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2023

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Testimony of Nancy Smith, CEO of GrowSmart Maine In Support of LD 1864, An Act to Increase Maine's Housing Supply by Prohibiting Certain Zoning Requirements in Areas Where Public Sewer and Water Infrastructure Are Available and in Designated Growth Areas

May 19, 2023

Senator Pierce, Representative Gere and Honorable Members of the Joint Select Committee on Housing,

My name is Nancy Smith, I live in Ellsworth, and I am the CEO of GrowSmart Maine. We are a statewide non-partisan non-profit organization helping communities navigate change in alignment with smart growth. We advocate for comprehensive policies and funding for smart growth practices and outcomes.

We have partnered with Build Maine to guide a transparent crowd-sourcing of policy proposals that began a year ago, and has drawn together over a hundred people from across Maine and beyond. [Policy Action 2023](#) has resulted in sixteen proposals from eight working groups, all addressing the shared goal, *“to address barriers to and create incentives for equitable, sustainable growth and development that strengthens downtowns and villages of all sizes while pulling development pressure away from productive and open natural areas. We do so acknowledging that Maine has urban, rural, and suburban settings for which any solution may or may not be a fit and a variety of people who deserve to be welcomed to their communities.”*

This testimony represents the views of both GrowSmart and Build Maine. We begin by noting that in the drafting of this bill, somehow reference was removed to its **applicability ONLY to designated growth areas and those places with sufficient public sewer and water.** To achieve the goal of encouraging new development only in these areas where the community has already designated for growth, this intent must be restored in amended language. The sponsor will be addressing this in his presentation of the bill.

One of the ways I discuss Policy Action 2023 comes to mind with this bill, in that some proposals offer pragmatic solutions while others are provocative and invite discussion we need to have. LD 1864 certainly falls in the “provocative” category and I hope it will prompt discussion about the need to remove barriers to appropriately sited housing development within municipal growth areas, especially those with sewer and water infrastructure with sufficient capacity to serve additional residential units.

5,000 sq ft is approximately 1/10 of an acre, which is a comfortable neighborhood house lot based on typical patterns in Maine towns and villages, and for which there is strong demand. Of course some people prefer living further out of town, and this bill does nothing to

prevent them from doing so. But in order to meet immediate housing needs without undoing good work underway to meet climate goals and without creating the next crisis of access to food and farmland, Maine communities must make possible these traditional lot sizes where the land and infrastructure can support them.

We acknowledge that this proposal is a further limitation on municipal authority, but it is one we think is warranted. The harsh reality is that suburban zoning applied in downtown areas is a form of protectionism that can manifest racial and social injustice as some residents may seek to limit options for people who cannot afford larger homes on large land parcels. As we've stated in other testimony, change is hard and it's human nature to push back against it. Planning boards across the state are getting beaten back by a vocal minority, and changing the rules at the state level will alleviate that pressure.

To address a few specific questions we have heard:

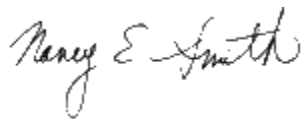
- Our intention in referencing water/sewer infrastructure is to mirror the language in LD 2003 from last session for ease of implementation and consistency.
- Adequacy of service would be determined by the municipality, as with any other project.
- The section on impact fees is intended to state that the municipality may assess current impact fees, but not greater.

Public dollars have been invested in infrastructure to support smart growth, yet local zoning ordinances are a barrier to achieving the State's goals of compact settlements while protecting and preserving open spaces. The costs of sprawl were highlighted in a Maine State Planning Office Report from 1997, which called for local Planning Boards to adopt the needed zoning changes, but many communities have not taken action.

