

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1478

H.P. 1109

House of Representatives, March 8, 2001

An Act to Amend Maine's Growth Management Law and Related Laws.

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

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative LEMOINE of Old Orchard Beach.
Cosponsored by Senator DOUGLASS of Androscoggin and
Representatives: KOFFMAN of Bar Harbor, McLAUGHLIN of Cape Elizabeth, TOBIN of
Windham.

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

2
4 **Sec. 1. 30-A MRSA §4301, sub-§1**, as repealed and replaced by
6 PL 1989, c. 878, Pt. A, §83, is repealed and the following
8 enacted in its place:

10 **1. Affordable housing.** "Affordable housing" means decent,
12 safe and sanitary dwellings, apartments or other living
14 accommodations for persons or families whose incomes are less
16 than or equal to 80% of the area median income or 80% of the
18 state median income, whichever is less.

20 **Sec. 2. 30-A MRSA §4301, sub-§§4-A and 4-B** are enacted to read:

22 **4-A. Critical rural area.** "Critical rural area" means a
24 rural area specifically identified and designated by a local,
26 multimunicipal or regional comprehensive plan as deserving
28 maximum regulatory protection from development incompatible with
30 preserving prime farmland, forested land of exceptional quality,
32 the continued use of the lands for farming and forestry, scenic
34 values of significant state or local importance, wildlife habitat
36 identified by the Department of Inland Fisheries and Wildlife as
a high value, scarce or especially vulnerable natural resource or
open lands functionally necessary to support a vibrant rural
economy.

28 **4-B. Critical waterfront area.** "Critical waterfront area"
30 means a waterfront area characterized by development functionally
32 related to commercial fishing activities or functionally
34 water-dependent uses, as those terms are defined in Title 38,
36 chapter 3, article 2-B, and that is specifically identified and
designated by a local, multimunicipal or regional comprehensive
plan as deserving maximum regulatory protection from development
incompatible with commercial fishing activities and functionally
water-dependent uses in order to preserve the infrastructure
necessary to support and maintain a viable fishing industry.

38 **Sec. 3. 30-A MRSA §4301, sub-§§6-B and 8-A** are enacted to read:

40 **6-B. Growth area.** "Growth area" means a priority growth
42 area or a secondary growth area.

44 **8-A. Land use planning region.** "Land use planning region"
46 means a group of 2 or more municipalities located within
commuting proximity of each other, at least one of which is a
service center community, that enters into an interlocal
agreement for the purposes of implementing a regional

2 comprehensive plan for that region as adopted by a regional
3 council.

4 **Sec. 4. 30-A MRS §4301, sub-§10**, as amended by PL 1989, c.
5 562, §1, is further amended to read:

6 **10. Local planning committee.** "Local planning committee"
7 means the committee established by the municipal officers of a
8 municipality or combination of municipalities which that has the
9 general responsibility established under sections 4324 and 4326.
10 The Maine Land Use Regulation Commission or its designee shall
11 represent a municipality within its jurisdiction on any local
12 planning committee of a multimunicipal region or land use
13 planning region in which the municipality may be participating.

14 **Sec. 5. 30-A MRS §4301, sub-§§11-A, 13-A and 14-A to 14-C** are
15 enacted to read:

16 **11-A. Multimunicipal region.** "Multimunicipal region" means
17 a region made up of 2 or more municipalities that work together
18 to cooperatively establish a unified growth management program or
19 independent growth management programs that are unified with
20 respect to the implementation of the statewide goal identified in
21 section 4312, subsection 3, paragraph A. The municipalities may
22 establish a multimunicipal region pursuant to chapter 115.

23 **13-A. Priority growth area.** "Priority growth area" means a
24 compact area designated in a local, multimunicipal or regional
25 comprehensive plan as suitable for orderly residential,
26 commercial or industrial development, or any combination of such
27 development, and into which a significant amount of the
28 development forecast over 10 years is directed.

29 **14-A. Rural area.** "Rural area" means a geographic area
30 identified and designated in a local, multimunicipal or regional
31 comprehensive plan as an area deserving of some level of
32 regulatory protection from unrestricted development for the
33 purpose of preserving farmland, forest land, open space, wildlife
34 habitat, outdoor recreational space and access to outdoor
35 recreational space or scenic lands.

36 **14-B. Secondary growth area.** "Secondary growth area" means
37 an area designated in a local, multimunicipal or regional
38 comprehensive plan as suitable for a share of forecasted
39 residential, commercial or industrial development, but that is
40 not intended to accept the amount or density of development
41 appropriate for a priority growth area.

42 **14-C. Service center community.** "Service center community"
43 means a municipality or group of municipalities identified by the
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2 office as a primary, secondary, small or specialized service
3 center community by rule pursuant to section 4303.

4 **Sec. 6. 30-A MRSA §4303** is enacted to read:

6 **§4303. Rules**

8 The office shall make rules to implement this chapter,
9 including a methodology that identifies service center
10 communities as primary, secondary, small or specialized service
11 center communities and that includes 4 basic identifying
12 criteria: the level of retail sales, jobs-to-workers ratio, the
13 amount of federally assisted housing and the volume of service
14 sector jobs.

16 **Sec. 7. 30-A MRSA §4312, sub-§5** is enacted to read:

18 **5. Measurable performance outcomes.** In addition to the broad
19 goals identified in subsection 3, the Legislature declares that
20 in order to manage the patterns of land development in the State
21 for the purposes of conserving important resources, building and
22 maintaining an efficient public infrastructure and preventing
23 development sprawl, it is in the best interests of the State to
24 achieve the following measurable performance outcomes.

26 A. Beginning on January 1, 2005, at least 70% of all
27 residential development occurring in a municipality or
28 multimunicipal region over each 5-year period measured in
29 years ending in "5" or "0" must be located in designated
30 priority or secondary growth areas.

32 B. Beginning on January 1, 2005, at least 50% of all
33 residential development occurring in a municipality or
34 multimunicipal region over each 5-year period measured in
35 years ending in "5" or "0" must be located in designated
36 priority growth areas.

