

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 2202

S.P. 846

In Senate, February 5, 1988

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator PEARSON of Penobscot.

Cosponsored by Representative MURPHY of Kennebunk,
Representative MICHAUD of East Millinocket, Representative LORD
of Waterboro.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-EIGHT

AN ACT to Strengthen the Site Location
of Development Law.

1
2
3

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

6 Sec. 1. 12 MRSA §682, sub-§2, as amended by PL
7 1987, c. 514, §1, is further amended to read:

8 2. Subdivision. A subdivision is a division of

1 an existing parcel of land into 3 or more parcels or
2 lots within any 5-year 10-year period, whether this
3 division is accomplished by platting of the land for
4 immediate or future sale, or by sale of the land by
5 metes and bounds or by leasing. Notwithstanding this
6 definition, the commission may establish rules to
7 exempt from consideration as a subdivision, lots or
8 parcels of 500 acres or more which are managed for
9 commercial forest product purposes.

10 No sale or leasing of any lot or parcel may be
11 considered a subdivision if such lot or parcel is not
12 less than 40 acres in size, except when the intent of
13 such conveyance is to avoid the objectives of this
14 statute or if such lots are located wholly or partly
15 within any area within 250 feet of a lake or pond
16 greater than 10 acres in area or any body of water
17 with a drainage area greater than 50 square miles and
18 when such lots have a lot depth to shore frontage
19 ratio greater than 5 to 1 in which case the commission
20 shall review the subdivision. When 3 or more lots of
21 40 or more acres are created a plan must be filed with
22 ~~the-registry-of-deeds-and-the-State-Tax-Assessor.~~

23 Sec. 2. 38 MRSAs §481, first ¶, as amended by PL
24 1983, c. 513, §1, is further amended to read:

25 The Legislature finds that the economic and social
26 well-being of the citizens of the State of Maine
27 depend depends upon the location of state, municipal,
28 quasi-municipal, educational, charitable, commercial
29 and industrial developments with respect to the
30 natural environment of the State; that many
31 developments because of their size and nature are
32 capable of causing irreparable damage to the people
33 and the environment on the development sites and in
34 their surroundings; that the location of such
35 developments is too important to be left only to the
36 determination of the owners of such developments; and
37 that discretion must be vested in state authority to
38 regulate the location of developments which may
39 substantially affect the environment and quality of
40 life in Maine.

41 Sec. 3. 38 MRSAs §482, sub-§2, as repealed and

1 replaced by PL 1987, c. 130, is repealed and the
2 following enacted in its place:

3 2. Development which may substantially affect the
4 environment. "Development which may substantially
5 affect the environment," in this article called
6 "development," means:

7 A. Any state, municipal, quasi-municipal,
8 educational, charitable, commercial or industrial
9 development which:

10 (1) Occupies a land or water area in excess
11 of 20 acres;

12 (2) Contemplates drilling for or excavating
13 natural resources on land or under water
14 where the area affected is in excess of
15 60,000 square feet;

16 (3) Is a mining activity as defined in this
17 section;

18 (4) Is a hazardous activity as defined in
19 this section;

20 (5) Is a structure as defined in this
21 section; or

22 (6) Is a conversion of an existing structure
23 that meets the definition of structure in
24 this section;

25 B. Any subdivision as defined in this section; or

26 C. A multi-unit housing development of 10 units
27 or more located wholly or in part within the
28 shoreland zone.

29 This term does not include state highways, state aid
30 highways and borrow pits for sand, fill or gravel of
31 less than 5 acres or when regulated by the Department
32 of Transportation, and such borrow pits entirely
33 within the jurisdiction of the Maine Land Use
34 Regulation Commission under Title 12, chapter 206-A,
35 and those activities regulated by the Department of

