Date: **May 9th, 2024**

To: **Housing Stakeholders**

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RE: **Municipal Housing Supply Research Findings**

Background

According to the *State of Maine Housing Production Needs Study* issued in October 2023, Maine is estimated to need approximately 84,000 additional housing units by 2030 to address historic underproduction as well as population growth.

In order to track progress, the State of Maine needs to know the number of Building and Demolition Permits issued, as well as the Certificates of Occupancy. However the State of Maine does not currently have a mechanism through which to consistently collect this data from individual municipalities.

The US Census Bureau receives the number of new building permits by structure type (excluding Accessory Dwelling Units or ADUs) from some municipalities on a voluntary basis, but it misses critical data like Certificates of Occupancy or Demolition Permits, and whether or not it is a replacement unit. Certificates of Occupancy confirm the units were actually built while Demolition Permits confirm the loss or replacement of existing units.

Problem Statement

The State of Maine does not collect critical housing data from municipalities to inform whether it has made progress in achieving the goals identified in the *State of Maine Housing Production Needs Study*. In order to create a system to enable data sharing, the State needs to understand if and how municipalities are currently tracking the following information:

1) Building Permits (including the date of issue, number of housing units, the address of the property, and the type of structure being built, i.e., ADU, single-family home, multi-family structure),
2) Certificates of Occupancy or its local equivalent (including same details as for building permits),
3) and Demolition Permits (again, same details).

Through interviews with a sample of Maine's municipalities, this paper seeks to document current practices for collecting housing supply data and provides suggestions on ways to establish a more accurate way to track progress in addressing the housing supply crisis.

Methodology

In order to understand the practices of the most populated municipalities in the state, as well as the particular challenges of smaller and/or more rural communities, each member of the Leadership Maine "Housing Team" selected five municipalities to contact and request an interview, including four of the more populated municipalities and one less populated. The members developed a questionnaire so there was consistency in the information being requested and gathered.

Each team member researched the appropriate staff member with whom to share the survey, as the role and responsibilities varied by location. Members then emailed or met with each person to understand:

- Is the town currently collecting this data? If so, how?
- Would the town be willing to extract the requested data for the most recently completed year?
- What would be the most feasible way to share this data with the State and at what frequency?
- Would any additional incentives to the municipality assist in overcoming feasibility challenges?

The following municipalities were contacted:

Municipality	Population	Municipality	Population
Portland, Maine	68,424	Falmouth, Maine	12,857
Lewiston, Maine	38,493	Kennebunk, Maine	11,757
Bangor, Maine	31,588	Wells, Maine	11,731
South Portland, Maine	27,026	Kittery, Maine	10,235
Auburn, Maine	24,193	Lisbon, Maine	9,743
Scarborough, Maine	23,218	Topsham, Maine	9,741
Sanford, Maine	22,266	Yarmouth, Maine	9,091
Brunswick, Maine	21,831	Bath, Maine	8,805
Saco, Maine	20,872	Freeport, Maine	8,784
Westbrook, Maine	20,645	Eliot, Maine	6,848
Augusta, Maine	19,066	China, Maine	4,434
Gorham, Maine	17,785	Damariscotta, Maine	2,257
Waterville, Maine	15,828	Jackman, Maine	782
York, Maine	13,998	Long Island, Maine	233

To see the full questionnaire, see Appendix A.

Findings and Data

Data Collected

Of the 28 selected towns, 64% responded to requests with varying levels of data, and there was significant variation in how and what data were recorded. For instance, some municipalities used the following approaches:

- Use uniform and descriptive permit types (e.g. single-family, two-family, additional dwelling units and multi-family building permits),
- Use the less descriptive International Building Code Occupancy Classification and Use Designations (e.g. R-2 or nontransient and more than two dwelling units and R-3 or nontransient and less than two dwelling units),
- Specify manufactured home or modular in addition to single-family,
- Specify replacement units,
- Use a unique description for each permit.

Of the municipalities that track multi-family building permits, few of them specifically track the number of housing units in a multi-family building permit and only some municipalities even track Certificates of Occupancy. Some municipalities like Kittery, Kennebunk, Westbrook and even Long Island currently publish lists of building permits on their website, however, the City of Portland is one of the only municipalities that also publishes Certificates of Occupancy data for each new housing unit created.

