

**Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions
(Resolve 2021, ch. 59)**

**Suggested Recommendations from Commission Members
(UPDATED: 10/6/2021 4:47 PM)**

<u>Accessory Dwelling Units (ADU's)</u>	<u>Suggested by</u>
<ul style="list-style-type: none"> Permit Accessory Dwelling Units (ADU's) by Right: The Maine Legislature should follow New Hampshire's example and require that ADU's be permitted with limited regulation in all single-family zones. 	Commissioner Levine
<ul style="list-style-type: none"> Support and recommend final passage of L.D. 1312, An Act To Remove Barriers to Accessory Dwelling Units and Allow Accessory Dwelling Units where Single-family Houses Are Allowed concerning accessory dwelling units (carried over on the Special Appropriations Table). 	Speaker Fecteau Commissioner Hill Commissioner Totman
<ul style="list-style-type: none"> Amend/adopt ordinances to allow for the construction of accessory dwelling units (ADU), but give communities latitude to implement land use regulations that impact their scale, location and environmental impacts. 	Commissioner Dufour
<ul style="list-style-type: none"> Legalize accessory apartments 	Commissioner Jackson
<u>Single/Multi-Family Zoning</u>	<u>Suggested by</u>
<ul style="list-style-type: none"> Elimination of single-family zoning restrictions in residential zones across the state; allowing up to four residential units on all lots. With a sunrise clause to provide adequate time for municipalities to prepare for this change. 	Speaker Fecteau
<ul style="list-style-type: none"> Encourage the construction of 4-unit housing (see Rep. Arata's other recommendations for suggested strategies to accomplish this goal) 	Representative Arata
<ul style="list-style-type: none"> Place a referendum on each town's ballot for the June, 2022, election that states that a 4-unit multifamily home will be permitted on any lot where a single family home is allowed, subject to the same setback, frontage, etc. zoning ordinances. 	Representative Arata
<ul style="list-style-type: none"> Permit up to four units in single-family housing districts when public health and safety criteria are met (similar to sb 9 in California) 	Commissioner Jackson
<ul style="list-style-type: none"> Eliminate the reliance on multi-family only zones, thereby allowing for the location of mixed housing options in all residential areas. 	Commissioner Dufour
<ul style="list-style-type: none"> Prevent zoning that caps the number of multi-family housing units 	Commissioner Jackson
<ul style="list-style-type: none"> Address Exclusion through Single-Family Zoning Districts: The Legislature should set a standard that any "single-family zone" in communities over a certain size allow at least two housing units on every conforming lot. The details of such a proposal are important, as it is easy to find other ways to limit housing production, through tools such as lot area per dwelling unit, or parking requirements. There could be other reasonable regulations related to use intensity and public health, such as rules on septic systems and water supply. 	Commissioner Levine
<ul style="list-style-type: none"> Municipalities should be required to set-aside a certain percentage of its area for affordable, denser housing options free from regulatory or financial barriers (single family and multifamily). 	Director Brennan

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| <ul style="list-style-type: none"> • Tie application scoring for infrastructure grants to zoning that allows multifamily property and higher housing density, especially where there is public water and sewer. | Representative Arata |
| <ul style="list-style-type: none"> • Amend state statutes to allow for more dense development, when deemed environmentally sound, on properties served by private wastewater and drinking water systems. | Commissioner Dufour |

Fair Housing

Suggested by

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| <ul style="list-style-type: none"> • Add exclusionary zoning as a violation of Maine's fair housing statute. This would effectively trump an incentive program as any exclusionary zoning policies on the books in any municipality would be a violation of this Act. This would require a section be added to the law here. | Speaker Fecteau |
| <ul style="list-style-type: none"> • Emulate the Desegregate Connecticut policy, which sets the standard that zoning laws must: “affirmatively further fair housing,” language inspired by a related federal fair housing rule; promote housing choice and economic diversity in housing, including housing for both low and moderate-income households; address significant disparities in housing needs and access to educational, occupational, and other opportunities; expressly require the development of housing the state's consolidated plan for housing and community development says we need. | Commissioner Jackson |
| <ul style="list-style-type: none"> • Reduce the fear factor for becoming a landlord. Require Pine Tree Legal to represent landlords as well as tenants to achieve mutually beneficial outcomes. Require the Maine Human Rights Commission to work with landlords on restorative justice rather than financial penalties for those who unwittingly violated fair housing laws. | Representative Arata |
| <ul style="list-style-type: none"> • Racial equity should be driven by Legislative action, applicable across the entire state. | Director Brennan |

