

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1421

S. P. 405

In Senate, April 5, 1977

On Motion of Senator O'Leary of Oxford referred to the Committee on Natural Resources. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary

Presented by Senator O'Leary of Oxford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Provide that the Board of Environmental Protection Shall Administer the Maine Land Use Regulation Statutes.

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

Sec. 1. 12 MRSA § 682, sub-§ 1-A is enacted to read:

1-A. Board. The term "board" shall mean the Board of Environmental Protection.

Sec. 2. 12 MRSA § 682, sub-§§ 7 and 8, as amended by PL 1973, c. 569, § 5, are further amended to read:

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~~ board may by regulation determine do not need regulating to achieve the purpose, intent and provisions of this chapter.

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

Sec. 3. 12 MRSA c. 206-A, sub-c. II, 1st and 2nd lines, as enacted by PL 1969, c. 494, are repealed and the following enacted in their places:

SUBCHAPTER II

ADMINISTRATION OF MAINE LAND USE REGULATION

Sec. 4. 12 MRSA § 683, as last amended by PL 1975, c. 771, § 136, is repealed.

Sec. 5. 12 MRSA § 683-A is enacted to read:

§ 683-A. Board of Environmental Protection to administer chapter

The Board of Environmental Protection, established by Title 38, section 341, shall carry out the purposes stated in section 681. The board is charged with implementing this chapter in all of the unorganized and deorganized areas of the State.

The organization, appointment procedures, compensation provisions, required meetings, officers, quorum requirements, powers to conduct a hearing and power to promulgate rules and regulations specified for the board under Title 38, section 361, shall apply to the board for the purposes of this chapter, insofar as they do not conflict with any express provision of this chapter.

The duties of the board under this chapter shall be in addition to, and not in place of, any other duty imposed upon the board by the Maine Revised Statutes. All procedures specified by this chapter shall apply only to the powers, responsibilities and duties of the board under this chapter and to no other powers, responsibilities and duties imposed upon the board by the Maine Revised Statutes.

Sec. 6. 12 MRSA § 684, as last amended by PL 1975, c. 770, § 64, is repealed.

Sec. 7. 12 MRSA § 685, as last amended by PL 1975, c. 521, § 1, is further amended to read:

§ 685. Board budget, financing and executive director

The ~~commission~~ board shall prepare a biennial budget for administration of this chapter and after approval of the budget by the Commissioner of ~~Conservation~~ Environmental Protection, it shall submit to the Legislature requests for appropriations sufficient to carry out its assigned tasks under this chapter.

The ~~commission~~ board may accept contributions of any type from any source to assist it in carrying out its assigned tasks, and make such requirements in respect to the administration of such funds, not inconsistent with this subchapter, as are required as conditions precedent to receiving such funds, federal or otherwise. The ~~commission~~ board shall give public notice of all contributions, in the state paper, stating the source, the amount and the purpose of such contributions. The ~~commission~~ board may contract with municipal, State and Federal Governments or their agencies to assist in the carrying out of any of its assigned tasks. The Commissioner of ~~Conservation~~ Environmental Protection, with the approval of the Governor, shall appoint a director who shall be the principal administrative, operational and executive employee of the ~~commission~~ board for the administration of this chapter. The director shall attend all meetings of the ~~commission~~ and be permitted to participate fully but shall not be a voting member of the ~~commission~~ board concerned with matters pertaining to this chapter. The director with the approval of the Commissioner of ~~Conservation~~ Environmental Protection may hire whatever competent professional personnel and other staff he deems necessary and he may obtain office space, goods and services as required.

Sec. 8. 12 MRSA § 685-A, sub-§ 1, 1st and last ¶¶s, as amended by PL 1973, c. 569, § 10, are further amended to read:

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

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

Sec. 9. 12 MRSA § 685-A, sub-§ 2, ¶ G, as amended by PL 1973, c. 569, § 10, is further amended to read:

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

Sec. 10. 12 MRSA § 685-A, sub-§ 3, 1st ¶, as amended by PL 1973, c. 569, § 10, is further amended to read:

The ~~commission board~~, acting on principles of sound land use planning and development, shall prepare land use standards prescribing standards for the use of air, lands and waters.

Sec. 11. 12 MRSA § 685-A, sub-§ 4, as last amended by PL 1975, c. 234, §§ 1 & 2, is further amended to read:

4. Land use standards considered as minimum requirements. Land use standards shall be interpreted and applied by the ~~commission board~~ 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 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 an organized municipality or part of an organized municipality shall continue to be regulated by the ~~Land Use Regulation Commission board~~ pursuant to this chapter 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 board~~. Any revisions or amendments to the adopted plan and regulation that are less protective than those in the adopted plan shall be submitted to the ~~Land Use Regulation Commission board~~ for approval.

