

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

Chapters 1 - 502

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NON-EMERGENCY LAWS IS
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
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PUBLIC LAWS
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If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plat approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation; and

Sec. 2. 30-A MRSA §4404, sub-§14 is enacted to read:

14. River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9.

See title page for effective date.

CHAPTER 430

H.P. 813 - L.D. 1125

An Act to Amend the Natural Resources Protection Act

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

Sec. 1. 12 MRSA §685-B, sub-§1, ¶C, as amended by PL 1987, c. 769, Pt. A, §49, is further amended to read:

C. No person may commence any construction or operation of any development without a permit issued by the commission.

The commission may waive the requirement of a hearing for any person having received approval by the Board of Environmental Protection pursuant to the Site Location of Development Law, Title 38, sections 481 to 488.

Approval by the commission that the proposed development meets the requirements of subsection 4, and of the land use standards and rules adopted by the commission shall be a sufficient basis to support, but shall not require, a finding by the administering agency that the development meets the requirements of the Site Location of Development Law, Title 38, sections 481 to 488; the Minimum Lot Size Law, sections 4807 to 4807-G; ~~the Wetlands Law, Title 38, sections 471 to 478; the Great Ponds Law, Title 38, chapter 3, subchapter 1, article 1-A; or the Stream Alteration Law, Title 38, chapter 3, subchapter 1, article 2-A~~ or the natural resource protection laws, Title 38, chapter 3, subchapter 1, article 5-A; and the rules adopted with respect to any of such statutes, as any of such statutes, rules or regulations may apply. Disapproval by the commission shall be a sufficient basis to support, but shall not require, a finding by

the administering agency that the proposed development does not meet the requirements of the Site Location of Development Law, Title 38, sections 481 to 488; the Minimum Lot Size Law, sections 4807 to 4807-G; ~~the Wetlands Law, Title 38, sections 471 to 478; the Great Ponds Law, Title 38, section 422; or the Stream Alteration Law, Title 38, chapter 3, subchapter 1, article 2-A~~ or the natural resource protection laws, Title 38, chapter 3, subchapter 1, article 5-A; and the rules adopted with respect to any of such statutes, as any of such statutes, rules or regulations may apply.

The commission may establish standards within which authority may be delegated to its staff; to approve with reasonable conditions or deny applications submitted hereunder. Any person aggrieved by a decision of the staff shall have the right to a review of ~~such~~ that decision by the commission members.

The commission shall establish coordination and assistance procedures for all land use permits issued by agencies of the State for proposed development within the unorganized townships and plantations. ~~Such~~ Those procedures shall, to the extent practicable, ensure: The availability to the public of necessary information concerning ~~such~~ those land use permits; the provision of assistance to applicants in obtaining ~~such~~ those permits from ~~such~~ state agencies; the coordination of application procedures, time schedules, application forms and similar requirements so as to reduce delay and duplication of effort by applicants and the issuing agencies. ~~Such~~ State permit issuing agencies shall cooperate with the commission in the development and effectuation of ~~such~~ coordination and assistance procedures.

Sec. 2. 12 MRSA §685-B, sub-§4, ¶A, as amended by PL 1985, c. 819, Pt. A, §19, is further amended to read:

A. Adequate technical and financial provision has been made for complying with the requirements of the state's air and water pollution control and other environmental laws, and those standards and regulations adopted with respect thereto, including without limitation the Site Location of Development Law, Title 38, sections 481 to 488, the Minimum Lot Size Law, sections 4807 to 4807-G, ~~the Wetlands Law, Title 38, sections 471 to 478, the Great Ponds Law, Title 38, chapter 3, subchapter 1, article 1-A, and the Stream Alteration Law, Title 38, chapter 3, subchapter 1, article 2-A~~ and the natural resource protection laws, Title 38, chapter 3, subchapter 1, article 5-A, for solid waste disposal, for controlling of offensive odors and for the securing and maintenance of sufficient healthful water supplies; and

Sec. 3. 38 MRSA §480-B, sub-§§2 and 4, as enacted by PL 1987, c. 809, §2, are amended to read:

2. Coastal wetlands. "Coastal wetlands" means all tidal and subtidal lands, including all areas below any identifiable debris line left by tidal action; all areas with vegeta-

tion present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action ~~or annual storm flowage at any time excepting periods of maximum storm activity~~ during the maximum spring tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

4. Freshwater wetlands. "Freshwater wetlands" means freshwater swamps, marshes, bogs and similar areas which are:

A. Of 10 or more contiguous acres, or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres;

B. Characterized predominantly by wetland vegetation ~~that~~ inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and

C. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

Sec. 4. 38 MRSA §480-C, sub-§3, as enacted by PL 1987, c. 809, §2, is amended to read:

3. Application. This section applies to all protected natural resources statewide without regard to whether they have been mapped pursuant to section 480-I, except that significant wildlife habitat must be mapped before this section applies.

Sec. 5. 38 MRSA §480-D, sub-§2, as enacted by PL 1987, c. 809, §2, is amended to read:

2. Soil erosion. The activity will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

Sec. 6. 38 MRSA §480-Q, sub-§2, as enacted by PL 1987, c. 809, §2, is amended to read:

2. Maintenance and repair. Maintenance and minor repair of structures in fragile mountain areas, or to structures above the high water line causing no additional intrusion of an existing structure into the great pond, river, stream or brook, wetland or sand dune; and maintenance and repair of private crossings of a river, stream or brook, provided that:

A. Erosion control measures are taken to prevent sedimentation of the water;

B. The crossing does not block fish passage in the water course; and

C. There is no additional intrusion into the river, stream or brook.

Sec. 7. 38 MRSA §480-Q, sub-§§7 and 8, as amended by PL 1987, c. 890, §1, are further amended to read:

7. Forestry. ~~Alteration of a freshwater wetland associated with normal forestry management and harvesting activities in or adjacent to a freshwater wetland is exempt from the provisions of this article.~~ The determination of what constitutes normal forestry management and harvesting activities shall be made by the Maine Land Use Regulation Commission regardless of whether the freshwater wetland is located within the jurisdiction of the commission and according to standards adopted by the commission. For purposes of this subsection, "normal forestry management and harvesting activities" means those activities which meet the forestry standards of the Maine Land Use Regulation Commission;

8. Hydropower projects. Hydropower projects are exempt from the provisions of this article to the extent provided in section 634. Alteration of a freshwater wetland associated with the operation of a hydropower project, as defined in section 632, is exempt from the provisions of this article, but is subject to chapter 5, subchapter I, article 1, subarticle 1-B, where applicable; ~~and~~

Sec. 8. 38 MRSA §480-Q, sub-§9, as enacted by PL 1987, c. 890, §2, is amended to read:

9. Public works. A permit is not required for emergency repair or normal maintenance and repair of existing public works which affect any protected natural resource. An activity which is exempt under this subsection shall employ erosion control measures to prevent sedimentation of any surface water, shall not block fish passage in any water course and shall not result in any additional intrusion of the public works into the protected natural resource. This exemption does not apply to any activity on an outstanding river segment as listed in section 480-P-; and

Sec. 9. 38 MRSA §480-Q, sub-§10 is enacted to read:

10. Soil evaluation. Borings taken to evaluate soil conditions in or adjacent to a great pond, river, stream or brook, coastal wetland, freshwater wetland or sand dune are exempt from the provisions of this article provided that no area of wetland vegetation is destroyed or permanently removed.

See title page for effective date.