

## CHAPTER 190

### JUDICIAL REVIEW OF MUNICIPAL LAND USE DECISIONS

#### §4481. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2015, c. 459, §1 (NEW).]

**1. Significant municipal land use decision.** "Significant municipal land use decision" means final action on an application for a land use development project that is either:

A. Submitted to the municipal reviewing authority, as defined by section 4301, subsection 12, under a municipal site plan ordinance or other municipal ordinance adopted under chapter 187, subchapter 3, or pursuant to authority under Title 38, section 488, subsection 19 or section 489-A, but only if the land use development project consists of:

- (1) One or more buildings that occupy a total ground area in excess of 10,000 square feet or contain a total floor area in excess of 40,000 square feet; or
- (2) A total ground area in excess of 3 acres occupied by buildings, parking lots, roads, paved areas, wharves and other areas to be stripped or graded and not revegetated; or [PL 2015, c. 459, §1 (NEW).]

B. Submitted as a project consisting of 10 or more lots subject to the municipal reviewing authority, as defined by section 4301, subsection 12, under an ordinance adopted under chapter 187, subchapter 4 or pursuant to authority under Title 38, section 488, subsection 19 or section 489-A. [PL 2015, c. 459, §1 (NEW).]

[PL 2015, c. 459, §1 (NEW).]

#### SECTION HISTORY

PL 2015, c. 459, §1 (NEW).

#### §4482. Review of significant municipal land use decision

This section governs the process of filing complaints in Superior Court to challenge a significant municipal land use decision or the failure to make such a decision. [PL 2015, c. 459, §1 (NEW).]

**1. Review of significant municipal land use decision.** A complaint may be filed either in the general docket of the Superior Court for the county in which the municipality is located or directly in a docket designated by the Supreme Judicial Court for business matters. Any complaint filed in the general docket of the Superior Court for the county in which the municipality is located must be transferred upon request of any party to the proceeding to a docket designated by the Supreme Judicial Court for business matters.

[PL 2015, c. 459, §1 (NEW).]

**2. Filing of record.** The defendant municipality shall file a complete record for review, as described in the Maine Rules of Civil Procedure, Rule 80B, as agreed upon by the parties within 35 days of the commencement of the action, unless the court enlarges the time for cause. The plaintiff shall reimburse the municipality for the cost of producing the record.

[PL 2015, c. 459, §1 (NEW).]

**3. Final decision.** A party may not file an appeal of a significant municipal land use decision under this section until the decision is a final decision pursuant to section 2691, if the decision is by a board of appeals, or pursuant to section 4482-B, if the decision is by a municipal administrative review board other than a board of appeals.

[PL 2017, c. 241, §4 (NEW).]

#### SECTION HISTORY

PL 2015, c. 459, §1 (NEW). PL 2017, c. 241, §4 (AMD).

#### **§4482-A. Review of other municipal land use decisions**

This section governs the review process for a municipal land use decision that is not a significant municipal land use decision under section 4482, except as provided in section 4482, subsection 3, or a decision of a board of appeals under section 2691. [PL 2017, c. 241, §5 (NEW).]

**1. Filing of appeal.** A party may file an appeal with the Superior Court of a municipal land use decision subject to this section that is a final decision within 30 days of the date of the vote on the final decision, except that the time period for filing an appeal under this subsection may be extended by the court upon motion for good cause shown. The hearing on an appeal filed pursuant to this section before the Superior Court must be conducted without a jury.

[PL 2017, c. 241, §5 (NEW).]

**2. Final decision.** A party may not file an appeal of a municipal land use decision subject to this section until the decision is a final decision pursuant to section 4482-B.

[PL 2017, c. 241, §5 (NEW).]

#### SECTION HISTORY

PL 2017, c. 241, §5 (NEW).

#### **§4482-B. Finality of municipal land use decision**

For the purposes of this chapter and except as provided in section 2691, a municipal land use decision is a final decision when an application for a project requiring the approval of one or more municipal boards has received all required municipal administrative approvals by the board of appeals, the planning board or municipal reviewing authority, a site plan or design review board, a historic preservation review board and any other review board created by municipal charter or ordinance. An appeal may not be filed under this section prior to the review and final approval of a project by each applicable municipal administrative review board, except that a denial of an application by a municipal administrative review board is considered a final decision even if other municipal administrative approvals are required for the project and remain pending. An appeal of the denial under this chapter must be in accordance with the requirements of the Maine Rules of Civil Procedure, Rule 80B. [PL 2017, c. 241, §6 (NEW).]

#### SECTION HISTORY

PL 2017, c. 241, §6 (NEW).

#### **§4483. Appeal of significant municipal land use decision to Law Court**

Any party to a review proceeding under this chapter may obtain review of a final judgment by appeal to the Supreme Judicial Court, sitting as the Law Court. The appeal must be taken as in other civil cases, except that upon the request of any party, and in the interests of justice, the Supreme Judicial Court may expedite the briefing schedule. [PL 2015, c. 459, §1 (NEW).]

#### SECTION HISTORY

PL 2015, c. 459, §1 (NEW).

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