funds, which are dedicated to preserving rental housing. 60 to 60% are senior housing; the balance of the 515’s is family housing. There are also two Section 514 rental housing properties: one on-farm specifically for agricultural workers and the other in Milbridge to house workers for the fishing industry. In many communities, this is the only rental housing available. There are about 7,800 units total in Maine that could expire in the next 10 years and that’s a little over 320 properties. *During the loan period, property owners must retain affordable rents (the greater of basic rent or 30% of the tenant’s adjusted income), but once mortgages are paid off, owners have the option to convert the property to other uses including market rate housing. ⁴	Commissioner Egan
Create a State rental assistance program that would take the place of the recently ended emergency rental assistance program.	Commissioner McGovern
Prohibit discrimination against voucher holders by landlords.	Commissioner McGovern
Provide a tenant right to purchase when an owner sells a building or a mobile home park.	Commissioner McGovern
Prohibit or limit application fees for tenants applying for housing.	Commissioner McGovern

³ The Rural Housing Service (RHS) is part of Rural Development (RD) in the US Department of Agriculture (USDA). It operates a broad range of programs that were formerly administered by the Farmers Home Administration to support affordable housing and community development in rural areas. RHS provides direct loans (made and serviced by USDA staff) and also guarantees loans for mortgages extended and serviced by others. Rural renting Housing Loans (Section 515) are direct, competitive mortgage loans made to provide affordable multifamily rental housing for very low-, low-, and moderate-income families, elderly persons and persons with disabilities.

⁴ <https://ced.sog.unc.edu/2018/12/changing-dynamics-of-usda-section-515-program/>

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Eliminate no-cause evictions.	Commissioner McGovern
Prohibit lease restrictions in development units from containing provisions that tenant vehicles must be current with MV registration or risk triggering eviction and towing from the property. Agents of the state should be the only enforcement mechanism for MV registration enforcement. This disproportionately impacts low-income tenants.	Commissioner Graham
We need to pay attention to the “naturally occurring affordable housing” (aka NOAH) throughout the State. Preserve existing apartments serving moderate-income folks. Look at how we prevent displacement of people as new housing or different housing is coming into our communities.	Keller (Bath Housing)
Support small landlords; small landlords own a shrinking share of rental units in our country; we are certainly seeing that in Bath; we worked with 77 landlords in our voucher program in 2015 and now we are down to less than 45; small landlords are cashing out/retiring; investors are coming in and buying up these units and tenants are being evicted; we need to focus on and support our small landlord community; they are allies.	Keller (Bath Housing)
We need to keep people housed: Homestead exemption, new property tax programs; it’s good that we’re getting more LIHEAP money; expand weatherization and efficiency programs for low-income homeowners or low-income tenants or landlords that support low-income tenants.	Keller (Bath Housing)
Eviction prevention efforts; robust resident services.	Keller (Bath Housing)
MaineHousing’s Rural Affordable Rental Housing program just launched and filled up quickly – is a great model. Up to 18 units in small communities; very low barrier; the more resources that we can put into that program, the better. It is going to be a very powerful resource statewide.	Keller (Bath Housing)
V. Accessory Dwelling Units (ADUs)	
Create a pilot program to incentivize homeowners to add accessory dwelling units.	Commissioner Payne
Incent and maximize the new ADUs that are going to be built under the new LD 2003 ordinances; the one single approach that I’ve focused on is getting low- or no-cost loan product available for people to create ADUs in their homes.	Keller (Bath Housing)
VI. Labor Standards/Employers	
Incentivize living wages with family-sustaining benefits: <ul style="list-style-type: none"> • Allow for increased housing height, density or development; • Encourage affordable rental housing development with tax incentives; and • Consider non-owner occupied STR and/or condo conversion fees to fund MaineHousing programs for development of affordable housing with Project Labor Agreements. 	Commissioner Shedlock

