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Tiny House – Code and Land Use Standards
February 8, 2022

Tiny Houses have been included in several recent Maine laws that impact the construction and placement of such homes in the State. This memo is to provide clarification to Code Officials on code and land use standards associated.

WHAT IS A TINY HOUSE - There are two potential types of tiny home:

- constructed on a trailer that may be mobile and potentially moved from where it was constructed to a site for use as a “dwelling unit for human occupancy”.
- constructed on a site in a more traditional stick-built manner, but meeting certain size standards established in the laws and codes adopted.

Tiny Homes is defined in Statute as:

80-C. Tiny home. "Tiny home" means a living space permanently constructed on a frame or chassis and designed for use as permanent living quarters that:

A. Complies with American National Standards Institute standard A 119.5 on plumbing, propane, fire and life safety and construction or National Fire Protection Association standard 1192 on plumbing, propane and fire and life safety for recreational vehicles; [PL 2019, c. 650, §1 (NEW).]

B. Does not exceed 400 square feet in size; [PL 2019, c. 650, §1 (NEW).]

C. Does not exceed any dimension allowed for operation on a public way under this Title; and [PL 2019, c. 650, §1 (NEW).]

D. Is a vehicle without motive power. [PL 2019, c. 650, §1 (NEW).]

"Tiny home" does not include a trailer, semitrailer, camp trailer, recreational vehicle or manufactured housing.
[PL 2019, c. 650, §1 (NEW).]

As defined, this applies to those constructed on a frame or chassis and considered within the Motor Vehicle regulations and will require a TITLE similar to an RV or other motor vehicle intended for use on public ways. This would assume that the unit would be constructed to and inspected to standards in ANSI A119.5 or NFPA 1192. These standards contain many regulations that address all components of the unit associated with a mobile unit served by

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interior plumbing, heating, cooking, and living to be used as living quarters. This type of construction's interior layout, structural or rough in are not the responsibility of the LPI/Code Officer. These items will be covered under the titling requirements as identified above. The only task of an LPI/CEO is to assess the placement relative to local zoning and connection to on-site systems and utilities.

The second type of tiny home would be a structure constructed under the same codes and standards as a larger, more traditional dwelling and on a foundation, but still meeting the size limitation of less than 400 SF. This is identified in the MUBEC rules under the IRC (Chapter 5) which would be allowed the use of Appendix V (attached.) Appendix V provides some code exceptions that have been approved to accommodate the limited size and deemed to provide an acceptable level of safety for the occupants. This type of construction would be subject to all other utility codes adopted by the State of Maine, to include but not limited to, the Maine Internal Plumbing code, State Electrical codes and Fuel Gas codes.

The result of both types provides a completed unit intended for permanent occupancy and would be considered as a Single-Family Dwelling. In both cases, the units would be subject to all normally required on-site facilities and associated utilities to provide for permanent occupancy. This would include the provisions for connection to a potable water supply, sanitary facilities and any required utilities to provide for the safety of the occupants of the unit or structure. This would include compliance with appropriate municipal connections or on-site sanitation and drinking water.

As a result of confusion on placement of tiny homes relative to local zoning, the most recent legislation (below) addresses the issue. Tiny homes are now to be considered as permanent dwelling units subject to the same local zoning regulations as other single-family dwellings. The intent was to provide definition of the use of tiny homes. As stated in statute, all other aspects of local zoning would apply equally to tiny homes.

Please note that other questions about the new law relative to the condition of a home or its placement, may arise in the future, but the only significant change is to the recognition that either type should be considered the same as any other primary single family dwelling. The features of the structure regarding size and construction would be subject to the codes and standards above, but placement on site is based on your local zoning ordinance relative to setbacks and lot size. Before a community is asked to grant a permit for a tiny home you should consult with your local attorney relative to your specific ordinances and any further limitations they may contain.

This memo is intended for informational purposes only and should not be considered a legal opinion.

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H.P. 1134 - L.D. 1530

An Act To Allow People To Live in Tiny Homes as a Primary or Accessory Dwelling

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

Sec. 1. 30-A MRSA §4363 is enacted to read:

§4363. Regulation of tiny homes

1. Definition. For the purposes of this section, "tiny home" has the same meaning as in Title 29-A, section 101, subsection 80-C.

