

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 395

H.P. 315

House of Representatives, January 30, 2003

### An Act to Clarify the Use of Municipal Rate-of-growth Ordinances

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative SUSLOVIC of Portland.  
Cosponsored by Representatives: EDER of Portland, FAIRCLOTH of Bangor, KOFFMAN of Bar Harbor, MILLS of Cornville, SAVIELLO of Wilton.

2  
3 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 30-A MRSA §4360**, as enacted by PL 2001, c. 591, §1,  
5 is repealed and the following enacted in its place:

6 **§4360. Rate of growth ordinances**

7 A municipality may enact an ordinance under its home rule  
8 authority limiting the number of building or development permits  
9 issued over a designated time frame, referred to in this section  
10 as a "growth rate ordinance," only under the following  
11 circumstances.

12  
13 **1. Temporary growth rate ordinance.** A temporary growth  
14 rate ordinance must meet the following requirements:

15  
16 A. The temporary growth rate ordinance is needed to provide  
17 time for the municipality while it takes specific actions to  
18 improve facilities or services needed to accommodate growth;

19  
20 B. The temporary growth rate ordinance is enacted for a  
21 definite term, not to exceed 2 years, unless the  
22 municipality is granted an exception pursuant to rules  
23 established by the office. Rules adopted pursuant to this  
24 paragraph are major substantive rules as defined in Title 5,  
25 chapter 375, subchapter 2-A; and

26  
27 C. A municipality may not enact a temporary growth rate  
28 ordinance more than once during any 10-year period.

29  
30 **2. Ongoing growth rate ordinance.** An ongoing growth rate  
31 ordinance may be enacted only as part of an integrated growth  
32 management strategy that includes the following components:

33  
34 A. An adopted comprehensive plan that is consistent with  
35 the planning and land use regulation laws under this chapter;

36  
37 B. A clear justification in the comprehensive plan under  
38 paragraph A that:

39  
40 (1) Identifies existing or projected capacity problems  
41 regarding municipal facilities and services;

42  
43 (2) Provides a strategy in the capital investment plan  
44 for increasing capacity regarding municipal facilities  
45 and services;

46  
47 (3) Links the proposed growth rate ordinance to an  
48 allocation of existing and future capacity regarding  
49 municipal facilities and services;  
50

2           (4) Provides a basis for the amount of growth to be  
4           allowed under the growth rate ordinance that considers  
6           the municipality's historic growth rates and its  
          reasonable share of future growth anticipated in the  
          region;

8           (5) Considers the impact of the growth rate ordinance  
10          on housing affordability; and

12          (6) Considers the impact of the growth rate ordinance  
          on neighboring communities;

14          C. A requirement that the number of building permits issued  
16          annually under the growth rate ordinance must be no less  
18          than the average number of permits issued annually by the  
          municipality for the 10 years prior to adoption of the  
          growth rate ordinance;

20          D. A requirement in the growth rate ordinance that the  
22          municipality review every 5 years the justification in the  
24          comprehensive plan under paragraph B to determine whether  
          the growth rate ordinance is still necessary and how the  
          growth rate ordinance may be adjusted to meet current  
          conditions; and

26          E. A requirement that residential housing units affordable  
28          to low-income households as defined by rule be exempt from  
30          building cap provisions within the municipality's growth  
32          areas as designated within its comprehensive plan under  
34          paragraph A. This exemption does not apply to communities  
36          that provide adequate housing opportunities locally for this  
38          income group and that provide a reasonable share of adequate  
40          housing opportunities on a regional basis, as determined by  
          the Maine State Housing Authority. In reviewing and  
          approving proposals for housing units affordable for  
          low-income households, municipalities may require provisions  
          ensuring that these units, as built, will be sold or rented  
          for a price that is affordable for this group as established  
          by rule and that the affordability will be maintained in  
          subsequent resale or future rental of the units.

42          The office shall adopt rules to implement this subsection. Rules  
44          adopted pursuant to this subsection are major substantive rules  
46          as defined in Title 5, chapter 375, subchapter 2-A.

48          3. Growth rate ordinances that apply outside designated  
50          growth areas. A municipality with a comprehensive plan adopted  
          pursuant to the planning and land use regulation laws under this  
          chapter may adopt an ongoing growth rate ordinance that applies  
          only to designated rural areas if:

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A. That growth rate ordinance is recommended in the comprehensive plan as a mechanism for guiding growth; and  
B. The comprehensive plan lays out policies and strategies for accommodating most of the community's future growth in designated growth areas.

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### SUMMARY

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This bill outlines how a municipality may adopt a growth rate ordinance. Temporary growth rate ordinances may be enacted only to slow development while a community works toward solving the problems necessitating the growth rate ordinance. An ongoing growth rate ordinance may be enacted only as part of an integrated growth management strategy and also may be used in designated rural areas as a mechanism to guide growth within a community. The bill also clarifies that a municipality with a comprehensive plan may implement a growth rate ordinance that applies only to designated rural areas.