

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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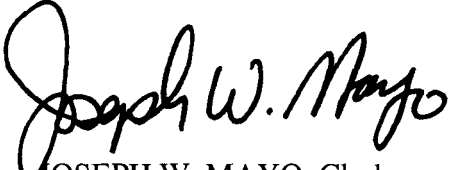
House of Representatives, April 11, 1995

**An Act to Clarify and Expand the Powers and Duties of Lake Arrowhead  
Community, Incorporated, and to Change Its Name to Lake Arrowhead  
Community Municipal Services Corporation.**

(EMERGENCY)

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Reference to the Committee on State and Local Government suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative McALEVEY of Waterboro.  
Cosponsored by Senator LORD of York and  
Representative: TRUE of Fryeburg.

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

4  
6       Whereas, Lake Arrowhead Community, Inc., the homeowners'  
association presently providing common services to the residents  
living at Lake Arrowhead Community, formerly known as Lake  
8 Arrowhead Estates, in the Town of Waterboro and the Town of  
Limerick, is in serious financial difficulty and no longer able  
10 to provide such services; and

12       Whereas, the municipalities of Limerick and Waterboro are  
also unable to provide these necessary services; and

14  
16       Whereas, the residents of Lake Arrowhead Community are  
unable to finance these services on a voluntary basis; and

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

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

26       **Sec. 1. Corporation established.** The Lake Arrowhead Community  
Municipal Services Corporation, formerly known as Lake Arrowhead  
28 Community, Incorporated, is established.

30       **Sec. 2. Territory of Lake Arrowhead Community Municipal Services**  
**Corporation defined.** The territory of the Town of Limerick and  
32 the Town of Waterboro in the County of York, as is bounded and  
described as follows: that real estate shown on plans of Lake  
34 Arrowhead Estates recorded in the York County Registry of Deeds  
in Book 50, Page 12, index 1 on December 30, 1969; Book 62, Page  
36 2, recorded in the registry on February 13, 1973; Book 61, Page  
41, recorded in the registry on February 13, 1973; Book 61, Page  
38 27, recorded in the registry on January 18, 1973; Book 65, Page  
25, recorded in the registry on January 18, 1973; Book 57, Page  
40 33, recorded in the registry on June 23, 1972; Book 63, Page 1,  
recorded in the registry on February 13, 1973; Book 52, Page 48,  
42 recorded in the registry on November 5, 1970; Book 62, Page 32,  
recorded in the registry on February 13, 1973; and Book 54, Page  
44 23, recorded in the registry on June 11, 1972; and real estate  
described in a certain deed recorded in Book 2641, Page 279, in  
46 the registry on March 30, 1980; together with the inhabitants of  
that territory and the owners of real estate in that territory,  
48 is confirmed as a body politic and corporate by the name of Lake  
Arrowhead Community Municipal Services Corporation, referred to  
50 in this Act as the "corporation."

2           **Sec. 3. General powers of corporation.** The corporation has the  
3 power, within its territory, to construct, maintain and repair  
4 roads, streets, ways and sidewalks; to maintain, improve and  
5 expand the water system, to provide or procure sewer and refuse  
6 disposal facilities and to contract with others to provide light;  
7 to establish and maintain police and fire protection; to build,  
8 repair and maintain docks, boat ramps, wharves, landings, the  
9 corporation's buildings, tennis courts and swimming pools; to  
10 purchase, construct, maintain and repair such buildings and  
11 equipment as may be necessary or desirable for the purposes  
12 described in this section; and to adopt budgets, establish  
13 membership fees, make membership fee assessments and borrow money  
14 necessary to effectuate the purposes described in this section.

15           **Sec. 4. Officers; duties and powers.** The officers of the  
16 corporation are the legal voters of the corporation and consist  
17 of 9 trustees, a treasurer and a clerk and such other officers as  
18 may be provided for in the bylaws of the corporation. A trustee  
19 or officer of the corporation is not required to be a resident of  
20 the territory of the corporation. A trustee may also serve as  
21 the clerk or treasurer. The trustees shall appoint the clerk,  
22 the treasurer and any other officers for one-year terms. The  
23 clerk of the corporation shall provide the clerk's current  
24 mailing address to the Secretary of State by June 30th of each  
25 year. The treasurer of the corporation shall give bond to the  
26 corporation in such a sum as the trustees may direct, and the  
27 bond must be approved by the trustees and recorded by the clerk.  
28 Trustees serve without compensation and must be sworn by the  
29 clerk or any person authorized by law to administer oaths of  
30 office.

