

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 851

H. P. 627

House of Representatives, February 12, 1973

Referred to Committee on Natural Resources. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Martin of Eagle Lake.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT to Amend the Land Use Regulation Commission Law.

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

Sec. 1. R. S., T. 12, § 681, amended. Section 681 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, and as amended by section 1 of chapter 457 of the public laws of 1971, is further amended to read as follows:

§ 681. Purpose and scope

The Legislature finds that it is desirable to extend ~~the~~ principles of sound planning, zoning and subdivision control to the unorganized and deorganized townships of the State: ~~in order to~~ To preserve public health, safety and general welfare; ~~and to prevent the further spread of~~ inappropriate residential, recreational, commercial and industrial uses detrimental to the proper use or value of these areas; to prevent the intermixing of incompatible industrial, commercial, residential and recreational activities; to prevent the development in these areas of substandard structures or structures located unduly proximate to waters or roads; ~~and~~ to prevent the despoliation, pollution and inappropriate use of the water in these areas; and, to preserve ecological and natural values.

In addition, the Legislature declares it to be in the public interest, for the public benefit and for the good order of the people of this State, to encourage the well planned and well managed multiple use of ~~the privately owned forest land and timber~~ resources and to encourage ~~opening the appropriate use of these lands to~~ by the residents of Maine and visitors, in pursuit of outdoor recreation activities, including, but not limited to, hunting, fishing, boating, hiking and camping.

Sec. 2. R. S., T. 12, § 682, sub-§ 1, amended. Subsection 1 of section 682 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, and as repealed and replaced by section 2 of chapter 457 of the public laws of 1971, is amended to read as follows:

1. Unorganized and deorganized areas. Unorganized and deorganized areas shall include ~~the unorganized and deorganized townships and mainland and island plantations of the State and shall not include Indian reservations~~ all areas located within the jurisdiction of the State of Maine, except areas located within organized cities and towns, and Indian reservations.

Sec. 3. R. S., T. 12, § 682, sub-§ 4, amended. Subsection 4 of section 682 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, and as repealed and replaced by section 2 of chapter 457 of the public laws of 1971, is amended to read as follows:

4. Structure. Structure shall mean anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground, including, but not limited to, buildings, mobile homes, walls, fences, billboards, signs, piers and floats.

Sec. 4. R. S., T. 12, § 682, sub-§ 5, amended. Subsection 5 of section 682 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, and as repealed and replaced by section 2 of chapter 457 of the public laws of 1971, is amended to read as follows:

5. Accessory use or accessory structure. Accessory use or accessory structure shall include a use or structure subordinate to a permitted or conditional use or structure ~~and located on the same lot or parcel as the permitted or conditional use or permitted or conditional structure~~ and customarily incidental to the permitted or conditional use of the structure.

Sec. 5. R. S., T. 12, § 682, sub-§§ 7 and 8, amended. Subsections 7 and 8 of section 682 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, and as repealed and replaced by section 2 of chapter 457 of the public laws of 1971, are amended to read as follows:

7. Development. Development shall mean any land use activity or activities directed toward using, reusing or rehabilitating air space, land, water or other natural resources, **excluding, however, such specific uses or classes and categories of uses as the commission may by regulation determine do not need regulating to achieve the purpose, intent and provisions of this chapter.**

8. Land use district. Land use ~~guidance~~ district shall mean the ~~area located within the~~ boundaries of air, land or water delineated vertically or horizontally by the commission for distinct categories of use.

Sec. 6. R. S., T. 12, § 683, amended. Section 683 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, and as amended, is further amended to read as follows:

§ 683. Creation of Maine Land Use Regulation Commission

To carry out the purposes stated in section 681 there is created the Maine Land Use Regulation Commission, ~~hereafter hereinafter~~ in this chapter called the "commission." The commission is charged with implementing this chap-

ter in all of the unorganized and deorganized areas of the State. The commission, shall consist of ~~3 permanent members~~. The Director of Parks and Recreation, the Forest Commissioner and the State Planning Director, or their designated alternates and ~~4~~ members serving staggered ~~4~~ year terms to be appointed by the Governor with the advice and consent of the Council. The latter ~~4~~ members shall respectively represent the public, conservation interests, forest products industry interest and general landowner interests ~~7~~ members who shall represent the public interest and be appointed by the Governor, with the advice and consent of the Council, for staggered ~~4~~-year terms. In making such appointments, the Governor shall give consideration to individuals who are knowledgeable in the following fields: Forest management and utilization, commercial real estate development, land use law, land use planning, the science of ecology or related fields, soil and water conservation, agricultural economics or resource economics, government or public affairs, and engineering or architecture. The initial appointee to the commission representing the public shall be appointed for a one-year period; the initial appointee representing conservation interests shall be appointed for a 2-year period; the initial appointee representing the forest products industry interests shall be appointed for a 3-year period; and the initial appointee representing general landowner interests shall be appointed for a ~~4~~ year period. Thereafter said appointees shall be appointed to serve ~~4~~ year terms

