

Maine's Informed Growth Act (P.L. 2007, Chapter 347)
Frequently Asked Questions

1. Can a municipality be exempted from the Act?

Yes, section 30-A MRSA section 4371 exempts a municipality from the Informed Growth Act if the municipality has adopted an ordinance that contains requirements for determining the impact of large-scale retail development and includes an independent study of the community economic impacts of large-scale retail development. The study must be prepared by a preparer determined qualified by the Executive Department, State Planning Office and chosen by the municipality. The study must be presented at a public hearing.

2. Who determines whether the municipality is exempt under Section 4371?

The municipality would make this determination, perhaps in consultation with its legal counsel.

3. Does our municipality have to amend our land use permit review ordinance or enact new provisions to incorporate the procedures under the Informed Growth Act?

The municipality should consult with its legal counsel to determine what steps it needs to take to implement the Informed Growth Act.

4. Is a municipality required to select a consultant from SPO's list of qualified preparers?

Yes, Section 4367 (1) of the Act states that, "A comprehensive economic impact study must be prepared by a person...listed by the office as qualified..."

5. Do you envision the State Planning Office playing any role in who is selected to conduct an impact assessment other than compiling a list of qualified preparers?

No, the decision of selecting a consultant is made by mutual agreement between the municipality and the applicant.

6. How does a municipality select a consultant from the list?

The municipality and the developer are required to mutually agree upon the selection of a qualified preparer. If no mutual agreement is reached within 15 days, the municipality selects the preparer.

The Office's assessment of consultants is limited to qualifications. A municipality, in selecting a consultant, may also want to assess other factors through a local RFP

process such as the bidder's cost, methodology or approach, turn-around time, staffing capacity for timely completion of the study, etc.

7. Where does the money come from to conduct the study?

The developer pays \$40,000 to conduct the study at the time he or she files a land use permit application. The developer pays the study to the State Planning Office. The State Planning Office notifies the municipality that a fee has been paid. The municipality signs a memorandum of understanding (MOU) with the State Planning Office who remits \$39,000 of the \$40,000 study fee to the municipality (under the Act, the State Planning Office is allowed to keep \$1,000 to cover its administrative costs). At the completion of the study, the municipality returns any unused portion of the \$39,000 to the developer.

8. What if the cost of the study fee is greater than \$39,000?

The municipality is obligated to scope its contract for the study to ensure that the \$39,000 fee will cover the cost of the study, notice of the public hearing, and related municipal staff support. The municipality may want to conduct a competitive selection process or solicit bids from the qualified consultants on SPO's list to help reduce costs.

9. Will this requirement slow down the proposed development project?

The Informed Growth Act attempts to minimize the extra time the economic impact study will add to a project. The comprehensive economic impact study must be completed within four months of filing a complete application.

10. What is the trigger for the start of the 4-month clock on completing the economic study?

The municipality's normal permit application process should determine this. The clock would start at the time the municipality determines the development permit application to be complete, with the exception that the development application is not complete until the State Planning Office confirms that the study fee has been paid.

11. Is an economic impact analysis required to obtain a building permit?

The developer/builder should consult with the municipality to determine what is required.

12. How does the municipality determine undue adverse impact?

The municipality evaluates the impacts of the proposed large-scale retail development based on the comprehensive economic impact study, along with other testimony. If the estimated overall negative effects on the factors listed in Section 4367 (4) outweigh the estimated overall positive impacts on at least two of the factors, there is undue adverse impact.