Any municipality organized after September 23, 1971, may submit to the ~~commission board~~ and receive the approval of the ~~commission board~~ of the following:

- A. A comprehensive land use plan for such proposed city or town;
- B. Standards for determining land use district boundaries and uses permitted within such districts in such proposed city or town;
- C. A land use district boundary map for such proposed city or town;
- D. Such other proposed regulations or standards as the ~~commission~~ board deems to be necessary to achieve the purpose, intent and provisions of this chapter; and
- E. Upon request of the municipality, the ~~commission~~ board shall prepare such plans, maps, regulations and standards as it may deem necessary to meet minimum planning and zoning standards for its approval thereof.

Upon obtaining the foregoing approval, the city or town shall thereafter adopt, administer and enforce such approved plans, maps, regulations and standards.

Sec. 12. 12 MRSA § 685-A, sub-§ 5, last ¶, as amended by PL 1973, c. 569, § 10, is further amended to read:

In adopting district boundaries and land use standards, the ~~commission~~ board shall give consideration to public and private planning reports and other data available to it, and shall give weight to existing uses of land and to any reasonable plan of its owner as to its future use.

Sec. 13. 12 MRSA § 685-A, sub-§ 6, 1st ¶, as amended by PL 1973, c. 569, § 10, is further amended to read:

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

Sec. 14. 12 MRSA § 685-A, sub-§ 6, ¶ A, as enacted by PL 1975, c. 508, § 2, is amended to read:

- A. The Department of Inland Fisheries and Wildlife has met with the landowner for the purpose of reaching agreement as to the areas to be designated. The terms of any such agreement shall be reported to the ~~commission~~ board by the department. If the parties were unable to agree, the substance of and reasons for such disagreement shall be reported to the ~~commission~~ board by the department and the landowner;

Sec. 15. 12 MRSA § 685-A, sub-§ 7, 1st and 2nd ¶¶s, as amended by PL 1973, c. 569, § 10, are further amended to read:

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

At least 30 days prior to holding a public hearing on proposed land use district boundaries, the ~~commission~~ board 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.

Sec. 16. 12 MRSA § 685-A, sub§ 7, 5th ¶, as amended by PL 1973, c. 569, § 10, is further amended to read:

At 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 board~~.

Sec. 16-A. 12 MRSA § 685-A, sub-§ 7, 6th ¶, as amended by PL 1971, c. 619, § 4, is further amended to read:

The ~~commission board~~ 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.

Sec. 17. 12 MRSA § 685-A, sub-§ 7, 8th ¶, as amended by PL 1973, c. 569, § 10, is further amended to read:

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

Sec. 18. 12 MRSA § 685-A, sub-§ 8, 1st and 2nd ¶¶'s, as repealed and replaced by PL 1973, c. 788, § 43-B, are amended to read:

The ~~commission board~~, 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 standard.

The ~~commission board~~ 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.

Sec. 19. 12 MRSA § 685-A, sub-§ 9, as amended by PL 1973, c. 569, § 10, is further amended to read:

9. Periodic review of district boundaries and land use standards. At the end of each 5 years following initial adoption of land use permanent standards and districts, the ~~commission board~~ shall make a comprehensive review of the classification and delineation of districts of the land use 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.

Sec. 20. 12 MRSA § 685-A, sub-§ 10, as repealed and replaced by PL 1973, c. 788, § 43-C, is amended to read:

10. Special exceptions and variances. The ~~commission board~~ may approve the issuance of a special exception permit in strict compliance with

this chapter and the regulations and standards adopted pursuant thereto. The ~~commission board~~ may grant a variance where the ~~commission board~~ finds that strict compliance with the regulations and standards adopted by this ~~commission board~~ would cause unusual hardship or extraordinary difficulties because of exceptional or unique conditions of topography, access, location, shape, size or other physical features of the site, that the proposed development is in keeping with the general spirit and intent of this chapter and the public interest is otherwise protected.

Sec. 21. 12 MRSA § 685-A, sub-§ 11, as amended by PL 1973, c. 569, § 10, is further amended to read:

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 board~~ 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 board~~ determines that such exemption is necessary or desirable for the public welfare or convenience.

Sec. 22. 12 MRSA § 685-B, sub-§§ 1, 2 and 3, as last amended by PL 1973, c. 569, § 11, are further amended to read:

1. Review and approval required.

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 board~~.

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 board~~.

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

The ~~commission board~~ may waive the requirement of a hearing for any person having received approval by the ~~Board of Environmental Protection board~~ pursuant to the Site Location of ~~Development~~ Law, Title 38, sections 481 to 488.