The initial appointees knowledgeable in the fields of government or public affairs and engineering and architecture shall be appointed for one-year terms; the initial appointees knowledgeable in the fields of soil and water conservation and agricultural economics or resource economics shall be appointed for 2-year terms; the initial appointees knowledgeable in the fields of land use planning and the science of ecology shall be appointed for 3-year terms; and the initial appointees knowledgeable in the fields of forest management and utilization, commercial real estate development, and land use law shall be appointed for 4-year terms.

Sec. 7. R. S., T. 12, § 684, amended. The 3rd sentence of the first paragraph of section 684 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, is amended to read as follows:

Such public meetings shall be held ~~no less frequently than 5 times a year~~ at least once a month.

Sec. 8. R. S., T. 12, § 684, amended. The first sentence of the 2nd paragraph of section 684 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, is amended to read as follows:

Whenever the commission is required or empowered to conduct a hearing pursuant to any provision of law, such hearing may be held and conducted by the commission or by any member of the commission or by any qualified employee or representative of the commission as the committee chairman may determine.

Sec. 9. R. S., c. 12, § 685, amended. Section 685 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, is amended by adding after the 2nd sentence a new sentence to read as follows:

The commission shall give public notice of all contributions, in the state paper, stating the source, the amount and the purpose of such contributions.

Sec. 10. R. S., T. 12, § 685-A, amended. Section 685-A of Title 12 of the Revised Statutes, as enacted by section 5 of chapter 457 of the public laws of 1971, and as amended, is further amended to read as follows:

§ 685-A. Land use districts and standards

1. **Classification and districting of lands.** The commission, ~~based acting on principles of sound land use planning and development guidance,~~ shall determine the boundaries of areas within the unorganized and deorganized portions of the State that fall into land use ~~guidance~~ districts and designate each area in one of the following major district classifications: Protection, management and development and Holding. The commission shall ~~set standards~~ enact regulations for determining the boundaries of each major type of district ~~in accordance with the following standards.~~

A. Protection districts: ~~shall include, but not be limited to, areas~~ **Areas** where development would jeopardize significant natural, recreational and historic resources, including ~~but not limited to,~~ flood plains, precipitous slopes, wildlife habitat and other areas critical to the ecology of the region or State.

B. Management districts: ~~shall include, but not be limited to, those lands~~ **Areas** which are ~~currently appropriate for being utilized for~~ commercial forest product or agricultural uses and for which plans for additional development are not presently formulated nor additional development anticipated.

C. Holding districts ~~shall include, but not be limited to, reserve areas adjoining development districts, for growth needed when the development district is saturated, and these lands not presently in development districts but for which development plans have been submitted pursuant to section 685 B, subsection 2 or where additional development is otherwise formulated or anticipated~~

D. Development districts: ~~shall include, but not be limited to, those lands~~ **now Areas** discernible as ~~having~~ relatively homogeneous patterns of intensive residential, recreational, commercial or industrial use, or commercial removal of minerals or ~~other~~ natural resources, and areas appropriate for designation as development districts when measured against the purpose, intent and provisions of this chapter.

In addition to delineating the major district classifications listed ~~herein~~, the commission may delineate such subclassifications as may be deemed necessary and desirable to ~~further~~ carry out the intent of this chapter.

2. **Interpretation of district boundaries.** Where uncertainty exists as to the boundaries of districts as shown on the official land use ~~guidance~~ maps the following shall apply:

A. Boundaries indicated as approximately following center lines of public or private roads shall be construed to follow such center lines.

B. Boundaries indicated as following railroad lines shall be construed to be midway between the ~~2 outermost rails main track or tracks~~.

C. Boundaries indicated as approximately following property lines, township or county lines shall be construed as following such lines.

D. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in event of natural change in the shorelines, shall be construed as moving with the ~~actual shoreline~~ **normal high water mark**; boundaries indicated as following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such natural center lines.

E. Boundaries indicated as approximately following ridge lines or specific contour lines shall be construed to follow such lines.

F. Boundaries indicated as parallel to or ~~extension as extensions~~ of features indicated in paragraphs A to E shall be so construed. ~~Distances not specifically indicated on the official land use guidance maps shall be determined by the scale of the map~~

G. Where physical or cultural features existing on the ground are at variance with those shown on the official land use ~~guidance~~ maps or in other circumstances not covered by paragraphs A to F, the commission shall interpret the district boundaries.

