

COMMITTEE ON HOUSING AND ECONOMIC DEVELOPMENT

AGENDA OCTOBER 22, 2025

Noon

MOCA UPDATE

Samantha Horn, Director, MOCA

12:30 pm

WORK SESSIONS / BRIEFINGS

1. *BILL OVERVIEW AND STATUS* (OPLA Analyst)

- LD 128, An Act to Support Permitting of Certain Multifamily Housing Developments Under the Site Location of Development Laws (Sen. Pierce)
- LD 161, Resolve, Directing the Department of Agriculture, Conservation and Forestry to Convene a Stakeholder Group Tasked with a Comprehensive Overhaul and Modernization of the State Subdivision Laws (Rep Ducharme)

2. *BRIEFINGS*

- Land Use Regulation in Unorganized Territories – Land Use Planning Commission

Ben Godsoe, Acting Executive Director

- Land Use Regulation by Department of Environmental Protection (SLODA, Stormwater & NRPA)

Jessica Damon, Land Licensing Division Director, DEP (with Rob Wood, Director, Bureau of Land Resources, DEP & Mike Mullen, retired DEP Land Division Director for Q&A support)

- Land Use Regulation by Municipalities

- Lee Jay Feldman, Town of Kennebunk, Deputy Director of Community Development)
- Joan Walton, Director, Municipal Planning Assistance Program, MCOA
- Tanya Emery, Advocacy Manager, MMA

3. *COMMITTEE DISCUSSION*

4. *ADJOURN*



MAINE OFFICE OF Community Affairs

The Maine Office of Community Affairs (MOCA) is a one-stop shop for communities in Maine to find resources, funding, and support to build a more resilient future. MOCA aligns state programs to better serve communities and partners with other organizations in ways that foster success.

By combining several programs across state government, MOCA is equipped to answer questions and provide information about:

Code Enforcement	Code enforcement officer training, certification, and management, and information about Maine's building and energy codes
Community Resilience Partnership	Grants and technical assistance for communities to reduce carbon emissions, transition to clean energy, and increase resilience to climate impacts
Maine Floodplain Management Program	Floodplain ordinances, flood insurance requirements, FEMA flood hazard mapping, and the National Flood Insurance Program
Housing Opportunity Program	Municipal land use technical assistance, housing planning grants, and data collection and analysis to increase housing production to meet statewide and regional housing goals
Maine Coastal Program	Resources for managing the coastal zone for the public benefit
Municipal Planning Assistance Program	Municipal land use technical assistance, comprehensive planning, land use ordinances, subdivision and development review, and mapping
State Resilience Office	Support for regional initiatives to protect against extreme weather
Volunteer Maine	State service opportunities such as Maine Service Fellows and AmeriCorps, volunteer management, and volunteer training

In the future, MOCA aims to:

- Make it easier to identify funding opportunities that are a good fit for the community's needs
- Bring together guides, model ordinances, successful project examples, and other support for municipalities
- Improve state climate resilience data, including inland and coastal floodplain maps to assist communities in planning decisions
- Establish coordination between grant programs and activities across state agencies
- Work with regional organizations and nonprofits to bring service delivery closer to the community

Contact: info.moca@maine.gov

For more information, visit the MOCA website at www.maine.gov/moca.

A central phone line is coming soon; check the MOCA website for more information.

STATE RESILIENCE OFFICE



MAINE OFFICE OF
**Community
Affairs**

◆ Our Mission

The State Resilience Office (SRO) works to improve the ability of Maine communities to prepare for and thrive within a changing climate.

◆ SRO's objectives are:

- Improve access to data about inland and coastal flooding, sea level rise, wildfire, extreme heat, and other hazards
- Increase community and regional capacity to understand vulnerabilities, set priorities, and act to reduce risk
- Enable community and regional projects that protect against extreme weather and improve energy efficiency

◆ SRO achieves this by:

- Sharing information and tools to help communities plan for climate change impacts
- Leading networks of municipalities, state agencies, and service provider organizations to advance resilience-building opportunities
- Providing grant funding and technical assistance to increase community resilience, transition to clean energy, and improve energy efficiency
- Coordinating resilience efforts across state agencies

◆ Our History

SRO was established in 2025 through bipartisan legislation, LD 1 An Act to Increase Storm Preparedness for Maine's Communities, Homes and Infrastructure. SRO is funded by state dollars through LD 1 as well as federal dollars through a \$69 million Climate Resilience Regional Challenge grant from the National Oceanic and Atmospheric Association (NOAA).

SRO is housed within the Maine Office of Community Affairs (MOCA). SRO combines existing programs, including the Community Resilience Partnership and Floodplain Management Program.

◆ Our Future

Over the next four years, SRO will:

- Provide grant funding to communities through the Community Resilience Partnership
- Update community flood maps in places where they are decades out of date
- Expand regional support for local floodplain management
- Increase access to resilience planning information, including through an online Risk Data Hub
- Develop resources that help communities understand flood hazards and options for reducing risks
- Provide engineering assistance for "nature-based" approaches to infrastructure

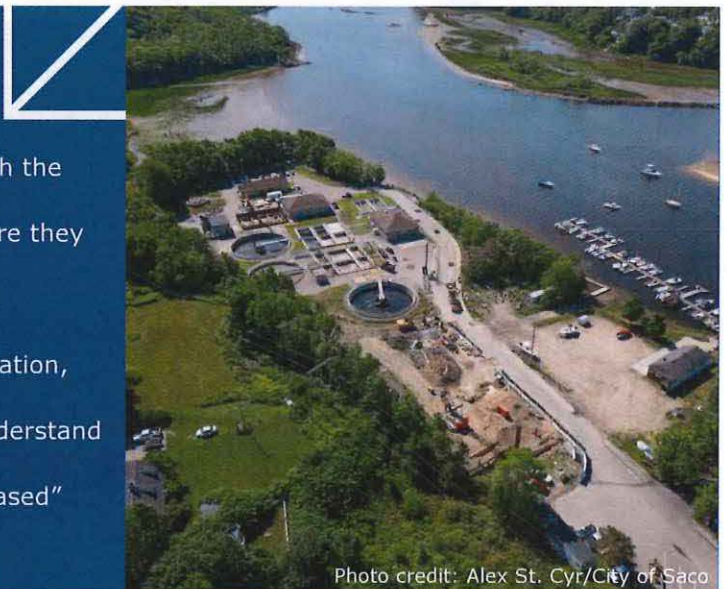


Photo credit: Alex St. Cyr/City of Saco

Contact: Brian Ambrette, Director, brian.ambrette@maine.gov



Housing Opportunity Program (HOP) Legislative Updates

LD 1829, LD 997, and LD 427 Technical and Financial Assistance

- The rule to support municipalities with implementation of LD 1829, LD 997, and LD 427 is currently open for public comment. The public comment period ends on October 31. HOP anticipates that the rule, with accompanying guidance, will be adopted in early January.
- HOP is also creating a new municipal grant program to provide funding to municipalities to update ordinances. This grant program will open for municipal applications in early January 2026, with additional rounds later in 2026.

LD 1184

- HOP is finalizing contracts with the Regional Councils to support municipalities with collection of building permit, demolition permit, and certificate of occupancy data. Collection of data will take place between January and March 2026.
- A reimbursement program for municipalities with over 4,000 residents will open in early 2026 to reimburse those municipalities for 90% of the costs incurred to comply with the data collection requirements.

LD 1246

- HOP is leading a working group to study municipal impact fees. The first meeting of the group was held on October 8. A final report with recommendations is due to HED by December 3.



LD 1829, LD 997, and LD 427 Frequently Asked Questions

What are LD 1829, LD 427 and LD 997?

LD 1829, LD 427 and LD 997 are three pieces of housing legislation that passed in the 132nd Legislature. These pieces of legislation aim to reduce zoning and land use barriers to housing production at the municipal level.

- **LD 1829**
 - Addresses barriers to the creation of accessory dwelling units (ADUs) statewide, including fire sprinkler and residency requirements
 - Prohibits residential units created in designated growth areas from being counted towards rate of growth ordinances
 - Strengthens the affordable housing density bonus by requiring towns to provide qualifying projects with a one story height bonus
 - Provides that wherever residential uses are allowed, at least three dwelling units must be allowed per lot (four if the lot is in a designated growth area or served by public water/sewer)
 - Establishes new minimum lot size and density allowances for certain areas and zones.
 - Prohibits towns from requiring planning board review of structures with four or fewer housing units
 - Raises the exemption from local subdivision review for the construction or division of a structure, from two or fewer units to four or fewer units
- **LD 427** prohibits towns from requiring more than one off-street parking space per dwelling unit for residential developments located within a designated growth area
- **LD 997** requires that housing be permitted in areas zoned for commercial, non-industrial use, while allowing towns to set reasonable limits

When does my municipality need to comply with these pieces of legislation?

- **LD 427:** September 24, 2025
- **LD 997:** July 1, 2027 (for all municipalities with zoning)
- **LD 1829:** For most portions of LD 1829:

October 21, 2025

- July 1, 2026, for municipalities that adopt ordinances through town/city council form of government
- July 1, 2027, for municipalities that adopt ordinance through town meeting form of government

For additional information on what implementation dates apply to your municipality, please reach out to the Housing Opportunity Program at housing.moca@maine.gov.

Will the Housing Opportunity Program engage in rulemaking for these laws?

Yes. The Program's proposed rule is open for public comment until October 31. To view the proposed rule, please visit www.maine.gov/decd/housingopportunityprogram. If you would like to submit public comment, please email hilary.gove@maine.gov. The Program anticipates rule adoption in early January.

Is there funding available to support my municipality with ordinance amendments to comply with this legislation?

Yes. The Program is creating a new grant program to provide financial support to municipalities implementing these housing laws. The first round of grant funding will be open to municipal applications in January 2026. The Program anticipates opening multiple grant rounds in 2026. The Program highly encourages municipalities to apply early for this funding.

What resources will be available to support my municipality with implementation?

The Program is in the process of creating technical assistance documents to support municipalities with implementation. This includes a rule and an updated guidance document with new graphics and FAQs. The Program also anticipates creating additional technical assistance documents in 2026.

To prepare for implementation of these laws, what should my municipality do?

The Program encourages municipalities to review the rule, guidance document, and apply for funding in January 2026. Also, municipalities should review any existing comprehensive plans to determine the availability of public water and public sewer (if applicable) and where designated growth areas are located (if applicable). This will help your municipality determine where additional density and certain parking requirements are allowed.

Have more questions?

Contact the Housing Opportunity Program, within the Maine Office of Community Affairs, at housing.moca@maine.gov.

section 4314, subsection 3 and section 4352, subsection 2, expiration of a finding of consistency pursuant to this subsection does not itself make a comprehensive plan inconsistent with the procedures, goals and guidelines established in this subchapter.

