TOWN OF GRAY

GRAY TOWN COUNCIL

AGENDA • JUNE 12, 2023

Gray Town Council Workshop	**Town Council Chambers** **24 Main Street, Gray, ME 04039** **https://us06web.zoom.us/j/88584146980** **Phone 646-558-8656 / Meeting ID: 88584146980**	**5:00 PM**

CALL to ORDER

Roll Call

WORKSHOP 5:00 PM

- Self Storage Ordinance - update
- LD2003 Housing Legislation - update/next steps

** The Town of Gray is an equal opportunity employer and complies with all applicable equal access to public accommodations law. If you are planning to attend a Town Council or Town committee or board meeting and need assistance with a physical disability, please contact the Town Manager's office at least 48 hours in advance of the meeting to have the Town assist you. 657-3339. TTY 657-3931.*

MEMO

June 6, 2023

TO: Town Council, Town Manager Nate Rudy
FROM: Community Development
RE: Potential edits to proposed self-storage development ordinance changes

The council, at the April 18, 2023 regular meeting, asked staff to provide the following information regarding the proposed self-storage-related updates to the zoning ordinance and addition of self-storage development performance standards.

1. **Regarding the legality of the provision in the proposed 402.8.11 C. 4 language regarding appeals for setback reductions:**

   Neither the Zoning Board of Appeals nor the Planning Board shall have the authority to reduce any of the minimum setbacks established above in this section "C" entitled "Minimum Setbacks" except for the perimeter buffer as established in this subsection "F," entitled "Perimeter Buffer Requirements."

Our town attorney has advised thusly: "It's not unusual to establish different setback requirements for one or more types of use. In addition, the variance statute, 30-A M.R.S. Sec. 4353(4), states that municipalities may 'adopt additional limitations on the granting of a variance.'"

Based on this input, we are not proposing any change to the language at this time.

2. **Regarding concerns about the clarity of standard 402.8.11 E.2:**

E. General Standards
3. The size of the portion of the parcel utilized for the self-storage facility use must be a minimum of eighty thousand (80,000) sq. ft. Any portion of the parcel located less than three-hundred (300) feet setback from the road/ROW as required herein shall not be utilized for determining if this eighty thousand (80,000) sq. ft. minimum parcel size standard is met.

This language intends to convey that the portion of the parcel within the 300' setback from the road cannot be counted toward the minimum lot size of 80,000 sq. ft. for the self-storage use.

Upon review, staff recommends that this section can be eliminated, to allow a developer to build a smaller self-storage facility if desired.

3. **Regarding the potential to allow for a range of reduced road frontage setbacks, currently set at 300 feet, for certain considerations (such as town water or topography):**

C. Minimum Setbacks

> *1. Any portion of any element of a self-storage facility must be at least three-hundred (300) feet from the edge of a road or right-of-way (ROW), whichever is greater, that is either publicly owned or has a public easement for winter maintenance. No component of a self-storage facility other than one access/driveway may be located within this three-hundred (300) foot setback. All other components of any self-storage facility must respect this minimum three-hundred (300) foot setback specifically including all fill extensions, buildings, outdoor storage areas, drainage ditches, stormwater infrastructure, and perimeter buffer as specified in section "F" entitled "Perimeter Buffer Requirements."*

The 300' setback was used in the new self-storage performance standards in response to the council's intention to leave the road frontage of a self-storage development available for other commercial uses.

It is intended to allow space for both a well and septic to be on site for this frontage use, in addition to stormwater management, parking and other site development considerations. Depending on the property, this includes the consideration that some of the land is likely to be deducted from the usable area due to slope or other considerations.

Code considerations also require setbacks and exclusion zones for wells, from the road and from existing and proposed septic systems, and these are additionally impacted by the soils and the topography of the site.

For reference, a typical stand-alone commercial building in town ranges from 225' to 255' of lot depth in current zoning districts that are served by town water.

Notably, the ordinance update proposes limiting SSUs to the LMOD, which includes the upper (northerly) and lower (southerly) commercial zoning districts (not the middle one). The majority of both of these commercial zoning districts are served by public water, *but not the entirety,* and when the new zoning is implemented, the town may decide to expand allowance for this use in other zoning districts.

Minimum lot area per use is 40,000 sf. in the commercial zoning districts and a lot must have a minimum of 200' of road frontage. For a 200'-wide lot:

- With a 300' depth, that is a 60,000 sf. lot, or 1.3 acres.
- A setback of 250' would be 50,000 sf.
- A setback of 225' would be 45,000 sf..

Both of these reduced options would create lots that are larger than the minimum lot size per each principal use in the commercial zoning districts and could potentially accommodate a frontage use in an area served by town water, if the lot frontage is fully developable (not slopes/wetlands/protected).

An additional 50 to 75 feet of setback ensures enough space for siting of a well within the setbacks as required by State code; the flexibility for siting of structures, traffic movement,

parking and stormwater infrastructure for a variety of proposed uses; and provides space to work new development around any unusable portions of the frontage parcel.