3. **Land use standards.** The commission, ~~based acting on the principles of sound land use planning and development guidance~~, shall prepare land use ~~guidance~~ standards prescribing standards for and ~~restraints upon~~ the use of air, lands and waters ~~in the various districts~~.

In addition to the purposes set forth in section 681 ~~of this chapter~~, the ~~district~~ land use ~~guidance~~ standards shall:

A. Encourage the most desirable and appropriate use of air, land and water resources **consistent with the comprehensive land use plan**;

B. Protect public health by reduction of noise, air pollution, water pollution and other environmental intrusions;

C. Protect and preserve significant natural, scenic and historic features where appropriate, ~~and~~ **beneficial and consistent with the comprehensive land use plan**;

D. Advise and assist the Department of Transportation and other concerned agencies in transportation planning and operation ~~and require land-owners to develop effective and nonintrusive land, air and water traffic movement, routes, parking and loading provisions including requirements with respect to frontage so, or access to, public roads, water, safety and other aspects~~;

D-I. Provide for safe and appropriate loading, parking and circulation of land, air and water traffic;

E. Encourage minimal adverse impact of one use upon the use of surrounding areas by setting standards of performance describing desirable

and acceptable levels of operation in connection with any use and its relation to surrounding areas, including provisions for the eventual amelioration of existing adverse impact ;

~~F. Relate~~ **Reflect a consideration of** the availability and capability of the natural resources base, including soils, topography or sufficient healthful water supplies ~~to land use.~~

~~In addition to preparing the general district land use guidance standards, listed in this chapter, the commission may prepare such special guidance standards as may be deemed necessary and desirable to further carry out the intent of this chapter~~

~~4. Land use standards considered as minimum requirements. District land~~ Land use guidance standards shall be interpreted and applied by the commission as minimum requirements, adopted to reasonably and effectively promote health, safety and general welfare and insure compliance with state plans and policies.

Whenever the requirements of the adopted land use guidance standards are at variance with the requirements of any other lawfully adopted rules, regulations, standards, ordinances, deed restrictions or covenants, the more protective of existing natural, recreation and historic resources shall govern.

Any portion of a land use district which subsequently becomes part of an organized municipality shall continue to be regulated by the district land use guidance standards adopted by the commission until such time as the municipality, of which the regulated district is then a part, shall adopt land use plans and regulations not less protective of the existing natural, recreational or historic resources than those adopted by the commission.

5. Considerations, application and exemptions. No land use guidance standard shall deprive any owner or lessee or ~~subsequent owner or lessee~~ of any interest in real estate of the use to which it is ~~then~~ lawfully devoted at the time of adoption of said standard. ~~Occupied year~~ **Year-round and seasonal** single residences and operating farms ~~presently~~ in existence and use ~~as of September 23, 1971,~~ while so used, and new accessory buildings or structures or renovations of ~~existing such~~ buildings or structures which are or may be necessary to the satisfactory and comfortable continuation of these residential and farm uses shall be exempt from ~~land use guidance standards~~ **the requirements of section 685-B, subsection 1.**

Land use guidance standards adopted pursuant to this chapter for management districts shall in no way limit the right, method or manner of cutting or removing timber or crops, the construction and maintenance of hauling roads, the operation of machinery or the erection of buildings and other structures used primarily for agricultural or commercial forest product purposes, including tree farms.

In adopting district boundaries and land use guidance standards, the commission shall give consideration to public and private planning reports and other data available to it, and ~~where not inconsistent with the purposes and intent of this chapter~~ shall give weight to existing uses of land and to any reasonable plan of its owner as to its future use.

6. **Interim district boundaries and land use standards.** Prior to the adoption of ~~permanent~~ district boundaries and land use ~~guidance~~ standards as provided in subsections 1 and 3, the commission shall by ~~July 1, 1973~~ **January 1, 1975** adopt and enforce interim land use ~~guidance~~ standards for temporary districts whose boundaries shall be determined and delineated on interim land use ~~guidance~~ maps.

Interim districts and land use ~~guidance~~ standards shall be delineated and related, insofar as practicable and reasonable, to ~~maintain~~ **reflect** existing uses and conditions ~~to permit only such changes in use that are already in progress.~~

Interim districts and land use ~~guidance~~ standards shall be adopted after public hearings as provided in subsection 7.

Interim districts and land use ~~guidance~~ standards shall be effective no more than 36 months from the date first adopted. The adoption of permanent districts or land use ~~guidance~~ standards shall supersede interim districts or standards. ~~No interim standard shall be extended or reenacted for the same purpose~~

7. **Hearings and procedures.** Within 45 days after the proposed land use district boundaries or ~~guidance~~ standards are prepared or received by the commission, the commission shall hold a public hearing at a time and place convenient to ~~all~~ persons affected by the proposal.