Sec. 45. 30-A MRSA §5953-D, sub-§3, ¶D, as amended by PL 2011, c. 655, Pt. JJ, §27 and affected by §41 and amended by c. 657, Pt. W, §5, is further amended by amending subparagraph (2), division (a) to read:

(a) Has adopted a comprehensive plan that is determined by the ~~Executive Department, former State Planning Office or the~~ Department of Agriculture, Conservation and Forestry to be consistent with section 4326, ~~subsections 1 to~~ 4.

Sec. 46. State agency rules. Notwithstanding the Maine Revised Statutes, Title 30-A, section 4312, subsection 4, rules initially adopted by the state agency responsible for the administration of the growth management program under Title 30-A, chapter 187, subchapter 2 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. As part of the rule-making process under this section, the state agency responsible for the administration of the growth management program shall define the term "downtown."

Sec. 47. Stakeholder group. Prior to initiating rulemaking as required by this Act, the state agency responsible for the administration of the growth management program under the Maine Revised Statutes, Title 30-A, chapter 187, subchapter 2 shall convene a stakeholder group for the purpose of soliciting input on the development of rules necessary to implement Title 30-A, chapter 187, subchapter 2, as amended by this Act. The Joint Standing Committee on Housing and Economic Development must be notified of and invited to all meetings of the stakeholder group.

Sec. 48. Develop guidance for public participation. The state agency responsible for the administration of the growth management program under the Maine Revised Statutes, Title 30-A, chapter 187, subchapter 2 shall develop guidance materials describing strategies for soliciting, encouraging and incorporating public input into the development of a comprehensive plan. At a minimum, the guidance materials must include:

1. Strategies to solicit input from all demographic groups of residents, including historically underrepresented people, through a series of public events and activities, including hands-on workshops, work sessions or focused roundtable meetings;
2. Effective methods to advertise events and activities through a combination of print and digital platforms in advance of the events and activities;
3. Multiple methods to provide opportunities for the public to contribute ideas, discuss key issues facing the community, set priorities and develop policies and strategies to address local challenges, including, but not limited to, seeking input through digital and paper surveys, questionnaires, visual preference surveys and other means;
4. Methods to analyze the public input and use the input to prepare a draft of the comprehensive plan and meet the requirements for a comprehensive plan under Title 30-A, section 4326; and
5. Ways to make a draft comprehensive plan easily accessible to the public to solicit feedback from the public on the draft comprehensive plan.

Sec. 49. Comprehensive plan guide. The state agency responsible for the administration of the growth management program under the Maine Revised Statutes, Title 30-A, chapter 187, subchapter 2 shall prepare a guide to assist municipalities in choosing among various approaches to comprehensive planning. A place type approach must be included as one of the options.

Sec. 50. Technical assistance materials. The state agency responsible for the administration of the growth management program under the Maine Revised Statutes, Title 30-A, chapter 187, subchapter 2 shall prepare technical assistance materials regarding how to use place types or similar planning tools in comprehensive planning. Persons with experience in using place types and similar planning tools in comprehensive planning must be consulted by the state agency during the process of preparing the technical assistance materials.

Sec. 51. Planning tools partnering. The state agency responsible for the administration of the growth management program under the Maine Revised Statutes, Title 30-A, chapter 187, subchapter 2 shall partner with at least 3 communities that use place types or similar planning tools to acquire information on how these tools can be used in communities of varying sizes, geographies and resources.

Sec. 52. Progress report. By January 15, 2026, the state agency responsible for the administration of the growth management program under the Maine Revised Statutes, Title 30-A, chapter 187, subchapter 2 shall provide an interim report on progress implementing this Act to the Joint Standing Committee on Housing and Economic Development. The committee is authorized to introduce legislation based on the report to the Second Regular Session of the 132nd Legislature.

Sec. 53. Application. This Act does not apply to a comprehensive plan under the Maine Revised Statutes, Title 30-A, chapter 187 that is submitted to the state agency responsible for the administration of the growth management program under Title 30-A, chapter 187, subchapter 2 for a consistency review within 24 months after the final adoption of rules necessary to implement the provisions of this Act unless the relevant municipality or multimunicipal region specifically requests that this Act be applied to that municipality's or multimunicipal region's submission and the state agency authorizes that application.

Development Ready Advisory Committee

(b) Improve, expand or construct public facilities; or

(c) Acquire land for conservation or management of specific economic and natural resource concerns.

C. This subsection does not apply to state grants or other assistance for sewage treatment facilities, public health programs or education.

D. The office shall work with state agencies to prepare mechanisms for establishing preferences in specific investment and grant programs as described in paragraph B.

5. Application. Subsections 1 and 2 apply to a state capital investment for which an application is accepted as complete by the state agency funding the project after January 1, 2001 or which is initiated with the Department of Administrative and Financial Services, Bureau of General Services by a state agency after January 1, 2001.

§3235. Development Ready Advisory Committee

The Development Ready Advisory Committee, referred to in this section as "the committee," is established pursuant to section 12004-I, subsection 6-J to develop and maintain best practices for municipalities in infrastructure, land use, housing, economic development, conservation and historic preservation policy. The committee shall provide coordination and subject matter expertise to municipalities to advance the likelihood of success across the community development life cycle.

1. Membership. The members of the committee are as follows:

A. The director;

B. The executive director of the Maine Redevelopment Land Bank Authority under Title 30-A, chapter 204, or the executive director's designee;

C. The Commissioner of Economic and Community Development, or the commissioner's designee;

D. The Commissioner of Transportation, or the commissioner's designee;

E. The Commissioner of Environmental Protection, or the commissioner's designee;

F. The Commissioner of Agriculture, Conservation and Forestry, or the commissioner's designee;

G. The Director of the Maine Historic Preservation Commission, or the director's designee;

H. The Director of the Maine State Housing Authority, or the director's designee;

I. The Commissioner of Inland Fisheries and Wildlife, or the commissioner's designee;
and

J. The following members, selected by and serving at the pleasure of the director:

(1) Three representatives of municipalities in this State;

(2) Five representatives from the regional councils selected for geographic diversity and subject matter expertise;

(3) A representative of an organization that develops or funds affordable housing projects;

(4) A representative of a local or statewide organization promoting civil rights that has racial justice or racial equity as its primary mission;

(5) A representative of an organization that advocates for conservation of the natural resources of this State; and

(6) A representative of a regional or statewide economic development organization.

2. Duties. The committee shall develop best practices for community development intended to support the following goals:

A. Assisting communities in preparing for sustainable growth and in a way that maximizes financial return for state and local economies, improving quality of life for local residents, addressing housing needs for households of all income levels and advancing environmental protection and transportation goals and specific locally identified priority needs;

B. Providing technical assistance and coordination to communities to facilitate the adoption of best practices for growth across the following sectors:

(1) Transportation and infrastructure;

(2) Housing creation and preservation;

(3) Economic development;

(4) Conservation; and

(5) Historic preservation.

C. Assisting communities in designating priority investment areas in consultation with regional planning organizations, including but not limited to village centers, downtowns and adjacent neighborhoods, rural crossroads, high-impact corridors, working waterfronts and rural farmsteads;

D. Ensuring that development efforts are achievable by communities and based on the appropriateness of the location for development and the overall merit of the development project and the community's commitment to the development project based on the community's stated goals; and

E. Providing resources and education for municipalities to improve capacity to access funding sources for community development project implementation.

3. Chair and officers. The director shall serve as chair of the committee. The members of the committee shall annually elect one of its members as vice-chair and one of its members as secretary to set the agenda and schedule meetings. The committee may elect other officers, create subcommittees and designate their duties.

4. Voting rights. Each member of the committee has a vote.

5. Meetings. The committee shall meet at least twice a year.

6. Quorum. A majority of the members of the committee constitutes a quorum.

7. Staff support. The office shall provide staff support to the committee to carry out the purposes of this section.

~~— Sec. D-13. 5 MRSA c. 310-B, sub-c. 5 is enacted to read:~~

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

H.P. 820 - L.D. 1245

An Act to Establish a Fund and Council to Support Working Waterfronts

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §3207 is enacted to read:

§3207. Working Waterfront Information and Technical Assistance Fund

The Working Waterfront Information and Technical Assistance Fund, referred to in this section as "the fund," is established. Balances in the fund may not lapse and must be carried forward and used for the purposes of this section. The fund is administered by the office, and the office may accept and deposit in the fund money from private and public sources. In carrying out the purposes of the fund, the office shall work with the Department of Economic and Community Development, Office of Tourism; the Department of Marine Resources; coastal municipal and regional governments; and organizations and coalitions that have experience advocating for developing and protecting working waterfronts in the State and experience working with persons who use working waterfronts in the State. In collaboration with the entities listed in this section, the office shall use the fund in the production of working waterfront information campaigns and the provision of technical assistance to encourage protection and development of working waterfronts. As used in this section, "working waterfront" means a parcel of land abutting water subject to tidal influence or land located in the intertidal zone that is used primarily or predominantly to provide access to or support the conduct of commercial fishing and marine activities.

Sec. 2. 5 MRSA §3208 is enacted to read:

§3208. Working Waterfront Advisory Council

The Working Waterfront Advisory Council, established by section 12004-I, subsection 57-I and referred to in this section as "the council," is established to address issues facing the State's working waterfronts.

1. Membership. The director shall appoint up to 15 members to the council who, to the greatest extent possible, must represent federally recognized Indian nations, tribes or bands in the State, municipalities, nonprofit organizations, trade organizations, educational institutions, individuals and industries that represent or use working waterfronts in the

State. To the greatest extent possible, the membership of the council must reflect a geographic distribution along the coast.

In making appointments, the director shall consider and appoint residents of the State who have knowledge of problems facing working waterfronts in the State, have experience in advocacy relating to working waterfront issues or provide leadership in programs or activities that create and improve opportunities or spread awareness related to working waterfronts and persons that use them.

2. Term. A member's term is for 3 years. If a member is unable to complete the term, the director shall appoint a member pursuant to subsection 1 to serve out the unexpired portion of the term.

3. Officers; staff. The officers of the council are the chair and the vice-chair. The term of the officers is one year. The council shall elect a member of the council for each officer position at the first regular meeting of each year. The council is staffed by the office.

4. Meetings. The council shall meet at least 4 times per year. It may meet at other times at the call of the chair or the director.

5. Council report. By February 1, 2026 and annually thereafter, the council shall submit a report to the joint standing committees of the Legislature having jurisdiction over economic and community development matters and marine resources matters on the status of the condition of, the current and future challenges concerning and recommendations related to working waterfronts in the State, including, but not limited to:

A. How to best use state agencies, municipal governments, working waterfront industries and citizen groups to protect and improve access to working waterfronts in the State;

B. Matters of interest to working waterfront industries and communities in the State, including, but not limited to, geographic information systems mapping and inventory, climate and resilience, preservation and access, affordable workforce housing, climate-driven relocation, water quality and ecosystems, workforce development, health care access, the marine resources economy and economic development, including public-private partnerships, decarbonization and electrification and developing new working waterfronts; and

C. Information on relevant existing federal, state, municipal, educational organization and nonprofit organization data, plans, recommendations and studies that relate to working waterfronts in the State and updates on progress made in state plans that include references to working waterfronts.