1 Marine Resources under Title 12, section 6072.

2 Sec. 4. 38 MRSA §482, sub-§2-B, as enacted by
3 PL 1979, c. 466, §13, is amended to read:

4 2-B. Mining activity. "Mining activity" means
5 the breaking of the surface soil in order to
6 facilitate or accomplish the extraction or removal of
7 more than 1,000 cubic yards of product or overburden
8 from the earth within ~~12 successive calendar months~~
9 a 10-year period; any activity or process that for the
10 extraction or removal of the product or overburden;
11 and the preparation, washing, cleaning or other
12 treatment of that product so as to make it suitable
13 for commercial, industrial or construction use, but
14 shall not include excavation or grading preliminary to
15 a construction project:

16 Sec. 5. 38 MRSA §482, sub-§§2-D, 2-E and 2-F
17 are enacted to read:

18 2-D. Multi-unit housing. "Multi-unit housing"
19 means any development built for the purposes of
20 providing 10 or more housing units located on a single
21 parcel of land and contained in one or more buildings.

22 2-E. Coastal wetlands. "Coastal wetlands" means
23 all intertidal and subtidal lands, including all areas
24 below any identifiable debris line left by tidal
25 action, all areas with vegetation present that are
26 tolerant of salt water and occur primarily in a salt
27 water habitat and any swamp, marsh, bog, beach, flat
28 or other contiguous lowland which is subject to tidal
29 action or annual storm flowage at any time except for
30 periods of maximum storm activity. Coastal wetlands
31 may include portions of coastal sand dunes.

32 2-F. Freshwater wetlands. "Freshwater wetlands"
33 means freshwater swamps, marshes, bogs and similar
34 areas which are:

35 A. Of 10 or more contiguous acres;

36 B. Characterized predominately by wetland
37 vegetation; and

1 C. Not considered part of a great pond, coastal
2 wetland, river, stream or brook.

3 These areas may contain small inclusions of land that
4 do not conform to the criteria of this subsection.

5 Sec. 6. 38 MRSA §482, sub-§3-B is enacted to
6 read:

7 3-B. Normal high water line. "Normal high water
8 line" means that line along the shore of a great pond,
9 river or other nontidal body of water which is
10 apparent from visible markings, changes in the
11 character of soils due to prolonged action of the
12 water or changes in vegetation and which distinguishes
13 between predominantly aquatic and predominantly
14 terrestrial land. In the case of great ponds, all
15 land below the normal high water line shall be
16 considered the bottom of the great pond for the
17 purposes of this subchapter.

18 Sec. 7. 38 MRSA §482, sub-§4-A, as enacted by
19 PL 1979, c. 466, §13, is amended to read:

20 4-A. Product. "Product" means clay, peat, stone
21 minerals, ores, topsoils, sand and gravel, fill or
22 other solid matter.

23 Sec. 8. 38 MRSA §482, sub-§4-D, as enacted by
24 PL 1981, c. 449, §§6 and 9, is amended to read:

25 4-D. Significant ground water aquifer.
26 "Significant ground water aquifer" means a porous
27 formation of ice-contact and glacial outwash sand and
28 gravel or fractured bedrock that contains significant
29 recoverable quantities of water which is likely to
30 provide drinking water supplies.

31 Sec. 9. 38 MRSA §482, sub-§§4-E and 4-F are
32 enacted to read:

33 4-E. River. "River" means a free-flowing body of
34 water from that point at which it provides drainage
35 for a watershed of 25 square miles to its mouth.

1 4-F. Shoreland zone. "Shoreland zone" means all
2 area within 250 feet of the normal high water line of
3 any great pond or river, or within 250 feet of a
4 freshwater or coastal wetland.

5 **Sec. 10. 38 MRSA §482, sub-§5, as amended by PL**
6 **1985, c. 654, is repealed and the following enacted in**
7 **its place:**

8 5. Subdivision. A "subdivision" is the division
9 of a parcel of land of 20 or more acres into 5 or more
10 lots to be offered for sale or lease to the general
11 public during any 10-year period.

12 A. All the lots must be at least 10 acres in
13 size, unless the subdivision is located wholly or
14 in part in the shoreland zone, in which case the
15 exemption does not apply.