At least 30 days prior to holding a public hearing **on proposed land use district boundaries**, the commission shall give notice of said hearing to the owners of directly affected lands by mail, according to their names and addresses as shown on the records of the Bureau of Taxation **and plantation tax assessors.**

Such notices shall state the purpose, time and place of the hearing and shall indicate the time and place where copies of the proposed maps and standards thereof may be inspected or obtained prior to the hearing.

At least 30 days prior to ~~the hearing~~ **all hearings held under this subsection**, notices shall be sent to appropriate state and federal agencies. Public notice shall be given by 3 publications in the state paper and such other daily papers published in the State as is determined will bring the proposals to the attention of ~~all~~ interested parties; the date of the first publication to be at least 30, and the last publication to be a least 3, days prior to the hearing.

At ~~the hearing~~ **hearings**, interested owners, lessees, officials, agencies and individuals may appear and be heard. They shall further be allowed at least 15 days following the public hearing to file written statements with the commission.

The commission shall adopt, and may amend and repeal, rules for the conduct of public hearings held under this section, including adjournments and continuations thereof. A complete verbatim recording shall be made of all hearings held pursuant to this section.

The land use district boundaries or standards shall be adopted within 45 days from final adjournment of the hearing.

Land use ~~guidance~~ maps and standards so adopted shall become effective 15 days after their adoption by the commission and shall be on file and available for inspection by any interested party in the office of the commission and in the appropriate registry of deeds for each county.

8. **Amendments to district boundaries and standards.** The commission, of its own accord, may initiate, and any state or federal agency, or any property owner or lessee, may petition for a change in the boundary of any land use district or for amendments to any land use ~~guidance~~ standard.

The commission shall, within 45 days of receipt of such petition, either approve the proposed amendment, ~~deny the proposed amendment~~ or schedule a public hearing thereon in the manner provided in subsection 7.

No change in a district boundary shall be approved, unless ~~there is~~ substantial evidence ~~shows~~ that:

A. The area is ~~needed~~ appropriate for use other than that for which the district in which it is situated is classified the proposed reclassification and;

B. The petitioner has submitted proof that the area is not usable or adaptable for the use ~~permitted in the district~~ in which it is classified; or

C. Changes in conditions have made the present classification unreasonable.

No amendment to land use ~~guidance~~ standards shall be approved, unless ~~there is~~ substantial evidence ~~shows~~ that:

A. Conditions exist, which were not ~~evident~~ considered when the land use ~~guidance~~ standards were adopted;

B. The land use ~~guidance~~ standard does not serve the purposes, intent and provisions of this chapter; or

C. The amendment would ~~better fulfill the purposes of this chapter~~ be consistent with the Comprehensive Land Use Plan.

9. **Periodic review of district boundaries and land use standards.** At the end of each 5 years following initial adoption of ~~permanent~~ land use ~~guidance~~ standards and districts, the commission shall make a comprehensive review of the classification and delineation of districts of the land use ~~guidance~~ standards. The assistance of appropriate state agencies shall be secured in making this review and public hearings shall be held in accordance with the requirements set forth in subsection 7.

10. **Special exceptions.** Any person may petition the commission for permission to use his lands in manners otherwise prohibited by the commission land use ~~guidance~~ standards.

In reviewing such petitions, the commission shall consider any ~~unusual condition or use that could not reasonably have been anticipated when the dis-~~

trict boundaries and standards were adopted or amended changes in technology occurring since the boundaries were adopted or amended, and whether or not the special exception is consistent with the purpose and scope of this chapter, and the effect of permitting the special exception upon uses and lands likely to be affected by the proposed use, and may, under such protective restrictions as may be deemed necessary, permit such desired use ~~but only when such use would not detract from the effectiveness and objective of this chapter.~~

The commission may conduct a hearing within 45 days from the receipt of the a petition, and shall notify such persons and agencies that may have an interest in the subject matter of the time and place of the hearing in accordance with the requirements set forth in subsection 7.

11. **Public service corporation exemptions.** Real estate used or to be used by a public service corporation may be wholly or partially exempted from regulation to the extent that the commission may not prohibit such use but may impose terms and conditions for use consistent with the purpose of this chapter, when, upon timely petition to the Public Utilities Commission and after a hearing, the said commission determines that such exemption is necessary or desirable for the public welfare or convenience.

Sec. 11. R. S., T. 12, § 685-B, sub-§§ 1-8, amended. Subsections one to 8 of section 685-B of Title 12 of the Revised Statutes, as enacted by section 5 of chapter 457 of the public laws of 1971, and as amended, are further amended to read as follows:

1. **Review and approval required.** ~~Unless the commission shall approve in the manner provided:~~

A. No structure or part thereof shall be erected, changed, converted, or wholly or partly altered or enlarged in its use or structural form other than normal maintenance or repair, without a permit issued by the commissioner.

