

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1816

H.P. 1249

House of Representatives, May 7, 1991

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative MARSH of West Gardiner.

Cosponsored by Senator TITCOMB of Cumberland, Representative LORD of Waterboro and Representative MICHAUD of East Millinocket.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Allow Municipalities to Request Extensions under the Growth
Management Laws.**

(EMERGENCY)



Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, several municipalities face a July 1, 1991 deadline for adoption of a comprehensive plan consistent with the Comprehensive Planning and Land Use Regulation Act, after which existing zoning ordinances could be challenged; and

Whereas, invalidation of existing zoning ordinances could result in a number of legal complications for municipalities and private landowners; and

Whereas, other provisions of the Comprehensive Planning and Land Use Regulation Act create deadlines for submission of zoning ordinances to the State for review and comment which, for some municipalities, may pose a severe hardship; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 30-A MRSA §4313, sub-§§1 and 2, as enacted by PL 1989, c. 562, §2, are amended to read:

1. **Comprehensive plan.** Any comprehensive plan not consistent with the requirements, goals and guidelines of this subchapter is void 6 months after the applicable date established under section 4343, subsection 1. A zoning ordinance based on a comprehensive plan voided under this subsection remains valid and in effect until amended or repealed or until it becomes void as provided under subsection 2, whichever occurs first.

2. **Zoning ordinances.** Any zoning ordinance not consistent with a comprehensive plan adopted according to this subchapter is void 18 months after the applicable date established under section 4343, subsection 1 unless the office has extended the deadline for submission of the zoning ordinance pursuant to section 4343, subsection 1-B, in which case any zoning ordinance not consistent with a comprehensive plan adopted according to this subchapter is void 6 months after the extended deadline.

Sec. 2. 30-A MRSA §4326, sub-§5, as amended by PL 1989, c. 562, §6, is further amended to read:

5. **Implementation program.** An implementation program shall must be adopted that is consistent with the strategies in subsection 3. A zoning ordinance shall must be adopted within 18

2 months of the applicable deadline date established in section
4 4343, subsection 1, with the remainder of the strategies adopted
6 according to the timetable set in the plan and the provisions of
8 section 4313. If the office has extended the deadline for
10 submission of the zoning ordinance pursuant to section 4343,
12 subsection 1-B, a zoning ordinance must be adopted within 6
14 months after the extended deadline, with the remainder of the
16 strategies adopted according to the timetable set in the plan and
18 the provisions of section 4313.

20 **Sec. 3. 30-A MRSA §4343, sub-§1-B,** as enacted by PL 1989, c.
22 562, §10, is repealed and the following enacted in its place:

24 **1-B. Zoning ordinance; schedule.** Municipalities shall
26 follow the following schedule for zoning ordinance submission.

28 A. Each municipality shall submit for review a zoning
30 ordinance proposed as part of its implementation program
32 within one year of the applicable date for submission of the
34 comprehensive plan established under subsection 1.

36 B. Each municipality may request up to a 6-month extension
38 of the zoning ordinance submission deadline determined under
40 paragraph A. The office shall revise the submission
42 deadline by up to 6 additional months if the office finds
44 that the municipality has made a good faith effort to
46 develop a plan and zoning ordinance consistent with this
48 subchapter and that the municipality is likely to be
50 eligible for state assistance under section 4344, subsection
52 4.

Emergency clause. In view of the emergency cited in the
preamble, this Act takes effect when approved.

STATEMENT OF FACT

The State's growth management laws require a municipality to
submit zoning ordinances to the State for review and comment one
year after submission of its comprehensive plan. One year is not
always a sufficient amount of time because state review and
comment on the comprehensive plan may require 2 months of time
and several more weeks, perhaps months, may be required for the
local comprehensive planning committee to revise the plan in
reaction to the State's comments, particularly when extensive
revisions are necessary.

Under the State's growth management laws, existing
comprehensive plans not consistent with the provisions of this
bill become invalid 6 months after the date the plan must be
submitted, by law, to the State for review and comment. This
invalidation of the plan also puts the legal validity of any
existing zoning ordinance in jeopardy. This bill would expressly

2 continue the validity of the existing zoning ordinance for at
4 least 12 more months, giving the municipality time to adopt a
6 plan consistent with the provisions of this bill and propose
8 amendments to the zoning ordinance to make it consistent with the
10 new plan.

12 This bill allows a municipality to request an extension of
14 up to 6 additional months of the deadline for submission of its
zoning ordinance. The extension would allow 18 months from
submission of the plan to develop the zoning ordinance. The
Office of Comprehensive Land Use Planning in the Department of
Economic and Community Development would be required to grant the
extension if it determined that the municipality was attempting,
in good faith, to comply with the requirements of the laws.