

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1503

S. P. 485

In Senate, March 17, 1971

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

HARRY N. STARBRANCH, Secretary

Presented by Senator Violette of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Revising the Maine 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, is 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 and mainland plantations of the State in order to preserve public peace health, safety and general welfare, and to prevent the further spread of unplanned inappropriate residential, recreational, commercial and industrial development 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 along lakes, ponds and public roads in these areas of substandard structures or structures located in too close a proximity unduly proximate to such waters or roads; and, to prevent the despoilation, pollution and inappropriate use of lakes and ponds the water in these mainland plantation and unorganized areas; and, to preserve ecological balance in these mainland plantation and unorganized areas 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 managed multiple use of the privately owned forest land and timber resources and to encourage opening of these lands to the residents of Maine

and visitors, in pursuit of outdoor recreation activities, including but not limited to hunting, fishing, boating, hiking and camping.

~~This chapter shall apply only to unorganized and deorganized townships and mainland plantations and shall not apply to Indian Reservations.~~

Sec. 2. R. S., T. 12, § 682, sub-§ 1, repealed. Subsection 1 of section 682 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, is repealed.

Sec. 3. R. S., T. 12, § 682, sub-§ 1-A, additional. Section 682 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, is amended by adding a new subsection 1-A to read as follows:

1-A. 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.

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

2. Subdivision. A subdivision is a division of an existing parcel of land into 3 or more parcels or lots, within any 5-year period, whether this division is accomplished by immediate platting of the land or by a sale of the land by metes and bounds or where the purpose is for the immediate or future or by leasing except where no one of such parcels is less than 10 acres in size.

Sec. 5. R. S., T. 12, § 682, sub-§ 3, repealed. Subsection 3 of section 682 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, is repealed.

Sec. 6. R. S., T. 12, § 682, sub-§§ 3-A to 10, additional. Section 682 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, is amended by adding 8 new subsections, 3-A to 10, to read as follows:

3-A. Building. Building shall mean any structure having a roof, partial roof or canopy supported by poles, columns or walls used or intended to be used for the shelter or enclosure of persons, animals or objects regardless of the materials of which it is constructed.

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

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.

6. Person. Person shall mean an individual, firm, association, organization, partnership, trust, company, corporation, state agency or other legal entity.

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.

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

9. **Nonconforming structure.** Nonconforming structure shall mean a structure, lawfully existing at the time of adoption of district regulations or subsequent amendment made thereto, that does not conform to the district regulations.

10. **Nonconforming use.** Nonconforming use shall mean a use of air, land, water or natural resources or a parcel of land, lawfully existing at the time of adoption of district regulation or subsequent amendments made thereto, that does not conform to the district regulations.

Sec. 7. R. S., T. 12, § 633, amended. The 2nd and 3rd sentences of section 683 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, are amended to read as follows:

The commission is charged with implementing this chapter in all of the ~~main-land plantation and unorganized and deorganized portions~~ 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 ~~Office~~ Director; and 4 members serving staggered 4-year terms to be appointed by the Governor with the advice and consent of the Council.

Sec. 8. R. S., T. 12, § 684, amended. The last sentence 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:

No action shall be taken by the commission ~~except~~ unless upon approval by a vote of 4 members.

Sec. 9. R. S., T. 12, §§ 685-A, 685-B and 685-C, additional. Title 12 of the Revised Statutes is amended by adding 3 new sections, 685-A, 685-B and 685-C, to read as follows:

§ 685-A. Land use guidance districts and guidance standards

1. **Classification and districting of lands.** The commission, based on 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, development and holding.

The commission shall set standards for determining the boundaries of each major type of district:

A. Protection districts shall include, but not be limited to, areas where development would jeopardize significant natural, recreational and historic

resources, including 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 which are currently 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 those lands not presently in development districts but for which development plans have been submitted pursuant to section 685-B, subsection 2 of this chapter or where additional development is otherwise formulated or anticipated.

D. Development districts shall include, but not be limited to, those lands now discernible as relatively homogeneous patterns of intensive residential, recreational, commercial, or industrial use or commercial removal of minerals or natural resources.

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 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; 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 of specific contour lines shall be construed to follow such lines.