B. No person shall commence development of or construction on any lot or parcel within any subdivision or sell or offer for sale any interest in any lot or parcel within any subdivision without a permit issued by the commission.

C. No person shall 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 Department Law, Title 38, sections 481 to 488.

Approval by the commission that the proposed development meets the land use ~~guidance~~ standards for the particular location shall be prima facie evidence to support a finding that the development meets the requirements of the Site Location of Development Law, Title 38, sections 481 to 488, unless the Board of Environmental Protection shall by rule or regulation of general applicability effective prior to the date of application have set requirements

more protective of the existing natural, recreational or historic resources than those of the commission then in force.

~~Any person requiring approval pursuant to this subsection shall, before commencing construction or operation, notify the commission, in writing, of the nature and location of his proposal and request an application for approval~~

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 decision by the commission members.

2. **Application for approval.** The application forms for approval, as provided by the commission, shall be completed and signed by the applicant and shall be accompanied by the following:

- A. A plan of the proposed structure, subdivision or development showing the intended use of the land, the proposed change, the details of the project and such other information as may be required by the commission to determine conformance with applicable land use ~~guidance~~ standards;
- B. The fee prescribed by commission rules but not to exceed 1/10 of 1% of the total construction costs;
- C. ~~Certification of filing of notice as set forth in this subsection.~~

~~On or before the date of application to the commission, the applicant shall send notice and a copy of the application to the regional planning commission wherein the land is located, including any adjacent regional planning commission if the land is located on a boundary~~

3. **Hearings and procedures.** Any person aggrieved by a decision of the commission or its staff concerning any matter upon which no hearing was held may petition the commission for a hearing, within 30 days of such decision.

If the commission determines to hold a hearing on an application, it shall hold such hearing within 45 days of receiving the application. At least ~~30~~ 15 days prior to the hearing, notices of the date, time and place thereof shall be sent to the applicant and to appropriate state and federal agencies. Public notice shall be given 3 publications in the state paper and such daily papers published in the State as is determined will bring the proposals to the attention of all interested parties; the date of the first publication to be at least ~~75~~ 10, and the last publication to be at least 3, days prior to the hearing.

The commission shall adopt, and may amend and repeal, rules of conduct of hearings and shall make a complete verbatim recording of all hearings held pursuant to this section.

Within 45 days after the commission adjourns any hearing held under this subsection, it shall make findings of fact and issue an order granting or denying approval to the applicant to construct, develop or operate the structure.

subdivision or development as proposed or granting such approval upon such reasonable terms and conditions as the commission may deem ~~advisable to protect and preserve the environment and public's health, safety and general welfare appropriate.~~

If no hearing has been requested or ordered pursuant to this subsection, no hearing need be held by the commission. In such an event, within 30 days of receipt of an application for approval, the commission shall approve with such terms and conditions as deemed necessary or disapprove each application.

In the event of a decision for disapproval, the commission shall notify the applicant and specify the grounds of disapproval and **inform him of any right he may have to request a hearing.**

4. **Criteria for approval.** In approving applications submitted to it pursuant to this section, the commission may impose ~~appropriate such reasonable terms and conditions and safeguards as may be deemed advisable to protect and preserve the environment and the public's health, safety and general welfare as the commission may deem appropriate.~~

The commission shall approve no application, unless:

A. Adequate technical and financial provision has been made for meeting the state's air and water pollution control standards, for solid waste disposal, for controlling of offensive odors and for the securing and maintenance of sufficient healthful water supplies, and

B. Adequate provision has been made for loading, parking and circulation of land, air and water traffic, in, on and from the site, and for assurance that the proposal will not cause congestion or unsafe conditions with respect to existing or proposed transportation arteries or methods, and

C. Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to assure there will be no undue adverse effect on existing uses, scenic character, and natural and historic resources ~~or adjoining property values in the area likely to be affected by the proposal, and~~

D. Uses of topography, soils and subsoils meet standards of the current soil suitability guide for land use planning in Maine, or which are adaptable to the proposed use pursuant to said guide and will not cause unreasonable soil erosion or reduction in the capacity of the land to absorb and hold water, and

E. ~~That the~~ The proposal is otherwise in conformance with ~~the duly adopted interim or permanent district level use evidence standards this~~ chapter and the regulations, standards and plans adopted pursuant thereto.

F. In the case of an application for a structure upon any lot in a subdivision, that the subdivision has received the approval of the commission.