In addition to the Policy Action 2023 Fact Sheet for this bill, I am attaching two GrowSmart Maine Community Guides: What is Sprawl, Creeping Costs of Sprawl and Great American Neighborhoods as further context for your consideration. These and other Community Guides may be found here:

<https://growsmartmaine.org/resources-for-your-community/>

Thank you for your consideration,



Introduction

Do you have to get in your car to go about your daily life, driving from home to work, to shop, to shuttle children between activities, to partake in leisure activities? **Have you ever wondered why so much of life depends on a car? One of the reasons is *sprawl*.**

A Definition of Sprawl

Sprawl is a pattern of development that disperses the built environment and has these general characteristics:

- Homes, offices, shopping, recreation, etc. are **separated** from each other so walking between uses is difficult and sometimes dangerous.
- Different kinds of people defined by age and ability, income, and ethnicity are often **segregated**.
- Public buildings, such as schools, post offices and town halls are **isolated** from other parts of the community.
- Commercial and retail development are accompanied by an **expanse of parking spaces**.
- Large open spaces are divided into smaller parcels and their **natural resource function is lost**, no longer serving their agricultural or wildlife use.

Sprawl is a dominant development pattern in the United States, and in Maine. It is often described as suburban type development, though it can look more like rural in places where development is scattered over large open spaces. Both residential and commercial development can create sprawl.

Residential Sprawl

Single-family homes,

- built at one per lot spread over large areas,
- beyond walking distance of goods and services, and
- occupied by persons who, of necessity or choice, commute by automobile.

Commercial Sprawl

Auto-oriented development,

- with many square feet of parking for every square foot of actual building space,
- usually located in strips along major routes or in business parks, and
- usually separate from other land uses.

Some of the Reasons for Sprawl

The automobile has helped make sprawl possible. Cars offer flexibility to live where home, work, shopping, and recreation are spread apart, requiring driving for daily life.

Local zoning ordinances often promote sprawl, with large lot requirements for homes, outdated minimum parking requirements, and separation of different types of land uses. In addition, local ordinances are often stricter for new development in built-up areas, creating an unintended incentive to develop in rural areas.

State policies can also subsidize sprawl. For example, state aid for school construction has favored growing suburbs at the expense of older hub towns and rural towns.

How Do You Know if it's Sprawl?

Is your community showing signs of sprawl? Some of the ways to tell include:

- If most of the new development is either spread out along major roads (e.g. strip development) or is on streets that dead end (e.g. cul-de-sacs).
- If the local school is far from the community center and you have to drive to get there.
- If town hall, the post office, or a place of worship isn't part of a village or business district where you can walk to do other errands after registering your car, mailing a package, or worshipping.
- If almost everyone drives to pick up a pizza.

Why Does This Matter?

Sprawl is an inefficient and costly pattern of development, with financial, environmental, climate, and social impacts. [The Cost of Sprawl](#), an older, but still relevant publication, takes a look at these impacts in Maine. And a companion GrowSmart Maine Community Guide, [The Creeping Cost of Sprawl](#), explains the incremental, cumulative fiscal impacts of sprawl on communities. **In the long run, sprawl is an unsustainable pattern of development.**

Communities Can Choose

There are [alternatives to sprawl](#). Communities can choose [a different pattern of development](#). GrowSmart helps communities understand and consider alternatives. **We hope you will explore our [Community Guides](#) for information about "smart growth" and other ways to navigate growth and change in your community.**

Is Your Fuse Lit?

Do you live in a rural town within a 30- or 40-minute drive of a job center? Is your population growing? Has the population reached 2,500? Is there at least one home per 20 acres in town (for example, 1,000 homes in a town of about 30 square miles)?

If you answered yes to any three of these questions, the fuse has been lit. Your days as a rural town are numbered.

You are on your way to becoming a low-density suburb, a different, more demanding animal than the rural town you've been living in. Within the foreseeable future, the per capita cost of providing town and K-12 services will start to rise at a rate and with a persistence that will seem impossible to control. Maybe it has already started.

The One-Two Punch

Suburban sprawl happens at two scales. The first is regional: the leapfrogging of development across boundaries into towns 10, 20, even 40 minutes away from traditional job or "service" centers. The second is local: low-density households spreading out of the town's villages into its rural territories.