38 In calculating percentages under this subsection, housing units
39 built on lots in subdivisions approved and filed with a county
40 registry of deeds prior to January 1, 2001 are excluded. The
41 number of housing units built must be based on municipal
42 assessment records.

44 Beginning on January 1, 2005, highway access must be managed so
45 that there will be no decrease from the posted speed that exists
46 on January 1, 2003 on rural portions of arterial roads that run
47 between urban compact boundaries or on major collectors that have
48 a posted speed of 45 miles per hour or above. "Major collectors"
49 means major collectors as defined by the Department of
50 Transportation.

2 **Sec. 8. 30-A MRSA §4314, sub-§2**, as repealed and replaced by
PL 1993, c. 721, Pt. A, §1 and affected by Pt. H, §1, is amended
to read:

4
6 **2. Zoning ordinance.** ~~Notwithstanding---section---4352,~~
~~subsection-2,-any-portion-of-a~~ A zoning ordinance that regulates
land use beyond that the shoreland zoning required by Title 38,
8 chapter 3, subchapter I, article 2-B ~~and-that-is-not~~ must be
consistent with a comprehensive plan adopted under this
10 subchapter ~~is-void-24-months-after-adoption-of-the-plan-or-by~~
~~July-1,-1994,-whichever-date-is-later.~~

12
14 **Sec. 9. 30-A MRSA §4314, sub-§3**, as enacted by PL 1991, c.
722, §6 and affected by §11, is repealed.

16 **Sec. 10. 30-A MRSA §4322**, as enacted by PL 1989, c. 104, Pt.
A, §45 and Pt. C, §10, is amended to read:

18 **§4322. Exception**

20
22 This article and section 4343, subsection 1, do not apply to
municipalities within the jurisdiction of the Maine Land Use
Regulation Commission unless the commission elects to include one
24 or more municipalities in its jurisdiction as participants in a
multimunicipal region or land use planning region that includes
26 municipalities outside of the commission's jurisdiction.

28 **Sec. 11. 30-A MRSA §4324**, as amended by PL 1993, c. 721, Pt.
A, §2 and affected by Pt. H, §1, is further amended to read:

30 **§4324. Local or regional responsibility for growth management**

32
34 This section governs a-municipality's the responsibility of
a municipality, multimunicipal region or land use planning region
for the preparation or amendment of its local or regional growth
36 management program. Where When procedures for the adoption of
comprehensive plans and ordinances are governed by other
38 provisions of this Title or municipal charter or ordinance, the
municipality, multimunicipal region or land use planning region
40 may modify the procedural requirements of this section as long as
a broad range of opportunity for public comment and review is
42 preserved.

44 **1. Growth management program.** Each municipality,
multimunicipal region or land use planning region may prepare a
46 local growth management program in accordance with this section
or may amend its existing comprehensive plan and existing land
48 use ordinances to comply with this subchapter.

2 Critical rural areas must receive priority consideration for
3 proactive strategies designed to enhance rural industries, manage
4 wildlife habitat, preserve sensitive natural areas and other
5 similar purposes.

6 **2. Local planning committee.** If a municipality,
7 multimunicipal region or land use planning region chooses to
8 prepare a local growth management program, the municipal officers
9 of a municipality or combination of municipalities shall
10 designate and establish a local planning committee.

12 A. The municipal officers may designate any existing
13 planning board or district established under subchapter IV,
14 or a former similar provision, as the local planning
15 committee. Planning boards established under former Title
16 30, section 4952, subsection 1, continue to be governed by
17 those provisions until they are superseded by municipal
18 charter or ordinance.

20 B. The local planning committee may develop and maintain a
21 comprehensive plan and may develop an initial proposed
22 zoning ordinance or an initial revision of an existing
23 zoning ordinance. In performing these duties, the local
24 planning committee shall:

26 (1) Hold public hearings and use other methods to
27 solicit and strongly encourage citizen input; and

28 (2) Prepare the comprehensive plan and proposed zoning
29 ordinance and make recommendations to the municipal
30 reviewing authority and municipal legislative body
31 regarding the adoption and implementation of the
32 program or amended program.

34 **3. Citizen participation.** In order to encourage citizen
35 participation in the development of a local growth management
36 program, municipalities, multimunicipal regions or land use
37 planning regions may adopt local growth management programs only
38 after soliciting and considering a broad range of public review
39 and comment. The intent of this subsection is to provide for the
40 broad dissemination of proposals and alternatives, opportunity
41 for written comments, open discussions, information dissemination
42 and consideration of and response to public comments.

44 **4. Meetings to be public.** The local planning committee
45 shall conduct all of its meetings in open, public session. Prior
46 public notice must be given for all meetings of the local
47 planning committee pursuant to Title 1, section 406. ~~Prior to~~
48 ~~April 17, 1990, if the local planning committee provided notice in~~

2 ~~compliance with Title 1, section 406, that notice was sufficient~~
3 ~~for all legal purposes.~~

4 **8. Public hearing required.** The local planning committee
5 shall hold at least one public hearing on its proposed
6 comprehensive plan.

8 A. Notice of any public hearing must be posted in the
9 municipality at least ~~2-times~~ 30 days prior to the hearing.

10 B. A copy of the proposed comprehensive plan shall must be
11 made available for public inspection at the municipal office
12 or other convenient location with regular public hours at
13 least 30 days before the hearing.

16 **9. Adoption.** A comprehensive plan or land use ordinance is
17 deemed to have been adopted as part of a local growth management
18 program when it has been ~~accepted~~ adopted by the municipality's
19 legislative body.

20 **10. Amendments to an adopted plan.** When amending an
21 adopted comprehensive plan, a municipality shall follow the same
22 procedures for citizen participation, public notice and public
23 hearing that are required for adoption of a comprehensive plan.

26 **Sec. 12. 30-A MRSA §4325, sub-§4** is enacted to read:

28 4. Land use planning regions. Two or more municipalities
29 that include at least one service center community and a
30 municipality within commuting proximity to the service center
31 community may form a land use planning region according to this
32 subsection. The benefits and responsibilities of forming a land
33 use planning region are governed by this subsection.

