

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)

Agency name: Department of Economic and Community Development
Umbrella-Unit: 19-100
Statutory authority: P.L. 2021, ch. 635, Pt. U codified at 5 M.R.S. §13056-J(4)
Chapter number/title: Ch. 4, Rule Regarding Housing Opportunity Program Grants
Filing number: 2023-055
Effective date: 4/18/2023
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

P.L. 2021, ch. 635, Pt. U established the Housing Opportunity Program to encourage and support the development of additional housing units in the State, including housing units that are affordable for low-income and moderate-income individuals and housing units targeted to community workforce housing needs. The Housing Opportunity Program Grants are grants to service providers to support municipal ordinance development, planning services and policy amendments to support increased housing development. The purpose of this new proposed rule is to define the criteria and proposal process for applications for grant funding. The Department will solicit applications for grants through a competitive application process.

Basis statement:

P.L. 2021, ch. 635, Pt. U established the Housing Opportunity Program to encourage and support the development of additional housing units in the State, including housing units that are affordable for low-income and moderate-income individuals and housing units targeted to community workforce housing needs. The Housing Opportunity Program Grants are grants to service providers and municipalities to support municipal ordinance development, planning services and policy amendments, and community housing planning services to support increased housing development. The purpose of this new rule is to define the criteria and proposal process for applications for grant funding. The Department will solicit applications for grants through a competitive application process.

Fiscal impact of rule:

The Department was allocated funds to provide grant funding to service providers to support municipal ordinance development and community housing priorities.

The economic impact of the Housing Opportunity Program is positive. The program is designed to encourage and support communities to develop additional housing units in the State, including housing units that are affordable for low-income and moderate-income individuals and housing units targeted to community workforce housing needs. The allocated funds support communities to implement zoning and land use-related policies necessary to increase housing development.

The Housing Opportunity requires municipalities to amend and create ordinances to increase housing development, including the development of additional housing units that are affordable for low-income and moderate-income individuals and housing units targeted to community workforce housing needs.

The rule will support the production of additional housing units, specifically targeted to support low and moderate income residents.

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Agency name: Department of Economic and Community Development
Umbrella-Unit: 19-100
Statutory authority: P.L. 2021, ch. 672 codified at 30-A M.R.S. §§ 4364, 4364-A, 4364-B
Chapter number/title: Ch. 5, Housing Opportunity Program: Municipal Land Use and Zoning Ordinance Rule
Filing number: 2023-056
Effective date: 4/18/2023
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This new proposed rule sets forth provisions which require municipalities to create or amend local ordinances in accordance with P.L. 2021, ch. 672. P.L. 2021, ch. 672 requires municipalities to create or amend local ordinances to allow for (1) additional density for affordable housing developments in certain areas; (2) multiple dwelling units on lots designated for housing; and (3) one accessory dwelling unit located on the same lot as a single-family dwelling unit in any area where housing is permitted. P.L. 2021 also directs the Department to adopt rules to administer certain sections of the law.

Basis statement:

This new rule sets forth the provisions which require municipalities to create or amend local ordinances to allow for (1) additional density for affordable housing developments in certain areas; (2) multiple dwelling units on lots designated for housing; and (3) one accessory dwelling unit located on the same lot as a single-family dwelling unit in any area where housing is permitted.

Fiscal impact of rule:

This rule requires municipalities to update land use and zoning ordinances in accordance with P.L. 2021, ch. 672. The Department was allocated funding to award grants to service providers for municipal ordinance development to comply with P.L. 2021, ch. 672.

The economic impact of P.L. 2021, ch. 672 and the corresponding rule is positive. This legislation is primarily designed to encourage and support communities to develop additional housing units in the State, including housing units that are affordable for low-income and moderate-income individuals and housing units targeted to community workforce housing needs. The allocated funds support communities to implement zoning and land use-related policies necessary to increase housing development.

P.L. 2021, ch. 672 requires municipalities to amend and create ordinances to increase housing development, including the development of additional housing units that are affordable for low-income and moderate-income individuals and housing units targeted to community workforce housing needs.

The rule will support the production of additional housing units, specifically targeted to support low and moderate income residents.

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Agency name: Department of Economic and Community Development
Umbrella-Unit: 19-100
Statutory authority: PL 2021 ch. 672, PL 2023, ch. 192, P.L. 2023, ch. 264, codified at 30-A MRS §§ 4364, 4364-A, 4364-B
Chapter number/title: Ch. 5, Housing Opportunity Program: Municipal Land Use and Zoning Ordinance Rule
Filing number: 2023-181
Effective date: 10/1/2023
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Department is proposing the following changes to its rule because of new legislation, P.L. 2023, ch. 192:

- Extending the implementation date of July 1, 2023, to January 1, 2024, for municipalities that enact ordinances without further approval by voters in a municipality and July 1, 2024, for all other municipalities.
- Changing the definition of "affordable housing development" to provide that an affordable housing development is a development in which a household whose income does not exceed a certain level can afford 51 % or more of the units in the development without spending more than 30% of the household's monthly income on housing costs; and
- Clarifying that an accessory dwelling unit must comply with shoreland zoning requirements established by the Department of Environmental Protection (DEP) and municipal shoreland zoning ordinances, except that a municipality may not categorically prohibit accessory dwelling units in the shoreland zone that would otherwise meet shoreland zoning requirements established by Department of Environmental Protection and municipal shoreland zoning ordinances.
- Amending Section 2(B)(2) to clarify that not all municipalities grant a certificate of occupancy, but instead may utilize a different procedure;
- Amending Section 3(A) and Section 4(A)(l) to clarify that additional dwelling units and accessory dwelling units are permitted on lots where residential uses are allowed, including as a conditional use;
- Amending Section 3(B)(3)(a) to clarify that dimensional requirements include setback requirements;
- Adding Section 4(B)(2)(c) to state the following about nonconforming lots: 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;
- Adding Section 4(B)(3)(e) to state the following about illegal structures: 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; and
- Amending Section 4(C)(l) to add that municipalities may establish an application and permitting process for accessory dwelling units that does not require planning board approval.

The Department also proposes to amend this rule to exempt from the requirements of the rule a lot or portion of a lot located in Lewiston or Auburn that is within the watershed of a water source that has received a waiver from filtration pursuant to federal regulations pursuant to P .L. 2023, ch. 264.

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Finally, the Department proposes to amend this rule to make minor changes for clarity including:

- Adding the definitions of municipality, duplex, triplex, and quadplex;
- Amending Section 3(B)(4) to fix a typing error; and
- Amending Section 4(B)(3)(b) to add the phrase "excluding lot area requirements."

Basis statement:

The Department amended 19-100 C.M.R. Chapter 5 because of recent legislation: P.L. 2023, ch. 192 and P.L. 2023, ch. 264. This amended rule sets forth the provisions which require municipalities to create or amend local ordinances to allow for (1) additional density for affordable housing developments in certain areas; (2) multiple dwelling units on lots designated for residential use; and (3) one accessory dwelling unit located on the same lot as a single-family dwelling unit in any area where residential uses are permitted. The revised implementation dates are January 1, 2024, for municipalities that enact ordinances without approval of voters of the municipality and July 1, 2024, for all other municipalities.

Development of the Rule:

The Department relied upon the professional judgment and staff input of the Department of Economic and Community Development, Governor's Office of Policy Innovation and the Future, as well as the provisions of P.L. 2023, ch. 192 to develop the amendments to this rule.

Fiscal and Economic Impact:

This rule requires municipalities to update land use and zoning ordinances in accordance with P.L. 2021, ch. 672 and P.L. 2023, ch. 192. The Department has funding to support municipalities with the costs of amending and implementing ordinances.

The economic impact of P.L. 2021, ch. 672, P.L. 2023, ch. 192 and the corresponding rule is positive. These two pieces of legislation are primarily designed to encourage and support communities with housing development, including housing that is affordable for low-income and moderate-income individuals and housing targeted to community workforce housing needs. The allocated funds support communities to implement zoning and land use-related policies necessary to increase housing development.

Fiscal impact of rule:

The economic impact of PL 2021, ch. 672 and PL 2023, ch. 192 is positive. PL 2021, ch. 672 and its amendment, encourages and supports communities to develop additional housing units in the State, including housing units that are affordable for low-income and moderate-income individuals and housing units targeted to community workforce housing needs. The allocated funds support communities to implement zoning and land use-related policies necessary to increase housing development.

P.L. 2021, ch. 672 and its accompanying amendment require municipalities to amend and create ordinances to increase housing development, including the development of additional housing units that are affordable for low-income and moderate-income individuals and housing units targeted to community workforce housing needs.

The rule will support the production of additional housing units, specifically targeted to support low and moderate income residents.

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Agency name: Department of Economic and Community Development
Umbrella-Unit: 19-100
Statutory authority: 36 MRS §6759
Chapter number/title: Ch. 400, Employment Tax Increment Financing
Filing number: 2023-004
Effective date: 1/11/2023
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The primary purpose of the rule change is to align the rule with recent changes to the Employment Tax Increment Financing (ETIF) statute from PL 2021, c. 602 (LD 1156).

Basis statement:

The basis for the proposed revision is to align the rule with recent changes to the Employment Tax Increment Financing (ETIF) statute from PL 2021, c. 602 (LD 1156). The law changes ETIF reimbursements to be based on a percentage of employee gross wages, as opposed to state income tax withholdings. The revision to the rule updates the definitions, application requirements, reimbursement procedures, and other relevant sections to reflect the statutory change.

Fiscal impact of rule:

The fiscal impact will likely be negligible and neutral. The new percentages applied by PL 2021, c. 602 were calculated to have as close to net neutral impact as possible.

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Agency name: Department of Economic and Community Development, **Office of Business Development**
Umbrella-Unit: **19-499**
Statutory authority: 5 MRS §13056-I
Chapter number/title: **Ch. 303**, Rural Workforce Recruitment and Retention Grant
Filing number: **2023-006**
Effective date: 1/15/2023
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The purpose of this rule is to establish a grant program for local economic development initiatives in rural regions of the State of Maine that will assist rural businesses in those regions in locating, recruiting, and retaining qualified staff to meet workforce needs.

Basis statement:

The basis for the proposed rule is to set forth the procedures, criteria and program review governing the Rural Workforce Recruitment and Retention Grant Program as required by PL 2022, c. 420 (LD 492).

Fiscal impact of rule:

The fiscal impact will likely be negligible and neutral.