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Mandate registered apprenticeship requirements: higher wages and a more diverse workforce – training Maine future builders: <ul style="list-style-type: none"> • Earn while you learn model eliminates educational debt; • Clearly defined pathway to career advancement and credentialing; • Proven opportunities and success for traditionally under-represented populations; and • Pre-apprenticeship pathway established. 	Commissioner Shedlock
Encourage and reward projects committed to workforce and community benefits.	Commissioner Shedlock
In the Midcoast, we’re seeing employers engage in conversations around housing; we’ve created a regional group (convened by Senators Vitelli and Daughtry); we have employers, housing organizations and municipalities from the 14-mile corridor between Bath and Freeport; employers are very much at the table about how they can be part of the housing solution for our region. We should incent employers to continue to be part of these conversations.	Keller (Bath Housing)
VII. Financing	
Make affordable housing funding accessible to small rural developers and eliminating scoring advantages.	Commissioner Ladoka
Support nonprofit housing organizations in buying NOAHs through low- or no-cost loan products.	Keller (Bath Housing)
We don’t have an access to capital issue in Maine, but we do have a cost of capital issue. The cheaper the debt, the more that we can do. If there are ways to get very low-cost or no-cost loan products, the more power we have to maybe compete with investors for acquisitions.	Keller (Bath Housing)
There are a lot of small owners who could really benefit from the availability of low-cost capital. Naturally occurring affordable housing (NOAH) can result in durable long-term affordable housing if the capital structure is right.	Commissioner Cooperrider
We need to find ways to bring vacant and abandoned houses back online. Foreclosure limbo.	Keller (Bath Housing)
VIII. Transportation and Housing	
Give some consideration to studying how new and existing housing connects to transportation, especially public transportation for affordable housing.	Commissioner Neale
There is value in working regionally; we need to connect transit conversations with housing conversations.	Keller (Bath Housing)
IX. Direct Assistance	
Increase general assistance benefit levels so that they are adequate to cover rising housing costs.	Commissioner McGovern
We need to look at the income levels of people we are serving; direct assistance programs are available to people that are at less than 50% of Area Median Income (AMI) or less than 80% of AMI. 120% AMI should be the new threshold. We need to focus more on the missing middle.	Keller (Bath Housing)

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X. Miscellaneous	
<p>Maine Affordable Housing Board The Legislature could create a comprehensive permitting process that would enable housing proposals containing at least a certain proportion of affordable units to be considered by localities in a fashion that (i) consolidated reviews and local permitting in one local agency and (ii) enabled those reviews to be expedited. This provision alone could greatly simplify and streamline local processes without affecting local control. A legislatively created state housing oversight board (the Housing Board) could further assist worthwhile proposals on moving forward expeditiously without affecting local control if structured as follows:</p> <ol style="list-style-type: none"> 1. Local decisions IN FAVOR of qualifying housing proposals could ONLY be appealed by abutters or other opponents by first appealing to the Housing Board, which would hear the matter and agree or disagree with the local decision. If it disagreed, the petitioner opposing the housing could then contest the proposal in state court on existing terms. If the state concurred in the local approval, the petitioner would be required to post a bond to appeal the local, Housing Board - supported decision in state court. This bond would be intended to secure the payment of costs if the court finds the harm to the proponent of the proposal or to the public interest occasioned by the delays caused by the litigation merits payment based on the lack of merit to the appeal. 2. Local decisions AGAINST qualifying housing proposals could not be appealed to the Housing Board but the Housing Board would be informed of them. It would review the decision, consult with the locality and the proponent as appropriate and offer any suggestions as to ways to resolve the disagreement between the locality and the proponent. To assist it in this work, it would draw on technical advisors to the board with deep experience in local permitting and affordable housing creation. Its suggestions would be ADVISORY only and not in any way binding on local officials. <p>A Housing Board structured in this manner could lessen the delays occasioned by opponents when there IS local approval - and engage the state in being a resource to localities and developers where disputes over affordable housing proposals can potentially be resolved in a positive manner consistent with local concerns. Particularly as this board had extensive experience with disputed proposals, it could potentially become more useful in education opponents and assisting localities and developers in getting to yes.</p>	Commissioner Clancy
Increase the amount of the real estate transfer tax or increase the portion of the real estate transfer tax that is allocated to the development of affordable housing.	Commissioner McGovern
Contain or mitigate investor acquisitions (South Portland example).	Keller (Bath Housing)
Create a fund for land acquisition: either combine developable property for affordable housing into LMF or create a similar program.	Keller (Bath Housing)