Municipalities like York track demolitions as part of the building permit while other municipalities issue a separate demolition permit. For example, one municipality uses a permit type called "Building Permit – Demo Existing/New Single Family Dwelling." However, "Building Permit – Demolitions" or "Demolition" can apply to anything from interior wall demolition to whole house demolition.

The majority of all permits issued by responding municipalities were not related to the creation or removal of housing units. Many permits were for electrical work, repairs, or accessory structures (e.g. decks, sheds).

One team member reviewed all provided data and organized it into the table below. To do this, additional research was required, such as confirming the number of housing units in a multi-family building permit or the type of demolition.[1]

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[1] The data was collated by a member of the Housing Team based on their understanding of the definitions used and provided information from each municipality. It is possible that there could be varying interpretations of the data.

Municipality	Replacement Units	ADU	Single Family	Manufactured	Two Family Units	Multifamily Units	Demolition	Net New Units (excludes Replacement Units)
China			15	9			-14	10
Falmouth	4	14	23		16	46		99
Gorham			26		4			30
Wells	17	4	109	2			-15	100
Yarmouth		2	8				-9	1
Sanford	4	1	60	1	6	44	-1	111
Portland			36		14	439		489
Westbrook		4	36	1	30	67		138
Bangor			39		12			51
Long Island		0	0	0	0	0	0	0
Lewiston		1	8	1		82	-8	84
Augusta			17	9	7	70	-8	95
York	14	9	88		6	42	-4	141
Kennebunk		5	20		46	12	-1	82
Kittery	4	3	14			8	-1	24
Topsham			34			38		72
Bath	3	2	6	2		22	-2	30
Freeport	2	3	24	6	6		-1	38
Total	48	48	563	31	147	870	-64	1,595

Table 1. Replacement, New, and Demolished Units in 2023 by Municipality.

In comparison, 2023 Census Building Permit Data for Maine municipalities is available here: https://socds.huduser.gov/permits/output_monthly.odb.

Process Findings

Similar to data collection, there was variation from responding municipalities on their approach to publishing housing supply data. Some towns like Kittery publish weekly permit reports but most respondents publish permit reports on a monthly basis.

In terms of technologies, the majority of municipalities use or can export to Excel spreadsheets to track and report this data. Some municipalities use software platforms like Vision, iWorq, and EnerGov by Tyler Technologies, but this can be cost prohibitive for many municipalities.

According to respondents, the primary limiting factor for tracking detailed data regarding the creation and removal of housing units was time. Municipal staff often served multiple roles and reported that they do not have the capacity to create a new system and/or track additional data.

Policy Findings

A deeper dive into the building code requirements in the State shows loopholes for compliance exemptions and inconsistent inspection requirements. All building construction and the authority to require a building permit in Maine, with some exceptions, is governed by the Maine Uniform Building Code Energy Code ("MUBEC"), adopted by the 10 M.R.S §9721, et seq.

There is no statute requiring the issuance of a building permit, only a Certificate of Occupancy to ensure the building has been inspected for safeguards to prevent the spread of fire. Towns that enforce the statewide building code (MUBEC) are those issuing permits. Only 88 of the 482 municipalities in Maine are required to enforce the code (others may choose to do so through

local ordinance). This inconsistency can lead to a significant gap in data collection and results in inaccurate understandings of actual housing supply.

The MUBEC rules set forth the requirement of certain municipalities to enforce these Codes, the methods by which municipalities may accomplish building inspections, the deadlines for municipalities to begin enforcing these Codes, the requirement for establishing training and certification standards for building officials and third-party inspectors, requirements for third-party inspectors, the administrative procedures for requests for advisory rulings and code amendments, and the procedures for identifying and resolving code conflicts.

Pursuant to 25 M.R.S. §2373, in municipalities with a population over 4,000, enforcement of the provisions of MUBEC shall be the responsibility of the municipality and shall be accomplished by one or more of the following means (the decision of which provision is used is solely the decision of the municipality).

Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the building official and obtain the required permit.

In general, the Code Enforcement Officer is the individual issuing the building permit. State statute requires training and certification for Code Enforcement Officers including in the area of Legal Issues which would cover the permitting process. Title 30-A subsection 4451 directs the Office of the State Fire Marshal to implement a continuing education program for Code Enforcement Officers which must include permitting procedures.

Title 10 Chapter 1103 states that training in the statewide building code must be affordable, accessible, and reviewed annually to ensure that classes are offered regularly, in diverse geographic locations, and is fully funded by the state. In reviewing the training calendar on the Office of the State Fire Marshal website, it seems there is a severe lack of training overall but specifically in legal issues.

Conclusion

Due to the lack of code enforcement training, municipal resource and staffing challenges, and inconsistent definitions and data collection practices, the State is not able to reliably know how many new buildings are available statewide in a given year. Municipalities have varying systems/platforms for data gathering/organization and also have varying staff organizing the data (City Planner, Code Enforcement Officer, Office Associate, etc.).

Even though municipalities have some of this information, it does not get collected by the State in order to track how many housing units are being added and also how many units came offline due to demolition.

Before the State will be able to track this information consistently, it must ensure that adequate, affordable, and accessible code enforcement trainings are available statewide, and that there is standardization in the definitions and processes amongst municipalities on collecting this information.

In addition, incentives or enforcement of the statutory requirement to collect and submit Certificate of Occupancy data needs to be established.

Suggested Next Steps

The following are potential next steps for the State to take:

1) **Building Permit System:**

   Research a statewide permitting system that would create consistency and accuracy in the number of new housing units. This platform may be at the state level or even the local level within the Council of Governments.

   It is important to ensure that the financial burden of the system does not fall to the town by looking into grant funding for the initial set up and then a permitting fee structure for sustainability. An example of that structure may be similar to Title 25 subsection 2374:

   The Uniform Building Codes and Standards Fund, referred to in this section as "the fund," is established within the Department of Public Safety to fund the activities of the division under this chapter and the activities of the board under Title 10, chapter 1103 and Title 30⁻A, section 4451, subsection 3⁻A. Revenue for this fund is provided by the surcharge established by section 2450⁻A. The Department of Public Safety shall determine an amount to be transferred annually from the fund for training and certification under Title 30⁻A, section 4451, subsection 3⁻A to the Maine Code Enforcement Training and Certification Fund established in Title 30⁻A, section 4451, subsection 3⁻B. Any balance of the fund may not lapse, but must be carried forward as a continuing account to be expended for the same purpose in the following fiscal year.

   As of January 2023 this account held over $800,000.

2) **State to State Collaborations:**

   Contacting similar states to Maine to identify definitions for needed data points. This would allow the State or others to work with municipalities to standardize what is collected and how.

   For example, in recent discussions with John Boyne, Research Data Specialist with California's Department of FinanceDemographics Research Unit, D, it was discovered that a yearly survey is submitted by every county and incorporated city at the beginning of the year to provide data on net changes in housing for their jurisdiction. That data is collected and used to update the jurisdiction's housing count and population estimates. By placing the survey dissemination, data collection and analysis under the Department of Finance, cities and counties are better able to assist the state with producing annual population and housing estimates. Likewise, if a municipality fails to comply with submitting the survey, then their annual budget is approved with no changes. By

neglecting to submit their survey data, municipalities' budgets are negatively affected for the entire year which negatively affects populations and allocations. Those municipalities that fail to submit their survey are welcome to revise their data for the previous year they missed but are incentivized to submit it annually.

The survey takes about 30 minutes to complete by a staff member (typically Economic and Community Development, Code Enforcement, or Town Clerks). The survey is released by the Department of Finance on January 2nd and municipalities and counties have three weeks to submit it. All data is analyzed by May 1st in time for estimates to be submitted on annual budgets for implementation during the fiscal year starting July 1st.

Previous year's data is held by the department and made available to cities. Doing the survey in January when municipalities are collecting Census data, as well, is easiest and also helps with their individual budgetary and potential comprehensive plans.