After reviewing the report, either joint standing committee may report out legislation to implement any recommendations contained in the report.

6. Director report. By February 1, 2026 and annually thereafter, the director shall submit a report to the joint standing committees of the Legislature having jurisdiction over matters related to the office on the status of initiatives regarding working waterfronts, including information from coalitions, task forces and engagements with municipal and tribal governments. After reviewing the report, either joint standing committee may report out legislation to implement any recommendations contained in the report.

Sec. 3. 5 MRSA §12004-I, sub-§57-I is enacted to read:

57-I.

<u>Marine</u>	<u>Working Waterfront</u>	<u>Not Authorized</u>	<u>5 MRSA §3208</u>
<u>Resources</u>	<u>Advisory Council</u>		

Sec. 4. Working Waterfront Advisory Council initial membership appointments. Notwithstanding the Maine Revised Statutes, Title 5, section 3208, subsection 2, in making the initial membership appointments to the Working Waterfront Advisory Council established pursuant to Title 5, section 12004-I, subsection 57-I, the Director of the Maine Office of Community Affairs shall make the initial membership appointment terms staggered so that approximately 1/3 of the members are appointed for a term of 3 years, approximately 1/3 of the members are appointed for a term of 2 years and approximately 1/3 of the members are appointed for a term of one year.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

MAINE OFFICE OF COMMUNITY AFFAIRS

Working Waterfront Information and Technical Assistance Fund N542

Initiative: Provides ongoing allocations to establish the Working Waterfront Information and Technical Assistance Fund.

OTHER SPECIAL REVENUE FUNDS	2025-26	2026-27
All Other	\$500	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$500	\$500

LD 161***Resolve, Directing the Department of Agriculture, Conservation and Forestry to Convene a Stakeholder Group Tasked with a Comprehensive Overhaul and Modernization of the State Subdivision Laws*** (Rep Ducharme)

Bill Summary:	Requires DACF to convene a stakeholder group to overhaul and modernize subdivision laws applicable to residential developments found in Title 12, Title 30-A and Title 38 (not a legislative study under J.R. 353)
Cmte. Discussion:	<ul style="list-style-type: none"> ➤ Is DACF the appropriation primary state agency? ➤ Is the membership list complete? ➤ Only 1 member from each chamber ➤ HED is not the only committee with jurisdiction over subdivision laws (send report to ACF & ENR?) ➤ 2-year study with an interim and final reports? ➤ Is list of policy considerations complete?

LD 128***An Act to Support Permitting of Certain Multifamily Housing Developments Under the Site Location of Development Laws*** (Sen Pierce)

Bill Summary:	<p>Submitted by DEP to make the following changes to site location of development laws (38 MRSA ch. 3, subchapter 1, Article 6):</p> <ul style="list-style-type: none"> ➤ <u>Updates exemption of certain residential housing developments</u> (secs. 1, 2 & 4) The following residential housing projects are exempt from site location of development review when the development is for "single-family, detached, residential housing." DEP proposes to amend this phrase to read "detached residential housing designed to accommodate up to 4 families and to clarify that the phrase "detached residential housing" includes ADUs: <ul style="list-style-type: none"> • the subdivision of 20 acres into 5 or more lots (within a 5-year period); and • a subdivision of 15 or more lots when located in a municipality that meets certain criteria specified in statute. ➤ <u>Adds a new exemption</u> (sec. 3) Land or water areas located within lots used for detached residential housing do not count toward the 20-acre threshold for review. ➤ <u>Permit by rule process</u> (sec. 5) Clarifies that DEP may establish a permit by rule option under the Site Location of Development Act (and the rules are routine technical)
---------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------


Technical issue:	DEP testified that there is a drafting error on page 1, line 39. The phrase “provided that” was changed by ROS to “unless.” This changes the meaning. DEP suggests changing “provided that” to “as long as” (which meets ROS preferences)
New technical issue:	P.L. 2025, c. 385 (LD 1829) adds a definition of ADU into Title 30-A, §4301. This bill adds language that includes “accessory dwelling units in accordance with Title 30-A, section 4364-B” (p. 1, lines 11-12). Section 4364-B is not a definition. Should the cross reference be changed?
Notes:	<ul style="list-style-type: none">➤ Intended to be consistent LD 2003 changes to Title 30-A, Land Use Regulation (subchapter 3) which set municipal threshold to allow at duplexes, ADUs and up to 4-units (in designated growth area;)➤ Removing these subdivision from review under the Site Location of Development Act does not exempt the project from review under the Stormwater Management Law (municipality + disturbs 1+ acre), Natural Resources Protection Act (in, on or adjacent to protected natural resource), DHHS rules for subsurface wastewater disposal (septic systems) or the Mandatory Shoreland Zoning Act
Cmte. Discussion:	Should 3- or for 4-unit developments be exempt from SLODA review only if located in designated growth areas or served by public sewer/water?

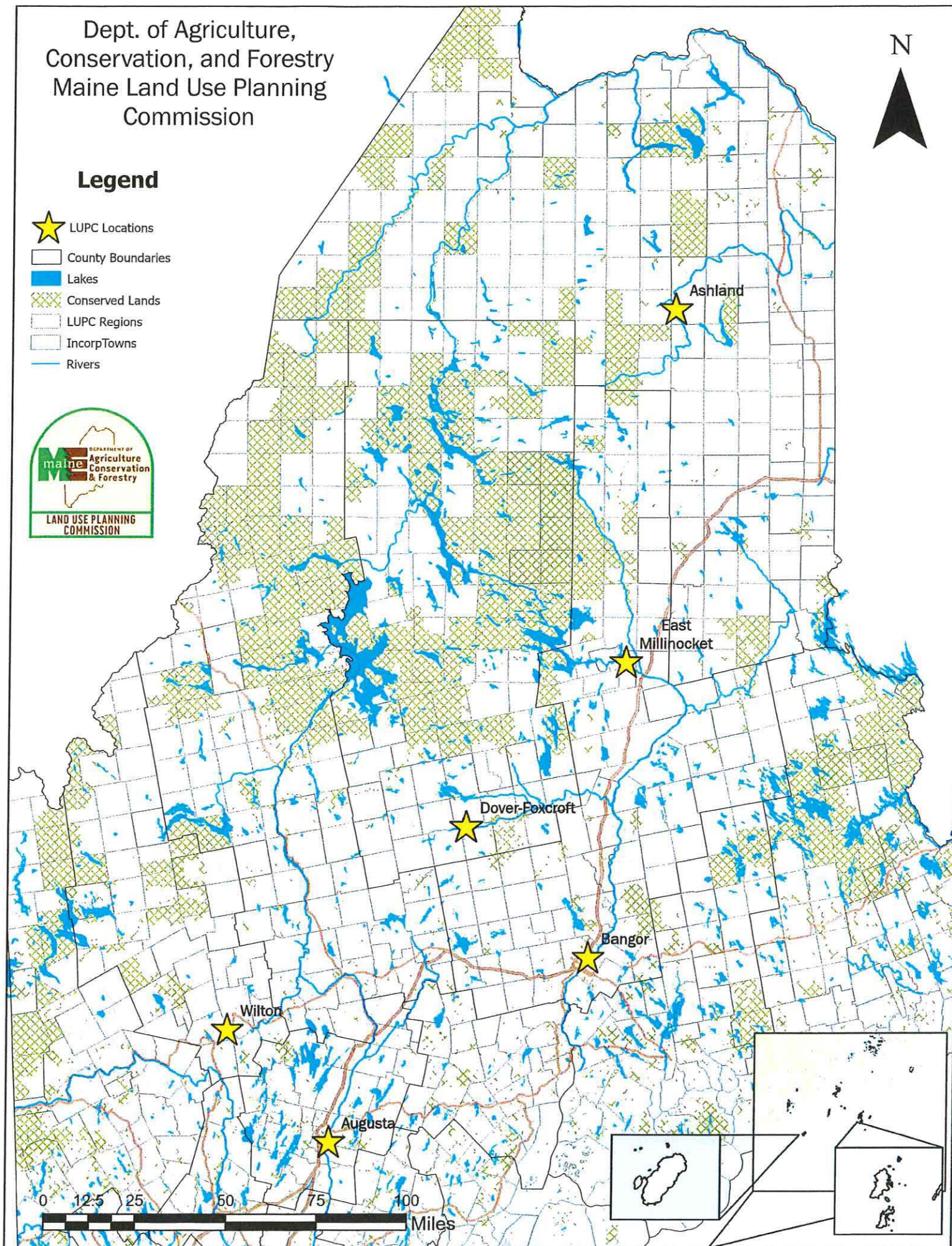
Dept. of Agriculture,
Conservation, and Forestry
Maine Land Use Planning
Commission

N



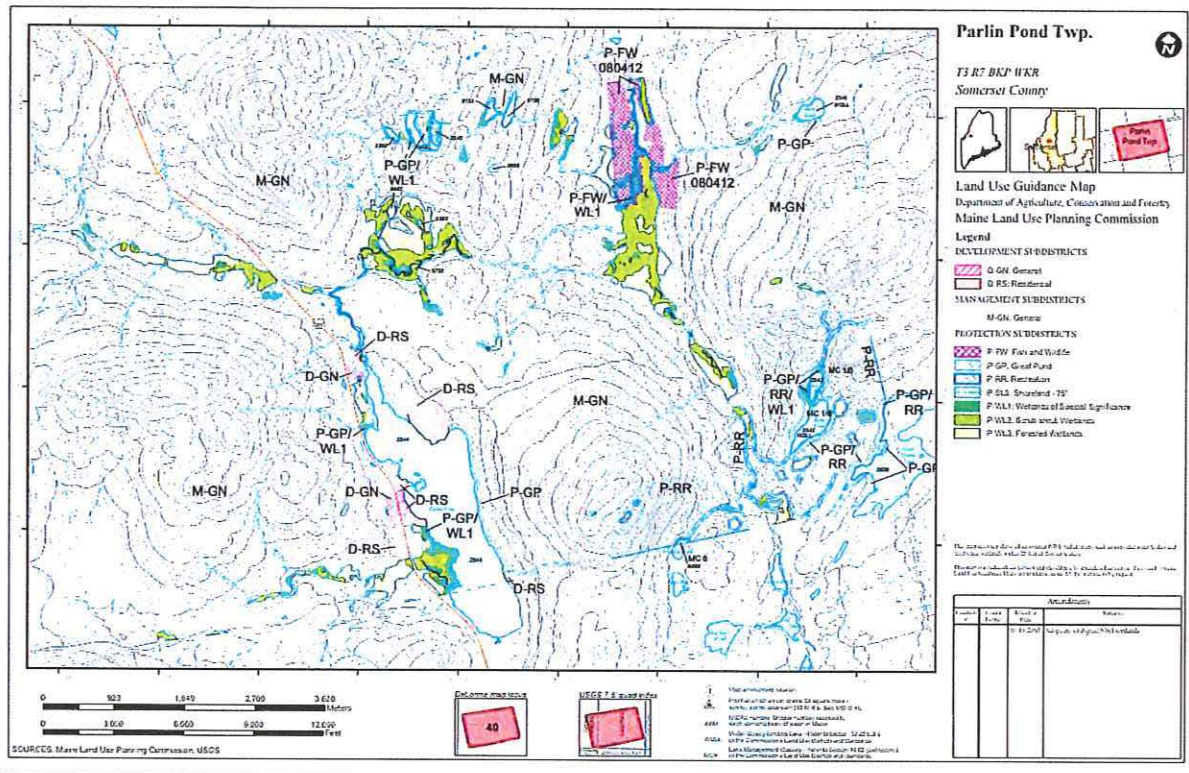
Legend

-  LUPC Locations
-  County Boundaries
-  Lakes
-  Conserved Lands
-  LUPC Regions
-  IncorpTowns
-  Rivers



