

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTIETH LEGISLATURE

FIRST REGULAR SESSION
December 2, 2020 to March 30, 2021

FIRST SPECIAL SESSION
April 28, 2021 to July 19, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 18, 2021

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

Augusta, Maine
2021

Sec. 2. 38 MRSA §465, sub-§1, ¶C, as amended by PL 2013, c. 193, §2, is further amended by repealing subparagraph (2), division (b).

Sec. 3. 38 MRSA §465, sub-§2, ¶C, as amended by PL 2013, c. 193, §3, is further amended by repealing subparagraph (2), division (a).

Sec. 4. 38 MRSA §465, sub-§2, ¶C, as amended by PL 2013, c. 193, §3, is further amended by repealing subparagraph (2), division (b).

See title page for effective date.

CHAPTER 51

H.P. 35 - L.D. 69

**An Act To Reduce Duplicative
Permitting Review for Projects
under the Site Location of
Development Laws**

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

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

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

A. A municipal planning board or reviewing authority is established and the municipality has adequate resources to administer and enforce the provisions of its ordinances. In determining whether

this criterion is met, the commissioner may consider any specific and adequate technical assistance that is provided by a regional council;

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

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

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

The department, in consultation with the Department of Agriculture, Conservation and Forestry, shall publish a list of those municipalities determined to have capacity pursuant to this subsection. This list need not be established by rule and must be published by January 1st of each year. The list must specify whether a municipality has capacity to review structures or subdivisions of lots for single-family, detached, residential housing, common areas or open space or both types of development. The department may recognize joint arrangements among municipalities and regional organizations in determining whether the requirements of this subsection are met. The department may review municipalities that are determined to have capacity pursuant to this subsection for compliance with the criteria in paragraphs A to D, and if the department determines that a municipality does not meet the criteria, the department may modify or remove the determination of capacity.

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

Sec. 2. 38 MRSA §489-A, sub-§1, ¶H, as enacted by PL 1999, c. 243, §17, is amended to read:

H. Structures as described in section 482, subsection 6 in excess of 3 acres but less than 7 10 acres.

See title page for effective date.

CHAPTER 52

H.P. 72 - L.D. 106

**An Act To Amend Maine's
Aquaculture Leasing and
Licensing Statutes**

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

Sec. 1. 12 MRSA §6072, sub-§6, ¶A, as amended by PL 1987, c. 453, §1, is further amended to read:

A. Notwithstanding the provisions of Title 5, section 9052, subsection 1, paragraph A, personal notice of the hearing ~~shall be~~ is required to be given only to the lessee and the known riparian owners, the municipal ~~officials~~ officers of the municipality or municipalities in which or adjacent to which the lease is located and any interested parties that have provided a written request for notification.

Sec. 2. 12 MRSA §6072, sub-§6, ¶B, as enacted by PL 1977, c. 661, §5, is amended to read:

B. Under the provisions of Title 5, section 9052, the leasing procedure ~~shall~~ must require notice to the general public. The commissioner may require the applicant to reimburse the department for costs incurred by the department in providing public notice under this paragraph.

Sec. 3. 12 MRSA §6072, sub-§6, ¶C, as amended by PL 1997, c. 138, §5 and PL 2011, c. 657, Pt. W, §5, is further amended to read:

C. The Department of Environmental Protection, ~~the~~ must be notified of all lease applications that involve activities that have a discharge into the waters of the State. The Department of Agriculture, Conservation and Forestry and the Department of Inland Fisheries and Wildlife must be notified of all lease applications.

Sec. 4. 12 MRSA §6072, sub-§11, as amended by PL 2003, c. 247, §7, is further amended to read:

11. Monitoring and revocation of leases. The department shall monitor a lease under this section on an annual basis. If aquaculture has been conducted in a manner substantially injurious to marine organisms or public health, if no substantial aquaculture or research has been conducted over the course of the lease or if any condition of the lease or any minimum lease maintenance standard adopted pursuant to subsection 13, paragraph A has been violated, the commissioner may initiate revocation proceedings and revoke the lease. A

lease revocation is an adjudicatory proceeding under Title 5, chapter 375, subchapter 4. The department shall hold a hearing with public notice prior to revoking any lease.

Sec. 5. 12 MRSA §6072, sub-§12, as amended by PL 2011, c. 93, §3, is further amended to read:

12. Renewal. The commissioner shall renew a lease if:

A. The commissioner receives, at least ~~90~~ 30 days prior to the expiration of a lease, an application for renewal that includes information on the type and amount of aquaculture to be conducted during the new lease term;

B. The lessee has complied with the lease agreement during the term of the lease;

C. The commissioner determines that renewal of the lease is in the best interest of the State;

D. Except as provided in subsection 13-A, the renewal will not cause the lessee to become a tenant of any kind in leases covering an aggregate of more than 500 acres; and

E. The lease is not being held for speculative purposes.

If a person who holds a lease pursuant to this section applies to renew the lease, the lease remains in effect until the commissioner makes a decision on the renewal application. If the renewal is denied, the lease expires 30 days after the date of the commissioner's decision.

When aquaculture has not been routinely or substantially conducted on a lease that is proposed for renewal, the commissioner may renew the lease, as long as the proposed renewal will continue to meet the criteria for approval in subsection 7-A.

A lease renewal is an adjudicatory proceeding under Title 5, chapter 375, subchapter 4. Public notice must be given ~~as required under subsection 6 and a~~ to the entities required to receive notice under subsection 6. A person may provide to the commissioner comments on the proposed lease renewal within 30 days of receipt of notice or within 30 days of publication of the proposed renewal. A hearing must be held if it is requested in writing by 5 persons within the 30 days. The commissioner may review multiple leases concurrently during the lease renewal process.

A lease renewal application must include a nonrefundable application fee of no more than \$1,500, the amount to be set by the commissioner depending on the type of aquaculture permitted by the lease.

Sec. 6. 12 MRSA §6072, sub-§12-A, ¶C, as amended by PL 2009, c. 229, §2, is further amended to read:

C. The commissioner shall establish by rule the fee for transferring a lease under this subsection, which