16 B. Unless intended to circumvent this article,
17 the following transactions shall not be considered
18 lots offered for sale or lease to the general
19 public:

20 (1) Sale or lease of abutting lots to an
21 owner or to a spouse, child, parent, grand-
22 parent or sibling of the developer; or

23 (2) Personal, nonprofit transactions such as
24 the transfer of lots by gift or devise.

25 C. In those subdivisions which would otherwise
26 not require site location approval, unless
27 intended to circumvent this article, the following
28 transactions shall not, except as provided, be
29 considered lots offered for sale or lease to the
30 general public:

31 (1) Sale or lease of common lots created
32 with a conservation easement as defined in
33 Title 33, section 476, provided that the
34 Department of Environmental Protection is
35 made a party.

1 D. Five years after a subdivider establishes a
2 single-family residence for that subdivider's own
3 use on a lot and actually uses the lot for that
4 purpose during that period, that lot shall not be
5 counted as a lot.

6 These exceptions do not apply, and the subdivision
7 must require site location approval, whenever the use
8 of a lot described in paragraph C changes or the lot
9 is offered for sale or lease to the general public
10 without the limitations set forth in paragraph C.

11 Sec. 11. 38 MRSA §482, sub-§6, ¶A, as enacted
12 by PL 1975, c. 214, is amended to read:

13 A. A building or buildings on a single parcel
14 constructed or erected with a fixed location on or
15 in the ground or attached to something on or in
16 the ground which occupies a ground area in excess
17 of 60,000 square feet or contains a total floor
18 area of 100,000 square feet or more; or

19 Sec. 12. 38 MRSA §483-A is enacted to read:

20 §483-A. Prohibition

21 No person may construct or cause to be constructed
22 or operate or cause to be operated or, in the case of
23 a subdivision, sell or lease, offer for sale or lease
24 or cause to be sold or leased, any development
25 requiring approval under this article without first
26 having obtained approval for such construction,
27 operation or sale from the Board of Environmental
28 Protection. The board shall not approve any
29 development which is located in a municipality which
30 has not adopted a comprehensive plan pursuant to the
31 requirements and timetable in Title 30, chapter 239,
32 subchapter VI.

33 Sec. 13. 38 MRSA §484, as amended by PL 1987,
34 c. 141, Pt. B, §36, is repealed and the following
35 enacted in its place:

36 §484. Standards for development

1 The board shall approve a development proposal
2 whenever it finds that:

3 1. Financial capacity. The developer has the
4 financial capacity and technical ability to develop
5 the project in a manner consistent with state
6 environmental standards and with the provisions of
7 this article.

8 2. Traffic movement. The developer has made
9 adequate provision for traffic movement of all types
10 into, out of or within the development area.

11 3. No adverse effect on the natural environment.
12 The developer has made adequate provision for fitting
13 the development harmoniously into the existing natural
14 environment and that the development will not
15 adversely affect existing uses, scenic character, air
16 quality, water quality or other natural resources in
17 the municipality or in neighboring municipalities.

18 4. Soil types and erosion. The proposed
19 development will be built on soil types which are
20 suitable to the nature of the undertaking and will not
21 cause unreasonable erosion of soil or sediment nor
22 inhibit the natural transfer of soil.

23 5. Ground water. The proposed development will
24 not pose an unreasonable risk that a discharge to a
25 significant ground water aquifer will occur.

26 6. Public access. When the development is
27 located on a parcel of land that is located wholly or
28 in part within the shoreland zone, the development
29 will not unreasonably affect customary public access
30 or other access rights to those waters.

31 7. Infrastructure. The developer has made
32 adequate provision of utilities, including water
33 supplies, sewerage facilities and solid waste
34 disposal, roadways and open space required for the
35 development and the development will not have an
36 unreasonable adverse effect on the existing or
37 proposed utilities, roadways and open space in the
38 municipality or area served by those services or open
39 space. In assessing the impact on open space, the

1 board shall use as a standard that which is set forth
2 in the municipality's comprehensive land use plan,
3 when such a plan exists.

