

**§4364-B. Accessory dwelling units**

**1. Use permitted.** Except as provided in Title 12, chapter 423-A, a municipality shall allow an accessory dwelling unit to be located on the same lot as a single-family dwelling unit in any area in which residential uses are permitted, including as a conditional use.

[PL 2023, c. 192, §12 (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, §13 (NEW).]

**REVISOR'S NOTE:** (Subsection 1-A as enacted by PL 2023, c. 264, §3 is REALLOCATED TO TITLE 30-A, SECTION 4364-B, SUBSECTION 1-B)

**1-B. (REALLOCATED FROM T. 30-A, §4364-B, 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, §3 (NEW); RR 2023, c. 1, Pt. A, §27 (RAL).]

**2. Restrictions.** An accessory dwelling unit may be constructed only:

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

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

C. 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.

[PL 2023, c. 192, §14 (AMD).]

**3. Zoning requirements.** With respect to accessory dwelling units, municipal zoning ordinances must comply with the following conditions:

A. At least one accessory dwelling unit must be allowed on any lot where a single-family dwelling unit is the principal structure; [PL 2023, c. 192, §15 (AMD).]

B. If more than one accessory dwelling unit has been constructed on a lot as a result of the allowance under this section, the lot is not eligible for any additional increases in density except as allowed by the municipality; and [PL 2023, c. 192, §15 (AMD).]

C. An accessory dwelling unit is allowed on a lot that does not conform to the municipal zoning ordinance if the accessory dwelling unit does not further increase the nonconformity. [PL 2023, c. 192, §15 (NEW).]

[PL 2023, c. 192, §15 (AMD).]

**4. General requirements.** With respect to accessory dwelling units, municipalities shall comply with the following conditions.

A. A municipality shall exempt an accessory dwelling unit from any density requirements or calculations related to the area in which the accessory dwelling unit is constructed. [PL 2021, c. 672, §6 (NEW).]

B. 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 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).]

C. An accessory dwelling unit may not be subject to any additional parking requirements beyond the parking requirements of the single-family dwelling unit on the lot where the accessory dwelling unit is located. [PL 2021, c. 672, §6 (NEW).]

D. 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).]

[PL 2023, c. 192, §§16, 17 (AMD).]

**5. Shoreland zoning.** An accessory dwelling unit must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and municipal shoreland zoning ordinances, except that a municipality may not categorically prohibit accessory dwelling units in the shoreland zone that would otherwise meet requirements established by the Department of Environmental Protection under Title 38, chapter 3 and municipal shoreland zoning ordinances.

[PL 2023, c. 192, §18 (AMD).]

**6. Size requirements.** An accessory dwelling unit must meet a minimum size of 190 square feet. If the Technical Building Codes and Standards Board under Title 10, section 9722 adopts a different minimum size, that standard applies. A municipality may impose a maximum size for an accessory dwelling unit.

[PL 2021, c. 672, §6 (NEW).]

**7. Water and wastewater.** The owner of an accessory dwelling unit must provide written verification to the municipality that the accessory dwelling unit is connected to adequate water and wastewater services before the municipality may certify the accessory dwelling unit for occupancy. Written verification under this subsection must include:

A. If an accessory dwelling unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the accessory dwelling unit and proof of payment for the connection to the sewer system; [PL 2021, c. 672, §6 (NEW).]

B. If an accessory dwelling unit 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, §6 (NEW).]

C. If an accessory dwelling unit 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 accessory dwelling unit, proof of payment for the connection and the volume and supply of water required for the accessory dwelling unit; and [PL 2021, c. 672, §6 (NEW).]

D. If an accessory dwelling unit 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, §6 (NEW).]

[PL 2021, c. 672, §6 (NEW).]

**8. Municipal implementation.** In adopting an ordinance under this section, a municipality may:

A. Establish an application and permitting process for accessory dwelling units that does not require planning board approval; [PL 2023, c. 192, §19 (AMD).]

B. Impose fines for violations of building, zoning and utility requirements for accessory dwelling units; and [PL 2021, c. 672, §6 (NEW).]

C. Establish alternative criteria that are less restrictive than the requirements of subsections 4, 5, 6 and 7 for the approval of an accessory dwelling unit 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, §6 (NEW).]

[PL 2023, c. 192, §19 (AMD).]

**9. Rate of growth ordinance.** A permit issued by a municipality for an accessory dwelling unit does not count as a permit issued toward a municipality's rate of growth ordinance as described in section 4360.

[PL 2021, c. 672, §6 (NEW).]

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

[PL 2023, c. 192, §20 (AMD).]

**11. Restrictive covenants.** This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid or 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, §6 (NEW).]

**12. 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 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 672, §6 (NEW).]

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

[PL 2023, c. 192, §21 (AMD).]

#### SECTION HISTORY

PL 2021, c. 672, §6 (NEW). RR 2021, c. 2, Pt. A, §110 (COR). PL 2023, c. 192, §§12-21 (AMD). PL 2023, c. 264, §3 (AMD). RR 2023, c. 1, Pt. A, §27 (COR).

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