

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2086

H.P. 1474

House of Representatives, January 7, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
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 LARRIVEE of Gorham.
Cosponsored by Representative DORE of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

**An Act Exempting Zoning Changes Related to the Implementation of an
Approved Growth Management Plan and Shoreland Zoning from Certain
Notice Requirements.**

(EMERGENCY)



2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 Whereas, current law requires that all persons who own
property abutting or within an area that is to be rezoned must be
sent a notice of proposed zone changes; and

8
10 Whereas, continuance of this law is very costly to
municipalities; and

12 Whereas, amending this law as soon as possible will help
municipalities save money; and

14
16 Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
18 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

22 **30-A MRSA §4352, sub-§9**, as enacted by PL 1991, c. 504, §2,
24 is amended to read:

26 **9. Notice and hearing in rezoning.** Before any property is
28 rezoned, the municipal reviewing authority or the municipal
officers shall conduct a public hearing as required by subsection
1. Notice of this hearing must:

30 A. Be posted in the municipal office at least 14 days
32 before the public hearing;

34 B. Be published at least 2 times in a newspaper having
36 general circulation in the municipality, the date of the
first publication must be at least 7 days before the
hearing;

38 C. For each parcel in and abutting the area to be rezoned,
40 be mailed at least 14 days before the public hearing to the
last known address of the person to whom property tax on
42 each parcel is assessed. A municipality shall maintain a
list of names and addresses of those persons to whom a
44 notice is mailed under this paragraph. A notice must be
sent under this paragraph only if the rezoning is a change
46 of use that permits industrial, commercial or retail
development in a zone where such uses were ~~previously~~ are
48 prohibited by a current town zoning ordinance applicable to
that zone or that prohibits all such uses in a zone where
50 previously permitted by a current town zoning ordinance
applicable to that zone. Notice under this paragraph is not
52 required for any other type of proposed zoning ordinance,

2 including overlay zoning ordinances or any type of zoning
ordinances required under section 4343, subsection 1-B; and

4 D. Contain a copy of a map indicating the property to be
rezoned.

6
8 Failure of an appellant to receive a notice sent by a
municipality in accordance with paragraph C does not invalidate
10 an ordinance or any provision of an ordinance; however, any
person entitled to receive a notice of a zone change under
12 paragraph C who does not receive such a notice may appeal the
decision of the municipality to adopt the zoning ordinance to the
14 Superior Court within 30 days after the adoption of the zoning
ordinance. The Superior Court may invalidate a zoning ordinance
16 or any provision of a zoning ordinance if the appellant
demonstrates that the appellant was entitled to receive a notice
18 under paragraph C, that the municipality failed to send the
notice as required, that the appellant had no knowledge of the
20 proposed zoning change and that the appellant was materially
prejudiced by that lack of knowledge. The municipality is exempt
22 from the notice and hearing provisions of this subsection if the
zoning or rezoning of property undertaken is in conjunction with
24 the implementation of a growth management plan pursuant to
sections 4326 and 4327 or mandatory shoreland zoning pursuant to
Title 38, section 438-A.

26
28 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.

30
32 **STATEMENT OF FACT**

34 This bill exempts from notice and hearing provisions
municipalities undertaking zoning and rezoning of land associated
36 with the implementation of an approved growth management plan
adopted under the provisions of the Growth Management Program.
38 Without this change, municipalities would be required to mail a
notice to every assessed owner of each parcel of land in the
40 municipality when they adopt a new zoning ordinance under the
growth management laws or make shoreland zoning revisions. This
42 bill removes the costly expense of mailed notices. Public notice
of proposed changes continue to be required.