F. Boundaries indicated as parallel to or extension 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. District land use guidance standards. The commission, based on the principles of sound land use planning and development guidance, shall prepare land use guidance standards prescribing the 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;

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;

D. Encourage effective and nonintrusive transportation by controlling land, air and water traffic movement, routes, parking and loading provisions including requirements with respect to frontage on, or access to, public roads and waters, safety and other aspects;

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 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 guidance standards considered as minimum requirements. District 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 standards shall deprive any 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, except that provisions may be adopted for the elimination of non-conforming uses upon a change in ownership, lessee or land use or for amortization of such uses.

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 exclusively 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 guidance standards. Prior to the adoption of district boundaries and land use guidance standards as provided in subsections 1 and 3, the commission shall by July 1, 1972 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 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, guidance standards or amendments 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, the commission shall give notice of said hearing to the owners of affected lands by certified or registered mail, return receipt requested, according to their names and addresses as shown on the records of the Bureau of Taxation.

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 or amendments thereof may be inspected or obtained prior to the hearing.

At least 30 days prior to the hearing, 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 at least 3, days prior to the hearing.

At the hearing, 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 transcript shall be made of all hearings held pursuant to this section.

The land use district boundaries, standards or amendments 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 guidance 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 or schedule a public hearing thereon in the manner provided in subsection 7.

No change in a district boundary shall be approved unless substantial evidence shows that:

- A. The area is needed for use other than that for which the district in which it is situated is classified;
- B. The petitioner has submitted proof that the area is not usable or adaptable for the use in which it is classified;
- C. Changes in conditions have made the present classification unreasonable.

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

- A. Conditions exist which were not evident when land use guidance standards were adopted;

B. That the land use guidance standard does not serve the purposes of this chapter; or

C. That the amendment would better fulfill the purposes of this chapter.

9. Periodic review of district boundaries and land use guidance standards. At the end of each 5 years following initial adoption of 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 exception. 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 district boundaries and standards were adopted or amended, 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 shall conduct a hearing in the manner provided in subsection 7 within 45 days from the receipt of the 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.

§ 685-B. Development review and approval

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 commission.

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

C. No person shall commence construction or operation of any development without a permit issued by the commission.

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 requesting an application for approval.

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. Six copies of a plan of the proposed structure, subdivision or development showing the intended use of the land, the proposed change, the de-

tails 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;

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.

At least 30 days prior to the hearing, notices shall be sent to appropriate state and federal agencies. Public notice shall be given 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 to be at least 3, day prior to the hearing.

3. Hearings and procedures. If the commission determines to hold a hearing on an application, it shall hold such hearing within 30 days of receiving the application. At least 30 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 30, 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 transcript 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 terms and conditions as the commission may deem advisable to protect and preserve the environment and public's health, safety and general welfare.

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.

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

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 to assure there will be no undue adverse effect on existing uses, scenic character, natural and historic resources or adjoining property values, 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 proposal is in conformance with the duly adopted interim or permanent district land use guidance standards.

At hearings held under this section the applicant must 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 of construction from those approved or violation of any rules, regulation, 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 second copy of each application, similarly marked, 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 the same 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 any plat or any document purporting to convey or 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 subsection 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.

7. Nonconforming uses and nonconforming structures. To achieve the purposes set forth in this chapter, 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 nonconforming 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; 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 nonconforming uses of nonconforming structures 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 5 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.

Failure to obtain a certificate of compliance shall be considered a violation of this chapter and punishable as provided in this chapter.

9. 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 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 not more than \$500 for each day of the violation or by imprisonment for not more than 11 months.

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 of the standards, rules or regulation promulgated hereunder.

A person who willfully or knowingly falsifies any statement contained in the certification required shall be punished by a fine or not more than \$500 or by imprisonment for not more than 11 months, or by both.

§ 685-C. Miscellaneous provisions

1. Comprehensive land use guidance plan. Not later than July 1, 1972 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 development and amendments.

The plan may consist of maps, data and statements of present and prospective land uses which generally delineate the proper use of land, and recommendations for 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 section 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 approve 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 commission has considered all such comments, and
- C. The Governor has approved the plan.

Upon approval of the official land use guidance plan by the commission, it shall submit the plan to the Governor for approval. The Governor shall approve 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.

2. Land use guidance and planning manual. The commission shall prepare, maintain and distribute from time to time a land use guidance and planning manual setting forth:

- A. A copy of this chapter, together with all amendments thereof and other applicable legislation;
- B. Examples of land use planning policies, standards, maps and documents prepared in conformance with the purposes of this chapter;
- C. An explanation and illustrative examples of the land use standards and procedures authorized in this chapter;
- D. Other explanatory material and data which will aid landowners in the preparation of their plans in conformance with the procedures, rules and standards authorized in this chapter.