Self-storage developments may not remain in the same ownership as the party that develops the property, so if the Planning Board is given authority to reduce setbacks, we would recommend that those reductions be based on the properties of the site (such as soils, topography) and the supporting infrastructure (such as public water), rather than on any proposed use that may change if the property is sold.

Given these considerations, the Planning Department does not recommend a reduction in the 300' setback if the council's intent remains to "to maximize the use and value of commercial uses for road frontage properties."

The Ordinance Advisory Committee did discuss some conceptual scenarios at their May 30, 2023 meeting that contemplated slightly reducing the 300' setback. There were some inherent implications to reducing the depth, including limiting the footprint of the commercial building on the front portion of the lot and, very likely, waiver requests to meet standards. Some members still support the 300' setback although there was not a definitive consensus from the committee.

The apparent policy question is if the council supports reducing the setback with the understanding that this would likely limit the use of the front portion of the lot for commercial purposes.

Next Steps

If the council decides to move ahead with changes to the above items, these would be substantive changes to the draft ordinance and the updated language will need to be posted for the first read/Planning Board public hearing/second read approval process. The council has extended the moratorium for an additional 180 days, through Dec. 27, 2023, so this process would ideally be completed prior to the end of that period.

If the council does not want to pursue any substantive changes to the ordinance at this time, the second reading of the self-storage ordinance could be taken off the table (as it was tabled at the April 18 council meeting) for consideration at an upcoming meeting.

MEMO

June 6, 2023

TO: Town Council and Town Manager Nate Rudy

FROM: Community Development staff

RE: LD2003 implementation – affordability and density provisions workshop discussion

ENCL: LD2003 Summary Tables; 30-A MRSA Section 4364 and 4364-A; FLU map; Existing zoning map with an overlay of the Comp Plan FLU areas; Village mixed use growth area FLU map

Introduction:

The town is working toward compliance with LD2003 "An Act to Implement the Recommendations of the Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions," which became Chaptered Law 672 in April 2022. Several elements of the law become effective as of July 1, 2023.

The Town Council passed amendments related to Accessory Dwelling Units on May 16, 2023 and those will be effective June 15. We are now working to implement the changes related specifically to the sections of the law that address affordable housing and housing density, ***30-A MRSA Section 4364 and 4364-A***.

Compliance will require amendments to several sections of the Subdivision Ordinance Chapter 401, including the following land use regulations in the Town of Gray Zoning Ordinance Chapter 402:

- Zoning Districts 402.4.1 and 402.4.2
- Definitions 402.2.2
- Lots 402.6.2
- Back lot access easements 402.7.5
- Village Center District Standards 402.8.3
- Village Design Standards (as referenced in 402.8.3)
- 402.10.14 Standards for Multi-Family Housing
- Table of permitted uses, 402.5.3
- 402.10.11 Table 3- Parking

As outlined below, we are seeking council input to inform the necessary amendments to the town's Zoning Ordinance, in the categories of Growth Overlay District, Density, Affordable Housing, and Multi-family Standards.

Council Policy Input:

GROWTH AREA OVERLAY

Planning staff seeks input on the approach outlined below, to fine-tune the FLU map in the Comp Plan as the basis for a temporary growth overlay district to enable implementation of LD 2003.

Background Information:

Please Note: There are three color attachments to this memo that relate to this section. The first is the future land (FLU) use map in the currently adopted Comprehensive Plan. The second is existing zoning with an overlay of the Comp Plan FLU areas. The third is an enlargement of the village mixed use growth area from the Comp Plan FLU.

Several portions of the new State Statute specify that there are mandatory standards applicable for "designated growth areas." Gray adopted an updated Comprehensive Plan in 2020, but the currently defined/adopted zoning districts are predicated on an older Comp Plan. The Future Land Use (FLU) Plan in the currently adopted Comp Plan is intended to be a general guide for new zoning district boundaries.

As a result of needing to define a growth area for the purposes of implementing LD 2003, but having older zoning districts and a new Comp Plan, Gray is faced with a decision regarding which areas of town are going to be considered to be a growth area. The two options are to utilize existing zoning districts or use the FLU map in the Comp Plan.

Given that the FLU in the currently adopted Comp Plan is the template for the anticipated forthcoming zoning districts, it seems appropriate to use the FLU map in the Comp Plan as the foundation to establish the boundaries of growth areas.

The first step of the proposal is to review this Village Mixed Use Growth area, taking into account lot sizes, existing land use, availability of sufficient public water, and substantive development constraints such as wetlands and steep slopes. Based on these criteria, there may be some minor proposed adjustments to maximize the practical viability of allowing for additional density.

Pending Council input, the second proposed step is to adopt a "growth overlay district." Parcels in this proposed new overlay district would be afforded the ability for increased density, to enable Gray to adopt the required standards per LD 2003. It is inevitable that this growth overlay district would have a bearing on the new zoning district boundaries. It is likely that the overlay area would be divided into appropriate "sub" zoning districts as part of the town-wide new zoning. As an integral part of the new zoning, this temporary overlay would likely no longer be necessary, but it will have served the purpose of allowing Gray to implement the new legislation.

DENSITY

The State law requires increased housing density as shown in the attached summary tables provided by our attorney. The council has the option to *further increase* the density allowances in some instances.