2. Location of tiny homes. A municipality shall permit a tiny home to be placed or erected on an individual house lot where single-family dwellings are allowed or as an accessory structure, subject to all applicable land use requirements as single-family dwellings or as an accessory structure.

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2015 International Residential Code

APPENDIX V TINY HOUSES

CHAPTER PART AV101— GENERAL

AV101.1 Scope. This appendix shall be applicable to tiny houses used as single dwelling units. Tiny houses shall comply with this code except as otherwise stated in this appendix.

CHAPTER PART AV102— DEFINITIONS

AV102.1 General. The following words and terms shall, for the purposes of this appendix, have the meanings shown herein. Refer to Chapter 2 of this code for general definitions.

EGRESS ROOF ACCESS WINDOW. A skylight or roof window designed and installed to satisfy the emergency escape and rescue opening requirements in Section R310.2.

LANDING PLATFORM. A landing provided as the top step of a stairway accessing a loft.

LOFT. A floor level located more than 30 inches (762 mm) above the main floor and open to it on at least one side with a ceiling height of less than 6 feet 8 inches (2032 mm), used as a living or sleeping space.

TINY HOUSE. A dwelling that is 400 square feet (37 m²) or less in floor area excluding lofts.

CHAPTER PART AV103— CEILING HEIGHT

AV103.1 Minimum ceiling height. Habitable space and hallways in tiny houses shall have a ceiling height of not less than 6 feet 8 inches (2032 mm). Bathrooms, toilet rooms, and kitchens shall have a ceiling height of not less than 6 feet 4 inches (1930 mm). Obstructions shall not extend below these minimum ceiling heights including beams, girders, ducts, lighting and other obstructions.

Exception: Ceiling heights in lofts are permitted to be less than 6 feet 8 inches (2032 mm).

CHAPTER PART AV104— LOFTS

AV104.1 Minimum loft area and dimensions. Lofts used as a sleeping or living space shall meet the minimum area and dimension requirements of Sections AV104.1.1 through AV104.1.3.

AV104.1.1 Minimum area. Lofts shall have a floor area of not less than 35 square feet (3.25 m²).

AV104.1.2 Minimum dimensions. Lofts shall be not less than 5 feet (1524 mm) in any horizontal dimension.

AV104.1.3 Height effect on loft area. Portions of a loft with a sloping ceiling measuring less than 3 feet (914 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.

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Exception: Under gable roofs with a minimum slope of 6:12, portions of a loft with a sloping ceiling measuring less than 16 inches (406 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.

AV104.2 Loft access. The access to and primary egress from lofts shall be any type described in Sections AV104.2.1 through AV104.2.4.

AV104.2.1 Stairways. Stairways accessing lofts shall comply with this code or with Sections AV104.2.1.1 through AV104.2.1.5.

AV104.2.1.1 Width. Stairways accessing a loft shall not be less than 17 inches (432 mm) in clear width at or above the handrail. The minimum width below the handrail shall be not less than 20 inches (508 mm).

AV104.2.1.2 Headroom. The headroom in stairways accessing a loft shall be not less than 6 feet 2 inches (1880 mm), as measured vertically, from a sloped line connecting the tread or landing platform nosings in the middle of their width.

AV104.2.1.3 Treads and risers. Risers for stairs accessing a loft shall be not less than 7 inches (178 mm) and not more than 12 inches (305 mm) in height. Tread depth and riser height shall be calculated in accordance with one of the following formulas:

1. The tread depth shall be 20 inches (508 mm) minus 4/3 of the riser height, or
2. The riser height shall be 15 inches (381 mm) minus 3/4 of the tread depth.

AV104.2.1.4 Landing platforms. The top tread and riser of stairways accessing lofts shall be constructed as a landing platform where the loft ceiling height is less than 6 feet 2 inches (1880 mm) where the stairway meets the loft. The landing platform shall be 18 inches to 22 inches (457 to 559 mm) in depth measured from the nosing of the landing platform to the edge of the loft, and 16 to 18 inches (406 to 457 mm) in height measured from the landing platform to the loft floor.

AV104.2.1.5 Handrails. Handrails shall comply with Section R311.7.8.

AV104.2.1.6 Stairway guards. Guards at open sides of stairways shall comply with Section R312.1.

1208.2 Minimum ceiling heights. Occupiable spaces, *habitable spaces* and *corridors* shall have a ceiling height of not less than 7 feet 6 inches (2286 mm). Bathrooms, toilet rooms, kitchens, storage rooms and laundry rooms shall have a ceiling height of not less than 7 feet (2134 mm).