HED Joint Standing Committee Briefing: Subdivision in the Unorganized Territories

Acting Executive Director, Ben Godsoe, 10/22/2025



1. Subdivision is an allowed use with a permit in certain zones. This system paces development and incentivizes locations where services can be provided efficiently.
2. Certain-sized subdivisions trigger the Site Location of Development Act and are regulated by the DEP,¹ and the LUPC has a certification role.
3. The Unorganized Territories include property owners who may have different goals for their property, ranging from land management and conservation to development. Examples include: industrial forest landowners, farms, renewable energy, land trusts, seasonal homeowners, and family-owned properties.
4. There are many exemptions to the definition of Subdivision in Title 12 and Chapter 10 of the Commission's rules. Some of the exemptions are the same as in the municipal world, but others are unique to the LUPC's rural service area. Not every property owner seeks to develop their land through a subdivision, and the list of exemptions in Title 12 has long been used to accomplish these goals.

¹ Five or more lots during any five-year period that occupy greater than 20 acres, or 15 or more lots during any five-year period for single family residential development that occupy greater than 30 acres.



Department of Environmental Protection Land Regulations

October 2025

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

Protecting Maine's Air, Land, and Water

1

Maine Land Laws Applicable to Housing Developments

- Site Location of Development Act
- Stormwater Management Law
- Natural Resources Protection Act
- (NOTE: DEP also oversees Mandatory Shoreland Zoning Act)



MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

www.maine.gov/dep

2

Site Location of Development Act

§481. Findings and purpose

The Legislature finds that the economic and social well-being of the citizens of the State of Maine depends upon the location of state, municipal, quasi-municipal, educational, charitable, commercial and industrial developments with respect to the natural environment of the State; that many developments because of their size and nature are capable of causing irreparable damage to the people and the environment on the development sites and in their surroundings; that the location of such developments is too important to be left only to the determination of the owners of such developments; and that discretion must be vested in state authority to regulate the location of developments which may substantially affect the environment and quality of life in Maine.



MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

www.maine.gov/dep maine.gov/dep

3

Site Law Jurisdiction

- Effective January 1, 1970
 - 20-acre developments, subdivision (5 lots on greater than 20 acres), structure greater than 60,000 square feet
- In 1975 structure was defined as three acres stripped, graded and not revegetated
- In 1996, two categories of subdivisions were created, residential and commercial. A residential subdivision was defined as a development that included single detached residential housing on 15 lots or more on 30 acres or greater in to be offered for sale in any five-year period.



MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

www.maine.gov/dep maine.gov/dep

4

Site Law Standards

Chapter 375: No adverse environmental effect

- Air quality
- Stormwater
- Surface water/groundwater
- Buffers
- Noise
- Historic sites
- Unusual natural areas
- Scenic character
- Wildlife and fisheries



MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

www.maine.gov/dep maine.gov/dep

5

Other Site Law standards

- Developer must demonstrate **financial capacity** and **technical ability**
- **Soil type** must be appropriate for the development (considering standard engineering practices)
- Must have adequate **provision for utilities**: Drinking water, wastewater, solid waste
- Consideration of **flood hazard** to development or created by development
- Same **blasting standards** that apply to quarries



MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

www.maine.gov/dep maine.gov/dep

6

Stormwater Management Law

- Effective July 1, 1997
 - Applicable to projects that result in one acre of more of impervious area or 20,000 square feet in a watershed most at risk
- In 2005 amended to include any regulated activity that disturbs one acre or more
 - Permit-by-rule (PBR) for <5 acres developed and <20,000 sq. ft. or <1 acre impervious



M

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

www.maine.gov/dep
maine.gov/dep

7

Natural Resources Protection Act (NRPA)

- Rivers, streams and brooks
- Lakes (Great Ponds)
- Freshwater wetlands
- Coastal wetlands
- Significant Wildlife Habitats
- Fragile Mountain Areas
- Coastal Sand Dunes



MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

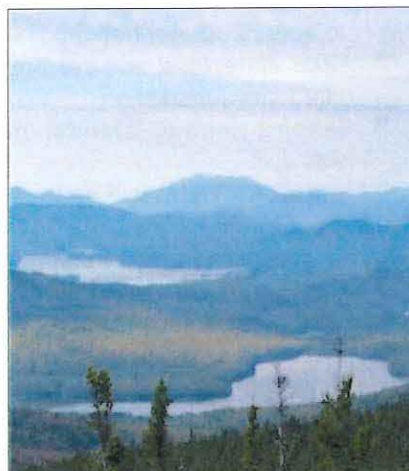
www.maine.gov/dep

8

NRPA Jurisdiction

Activities that require a permit:

- Alteration within 75 feet of certain resources
- Placing fill in a resource
- Construction of any permanent structure in a resource



MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

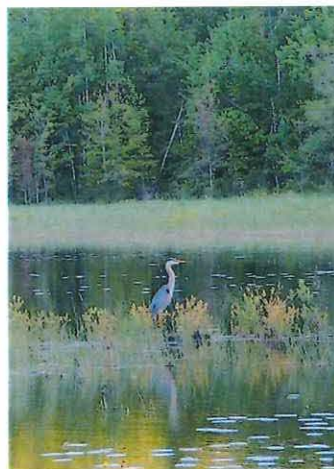
www.maine.gov/dep

9

NRPA Permits

- Permit-by-Rule
- Freshwater Wetland (Tier 1 or Tier 2)
- Full Permit (Individual permit or Tier 3)

Note: All required permits must be obtained prior to the start of any construction on the project site.



MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

www.maine.gov/dep

10

Significant Wildlife Habitat

- **Inland Waterfowl and Wading Bird Habitat:** wetland complexes with adjacent 250-foot habitat
- **Tidal Waterfowl and Wading Bird Habitat:** areas below HAT, no adjacency jurisdiction
- **Seabird Nesting Islands:** mapped by rule, mostly uninhabited rocky isles
- **Shorebird Habitat, Feeding and Roosting Areas:**
 - feeding areas: intertidal areas with 100-foot buffer above HAT
 - roosting areas: nearshore areas with 250-foot buffer
- **Significant Vernal Pools:**
 - "significance" based on spring surveys for egg masses of wood frog, yellow-spotted or blue-spotted salamanders; fairy shrimp
 - 250-foot "critical terrestrial habitat" around pool



MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

www.maine.gov/dep maine.gov/dep

11

Compensation Triggers

- Coastal wetland alteration that covers, removes or destroys marsh vegetation
- >500 square feet of impacts to WOSS or Coastal Wetland
- >15,000 square feet of impacts to freshwater wetlands
- Some impacts to river, stream brook or SWH



MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

www.maine.gov/dep

12

Site Location of Development Law

- Standards are broader than NRPA
 - Ex.) Can review any relevant wildlife impact, not just SWH
- Overall standard is still no unreasonable adverse impact



M

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

www.maine.gov/dep maine.gov/dep

13

Amendments and Revisions

- Amendment if change in project/activity will affect findings
 - Ex.) Increasing impervious area
- Minor revision for minor changes that won't affect findings



M

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

www.maine.gov/dep maine.gov/dep

14

Processing Times

- Published annually
- In general:
 - Stormwater: 90 days
 - NRPA: 120 - 150 days
 - Site Law: 195 days
 - Combined applications: Longer of applicable times



M

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

www.maine.gov/dep

15



Contact:

Jessica.Damon@maine.govwww.maine.gov/dep

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

www.maine.gov/dep

16

Land Use Law notes

I would like to take this opportunity to thank the committee for inviting me to be part of this important discussion.

I think in going last among this group is important in a sense because the municipalities are the group that provides the critical review of all of the Subdivisions and other parts of a project review as I will mention in the presentation.

If you have never been involved in the review process of a Subdivision, I have included a presentation for you that the Land Use group at the Department of Agriculture Conservation and Forestry asked me to develop on behalf of the new Planners coming to work here in Maine. As you can see today's subdivision law can be confusing as to what is a Subdivision and what isn't a subdivision?

The law at times can become a very interesting discussion amongst planners and lawyers on how the interpretation impacts land owners.

Subdivision Law:

The Subdivision law was created in 1971 based on the Lake Arrowhead development in Waterboro & Limerick where approximately 1700 acres was developed into its own census designated place with a lakeside community of just over 3,000 residents.

We now have 2 definitions of Subdivisions

- 1) The law MRS 4401 and
- 2) The Amendments (1829) allows 4 ADU's shall not be considered a subdivision

Many exemptions have made the law very difficult to understand

Thoughts: go from a differential set of standards and exemptions and require the subdivision review to be begin at 5 lots or units rather than the 3 or 4 lots/units and eliminate many exemptions in order to clean it up for clarity!

Subdivisions at the local level usually have a 3 Step process:

- Sketch which is a time for the planning board to meet informally no PH to provide the developer guidance on the project based on local regulation
- Preliminary Review which is when most of the heavy lifting in the review process is completed and making sure that the plan meets all of the regulations usually a PH at this juncture. The design may need to undergo some changes based on the comments during this part of the review.
- Final review is usually the clean up and makes sure the plan is ready for approval, all other reviews DEP, DOT etc. have signed off if needed and the final approval may be granted.

This process at its fastest is usually a 90 to 160 day process.

Maine DEP regulations:

There are several layers of review as it relates to subdivisions (Site Location of Development act) which under this law begins when you have 20 acres or more or 14 lots than:

There is the Chapter 500 Stormwater regulations

There is Wetland Impact permitting

Traffic permits from Maine DOT which has its' own threshold for review and also part of the DEP review

This process is taking approximately 18 months to two years to get a permit at this time.