34 A. The primary purpose of forming a land use planning
35 region is to implement the regional comprehensive plan as
36 adopted by a regional council pursuant to section 4326,
37 subsection 3.

40 B. Municipal requirements established by this chapter
41 related to the state goal identified in section 4312,
42 subsection 3, paragraph A, municipal requirements that meet
43 or exceed the measurable standards established in section
44 4326 and penalties established in section 4350, subsection 3
45 do not apply to any municipality that is part of a land use
46 planning region.

48 C. Municipalities that are members of land use planning
49 regions shall enter into an interlocal agreement pursuant to
50 the procedures established in chapter 115. The interlocal

2 agreement governing a land use planning region must provide
3 a governance structure sufficient to ensure the effective
4 implementation and maintenance of a cooperative land use
5 regulatory system among the participating municipalities.
6 The regional councils may assist the participating
7 municipalities in the development of the interlocal
8 agreement, and all interlocal agreements must be submitted
9 to the office for review and approval pursuant to section
10 2205.

11 D. Critical rural areas identified in a regional
12 comprehensive plan that are located within a land use
13 planning region must be regulated by that region to allow
14 for an increased residential density of no more than 1
15 dwelling unit per every 25 acres of high value rural area.

16 E. Priority growth areas identified in a regional
17 comprehensive plan that are located within a land use
18 planning region must be regulated by the region to allow for
19 a residential density of at least one dwelling unit per acre
20 in growth areas not served by wastewater disposal systems
21 and at least one dwelling unit per half-acre in growth areas
22 that are served by wastewater disposal systems.

23 F. Land use planning regions shall develop, adopt,
24 implement and maintain a system of transferable development
25 rights designed to provide the owners of property within the
26 region's critical rural areas just compensation for the
27 market effects of establishing increased density limits of
28 no more than one dwelling unit per 25 acres. In general,
29 the system of transferable development rights must condition
30 the permission to develop property in the identified growth
31 areas within the land use planning region on the purchase of
32 units of development capacity, at market prices, within the
33 region's critical rural areas. The office shall adopt rules
34 pursuant to Title 5, chapter 375 that govern any system of
35 transferable development rights adopted by a land use
36 planning region, which are major substantive rules as
37 defined in Title 5, chapter 375, subchapter II-A.

38 G. Municipalities within a land use planning region are
39 entitled to receive and have first access to nonproperty tax
40 resources that have been identified in the regional
41 comprehensive plan as necessary for the purpose of
42 building, acquiring, providing, rehabilitating, renovating
43 and maintaining the necessary infrastructure to support the
44 region's growth areas and implement the regional
45 comprehensive plan. These nonproperty tax revenues may be
46 made available through the municipal investment trust fund,
47 the community development block grant program, any similar
48 programs, or other means.
49 These revenues shall be used to support the development of
50 growth areas within the region's critical rural areas.

2 infrastructure grant programs and the General Fund.
3 Providing access to an adequate level of nonproperty tax
4 revenues to land use planning regions for the purpose of
5 implementing regional comprehensive plans is a
6 responsibility of the Legislature, and the degree to which
7 the Legislature meets that responsibility must be part of
8 the report submitted by the office pursuant to section 4331,
9 subsection 5.

10 **Sec. 13. 30-A MRSA §4326, sub-§§1 and 2,** as amended by PL 1991,
11 c. 722, §7 and affected by §11, are further amended to read:

12
13 **1. Inventory and analysis.** A comprehensive plan shall ~~shall~~ **must**
14 include an inventory and analysis section addressing state goals
15 under this subchapter and issues of regional or local
16 significance the municipality, multimunicipal region or land use
17 planning region considers important. The inventory must be based
18 on information provided by the State, regional councils and other
19 relevant local sources. The analysis must include 10-year
20 projections, split at least into 5-year periods, of local and
21 regional growth in population and residential, commercial and
22 industrial activity; the projected need for public facilities;
23 and the vulnerability of and potential impacts on natural
24 resources.

25 The inventory and analysis section must include, but is not
26 limited to:

27
28 A. Economic and demographic data describing the
29 municipality and the region in which it is located. The
30 demographic inventory must include a reasonable estimate,
31 calculated in consultation with the office, of the amount of
32 residential, commercial and industrial development that will
33 occur in the municipality or multimunicipal region during
34 the 10-year period subsequent to the adoption of the
35 comprehensive plan or any amendments to the comprehensive
36 plan;

37
38 B. Significant water resources such as lakes, aquifers,
39 estuaries, rivers and coastal areas and, where applicable,
40 their vulnerability to degradation;

41
42 C. Significant or critical natural resources, such as
43 wetlands, wildlife and fisheries habitats, significant plant
44 habitats, coastal islands, sand dunes, scenic areas,
45 shorelands, heritage coastal areas as defined under Title 5,
46 section 3316, and unique natural areas;

2 D. Marine-related resources and facilities such as ports,
harbors, commercial moorings, commercial docking facilities
and related parking, and shell fishing and worming areas;

4 E. Commercial forestry and agricultural land;

6 F. Existing recreation, park and open space areas and
8 significant points of public access to shorelands within a
municipality;

10 G. Existing transportation systems, including the capacity
12 of existing and proposed major thoroughfares, secondary
routes, pedestrian ways and parking facilities;

14 H. Residential housing stock, including affordable housing;

16 I. Historical and archeological resources including, at the
18 discretion of the municipality, stone walls, stone
impoundments and timber bridges of historical significance;

20 J. Land use information describing current and projected
22 development patterns; and

24 K. An assessment of capital facilities and public services
26 necessary to support growth and development and to protect
the environment and health, safety and welfare of the public
and the costs of those facilities and services.