31           The directors of the existing Lake Arrowhead homeowners'  
32 association, Lake Arrowhead Community, Incorporated, shall,  
33 within 60 days of the effective date of this Act, select the  
34 initial trustees according to the following: three serve terms  
35 of one year or until the first annual meeting of the corporation,  
36 whichever comes first; 3 serve terms of 2 years or until the 2nd  
37 annual meeting of the corporation, whichever comes first; and 3  
38 serve terms of 3 years or until the 3rd annual meeting of the  
39 corporation, whichever comes first. The legal voters of the  
40 corporation shall, at the annual meeting of the corporation, fill  
41 any vacancy created by the expiration of a trustee's term of  
42 office. A vacancy in the office of trustee occurring during a  
43 trustee's term of office must be filled by vote of the remaining  
44 trustees. One trustee, chosen by vote of all trustees, serves as  
45 chair of all meetings of the trustees and of the corporation.  
46 Between the time of the effective date of this Act and the time  
47 the directors of the existing Lake Arrowhead Community,  
48 Incorporated, select the initial trustees, the directors of Lake  
49 Arrowhead Community, Incorporated, serve as trustees in  
50 accordance with this Act. In selecting the initial trustees, the  
51 directors may choose among themselves.  
52

2 The trustees have all powers necessary to conduct the  
corporation's business and execute its rights and  
4 responsibilities, including the adoption of an annual budget and,  
as may be necessary, supplemental budgets, adequate for the  
6 corporation to carry out its rights and obligations; to determine  
the amount of money to be raised through membership fees in  
accordance with sections 9 and 10; and to adopt rules and  
8 regulations consistent with the bylaws of the corporation and any  
votes of the corporation on any matter.

10  
12 The trustees shall, at least annually, cause an audit of the  
corporation's financial affairs to be made.

14 **Sec. 5. Bylaws.** The corporation may adopt and amend bylaws,  
consistent with the laws of this State and the Constitution of  
16 Maine or applicable ordinances and regulations of the Town of  
Limerick and the Town of Waterboro, expedient and necessary for  
18 the better government and regulation of the affairs of the  
corporation. The bylaws are binding on all the legal voters of  
20 the corporation.

22 **Sec. 6. Meetings of the corporation; legal voters.** The annual  
meeting of the corporation must be held on the first Saturday in  
24 August of each year. Notice of annual meetings and any special  
meetings must be made by the trustees by a warrant that states  
26 the time, date, place and subject matters to be considered at the  
meeting and that warrant must be posted in 2 conspicuous public  
28 places within the corporate limits of the corporation 7 days  
prior to the meeting.

30  
32 In addition, a copy of the warrant must be mailed by first  
class mail, postage prepaid, to each legal voter as shown on the  
clerk's list of legal voters at the voter's last known address at  
34 least 30 days before the annual meeting or any special meeting.  
Failure of a legal voter to receive notice does not affect the  
36 validity of any action taken at a meeting.

38 A list of the legal voters must be prepared by the clerk and  
posted by the trustees at the place of the annual meeting and any  
40 special meeting.

42 Every person 18 years of age or older who is the owner of a  
lot of record within the territory of the corporation as shown on  
44 the tax assessment records of the Town of Limerick and the Town  
of Waterboro is deemed a member of the corporation and subject to  
46 its charter, bylaws, rules and regulations and a legal voter  
having the right to vote at meetings of the corporation. If a  
48 lot is owned by 2 or more persons, only one may be considered a  
legal voter and those persons may agree in a written notice filed  
50 with the trustees which one of the owners is to be the legal  
voter at a meeting of the corporation. In the absence of such an  
52 agreement, the clerk shall decide which person is the legal

2 voter. Regardless of the number of lots owned by a legal voter,  
no legal voter has more than one vote.

4 Special meetings of the corporation may be held at the call  
of the chair of the trustees or of a majority of the trustees.

6  
8 The trustees of the corporation shall determine the persons  
who are entitled to vote at any meeting and shall direct the  
10 clerk to prepare the list of all legal voters at least 7 days  
prior to every meeting. A vote may be by voice or by a show of  
12 hands, except that a vote upon any proposition at any meeting  
must be taken and checked against the voting list upon the demand  
of 7 legal voters.