Exceptions:

1. In one- and two-family *dwelling*s, beams or girders spaced not less than 4 feet (1219 mm) on center shall be permitted to project not more than 6 inches (152 mm) below the required ceiling height.
2. If any room in a building has a sloped ceiling, the prescribed ceiling height for the room is required in one-half the area thereof. Any portion of the room measuring less than 5 feet (1524 mm) from the finished floor to the ceiling shall not be included in any computation of the minimum area thereof.
3. The height of *mezzanines* and spaces below *mezzanines* shall be in accordance with Section 505.1.
4. Corridors contained within a *dwelling unit* or *sleeping unit* in a Group R occupancy shall have a ceiling height of not less than 7 feet (2134 mm).

1208.2.1 Furred ceiling. Any room with a furred ceiling shall be required to have the minimum ceiling height in two-thirds of the area thereof, but in no case shall the height of the furred ceiling be less than 7 feet (2134 mm).

1208.3 Room area. Every *dwelling unit* shall have no fewer than one room that shall have not less than 120 square feet (11.2 m²) of *net floor area*. Other habitable rooms shall have a *net floor area* of not less than 70 square feet (6.5 m²). = 190 SF

Exception: Kitchens are not required to be of a minimum floor area.

1208.4 Efficiency dwelling units. An efficiency living unit shall conform to the requirements of the code except as modified herein:

1. The unit shall have a living room of not less than 220 square feet (20.4 m²) of floor area. An additional 100 square feet (9.3 m²) of floor area shall be provided for each occupant of such unit in excess of two. Min 220 SF for up to 2 people
2. The unit shall be provided with a separate closet.
3. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front. Light and *ventilation* conforming to this code shall be provided.
4. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

SECTION 1209 ACCESS TO UNOCCUPIED SPACES

1209.1 Crawl spaces. Crawl spaces shall be provided with not fewer than one access opening that shall be not less than 18 inches by 24 inches (457 mm by 610 mm).

1209.2 Attic spaces. An opening not less than 20 inches by 30 inches (559 mm by 762 mm) shall be provided to any *attic* area having a clear height of over 30 inches (762 mm). Clear headroom of not less than 30 inches (762 mm) shall be provided in the *attic* space at or above the access opening.

1209.3 Mechanical appliances. Access to mechanical appliances installed in under-floor areas, in *attic* spaces and on roofs or elevated structures shall be in accordance with the *International Mechanical Code*.

SECTION 1210 TOILET AND BATHROOM REQUIREMENTS

[P] 1210.1 Required fixtures. The number and type of plumbing fixtures provided in any occupancy shall comply with Chapter 29.

1210.2 Finish materials. Walls, floors and partitions in toilet and bathrooms shall comply with Sections 1210.2.1 through 1210.2.4.

1210.2.1 Floors and wall bases. In other than *dwelling units*, toilet, bathing and shower room floor finish materials shall have a smooth, hard, nonabsorbent surface. The intersections of such floors with walls shall have a smooth, hard, nonabsorbent vertical base that extends upward onto the walls not less than 4 inches (102 mm).

1210.2.2 Walls and partitions. Walls and partitions within 2 feet (610 mm) of service sinks, urinals and water closets shall have a smooth, hard, nonabsorbent surface, to a height of not less than 4 feet (1219 mm) above the floor, and except for structural elements, the materials used in such walls shall be of a type that is not adversely affected by moisture.

Exception: This section does not apply to the following buildings and spaces:

1. Dwelling units and sleeping units.
2. Toilet rooms that are not accessible to the public and that have not more than one water closet.

Accessories such as grab bars, towel bars, paper dispensers and soap dishes, provided on or within walls, shall be installed and sealed to protect structural elements from moisture.

1210.2.3 Showers. Shower compartments and walls above bathtubs with installed shower heads shall be finished with a smooth, nonabsorbent surface to a height not less than 72 inches (1829 mm) above the drain inlet.

1210.2.4 Waterproof joints. Built-in tubs with showers shall have waterproof joints between the tub and adjacent wall.

[P] 1210.3 Privacy. Privacy at water closets and urinals shall be provided in accordance with Sections 1210.3.1 and 1210.3.2.