~~At hearings held under this section~~ The burden is upon the applicant ~~must~~ to demonstrate by substantial evidence that the criteria for approval are satisfied, and that the public's health, safety and general welfare will be adequately protected.

5. **Limitation, expiration, transfer and revocation of approval.** Commission authorization pursuant to this section shall permit only the arrangement and construction set forth in the approval as issued. Change in use, arrangement or construction shall be considered a violation of this chapter and punishable as provided in this chapter.

An approval may be suspended or revoked by the commission in the event of violation of any condition attached to an approval or change in authorized use, arrangement or construction from those approved ~~or violation of any rules, regulations or land use standards adopted by the Commission.~~

6. **Recording of approved proposals.** ~~One copy of each application for approval, submitted to the commission pursuant to subsection 5, shall be returned to the applicant, clearly marked either as approved or disapproved and attested by an authorized commission signature. A record copy of each application, similarly marked approved or disapproved, shall be retained in the commission files and shall be available to the public during normal business hours.~~

In the event the commission approves an application for subdivision approval, a copy of ~~an the same approved plat or plan~~ and a copy of the conditions required by the commission to be set forth in any instrument conveying an interest within the subdivision attested to by an authorized commission signature shall be filed with the appropriate registry of deeds in the county in which the land lies.

A registrar of deeds shall not record a copy of conditions or any plat or ~~any document plan~~ purporting to subdivide land located within the unorganized and deorganized lands of the State, unless the commission's approval is evidenced thereon.

~~The recording of a plat or plan in violation of this subdivision is void. Any conveyance of unrecorded subdivided land or subdivided land recorded in violation of this section shall be also void and any structure erected on such land after conveyance shall constitute a nuisance.~~

The grantee of any conveyance of unrecorded subdivided land or subdivided land recorded in violation of this section may recover the purchase price, at interest, together with damages and costs in addition to any other remedy provided by law.

7. **Nonconforming uses and nonconforming structures.** To achieve the purposes set forth in this chapter after the adoption of permanent district standards and permanent districts, the commission may regulate and prohibit expansion and undue perpetuation of nonconforming uses. Specifically the commission may regulate and prohibit:

- A. Changes in nonconforming uses to another nonconforming use;
- B. Extension or enlargement of nonconformig uses or nonconforming structures;
- C. Resumption of nonconforming uses, by prohibiting such resumption if such use is discontinued for ~~12 calendar months regardless of intent to resume such use~~ 2 years or abandoned; and

D. Movement or enlargement of a nonconforming structure or of a structure containing a nonconforming use.

The commission may also provide for the termination of commercial or industrial nonconforming uses, by specifying in ~~district~~ land use guidance standards the period or periods in which nonconforming uses shall be terminated and by adjusting such compulsory terminations so as to allow reasonable time for the conversion of such nonconforming uses and reasonable schedules for the amortization of investment.

~~A casual, intermittent or temporary use of lands or structures shall not be sufficient to establish the existence of a nonconforming use or nonconforming structure. An illegal nonconforming use of lands or structures shall not be validated by the adoption of this subchapter.~~

Any use for which a special exception has been granted by the commission, as provided for in section 685-A, subsection 10, shall not be deemed a nonconforming use, but shall be deemed a conforming use in such district.

8. **Certificates of compliance.** It shall be unlawful to use or occupy or permit the use or occupancy of any land, structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structural form, requiring subsequent review and approval pursuant to this subchapter, until a certificate of compliance has been issued therefor by the commission stating that the requirements and conditions of approval have been met.

A certificate of compliance may contain such terms and conditions as will protect the health, safety and general welfare of the occupants, users and the public.

The commission may establish standards within which authority shall be delegated to its staff, to issue or deny certificates of compliance. Any person aggrieved by a decision of the staff shall have the right to a review of such decision by the commission members within 30 days of such decision.

Sec. 12. R. S., T. 12, § 685-B, sub-§ 9, repealed. Subsection 9 of section 685-B of Title 12 of the Revised Statutes, as enacted by section 5 of chapter 457 of the public laws of 1971, is repealed.

Sec. 13. R. S., T. 12, § 685-C, sub-§ 1, amended. Subsection 1 of section 685-C of Title 12 of the Revised Statutes, as enacted by section 5 of chapter 457 of the public laws of 1971, and as amended by section 28-J of chapter 544 of the public laws of 1971, is further amended to read as follows:

1. **Comprehensive land use plan.** Not later than ~~July 7, 1973~~ January 1, 1975 the commission shall adopt an official comprehensive land use guidance plan for the unorganized and deorganized townships of the State ~~describing the present use of the land and delineating general categories and locations of uses in accordance with section 681.~~

Such plan shall guide the commission in developing specific land use ~~guidance~~ standards and delineating district boundaries and ~~generally approving guiding development and amendments generally fulfilling the purposes of this chapter.~~

The plan may consist of maps, data and statements of present and prospective ~~land~~ **resource** uses which generally delineate the proper use of ~~land~~ **resources**, and recommendations for its implementation ~~or amendments~~.

