

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2128

H.P. 1543

House of Representatives, January 5, 1990

Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.

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

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative DEXTER of Kingfield.

Cosponsored by Representative GOULD of Greenville, Representative MARSH of West Gardiner and Senator KANY of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

**An Act to Replace the Large Lot Exceptions under the Site Location
of Development Law with a Low-density Exemption.**



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

2
4 Sec. 1. 38 MRSA §482, sub-§5, ¶A, as repealed and replaced by
PL 1987, c. 812, §§7 and 18, is repealed.

6 Sec. 2. 38 MRSA §482, sub-§5, ¶B, as repealed and replaced by
8 PL 1987, c. 812, §§7 and 16 and as amended by PL 1987, c. 737,
Pt. C, §§90 and 106; PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C,
§§8 and 10, is repealed.

10 Sec. 3. 38 MRSA §482, sub-§5, ¶C, as repealed and replaced by
12 PL 1987, c. 812, §§7 and 16, is amended to read:

14 C. Lots of 40 or more acres but not more than 500 acres
shall not be counted as lots except where:

16 (1) The proposed subdivision is located wholly or
18 partly within the shoreland area ~~as defined in Title~~
38, ~~section 435~~ zone;

20 Sec. 4. 38 MRSA §488, sub-§4, as enacted by PL 1987, c. 812,
22 §§14 and 18, is repealed.

24 Sec. 5. 38 MRSA §488, sub-§§4-A and 5 are enacted to read:

26 4-A. Subdivision exemptions. The following developments
are exempt from the requirements of this article:

28 A. Developments which consist only of a subdivision located
30 entirely within the area of the State subject to the
32 jurisdiction of the Maine Land Use Regulation Commission
under Title 12, chapter 206-A; or

34 B. Developments which consist only of a subdivision if:

36 (1) The average density of the subdivision is not
38 greater than one lot for every 5 acres of developable
land in the parcel;

40 (2) The developable land in the parcel totals 200
42 acres or less and at least 50% of the developable land
44 in the parcel is preserved in perpetuity through
46 conservation easements or deed restrictions in units
not less than 10 acres in size and of such dimensions
as to accommodate within each unit boundary a rectangle
measuring 250 feet by 500 feet;

48 (3) The conservation easements or deed restrictions
50 preserve the land in an essentially undeveloped,
52 natural state, including the preservation of farmland
having a history of agricultural use and the
preservation of forest land for harvesting by

2 uneven-aged selection methods designed to retain the
3 natural character of the area;

4 (4) The conservation easements or deed restrictions
5 are recorded in the registry of deeds and include a
6 provision that the easement or restriction is
7 enforceable by the Department of Environmental
8 Protection;

10 (5) All significant wildlife habitat that is mapped or
11 that qualifies for mapping under section 480,
12 subsection 10 is included in the preserved land area;

14 (6) No clearing, grading, filling or other development
15 activity occurs on slopes in excess of 30%;

16 (7) If the nonpreserved, developable land in the
17 parcel is located wholly or in part in the watershed of
18 any lake or pond which is classified GPA under section
19 465-A, long-term measures to control phosphorus
20 transport are taken in accordance with a phosphorus
21 control plan which is consistent with standards for
22 phosphorus control adopted by the board;

24 (8) Soil erosion and sedimentation during development
25 of the subdivision is controlled in accordance with a
26 plan approved by the municipality in which the
27 subdivision is located or by the soil and water
28 conservation district for the county in which the
29 subdivision is located;

32 (9) The nonpreserved, developable land in the parcel
33 is not located wholly or partly within the shoreland
34 zone of a lake or pond which is classified GPA under
35 section 465-A; and

36 (10) At least 30 days prior to the commencement of
37 clearing and construction activity, the subdivider
38 notifies the department in writing that the exemption
39 afforded by this paragraph is being used.

42 The developable land in the parcel includes all land in
43 contiguous ownership except for any areas greater than one
44 acre in size which are inundated or saturated by surface or
45 ground water at a frequency and for a duration sufficient to
46 support, and that under normal circumstances do support, a
47 prevalence of wetland vegetation typically adapted for life
48 in saturated soils.

50 5. Expansion at an existing manufacturing facility. New
51 construction that is not a development which may substantially
52 affect the environment at an existing manufacturing facility is
exempt from review under this article provided that the

2 additional disturbed area not to be revegetated does not exceed
3 30,000 square feet in any calendar year. When review under this
4 article is required for development at an existing manufacturing
5 facility, the applicant shall provide plans for the new
6 development, as well as for those activities which have been
7 undertaken pursuant to this subsection.

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9
10 **STATEMENT OF FACT**

11 The subdivision definition in the site location law
12 currently includes exceptions for certain land divisions with lot
13 sizes in excess of 5 and 10 acres. These exceptions encourage
14 sprawling development which, despite its low density, has a high
15 per unit environmental impact, particularly on wildlife and water
16 quality. This bill replaces the current 5 and 10 acre lot
17 exceptions with an exemption for subdivisions with similar
18 average density but with no minimum lot size requirement. The
19 new exemption requires that at least 50% of the parcel's area be
20 preserved by conservation easement or deed restriction as natural
21 area or for low-intensity forest, agricultural or recreation
22 use. It also requires that certain minimum standards, such as
23 erosion and sedimentation control measures, be adopted in the
24 subdivision. The bill provides a means for developers of
25 environmentally sound, low-density subdivisions to avoid the
26 lengthy review process at the Department of Environmental
27 Protection. It will also result in the voluntary preservation of
28 reasonably sized units of open space, while reducing the
29 subdivision's up-front development costs.
30