

**SUMMARY OF NEW STATE LEGISLATION (LDs 1655, 1143, 556)
AND ORDINANCE AMENDMENTS RELATED THERETO**

LD 1655 - An Act to Allow the Keeping of Chickens on Private Residential Property

This state law prohibits municipalities from adopting an ordinance that prohibits a person from keeping chickens on their residential property. Section 19-40 of the town's ordinance regulates the keeping of poultry for personal use in Falmouth. Currently, poultry is only allowed to be kept in the following zoning districts: Farm and Forest; RA; RB; RC; RD; HL; and VMU. As a result of this new state law, Falmouth's ordinance must be amended to allow the keeping of poultry in all of the town's other zoning districts that allow residential uses. This includes the ESRD, OSRD, Tidewater Master Planned Development District, Middle Road Special District, MUC, VC1, VC2, and Route One North District.

LD 1143 - An Act to Update Language on Setback Variances for Single-family Dwellings

Falmouth's ordinance includes a provision that allows the Board of Zoning Appeals (BZA) to grant setback variances for single-family dwellings subject to certain criteria and limitations. For municipalities that have adopted this variance provision, LD 1143 requires municipalities to amend their ordinances to track the Legislature's recent amendments to the statute. Specifically, municipalities are required to amend their ordinances to expand the applicability of this variance provision such that it applies to all types of dwellings and not just to single-family dwellings.

LD 556 - An Act to Preserve Heating and Energy Choice by Prohibiting a Municipality from Prohibiting a Particular Energy System or Energy Distributor

In 2024, the Town adopted a Green Building Ordinance which, among other things, prohibits the use of fossil fuel systems in certain town-related building projects. LD 556 prohibits municipalities from adopting an ordinance "*that prohibits the use of a safe and commercially available heating or energy system of an individual's or entity's choice to serve the individual's or entity's heating or energy needs*". This new state law invalidates the portion of the Town's Green Building Ordinance that prohibits the use of fossil fuel systems. Accordingly, those portions of the Green Building Ordinance must be deleted.

STATE OF MAINE

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IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

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H.P. 1096 - L.D. 1655

An Act to Allow the Keeping of Chickens on Private Residential Property

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

Sec. 1. 7 MRSA §219-D is enacted to read:

§219-D. Keeping chickens on residential property

A county or municipality may not adopt a regulation or ordinance that prohibits a person from keeping chickens on that person's residential property. For purposes of this section, "chicken" means a female domesticated bird that is raised for meat or eggs and does not include a fully mature domesticated male chicken. This section may not be construed to limit the home rule authority of a municipality.

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

S.P. 474 - L.D. 1143

An Act to Update Language on Setback Variances for Single-family Dwellings

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

Sec. 1. 30-A MRSA §4353, sub-§4-B, as amended by PL 1993, c. 627, §1, is further amended to read:

4-B. ~~Set-back~~ Setback variance for single-family dwellings. A municipality may adopt an ordinance that permits the board to grant a ~~set-back~~ setback variance for a ~~single-family~~ dwelling. An ordinance adopted under this subsection may permit a variance from a ~~set-back~~ setback requirement only when strict application of the zoning ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

- A. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- B. The granting of a variance will not alter the essential character of the locality;
- C. The hardship is not the result of action taken by the applicant or a prior owner;
- D. The granting of the variance will not substantially reduce or impair the use of abutting property; and
- E. That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

An ordinance adopted under this subsection is strictly limited to permitting a variance from a ~~set-back~~ setback requirement for a ~~single-family~~ dwelling that is the primary year-round residence of the petitioner. A variance under this subsection may not exceed 20% of a ~~set-back~~ setback requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage. An ordinance may allow for a variance under this subsection to exceed 20% of a ~~set-back~~ setback requirement, except for minimum setbacks from a wetland or water body required within shoreland zones by rules adopted pursuant to Title 38, chapter 3, subchapter 1, article 2-B, if the petitioner has obtained the written consent of an affected abutting landowner.

STATE OF MAINE

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TWO THOUSAND TWENTY-FIVE

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S.P. 218 - L.D. 556

**An Act to Preserve Heating and Energy Choice by Prohibiting a
Municipality from Prohibiting a Particular Energy System or Energy
Distributor**

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

Sec. 1. 30-A MRSA §3015 is enacted to read:

§3015. Heating or energy system

Unless otherwise authorized by statute, a municipality may not adopt any ordinance or regulation that prohibits the use of a safe and commercially available heating or energy system of an individual's or entity's choice to serve the individual's or entity's heating or energy needs, including the heating or energy needs of a motor vehicle, or that prohibits the individual or entity from engaging the services of a person or energy distributor to install, connect, service or resupply such a system. As used in this section, "energy distributor" means an individual or entity allowed to distribute or supply oil, propane, natural gas or wood or renewable resources or other related energy services to consumers in the State and "renewable resources" has the same meaning as in Title 35-A, section 3210, subsection 2, paragraph C.

This section does not limit the authority of a municipality to encourage the use of a particular type of heating or energy system or to spend funds in support of a particular type of heating or energy system. This section does not exempt any person or energy distributor that installs, connects, services or resupplies a heating or energy system from applicable licensing or other requirements governing such activities.