

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 1089

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S.P. 350

In Senate, March 22, 2021

### **An Act To Increase Municipal Oversight in the Site Location of Development Laws**

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Received by the Secretary of the Senate on March 18, 2021. Referred to the Committee on Environment and Natural Resources pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator KEIM of Oxford.

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

2 **Sec. 1. 38 MRSA §488, sub-§19**, as amended by PL 2015, c. 28, §1, is further  
3 amended to read:

4 **19. Municipal capacity.** A structure, as defined in section 482, subsection 6, ~~that is~~  
5 ~~from 3 acres up to and including 7 acres~~ or a subdivision, as defined in section 482,  
6 subsection 5, ~~that is made up of 15 or more lots for single family, detached, residential~~  
7 ~~housing, common areas or open space with an aggregate area of from 30 acres up to and~~  
8 ~~including 100 acres~~ is exempt from review under this article if it is located wholly within  
9 a municipality or municipalities meeting the criteria in paragraphs A to D as determined by  
10 the department and it is located wholly within a designated growth area as identified in a  
11 comprehensive plan adopted pursuant to Title 30-A, chapter 187, subchapter 2. The  
12 planning board of the municipality in which the development is located or an adjacent  
13 municipality may petition the commissioner to review such a structure or subdivision if it  
14 has regional environmental impacts. This petition must be filed within 20 days of the  
15 receipt of the application by the municipality. State jurisdiction must be exerted, if at all,  
16 within 30 days of receipt of the completed project application by the commissioner from  
17 the municipality or within 30 days of receipt of any modification to that application from  
18 the municipality. Review by the department is limited to the identified regional  
19 environmental impacts. The criteria are as follows:

20 A. A municipal planning board or reviewing authority is established and the  
21 municipality has adequate resources to administer and enforce the provisions of its  
22 ordinances. In determining whether this criterion is met, the commissioner may  
23 consider any specific and adequate technical assistance that is provided by a regional  
24 council;

25 B. The municipality has adopted a site plan review ordinance. In determining the  
26 adequacy of the ordinance, the commissioner may consider model site plan review  
27 ordinances commonly used by municipalities in this State that address the issues  
28 reviewed under applicable provisions of this article prior to July 1, 1997;

29 C. The municipality has adopted subdivision regulations. In determining the adequacy  
30 of these regulations, the commissioner may consider model subdivision regulations  
31 commonly used by municipalities in this State; and

32 D. The former State Planning Office or the Department of Agriculture, Conservation  
33 and Forestry has determined that the municipality has a comprehensive land use plan  
34 and land use ordinances or zoning ordinances that are consistent with Title 30-A,  
35 chapter 187 in providing for the protection of wildlife habitat, fisheries, unusual natural  
36 areas and archaeological and historic sites.

37 The department, in consultation with the Department of Agriculture, Conservation and  
38 Forestry, shall publish a list of those municipalities determined to have capacity pursuant  
39 to this subsection. This list need not be established by rule and must be published by  
40 January 1st of each year. The list must specify whether a municipality has capacity to  
41 review structures or subdivisions of lots for single-family, detached, residential housing,  
42 common areas or open space or both types of development. The department may recognize  
43 joint arrangements among municipalities and regional organizations in determining  
44 whether the requirements of this subsection are met. The department may review

1 municipalities that are determined to have capacity pursuant to this subsection for  
2 compliance with the criteria in paragraphs A to D, and if the department determines that a  
3 municipality does not meet the criteria, the department may modify or remove the  
4 determination of capacity.

5 A modification to a development that was reviewed by a municipality and exempted  
6 pursuant to this subsection or was reviewed by the department prior to a determination that  
7 a municipality has capacity pursuant to this subsection is exempt as long as ~~the modification~~  
8 ~~will not cause the total area of the development to exceed the maximum acreage specified~~  
9 ~~in this subsection for that type of development or~~, based upon information submitted by the  
10 municipality concerning the development and modification, the department determines that  
11 the modification may be adequately reviewed by the municipality.

12 **Sec. 2. 38 MRSA §489-A, sub-§1, ¶A**, as repealed and replaced by PL 1999, c.  
13 790, Pt. A, §51, is amended to read:

14 A. Subdivisions as described in section 482, subsection 5 ~~of more than 20 acres but~~  
15 ~~less than 100 acres~~; or

16 **Sec. 3. 38 MRSA §489-A, sub-§1, ¶H**, as enacted by PL 1999, c. 243, §17, is  
17 amended to read:

18 H. Structures as described in section 482, subsection 6 ~~in excess of 3 acres but less~~  
19 ~~than 7 acres~~.

## 20 SUMMARY

21 This bill amends the laws governing municipal review of developments under the site  
22 location of development laws by removing the acreage limits on developments that a  
23 municipality may review.