4 8. Flooding. The activity will not unreasonably
5 cause or increase the flooding of the alteration area
6 or adjacent properties.

7 9. Sand supply. If the activity is on or
8 adjacent to a sand dune, it will not unreasonably
9 interfere with the natural supply or movement of sand
10 within or to the sand dune system.

11 Sec. 14. 38 MRS A §485-A is enacted to read:

12 §485-A. Notification required; board action;
13 administrative appeals

14 1. Application. Any person intending to
15 construct or operate a development shall, before
16 commencing construction or operation, notify the
17 department in writing of the intent, nature and
18 location of the development, together with such other
19 information as the board may by rule require. The
20 board or the commissioner shall either approve the
21 proposed development, setting forth such terms and
22 conditions as are appropriate and reasonable, or
23 disapprove the proposed development, setting forth the
24 reasons for the disapproval or scheduling a hearing in
25 the manner described in subsection 2.

26 2. Hearing request. If the board has issued an
27 order without a hearing regarding any person's
28 development, that person may request, in writing, a
29 hearing before the board within 30 days after notice
30 of the board's decision. This request shall set
31 forth, in detail, the findings and conclusions of the
32 board to which that person objects, the basis of the
33 objections and the nature of the relief requested.
34 Upon receipt of the request, the board shall schedule
35 and hold a hearing limited to the matters set forth in
36 the request. Hearings shall be scheduled in
37 accordance with section 486-A.

38 3. Failure to notify board. The board may, at
39 any time with respect to any person who has commenced
40 construction or operation of any development without
41 having first notified the board pursuant to this

1 section, schedule and conduct a public hearing with
2 respect to that development.

3 Sec. 15. 38 MRSA §486-A is enacted to read:

4 §486-A. Hearings; orders; construction suspended

5 1. Hearings. If the board determines to hold a
6 hearing on a notification submitted to it pursuant to
7 section 485-A, it shall hold the hearing in accordance
8 with the Maine Administrative Procedure Act, Title 5,
9 chapter 375.

10 At that hearing, the board shall solicit and receive
11 testimony to determine whether that development will
12 in fact substantially affect the environment or pose a
13 threat to the public's health, safety or general
14 welfare. The board shall permit the applicant to
15 provide evidence on the economic benefits of the
16 proposal as well as the impact of the proposal on
17 energy resources.

18 2. Developer; burden of proof. At the hearings
19 held under this section, the burden is upon the person
20 proposing the development to demonstrate affirmatively
21 to the board that each of the criteria for approval
22 listed in this section has been met, and that the
23 public's health, safety and general welfare will be
24 adequately protected.

25 3. Findings of fact; order. Within 30 days after
26 the board adjourns any hearing held under this
27 section, it shall make findings of fact and issue an
28 order granting or denying permission to the person
29 proposing the development to construct or operate the
30 development, as proposed, or granting that permission
31 upon such terms and conditions as the board deems
32 advisable to protect and preserve the environment and
33 the public's health, safety and general welfare,
34 except in the case of any low-level radioactive waste
35 storage or disposal facility, in which case the board
36 shall act in accordance with section 1478.

37 4. No construction pending order. Any person who
38 has notified the board, pursuant to section 485-A, of

1 intent to construct or operate a development shall
2 immediately defer or suspend construction or operation
3 of that development until the board has issued its
4 order.

5 5. Continuing compliance; air and water
6 pollution. Any person securing approval of the board,
7 pursuant to this article, shall maintain the financial
8 capacity and technical ability to meet the state air
9 and water pollution control standards until that
10 person has complied with those standards.

11 Sec. 16. 38 MRSA §487-A is enacted to read:

12 §487-A. Hazardous activities; transmission lines

13 1. Preliminary notice required for hazardous
14 activities. Preliminary notice concerning the
15 construction or operation of a development which is a
16 hazardous activity shall be given as follows.

