

Municipal Payment Distribution Schedule for P.L. 2021, ch. 672

Maine Department of Economic and Community Development

June 2023

Revised September 2023

A. Summary

This document outlines the payment distribution schedule for the Department of Economic and Community Development's municipal payments associated with P.L. 2021, ch. 672.

B. Introduction

In 2022, the Maine Legislature enacted, and Governor Mills signed *An Act to Implement the Recommendations of the Commission to increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions*, P.L. 2021, ch. 672. This legislation sets forth the provisions which require municipalities to create or amend local ordinances to allow for (1) additional density for affordable housing developments in certain areas; (2) multiple dwelling units on lots designated for residential use; and (3) one accessory dwelling unit located on the same lot as a single-family dwelling unit in any area where residential uses are permitted.

The Legislature also established the Housing Opportunity Program within the Maine Department of Economic and Community Development to encourage and support the development of additional housing units in the State. 5 M.R.S. § 13056-J. The Legislature allocated funding to the Housing Opportunity Program to provide technical assistance and funding to municipalities. Part of the Housing Opportunity Program's funding was allocated to provide funds to reimburse municipalities for the costs of amending and implementing land use ordinances. P.L. 2021, ch. 635, Pt. U.

C. Definitions

1. **Centrally managed water system.** "Centrally managed water system" means a water system that provides water for human consumption through pipes or other constructed conveyances to at least 15 service connections or serves an average of at least 25 people for at least 60 days a year as regulated by 10-144 C.M.R. Ch. 231, *Rules Relating to Drinking Water*. This water system may be privately owned.
2. **Comparable sewer system.** "Comparable sewer system" means any subsurface wastewater disposal system that discharges over 2,000 gallons of wastewater per day as regulated by 10-144 C.M.R. Ch. 241, *Subsurface Wastewater Disposal Rules*.
3. **Department.** "Department" means the Maine Department of Economic and Community Development
4. **Designated growth area.** "Designated growth area" means an area that is designated in a municipality's or multi-municipal region's comprehensive plan as suitable for orderly residential, commercial, or industrial development, or any combination of those types of development, and into which most development projected over ten (10) years is directed. Designated growth areas may also be referred to as priority development zones or other terms with a similar intent. If a

municipality does not have a comprehensive plan, “designated growth area” means an area served by a public sewer system that has the capacity for the growth-related project, an area identified in the latest Federal Decennial Census as a census-designated place or a compact area of an urban compact municipality as defined by 23 M.R.S. §754.

5. **Municipality.** “Municipality” means a city or a town, excluding all unorganized and deorganized townships, plantations, and towns that have delegated administration of land use controls to the Maine Land Use Planning Commission pursuant to 12 M.R.S. § 682(1).

D. Payment Distribution Schedule

1. Eligibility:

- a. Municipalities with Zoning

The Department shall distribute a one-time payment to each municipality with zoning to be used for expenses associated with municipal ordinance development to comply with P.L. 2021, ch. 672. Eligible municipalities include municipalities that have zoning districts, meaning the municipality is divided into zones or districts in which differing regulations and uses apply.

- b. Municipalities without Zoning

- i. Municipalities without zoning, including municipalities with only shoreland zoning, may request a one-time payment from the Department to be used for ordinance development to comply with P.L. 2021, ch. 672.
 - ii. To request a one-time payment, a municipality must send the Department a letter explaining why funding for ordinance development to comply with P.L. 2021, ch. 672 is requested. Accompanying this letter, the municipality must also send the Department land use documents including, but not limited to:
 1. Comprehensive plans;
 2. Land use ordinances;
 3. Land use and zoning maps; and
 4. Information on areas identified in the latest Federal Decennial Census as a census designated place or compact area in an urban compact municipality as defined by 23 M.R.S. § 754.
 - iii. If a municipality has incurred costs to comply with P.L. 2021, ch. 672 prior to sending in a request for payment, it may also send the Department documentation of those incurred costs to be reviewed. See Section D(3) for more information on qualifying expenses.
 - iv. A municipality must send the letter and all documentation to the Department’s designated email box, housing.decd@maine.gov.