Thoughts:

Currently there is a Municipal "Delegated Authority, Municipal Capacity" certification program

This program began in and around 1988! Currently there are only 17 town approved in the program, the last town updated was in 2014. Staff turnover may have created a vacuum and they may not even be aware they have this authority within the communities.

Municipal Capacity / Delegated Authority Status

Town	Delegated Site	Capacity Site	Capacity SW	Effective Dates, Comments
Auburn	X		X	1/25/89 – Subdivision (L-016027-06-A-N) 9/27/89 – Subdivision & Structure (L-016556-06-A-N) 9/15/08 – Stormwater Capacity reinstated by letter
Bangor	X		X	12/14/88 – Subdivision (L-014163-06-AA-N) 1/27/93 – Subdivision & Structure (L-017638-06-A-N) 9/15/08 – Stormwater reinstated by letter
Biddeford		X		3/9/99 – Subdivision & Structure
Brunswick		X		1/1/97 – Subdivision & Structure
Caribou		X		6/23/98 – Subdivision & Structure
Freeport			X	2/9/99 – Stormwater
Holden		X		10/16/97 – Subdivision & Structure
Kennebunk		X		1/1/97 – Subdivision & Structure
Lewiston	X		X	9/27/89 – Subdivision & Structure (L-016555-06-A-N) 4/23/99 – Stormwater; 9/15/08 stormwater reinstated by letter
Poland		X		10/29/15 – Subdivision and Structure
Portland	X		X	1/27/93 – Subdivision and Structure (L-017695-06-A-N) 3/3/99 – Stormwater
Saco	X		X	9/29/92 – Subdivision & Structure (L-017825-06-A-N) 4/1/99 – Stormwater
Sanford		X		1/1/97 – Subdivision & Structure
Scarborough		X		4/1/14 – Subdivision & Structure
Skowhegan		X		3/9/99 – Subdivision & Structure
Topsham	X		X	6/28/06 – Subdivision & Structure 6/28/06 – Stormwater
Wells		X		1/1/97 – Subdivision & Structure

Towns that no longer have delegation or capacity: Augusta (7/28/99), Belfast (7/28/99), Windham (3/8/08), Yarmouth (6/9/99)

This program should be pushed harder to get the review into the local hands. Many towns may not have internal capacity to become certified but they can retain an engineering firm on their behalf or even utilize the Regional Planning Organizations to act on their behalf.

The other approach can be to make the RPO a review agent for the DEP, they know the towns better than the DEP.

Both of these options can help streamline the process of permitting these developments.

The other issue to consider is that of the Service Center model which Even Richert discussed while Director of the State Planning Office during the early 1990's.

Being a service center means that you have the infrastructure and the tools to handle more development. Your community is the place to go in a region for all things services wise. These communities should be given incentives for encouraging affordable housing developments in their communities.

Department of Health and Human Services:

A division of DHHS oversees the State plumbing code. What makes this significant to Land Use regulations is that Septic system design and effluent requirements come out of here.

Technology on Septic system design has made huge strides in recent years; systems in some cases have much cleaner effluent at the end of the system and treatment. What has not happened during this same time-period is the idea that smaller lots be considered. Currently the minimum lot size on a new-engineered system is 20,000 square feet yet if you have a small lot say 5,000 square feet and have an old system to be replaced, you can obtain a permit for a replacement system!

Thoughts:

Re-examination of the minimum lot size for new systems should be considered and lowered allowing for small more affordable lots in the rural non-sewered areas.

Encourage more consolidated systems for developments rather than each individual lot needing its own system. This is allowed now but there needs to be more emphasis on the use of this technology for affordable housing

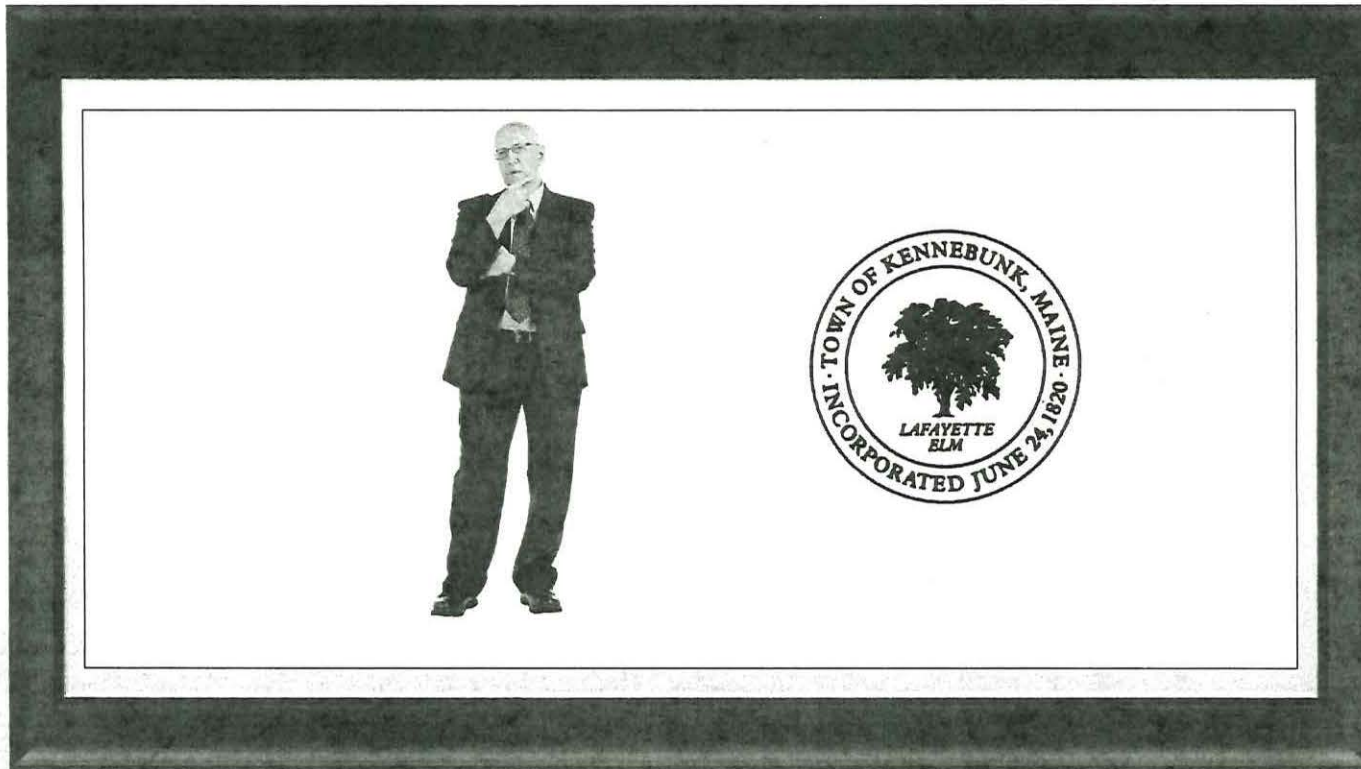
SUBDIVISIONS & SUBDIVISION LAW

- Lee Jay Feldman, Deputy Director of Community Development



-
- **In the Beginning**
 - **The subdivision law was created by the Legislature due to the large land split that occurred with the development of Lake Arrowhead in Waterboro and Limerick several hundred house lots were created at the time as vacation homes in the mid 1960's**



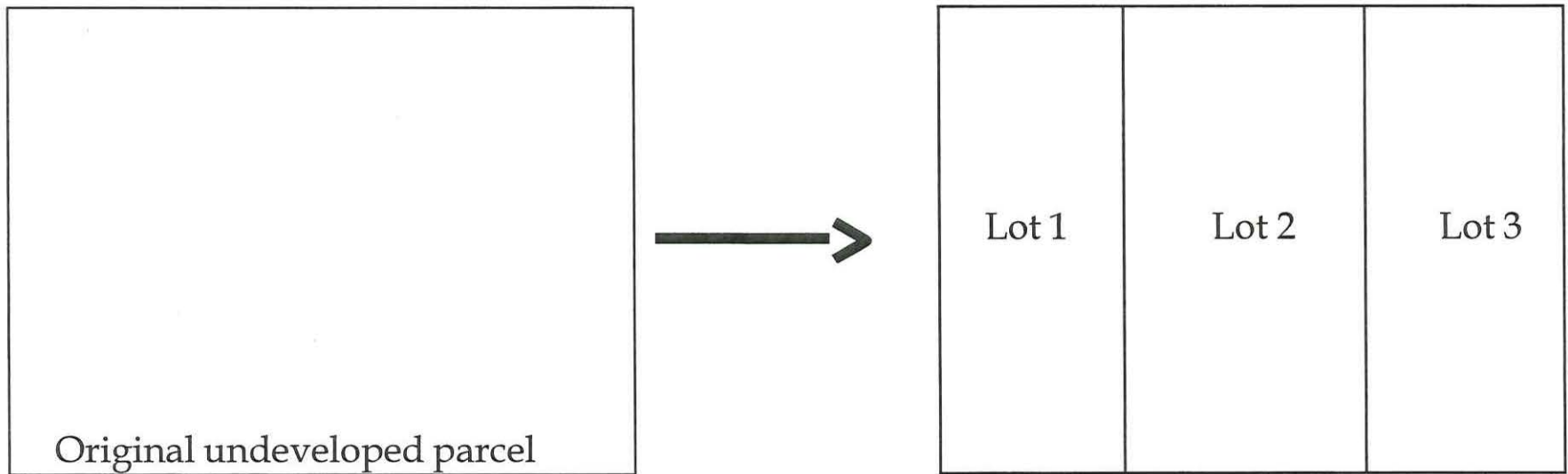


WHAT IS A SUBDIVISION

HOW DOES ONE CREATE A SUBDIVISION?

