



TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

Testimony in Support of LD 2173

An Act To Update The Laws Regarding Housing Developments And Accessory Dwelling Units

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

I have been the Town Planner for the Town of Eliot since mid-2020. I am offering this testimony as an individual professional planner in Maine, and some of it may not fully reflect the policy positions of the Town of Eliot. I am also a member of the Maine Association of Planners (MAP), which has submitted testimony on this bill. I support LD 2173 but have some suggestions for improvement.

First, I want to echo the praise in MAP's testimony for the Legislature's leadership in tackling Maine's affordable housing crisis. By reducing zoning barriers, LD 1829 and this tune-up bill can catalyze healthy housing ecosystems in Maine communities, increasing housing supply and quality housing opportunities for people of varying incomes and at different life stages.

Respectfully, here are my suggestions for improving the bill:

1. I generally support MAP's recommendations for extending the implementation deadline for LD 1829 and exempting flood-prone areas and other natural hazard areas from lot size and density requirements. However, contrary to MAP's suggestion, I do think at least some Town Meeting towns would benefit from extending their deadline by at least 6 months, too. For example, a January 1, 2028, deadline would give Eliot an extra election (Nov. 2027) to put before voters ordinance amendments necessary to comply with LD 1829 & 2173 and other legislation.
2. The amendment to 30-A MRSA §4364-A, sub-§2-A(B) is very helpful to clarify that the minimum lot size and density ceilings (5,000 sq. ft.) only apply in non-growth areas if those areas have a public water system and a public sewer system. Removing "special district" and "comparable sewer system" helps clarify that municipalities will continue to have the discretion to apply reasonable minimum lot sizes and density requirements in **non-sewered, non-growth-areas** in a way that is consistent with their comprehensive plans and Title 12 Ch. 423-A and protects the environment.



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3. With that said, I have read the Town of Gorham's written testimony for this bill and believe their concerns about **non-growth areas with water and sewer** should be carefully considered.
4. The amendment to 30-A MRSA §4364-A, sub-§2-A(C) – for **lots in growth areas but without sewer** – may invite confusion because it references DHHS rules. Consider establishing a simple numerical range in this paragraph with a floor of 20,000 sq. ft. and a reasonable ceiling. That way, municipalities would have some discretion, would still have to abide by the same minimum as exists in Title 12 Ch. 423-A, but they also could not set minimums unreasonably high – after all, it's a designated growth area that should be increasing housing opportunities.
5. The amendment to 30-A MRSA §4364-A, sub-§4 prevents municipal standards for subsurface wastewater disposal systems other than the referenced DHHS rules. Consider some flexibility here for certain standards, e.g. a municipality wishing to require a greater depth to limiting factor than 9", or 15" in the shoreland zone.
6. Finally, since LD 2173 is amending 30-A MRSA §4360 – Rate of growth ordinances – it's a chance to make some technical changes to clarify how **differential growth caps** may be set. Differential growth caps can be a good planning tool, since they limit growth in rural areas where the community desires to prevent sprawl and protect natural resources and agriculture, and they help channel growth into location-efficient growth areas where there is sufficient infrastructure. Specifically:
 - a. The statute should specify that a designated rural area's growth cap can be based on [x]% or more of the mean number of total permits issued for new residential dwellings within that rural area during the [y] years immediately prior to the year in which the number is calculated. (x = 105% currently, 130% as proposed; y = 10 currently, 5 as proposed.) The reason for this common-sense clarification is that paragraph 3B references "within the municipality". The rural area cap should be a function of the growth just in that area, rather than the whole municipality, which could skew the cap because it is influenced by growth in other, likely higher-growth areas. It should be an apples-to-apples calculation.
 - b. The statute should also give some flexibility to municipalities for how they set differential caps in more than one designated rural area. For example, they should be able to make the paragraph 3B calculation based on the permits issued for all rural areas, and then apportion the caps to each individual rural area consistent with their Comp Plan. (§4360 already references Comp Plan



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consistency in paragraph 3A.) This is essentially a redistribution of permit allowances that can help communities account for anomalies in the past 10 (or 5, as would be amended) years of growth and manage growth how their Comp Plans envision. There could be some reasonable floor specified in the statute so that municipalities would not be able to allocate less than a certain percentage of the total rural-area permits to any one rural area.

- c. I think the above two suggestions are already implied within the intent of a differential growth ordinance, but making them explicitly allowable in statute will help clarify how municipalities can set this important tool.

Thank you for your consideration of my testimony, and all the work each of you do to advance housing opportunities in Maine.

Sincerely,

Jeff Brubaker, AICP

Town Planner, Town of Eliot