Below are the options for council policy input and the law reference for each section.

1. **Does the council wish to allow greater density as outlined below for any of the following circumstances, and if so, how many additional dwelling units?**
    - **More than two dwelling units on a vacant lot outside of a growth area?**
    - **More than four dwelling units on a vacant lot within a growth area?**
    - **More than two additional dwelling units on a lot that has one existing dwelling unit (one of those must be "within or attached to an existing structure")?**

    Statute:

    Chaptered Law 672 reference: Subsection 4364-A-1:

    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 allowed, 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.

    Also: Subsection 4364-A.2.A:

    2. Zoning requirements. With respect to dwelling units allowed under this section, municipal zoning ordinances must comply with the following conditions.

    A. If more than one dwelling unit has been constructed on a lot as a result of the allowance under this section or section 4364-B, the lot is not eligible for any additional increases in density except as allowed by the municipality. `[PL 2021, c. 672, §5 (NEW).]`

2. **Does the Council wish to *allow* additional density or *explicitly prohibit* additional density in the instance of a teardown/rebuild?**
    - **Require structure to be rebuilt with the same number of dwelling units**
    - **Allow structure to be rebuilt subject to the current density standards**

    Statute:

    Chaptered Law 672 reference: Subsection 4364-A.2.B:

    > **2. Zoning requirements.** With respect to dwelling units allowed under this section, municipal zoning ordinances must comply with the following conditions.
    >
    > B. A municipal zoning ordinance may establish a prohibition or an allowance for lots where a dwelling unit in existence after July 1, 2023 is torn down and an empty lot results. [PL 2021, c. 672, §5 (NEW).]

3. For affordable housing projects, does the Council wish to allow density of more than the minimum of 2 ½ times the base density of the zoning district in which the housing is located, and if so, to what extent?

Statute:

Chaptered Law 672 reference: Subsection 4364-2:

> **2. Density requirements.** A municipality shall allow an affordable housing development where multifamily dwellings are allowed to have a dwelling unit density of at least 2 1/2 times the base density that is otherwise allowed in that location and may not require more than 2 off-street parking spaces for every 3 units. The development must be in a designated growth area of a municipality consistent with section 4349-A, subsection 1, paragraph A or B or the development must be served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system. The development must comply with minimum lot size requirements in accordance with Title 12, chapter 423-A, as applicable. [PL 2021, c. 672, §4 (NEW).]

AFFORDABLE HOUSING

The State law sets several requirements for affordable housing projects. We are seeking council input regarding the following elements:

1. **Does the council wish to extend the affordability requirement beyond the 30 years required by State law?**
2. **Does the council wish to advise on which entity would be the "party acceptable to the municipality" to enforce the affordability provision?**

Statute:

Chapter Law 672 reference: Subsection 4364-3:

3. Long-term affordability. Before approving an affordable housing development, 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 `[PL 2021, c. 672, §4 (NEW).]`

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. `[PL 2021, c. 672, §4 (NEW).]`

MULTI-FAMILY STANDARDS

Does the council support amending the definition of "multifamily development" to:

"A lot which contains two or more multifamily dwellings, two or more duplexes, three or more single family dwellings or any combination of buildings containing three or more dwelling units."

Does the Council support adding the State definition of "multifamily dwelling" in our Zoning ordinance?

Multifamily dwelling: A structure containing three or more dwelling units.

Background: Due to the new density requirements, Staff suggest that the Town consider changes to our multi-family definitions and associated performance standards to provide clarity.

Definitions

The new law defines "multifamily dwelling" as *"a structure containing three or more dwelling units."*

Per the Town of Gray's current Zoning Ordinance, we currently use the definition of "multifamily development," which includes both a single structure with three or more dwelling units in the same category as a large development with several multi-family structures:

"A lot which contains one or more multifamily dwellings, two or more duplexes, three or more single family dwellings or any combination of buildings containing three or more dwelling units."

Performance Standards

1. **Does the council support creation of separate performance standards for multi-family dwellings and for multi-family developments?**

2. **Does the council have input on the following aspects of multi-family developments and multi-family structures?**

- Building height
- Minimum separation
- Setbacks
- Buffering
- Performance standards based on density
- Commercial use for larger number of dwelling units; different standards?
- Total number of units per structure

Background

In the Town of Gray's current zoning ordinance, multi-family developments are subject to performance standards outlined in 402.10.14. If the council is supportive of adopting two definitions – one for a single multi-family structure and another for a multi-family development – staff suggest that each of these be subject to their own performance standards. Additionally, we suggest separate standards for each of these uses within the Village Center and Village Center Proper zoning districts.

Regarding the performance standards for multi-family:

The Ordinance Advisory Committee provided input regarding standards for multi-family structures and development at their 4-28-22 and 3-9-23 meetings. Based on this input, and some basic recon with the State-adopted/Town-administered International Building Code (IBC), the following points should be considered for multi-family structures:

- Consider a sliding scale whereas as the height of the structure increases, so does the minimum setback between structures and/or property line
- The IBC requires a minimum separation between buildings of 30' for non-fire protected buildings that are not sprinkled. There are specific provisions in the IBC that allow buildings to be closer that may affect how either building is designed and constructed. If a newly built building is built close to a property line *and within 30' of an existing structure*, modifications to both buildings may be necessary to meet IBC standards. Doug has reached out the Public Safety for their input regarding minimum building separation input and they have indicated that the minimum desired building separation is complex, hinging on building height, number of units, cumulative number of buildings, and the means of alternate access around the building.