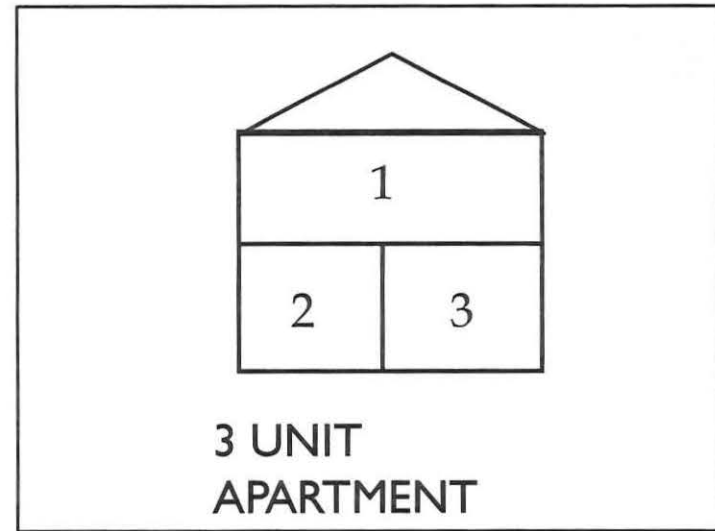
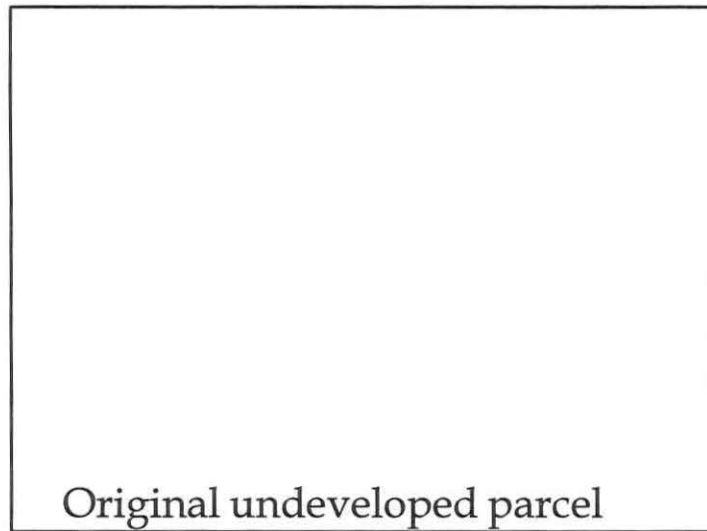
- 30-A M.R.S.A. §4401.4.
- The division of a tract or parcel of land into 3 or more lots within any 5 year period that begins on or after September 23, 1971.
- Includes the division of structures into 3 or more dwelling units, the construction or placement of 3 or more dwelling units, and the division of an existing structure used for commercial or industrial use into 3 or more dwelling units.





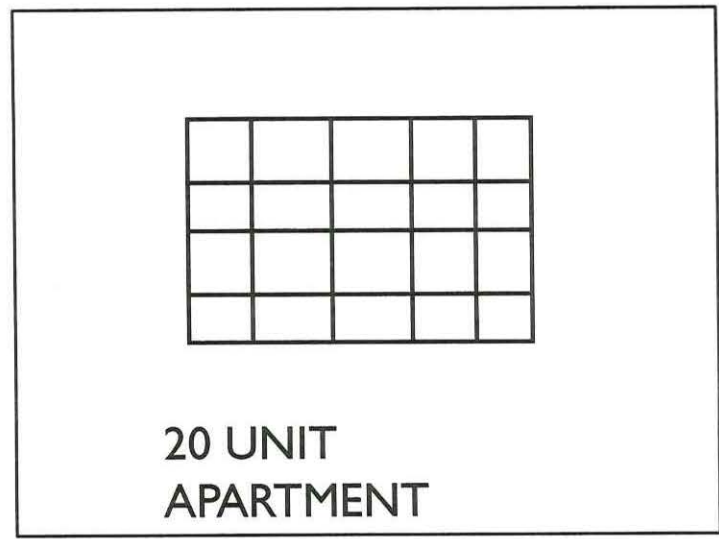
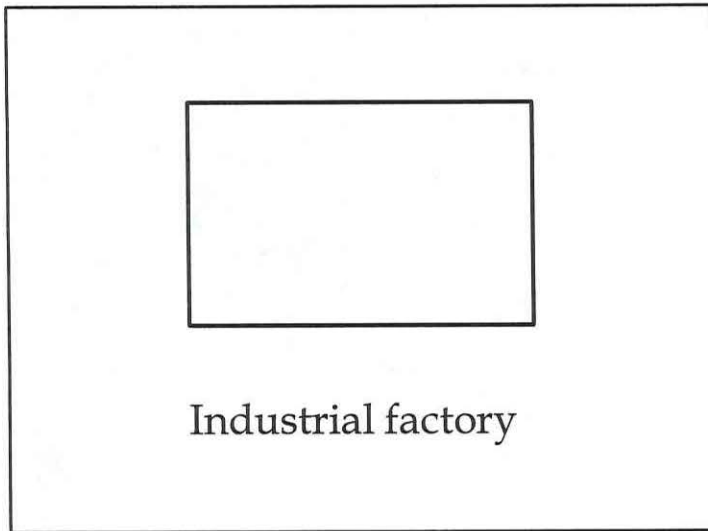
Division of a parcel into 3 or more lots





Construction or placement of 3 or more dwelling units
If the town considers these as a Site plan Review
Conditional Use or Special Exception Use and that
process is just as stringent as the Subdivision law this
may be used as well.





Division of an existing structure used for commercial or industrial use into 3 or more dwelling units



WHAT IS NOT
CONSIDERED
A
SUBDIVISION?
30-A M.R.S.A.
§4401.4.D.

- A division accomplished by devise (will and testament)
- A division accomplished by condemnation
- A division accomplished by order of court
- A division accomplished by gift to a person related to the donor; (Spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption) donor had property for 5 years prior to gift; if gift is sold within 5 years to unrelated person then gift is no longer exempt; gift cannot be more than $\frac{1}{2}$ assessed value of real estate
- A division accomplished by gift to a municipality
- A division accomplished by the transfer of land to abutting landowners; if exempt land is transferred within 5 years without all of the merged land then original transferred land no longer exempt
- An Out Sale lot accomplished before the subdivision however; the lot must be considered as part of the subdivision review just not numbered and reviewed for impacts.
- See MRSA 30-A 4401



WHAT IS NOT
CONSIDERED
A
SUBDIVISION?
30-A M.R.S.A.
§4401.4.

- Leased dwelling units are not subject to subdivision review if municipal reviewing authority has determined that other review exists at least as stringent as subdivision review – sometimes multifamily housing is reviewed under local Site Plan Review Ordinance
- (this is NOT site law)
- A municipality may expand definition of subdivision to include commercial or industrial uses
- The grant of a bona fide security interest in an entire lot that has been exempted from subdivision review, does not create a lot for purposes of subdivision review



EXCEPTIONS
TO
SUBDIVISION
LAW
30-A M.R.S.A.
§4402.

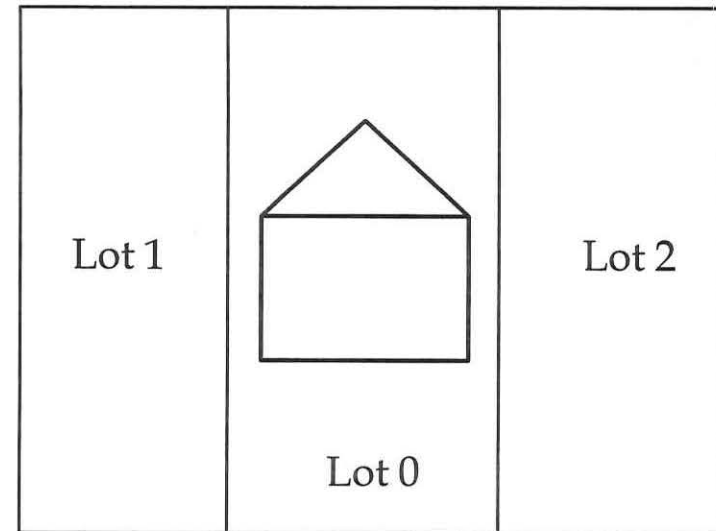
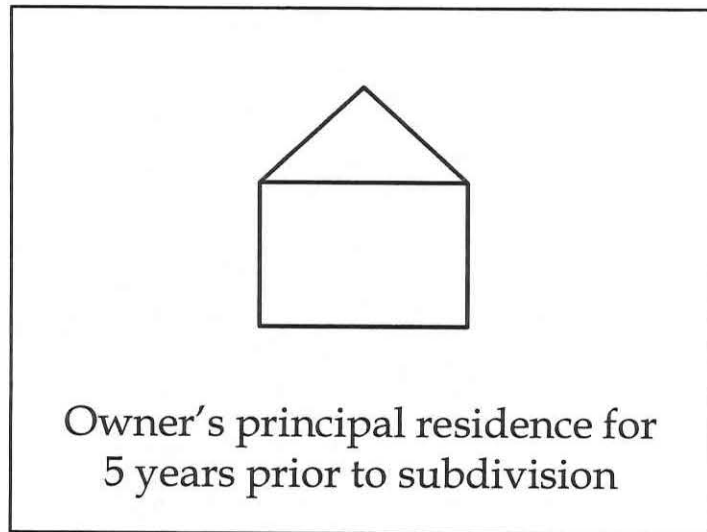
- Subdivisions approved prior to Sept. 23, 1971
- Subdivisions in actual existence on Sept. 23, 1971 that did not require approval under prior law
- A subdivision plan legally recorded in the proper registry of deeds prior to Sept. 23, 1971
- An airport layout plan with appropriate approval from MDOT and FAA
- A subdivision in violation of this law that has been in existence for at least 20 years, unless



SUBDIVISION
LAW EXISTS
TO HELP
PEOPLE
MAINTAIN
THEIR
COMMUNITIES

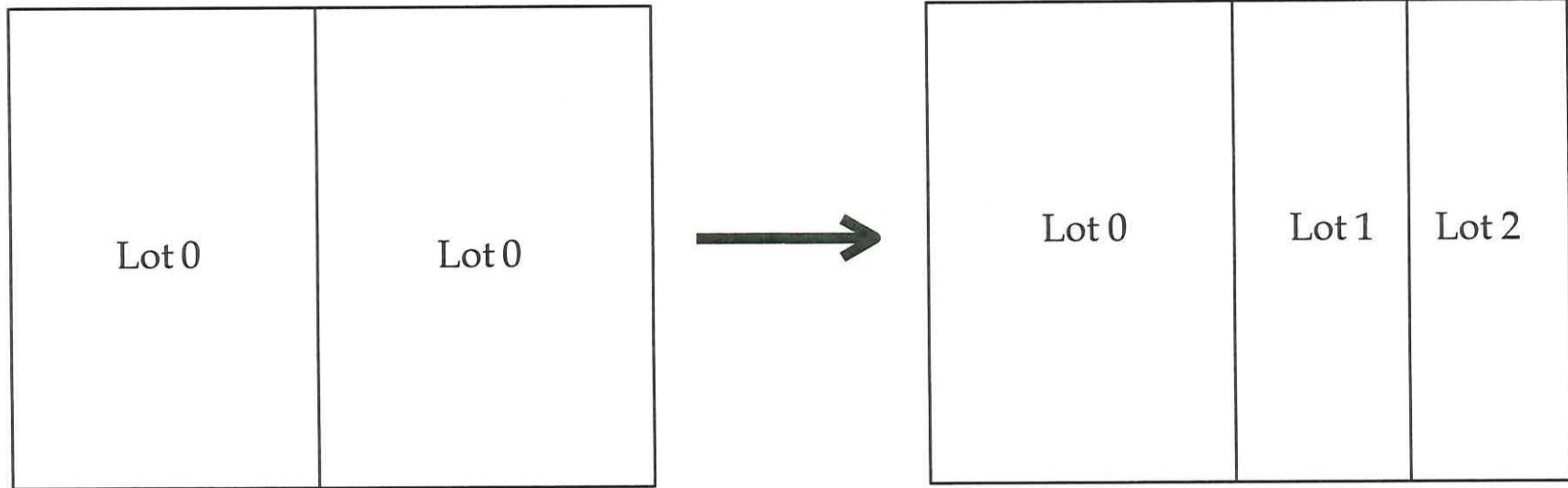
- Subdivision has been enjoined (forbid by legal action)
- Subdivision was denied, and denial was recorded in registry of deeds
- A lot owner was denied a building permit because subdivision was in violation of law, and such denial was recorded in registry of deeds
- Subdivision has been the subject of an enforcement action or order, and said action or order was recorded in registry of deeds Some, but not all, options for a landowner who is land rich and cash poor:





What is NOT considered a Subdivision?
30-A M.R.S.A. §4401.4.A.