28 **2. Policy development.** A comprehensive plan must include a
30 policy development section that relates the findings contained in
the inventory and analysis section to the state goals and the
32 measurable performance outcomes established in section 4312,
subsection 5. The policies must:

34 A. Promote the state goals under this subchapter;

36 B. Address any conflicts between state goals under this
38 subchapter;

40 C. Address any conflicts between regional and local issues;
and

42 D. Address the State's coastal policies.

44 The comprehensive plan of any municipality or multimunicipal
46 region satisfies this section with regard to the state goal
established in section 4312, subsection 3, paragraph A if the
48 municipality or multimunicipal region meets or exceeds the
measurable performance outcomes established in section 4312,
50 subsection 5. The comprehensive plan of any municipality or

2 municipality within a multimunicipal region or land use planning
3 region may not be reviewed by the office for consistency with the
4 measurable performance outcomes established in section 4312,
5 subsection 5 if the municipality, multimunicipal region or land
6 use planning region is entirely located in a labor market area,
7 as defined by the United States Department of Labor, experiencing
8 a residential housing growth rate of 5% or less during the most
9 recent 5-year period as measured in years ending in "5" or "0,"
10 as long as during the same period the municipality,
11 multimunicipal region or land use planning region has had a net
12 increase of housing units of 25 or fewer.

13 **Sec. 14. 30-A MRSA §4326, sub-§3,** as amended by PL 1999, c.
14 776, §8, is further amended to read:

15 **3. Implementation strategy.** A comprehensive plan must
16 include an implementation strategy section that contains a
17 timetable for the implementation program, including land use
18 ordinances, ~~ensuring that~~ designed to address the goals and meet
19 or exceed the measurable performance outcomes established under
20 this subchapter ~~are met~~. These implementation strategies must be
21 consistent with state law and must actively promote policies
22 developed during the planning process. The timetable must
23 identify significant ordinances to be included in the
24 implementation program. The strategies and timetable must guide
25 the subsequent adoption of policies, programs and land use
26 ordinances. The implementation strategies of a municipality or
27 multimunicipal region satisfy this section as it applies to the
28 state goal identified in section 4312, subsection 3, paragraph A
29 if the municipality or multimunicipal region meets or exceeds the
30 measurable performance outcomes established in section 4312,
31 subsection 5. The comprehensive plan of a municipality or
32 municipality within a multimunicipal region or land use planning
33 region may not be reviewed by the office for consistency with the
34 measurable performance outcomes established in section 4312,
35 subsection 5 if the municipality or multimunicipal region is
36 entirely located in a labor market area, as defined by the United
37 States Department of Labor, experiencing a residential housing
38 growth rate of 5% or less during the most recent 5-year period as
39 measured in years ending in "5" or "0," as long as during the
40 same period the municipality or multimunicipal region has had a
41 net increase of housing units of 25 or fewer. In developing its
42 strategies and subsequent policies, programs and land use
43 ordinances, each municipality, multimunicipal region or land use
44 planning region shall employ the following guidelines consistent
45 with the goals of this subchapter:

46
47
48 A. Identify and designate at least 2 basic types of
49 geographic areas:
50

2 (1) Growth Priority growth areas,--which--are--these
3 areas--suitable--for--orderly--residential,--commercial--and
4 industrial--development--or--any--combination--of--these
5 types--of--development,--forecast--over--the--next--10--years.
6 Each--municipality--shall: where most of the development
7 forecasted for the next 10 years must be directed. A
8 plan may also designate secondary growth areas. Unless
9 limited by natural conditions, a growth area designated
10 for residential development must permit development at
11 densities of at least 2 dwelling units per acre when a
12 public wastewater disposal system is available, or at
13 least one dwelling unit per acre when on-site,
14 individual wastewater disposal is used; and

- 15 (a) Establish standards for these developments;
- 16 (b) Establish timely permitting procedures;
- 17 (c) Ensure that needed public services are
18 available within the growth area; and
- 19 (d) Prevent inappropriate development in natural
20 hazard areas, including flood plains and areas of
21 high erosion; and

22 (2) Rural areas,--which--are--those--areas--where
23 protection should be provided for agricultural, forest,
24 open space and scenic lands within the municipality as
25 defined in this chapter. Each municipality shall adopt
26 land use policies and ordinances to discourage
27 incompatible development. When residential development
28 is allowed in a rural area, it must be at a
29 sufficiently low density and contain other proactive
30 measures to allow for contiguous, undeveloped blocks of
31 land large enough to accommodate economically viable
32 farming and forestry and habitat for a diversity of
33 wildlife, including wildlife that needs interior space
34 to thrive. A comprehensive plan must distinguish
35 between critical rural areas and other rural areas.

36 In order to meet or exceed the measurable performance
37 outcomes established in section 4312, subsection 5 and
38 to effect the goals established by this chapter, each
39 municipality or multimunicipal region is encouraged to
40 adopt land use policies and ordinances to discourage
41 incompatible development, establish standards to govern
42 all development, establish timely permitting
43 procedures, ensure that the needed public services are
44 available within the growth area and prevent

2 inappropriate development in natural hazard areas
3 including flood plains and areas of high erosion.

4 These policies and ordinances may include, without
5 limitation: density limits; cluster or special zoning;
6 acquisition of land or development rights; or performance
7 standards.

8
9 A municipality or a multimunicipal region is not required to
10 identify growth areas for residential growth if it
11 demonstrates that it is not possible to accommodate future
12 residential growth in these areas because of severe physical
13 limitations, including, without limitation, the lack of
14 adequate water supply and sewage disposal services, very
15 shallow soils or limitations imposed by protected natural
16 resources; ~~or it demonstrates that the municipality has~~
17 ~~experienced minimal or no residential development over the~~
18 ~~past decade and this condition is expected to continue over~~
19 ~~the 10 year planning period.~~ A municipality or
20 multimunicipal region exercising the discretion afforded by
21 this paragraph shall review the basis for its demonstration
22 during the periodic revisions undertaken pursuant to section
23 4327+.

24
25 The penalties listed in section 4350 that apply to
26 municipalities or multimunicipal regions that fail to meet
27 or exceed the measurable performance outcomes established in
28 section 4312, subsection 5 do not apply to any municipality
29 or municipality within a multimunicipal region or land use
30 planning region that is entirely located in a labor market
31 area, as defined by the United States Department of Labor,
32 experiencing a residential housing growth rate of 5% or less
33 during the most recent 5-year period as measured in years
34 ending in "5" or "0," as long as during the same period the
35 municipality has had a net increase of housing units of 25
36 or fewer.

