



MAINE MUNICIPAL ASSOCIATION SINCE 1936

60 Community Drive | Augusta, ME 04330-9486

1-800-452-8786 (in state)
(T) 207-623-8428
(F) 207-624-0129

Testimony of the Maine Municipal Association

In Opposition to

LD 1593- *An Act to Increase Affordable Housing Development*

April 23, 2023

Sen. Pierce, Rep. Gere, and distinguished members of the Housing Committee, my name is Rebecca Graham, and I am providing testimony in opposition to LD 1593, *An Act to Increase Affordable Housing Development*, on behalf of Maine Municipal Association which represents the interests of municipal government before the state and federal government. The positions of the Association are formed at the direction of our 70-member Legislative Policy Committee, (LPC) who are elected by the selectboards and council of the municipalities in each of the 35 Senate districts in Maine. As a result, the positions represent a wide view of communities with varying resources, rural and urban, and those with ample local resources as well as those with none.

The first section that amends the state minimum lot size requirements is probably intended to eliminate/reduce conflicts with LD 2003 provisions regulating dimensional requirements and allow for more flexibility to allow additional units on lots. Unfortunately, the policy implication is that lots with multifamily units will now be allowed on smaller lots, which could significantly impact other planning related issues like ensuring that proper infrastructure exists to support the additional development.

In communities that are MS4 permitted communities, the existence of a mechanism to decouple old, combined sewer and stormwater connections to new EPA standards, and prove that additional development near urban impacted streams could be upended meaning those towns may face penalties for non-compliance to their permits without the ability to limit or ensure there is proper conveyance to handle both wastewater and impervious surface run off. While it may reconcile the statute to recent rulemaking, it will cause the need for additions to sewer ordinances and 3rd party technical review as the DHHS subsurface disposal rules state the department is responsible for “permitting the systems but not responsible for the accuracy of field data, assumptions of conclusions of the designer, or suitability of design or performance.”

The new section 4352-A appears to conflict with other statutes and land use/planning principals that are important to the people of the state and local communities. For example, the provision that prohibits a municipality from adopting any provision that prohibits residential housing in any zoning district will likely mean that the state shoreland zoning requirements will be overridden, as they prohibit most housing in resource protection zones for environmental protection reasons. It may also conflict with floodplain regulations and national flood insurance goals. It could also prohibit industrial and commercial zones, which may be necessary or desirable to prevent residential uses for health and safety reasons, such as in previous brownfield sites where industry but not residential buildings are allowed.

Also, the reference in LD 1593 to prohibiting a “zoning” ordinance from prohibiting housing probably would be interpreted to allow other non-zoning land use ordinances to continue in effect including, minimum subsurface wastewater requirements or the plumbing code. This is confusing when paired with the first section, and may eliminate an occupancy permit as its authority lives in Title 25 Ch. 313 §2357-A.

Sec. 3, removes the density bonus, which is desirable in some communities, as this provision has been confusion and may lessen the need for ordinance adoption. And finally, Sec. 4 further highlights the need for the delay of implementation as the rulemaking only just eliminated the minimum size requirements while the statute has retained them.

For all these reason, officials are opposed to the sections of the law that further confuse communities attempting to work through this process currently.