The commission may hold public hearings to collect information to be used in establishing the land use guidance plan. The public hearings will be conducted according to commission rules adopted in accordance with procedures for the establishment of rules and regulations pursuant to Title 5, sections 2351 to 2354.

The commission may, on its own motion or petition of any state agency or regional planning commission, hold such other hearings as it may deem necessary from time to time for the purpose of obtaining information helpful in the determination of its policies, the carrying out of its duties, or the formulation of its land use ~~guidance~~ standards or rules and regulations.

The commission shall adopt no plan or portion of a plan, unless:

- A. The tentative plan has been submitted to each regional planning commission and other appropriate agencies, which shall forward their comments and recommendations, if any, to the commission within 30 days, and
- B. The tentative plan has been submitted to the State Planning Office, pursuant to Title 5, section 3305, subsection 1, paragraph G, which shall forward its comments and recommendations, if any, to the commission within 30 days, and
- C. The commission has considered all such comments.

Upon adoption of the official land use ~~guidance~~ plan by the commission, it shall submit the plan to the Governor for approval. The Governor shall approve or disapprove the plan, plans or any portion of a plan within 30 days of receipt. If the Governor fails to act, the plan shall be deemed approved. This subsection shall also apply to any alteration in the comprehensive plan.

Sec. 14. R. S., T. 12, § 685-C, sub-§ 5, ¶ A, amended. Paragraph A of subsection 5 of section 685-C of Title 12 of the Revised Statutes, as enacted by section 5 of chapter 457 of the public laws of 1971, is amended to read as follows:

- A. Adopt rules to interpret and carry out this chapter in accordance with Title 5, sections 2351 to 2354, unless otherwise provided by this chapter;

Sec. 15. R. S., T. 12, § 685-C, sub-§ 8, additional. Section 685-C of Title 12 of the Revised Statutes, as enacted by section 5 of chapter 457 of the public laws of 1971, and as amended by section 28-J of chapter 544 of the public laws of 1971, is further amended by adding a new subsection 8 to read as follows:

8. Enforcement, inspection and penalties for violations. Standards, rules, regulations and orders issued by the commission pursuant to this chapter shall have the force and effect of law. No development may be undertaken, except in conformance with this chapter, the standards, rules, regulations and orders enacted or issued pursuant to this chapter, and any real estate or personal property existing in violation of such shall be a nuisance. For the

purposes of inspection and to assure compliance with standards, orders and permits issued or adopted by the commission, authorized commission staff or consultant personnel may conduct such investigations, examinations, tests and site evaluations deemed necessary to verify information presented to it, and may obtain access to any lands and structures regulated pursuant to this chapter.

A violation of any provision of this chapter or the rules promulgated hereunder is punishable by a fine of up to but not more than \$500 for each day of the violation.

In addition to the other penalties provided, the commission may, in the name of the State of Maine, institute any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate any violation hereof or orders or of the standards, rules or regulations promulgated hereunder.

A person who willfully or knowingly falsifies any statement contained in the certification required, shall be punished by a fine of up to but not more than \$500.

Sec. 16. R. S., T. 12, § 689, amended. The first 2 sentences of section 689 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, and as repealed and replaced by section 6 of chapter 457 of the public laws of 1971, are amended to read as follows:

Except where otherwise specified by statute, any person aggrieved by any order or decision of the commission in regard to any matter upon which there was a hearing before the commission and of which a transcript of said hearing is available, may, within 30 days after notice of the filing of such order or decision, appeal therefrom to the Superior Court of **Kennebec County** by filing a notice of appeal stating the points of appeal **with the clerk of the court and the executive director of the commission.** ~~Notice Hearing~~ of the appeal shall be ordered by the court without a jury in the manner and with the rights provided by law in other civil actions so heard.

STATEMENT OF FACT

1. Section 1 makes it clear that the Legislature desires that the use of publicly as well as privately owned wildlands are well planned and that this desire extends not only to land and timber resources, but all resources in the wildlands. This amendment to the Maine Land Use Regulation Commission Law would also make it clear that the Legislature recognizes that the appropriate use of these resources may not include opening all wildlands to the public.

2. Section 2 makes it clear that the Commission's jurisdiction extends to coastal islands not falling within the jurisdiction of a city or town.

3. Section 3 of this bill is a minor language correction.

4. Section 4 of this bill makes it clear that uses and structures need not necessarily be located on the same parcel of land as the principal structure or use.