- Some OAC members do not support standards that would allow zero-setbacks for taller buildings such as those that currently exist at #'s 3, 5, and 7 Main Street.
- For possible multi-family in the village area, the consensus of the OAC was that consideration should be given to encouraging/requiring as may be allowed a mixed use building for i.e. commercial on the first floor.
- Consensus of OAC was that there should be a sliding scale whereby as the number of DU's increases per structure, so do appropriate performance standards
- One concept would be discuss/agree upon a threshold for residential density which, once exceeded, would be considered a commercial use.
- Standards that are adopted should contemplate one or more multi-family structures on a larger acre parcel and establish reasonable review path and standards.

The Planning Board also provided input regarding multi-family structures/development in the Village Center and Village Center Proper zoning districts, at their March 9 workshop.

Consensus from the board was that the village zoning districts should be capped at no more than 8 to 10 dwelling units per structure. They agreed that the façade width of the example property at 3-5-7 Main St. is acceptable,(for multiple buildings to form a solid façade without separation). Some setback from road is preferred if the use is residential. The board agreed that closer to Gray corner should be more dense, and less so as you get further away. They support buffering to parking but not necessarily to buildings, and do not want to see pavement to the edge of the road.

SUMMARY OF TOWN COUNCIL INPUT REQUESTED

The council's input will be included in the draft edits to the sections of the Town of Gray Zoning Ordinance and Subdivision Ordinance that require amendments to comply with LD2003 and Planning staff will present those amendments to you for additional review prior to pursuing the formal ordinance amendment process.

GROWTH AREA OVERLAY

Planning staff seeks input on the approach outlined below, to fine-tune the FLU map in the Comp Plan as the basis for a temporary growth overlay district to enable implementation of LD 2003.

DENSITY

1. **Does the council wish to allow greater density as outlined below for any of the following circumstances, and if so, how many additional dwelling units?**
    - **More than two dwelling units on a vacant lot outside of a growth area?**
    - **More than four dwelling units on a vacant lot within a growth area?**

- **More than two additional dwelling units on a lot that has one existing dwelling unit (one of those must be "within or attached to an existing structure")?**

2. **Does the Council wish to *allow* additional density or *explicitly prohibit* additional density in the instance of a teardown/rebuild?**
   - **Require structure to be rebuilt with the same number of dwelling units OR**
   - **Allow structure to be rebuilt subject to the current density standards**

3. **For affordable housing projects, does the Council wish to allow density of more than the minimum of 2 ½ times the base density of the zoning district in which the housing is located, and if so, to what extent?**

AFFORDABLE HOUSING

1. **Does the council wish to extend the affordability requirement beyond the 30 years required by State law?**

2. **Does the council wish to advise on which entity would be the "party acceptable to the municipality" to enforce the affordability provision?**

MULTI-FAMILY STANDARDS

1. **Does the council support amending the definition of "multifamily development" to:**

"A lot which contains two or more multifamily dwellings, two or more duplexes, three or more single family dwellings or any combination of buildings containing three or more dwelling units."

2. **Does the Council support adding the State definition of "multifamily dwelling" in our Zoning ordinance?**

Multifamily dwelling: A structure containing three or more dwelling units.

3. **Does the council support creation of separate performance standards for multi-family dwellings and for multi-family developments?**

4. **Does the council have input on the following aspects of multi-family developments and multi-family structures?**

- Building height
- Minimum separation
- Setbacks
- Buffering
- Performance standards based on density
- Commercial use for larger number of dwelling units; different standards?
- Total number of units per structure

TABLE 1
Requirements for affordable housing

Density	2 ½ times existing base density.
Parking	Up to 2 off-street spaces for every 3 units.
Location Requirements	• Zoning district that allows multifamily dwellings. • Designated growth area or area served by public water and public sewer.
Water And Wastewater	• If connected to public water or sewer, must show system has capacity to serve. • Proof of payment for connection if served by septic, LPI must verify adequate system. • Licensed site evaluator must design system; must show evidence prior to c/o. • For wells, owner must provide evidence of potability. Evidence must be shown prior to issuance of c/o.
Length Of Affordability For Designated Affordable Units	30 years minimum.

"Affordable housing" is defined as follows:

a. For rental housing, a development in which a household with income that does not exceed 80% of median income for the area as established by HUD can afford a majority of the units designated as affordable without spending more than 30% of the household's monthly income on housing costs. (Not all units in development have to be designated as affordable.)

b. For owned housing, a development in which a household with income that does not exceed 120% of the median income for the area as established by HUD can afford a majority of the units designated as affordable without spending more than 30% of the household's monthly income on housing costs. (Not all units in development have to be designated as affordable).

The Maine Department of Economic and Community Development is to adopt rules to administer and enforce the affordable housing requirements (still pending).