Together, they are a one-two punch on local budgets.

In the first instance, it is regional sprawl that matters most. In most regions, the spreading out of the population happens over such a large area that any town experiences it incrementally. But looking at it over a period of two or three decades reveals an unmistakable pattern.

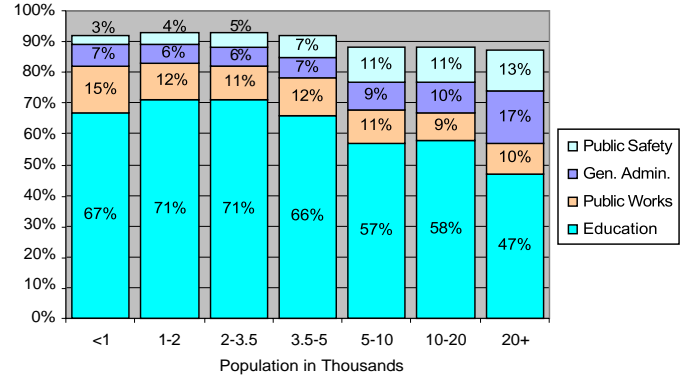
The best indicator is the size of population itself. For most Maine towns with populations under 2,500, the sense of being in a rural place is strong: not just in the landscape, but also in town government. Town government likely depends on a town meeting, is very part-time, involves many volunteers, and delivers only limited town services beyond K-12 education.

When a town passes the 2,500 to 3,500 mark, it experiences a notable change. On average, local costs for non-educational services increase from less than 30% of the total budget to more than a third (See *Chart 1, from the Maine Municipal Association*). The pressure grows to deliver more services and on a more full-time basis.

Above the 5,000 mark, non-educational costs on average approach 45% of the total. Costs required for public safety services go from about 5% of the total to about 11%. The share required for general

administration rises to about a tenth of the budget. Other services, such as parks and recreation, may be introduced for the first time.

Chart 1
Maine Municipal Expenditures by Population Size
(2002 Survey Estimates)



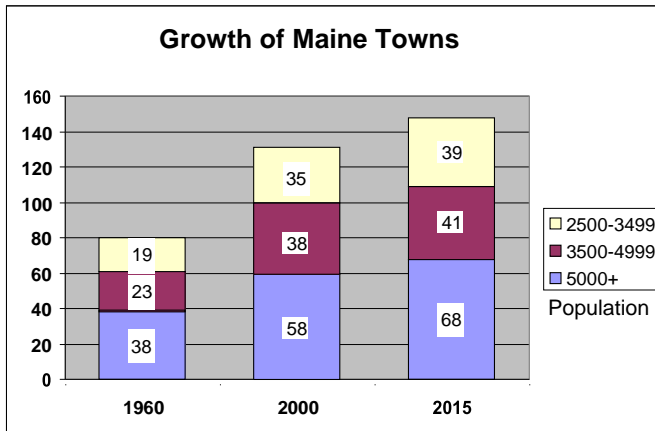
The Rise of the 2,500+ Town

More and more towns are passing the 2,500, 3,500, and 5,000 population thresholds. This is due only in part to overall population growth in Maine, which has been modest. It is due primarily to a migration of the population out of service centers - first to close-in suburbs, then to second- and third-tier suburbs, especially in southern, central, and coastal Maine.

In 1960, only 80 of Maine's 489 organized municipalities had populations over 2,500, including 61 above 3,500 and 38 above 5,000. In 2000, these numbers had increased to 131, 96 and 58 respectively. By 2015, the State Planning Office projects nearly 150 municipalities, about 30% of the total statewide, will have passed the 2,500 mark. See Charts 2 and 3.