17 A. Any person intending to construct or operate a
18 development which is a hazardous activity shall
19 file a preliminary notice of intent with the
20 department and the municipal officers of any
21 municipality affected. The preliminary notice
22 shall contain a brief description of:

23 (1) The nature of the proposed development;
24 and

25 (2) The location of the proposed development.

26 Any person intending to construct or operate any
27 other development may file this preliminary notice.

28 B. The department shall determine whether the
29 proposed development is likely to discharge
30 pollutants to a significant ground water aquifer
31 and whether the proposed location of the
32 development is on a primary sand and gravel
33 recharge area. The department shall make this
34 determination and notify the applicant within 15
35 days of the receipt of the preliminary
36 notification. If both of these determinations are

1 affirmative, or if requested by the municipal
2 officers of any affected municipality, the
3 applicant must then provide, as part of the notice
4 under section 485-A, detailed information on:

5 (1) The nature and extent of the significant
6 ground water aquifer, including recharge
7 areas and flow paths;

8 (2) The quality and quantity of the
9 significant ground water aquifer;

10 (3) Existing and potential uses of the
11 aquifer;

12 (4) The nature and quantity of potentially
13 hazardous materials to be handled; and

14 (5) The nature and quantity of pollutants to
15 be discharged.

16 C. An applicant who proposes a development which
17 is a hazardous activity shall not be required to
18 file the notice under section 485-A if both
19 determinations in paragraph B are negative and the
20 applicant is not otherwise required to proceed by
21 this subchapter.

22 2. Power generating facilities. In case of a
23 permanently installed power generating facility of
24 more than 1,000 kilowatts or a transmission line
25 carrying 100 kilovolts, or more, proposed to be
26 erected within this State by an electric company or
27 companies, the proposed development, in addition to
28 meeting the requirements of section 484, subsections 1
29 to 9, shall also have been approved by the Public
30 Utilities Commission under Title 35-A, section 3132.

31 In the event that an electric company or companies
32 file a notification pursuant to section 485-A before
33 they are issued a certificate of public convenience
34 and necessity by the Public Utilities Commission, they
35 shall file a bond or, in lieu of that bond,
36 satisfactory evidence of financial capacity to make
37 that reimbursement with the department, payable to the

1 department, in a sum satisfactory to the Commissioner
2 of Environmental Protection and in an amount not to
3 exceed \$50,000. This bond or evidence of financial
4 capacity shall be conditioned to require the applicant
5 to reimburse the department for its cost incurred in
6 processing any application in the event that the
7 applicant does not receive a certificate of public
8 convenience and necessity.

9 3. Easement required; transmission line or gas
10 pipeline. In the case of a gas pipeline or a
11 transmission line carrying 100 kilovolts or more, a
12 permit under this chapter may be obtained prior to any
13 acquisition of lands or easements to be acquired by
14 purchase. The permit shall be obtained prior to any
15 acquisition of land by eminent domain.

16 4. Notice to landowners; transmission line or gas
17 pipeline. Any person making application for site
18 location of development approval pursuant to sections
19 481 to 483, for approval for a transmission line or
20 gas pipeline shall, prior to filing a notification
21 pursuant to this article, provide notice to each owner
22 of real property upon whose land the applicant
23 proposes to locate a gas pipeline or transmission
24 line. Notice shall be sent by registered mail, postage
25 prepaid, to the landowner's last known address
26 contained in the applicable tax assessor's records.
27 The applicant shall file a map with the town clerk of
28 each municipality through which the pipeline or
29 transmission line is proposed to be located,
30 indicating the intended approximate location of the
31 pipeline or transmission line within the
32 municipality. The applicant is not required to
33 provide notice of intent to construct a gas pipeline
34 or transmission line other than as set forth in this
35 subsection. The board shall receive evidence
36 regarding the location, character and impact on the
37 environment of the proposed transmission line or
38 pipeline. In addition to finding that the
39 requirements of section 484, subsections 1 to 9 have
40 been met, the board, in the case of the transmission
41 line or pipeline, shall consider whether any proposed
42 alternatives to the proposed location and character of

1 the transmission line or pipeline may lessen its
2 impact on the environment or the risks it would
3 engender to the public health or safety, without
4 unreasonably increasing its cost. The board may
5 approve or disapprove all or portions of the proposed
6 transmission line or pipeline and shall make such
7 orders regarding its location, character, width and
8 appearance as will lessen its impact on the
9 environment, having regard for any increased costs to
10 the applicant.

