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Resolve, Directing the Department of Environmental Protection To Develop a Rural Land Use Development Process

Sec. 1 Definitions. Resolved: That, as used in this resolve, the following terms have the following meanings.

1. Rural area. "Rural area" means an area that is classified as rural according to the most recent Federal Decennial Census.

2. Significant wildlife habitat. "Significant wildlife habitat" has the same meaning as set forth in the Maine Revised Statutes, Title 38, section 480-B, subsection 10; and be it further

Sec. 2 Development of plan. Resolved: That the Department of Environmental Protection, referred to in this resolve as "the department," shall develop a rural land use development process that would exempt from state regulation the development in rural areas of certain land within significant wildlife habitat. The rural land use development process developed by the department must provide for the following.

1. Approval by local code enforcement officer. A landowner seeking to develop rural land that is within significant wildlife habitat shall submit the development plan to the local code enforcement officer, who is authorized to approve the plan without participation or review by the department or other state entity. If the local code enforcement officer approves the plan, the landowner is authorized to proceed without requiring the submission to the department of permit applications or the payment of regulatory fees.

2. Failure to approve by local code enforcement officer. If the local code enforcement officer does not approve the plan submitted, the local code enforcement officer shall contact the department or other appropriate state entity to review the plan. The landowner need not submit to the department a permit application or pay a regulatory fee. Within one week, the department or state entity must respond to the local code enforcement officer with the results of the review.

A. If, upon review, the department or state entity does not identify issues that would prevent the development from proceeding, the landowner may proceed with the plan.

B. If, upon review, the department or state entity identifies issues that would prevent the development from proceeding, the department or state entity shall propose an alternative plan that it considers less potentially damaging to the significant wildlife habitat. If the landowner accepts the alternative plan, the landowner may proceed with the alternative plan without submission to the department of permit applications or the payment of regulatory fees.

3. Failure to reach agreement between landowner and the State. If the landowner declines the alternative plan submitted by the department or state entity, the State may exercise its powers under eminent domain to take the property in question. If the State does not exercise eminent domain to take the property, the landowner may proceed with the development under the landowner's original plan. If the

State elects to exercise eminent domain to take just a portion of the property and the landowner believes that the partial taking renders the property useless, the State must purchase the entire parcel or relinquish its objections to the landowner's pursuit of the development under the original plan; and be it further

Sec. 3 Report. Resolved: That the department shall submit a report outlining the proposed rural land use development process, together with necessary implementing legislation, to the Joint Standing Committee on Natural Resources by December 4, 2013. After receipt and review of the report, the joint standing committee may submit a bill implementing the process to the Second Regular Session of the 126th Legislature.

SUMMARY

This resolve directs the Department of Environmental Protection to develop a rural land use development process that would exempt from state regulation the development in rural areas of certain land within significant wildlife habitat.