Chart 2
Twenty-six towns that had fewer than 2,500 people in 1960 had passed the 3,500 mark as of 2000. In descending order of 2000 populations, they are:

Standish	9,285	China	4,106
Buxton	7,452	Greene	4,076
Gray	6,820	Vassalboro	4,047
Waterboro	6,214	Glenburn	3,964
Harpswell	5,239	Oxford	3,960
Lebanon	5,083	Lyman	3,795
Turner	4,972	Warren	3,794
Poland	4,866	Monmouth	3,785
Sabattus	4,486	Kennebunkport	3,720
Hermon	4,437	Wiscasset	3,603
Raymond	4,299	Winterport	3,602
North Berwick	4,293	Arundel	3,571
Hollis	4,114	Sidney	3,514



In fact, by 2015, **more than half the municipalities in Maine's southern 7 counties – 74 out of 135** – will have populations of over 3,500, and more than a third of them (48) will have populations of over 5,000. This means increased demand for services, bigger budgets, and higher local property taxes. It is a one-two punch against rural towns."

Creeping Costs

Suburbanizing towns may not appreciate the fiscal impacts that await them. That's because they do not experience the fiscal effects of the one-two punch until much later. The fuse, once lit, takes 10-15 years to ignite the spending associated with sprawl. By then, other things may get the blame: the school board for not controlling costs, the state for not handing out more aid, the teachers for asking higher salaries, etc. But sprawl lit the fuse.

In the early years of suburbanization – when incremental development is spread over a large area and rural character still dominates – the per capita costs of town services actually fall.

Why? Because towns are frugal. They absorb the first waves of growth within the same voluntary governmental structure that has served them well over the years. Selectmen carry out most executive functions. Many staff are part-time or wear two or more hats. The fire department is all-volunteer. The town relies on the county sheriff for police services. A road commissioner performs the duties of public works. There is no recreation department. Most costs are school-related.

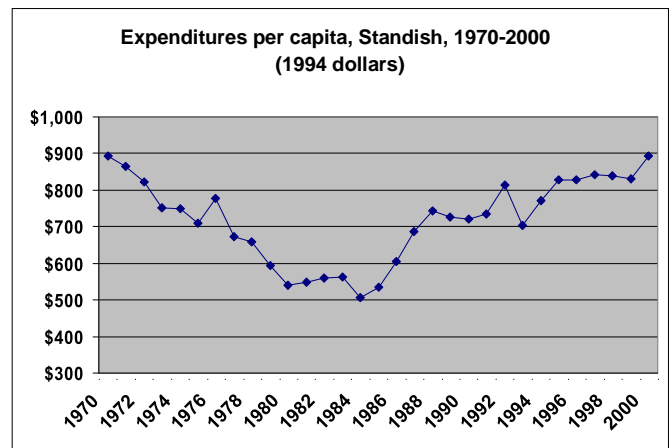
This describes Standish in 1970. Suburbanization had begun slowly in the 1960s, and in 1970 the population reached about 3,100. Throughout the 1970s and into the 1980s, suburbanization accelerated. But the town worked hard to absorb the growth "at the margins" –

that is, within its existing capabilities. As a result, real per capita spending dropped by more than 40% (See Chart 4).

But this bottomed out in 1984-85. The "margins" were all used up. By then the population was well over 5,000. The town switched to a manager-council form of government and added capacity in schools, public works, public safety, and community services. By 2000, the real per capita costs had returned to their 1970 level and were still rising. By 2003, general government was 10% of the expenditures, and total non-school expenses were 40% of the total.

The result is the U-shaped cost curve you see below on Chart 4. On the 15-year downslope, the creeping fiscal costs of sprawl may be camouflaged. As a result, concern about sprawl may be small. When the turn is made and per capita costs start rising again, so does dissatisfaction with higher property taxes. The question is whether people connect the town's fiscal situation to the real culprit: regional sprawl.

