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PLANNING & CODE ENFORCEMENT

DATE: February 10, 2026

Senator Chip Curry
Representative Traci Gere
Members of the Committee on Housing and Economic Development - Room 206

RE: LD 2173 An Act to Update the Laws Regarding Housing Developments and Accessory Dwelling Units

Senator Curry, Representative Gere, and Members of the Committee:

My name is Jennie Poulin Franceschi. I am the Director of Planning and Code Enforcement for the City of Westbrook, and on behalf of my community I am providing testimony in support of LD2173 ONLY with the changes as attached to this letter. My comments today represent my municipality and those that have reached out to me during this process. I thank Representative Collamore for bringing this amendment forward to address significant wording adjustments that are necessary to accomplish the intended goals of this bill and to support Maine's Communities.

LD 1829 was a very robust bill that contained a considerable number of alterations to municipal zoning to facilitate an increase in housing production. This testimony only requests a few points of adjustment to LD 2173 that municipalities strongly feel conflict with our Zoning & Comprehensive Plans, which is the reason for the recommendation as we see work is needed in the bill prior to it leaving the committee. (Amended text is attached to this testimony for your reference.)

We further support the edits provided by the Maine Association of Planners' Legislative Policy Committee in their testimony, but we are requesting the following three points be included in LD 2173 as well:

1. Clarify the density & lot provisions of 4364-A Residential Areas, in growth areas to ONLY mandate lot size & density provisions where public water and public sewer is present.
2. Remove 4364-A 2A.B which mandates lots size and density outside of a designated growth area, where sewer and water are present.
3. Adjust the implementation dates by 1 year to allow for rulemaking to occur and provide municipalities with the time they need to work through Comprehensive Plan amendment processes to avoid legal challenges.

We have heard some confusing statements associated with the original bill LD1829, like "municipalities want the ability to utilize these provisions in their zoning" – Municipalities do not need additional state laws to provide lot size & density to the level they wish. Municipalities already have the ability to provide density bonuses or smaller lot sizes according to their Comprehensive Plans and many already do.

To explain our rationale for the amendments, within Growth Areas, municipalities feel a loophole has been created in section 4364-A Residential Areas by allowing any "comparable sewer system". This would mandate a community to increase their densities if an engineered septic system was to be installed as part of a project. Growth Areas are not all created equal and growth in Hancock County looks quite different than growth in Cumberland County. We should not allow the enactment of this loophole which then requires a rate of growth that smaller communities never intended in their comprehensive plans.

When we are talking about growth outside of designated growth areas, the presence of sewer, on its own, does not mean a community has planned for the level of density that this law mandates. Sewer can be installed for all kinds of reasons, such as to reduce environmental impacts on natural resources on islands or around our lakes and streams.

Also, small lot development along major MDOT collectors and arterials creates an incompatible situation where too many driveway openings create transportation safety conflicts along our major corridors.

If the mandate of density & lot size outside of a growth area where there is sewer & water remains in the law, the unintended consequences will be:

- Public Water & Public Sewer Systems will be halted from expansion. This is already a conversation going on in areas outside of Cumberland County.
- A patchwork of privately owned and maintained sewer and water systems that are dependent upon private operators and HOAs to keep clean, safe and functional and that will interfere with regional sewer construction.
- Impacts to natural resources created by the increase of impervious cover in watersheds most at risk – This mandate could cause the impairment of streams and lakes due to the increased development this standard requires.
 - Consequently, we feel the State would be liable for those impacts because this law is mandating a higher level of development than a community has planned for and therefore the State should be financially responsible for any clean-up efforts required by EPA.
 - Currently a municipality is responsible for the development patterns in its community. LD1829 inserts the State into that chain of liability that increases development outside of a growth area beyond what a community has set for limits in their comprehensive plan. The State would then be taking on the consequences of this mandated zoning.

Because it is impossible to know the impact of this law across all communities in Maine, this law could be placing growth in areas where a community cannot financially support it or have the human capacity or current road or sidewalk infrastructure to serve these locations.

Again, LD1829 was an extraordinarily complex and extremely large bill that contained many zoning changes. Our comments are only asking for consideration on three points. The rest of the bill remains. We ask for your consideration to incorporate the attached amendments, along with MAP's LPC recommended edits, into your committee recommendation.

I am available for any questions the committee may have and am willing to participate in future workshops.

Respectfully Submitted,

Jennie Poulin Franceschi, P.E.
Director of Planning and Code Enforcement

City of Westbrook Testimony

Proposed Bill LD 2173 Amendment – Black underlines/cross outs are consistent with the edits in the printed bill; red texts are Westbrook's requested amendments to the current bill language. This document ONLY highlights in red proposed additional edits, all other sections remain "as edited" in the bill.

Sec. 11. 30-A MRSA §4364-A, sub-§2-A:

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

A. If a lot is located in a designated growth area and is served by a public, ~~special district or other centrally managed water system and a public, special district or other comparable sewer system,~~ a municipal ordinance may not require a minimum lot size requirement may not exceed that exceeds 5,000 square feet and a density requirement may not exceed 1,250 square feet of lot area per dwelling unit for the first 4 dwelling units and 5,000 additional square feet of lot area per dwelling unit for subsequent units may not require more than 1,250 square feet of lot area per dwelling unit for the first 4 dwelling units.

B. If a lot is located outside a designated growth area and in an area served by a public, ~~special district or other centrally managed water system as defined in Title 22, section 2601, subsection 8 and a public, special district or other comparable sewer system,~~ a municipal ordinance may not require a minimum lot size requirement may not exceed that exceeds 5,000 square feet and a density requirement may not exceed 5,000 square feet of lot area for the first 2 dwelling units contained within a single structure, not including accessory dwelling units may not require more than 5,000 square feet of lot area per dwelling unit for one dwelling unit or 10,000 square feet of lot area for 2 dwelling units within a single structure.

C. ~~If a lot is located in a designated growth area without a public, special district or other comparable sewer system,~~ a municipal ordinance may not establish minimum lot size requirement may not exceed the minimum lot size required by Title 12, chapter 423-A and the density requirement or calculation may not be more restrictive than required by Title 12, chapter 423-A requirements, density requirements or requirements for other calculations related to dwelling units per lot area other than what is required pursuant to rules adopted by the Department of Health and Human Services governing subsurface wastewater disposal pursuant to Title 22, section 42.

Sec. 25. Application. Notwithstanding any provision of law to the contrary, those sections of this Act that amend the Maine Revised Statutes, Title 30-A, sections 4364, 4364-A, 4364-B and 4364-E apply to municipalities for which ordinances may be enacted by the municipal officers without further action or approval by the voters of the municipality beginning July 1, ~~2026~~ 2027 and apply to all other municipalities beginning July 1, ~~2027~~ 2028.

Notes: Request implementation date be consistent with the implementation date for "Residential units in areas zoned for Commercial" – July 1, 2027, as these significant policy shifts have implications to Comprehensive Plans which are time intensive for municipalities to conduct those amendments only after Agency Rulemaking is completed.