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**NEITHER FOR NOR AGAINST LD #1272**

**"An Act to Address the Housing Crisis by Reducing Barriers to Building More Accessory Dwelling Units"**

**DATE OF HEARING: Tuesday, April 29, 2025**

**Honorable Senator Curry, Honorable Representative Gere, and Distinguished Members of the Housing and Economic Development Committee:**

The Legislative Policy Committee of the Maine Association of Planners supports needed changes to local zoning laws when those laws are outdated, exclusionary, or unnecessarily inhibit residential and commercial development. However, many communities in Maine lack the planning resources to make required land use updates themselves; they rely instead on underfunded state and regional planning agencies. We urge you to consider providing additional resources to the agencies that will bear the brunt of this effort. Beyond this, we suggest changes to the bill's language and framework in order to make it more effective. As written, this legislation allows incrementally more housing opportunities - but in a complicated and convoluted way. If preempting local law with state law is the best way to quickly and effectively unlock housing production potential, it must be done in a clear and concise method that facilitates community implementation.

**We have two main concerns with the bill as written. First, substantial confusion still exists from "LD 2003" because of its use of the terms *additional* dwelling units and *Accessory Dwelling Units*. LD 1272 exacerbates that confusion by making the distinction even less clear, which will impede uptake and implementation. Second, LD 1272, 1247, 997, 427, and 1396 must be addressed in a coordinated manner because they significantly intersect.**

We support the Speaker's efforts in helping increase housing opportunities but believe substantial improvements to the bill are necessary to achieve the desired outcomes. The MAP LPC would be happy to provide technical assistance and work with the Speaker and Committee on further improvements. **The attached example of improvements to this bill combines 4364-A and 4364-B (shown in gray) for clarity and offers policy recommendations based on our experience in the field.**

Sincerely,

The Maine Association of Planners Legislative Policy Committee

## An Act to Address the Housing Crisis by Reducing Barriers to Building More Accessory Dwelling Units

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 25 MRSA §2463-B** is enacted to read:

### **§2463-B. Fire protection in accessory dwelling units**

An accessory dwelling unit, as defined in Title 30-A, section 4301, subsection 1-C, located within an existing dwelling unit or attached to or sharing a wall with an existing dwelling unit is not required to have a fire sprinkler system as long as the wall between the accessory dwelling unit and the existing dwelling unit meets the fire resistance rating for town houses without fire sprinkler systems established in Department of Public Safety rules. Accessory dwelling units that are not located within an existing dwelling unit or attached to or sharing a wall with an existing dwelling unit are not required to have a fire sprinkler system. For purposes of this section, "dwelling unit" includes, but is not limited to, a structure with up to 3 separate dwelling units, including accessory dwelling units, and "fire sprinkler system" has the same meaning as in Title 32, section 1371, subsection 5.

~~This section does~~A municipality may not require an existing dwelling unit to have fire sprinkler systems if the total number of dwelling units in the structure on the lot is 5 or less.

### **Sec. X1 30-A MRSA §4301, sub §1-C**

**1-C. (REALLOCATED FROM T. 30-A, §4301, sub-§1-B) Accessory dwelling unit.** "Accessory dwelling unit" means a self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit or multi-unit structure located on the same parcel of land.

### **Sec. X2 30-A MRSA §4364-A**

**1. Use allowed.** Notwithstanding any provision of law to the contrary, except as provided in Title 12, chapter 423-A, for any area in which residential uses are allowed, including as a conditional use, a municipality shall allow:

- a) structures with up to 23 dwelling units, including accessory dwelling units, per lot ~~if that lot does not contain an existing dwelling unit, and,~~
- b) up to 4 dwelling units, including accessory dwelling units, per lot if that lot ~~does not contain an existing dwelling unit and the lot is either~~
  - a. located in a designated growth area within a municipality consistent with section 4349-A, subsection 1, paragraph A or B or,
  - ~~a.b.~~ served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system in a municipality without a comprehensive plan.

~~A municipality shall allow on a lot with one existing dwelling unit the addition of up to 2-3 dwelling units: one additional dwelling unit within or attached to an existing structure or one additional detached dwelling unit, or one of each.~~

A municipality may allow more units than the number required to be allowed by this subsection.

**1-A. Implementation date.** For purposes of this section, "implementation date" has the same meaning as in section 4364, subsection 1-A.

[PL 2023, c. 192, §7 (NEW).]

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**REVISOR'S NOTE:** (Subsection 1-A as enacted by PL 2023, c. 264, §2 is REALLOCATED TO TITLE 30-A, SECTION 4364-A, SUBSECTION 1-B)

**1-B. (REALLOCATED FROM T. 30-A, §4364-A, sub-§1-A) 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, §2 (NEW); RR 2023, c. 1, Pt. A, §26 (RAL).]