14  
16 At all meetings of the corporation a quorum consists of 50  
legal voters. Legal voters may be present in person or by  
18 proxy. Except as otherwise provided, all propositions adopted by  
the corporation must be by a majority of those voting in person  
or by proxy.

20 **Sec. 7. Power to raise money; debt.** The corporation through its  
22 trustees is authorized and vested with the power to raise the  
money necessary for the following purposes: to construct,  
24 maintain and repair roads, streets, ways and sidewalks; to  
maintain, improve and expand the water system, to provide or  
26 procure sewer and refuse disposal facilities and to contract with  
others to provide light; to establish and maintain police and  
28 fire protection; to build, repair and maintain docks, boat ramps,  
wharves, landings, the corporation's buildings, tennis courts and  
30 swimming pools; to purchase, construct, maintain and repair  
buildings and equipment as may be necessary or desirable for the  
32 purposes described in this section; to acquire by purchase, gift  
or grant and by deed, will, lease or otherwise, title to real  
34 estate and tangible and intangible personal property for the  
benefit of the corporation; to manage, operate, mortgage, sell,  
36 lease and exchange real estate and personal property for the  
benefit of the corporation; to employ or otherwise contract with  
38 any individual, firm, association or corporation to accomplish  
the purposes described in this section; and to pay the salaries  
40 and expenses of the corporation.

42 For the purposes of being eligible to purchase surplus  
property and to apply for grants and assistance consistent with  
44 the corporation's powers and duties, except for school and  
welfare assistance and subsidies, the corporation is deemed to be  
46 a municipality.

48 The corporation is further authorized and vested with the  
power to authorize the borrowing of money and the issuing of  
50 bonds, notes or other evidences of indebtedness in such amounts  
as the legal voters of the corporation determine necessary for  
52 the purposes set forth in this section in the same manner as is

provided by law for the borrowing of money and the issuing of bonds, notes or other evidences of indebtedness by municipalities. The trustees of the corporation may determine the rates of interest and the terms and conditions of any such indebtedness, subject to the same limitations as are provided by law for the indebtedness of municipalities. Notwithstanding any other provision of this Act or any other provision of law, the total outstanding indebtedness of the corporation may not exceed the sum of \$100,000, except to the extent the corporation authorizes the trustees to exceed that limit by vote of 2/3 of the legal voters present in person or by proxy at any meeting.

**Sec. 8. Reserve fund.** The corporation may establish a reserve fund not to exceed \$500,000, except to the extent the corporation authorizes the trustees to exceed that limit by vote of 2/3 of the legal voters present in person or by proxy at any meeting held pursuant to the provisions of section 6. The reserve fund must be established and administered in accordance with the provisions of the general law for the reserve fund of a municipality.

**Sec. 9. Membership fee levied.** For all purposes of assessment of fees under this Act, the person or persons shown on tax assessment records of the Town of Limerick and the Town of Waterboro as being the owner of any lot of land within the limits of the corporation is deemed the owner.

Regular membership fees and surcharges and supplemental membership fees and surcharges as may be necessary, must be established each year by the trustees so that the total fees assessed are adequate to fund the corporation's expenses, including the payment of debt, contribution to the reserve fund and the establishment of a reasonable surplus. The corporation by vote of its members shall establish the structure and formula by which the trustees may calculate the amount of the membership fee to be assessed to any member or members of the corporation. The corporation shall provide for a fair and reasonable structure and formula for fee assessment and establish classes of fee assessment and may make a distinction between lots that are developed and those that are not developed. The membership fee for each class must be assessed in the same amount for each person in that class.

All money that is raised by the corporation at its annual or special meeting for purposes for which the corporation may lawfully raise money and all money that the trustees vote to raise at their meetings, except any rates or charges fixed by the trustees for the use of sewer or refuse disposal facilities, must be assessed by regular or special assessment upon the buildings and lands within the corporation's territory by the clerk of the corporation in the same manner as is provided by law for the assessment of town and county taxes.

2 In addition to the assessment provided in this section, the  
trustees may fix rates or charges that are reasonable and  
4 expedient based on the use of sewer or refuse disposal  
facilities. The rates or charges for use of sewer or refuse  
6 disposal facilities are payable, in amounts the trustees  
determine, by the person or persons shown on the tax assessment  
8 records of the Town of Limerick and the Town of Waterboro as  
being the owner of the lot or lots benefiting from those  
10 facilities. Any charges not paid are considered assessments  
under all of the provisions of this section and section 10 and  
must be collected pursuant to the provisions of section 10.

