

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 639

H.P. 499

House of Representatives, February 8, 2001

**An Act to Require Notification to All Property Owners in a Municipality
of a Zoning Change Made in That Municipality.**

Reference to the Committee on State and Local Government suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative FOSTER of Gray. (By Request)
Cosponsored by Representatives: BOWLES of Sanford, SHERMAN of Hodgdon.

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

2
3 **Sec. 1. 30-A MRSA §4352, sub-§10, ¶B**, as amended by PL 1999,
4 c. 761, §9, is further amended to read:

6 B. For each parcel within the municipality that is in or
7 abutting the portion of the municipality affected by the
8 proposed amendment, the notice must be mailed by first class
9 mail at least 13 days before the public hearing to the last
10 known address of the person to whom property tax on each
11 parcel is assessed. Notice also must be sent to a public
12 drinking water supplier if the area to be rezoned is within
13 its source water protection area. The municipal officers
14 shall prepare and file with the municipal clerk a written
15 certificate indicating those persons to whom the notice was
16 mailed and at what addresses, when it was mailed, by whom it
17 was mailed and from what location it was mailed. This
18 certificate constitutes prima facie evidence that notice was
19 sent to those persons named in the certificate. ~~Notice is~~
20 ~~not required under this paragraph for any type of zoning~~
21 ~~ordinance adopted under the laws governing growth management~~
22 ~~contained in chapter 187, subchapter II or the laws~~
23 ~~governing shoreland zoning contained in Title 38, chapter 3,~~
24 ~~subchapter I, article 2-B.~~

26 **Sec. 2. 30-A MRSA §4352, sub-§11** is enacted to read:

28 **11. Notice upon adoption.** Notice of the adoption of any
29 new zoning ordinance or any change to a zoning ordinance within a
30 municipality must be mailed by first class mail to the last known
31 address of each person to whom property tax is assessed in the
32 municipality.

34 **Sec. 3. 38 MRSA §438-A, sub-§1-B**, as enacted by PL 1995, c.
35 542, §1, is amended to read:

36 **1-B. Notification to landowners.** This subsection governs
37 notice to landowners whose property is being considered for
38 placement in a resource protection zone.

40 A. In addition to the notice required by Title 30-A,
41 section 4352, subsection 9, a municipality shall provide
42 written notification to landowners whose property is being
43 considered by the municipality for placement in a resource
44 protection zone. Notification to landowners must be made by
45 first-class mail to the last known addresses of the persons
46 against whom property tax on each parcel is assessed. The
47 municipal officers shall prepare and file with the municipal
48 clerk a sworn, notarized certificate indicating those
49 persons to whom notice was mailed and at what addresses, and
50

2 when, by whom and from what location notice was mailed.
3 This certificate constitutes prima facie evidence that
4 notice was sent to those persons named in the certificate.
5 The municipality must send notice not later than 14 days
6 before its planning board votes to establish a public
7 hearing on adoption or amendment of a zoning ordinance or
8 map that places the landowners' property in the resource
9 protection zone. ~~Once a landowner's property has been
10 placed in a resource protection zone, individual notice is
11 not required to be sent to the landowner when the zoning
12 ordinance or map is later amended in a way that does not
13 affect the inclusion of the landowner's property in the
14 resource protection zone.~~

16 B. In addition to the notice required by this Title or by
17 rules adopted pursuant to this Title, the board shall
18 provide written notification to landowners whose property is
19 being considered by the board for placement in a resource
20 protection zone. Notification to landowners must be made by
21 first-class mail to the last known addresses of the persons
22 against whom property tax on each parcel is assessed. The
23 board shall prepare and file with the commissioner a sworn,
24 notarized certificate indicating those persons to whom
25 notice was mailed and at what addresses, and when, by whom
26 and from what location notice was mailed. This certificate
27 constitutes prima facie evidence that notice was sent to
28 those persons named in the certificate. The board must send
29 notice not later than 30 days before the close of the public
30 comment period prior to formal consideration of placement of
31 the property in a resource protection zone by the board.
32 Upon request of the board, the municipality for which the
33 ordinance is being adopted shall provide the board with the
34 names and addresses of persons entitled to notice under this
35 subsection. Notification and filing of a certificate by the
36 department are deemed to be notification and filing by the
37 board for purposes of this section.

38 C. Any action challenging the validity of an ordinance
39 based on failure by the board or municipality to comply with
40 this subsection must be brought in Superior Court within 30
41 days after adoption or amendment of the ordinance or map.
42 The Superior Court may invalidate an amended ordinance or
43 map if the appellant demonstrates that the appellant was
44 entitled to receive notice under this subsection, that the
45 municipality or board failed to send notice as required,
46 that the appellant had no knowledge of the proposed adoption
47 or amendment of the ordinance or map and that the appellant
48 was materially prejudiced by that lack of knowledge. This
49 paragraph does not alter the right of a person to challenge
50 the validity of any ordinance or map based on the failure of

2 a municipality to provide notice as required by Title 30-A,
section 4352, subsection 9 or the failure of the board to
provide notice as required by this Title.

4
6 D. Notice of the adoption of any new zoning ordinance or
any change to a zoning ordinance or map within a
8 municipality must be mailed by first class mail to the last
known address of each person to whom property tax is
10 assessed in the municipality.

12 **SUMMARY**

14 This bill requires that municipalities must notify all
property owners within their jurisdictions of the adoption of any
16 new or amended zoning ordinance.