37
38 Once the growth areas and rural areas in the municipality,
39 multimunicipal region or land use planning region have been
40 identified and designated pursuant to an adopted
41 comprehensive plan or plans and the office has found that
42 the relative size and configuration of those designated
43 areas are consistent with this chapter, the municipality,
44 multimunicipal region or land use planning region shall
45 ensure that the measurable performance outcomes identified
46 in section 4312, subsection 5, paragraphs A and B are met or
47 exceeded. The percentage of allowable development governing
48 the patterns of development may be modified to account for
49 regional variance in accordance with paragraph L;
50

2 B. Develop a capital investment plan for financing the
3 replacement and expansion of public facilities and services
4 required to meet projected growth and development. The
5 capital investment plan must include a calculation of the
6 resources needed from sources other than the property tax,
7 including resources from the municipal investment trust fund
8 and the community development block grant program, in order
9 to provide the functionally necessary infrastructure so that
10 the designated growth area will reasonably be able to
11 accommodate and support the anticipated growth, recognizing
12 that contributions for that infrastructure are a shared
13 state and local responsibility. Pursuant to section 4347,
14 and in the context of the municipality's, multimunicipal
15 region's or land use planning region's overall capital
16 investment plan, the office shall review the calculation of
17 the nonproperty tax resources necessary to implement a
18 functional growth area to ensure that it meets the criteria
19 of this section;

20 C. Protect, maintain and, when warranted, improve the water
21 quality of each water body pursuant to Title 38, chapter 3,
22 subchapter I, article 4-A and ensure that the water quality
23 will be protected from long-term and cumulative increases in
24 phosphorus from development in great pond watersheds;

25 D. Ensure that its land use policies and ordinances are
26 consistent with applicable state law regarding critical
27 natural resources. A municipality may adopt ordinances more
28 stringent than applicable state law;

29 E. Ensure the preservation of access to coastal waters
30 necessary for commercial fishing, commercial mooring,
31 docking and related parking facilities. Each coastal
32 municipality may identify and designate a critical
33 waterfront area and implement policies to ensure that area's
34 protection or shall discourage new development that is
35 incompatible with uses related to the marine resources
36 industry;

37 F. Ensure the protection of agricultural and forest
38 resources. Each municipality, multimunicipal region and
39 land use planning region shall discourage new development
40 that is incompatible with uses related to the agricultural
41 and forest industry;

42 G. Ensure that its land use policies and ordinances
43 encourage the siting and construction of affordable housing
44 within the community and comply with the requirements of
45 section 4358 pertaining to individual mobile home and mobile
46 home park siting and design requirements. The municipality,

2 multimunicipal region or land use planning region shall seek
3 to achieve a level of 10% of new residential development,
4 based on a 5-year historical average of residential
5 development in the municipality, meeting the definition of
6 affordable housing. Municipalities are encouraged to seek
7 creative approaches to assist in the development of
8 affordable housing, including, but not limited to, cluster
9 zoning, reducing minimum lot and frontage sizes, increasing
10 densities and use of municipally owned land;

11 H. Ensure that the value of historical and archeological
12 resources is recognized and that protection is afforded to
13 those resources that merit it;

14 I. Encourage the availability of and access to traditional
15 outdoor recreation opportunities, including, without
16 limitation, hunting, boating, fishing and hiking; and
17 encourage the creation of greenbelts, public parks, trails
18 and conservation easements. Each municipality,
19 multimunicipal region and land use planning region shall
20 identify and encourage the protection of undeveloped
21 shoreland and other areas identified in the local planning
22 process as meriting that protection; and

23 J. Develop management goals for great ponds pertaining to
24 the type of shoreline character, intensity of surface water
25 use, protection of resources of state significance and type
26 of public access appropriate for the intensity of use of
27 great ponds within a municipality's or multimunicipal
28 region's jurisdiction. Representatives of the Department of
29 Marine Resources, as applicable, the Department of
30 Conservation, the Department of Inland Fisheries and
31 Wildlife, the Department of Environmental Protection and the
32 office shall attend public hearings convened within the
33 municipality or multimunicipal region for the purpose of
34 developing these management goals and shall provide clearly
35 stated recommendations at those public hearings with respect
36 to the criteria listed in this section;

37 K. Ensure the efficient use and functional integrity of
38 state and state aid highways. The municipality or
39 multimunicipal region shall ensure that the measurable
40 performance outcome identified in section 4312, subsection 5
41 is met or exceeded; and

42 L. The office may adopt rules in accordance with the
43 procedures of Title 5, chapter 375, subchapter II-A that
44 modify the measurable performance outcomes established in
45 section 4312, subsection 5 according to regional variation.
46 In the process of adopting those rules, the office shall

2 conduct public hearings within the regions of the State
3 where the proposed modifications to the measurable
4 performance outcomes would apply. The office shall also
5 adopt rules to govern the determination of good-cause
6 failure of a municipality or multimunicipal region to meet
7 or exceed the measurable performance outcomes established in
8 section 4312, subsection 5. At a minimum, municipalities
9 and multimunicipal regions have good cause not to meet or
10 exceed the measurable performance outcomes if:

11 (1) The actual development growth occurring in the
12 municipality or multimunicipal region over the 5-year
13 period exceeded the growth rate estimates calculated
14 pursuant to subsection 1, paragraph A by 50%; or

15 (2) Either the financial assistance grants identified
16 in section 4346 or the nonproperty tax resources
17 identified pursuant to paragraph B have not been made
18 available to the municipality or multimunicipal region.

19 **Sec. 15. 30-A MRSA §4327, first ¶,** as amended by PL 1993, c.
20 721, Pt. A, §4 and affected by Pt. H, §1, is further amended to
21 read:

22 Except as provided in subsection 1, certification by the
23 office of a municipality's or multimunicipal region's local
24 growth management program under this article is valid for 5
25 years. To maintain certification, a municipality or
26 multimunicipal region shall periodically review its local growth
27 management program and submit to the office in a timely manner
28 any revisions necessary to account for changes, including changes
29 caused by growth and development.