Technical Assistance

Suggested by

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| <ul style="list-style-type: none"> • Create a State Technical Assistance Office on Housing and Zoning: There should be a state office that provides grants and direct technical assistance, or assistance through regional planning organizations, for communities who wish to update their zoning and other local ordinances to increase housing production. This office could also look at tools such as Community Land Trusts and assist communities in creating local Housing Trusts | Commissioner Levine |
| <ul style="list-style-type: none"> • Provide municipalities with access to housing data and best practices necessary to make short-term and long-term housing development decisions, prioritizing residential growth in areas where infrastructure exists. | Commissioner Dufour |
| <ul style="list-style-type: none"> • Solidify and emphasize its role in providing guidance and technical and financial assistance to help communities achieve their planning goals, including an assessment of progress. This, in part, should include the development of model programs and ordinances for local implementation. | Commissioner Dufour |
| <ul style="list-style-type: none"> • Develop citizen education programs to assist local leaders in explaining why changes are necessary for future growth and economic vitality. | Commissioner Dufour |

<ul style="list-style-type: none"> • Help fund the costs associated with reviewing and amending local ordinances either through direct financial assistance or technical assistance or a combination of the two. 	Commissioner Dufour
<ul style="list-style-type: none"> • Develop, implement and manage programs to ensure that housing remains affordable over the long-term with particular assistance provided to communities that are interested in creating dedicated affordable housing, but do not have the administrative or programmatic means to ensure affordable housing compliance over time. 	Commissioner Dufour
<ul style="list-style-type: none"> • Develop creative financial tools to assist communities to meet housing goals (e.g., tax increment financing, local option sales tax, the sheltering of value associated with new housing development in the distribution of revenue sharing and assessment of county and school taxes, homestead exemption benefit for residents that use ADU as long-term rentals, dedicated portion of real estate transfer tax revenue, etc.). 	Commissioner Dufour
<ul style="list-style-type: none"> • Create a permanent state study/assistance office on zoning and housing to further research, provide educational materials, models, and training to municipalities 	Commissioner Jackson
<ul style="list-style-type: none"> • Require DECD to fund and staff a program to provide technical assistance to municipalities for zoning and related municipal guidance which will enhance affordable housing opportunities for households with median incomes at or below 80% of median income. Preference will be to assist municipalities with populations less than 20,000. 	Commissioner Totman
<ul style="list-style-type: none"> • Planning and Technical Assistance funding is most efficiently spent for a specific project, rather than the creation of an office. If anything, financial support for existing regional planning commissions should be considered over the creation of a statewide office. 	Director Brennan

Incentive Programs/Density Bonuses

Suggested by

<ul style="list-style-type: none"> • The creation of the "You're Home" (name is a work in progress) municipality incentive program. Qualifying communities must make a commitment to reviewing zoning and land use restrictions in Year 1; adopt home-friendly policies in Years 2 and 3. Qualifying communities will receive a state financial reward for up to 3 years, so long as they remain in good standing with the program requirements. MaineHousing Authority will be charged with administering the program qualifications and model zoning policies for municipal reference. DAFS will be charged with administering the incentive. 	Speaker Fecteau
<ul style="list-style-type: none"> • Communities that move forward with a PDA as outlined above should be eligible to access new sources of revenue, either from the state, transfer taxes, and/or through local options. 	Commissioner Levine
<ul style="list-style-type: none"> • Create programs and incentives that are funded with State resources, rather than property taxes and other local revenue. 	Commissioner Dufour
<ul style="list-style-type: none"> • Add a Density Bonus for any Below-Market Affordable Housing Production: The Legislature should create a statewide system that would provide density bonuses by right for below-market affordable housing development. Such a system would allow below-market affordable housing developers to compete financially for developable sites. 	Commissioner Levine

- Require municipalities to adjust their zoning to provide density bonuses for affordable housing which serves persons at or below 80% median in order for the municipality to be eligible for Department of Transportation funding. Commissioner Totman

Housing Trusts

Suggested by

- Create a Statewide Framework to Encourage Housing Trusts: The Legislature should create a state framework for creation and funding of local Housing Trusts, which can help leverage other funding sources through direct local investment. Local housing trusts could also be authorized to collect impact fees for housing from commercial development through state legislation. Finally, considerations should be given to a state match to local Housing Trust investment. Commissioner Levine
- Where necessary, assist communities in developing and implementing regional housing solutions, including the creation and funding for housing trusts to encourage private/public investment in housing. Commissioner Dufour