The commission shall, from time to time, confer with interested parties with a view toward insuring the maintenance of such manual in the form most useful to those making use of it.

Sections of this manual may be cited in any plan or standard in the same manner as citations of this chapter, and may be incorporated by reference in any plan, standard, rule or regulation.

3. Schedule of fees. The commission shall establish and amend a schedule of reasonable fees for the administration of this chapter. The fees shall be adopted and amended, in accordance with procedures for the establishment of rules and regulations pursuant to Title 5, sections 2351 to section 2354.

No approval, certificate, special exception, or variance shall be issued unless or until such fees established by the commission have been paid in full, nor shall any action be taken on proceedings before the commission unless or until preliminary fees have been paid in full.

4. Conservation easements. The commission may acquire conservation easements in the name of the State by gift, purchase, grant, bequest, devise

or lease for any of its purposes and convey administration thereof to any appropriate agency.

Such an easement may be a development right, covenant or other contractual right including a conveyance with conditions or with limitations or reversions, as may be desirable to conserve and properly utilize open spaces and other land and water areas in the unorganized and deorganized areas of the state.

5. Additional powers and duties. In order to implement this chapter, the commission may, in addition to its powers and duties previously authorized in this chapter:

- A. Adopt rules to interpret and carry out this chapter;
- B. Have the power to compel attendance of witnesses, and require production of evidence;
- C. Designate or establish such regional offices as it deems necessary;
- D. Designate or request other appropriate agencies to receive applications, provide assistance, investigations and make recommendations;
- E. By rule allow joint hearings to be conducted with other appropriate agencies;
- F. Execute contracts and other agreements to carry out its purposes.

6. Adjustments of assessing practices. Upon adoption of district boundaries and land use standards, a certified copy of each official land use guidance map, delineating district boundaries, and associated land use standards shall be filed with the State Tax Assessor.

7. Time periods. In computing the period of time to perform any act under these rules, the first day on which an act may be performed shall not be included but the last day of the period shall be included unless it is a Saturday, Sunday or holiday in which event the period shall be extended until the next business day.

A holiday is any day appointed as such by the President or Congress of the United States, or the Governor or Legislature of the State of Maine.

Sec. 10. R. S., T. 12, § 689, repealed and replaced. Section 689 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, is repealed and the following enacted in place thereof:

§ 689. Appeal to Superior Court

An appeal may be taken by any aggrieved party from any decision of the commission including without limitation the refusal of the commission to grant development approval or certificates or from the granting of such approval or certificates upon conditions thought to be unreasonable, to the Superior Court of the county in which the affected lands are located. Such appeal must be taken within 30 days of receipt of notice of the action of the commission and shall be tried and determined by the court without a jury in

the manner and with the rights provided by law in other actions so heard. If any action hereunder is based upon an order or decision of the commission after hearing, the record of such hearing will be the sole evidence allowed in such appeal and the court shall be limited to inquiring as to whether said order or decision is clearly erroneous and may deny said appeal or remand for a new hearing. In all other cases, the court may affirm, set aside or modify the acts being appealed from. Court costs may be awarded to the prevailing party by the court as justice requires. An appeal from the decision of the Superior Court to the law court may be taken as provided by law.

Sec. 11. R. S., T. 12, §§ 636-688, repealed. Sections 686 to 688 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969, are repealed.

STATEMENT OF FACT

It is the purpose of the various amendments embodied in this proposed legislation to: (1) correct and clarify certain inconsistencies in Chapter 206-A, Title 12, Maine Revised Statutes; (2) to strengthen and specify the relationship of land use regulation to land use planning and taxation; (3) to seek to curtail inefficient and inappropriate piecemeal zoning by allowing the commission to effectively and responsibly plan for, guide and direct the broad scope of development, within all of the unorganized and deorganized portions of the State; (4) to strengthen and specify the powers and duties of the commission to effectively and responsibly review and regulate public and private development proposals, so as to assure compliance with applicable state and regional plans, policies, regulations and environmental performance standards; and (5) to provide the commission with an effective framework of powers and duties for planning and regulating land development, based upon a flexible and dynamic concept of land use guidance rather than the inflexible and semipermanent conventional urban approaches to zoning and land use control, and which would rely primarily upon duly adopted regulations which establish standards for and constraints upon development and provide a sound basis for both public and private decision-making.