- v. Payment requests shall be reviewed by the Municipal Payment Review Committee. This Review Committee shall include, but is not limited to, the following members:
 - 1. Representative(s) from the Department of Economic and Community Development;
 - 2. Representative(s) from the Governor's Office of Policy Innovation and the Future; and
 - 3. Representative(s) from the statewide municipal association or its designees.
- vi. Once a municipal payment request is received by the Department, the Municipal Payment Review Committee shall review the request. The Municipal Payment Review Committee shall provide its decision on the payment request to the municipality in writing.
- vii. If the municipality is granted a one-time payment, the process outlined below in Section D(2)-(6) applies.
- viii. If the municipality is denied a one-time payment, the municipality may appeal the decision as outlined in Section E.

2. Payment Amount:

- a. Eligible municipalities that have (1) one or more designated growth areas or (2) a public, special district, or other centrally managed water system and a public, special district, or other comparable sewer system shall receive **up to \$10,000**.
- b. Eligible municipalities that do not have (1) designated growth areas or (2) a public, special district, or other centrally managed water system and a public, special district or other comparable sewer system shall receive **up to \$5,000**.

3. Qualifying Expenses:

The funding must be used for the following zoning ordinance related qualifying expenses:

- a. Attorney's fees to research, draft and revise zoning ordinances;
- b. Attorney's fees associated with development of legal opinions regarding local regulations;
- c. Staff, volunteer, and contractor time for research and drafting zoning ordinances, including staff time and board/town meetings;
- d. Fees associated with providing notice of election and public meetings; and

- e. Staff time, including overtime and stipends, and other associated expenses, for the conduct of town meetings and elections.

4. Payment Process:

- a. The Department shall send the payments to eligible municipalities beginning this summer via municipal Advantage ID numbers. **To receive funding, municipalities must fill out the attached invoice template and email the completed invoice to housing.decd@maine.gov to initiate the payment process.** A Microsoft Word version of the invoice template can be found on the Department's website, <https://www.maine.gov/decd/housingopportunityprogram>.
- b. In order to receive money from the State of Maine, a municipality must be enrolled in the State's vendor payment system. Once enrolled, each vendor is given a unique Advantage Vendor Number. This number is provided by the State's Procurement Services Office to any vendor working with state offices. If a municipality needs assistance locating its vendor number, please contact the Maine Department of Economic and Community Development at (207) 624-9800 or the Housing Opportunity Program at housing.decd@maine.gov.

5. Responsibilities of the Municipality

- a. Any municipality that receives funding from the Department to comply with P.L. 2021, ch. 672 must send the Department:
 - i. Updated ordinances following adoption; and
 - ii. Accounting documentation that is detailed enough for the Department to determine whether the funds spent are qualifying expenses as described above in Section D(3). Accounting documentation should provide, at a minimum: the goods and/or services paid for; the amount paid for goods and/or services; and the date of payment(s).
- b. Adopted ordinances and accounting documentation must be emailed to the Housing Opportunity Program at housing.decd@maine.gov.

6. Unexpended Funds

If a municipality does not expend all the funds allocated pursuant to this payment schedule, the municipality must return the unexpended funds to the Department. To initiate a return of the funding, please email housing.decd@maine.gov.

E. Appeal Process

- 1. In accordance with the Maine Administrative Procedure Act, a municipality may appeal the number, amount, and timing of payments to the Department.
- 2. If a municipality desires to appeal, the appeal must:
 - a. Be in writing;
 - b. Addressed to the Commissioner of the Department;

- c. Be emailed to the following designated email box: housing.decd@maine.gov;
 - d. Label the subject line of the email “Municipal Payment Schedule Appeal”; and
 - e. Explain the basis for the appeal.
3. Decisions on appeal from the number, amount, and timing of payments awarded pursuant to this payment schedule constitute final agency action for judicial review purposes pursuant to the Maine Administrative Procedure Act, 5 M.R.S. § 11001(1).