5. Section 5 would limit the present broad brush definition of "development" by permitting the Commission to specify those particular types of developments requiring permits. This section also contains a minor language change.

6. Section 6 changes the makeup of the Commission by releasing 3 Department heads from the time consuming duties of the Commission and allows them to devote full time to the running of their departments, by removing the implied requirement that Commission members should discharge their public duties by representing special interests rather than simply being knowledgeable in appropriate areas relevant to the Commission's responsibilities and by insuring that the Commission membership has a sufficient range of knowledge to properly discharge its duties.

7-8. Sections 7 and 8 of the bill insure that Commission meetings be public meetings and that meetings will be held at least once every month and would allow the chairman to determine who shall conduct public hearings held pursuant to this chapter.

9. Section 9 provides for public notice of the source, amount and purpose of contributions to the commission.

10. Section 10 revises the definition of Management Districts so as to make it clear that lands may be placed in a Management (Forestry) District even though no timber harvesting has occurred for a number of years; would abolish the concept of a "Holding District" since such classification is unnecessary and was originally included for taxation purposes prior to the establishment of the concept of "current use taxation"; and would permit the commission to designate areas appropriate for development as "Development Districts" even though there is no presently existing development in the area. This section also contains minor language changes; treats seasonal residences in existence on the effective date of the law on the same basis as year-round residences; extends the date by which the commission is required to adopt interim land use standards for temporary districts; specifies that the records of Plantation Tax Assessors would be used to notify landowners of affected lands since the Bureau of Taxation does not have a record of the landowners in plantations, and would repeal the expensive and unwarranted requirement of the commission to personally notify all landowners throughout the wildlands of proposed changes in standards since all landowners were personally notified of the establishment of such standards, but would leave unchanged the requirement to personally notify landowners of proposed boundary changes and the requirement to extensively publish notice of changes in either standards or boundary changes; allows the commission to deny amendments to district boundaries and standards without calling a public hearing. Any person aggrieved by such decisions, however, pursuant to subsection 3, section 685-B, as proposed to be amended, may request a hearing in the event of a denial and pursuant to section 689 may seek court relief. This section also would revise and ease the present inflexible criteria

against which a requested change in boundaries or amendment of standards must be measured; would revise and ease the present inflexible criteria against which a requested special exception for a particular land use must be measured and would subject developments of public service corporations, to the extent they are now exempt from the law, to scrutiny by the commission but only with regard to reasonable terms and conditions of development and not with regard to the power of the commission to deny a permit for development.

11. Section 11 would authorize the commission to issue "blanket permits" by way of a regulation so as to permit small developments to occur without the necessity of receiving a personal, written permit from the commission so long as the development met minimum standards. The section would also authorize the commission to delegate limited permit granting power to its staff, carefully circumscribed by appropriate standards, so as to speed up the permit issuing process. Again anyone aggrieved by a decision of the staff would have the right to seek full commission review. This section would also delete some burdensome paperwork requirements and make the application process easier for the public; allow any person aggrieved by a decision of the commission or its staff concerning a matter upon which there was no hearing, to seek a hearing. It would also give the commission an opportunity to review any decision it made without hearing, before being subjected to a lawsuit and would tend to reduce litigation; would add the criteria for reviewing and approving development proposals that the proposal is in conformance with the comprehensive land use plan and if the application is for a building permit in a subdivision, that the subdivision has received any required approval. It would also make it clear that all applicants demonstrate by substantial evidence that the criteria for approval have been met, whether or not they elect to have a hearing and also contains minor language changes; this section would also repeal the present requirement that all commission permits be recorded in registries of deeds and limit that requirement to subdivision plats and certain deed covenant conditions. This section would also repeal the provision voiding title to land subdivided without approval and allow the grantee to recover the purchase price; would require that the owner of a nonconforming use abandon such use or discontinue such use for a period of 2 years rather than merely discontinue it for a period of 12 months before the commission could regulate and prohibit such nonconforming use and repeal the provision authorizing the commission to provide for amortization of residential property and would allow the commission to delegate the power of granting certificates of compliance to its staff so as to speed up the certificate issuing process. Anyone aggrieved by a staff decision would have the right to seek full commission review.

12. Section 12 would extend the date by which the commission is required to adopt an official comprehensive land use plan from July 1, 1973 to January 1, 1975. This section also contains some minor language changes.

13. Section 13 of this bill provides that, except where otherwise provided, rules of the commission shall be adopted pursuant to the Administrative Code.

14-15. Sections 14 and 15 would allow the commission to apply directly to the courts for abatement of violations of the statute rather than being required to first issue an administrative order.

16. Section 16 would clarify the issue of to whom notice of appeal must be submitted.