TABLE 2
Increased density requirements-applied in all areas where single-family housing is allowed

Vacant-not served by water or sewer or located in designated growth area	Up to 2 dwelling units per lot.
Vacant- served by water or sewer or located in designated growth area	Up to 4 dwelling units per lot.
Developed with one dwelling unit	• Up to 2 additional dwelling units, one in the same building or attached and/or one detached dwelling unit. • Municipality may allow more.
Dimensional requirements (all areas)	Cannot exceed dimensional or setback requirements established for single-family dwellings.
Water and wastewater	• If connected to public water or sewer, must show system has capacity to serve and proof of payment for connection. • If served by septic, LPI must verify adequate system. • Licensed site evaluator must design system; must show evidence prior to c/o. • For wells, owner must provide evidence of potability. Evidence must be shown prior to issuance of c/o.
Restrictions	• If more than one ADU or additional dwelling unit is constructed under the statute, no additional increases are allowed unless otherwise provided by Ordinance. • If a dwelling unit in existence on 7-1-2023 is torn down and results in vacant lot, Ordinance may allow or prohibit additional density. • Subject to subdivision review and shoreland zoning.

APPROVED
APRIL 27, 2022
BY GOVERNOR

CHAPTER
672
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-TWO

H.P. 1489 - L.D. 2003

An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions

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

Sec. 1. 5 MRSA §13056, sub-§7, as amended by PL 2003, c. 159, §3, is further amended to read:

7. Contract for services. When contracting for services, to the maximum extent feasible, seek to use the State's private sector resources in conducting studies, providing services and preparing publications; ~~and~~

Sec. 2. 5 MRSA §13056, sub-§8, as enacted by PL 2003, c. 159, §4, is amended to read:

8. Lead agency for business assistance in response to certain events. Be the lead agency for the State to provide information and business assistance to employers and businesses as part of the State's response to an event that causes the Department of Labor to carry out rapid-response activities as described in 29 United States Code, Sections 2801 to 2872 (2002)~~.~~; and

Sec. 3. 5 MRSA §13056, sub-§9 is enacted to read:

9. Establish statewide housing production goals. Establish, in coordination with the Maine State Housing Authority, a statewide housing production goal that increases the availability and affordability of all types of housing in all parts of the State. The department shall establish regional housing production goals based on the statewide housing production goal. In establishing these goals, the department shall:

A. Establish measurable standards and benchmarks for success of the goals;

B. Consider information submitted to the department from municipalities about current or prospective housing developments and permits issued for the construction of housing; and

C. Consider any other information as necessary to meet the goals pursuant to this subsection.

Sec. 4. 30-A MRSA §4364 is enacted to read:

§4364. Affordable housing density

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

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 of the units that the developer designates as affordable 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 of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs.

2. Density requirements. A municipality shall allow an affordable housing development where multifamily dwellings are allowed to have a dwelling unit density of at least 2 1/2 times the base density that is otherwise allowed in that location and may not require more than 2 off-street parking spaces for every 3 units. The development must be in a designated growth area of a municipality consistent with section 4349-A, subsection 1, paragraph A or B or the development must be served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system. The development must comply with minimum lot size requirements in accordance with Title 12, chapter 423- A, as applicable.

3. Long-term affordability. Before approving an affordable housing development, 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.

4. Shoreland zoning. An affordable housing development must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and municipal shoreland zoning ordinances.

5. Water and wastewater. The owner of an affordable housing development shall provide written verification to the municipality that each unit of the housing development is connected to adequate water and wastewater services before the municipality may certify the development for occupancy. Written verification under this subsection must include:

A. If a housing unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system;

B. If a housing unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under section 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under Title 22, section 42;

C. If a housing unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit; and

D. If a housing unit is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

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.

7. Restrictive covenants. This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

8. Rules. The Department of Economic and Community Development shall adopt rules to administer and enforce this section. The department shall consult with the Department of Agriculture, Conservation and Forestry in adopting rules pursuant to this subsection. The rules must include criteria for a municipality to use in calculating housing costs. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. 30-A MRSA §4364-A is enacted to read:

§4364-A. Residential areas, generally; up to 4 dwelling units allowed

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 allowed, 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.

2. Zoning requirements. With respect to dwelling units allowed under this section, municipal zoning ordinances must comply with the following conditions.

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

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

3. General requirements. A municipal ordinance may not establish dimensional requirements or setback requirements for dwelling units allowed under this section that are greater than dimensional requirements or 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.

4. Water and wastewater. The owner of a housing structure must provide written verification to the municipality that the structure is connected to adequate water and wastewater services before the municipality may certify the structure for occupancy. Written verification under this subsection must include:

A. If a housing structure is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the structure and proof of payment for the connection to the sewer system;

B. If a housing structure is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under section 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under Title 22, section 42;

C. If a housing structure is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the structure, proof of payment for the connection and the volume and supply of water required for the structure; and

D. If a housing structure is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

5. Municipal implementation. In adopting an ordinance, a municipality may:

A. Establish an application and permitting process for housing structures;

B. Impose fines for violations of building, zoning and utility requirements for housing structures; and

C. Establish alternative criteria that are less restrictive than the requirements of subsection 4 for the approval of a housing structure only in circumstances in which the municipality would be able to provide a variance under section 4353, subsection 4, 4-A, 4-B or 4-C.