11 Sec. 17. 38 MRSA §488, sub-§4 is enacted to
12 read:

13 4. Exemption. Development which consists only of
14 a subdivision or subdivisions located entirely within
15 the area of the State subject to the jurisdiction of
16 the Maine Land Use Regulation Commission under Title
17 12, chapter 206-A, is exempt from the requirements of
18 this article.

19 Sec. 18. 38 MRSA §489, sub-§1, ¶A-1 is enacted
20 to read:

21 A-1. Adopted a comprehensive plan and subdivision
22 ordinance that is consistent with criteria set
23 forth in section 484;

24 Sec. 19. 38 MRSA §489, sub-§3, as enacted by PL
25 1975, c. 447, is amended to read:

26 3. Effective date of permit. No permit issued by
27 a municipality ~~shall~~ may become effective until 30
28 days subsequent to its issuance receipt by the
29 board. A copy of the application for the permit, the
30 permit issued by the municipality and its findings on
31 review of the application shall be sent to the board
32 immediately upon its issuance by certified mail. The
33 board shall review such permit and either approve,
34 deny or modify it as it deems necessary. ~~Failure~~
35 ~~of~~ If the board to does not act within 30 days of
36 the issuance receipt of the permit by from the
37 municipality shall constitute its approval and the
38 permit shall be effective as issued.

1 STATEMENT OF FACT

2 This bill revises the site location of development
3 law primarily to strengthen project review in
4 shoreland areas; to improve the language for clarity
5 and consistency or to reflect current understanding
6 and practice; and to provide sufficient scope,
7 oversight and enforcement capability to protect the
8 public's interest with regard to development of major
9 statewide or regional impacts.

10 This bill revises the definition of "development"
11 to include any subdivision or multi-family housing
12 development of 10 or more units located wholly or in
13 part within a shoreland zone. The definition of
14 "structure" is expanded to include total floor area as
15 one of the criteria. New definitions for
16 "multi-family housing," "river" and "shoreland zone"
17 are added and several of the exemptions to the
18 subdivision definition are deleted.

19 New standards are included for public access where
20 the development is located on land that abuts a great
21 pond, river or saltwater shoreline; for the adequate
22 provision of infrastructure; and for development
23 affecting shoreland areas.

24 This bill also amends the Maine Land Use
25 Regulation Commission's law to make it consistent with
26 the changes in the site location of development law by
27 removing the 40-acre exemption and enabling the Maine
28 Land Use Regulation Commission to exempt commercial
29 forest land of 500 acres or more through rule.

30 Section 1. Section 1 amends the Maine Land Use
31 Regulation Commission's subdivision definition by
32 removing the 40-acre exemption and enabling the Maine
33 Land Use Regulation Commission to exempt commercial
34 forest land of 500 acres or more from subdivision
35 review.

1 Section 2. Section 2 is amended by referencing
2 quality of life in the legislative findings.

3 Section 3. In section 3, the definition of
4 "development which may substantially affect the
5 environment" is clarified by defining regulated
6 activities. The definition is also strengthened by
7 adding the language which brings multi-family housing
8 units located in the shoreland zone under site law
9 regulation. Furthermore, the exemptions for gravel
10 pits of less than 5 acres or when regulated by the
11 Department of Transportation are deleted. Those
12 activities generally occur over aquifers, and thus
13 have the potential to affect adversely ground water.
14 In addition, they are mining activities and should be
15 regulated consistently with other mining activities,
16 as well as with other gravel extraction activities.
17 The last paragraph of The Maine Revised Statutes,
18 Title 38, section 482, subsection 2, does not belong
19 in the definition section and has been moved to create
20 section 483-A, "Prohibition."