Parcel subdivided in 1970

What is NOT considered a Subdivision?
30-A M.R.S.A. §4401.4.B.



14

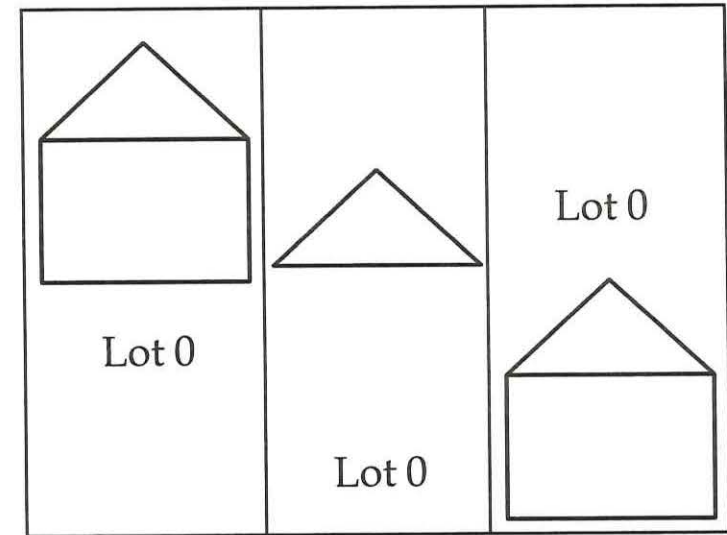
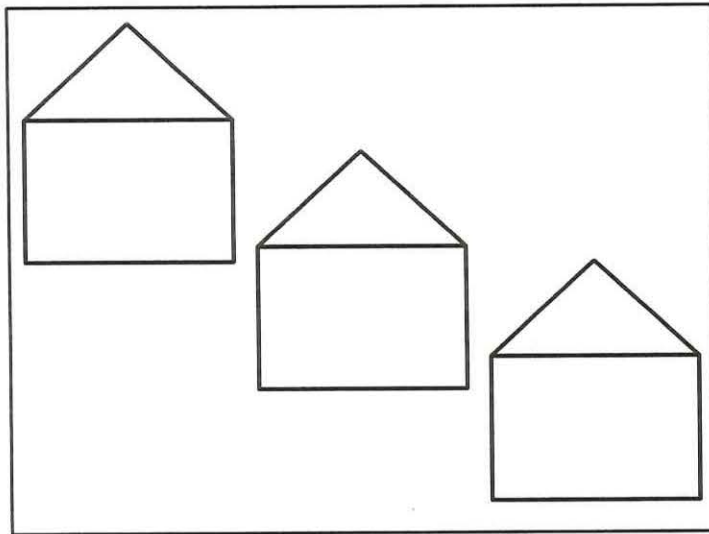
Original undeveloped lot in a municipality that has adopted an ordinance declaring that lots over 40 acres are not lots for purposes of subdivision law, when outside shoreland zone



Lot 0 45 acres	Lot 1 15 acres	Lot 2 15 acres
-------------------	-------------------	-------------------

What is NOT considered a Subdivision?
30-A M.R.S.A. §4401.4.C.

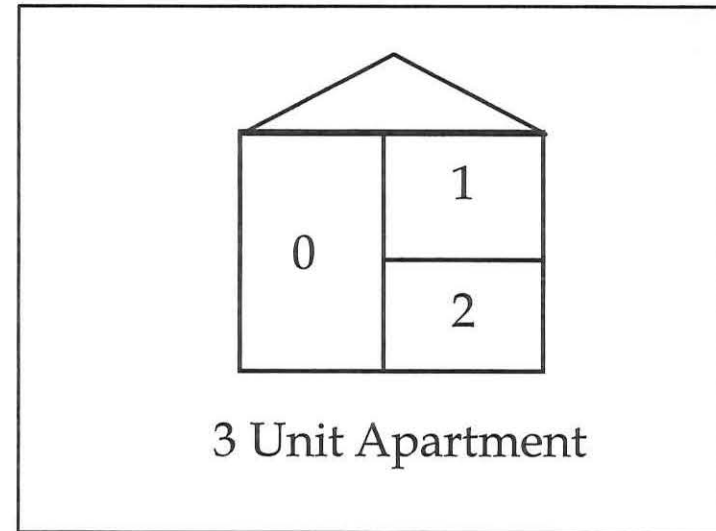
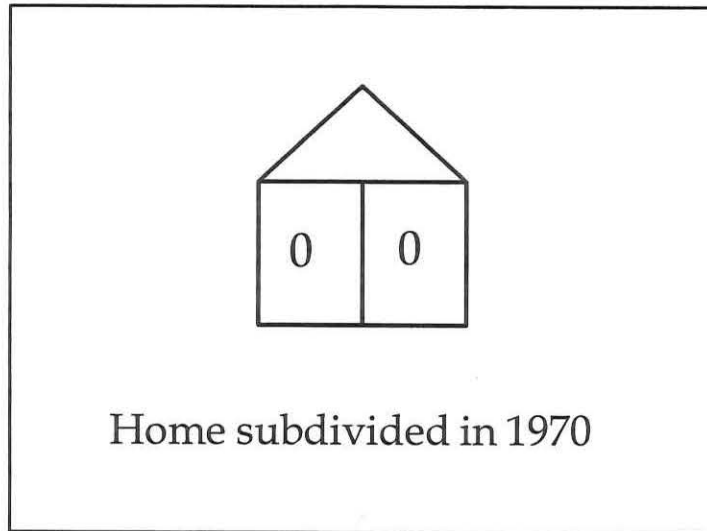




Permanent dwelling structures
legally existing prior to
Sept. 23, 1971

What is NOT considered a Subdivision?
30-A M.R.S.A. §4401.4.E.





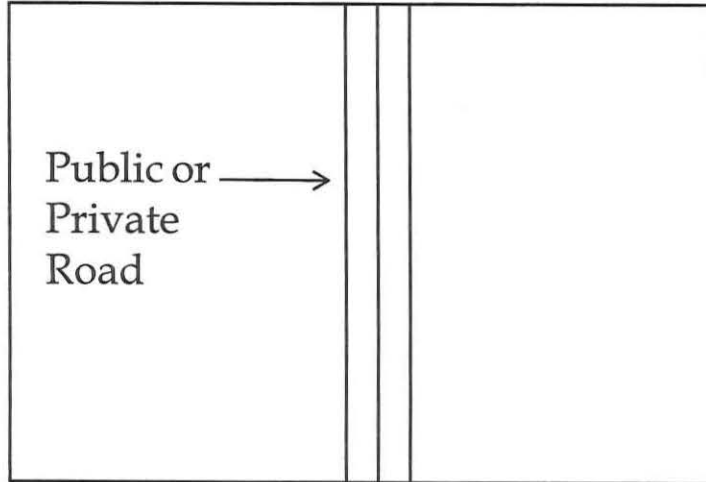
What is NOT considered a Subdivision?

30-A M.R.S.A. §4401.4.F.

Exemptions for dwelling units follow exemptions for land

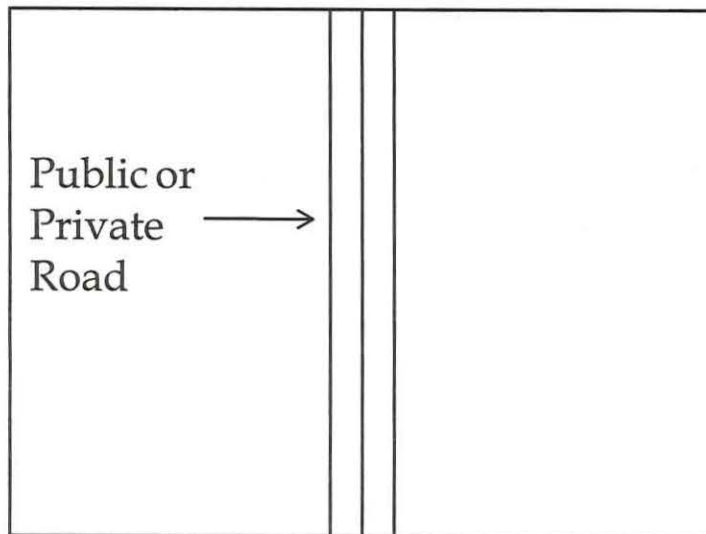


1 Parcel



Road established **after** Sept. 22, 1971

2 Parcels



Road established **before** Sept. 22, 1971

WHAT IS A TRACT OR PARCEL OF LAND?

30-A M.R.S.A. §4401.6.

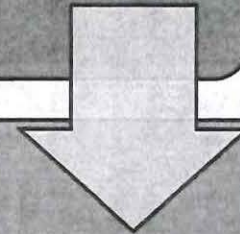
All contiguous land in the
same ownership



WHAT IS SUBDIVISION LAW?

30-A M.R.S.A. §4401 - 4407

- Before you create a subdivision, you must submit an application to the municipal reviewing authority demonstrating that your proposed subdivision meets all the review criteria as set in law.



Municipal reviewing authority is typically the Planning Board.



DO MUNICIPALITIES COLLABORATE ON SUBDIVISION?

- **1-A. Joint meetings.** If any portion of a subdivision crosses municipal boundaries, all meetings and hearings to review the application must be held jointly by the reviewing authorities from each municipality. All meetings and hearings to review an application under section 4407 for a revision or amendment to a subdivision that crosses municipal boundaries must be held jointly by the reviewing authorities from each municipality. In addition to other review criteria, the reviewing authorities shall consider and make a finding of fact regarding the criteria described in section 4404, subsection 19.
- The reviewing authorities in each municipality, upon written agreement, may waive the requirement under this subsection for any joint meeting or hearing.



