

**§4364. Affordable housing density**

For an affordable housing development approved on or after the implementation date, a municipality with density requirements shall apply density requirements in accordance with this section. [PL 2023, c. 192, §1 (AMD).]

**1. Definition.** For the purposes of this section, "affordable housing development" means:

A. For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs; and [PL 2023, c. 192, §2 (AMD).]

B. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs. [PL 2023, c. 192, §2 (AMD).]

[PL 2023, c. 192, §2 (AMD).]

**1-A. Implementation date.** For purposes of this section, "implementation date" means:

A. January 1, 2024 for municipalities for which ordinances may be enacted by the municipal officers without further action or approval by the voters of the municipality; and [PL 2023, c. 192, §3 (NEW).]

B. July 1, 2024 for all other municipalities. [PL 2023, c. 192, §3 (NEW).]  
[PL 2023, c. 192, §3 (NEW).]

**2. Density requirements.** A municipality shall allow an affordable housing development where multifamily dwellings are allowed to have a dwelling unit density of at least 2 1/2 times the base density that is otherwise allowed in that location and may not require more than 2 off-street parking spaces for every 3 units. The development must be in a designated growth area of a municipality consistent with section 4349-A, subsection 1, paragraph A or B or the development must be served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system. The development must comply with minimum lot size requirements in accordance with Title 12, chapter 423-A, as applicable.

[PL 2021, c. 672, §4 (NEW).]

**3. Long-term affordability.** Before granting final approval of an affordable housing development, including but not limited to issuing an occupancy permit, a municipality shall require that the owner of the affordable housing development have executed a restrictive covenant, recorded in the appropriate registry of deeds, for the benefit of and enforceable by a party acceptable to the municipality, to ensure that for at least 30 years after completion of construction:

A. For rental housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy; and [PL 2021, c. 672, §4 (NEW).]

B. For owned housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy. [PL 2021, c. 672, §4 (NEW).]

[PL 2023, c. 192, §4 (AMD).]

**4. Shoreland zoning.** An affordable housing development must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and municipal shoreland zoning ordinances.  
[PL 2021, c. 672, §4 (NEW).]

**5. Water and wastewater.** The owner of an affordable housing development shall provide written verification to the municipality that each unit of the housing development is connected to adequate water and wastewater services before the municipality may certify the development for occupancy. Written verification under this subsection must include:

A. If a housing unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system; [PL 2021, c. 672, §4 (NEW).]

B. If a housing unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under section 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under Title 22, section 42; [PL 2021, c. 672, §4 (NEW).]

C. If a housing unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit; and [PL 2021, c. 672, §4 (NEW).]

D. If a housing unit is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use. [PL 2021, c. 672, §4 (NEW).]

[PL 2021, c. 672, §4 (NEW).]

**6. Subdivision requirements.** This section may not be construed to exempt a subdivider from the requirements of subchapter 4.

[PL 2023, c. 192, §5 (AMD).]

**7. Restrictive covenants.** This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

[PL 2021, c. 672, §4 (NEW).]

**8. Rules.** The Department of Economic and Community Development shall adopt rules to administer and enforce this section. The department shall consult with the Department of Agriculture, Conservation and Forestry in adopting rules pursuant to this subsection. The rules must include criteria for a municipality to use in calculating housing costs. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 672, §4 (NEW).]

**9. Exception.** This section does not apply to a lot or portion of a lot that is within the watershed of a water source that is located in the City of Lewiston or the City of Auburn and that is used to provide drinking water by a water utility that has received a waiver from filtration pursuant to 40 Code of Federal Regulations, Sections 141.70 to 141.76, as determined by the Department of Health and Human Services.

[PL 2023, c. 264, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 672, §4 (NEW). PL 2023, c. 192, §§1-5 (AMD). PL 2023, c. 264, §1 (AMD).

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