Priority Development Areas (PDA’s)

Suggested by

- Create a System of “Priority Development Areas” (PDA’s): Each community should have the flexibility to decide where they would like to focus their housing production. While the current rules governing Comprehensive Plans provide some framework, it has few incentives or requirements. Each community over a certain size should be expected to designate a reasonably sized area as their PDA. In a PDA, multifamily housing would have to be permitted at a minimum density without significant regulatory hurdles. These areas would be prioritized for state investment, and state review of projects in PDA’s would be expedited, provided the community updates its local zoning and other ordinances to encourage development in PDA’s. Commissioner Levine
- Require communities to designate priority development areas, but retain local authority to designate the location, type (e.g., duplexes, triplexes, row houses, multi-story, shared housing, etc.) and scale of multi-unit development authorized in the area. Commissioner Dufour

Fees

Suggested by

- Reduce impact fees for certain low-to-moderate income housing developments. Commissioner Dufour
- Prevent zoning that charges unreasonable or different fees for multifamily affordable housing, or impose onerous consulting fees on property owners Commissioner Jackson

Income Requirements

Suggested by

- Eliminate reliance on zoning provisions that include income requirements. Commissioner Dufour
- Prevent zoning that discriminates on the basis of income source (including public assistance), income level, or “immutable characteristics” (other than age and disability). Commissioner Jackson

<ul style="list-style-type: none"> Require any development greater than 20 units to set aside 10% of the units to be priced so as to be affordable to persons equal or less than 100% of median income for homeownership developments and 80% for renter occupied developments. 	Commissioner Totman
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Lot size & Parking Requirements

Suggested by

<ul style="list-style-type: none"> Reduce minimum lot sizes and relax parking requirements to support diversity of housing sizes and types 	Commissioner Dufour
<ul style="list-style-type: none"> Cap parking mandates 	Commissioner Jackson

Miscellaneous and Additional Suggestions

Suggested by

<ul style="list-style-type: none"> Repeal building codes that increase costs disproportionately to any improvement of safety or energy efficiency. 	Representative Arata
<ul style="list-style-type: none"> Eliminate the state subdivision law for existing structures. 	Representative Arata
<ul style="list-style-type: none"> Provide municipalities the flexibility to develop ordinances that meet locally adopted housing goals. 	Commissioner Dufour
<ul style="list-style-type: none"> Support LD 1084 (HP 799) "An Act To Authorize a General Fund Bond Issue To Create Energy-Efficient and Affordable Homes for Maine People" sponsored by Representative Victoria Doudera. 	Commissioner Hill
<ul style="list-style-type: none"> Prevent zoning that requires that housing units to be minimum square footage, except for public health reasons like those enshrined in building and housing codes. 	Commissioner Jackson
<ul style="list-style-type: none"> Adjust the affordable housing TIF program. Rather than capture the increased value of an affordable housing development (difference between original and post development assessments) capture the difference between one half the original and post development assessments. Additionally, adjust the targeting of the affordable housing targeting to 100% or less of median income. Alternatively tie the TIF programs to municipalities with affordable housing zoning density bonuses. For instance to be eligible for economic or housing TIFs or transportation funding, a municipality must establish affordable housing density bonuses within their zoning. 	Commissioner Totman
<ul style="list-style-type: none"> Emulate the Desegregate Connecticut policy, which eliminates the terms "character," "overcrowding of land," and "undue concentration of population" from state law as legal bases for zoning regulations and allows towns to consider only the "physical site characteristics" of a district. 	Commissioner Jackson
<ul style="list-style-type: none"> Emulate Chapter 126a of Connecticut General Statutes and Massachusetts chapter 40b: Enable developers to challenge denials of proposed new developments that contain affordable housing. 	Commissioner Jackson
<ul style="list-style-type: none"> Pass a law similar to New Hampshire's RSA 674:58-:61. This law was passed in 2008 and requires every community to provide "reasonable and realistic opportunities" for the development of workforce housing (RSA 674:59). I think we should add seniors to the workforce requirement and indicate the housing must be targeted to persons at or below 80% median income. 	Commissioner Totman
<ul style="list-style-type: none"> Look to highlight best practices from municipalities that have embraced good concepts and have actually succeeded (Auburn). 	Director Brennan

- If the Commission is going to avoid the status quo, it should consider bold legislative recommendations to ensure meaningful debate occurs as a result.
- Require municipalities to establish limitations on Airbnb residences

Director Brennan

Commissioner Totman