Approval by the ~~commission board~~ that the proposed development meets the land use 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 board~~ 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 board~~ then in force.

The ~~commission board~~ 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 deci-

sion of the staff shall have the right to a review of such decision by the ~~commission board~~ members.

2. **Application for approval.** The application forms for approval, as provided by the ~~commission board~~, 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 board~~ to determine conformance with applicable land use standards; and

B. The fee prescribed by ~~commission board~~ rules but not to exceed 1/10 of 1% of the total construction costs.

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

If the ~~commission board~~ determines to hold a hearing on an application, it shall hold such hearing within 45 days of receiving the application. At least 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 10, and the last publication to be at least 3, days prior to the hearing.

The ~~commission board~~ 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 board~~ 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 board~~ may deem appropriate.

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

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

Sec. 23. 12 MRSA § 685-B, sub-§ 4, 1st ¶, as amended by PL 1973, c. 569, § 11, is further amended to read:

In approving applications submitted to it pursuant to this section, the ~~commission board~~ may impose such reasonable terms and conditions as the ~~commission board~~ may deem appropriate.

Sec. 24. 12 MRSA § 685-B, sub-§ 4, 2nd ¶, as enacted by PL 1971, c. 457, § 5, is amended to read:

The ~~commission board~~ shall approve no application, unless:

Sec. 25. 12 MRSA § 685-B, sub-§ 4, ¶ F, as enacted by PL 1973, c. 569, § 11, is amended to read:

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 board~~.

Sec. 26. 12 MRSA § 685-B, sub-§ 5, as amended by PL 1973, c. 569, § 11, is further amended to read:

5. **Limitation, expiration, transfer and revocation of approval.** ~~Commission Board~~ 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 board~~ in the event of violation of any condition attached to an approval or change in authorized use, arrangement or construction from those approved.

Sec. 27. 12 MRSA § 685-B, sub-§ 6, 1st, 2nd and 3rd ¶¶'s, as amended by PL 1973, c. 569, § 11, are further amended to read:

A copy of each application, marked approved or disapproved, shall be retained in the ~~commission board~~ files and shall be available to the public during normal business hours.

In the event the ~~commission board~~ approves an application for subdivision approval, a copy of an approved plat or plan and a copy of the conditions required by the ~~commission board~~ to be set forth in any instrument conveying an interest within the subdivision attested to by an authorized ~~commission board~~ 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 plan purporting to subdivide land located within the unorganized and deorganized lands of the State, unless the ~~commission's board's~~ approval is evidenced thereon.

Sec. 28. 12 MRSA § 685-B, sub-§ 7, 1st, 2nd and 3rd ¶¶'s, as amended by PL 1973, c. 569, § 11, are further amended to read:

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

The ~~commission board~~ may also provide for the termination of commercial or industrial nonconforming uses by specifying in land use 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.

Any use for which a special exception has been granted by the ~~commission board~~, 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.

Sec. 29. 12 MRSA § 685-B, sub-§ 8, as last amended by PL 1973, c. 569, § 11, is further amended to read:

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 board~~ 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 board~~ 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 board~~ members within 30 days of such decision.

Sec. 30. 12 MRSA § 685-C, sub-§ 1, as last amended by PL 1973, c. 569, § 13, is further amended to read:

1. Comprehensive land use plan. Not later than January 1, 1975 the ~~commission board~~ shall adopt an official comprehensive land use plan for the unorganized and deorganized townships of the State.

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

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

The ~~commission board~~ 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 board~~ rules adopted in accordance with procedures for the establishment of rules and regulations pursuant to Title 5, sections 2351 to 2354.

The ~~commission board~~ 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 standards or rules or regulations.

The ~~commission board~~ 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 board~~ 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 board~~ within 30 days; and

C. The ~~commission board~~ has considered all such comments.

Upon adoption of the official land use plan by the ~~commission board~~, 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. 31. 12 MRSA § 685-C, sub-§ 2, 1st and 2nd ¶¶s, as enacted by PL 1971, c. 457, § 5, are amended to read:

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

The ~~commission board~~ 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.

Sec. 32. 12 MRSA § 685-C, sub-§ 3, as enacted by PL 1971, c. 457, § 5, is amended to read:

3. Schedule of fees. The ~~commission board~~ 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 2354. No approval, certificate, special exception or variance shall be issued, unless or until such fees established by the ~~commission board~~ have been paid in full, nor shall any action be taken on proceedings before the ~~commission board~~, unless or until preliminary fees have been paid in full.