OTHER INTERESTING TIDBITS

- Did you know that when a lot split occurs and the deed is executed (signed) the lot is official it does not have to be recorded in the Registry of Deeds to be a legal lot
- Waivers can be granted for Submission information and street standards only! Lots must meet the minimum lot size for the zone unless they are doing a cluster development.
- **Sales or other conveyances.** No person may sell, lease, develop, build upon or convey for consideration, or offer or agree to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved by the municipal reviewing authority of the municipality where the subdivision is located and approved under Title 38, chapter 3, subchapter I, article 6, where applicable, and subsequently recorded in the proper registry of deeds. *MRSA 4406 Enforcement; Prohibited Activities*
- Before signing a final subdivision plan, all conditions of approval, waivers and variances if granted by the Board of Appeals **MUST** be located on the plan to be recorded.
- All plans must be Stamped and Signed by the Engineer of record on the project or they should not be accepted for Planning Board



STANDARDS TO APPROVE A SUBDIVISION BY FOR YOUR NOTICE OF DECISION

- 11.1 Pollution
 - 11.2 Sufficient Water
 - 11.3 Impact On Existing Water Supplies
 - 11.4 Soil Erosion
 - 11.5 Traffic Conditions
 - 11.6 Sewage Disposal
 - 11.7 Impact On Municipality's Ability To Dispose Of Solid Waste
 - 11.8 Preservation Of Natural Beauty And Aesthetics.
 - 11.9 Conformance with comprehensive plan, zoning ordinance, and other land use ordinances.
 - 11.10 Financial and technical capacity.
 - 11.11 Impact on water quality or shoreline.
 - 11.12 Impact On Ground Water Quality Or Quantity
 - 11.13 Floodplain Management
 - 11.14 Identification Of Freshwater Wetlands.
 - 11.15 Storm Water Management.
 - 11.16 Reservation or Dedication and Maintenance of Open Space and Common Land, Facilities and Services
 - 11.17 Compliance with Timber Harvesting Standards
- These are found in MRSA 4404 Review Criteria



**MAINE MUNICIPAL
ASSOCIATION SINCE 1936**

60 Community Drive | Augusta, ME 04330-9486

1-800-452-8786 (in state)
(T) 207-623-8428
(F) 207-624-0129

**Briefing by the Maine Municipal Association to the
Housing & Economic Development Committee**

October 22, 2025

Intersection of Municipal and State Land Use Regulations

Maine municipalities are the primary regulators of land use, responsible for zoning ordinances, subdivision review, site plan review, building and land use permits. Municipalities are the front line of development—engaging directly with property owners, reviewing applications, issuing permits, and enforcing compliance. The state overlays municipal authority with broad regulatory frameworks, including Shoreland Zoning, Site Location of Development Act (SLODA), Natural Resources Protection Act (NRPA), and subdivision law. Recent legislation has created new layers of state-mandated rules that override local land use to encourage housing development, and there is more to come with working groups or studies currently examining permitting, land use, zoning, impact fees, etc. These myriad changes are reshaping how municipalities manage development, density, and infrastructure.

This moment presents an important opportunity to reaffirm the foundational principle of a well-functioning intergovernmental relationship. Doing so requires clarity in roles and respect for jurisdictional boundaries. Specifically:

1. The Legislature should focus on setting policy directions and articulating clear, outcome-oriented goals, not prescribing the methods of implementation. Micromanaging the “how” undermines local flexibility and creates friction in policy execution.
2. State agencies should be tasked—through funded legislative directives—with developing a range of implementation pathways that align with state policy objectives while recognizing the diversity of municipal contexts. Agencies are best positioned to offer technical expertise and administrative support, not to impose one-size-fits-all mandates.
3. Municipalities must be provided with adequate time, technical assistance, and financial resources to assess, select, and implement the most appropriate options. Without this, even well-intentioned state policies risk failure at the local level.

All levels of government benefit when each remains focused on its proper role. This is a critical juncture to reinforce the value of cooperative governance, but as a reminder that effectiveness depends on mutual respect, clarity of function, and shared accountability.

Key Areas of Complexity and Conflict

1. Infrastructure and Service Capacity Challenges

Higher-density development requires infrastructure: roads, sewer, water, schools, public safety. State mandates are triggering intensely dense development, especially under LD 1829, but local governments

are left to solve the infrastructure and fiscal challenges alone. Municipalities risk being overwhelmed by this increased cumulative burden on public infrastructure.

2. Overlapping and Duplicative Reviews

Large developments often require municipal subdivision review (roads, drainage, lot layout), and SLODA review (environmental impacts, stormwater, traffic, wetlands). This overlap can cause delay, redundancy, and confusion - especially in towns with limited staff capacity. Conflicting conditions and unclear sequencing between state and local approvals must be addressed to avoid duplication and streamline the review process to make best use of state and local capacity and expertise.

3. Limited Local Capacity

State laws are increasing in complexity and changing rapidly, while many towns lack full-time planners or code officers. Municipalities need consistent support to implement state mandates and manage housing review efficiently. One-time competitive grant programs are not sufficient to address this need. Without adequate staffing, enforcement becomes inconsistent, and applicants face long delays or unclear guidance. Updating ordinances and comprehensive plans require significant resources and being out of compliance introduces risk. Notably, not having a certified comprehensive plan can limit a municipality's ability to access various state and federal grants, loans or programs where consistency is a condition or a strong preference.

4. Subdivision Law Conflicts

Maine's Subdivision Law remains a flashpoint, evidenced by the many attempts to pick apart the complex and frequently amended statutes that are codified by reference in municipal ordinances. Municipalities and developers need clear definitions to prevent legal uncertainty and disputes. Current ambiguity invites conflict and litigation, while LD 1829 changes the landscape even further. The definition of subdivision interacts inconsistently with multi-unit development, lot splits, and transfers. Confusion persists around exemptions and applicability. By raising the threshold for what constitutes a subdivision under state law, requiring municipalities to allow more density in growth areas, and mandating streamlined review, the municipal role in shaping outcomes is further diminished.

5. Transitions

Municipalities are being forced to rewrite ordinances repeatedly to keep up with rapid-fire state involvement in local land use. Local ordinances must then be agreed upon by the community, and there is no clear pathway if state-mandated changes fail to pass at annual town meetings. Importantly, 87% (424) of Maine municipalities hold an annual town meeting. Rapid transitions in the regulatory framework introduce confusion as staff and developers are not clear which rules are in place at what point in the process, particularly for projects already in the pipeline.

Recommendations

1. Clarity

- 1.1. Clear, consistent definitions for subdivision, lot division, and multifamily development.
- 1.2. Updated model ordinances and detailed technical guidance from the state with ongoing opportunities for technical assistance.

- 1.3. Wholesale update of subdivision law with substantial municipal input.
- 1.4. Comprehensive approach to growth zones – identify the characteristics, the opportunities, the challenges – rather than the piecemeal approach currently underway.
2. ***Coordination***
 - 2.1. Streamlined state-local permitting process to reduce redundancy of reviews.
 - 2.2. Mechanisms for coordinated review between DEP and municipalities.
3. ***Capacity***
 - 3.1. Committed state support for training, technical assistance, and staffing is critical, not optional.
 - 3.2. Regional planning support, including consideration of parcel-level GIS assistance and other critical tools.

Maine municipalities are ready to partner with the state to achieve shared housing and growth goals. To do this, they need clear rules, adequate resources, and respect for local processes. State policy should empower towns, not bypass them. A successful land use system must align local knowledge with state priorities and ensure development happens in a way that communities can support, sustain, and afford.

Thank you for this opportunity to brief the committee. I am happy to answer any questions you may have.

Tanya Emery
Advocacy Manager
Maine Municipal Association

Land Use and Development – Actions that trigger Maine Statutes, Agencies, Programs, Personnel, and Connections

Action/Trigger	Statute	Agency	Bureau/Program	Personnel	Connections
Development proposals within the Unorganized Territory, not municipalities. Land use planning, development review, permitting, land use compliance/enforcement	Title 12, Conservation, Chapter 206-A Use Regulation Rules: Chapter 10 – Land Use Districts and Standards (10.25 Q Subdivision and Lot Creation)	DACF	Bureau of Resource Information and Land Use Planning (BRILUP)/ Land Use Planning Commission (LUPC)	LUPC Acting Executive Director Ben Godsoe, LUPC Acting Planning Manager, Stacy Benjamin	Certifications to DEP (Site Law, Metallic Mineral Mining, Waste) 38 MRS §489-A-1. LUPC Site Law Certification
Inquiries for technical assistance for organized municipalities. Reviews Comprehensive Plans for consistency with Title 30-A. Develops Rules to implement statutes.	Title 30-A Municipalities and Counties, Chapter 187 Planning and Land Use Regulation Subchapter 4 Subdivisions ¹ Minimum subdivision standards for all municipalities	MOCA	Municipal Planning Assistance Program (MPAP) Housing Opportunity Program ² (HOP)	MPAP Director Joan Walton HOP Coordinators Ben Averill and Hilary Gove	Comprehensive Planning; Rulemaking Rulemaking
Development proposals of state or regional significance that may substantially affect the environment ³ .	Title 38 ⁴ , Waters and Navigation, Article 6 Site Location of Development	DEP	Bureau of Land Resources (BLR)	BLR Director Rob Wood	§484. Standards for development (applies to subdivisions above certain sizes) §489-A. Municipal review of development (delegation of authority)
Development projects that disturb one acre or more of land area ⁵	Title 38, Waters and Navigation, Article 5-A Natural Resources Protection Act	DEP	Bureau of Land Resources (BLR)	Licensing Division Director Jessica Damon	<u>Chapter 500 Stormwater Management</u>
Land division of 2 lots in 5 years	Titles 12 and 38: Minimum Lot Size and Regulation of Construction and Permits for subsurface wastewater system permitting	DHHS		enforced by Local Plumbing Inspectors (LPIs)	LPIs are often Code Enforcement Officers who receive training through the Code Enforcement and Training Program, now at MOCA

¹ There are no MPAP Rules relating to subdivision, only minimum standards in statute (§4403 [Review Criteria](#)) and a [technical assistance document](#) available online.

² The HOP is formulating Rules to clarify the implications of LDs 427, 997, and 1829 regarding lot size, density allowances, use types and parking requirements within growth areas.

³ On land of water in excess of 20 acres; a structure or a subdivision as defined (see §482 [Definitions](#)): 5 or more lots during any 5-year period, division of a parcel into 15 or more lots in any 5-year period if on more than 30 acres, multiple exceptions; structure occupying more than 3 acres.

⁴ Title 38 also includes Article 2-B, Mandatory Shoreland Zoning, [Chapter 1000](#), administered by DEP, enforced by Municipal Code Enforcement Officers, who receive training through the Code Enforcement and Training Program, now at MOCA

⁵ DEP Chapter 500 Rule Applicability: a project that disturbs one acre or more of land area; a development that may substantially affect the environment and requires a site location of development (Site Law) ; changes to a project reviewed under the Stormwater Management Law or Site Law that require a modification of the project's permit, as described in Section 16; and certain discharges of stormwater to groundwater that may be exempt from licensing. Additional stormwater standards and requirements, eg. Maine Pollutant Discharge Elimination System (MEPDES) program and the Municipal Separate Storm Sewer System (MS4) program may also apply.