Currently, the department receives surveys from 482 cities and 58 counties (with San Francisco counting as the only city and county combination). The department has been collecting housing data since the 1990's and now uses Qualtrics, an online survey system that collects, analyzes, and organizes the data into Excel. By using this online platform the department is able to reach municipalities and counties remotely while synthesizing a lot of housing data and using the same definitions as the Census (ie.Census Bureau definitions like single family, size of structures 2-4 units, 5 or more units; single family dwellings as detached or attached, mobile homes, etc.) Using Census definitions is ideal as there are not statewide mandates on how to record or process permitting of housing units. Demolitions of complete units are included in the survey to note the loss of the housing unit.

Working with the State Emergency System, the Department of Finance is also able to collect data on homes lost to wildfires (in Maine, this might equate to flood loss properties). Vacancies are trickier to collect as they are not submitted directly from towns, but they are exploring using utility data to find out if a housing unit is vacant. Currently they are limited to the American Community Service and US Census Survey for vacancy information.

The survey is broken into three parts with standard, residential housing being the largest. This section asks for completed units and with an option for cities to provide permitting data if they don't have finalized Certificates of Occupancy. Roughly 20% of jurisdictions just provide permitting data and they are asked to back-date it six months to a year from survey period. The primary focus is on actual completed units, those ready for occupancy but also includes conversions from commercial to residential units. This housing section also collects data on Accessory Dwelling Units (ADUs) and asks cities to note if the ADUs are attached or are separated from the main house.

Currently, California is working on legislation to have cohesive coding practices and for each ADU to have their own mailing address and possibly even sold separately from the main dwelling unit. At this time, accurate numbers of ADUs that are occupied yearly versus being used as short term rentals is not available. By having ADUs with their own address they would appear on the postal records and therefore the Census will collect it and that vacancy data will catch up.

The second section of survey is in regards to annexations and primarily affects a few units. For example, if a city annexes a large farmland area to the county only 1-2 housing units are directly affected and moved to a different jurisdiction.

The third section collects data on General Quarters (GC's) like jails, college dorms, shelters, and nursing homes.

To further this research, we suggest contacting the FSCPE liaisons (Federal-State Cooperative for Population Estimates), and working with the state liaison for the Census data.

Another office to contact would be Michigan's Center for Data and Analytics and speaking with Jaclyn Butler on their system of collecting housing data. Like California, Michigan also uses Qualtrics for this housing data survey and analysis.

3) **Municipal Pilot:**

Develop a pilot derived from the *participating towns* from this effort, to establish a foundation/work group to grow/add municipalities each year. There would need to be a single point of contact from the State working with this pilot group to help troubleshoot challenges and support resolution so this executive effort could be a success.

4) **Code Enforcement Trainings:**

Better ensure that the statewide code enforcement training program includes how to categorize and submit building data on a quarterly basis, including mandated Certificates of Occupancy.

Appendix A: Municipality Interview Template

Name/Position/Date:

Town/Municipality:

Project Goal

- To collect critical building data from municipalities that would allow us to track the creation of new housing and any demolitions of existing housing in Maine.
- Specifically, we are looking for the following information:
    1. Building Permits (including the date of issue, number of housing units, the address of the property and the type of structure being built, i.e., ADU, single-family home, multi-family structure; and if the existing unit is rehabbed, does the building permit/CO specify?)
    2. Certificates of Occupancy or its local equivalent (including same details as for building permits),
    3. and Demolition Permits (again, same details).

Questions

1) How do you currently collect this data?

2) Is any of this information not currently collected? If so, what?

3) For Calendar Year 2023, could you please provide the following:

Number of Building Permits	Site Address	Type of Structure	# of Certificates of Occupancy

Number of Demolition Permits	Site Address	Type of Structure

4) Do you currently track this information over time, and how?

5) Do you currently report this information (to whom and frequency)?

6) Which of the following would be feasible options for sharing this data with the State if they started to collect and track it on a regular basis (monthly, quarterly, annually)?

- Excel sheet
- Online form
- Others?

7) Would you like to take a picture and upload it to the (hypothetical portal) whenever any of the items are issued? Or some other approach?

8) Are there any resources that would be helpful to you in providing this data?