Sec. 33. 12 MRSA § 685-C, sub-§ 5, 1st ¶, as enacted by PL 1971, c. 457, § 5, is amended to read:

In order to implement this chapter, the ~~commission board~~ may, in addition to its powers and duties previously authorized in this chapter:

Sec. 34. 12 MRSA § 685-C, sub-§ 8, as enacted by PL 1973, c. 569, § 15, is amended to read:

8. Enforcement, inspection and penalties for violations. Standards, rules, regulations and orders issued by the ~~commission board~~ 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 board~~, authorized ~~commission board~~ 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 board~~ may, in the name of the State of Maine, institute any appropriate action, injunction or orders or of the standards, rules or regulations promulgated hereunder. 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. 35. 12 MRSA § 689, as last amended by PL 1975, c. 770, § 65, is further amended to read:

§ 689. Appeal to Superior Court

Except where otherwise specified by statute, any person aggrieved by any order or decision of the ~~commission board~~ in regard to any matter upon which there was a hearing before the ~~commission board~~ and of which a transcript of that 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 director of the ~~commission board~~. 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. The proceedings shall not be de novo. The court shall receive into evidence true copies of the transcript of the hearing, the exhibits thereto and the decision of the ~~commission board~~. The court's review shall be limited to questions of law and to whether the ~~commission board~~ acted regularly and within the scope of its authority and the ~~commission's board's~~ decision shall be final so long as supported by substantial evidence. The court may affirm, reverse or remand the ~~commission's board's~~ decision for further proceedings. Appeals from all other orders or decisions of the ~~commission board~~, unless otherwise specified by statute, shall be taken pursuant to the Maine Rules of Civil Procedure, Rule 80B.

Sec. 36. Comprehensive land use plan. The comprehensive land use plan adopted by the Maine Land Use Regulation Commission prior to the effective date of this Act shall be deemed to be the comprehensive land use plan adopted by the Board of Environmental Protection. This plan may be

changed by the board in accordance with the provisions of Title 12, chapter 206-A.

Sec. 37. Revision clause. Wherever in the Maine Revised Statutes the term "Maine Land Use Regulation Commission" or any term meaning "Maine Land Use Regulation Commission" appears, it shall mean "Board of Environmental Protection" or the appropriate word meaning "Board of Environmental Protection."

Sec. 38. Transitional provisions.

1. **Board of Environmental Protection.** The Board of Environmental Protection shall be the successor in every way to the powers, duties and functions of the former Maine Land Use Regulation Commission, or any of its administrative units, except as otherwise provided by this Act.

2. **Rules, regulations and procedures.** All existing regulations in effect, in operation or promulgated in or by the Maine Land Use Regulation Commission or in or by any administrative units or officers thereof, are hereby declared in effect and shall continue in effect until rescinded, revised or amended by the proper authority.

3. **Contracts, agreements, compacts.** All existing contracts, agreements and compacts currently in effect in the Maine Land Use Regulation Commission shall continue in effect.

4. **Personnel.** Any positions, authorized and allocated subject to the Personnel Law, to the former Maine Land Use Regulation Commission shall be transferred to the Board of Environmental Protection or its successors and may continue to be authorized. Initial appointments to such positions vacant as of the effective date of this Act shall be made on an open competitive basis. Any employee and official of such former agency subject to the Personnel Law on the effective date of this Act may be transferred to such reconstituted organization as replaces their former agency and continue their employment after the effective date of this Act, without interruption of their state service, unless personnel positions or such office is terminated or abolished or method of appointment or employment is altered or changed by the provisions of this or other Acts.

5. **Records, property and equipment.** All records, property and equipment previously belonging to or allocated for the use of the former Maine Land Use Regulation Commission shall become, on the effective date of this Act, part of the property of the Board of Environmental Protection.

6. **Funds and equipment transferred.** Notwithstanding the Revised Statutes, Title 5, section 1585, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in any account, or subdivision of an account, of any agency to be reallocated to another administrative unit as a result of this Act, shall be transferred to the proper place in an account for the bureau, by the State Controller, upon recommendation of the department head, the State Budget Officer and upon approval by the Governor. A proper accounting shall be made by activity within the account.

Sec. 39. Application to licenses. All licenses, permits and other grants of power by the former Maine Land Use Regulation Commission shall remain valid and in effect under their original terms until modified, suspended or revoked by the Board of Environmental Protection under Title 12, chapter 206-A.

Sec. 40. Effective date. This Act shall take effect July 1, 1978.

STATEMENT OF FACT

This bill provides that the responsibility for land use regulation under Title 12, chapter 206-A, will be carried out by the Board of Environmental Protection instead of the Maine Land Use Regulation Commission. This bill, therefore, will permit coordination of policies and regulations currently administered under the environmental protection statutes with those policies and regulations currently administered under the land use regulation statutes.