

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1881

S. P. 546

In Senate, June 10, 1977

Reported by Senator O'Leary of Oxford from Committee on Natural Resources and printed under Joint Rules No. 2.

MAY M. ROSS, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Concerning the Powers of Plantations under Land Use Regulation
and Zoning Statutes.

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

Sec. 1. 1 MRSA § 72, sub-§ 13, as last amended by PL 1975, c. 770, § 1, is repealed and the following enacted in its place:

13. Municipality. "Municipality" shall include cities, towns and plantations, except that "municipality" shall not include plantations in Title 30, chapters 201 to 213, 235 and 239, subchapters I-A, I-B, II, III, III-A and IV and chapters 240 to 245.

Sec. 2. 12 MRSA § 685-A, sub-§ 4, 3rd and 4th ¶¶, as repealed and replaced by PL 1975, c. 234, §§ 1 and 2, are repealed and the following enacted in their place:

Any portion of a land use district which subsequently becomes an organized municipality or part of an organized municipality or any plantation which adopts planning, zoning and subdivision control as provided in Title 30, section 5621, shall continue to be regulated by the Land Use Regulation Commission pursuant to this chapter until such time as the municipality or plantation 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. 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 for approval.

Any municipality organized after September 23, 1971, or any plantation which adopts planning, zoning and subdivision control as provided in Title 30,

section 5621, may submit to the commission and receive the approval of the commission of the following:

- A. A comprehensive land use plan for such plantation or proposed city or town;
- B. Standards for determining land use district boundaries and uses permitted within such districts in such plantation or proposed city or town;
- C. A land use district boundary map for such plantation or proposed city or town;
- D. Such other proposed regulations or standards as the commission deems to be necessary to achieve the purpose, intent and provisions of this chapter; and
- E. Upon request of the municipality or plantation, the commission 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 plantation, city or town shall thereafter adopt, administer and enforce such approved plans, maps, regulations and standards.

Sec. 3. 30 MRSA § 1901, sub-§ 6 is amended to read:

6. Municipality. "Municipality" includes only cities and towns, but shall include plantations in chapter 239, subchapters V and VI.

Sec. 4. 30 MRSA §§ 5621 and 5622 are enacted to read:

§ 5621. Planning, zoning and subdivision control

Plantations may exercise the powers, subject to the same guidelines and standards which are granted to municipalities in chapter 239, subchapters V and VI, and shall adopt ordinances or regulations necessary to exercise and enforce these powers including the adoption of ordinances providing for the regulation of buildings and equipment. Such ordinances shall comply with the provisions in section 5622.

§ 5622. Buildings and equipment

1. Ordinances regulating buildings and equipment required. Plantations adopting planning and zoning shall adopt ordinances:

A. Regulating the design, construction materials and construction of new buildings and additions to and alterations of existing buildings; regulating the alteration, demolition, maintenance, repair, use, change of use, safety features, light, ventilation and sanitation facilities of all buildings; regulating the installation, alteration, maintenance, repair and use of all equipment in or connected to all buildings; and requiring permits and establishing reasonable permit fees for all of the operations mentioned in this paragraph; and

B. Establishing adequate standards for all features of means of egress, fire protection, fire prevention, accident prevention and structural safety of

buildings which are used occasionally or regularly for public assembly; compelling the owners to make improvements to bring such buildings up to the established standards; requiring the owner or lessee of a building used for public assembly which is regulated by an ordinance authorized by this section and operated with the intent of financial gain to obtain a permit for which a fee may be imposed commensurate with its size or capacity; and requiring the owner or lessee of such a building to file a plan of it showing all safety features as a condition precedent to the issue of a permit or the further use of one already issued.

(1) The building inspector shall send a written order to the owner or lessee of a building used for public assembly requiring any conditions which exist in violation of an ordinance to be corrected within 30 days after the order is sent.

(2) After the expiration of the 30-day period, the owner or lessee is liable for all injury caused by his failure to do so, and the building inspector shall order the building vacated.

(3) "Building used for public assembly" means a room or space in or on any structure which is used for the gathering of 100 or more persons for any purpose, and includes any room or space on the same level, above or below, which has a common entrance.

2. Provisions applying to subsection 1. The provisions of this subsection apply to subsections 1.

A. The provisions pertaining to buildings apply equally to all structures and parts of them including mobile and modular homes.

B. The building inspector is the licensing authority unless otherwise provided by the plantation.

C. Ordinances defining the duties of the building inspector and other enforcement officers, not contrary to Title 25, chapter 313, may be enacted. All enforcement officers designated by ordinance shall be given free access at reasonable hours to all parts of buildings regulated by ordinance.

D. An application for a permit shall be in writing and shall be signed by the applicant and directed to the building inspector. The failure of the building inspector to issue a written notice of his decision, directed to the applicant, within 30 days from the date of filing of the application constitutes a refusal of the permit. The building inspector shall not issue any permit for a building or use for which the applicant is required to obtain a license pursuant to Title 38, section 413, until the applicant has obtained such license; nor shall the building inspector issue any permit for a building or use within a land subdivision, as defined in section 4956, unless that subdivision has been approved in accordance with that section.

(1) An appeal may be taken from any order issued by the building inspector, or from the licensing authority's refusal to grant a permit to the plantation officers.

(a) On an appeal in writing to the plantation officers, they shall at their next meeting affirm, modify or set aside the decision of the building inspector according to the terms of the pertinent ordinance. They may permit a variation from the terms of an ordinance where necessary to avoid undue hardship, provided there is no substantial departure from the intent of the ordinance. They may permit an exception to an ordinance only when the terms of the exception have been specifically set forth by the plantation. The failure of the plantation officers to issue a written notice of their decision, directed to the applicant, within 30 days from the date of filing of the appeal constitutes a denial of the appeal. If a plantation has by ordinance required that all such appeals be taken to a board of appeals, the procedure shall be the same as in appeals directed to the plantation officers unless the plantation has provided otherwise.

(b) A further appeal may, within 30 days, be taken by any party to Superior Court from any order, relief or denial in accordance with the Maine Rules of Civil Procedure, Rule 80B. The hearing before the Superior Court shall be a trial de novo without a jury.

STATEMENT OF FACT

This new draft provides planning, zoning and subdivision powers for plantations subject to the same requirements governing municipalities and provides plantations with authority to adopt a building code ordinance and provide a building inspector necessary to enforce planning and zoning.