Chart 4



How much of these rising costs are due to sprawl versus other factors beyond a town's control? Can the costs of sprawl be controlled--through good local land use decisions (such as directing growth into village areas)--once regional sprawl has engulfed a town? **What we do know is that as more towns break the 2,500-3,500 mark – not because of population growth but because of migration– the cost of local government is rising beyond the means of many.**

ADDITIONAL RESOURCES

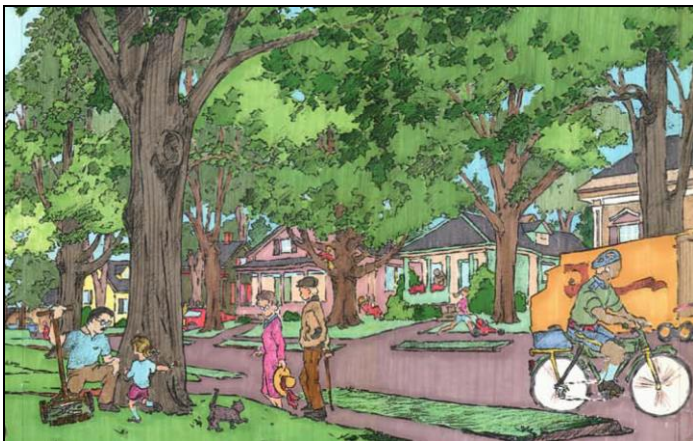
- ["The Cost of Sprawl"](#) Maine State Planning Office
- [Economic Benefits of Smart Growth and Costs of Sprawl](#)

The Great American Neighborhood

The traditional neighborhood - a place where people of all ages can live, meet their daily needs, and spend their leisure time, all within walking distance; a place where kids can walk or bike to school and play with friends in the neighborhood; a place where people are brought together in their day-to-day lives, creating a sense of shared community. Maybe you remember a neighborhood like this. Or maybe you live in one like it today. But in many places this kind of neighborhood is hard to find. In an age of low density suburbs, with local zoning ordinances that often prohibit this kind of neighborhood from being built, a "Great American Neighborhood" (GAN) is the exception, and is most often associated with times past.

Yet surveys by the Maine State Planning Office indicate many Maine homebuyers are looking for features often associated with older "traditional" neighborhoods. These include:

- ❖ Walkability
- ❖ Proximity to services and amenities
- ❖ Places to gather for community and socializing
- ❖ Diversity
- ❖ Settings with trees, parks, and access to nature
- ❖ A sense of privacy and quiet
- ❖ Limited traffic



From *The Great American Neighborhood – A Guide to Livable Design* (Bruce Towl, artist)

As a growing number of people seek to live in places where they can find a combination of features mentioned above, the "Great American Neighborhood" (also called 'Traditional Neighborhood Design') is making a comeback. This type of neighborhood also promotes a development pattern that helps preserve natural resources and rural character, while strengthening community vitality. If your

community is looking for alternative ways to accommodate growth, a Great American Neighborhood may offer another approach.

What Makes a Great American Neighborhood?

A Great American Neighborhood can take many forms. Just as every community is different, every Great American Neighborhood is different. But they all share some combination of the features mentioned above. Let's look more closely at these features.

Walkability

The ability to walk or bicycle to where you need or want to go is at the heart of a Great American Neighborhood. So sidewalks and bike paths/lanes are key design features. Both of these amenities help ensure that walking and bicycling are convenient and safe alternatives to the car.

Compact development and an interconnected street network are also important to walkability. The desirable size of a walkable neighborhood is an area that can be walked in about 10 minutes.

A Mix of Uses, Services and Amenities

A Great American Neighborhood provides a mix of uses (i.e. housing, retail, civic, recreation) in close proximity. The goal is to provide for daily needs within walking or bicycling distance. A compact pattern of development, with a mix of uses, services and amenities, allows people to stay in the neighborhood to meet their needs.

Community Gathering Places and Identity

A Great American Neighborhood promotes community. It encourages people to interact, gather and socialize with one another. By providing features such as a town square, a green, centralized civic buildings (e.g. library, school, town hall, community center, etc.), and neighborhood parks, people are encouraged to come together.