30 **Sec. 16. 30-A MRSA §4331, sub-§§1, 4 and 5,** as enacted by PL
31 1993, c. 721, Pt. A, §5 and affected by Pt. H, §1, are amended to
32 read:

33 **1. Criteria.** In conducting the evaluation, the office shall
34 develop criteria based on the goals of this chapter. The
35 criteria must be objective, verifiable and, ~~to the extent~~
36 ~~practicable,~~ quantifiable.

37 **4. Level of analysis.** The office shall evaluate the program
38 generally at a regional and statewide level. To illustrate the
39 impact of the program, the office shall compare land use
40 development trends and patterns in a sample of towns that have
41 participated in the program with a matched sample of towns that
42 have not participated. The evaluation performed by the office
43 must include an analysis of the State's financial commitment to
44 growth management. Specifically, and in the context of section
45 4312, subsection 5, the office shall evaluate the program
46 generally at a regional and statewide level. To illustrate the
47 impact of the program, the office shall compare land use
48 development trends and patterns in a sample of towns that have
49 participated in the program with a matched sample of towns that
50 have not participated. The evaluation performed by the office
must include an analysis of the State's financial commitment to
growth management. Specifically, and in the context of section

2 4326, subsection 3, paragraph L and section 4346, the office
4 shall determine to what degree the Legislature made resources
6 available to the municipalities, multimunicipal regions, land use
8 planning regions, regional councils and the office in order to
10 effectively implement their respective growth management
12 responsibilities.

8 **5. Periodic reports.** Beginning on January 1, 1995, the
10 office shall report in writing on the results of its evaluation
12 process every 4 years and more frequently if necessary. The
14 office shall submit its report to the joint standing committee of
16 the Legislature having jurisdiction over natural resource matters
18 and to the joint standing committee of the Legislature having
20 jurisdiction over appropriations and financial affairs, which
22 shall submit the report to the full Legislature with any comments
24 or recommendations they may wish to include.

18 **Sec. 17. 30-A MRSA §4345,** as amended by PL 1995, c. 395, Pt.
20 D, §13, is further amended to read:

22 **§4345. Purpose; office to administer program**

24 Under the provisions of this article, a municipality,
26 multimunicipal region or land use planning region may request
28 financial or technical assistance from ~~the State Planning Office,~~
30 ~~referred to in this article as~~ the office, for the purpose of
32 planning and implementing a local growth management program. A
34 municipality, multimunicipal region or land use planning region
36 that requests and receives a financial assistance grant shall
38 develop and implement its growth management program in
40 cooperation with the office and in a manner consistent with the
42 provisions of this article.

34 To accomplish the purposes of this article, the office shall
36 develop and administer a technical and financial assistance
38 program for municipalities, multimunicipal regions and land use
40 planning regions. The program must include direct financial
42 assistance for planning and implementation of local growth
44 management programs, standards governing the review of local
46 growth management programs by the office, technical assistance to
48 municipalities and ~~a voluntary certification program for local~~
50 ~~growth management programs,~~ multimunicipal regions and land use
planning regions.

46 **Sec. 18. 30-A MRSA §4346,** as amended by PL 1993, c. 721, Pt.
48 A, §§7 to 10 and affected by Pt. H, §1, is further amended to
50 read:

50 **§4346. Technical and financial assistance program**

2 The technical and financial assistance program for
3 municipalities, multimunicipal regions, land use planning regions
4 and regional councils is established to encourage and facilitate
5 the adoption and implementation of local growth management
6 programs throughout the State.

7 The office may enter into financial assistance grants only
8 to the extent that funds are available. In making grants, the
9 office shall consider the need for planning in a municipality,
10 multimunicipal region or land use planning region, the proximity
11 of the municipality or region to other towns that are conducting
12 or have completed the planning process and the economic and
13 geographic role of the municipality, multimunicipal region or
14 land use planning region within a regional context. The office
15 may consider other criteria in making grants, as long as the
16 criteria support the goal of encouraging and facilitating the
17 adoption and implementation of a local growth management program
18 consistent with the provisions of this article.

19 **2-A. Financial assistance grants.** A contract for a
20 financial assistance grant must:

21 A. Provide for the payment of a specific amount for the
22 purposes of planning and preparing a comprehensive plan;

23 B. Provide for the payment of a specific amount for the
24 purposes of implementing that plan; and

25 C. Include specific timetables governing the preparation
26 and submission of products by the municipality,
27 multimunicipal region or land use planning region.

28 The office may not require a municipality, multimunicipal region
29 or land use planning region to provide matching funds in excess
30 of 25% of the value of that municipality's financial assistance
31 contract.
32

33 **2-B. Use of funds.** A municipality, multimunicipal region
34 or land use planning region may expend financial assistance
35 grants for:

36 A. The conduct of surveys, inventories and other
37 data-gathering activities;

38 B. The hiring of planning and other technical staff;

39 C. The retention of planning consultants;

40 D. Contracts with regional councils for planning and
41 related services;

- 2 E. Assistance in the development of ordinances;
- 4 F. Retention of technical and legal expertise for
6 permitting activities;
- 8 G. The updating of growth management programs or components
of a program; and
- 10 H. Any other purpose agreed to by the office and the
12 municipality, multimunicipal region or land use planning
14 region that is directly related to the preparation of a
comprehensive plan or the preparation of policies, programs
and land use ordinances to implement that plan.

16 **2-C. Additional funding to fully implement growth**
18 **management programs.** By working with state agencies, quasi-state
20 agencies and independent agencies that administer the
22 distribution of state and federal resources and resources backed
24 by state and federal guarantees, including, but not limited to,
26 the Department of Transportation, the Department of Economic and
28 Community Development, the Department of Education, the Maine
30 State Housing Authority and the Maine Municipal Bond Bank, the
office shall assist municipalities, multimunicipal regions and
land use planning regions in securing the nonproperty tax
resources identified in a growth management program's capital
improvement plan that are determined reasonably necessary for the
municipality or multimunicipal region to meet or exceed the
measurable performance outcomes established in this chapter.

