

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 844

H. P. 630

House of Representatives, February 13, 1973

Referred to the Committee on Natural Resources. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Huber of Falmouth.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT to Amend the Minimum Lot Size Law.

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

Sec. 1. R. S., T. 12, c. 423-A, additional. Title 12 of the Revised Statutes is amended by adding a new chapter 423-A, to read as follows:

CHAPTER 423-A

MINIMUM LOT SIZE

§ 4807. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. Multiple unit housing. "Multiple unit housing" shall mean a structure or structures located on a single lot, which structures are designed or used to house 2 or more families.

2. Other land use activity. "Other land use activity" includes any commercial or industrial uses or combination of such uses.

3. Person. "Person" means any individual, corporation, firm, partnership, municipality, quasi-municipal corporation, state or federal agency or any other legal entity.

4. Single family residential unit. "Single family residential unit" means any structure of any kind, including mobile homes, used or designed to house a single family, and shall include those structures used permanently and seasonally.

5. Subsurface waste disposal. "Subsurface waste disposal" means any system for disposing of wastes or waste waters on or beneath the surface of the earth including, but not limited to, holding ponds, surface spraying, septic tanks, drainage fields, cesspools, wells and holding tanks, but shall not include any discharge or discharge system licensed under Title 38, section 414 or any discharge into a municipal or quasi-municipal sewer system.

6. Waste. "Waste" means any liquefied sewage, garbage, sewage sludge, chemical, biological or radiological materials, human body wastes, or any other refuse or effluent in a liquid form generated from domestic, commercial or industrial activities, except any wastes containing insufficient liquid to be free flowing and wastes generated from agricultural activities or animal husbandry.

§ 4807-A. Minimum lot size required

In all areas of the State, notwithstanding any other provision of state or local law or regulation, no person shall:

1. Dispose of waste from any single family residential unit by means of subsurface waste disposal unless such lot of land on which such single family residential unit is located contains at least 20,000 square feet; and if the lot abuts a lake, pond, stream, river or tidal area, it shall further have a minimum frontage of 100 feet on such body of water;

2. Dispose of wastes by means of subsurface waste disposal from any multiple unit housing or any other land use activity which may generate wastes in excess of the waste disposal requirements of normal single family residential unit, unless such multiple unit housing or other land use activity is located on a lot of a size and minimum frontage which is greater than the requirements stated in subsection 1 in the same proportion as the actual waste disposal requirements of the multiple unit housing or other land use activities is greater than that of a single family residential unit. For purposes of computing such proportions, the amount of sewage generated by and the waste disposal requirement of such activities or land uses shall be deemed to be:

A. Single family residential unit, 300 gallons per day;

B. Multiple unit housing 120 gallons per bedroom;

C. Other land use activity, actual measurement or computation of waste generated or likely to be generated.

§ 4807-B. Approval of smaller lots

A lot of less than the size required in section 4807-A may be used for subsurface waste disposal if approved in writing by the Board of Environmental Protection. Approval shall be granted if the applicant for approval demonstrates to the Board of Environmental Protection that, based upon the amount and nature of wastes, construction of the subsurface disposal system, soil types and slopes, percolation rates, depth to bedrock and groundwater, density of any proposed development, and other relevant factors, the proposed sub-

surface waste disposal will not lower the water quality of or otherwise pose a threat to any lake, pond, stream, river or tidal waters, any underground water supply, or to the public health, safety and general welfare.

§ 4807-C. Approval of lesser frontage

A lot of less than the frontage required in section 4807-A may be used for subsurface waste disposal if approved in writing by the Board of Environmental Protection. Approval shall be granted if the applicant for approval demonstrates to the board that such frontage will not cause such lot to be of such configuration as to prevent compliance with the standards in section 4807-B, or not otherwise present any harm to public health, safety or general welfare.

§ 4807-D. Exemptions

This chapter shall not apply to any structure in existence and in place on or before January 1, 1970, which then or theretofore disposed of wastes by means of subsurface waste disposal; except that no person shall reduce the size of the lot upon which such structure is located to a size or frontage less than that allowed by section 4807-A unless permitted pursuant to section 4807-B.

§ 4807-E. Appeal

Appeal shall be in the manner provided by Title 38, section 415.

§ 4807-F. Regulations; fees

The Board of Environmental Protection may enact such regulations as it deems necessary to administer and interpret the provisions of this chapter.

The board may charge such reasonable fees as may be necessary to administer this chapter and to defray the costs of processing applications for approval.

§ 4807-G. Violations

Any person who violates any provision of this chapter or the regulations enacted hereunder shall be subject to a fine of not more than \$1,000 for each offense or violation. Each day of such violation shall be considered a separate offense. Alternatively, and in addition thereto, any use of land in violation of this chapter shall be deemed to be a nuisance and the board may seek an injunction to prevent or abate a violation of this chapter or regulations promulgated thereunder.

Sec. 2. R. S., T. 12, c. 423, repealed Chapter 423 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 365 of the public laws of 1969, and as amended, is repealed.

STATEMENT OF FACT

This revision of the minimum lot size law is intended to clarify problems encountered in administering and enforcing the existing law. Such problems

particularly relate to standards of approval of lots less than the 20,000 square foot minimum and interpretation and application of the "grandfather" clause. The proposed revision should provide greater guidance to those who are subject to regulation. The revision also eliminates the requirement for 100 feet of frontage on a public road and permits a variance on the 100 foot frontage requirement on a public body of water.