These features also create a distinct core to help give the neighborhood an identity. The ability to identify one neighborhood as distinct from another, with unique features and boundaries, is part of the Great American Neighborhood concept.

Diversity

Social, economic, cultural and architectural diversity provide opportunities for variety in the day-to-day lives of people. A Great American Neighborhood encourages diversity through different types of housing, businesses, uses, landscape and building design.

Connection to Nature

Trees, parks, and access to nature add to neighborhood livability and the quality of neighborhood life. These spaces also have a proven track record of enhancing property values, regardless of their size. Tree lined streets and walkways, small-scale parks within the neighborhood boundary, and larger adjacent open spaces such as fields or woodlands provide a connection with nature.

Public and Private Spaces

People need both the public realm and privacy in their day-to-day lives. This is one of the most important elements of neighborhood design. It is related to human-powered mobility, personal interactions, and freedom from high traffic volumes, etc. It is something that is needed on every residential lot.

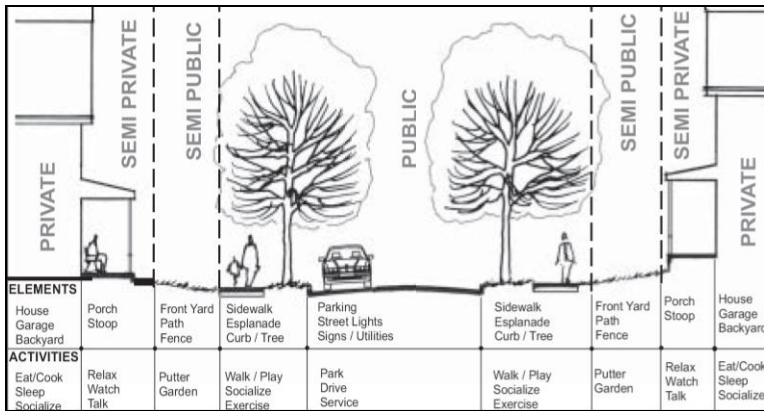
The public-private continuum (as it is sometimes called) allows for formal and informal interaction with neighbors and people passing by, while also meeting the need for privacy. The continuum (illustrated below) includes the following spaces:

Public: the public 40-50 foot right-of-way, including the street, curbs, and sidewalks with trees

Semi-public: one's front yard

Semi-private: one's porch or stoop

Private: one's house and back yard



From *The Great American Neighborhood – A Guide to Livable Design*

Protection from Excessive Traffic

Street design is an important feature of a Great American Neighborhood. Streets give the neighborhood its shape. Streets also carry traffic that presents both safety and noise issues for neighborhood residents.

Traffic safety: Neighborhood traffic is part of daily life. The problem comes when the number of cars is so great that crossing the street becomes difficult and safety becomes a concern. The general goal for a neighborhood street is no more than 2000 vehicles per day. Neighborhood cohesion begins to break down at 5000 cars/day. (see "Livable Streets Retested," Bosselman et al., APA Journal, Spring 1999.)

Traffic noise: Traffic volume and traffic speed both contribute to traffic noise. Keeping traffic volumes below the 2000 mark mentioned above, and keeping speed limits at or less than 25 mph, will help reduce traffic noise. The target noise level (measured in decibels (dB)) outside homes should be 55 dB. At 65 dB traffic noise becomes an interference—people say they can't converse, watch TV, etc. at this level. (For comparison, some common noise levels are: normal conversation, 60 dB; a ringing telephone, 80 dB; a tractor, 90 dB; a snowblower, 105 dB; and an ambulance siren, 120 dB)

To address both safety and noise concerns, neighborhood street design should direct commuter or through traffic around, not through, the neighborhood. And the streets within a neighborhood should be designed to discourage high speed, high volume cut-through traffic. To further help reduce traffic, streets should also be designed to accommodate pedestrians and bicyclists to promote alternatives to driving a car.