6. Shoreland zoning. A housing structure must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and municipal shoreland zoning ordinances.

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.

8. Restrictive covenants. This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

9. Rules. The Department of Economic and Community Development may adopt rules to administer and enforce this section. The department shall consult with the Department of Agriculture, Conservation and Forestry in adopting rules pursuant to this subsection. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

Sec. 6. 30-A MRSA §4364-B is enacted to read:

§4364-B. Accessory dwelling units

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

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

A. Within an existing dwelling unit on the lot;

B. Attached to or sharing a wall with a single-family dwelling unit; or

C. As a new structure on the lot for the primary purpose of creating an accessory dwelling unit.

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

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.

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

A. A municipality shall exempt an accessory dwelling unit from any density requirements or calculations related to the area in which the accessory dwelling unit is constructed.

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, in which case the requisite setback requirements for such a structure apply. A municipality may establish more permissive dimensional and set back requirements for an accessory dwelling unit.

C. An accessory dwelling unit may not be subject to any additional parking requirements beyond the parking requirements of the single-family dwelling unit on the lot where the accessory dwelling unit is located.

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.

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

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

A. If an accessory dwelling unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the accessory dwelling unit and proof of payment for the connection to the sewer system;

B. If an accessory dwelling unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under section 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under Title 22, section 42;

C. If an accessory dwelling unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the accessory dwelling unit, proof of payment for the connection and the volume and supply of water required for the accessory dwelling unit; and

D. If an accessory dwelling unit is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

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

A. Establish an application and permitting process for accessory dwelling units;

B. Impose fines for violations of building, zoning and utility requirements for accessory dwelling units; and

C. Establish alternative criteria that are less restrictive than the requirements of subsections 4, 5, 6 and 7 for the approval of an accessory dwelling unit only in circumstances in which the municipality would be able to provide a variance under section 4353, subsection 4, 4-A, 4-B or 4-C.

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

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.

11. Restrictive covenants. This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid or enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

12. Rules. The Department of Economic and Community Development may adopt rules to administer and enforce this section. The department shall consult with the Department of Agriculture, Conservation and Forestry in adopting rules pursuant to this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

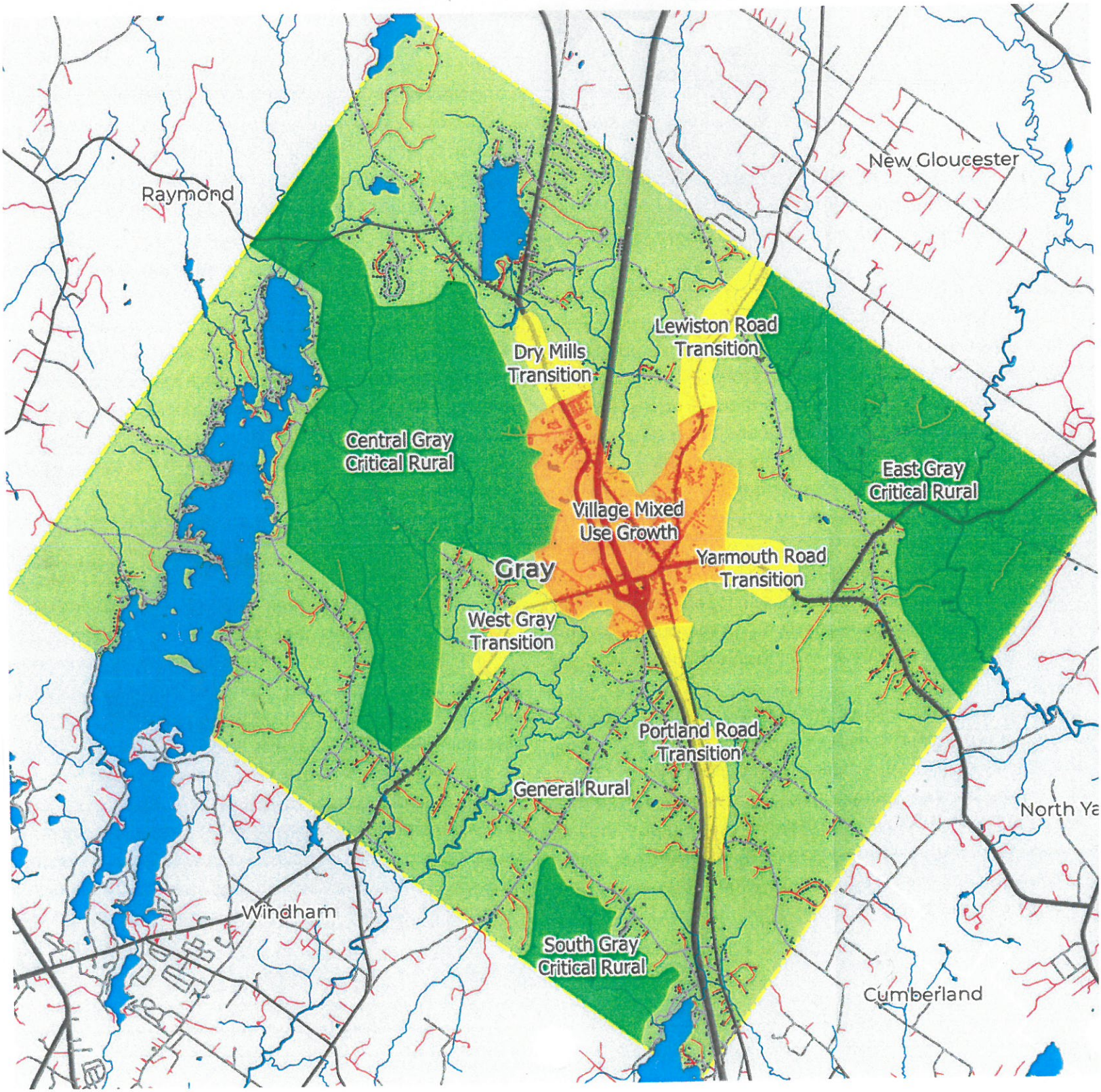
Sec. 7. 30-A MRSA §4364-C is enacted to read:

§4364-C. Municipal role in statewide housing production goals

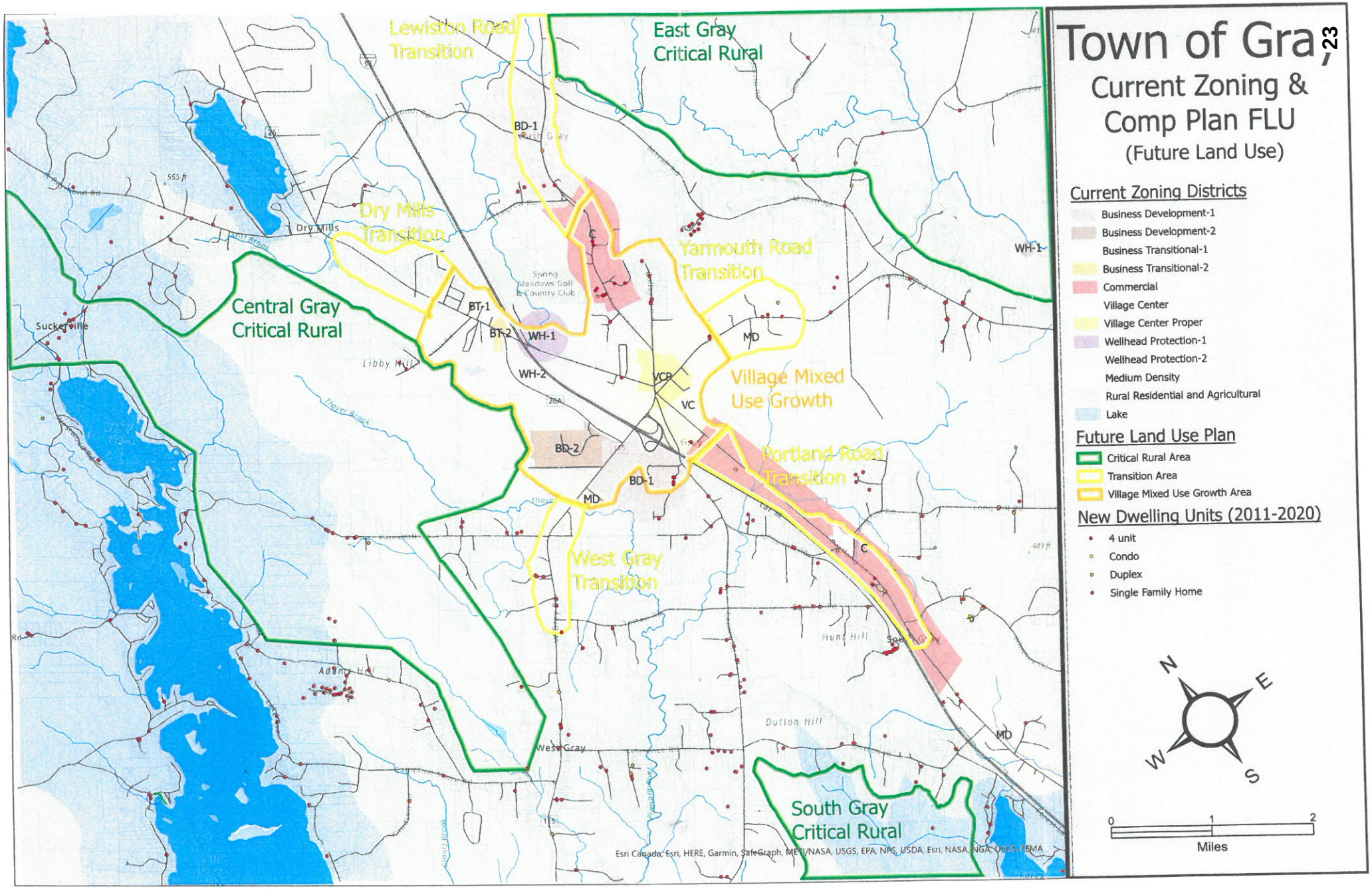
This section governs the responsibilities and roles of municipalities in achieving the statewide and regional housing production goals set by the Department of Economic and Community Development in Title 5, section 13056, subsection 9.