21 Sections 5 and 6. Sections 5 and 6 create new
22 definitions for "multi-unit housing," "coastal
23 wetlands" and "freshwater wetlands" and "normal high
24 water line."

25 Section 7. In section 7 the definition of
26 "product" for mining activity is expanded to include
27 "sand and gravel" and "fill".

28 Section 8. In section 8 the definition of
29 "significant ground water aquifer" is expanded to
30 include "fractured bedrock" as well as sand and gravel
31 aquifers. Significant bedrock aquifers are currently
32 being mapped by the State. These aquifers supply the
33 only source of drinking water to some residents and
34 they may be extremely vulnerable to contamination.

1 Section 9. In section 9 are new definitions for
2 "river" and "shoreland zone." These definitions are
3 those used in the Shoreland Zoning Act.

4 Section 10. In section 10 the definition of
5 "subdivision" is expanded by extending from 5 to 10
6 years the period of time over which division of land
7 into lots will bring the land into regulation as a
8 subdivision, addressing some developments that
9 currently go unregulated.

10 Only the following exceptions remain: All lots at
11 least 10 acres in size; lots for sale or lease to
12 abutters and family or for nonprofit transactions; and
13 lots for personal use. Conservation restrictions are
14 now enforceable by the Department of Environmental
15 Protection.

16 The 10-acre size exception is eliminated for
17 subdivisions located wholly or in part in the
18 shoreland zone because of their potential for causing
19 significant environmental impacts.

20 Section 11. Section 11 changes the definition of
21 "structure" to include buildings with a total floor
22 area of 100,000 square feet, regardless of total
23 ground area.

24 Section 12. Section 12 is transferred from the
25 definitions section as it is a legal requirement
26 rather than a definition. The Department of
27 Environmental Protection's approval is limited to
28 municipalities that have adopted comprehensive plans
29 according to a schedule proposed in revisions to Title
30 30.

31 Section 13. Section 13 contains the standards for
32 development. The "financial capacity" standard which
33 currently addresses solid waste disposal, air and
34 water pollution control standards, odors and healthful
35 water supplies has been expanded to include sewerage
36 facilities as another critical infrastructure
37 component of sound development. "Traffic movement" is
38 expanded for clarity and to conform to existing
39 regulations, which regulate air quality and water
40 quality under this section. In "public access" a new
41 standard is added to assure that new developments do

1 not unreasonably affect public access. Statutory
2 recognition of public access to the State's waters as
3 an important attribute of the State's environment and
4 quality of life will help to further preserve rights
5 considered part of our natural heritage. A new
6 infrastructure standard is added to assure that the
7 developer has made adequate provision of utilities,
8 roadways and open space. A new standard is added to
9 assure that the development will not cause or increase
10 the flooding of the area or adjacent properties. A
11 new standard is added to assure the development will
12 not unreasonably interfere with the natural movement
13 of sand within a sand dune system.

14 Sections 14, 15 and 16. These sections are
15 existing law which is repealed and reenacted in a more
16 coherent organizational format. Sections 485-A and
17 486-A describe the application notification, appeals,
18 and hearings procedures. Section 487-A sets forth
19 additional requirements for hazardous activities and
20 transmission lines.

21 Section 17. Section 17 exempts development
22 consisting only of a subdivision or subdivisions
23 located wholly in the Maine Land Use Regulation
24 Commission's jurisdiction from the requirements of the
25 site law.

26 Sections 18 and 19. These sections amend the
27 municipal delegation provision to require that a
28 municipality that administers the site location of
29 development law have standards consistent with State
30 standards. This section amends board review of
31 municipal permits to within 30 days of receipt of the
32 permit, rather than 30 days of issuance by the
33 municipality.

34

4649020288