**1-C. Sale or transfer allowed.** A municipality may not ~~restrict or otherwise limit~~ prohibit an owner's ability to sell or transfer separately a dwelling unit located on that owner's lot.

**2. Zoning-General requirements.** With respect to dwelling units allowed under this section, including accessory dwelling units, municipal ~~zoning~~ ordinances must comply with the following conditions.

~~A. If more than one dwelling unit has been constructed on a lot as a result of the allowance under this section or section 4364-B, the lot is not eligible for any additional increases in density except as allowed by the municipality. [PL 2021, c. 672, §5 (NEW).]~~

A. A municipal ordinance may not establish dimensional requirements, including but not limited to setback requirements, for dwelling units allowed under this section that are greater than dimensional requirements, including but not limited to setback requirements, for single-family housing units, except that a municipal ordinance may establish requirements for a lot area per dwelling unit as long as the required lot area for subsequent units on a lot is not greater than the required lot area for the first unit.

B. A municipal ~~zoning~~ ordinance may establish a prohibition or an allowance for lots where a dwelling unit in existence after the implementation date is torn down and an empty lot results. [PL 2023, c. 192, §8 (AMD).]

C. A municipality shall exempt ~~an~~ the first accessory dwelling unit on a lot from any density requirements or calculations related to the area in which the accessory dwelling unit is constructed. Subsequent accessory dwelling units on that same lot are subject to density requirements or calculations related to the area in which the accessory dwelling unit is constructed.

D. An-At least one accessory dwelling unit is must be allowed on a lot that does not conform to the municipal zoning ordinance ~~if the accessory dwelling unit does not further increase the nonconformity, except that other local requirements shall apply.~~ [PL 2023, c. 192, §15 (NEW).]

[PL 2023, c. 192, §8 (AMD).]

E. Accessory dwelling units may be constructed only

1. Within an existing dwelling unit on the lot; [PL 2021, c. 672, §6 (NEW).]

2. Attached to or sharing a wall with a ~~single-family~~ dwelling unit; or [PL 2021, c. 672, §6 (NEW).]

3. As a new structure on the lot for the primary purpose of creating an accessory dwelling unit. [PL 2021, c. 672, §6 (NEW).]

This subsection does not restrict the construction or permitting of accessory dwelling units constructed and certified for occupancy prior to the implementation date.

F. For an accessory dwelling unit located within the same structure as a single-family dwelling unit or attached to or sharing a wall with a single-family dwelling unit, the setback requirements and dimensional requirements must be the same as the setback requirements and dimensional requirements of the single-family dwelling unit, except

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for an accessory dwelling unit permitted in an existing accessory building or secondary building or garage as of the implementation date, in which case the requisite setback requirements for such a structure apply. A municipality may establish more permissive dimensional and setback requirements for an accessory dwelling unit. [PL 2023, c. 192, §16 (AMD).]

G. ~~An~~ No accessory dwelling units may ~~not~~ be subject to any additional parking requirements beyond the parking requirements of the ~~single-family~~ primary dwelling units on the lot where the accessory dwelling unit is located. [PL 2021, c. 672, §6 (NEW).]

H. An accessory dwelling unit that was not built with municipal approval must be allowed if the accessory dwelling unit otherwise meets the requirements for accessory dwelling units of the municipality and under this section. [PL 2023, c. 192, §17 (NEW).]

I. An accessory dwelling unit located within an existing dwelling unit or attached to or sharing a wall with an existing dwelling unit is not required to have a fire sprinkler system as long as walls of the accessory dwelling unit separating the units meet the fire resistance rating for town houses without fire sprinkler systems established in Department of Public Safety rules. Accessory dwelling units that are not located within an existing dwelling unit or attached to or sharing a wall with an existing dwelling unit are not required to have a fire sprinkler system. For purposes of this subsection, "fire sprinkler system" has the same meaning as in Title 32, section 1371, subsection 5.

~~J. A municipality shall allow the construction or occupancy of an accessory dwelling unit on a lot even if the owner of the lot where the accessory dwelling unit is located does not reside in a dwelling unit on that lot.~~

K. A municipality may not ~~restrict or otherwise limit prohibit~~ an owner's ability to separately sell or transfer an accessory dwelling unit located on the owner's lot.

**Sec. 13. 30-A MRSA §4401, sub-§4**, as amended by PL 2023, c. 79, §1, is further amended to read:

*Note: Please see [our testimony on LD 1396](#) for changes to Subdivision*