1. Fair housing and nondiscrimination. A municipality shall ensure that ordinances and regulations are designed to affirmatively further the purposes of the federal Fair Housing Act, 42 United States Code, Chapter 45, as amended, and the Maine Human Rights Act to achieve the statewide or regional housing production goal.

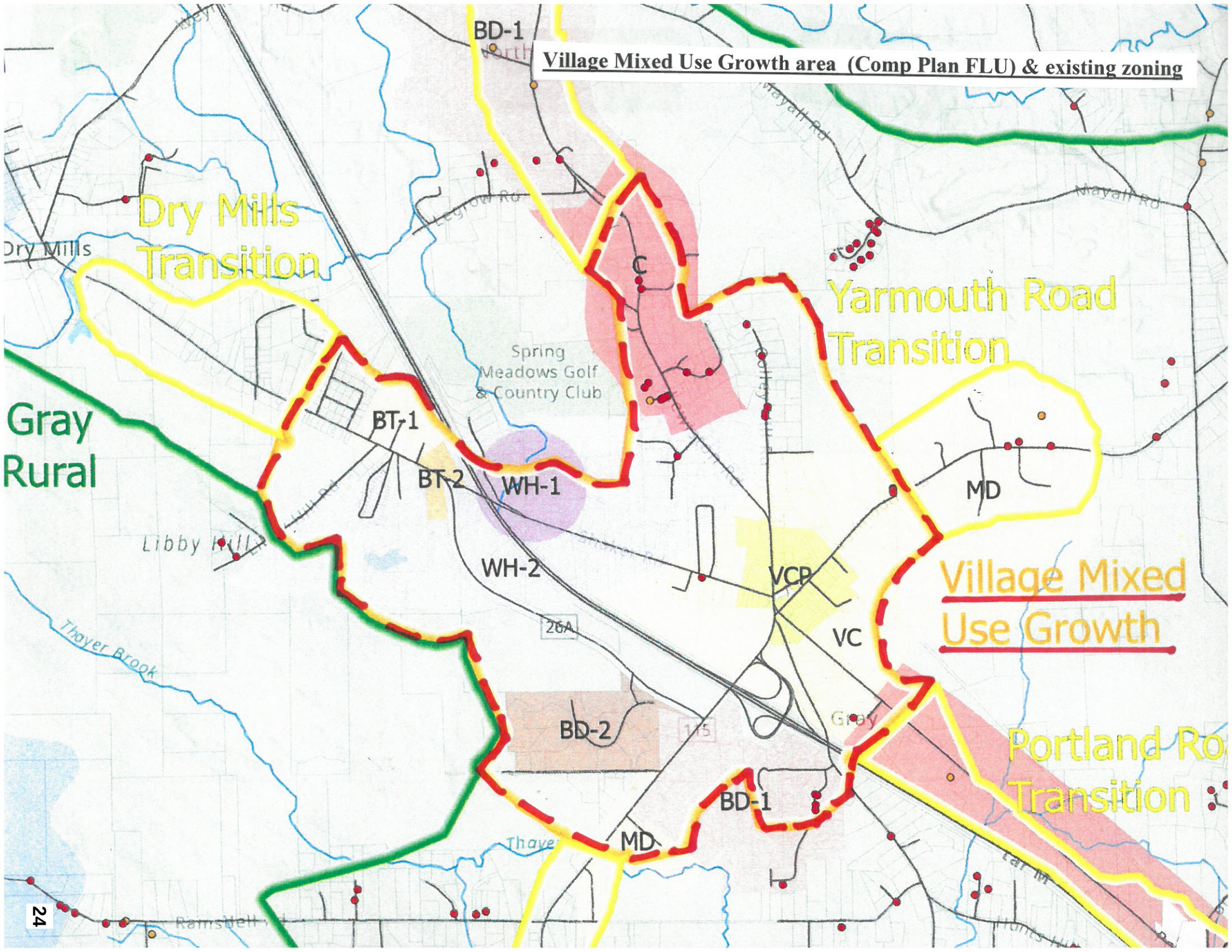
2. Municipalities may regulate short-term rentals. A municipality may establish and enforce regulations regarding short-term rental units in order to achieve the statewide or regional housing production goal. For the purposes of this subsection, "short-term rental unit" means living quarters offered for rental through a transient rental platform as defined by Title 36, section 1752, subsection 20-C.



Future Land Use (FLU) map from Comprehensive Plan



Existing zoning with overlay of Comp Plan FLU map


Village Mixed Use Growth area (Comp Plan FLU) & existing zoning
Dry Mills Transition
Yarmouth Road Transition
Gray Rural
Village Mixed Use Growth
Portland Ro Transition
BD-1
C
BT-1
BT-2
WH-1
WH-2
MD
VCP
VC
BD-2
BD-1
MD
Spring Meadows Golf & Country Club
Dry Mills
Libby Hill
Thayer Brook
Gray
26A
115
Ramsdell
24