32 **3. Technical assistance.** Using its own staff, the staff of
34 other state agencies and the resources of the regional councils,
36 the office shall provide technical assistance to municipalities,
38 multimunicipal regions and land use planning regions in the
development, administration and enforcement of local growth
management programs. The technical assistance component of the
program must include a set of model land use ordinances or other
implementation strategies developed by the office that are
consistent with this subchapter.

40 **4. Regional council assistance.** As part of the technical
42 and financial assistance program, the office may must develop and
44 administer a program to develop regional education and training
46 programs, regional policies to address state goals and regional
48 assessments. Regional assessments may include, but are not
50 limited to, public infrastructure, inventories of agricultural
and commercial forest lands, housing needs, recreation and open
space needs, and projections of regional growth and economic
development. The program may must include guidelines to ensure
methodological consistency among the State's regional councils.

2 To implement this program, the office ~~may~~ must contract with
3 regional councils to assist the office in reviewing local growth
4 management programs, ~~to~~ develop necessary planning information at
5 a regional level ~~or--to~~, provide support for local planning
6 efforts and develop, adopt and maintain regional comprehensive
7 plans in order to provide context for the comprehensive planning
8 and growth management efforts of municipalities, multimunicipal
9 regions and land use planning regions. The regional
10 comprehensive plans must be designed to achieve the state goals
11 and measurable performance outcomes identified in this chapter
12 and must be reviewed by the office for consistency with this
13 chapter in the same manner and according to the same criteria as
14 local growth management programs are reviewed pursuant to section
15 4347.

16 **5. Coordination.** State agencies with regulatory or other
17 authority affecting the goals established in this subchapter
18 shall conduct their respective activities in a manner consistent
19 with the goals established under this subchapter. Without
20 limiting the application of this section to other state agencies,
21 the following agencies shall comply with this section:

- 22 A. Department of Conservation;
23
24 B. Department of Economic and Community Development;
25
26 C. Department of Environmental Protection;
27
28 D. Department of Agriculture, Food and Rural Resources;
29
30 E. Department of Inland Fisheries and Wildlife;
31
32 F. Department of Marine Resources;
33
34 G. Department of Transportation;
35
36 H. Finance Authority of Maine; and
37
38 I. Maine State Housing Authority.

39 **Sec. 19. 30-A MRSA §4347**, as amended by PL 1993, c. 166, §§9
40 and 10, is further amended to read:

41 **§4347. Review of local programs by office**

42 A municipality or multimunicipal region that chooses to
43 prepare a local growth management program and receives a planning
44 or implementation assistance grant under this article, and any
45 regional planning agency preparing a regional comprehensive plan,
46 must submit its comprehensive plan and ~~proposed zoning ordinances~~

2 to the office for review. The office shall review ~~plans--and~~
3 ~~zoning--ordinances~~ local and regional growth management for
4 consistency with the goals and guidelines established in this
5 subchapter. Any contract for a planning assistance grant or an
6 implementation assistance grant must include specific timetables
7 governing the review of the comprehensive plan or ~~zoning~~
8 ~~ordinance~~ growth management program by the office.

10 **1. Review of program.** In reviewing a local growth
11 management program, the office shall do the following.

12 A. The office shall solicit written comments on any
13 proposed comprehensive plan or zoning ordinance from
14 regional councils, state agencies, all municipalities
15 contiguous to the municipality or multimunicipal region
16 submitting a comprehensive plan or zoning ordinance and any
17 interested residents of the municipality or of contiguous
18 municipalities. The comment period extends for 45 days
19 after the office receives the proposal.

20 (1) Each state agency reviewing the proposal shall
21 designate a person or persons responsible for
22 coordinating the agency's review of the proposal.

24 B. The office shall prepare all written comments from all
25 sources in a form to be forwarded to the municipality or
26 multimunicipal region.

28 C. The office shall send all written comments on the
29 proposal to the municipality or multimunicipal region within
30 60 days after receiving its proposal. The office shall also
31 forward its comments and suggested revisions to any
32 applicable regional council.

34 D. ~~If--warranted,--the~~ The office shall issue findings
35 specifically describing how the submitted plan or ordinance
36 is not consistent with this subchapter and the recommended
37 measures for remedying the deficiencies. In its findings,
38 the office shall clearly indicate its position on any point
39 on which there are significant conflicts among the written
40 comments submitted to the office.

42 E. With respect to a determination of consistency between
43 any growth management program adopted by a municipality,
44 multimunicipal region or land use planning region and the
45 state goal identified in section 4312, subsection 3,
46 paragraph A, the office shall review the identification of
47 growth and rural areas for size and configuration in
48 accordance with section 4326, subsection 3, paragraph A and
49 otherwise only consider whether the municipality,
50

2 multimunicipal region or land use planning region failed,
3 without good cause, to meet or exceed the measurable
4 standards established in section 4312, subsection 5.

6 **2. Updates and amendments.** A municipality or
7 multimunicipal region may submit proposed amendments to a
8 comprehensive plan or zoning ordinances to the office for review
9 in the same manner as provided for the review of new plans and
10 ordinances. Subsequent to voluntary certification under section
11 4348, the municipality or multimunicipal region shall file a copy
12 of an amendment to a zoning ordinance with the office within 30
13 days after adopting the amendment.

14 **3. Regional councils.** Subject to the availability of
15 funding and pursuant to the conditions of a contract, each
16 regional council shall review and submit written comments on the
17 proposal of any municipality within its planning region. The
18 comments must be submitted to the office and contain an analysis
19 of:

- 20 A. How the proposal addresses identified regional needs; and
21
22 B. Whether the proposal is consistent with those of other
23 municipalities that may be affected by the proposal.