12  
**Sec. 10. Membership fee assessment and collection.** After a  
14 certificate is filed by the trustee with the clerk of the  
corporation of the amount of money voted to be raised at any  
16 meeting of the trustees or any meeting of the corporation, the  
clerk shall, within 30 days of the filing of the trustees'  
18 certificate, assess membership fees upon the buildings and lands  
within the corporation's territory and certify and deliver the  
20 lists of the membership fee assessments to the treasurer. The  
treasurer shall collect the membership fee assessments in the  
22 same manner as county and town taxes are collected by law. The  
treasurer shall receive all money belonging to the corporation,  
24 keep a regular account of all money received and paid out and  
exhibit the account to the trustees and the legal voters whenever  
26 requested to do so. The treasurer may pay out money only upon  
the written order or direction of the chair of the the trustees.

28  
The corporation has the same power of collecting membership  
30 fee assessments that a municipality has in the collection of  
municipal taxes. The treasurer has the same rights and powers to  
32 recover any membership fee assessments committed to the treasurer  
under the provisions of this Act that a municipal tax collector  
34 has for the collection of municipal taxes. The trustees have the  
power to waive any membership fee assessment for good cause  
36 shown. The corporation has the same right to recover by suit  
membership fees assessed under this Act as a municipality has by  
38 law to recover taxes assessed in that municipality, including,  
but not limited to, the right to claim and exercise lien rights  
40 to secure the payment of membership fee assessments. The liens,  
except as otherwise provided, have the same priority as municipal  
42 tax liens.

44 The rights and powers of the corporation and its treasurer  
to collect membership fee assessments and any liens are at all  
46 times subordinate to the rights and powers, assessments, liens or  
attachments of the Town of Limerick and the Town of Waterboro in  
48 the collection of their respective taxes, assessments or other  
lawful charges. The rights and powers of the corporation and its  
50 treasurer to collect membership fee assessments and liens are  
also junior and subordinate to the rights of any mortgagees,  
52 judgment creditors and other lien holders on land or buildings



2 within the corporation's territory that are existing and recorded  
in the York County Registry of Deeds at the time of the effective  
date of this Act.

4  
6 **Sec. 11. Property of corporation not tax exempt.** Property of the  
corporation or its members is not exempt from taxation by reason  
of this Act or the laws of this State.

8  
10 **Sec. 12. Tort claims; immunity.** The corporation is deemed to  
be a governmental entity for the purposes of the Maine Tort  
Claims Act.

12  
14 **Sec. 13. Records and proceedings of the corporation.** The records  
and other documents of the corporation must be available to all  
legal voters of the corporation and the meetings of the trustees  
must be open to attendance by all legal voters of the  
corporation. The trustees may meet in executive session to  
discuss pending or threatened litigation and personnel matters.  
Documents relating to pending or threatened litigation or the  
personnel file of an employee are not available to any person  
except the trustees and officers of the corporation and, in the  
case of a personnel file, the employee to whom the file refers.

24  
26 **Sec. 14. Membership fee assessments.** The provisions of this  
Act for membership fee assessments by the corporation replace and  
are in lieu of any existing provisions for assessments by Lake  
Arrowhead Community, Incorporated, provided that any dues or  
assessments owed to Lake Arrowhead Community, Incorporated,  
before the effective date of this Act remain valid debts and are  
enforceable pursuant to the provisions of this Act.

32  
34 **Sec. 15. Inconsistent provisions of existing articles and bylaws.** The  
provisions of any existing articles of incorporation, bylaws or  
rules and regulations and the provisions of any contracts, deeds  
or covenants of Lake Arrowhead Community, Incorporated, that are  
inconsistent with the provisions of this Act are abrogated.

38  
40 **Sec. 16. Tax treatment of assessments.** Membership fee  
assessments paid pursuant to the provisions of this Act are  
treated under the provisions of the State's income tax laws and  
regulations as if they were payment of municipal real estate  
taxes.

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

## STATEMENT OF FACT

2

4       Lake Arrowhead Community, Incorporated, is a homeowners'  
6       association in the development formerly known as Lake Arrowhead  
      Estate, in the Town of Limerick and the Town of Waterboro in York  
      County.

8

10       This bill clarifies and expands the powers of the  
      homeowners' association by making it clear that all owners are  
12       members of the association and liable to pay their share of the  
      association's expenses, establishes a method for governance and  
      provides the ability for the association to collect membership  
      fees.