[P] 1210.3.1 Water closet compartment. Each water closet utilized by the public or employees shall occupy a

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A. Complies with American National Standards Institute standard A 119.5 on plumbing, propane, fire and life safety and construction or National Fire Protection Association standard 1192 on plumbing, propane and fire and life safety for recreational vehicles; [PL 2019, c. 650, §1 (NEW).]

B. Does not exceed 400 square feet in size; [PL 2019, c. 650, §1 (NEW).]

C. Does not exceed any dimension allowed for operation on a public way under this Title; and [PL 2019, c. 650, §1 (NEW).]

D. Is a vehicle without motive power. [PL 2019, c. 650, §1 (NEW).]

"Tiny home" does not include a trailer, semitrailer, camp trailer, recreational vehicle or manufactured housing

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-THREE

H.P. 1095 - L.D. 1706

**An Act to Clarify Statewide Laws Regarding Affordable Housing and
Accessory Dwelling Units**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, current law requires, beginning July 1, 2023, all municipalities to allow a certain number of dwelling units under certain circumstances and the construction of accessory dwelling units on the same lot as a single-family dwelling unit and to comply with certain other zoning requirements; and

Whereas, it is the intent of this legislation to extend the implementation date for certain municipalities; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 30-A MRSA §4364, first ¶, as enacted by PL 2021, c. 672, §4, is amended to read:

For an affordable housing development approved on or after ~~July 1, 2023~~ the implementation date, a municipality with density requirements shall apply density requirements in accordance with this section.

Sec. 2. 30-A MRSA §4364, sub-§1, as enacted by PL 2021, c. 672, §4, is amended to read:

1. Definition. For the purposes of this section, "affordable housing development" means:

A. For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a ~~majority~~

51% or more of the units that the developer designates as affordable in the development without spending more than 30% of the household's monthly income on housing costs; and

B. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford ~~a majority~~ 51% or more of the units that the developer designates as affordable in the development without spending more than 30% of the household's monthly income on housing costs.

Sec. 3. 30-A MRSA §4364, sub-§1-A is enacted to read:

1-A. Implementation date. For purposes of this section, "implementation date" means:

A. January 1, 2024 for municipalities for which ordinances may be enacted by the municipal officers without further action or approval by the voters of the municipality; and

B. July 1, 2024 for all other municipalities.

Sec. 4. 30-A MRSA §4364, sub-§3, as enacted by PL 2021, c. 672, §4, is amended to read:

3. Long-term affordability. Before ~~approving~~ granting final approval of an affordable housing development, including but not limited to issuing an occupancy permit, a municipality shall require that the owner of the affordable housing development have executed a restrictive covenant, recorded in the appropriate registry of deeds, for the benefit of and enforceable by a party acceptable to the municipality, to ensure that for at least 30 years after completion of construction:

A. For rental housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy; and

B. For owned housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy.

Sec. 5. 30-A MRSA §4364, sub-§6, as enacted by PL 2021, c. 672, §4, is amended to read:

6. Subdivision requirements. This section may not be construed to exempt a subdivider from the requirements ~~for division of a tract or parcel of land in accordance with~~ subchapter 4.

Sec. 6. 30-A MRSA §4364-A, sub-§1, as enacted by PL 2021, c. 672, §5, is amended to read:

1. Use allowed. Notwithstanding any provision of law to the contrary, except as provided in Title 12, chapter 423-A, for any area in which ~~housing is~~ residential uses are allowed, including as a conditional use, a municipality shall allow structures with up to 2 dwelling units per lot if that lot does not contain an existing dwelling unit, except that a municipality shall allow up to 4 dwelling units per lot if that lot does not contain an existing

dwelling unit and the lot is located in a designated growth area within a municipality consistent with section 4349-A, subsection 1, paragraph A or B or if the lot is served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system in a municipality without a comprehensive plan.

A municipality shall allow on a lot with one existing dwelling unit the addition of up to 2 dwelling units: one additional dwelling unit within or attached to an existing structure or one additional detached dwelling unit, or one of each.

A municipality may allow more units than the number required to be allowed by this subsection.

Sec. 7. 30-A MRSA §4364-A, sub-§1-A is enacted to read:

1-A. Implementation date. For purposes of this section, "implementation date" has the same meaning as in section 4364, subsection 1-A.

