

### §4364-A. Residential areas, generally; up to 4 dwelling units allowed

**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 structures with up to 2 dwelling units per lot if that lot does not contain an existing dwelling unit, except that a municipality shall allow up to 4 dwelling units per lot if that lot does not contain an existing dwelling unit and the lot is located in a designated growth area within a municipality consistent with section 4349-A, subsection 1, paragraph A or B or if the lot is 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 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.

[PL 2023, c. 192, §6 (AMD).]

**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).]

**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).]

**2. Zoning requirements.** With respect to dwelling units allowed under this section, 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).]

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).]

[PL 2023, c. 192, §8 (AMD).]

**3. General requirements.** 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.

[PL 2023, c. 192, §9 (AMD).]

**4. Water and wastewater.** The owner of a housing structure must provide written verification to the municipality that the structure is connected to adequate water and wastewater services before the municipality may certify the structure for occupancy. Written verification under this subsection must include:

A. If a housing structure is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the structure and proof of payment for the connection to the sewer system; [PL 2021, c. 672, §5 (NEW).]

B. If a housing structure 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, §5 (NEW).]

C. If a housing structure 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 structure, proof of payment for the connection and the volume and supply of water required for the structure; and [PL 2021, c. 672, §5 (NEW).]

D. If a housing structure 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, §5 (NEW).]

[PL 2021, c. 672, §5 (NEW).]

**5. Municipal implementation.** In adopting an ordinance, a municipality may:

A. Establish an application and permitting process for housing structures; [PL 2021, c. 672, §5 (NEW).]

B. Impose fines for violations of building, zoning and utility requirements for housing structures; and [PL 2021, c. 672, §5 (NEW).]

C. Establish alternative criteria that are less restrictive than the requirements of subsection 4 for the approval of a housing structure only in circumstances in which the municipality would be able to provide a variance under section 4353, subsection 4, 4-A, 4-B or 4-C. [PL 2021, c. 672, §5 (NEW).]

[PL 2021, c. 672, §5 (NEW).]

**6. Shoreland zoning.** A housing structure 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, §5 (NEW).]

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

[PL 2023, c. 192, §10 (AMD).]

**8. 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, §5 (NEW).]

**9. Rules.** The Department of Economic and Community Development may 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. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 672, §5 (NEW).]

**10. Implementation.** A municipality is not required to implement the requirements of this section until the implementation date.

[PL 2023, c. 192, §11 (AMD).]

#### SECTION HISTORY

PL 2021, c. 672, §5 (NEW). PL 2023, c. 192, §§6-11 (AMD). PL 2023, c. 264, §2 (AMD). RR 2023, c. 1, Pt. A, §26 (COR).

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