Conclusion

If you are thinking about your community's future growth, consider whether a Great American Neighborhood might help achieve some of your goals. Are there opportunities to expand or improve existing neighborhoods with some of the concepts mentioned above? Are there opportunities to create a new Great American Neighborhood? The Great American Neighborhood offers features that many people are looking for when deciding where to live. The Great American Neighborhood could be one of Maine's best tools for balancing a community's needs and desires for future growth.

Additional Resources

[The Great American Neighborhood – A Guide to Livable Design](#)

[A Pattern Language](#) Christopher Alexander

[Visions for a New American Dream](#) Anton Nelessen

[The Next American Metropolis](#) Peter Calthorpe

LD 1864 An Act to Increase Maine's Housing Supply by Prohibiting Certain Zoning Requirements in Areas Where Public Sewer and Water Infrastructure Are Available & in Designated Growth Areas

Sponsor: Rep. Jim Boyle

Action Working Group #7:
**DOWNTOWN
REVITALIZATION
AND OPEN SPACE
PROTECTION**

Point Person: Ed Libby
ed_libby@msn.com

OVERVIEW: What does the bill do?

LD 1864 supports State Planning goals established decades ago by banning municipalities from large lot zoning in areas designed for, or already built out at, higher densities. Specifically, in designated growth areas where water and sewer infrastructure are available, municipalities must allow minimum lot sizes no greater than 5,000 square feet. In the same areas, where water and sewer infrastructure do not exist and are not available, lot sizes of 20,000 square feet must be allowed. The State has invested in infrastructure to support smart growth, yet local zoning ordinances are acting as a barrier to achieving the State's goals of compact settlements while protecting and preserving open spaces. The costs of sprawl were highlighted in a Maine State Planning Office Report from 1997, which called for local Planning Boards to adopt the needed zoning changes, but many communities have not taken action.

PROS:

- There is clear market demand for living on small lots within walking distance to our downtowns and villages. This bill would allow more land in those areas to be developed, instead of forcing folks out into rural areas onto lots larger than they want or need.
- Infill development in areas with existing infrastructure costs less for the municipality to service for the same population compared to sprawling development, a huge fiscal benefit to the municipality.
- Allowing development to occur in places where cars are not needed for everyday tasks reduces vehicle use, leading to less air pollution. Vehicle emissions are the #1 contributor to climate change in Maine.
- This bill will protect our productive farmland and forests from sprawl by allowing traditional compact village development patterns to continue in places where the State has already set that goal.
- Right sizing minimum lot requirements unlocks opportunity for more housing, including more

affordable housing, by reducing unnecessary barriers to housing production.

POTENTIAL CHALLENGES:

There is some concern around home rule, but home rule is not absolute. The State has a vested interest in municipalities achieving the objectives of their Comprehensive Plans, including in Designated Growth Areas. These include efficient use and protection of natural resources, climate impact, and responsible fiscal policy. Lack of action in implementing these policies is no longer tenable. Our chronic underproduction of housing can be tied directly to zoning impediments at the local level.

IMPACTS: Why does it matter?

Equity: Large lot zoning has been identified as a barrier to housing choice, and recent court decisions have struck down these codes as violations of the Federal Fair Housing Act, absent a legitimate business necessity. See cases cited in recent report *Portland and Cumberland County Analysis of Impediments to Fair Housing Choice*.

Balancing Interests and Rights: Appropriately balances property owner and community interests. Large lot zoning, with no justifiable municipal need, is an overstep of municipal authority.

Climate Action: Decreased carbon emissions and costs for building and operating smaller homes on smaller lots. Unlocking infill housing in close proximity to jobs, schools, and amenities reduces vehicle trips of all kinds and related greenhouse gas emissions.

Fiscal health: Capitalizing on existing infrastructure is less expensive to service than sprawling growth.

Economic Development: Infill on small lots in neighborhoods adjacent to our Main Streets helps increase the economic vitality of our downtowns.

Quality of Life: Improved personal wellness by making housing available where people can walk or bike to amenities available in our villages and towns.