Sec. 8. 30-A MRSA §4364-A, sub-§2, ¶B, as enacted by PL 2021, c. 672, §5, is amended to read:

B. A municipal zoning ordinance may establish a prohibition or an allowance for lots where a dwelling unit in existence after July 1, 2023 the implementation date is torn down and an empty lot results.

Sec. 9. 30-A MRSA §4364-A, sub-§3, as enacted by PL 2021, c. 672, §5, is amended to read:

3. General requirements. A municipal ordinance may not establish dimensional requirements ~~or, including but not limited to~~ setback requirements, for dwelling units allowed under this section that are greater than dimensional requirements ~~or, including but not limited to~~ setback requirements, for single-family housing units, except that a municipal ordinance may establish requirements for a lot area per dwelling unit as long as the required lot area for subsequent units on a lot is not greater than the required lot area for the first unit.

Sec. 10. 30-A MRSA §4364-A, sub-§7, as enacted by PL 2021, c. 672, §5, is amended to read:

7. Subdivision requirements. This section may not be construed to exempt a subdivider from the requirements ~~for division of a tract or parcel of land in accordance with~~ subchapter 4.

Sec. 11. 30-A MRSA §4364-A, sub-§10, as enacted by PL 2021, c. 672, §5, is amended to read:

10. Implementation. A municipality is not required to implement the requirements of this section until July 1, 2023 the implementation date.

Sec. 12. 30-A MRSA §4364-B, sub-§1, as enacted by PL 2021, c. 672, §6, is amended to read:

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

Sec. 13. 30-A MRSA §4364-B, sub-§1-A is enacted to read:

1-A. Implementation date. For purposes of this section, "implementation date" has the same meaning as in section 4364, subsection 1-A.

Sec. 14. 30-A MRSA §4364-B, sub-§2, as enacted by PL 2021, c. 672, §6, is amended by amending the first blocked paragraph to read:

This subsection does not restrict the construction or permitting of accessory dwelling units constructed and certified for occupancy prior to July 1, 2023 the implementation date.

Sec. 15. 30-A MRSA §4364-B, sub-§3, as enacted by PL 2021, c. 672, §6, is amended to read:

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

A. At least one accessory dwelling unit must be allowed on any lot where a single-family dwelling unit is the principal structure; ~~and~~

B. If more than one accessory dwelling unit has been constructed on a lot as a result of the allowance under this section ~~or section 4364-A~~, the lot is not eligible for any additional increases in density except as allowed by the municipality; ~~and~~

C. An accessory dwelling unit is allowed on a lot that does not conform to the municipal zoning ordinance if the accessory dwelling unit does not further increase the nonconformity.

Sec. 16. 30-A MRSA §4364-B, sub-§4, ¶B, as corrected by RR 2021, c. 2, Pt. A, §110, is amended to read:

B. For an accessory dwelling unit located within the same structure as a single-family dwelling unit or attached to or sharing a wall with a single-family dwelling unit, the setback requirements and dimensional requirements must be the same as the setback requirements and dimensional requirements of the single-family dwelling unit, except for an accessory dwelling unit permitted in an existing accessory building or secondary building or garage as of July 1, 2023 the implementation date, in which case the requisite setback requirements for such a structure apply. A municipality may establish more permissive dimensional and setback requirements for an accessory dwelling unit.

Sec. 17. 30-A MRSA §4364-B, sub-§4, ¶D is enacted to read:

D. An accessory dwelling unit that was not built with municipal approval must be allowed if the accessory dwelling unit otherwise meets the requirements for accessory dwelling units of the municipality and under this section.

Sec. 18. 30-A MRSA §4364-B, sub-§5, as enacted by PL 2021, c. 672, §6, is amended to read:

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

Sec. 19. 30-A MRSA §4364-B, sub-§8, ¶A, as enacted by PL 2021, c. 672, §6, is amended to read:

A. Establish an application and permitting process for accessory dwelling units that does not require planning board approval;

Sec. 20. 30-A MRSA §4364-B, sub-§10, as enacted by PL 2021, c. 672, §6, is amended to read:

10. Subdivision requirements. This section may not be construed to exempt a subdivider from the requirements ~~for division of a tract or parcel of land in accordance with~~ subchapter 4.

Sec. 21. 30-A MRSA §4364-B, sub-§13, as enacted by PL 2021, c. 672, §6, is amended to read:

13. Implementation. A municipality is not required to implement the requirements of this section until ~~July 1, 2023~~ the implementation date.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.