

Tammy Hodgman

From: Robert J. Burns
Sent: Monday, June 30, 2025 5:10 PM
To: Tammy Hodgman
Cc: Barry A. Tibbetts; Stephen J. Puleo; Amanda L. Lessard; Jon G. Rioux
Subject: FW: Legislature Enacts Sweeping Limits of Local Regulation of Housing

FYI

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Subject: Legislature Enacts Sweeping Limits of Local Regulation of Housing

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CLIENT ALERT

June 30, 2025

LEGISLATURE ENACTS SWEEPING LIMITS ON LOCAL REGULATION OF HOUSING

On June 20, 2025, Governor Mills signed LD 1829, *An Act to Build Housing for Maine Families and Attract Workers to Maine Businesses by Amending the Laws Governing Municipal Land Use Decisions*. LD 1829, which goes into effect on September 24, 2025, is a significant limit on home rule authority and will directly impact how and to what extent municipalities may regulate residential housing.

In short, the new law aims to remove local limits on housing density by, among other things, requiring municipalities to increase the number of dwelling units allowed per lot, preventing municipalities from imposing dimensional requirements for multifamily structures that are greater than those for single-family dwellings, and increasing the number of dwelling units that may be created before triggering subdivision review.

Below we summarize the key provisions of the new law. Note that most of these provisions will apply beginning July 1, 2026 for municipalities where the council or select board is the legislative body and July 1, 2027 for all other municipalities.

AFFORDABLE HOUSING

- **Additional Height Allowance** – Except as prohibited by shoreland zoning and the Department of Environmental Protection's water protection statutes (38 M.R.S. §§ 361-579), municipalities must allow affordable housing developments to exceed municipal height restrictions by no less than one story or 14 feet.

HOUSING DENSITY

LD 1829 imposes the following new housing density allowances, which apply to any area where residential uses (including conditional residential uses) are allowed:

- **Minimum Dwelling Units (including ADUs) Per Lot** – A municipality must allow a minimum of 4 dwelling units (attached or detached) in a designated growth area or on any lot with a public, special district, or centrally managed water and sewer system, and 3 dwelling units on any other lot.
- **Minimum Lot Size and Density** – LD 1829 repeals the housing density limitations under 30-A M.R.S. § 4364-A(2) and instead imposes the following lot size and density allowances for areas outside of the shoreland zone:

| IS THE LOT SERVED BY PUBLIC, SPECIAL DISTRICT, OR CENTRALLY MANAGED WATER AND SEWER SYSTEMS? | WITHIN DESIGNATED | OUTSIDE DESIGNATED |
|--|---------------------------------|---------------------------------|
| | GROWTH AREA | GROWTH AREA |
| YES | MINIMUM LOT SIZE: | MINIMUM LOT SIZE: |
| | ≤ 5,000 sq. ft minimum lot size | ≤ 5,000 sq. ft minimum lot size |

| | | |
|----|---|--|
| | DENSITY REQUIREMENT: $\leq 1,250$ sq. ft. per dwelling unit for the first 4 dwelling units | DENSITY REQUIREMENT: $\leq 5,000$ sq. ft. per dwelling unit for the first 2 dwelling units (not counting ADUs towards the first 2 dwelling units) |
| NO | MINIMUM LOT SIZE: \leq State Minimum Lot Size (currently 20,000 sf) DENSITY REQUIREMENT: \leq State Minimum Lot Size (currently 20,000 sf) per dwelling unit | NO LD 1829 RESTRICTIONS: May be locally regulated |

- **Dimensional Requirements** – Municipalities may not adopt dimensional requirements (now defined as “requirements that govern the size and placement of structures, including building height, lot area, minimum frontage, lot depth, and setbacks”) for duplexes and multifamily housing that are greater than the dimensional requirements for single-family housing

ACCESSORY DWELLING UNITS (ADUs)

- **ADUs Allowed in Multifamily Structures** – ADUs may now be attached to or share a wall with a multifamily structure, not just a single-family dwelling unit. Municipalities must allow ADUs to be placed on the same lot as a multifamily structure where residential uses are (including conditional residential uses) are allowed.
- **ADU Exemption from Minimum Lot Size and Density Requirements** – Municipalities must exempt one ADU per lot from its minimum lot size and density requirements.
- **Owner-Occupied ADUs Prohibited** – Municipalities may no longer require that lots with ADUs be owner-occupied.
- **No Sprinklers for Most ADUs** – Fire suppression sprinklers are not required for ADUs unless they are attached to a structure containing 3 or more dwelling units (including ADUs).

SUBDIVISION

- **Division of 5 or More Dwellings Creates a Subdivision** – LD 1829 amends the state definition of “subdivision” such that a subdivision is created with the division of a new structure or structures on a lot into 5 or more dwelling units, the construction of 5 or more dwelling units on a lot, and the division of a structure previously used for commercial or industrial use into 5 or more dwelling units within a 5-year period. Previously, a subdivision was created with the placement or division of 3 or more dwelling units. Notably, under LD 1829, the creation of a subdivision by the division of land into 3 or more lots within any 5-year period remains unchanged.
- **Mortgages Do Not Create Lots** – LD 1829 also exempts from the subdivision definition the mortgage of a dwelling unit or other smaller portion of a lot.
- **July 1, 2027 Deadline to Comply** – A municipality that has a definition of “subdivision” that conflicts with the new requirements must comply with the new definition by July 1, 2027.

LIMITS ON LOCAL LAND USE REVIEWS AND GROWTH ORDINANCES

- **Planning Board Review of Housing Restricted** – Municipalities may not require Planning Board approval for 4 or fewer dwelling units located within a structure.
- **Growth Ordinances in Designated Growth Areas Prohibited** – Municipalities may not enact rate of growth ordinances that limit residential development in designated growth areas, except as expressly allowed by law.
- **Additional Documentation Prohibited** – Once the local plumbing inspector provides written certification that a housing structure allowed under the housing law meets the water and wastewater certification requirements of 30-A M.R.S. § 4364(5), a municipality may not require any additional review or documentation related to waste and wastewater requirements before issuing a certificate of occupancy.

MANDATORY TRAININGS

- **Mandatory Trainings** – Current and newly elected and appointed members of planning boards and zoning boards of appeal must attend a training on land use planning within 180 days of LD 1829’s effective date (September 24, 2025), or within 180 days of their appointment to such boards.
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Drummond Woodsum's Municipal Law Group is closely monitoring the impacts of LD 1829 on local land use regulation. We are ready to assist you as you seek to better understand and implement the new law in an efficient and cost-effective manner.



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