24
25 **Sec. 21. 30-A MRSA §4348,** as amended by PL 1993, c. 166, §11,
26 is further amended to read:

27 **§4348. Voluntary certification**

28
29 A municipality or multimunicipal region may at any time
30 request a certificate of consistency for its local growth
31 management program. Upon a request for review under this
32 section, the office shall review the program and determine
33 whether the program is consistent with the local growth
34 management goals and guidelines established in this subchapter.
35

36
37 **1. Solicitation of comments.** In conducting a review under
38 this section, the office shall solicit written comments on the
39 local growth management program from regional councils and state
40 agencies, all municipalities contiguous to the municipality or
41 multimunicipal region submitting the program and any interested
42 residents of the municipality or contiguous municipalities.
43

- 44
45 A. Any regional council commenting on a program shall
46 determine whether the program is compatible with those of
47 other municipalities that may be affected by the program and
48 with regional needs identified by the regional council.

2 B. Within 90 days after receiving the municipal request,
the office shall issue a certificate of consistency or
4 request revisions to the program. If the same local growth
management program or a component of the program has been
6 previously reviewed by the office under this article, denial
of certification or requested revisions must be based on
written findings prepared by the office at that time.

8
10 C. If the office requests revisions to the program, it
shall provide the municipality or multimunicipal region with
12 findings specifically describing the deficiencies in the
submitted program and the recommended measures for remedying
the deficiencies.

14
16 D. The office shall provide ample opportunity for the
municipality or multimunicipal region submitting a local
18 growth management program to respond to and correct any
identified deficiencies in the program.

20 F. The office shall provide an expedited review and
22 certification procedure for those submissions that represent
minor amendments to certified local growth management
24 programs.

26 G. The office's decision on certification constitutes final
agency action.

28 **Sec. 22. 30-A MRSA §4350** is enacted to read:

30 **§4350. Penalties**

32 Municipalities and multimunicipal regions that fail without
34 good cause to meet or exceed the measurable performance outcomes
established in this chapter shall bear their share of the
36 financial consequences of inefficient development patterns and
unmanaged development growth.

38 1. Duration of penalty period. The penalties described in
40 this section apply to any municipality or municipality that is
part of a multimunicipal region that has failed without good
42 cause to meet or exceed the measurable performance outcomes
44 established in section 4312, subsection 5 during a defined 5-year
period. The period of the penalty must run during the 5-year
46 period immediately following the 5-year period in which the
failure to meet or exceed the measurable standards occurred. For
48 the purposes of this section, the first 5-year period runs from
January 1, 2005 to January 1, 2010, and all subsequent 5-year
50 periods run consecutively, beginning and ending in a year that
ends in "5" or "0."

2 2. Financial penalties. A municipality or municipality
located within a multimunicipal region subject to penalties
pursuant to subsection 1 is not eligible for:

4 A. Grants or other financial assistance from or through the
6 State for growth-related capital investments, as defined in
 section 4301, subsection 5-B, paragraphs A to D;

8 B. Assistance from the Land for Maine's Future Program for
10 locally significant recreation and conservation projects; and

12 C. State aid for minor collector capital projects as might
14 otherwise be provided under Title 23, section 1803-B,
 subsection 5.

16 3. Regulatory penalties. A municipality or municipality
located within a multimunicipal region subject to penalties
pursuant to subsection 1 may not:

20 A. Adopt or administer uniform minimum lot size ordinances
22 more stringent than the State's minimum lot size law, Title
 12, chapter 423-A, unless the municipality provides to the
24 office, and the office approves, clear documentation that
 the ordinances are required to protect the public health or
 a critical natural resource; and

26 B. Adopt regulations or ordinances that cap or set quotas
28 for the amount of development or growth in the municipality
 except outside of priority growth areas as identified in a
30 consistent comprehensive plan.

32 4. Appeal. The office shall inform in writing the municipal
officers of any municipality as soon as the office determines
34 that the municipality, on its own or as part of a multimunicipal
region, has become subject to the penalties imposed by this
36 section. Within 60 days of receiving this notice, the
municipality may appeal the decision by filing a notice of appeal
38 to the director of the office. Upon receiving notice of the
appeal, the director shall schedule an appeal hearing over which
40 the director shall preside. The burden of proof that the
municipality is subject to the penalties provided by this section
42 rests with the office. At the appeal hearing, the director shall
allow into evidence any credible data or information provided by
44 the municipality that pertains to a finding that the municipality
is subject to the penalties provided by this section, including,
46 but not limited to, information pertaining to the standards of
good-cause failure to meet or exceed the measurable performance
48 standards established by section 4326, subsection 3, paragraph L,
demographic information compiled by the municipality regarding
50 the actual location of residential growth within the

2 municipality, and information regarding the highway management
3 practices of the municipality or multimunicipal region and the
4 degree to which those practices were related to a reduction of
5 posted speeds on arterial or major collector roads. Upon
6 conclusion of the appeal hearing, and no later than 30 days after
7 the appeal hearing, the director shall issue to the municipal
8 officers a final determination, in writing, with respect to
9 whether the municipality is subject to the penalties provided by
10 this subsection. That determination is a final agency action.

11 **5. Corrective plan.** Any municipality and any municipality
12 located within a multimunicipal region that is found to be
13 subject to the penalties imposed by this subsection may, at any
14 time during the penalty periods imposed by subsection 1, submit a
15 corrective plan to the office that identifies the actions that
16 have been taken by the municipality to adopt, amend or further
17 implement its growth management program in such a way as to
18 substantially achieve the goals of this chapter and meet the
19 measurable performance standards identified in section 4312,
20 subsection 5. The director of the office is authorized upon
21 review and approval of the plan to lift the penalties provided by
22 this section for that municipality for prescribed periods or for
23 the duration of the penalty period imposed by subsection 1.

24 **6. Redistribution of restricted funds.** All funds that are
25 not distributed to municipalities due to the application of this
26 section must be retained in the fund from which they would
27 otherwise be distributed and made available to other
28 participating municipalities during the appropriate fiscal year
29 and in accordance with the systems of distribution applicable to
30 those programs.

31 **Sec. 20. 30-A MRSA §4357-B** is enacted to read:

32 **§4357-B. Regulation of traditional neighborhood development**

33 **1. Definitions.** As used in this section, unless the
34 context otherwise indicates, the following terms have the
35 following meanings.

36 **A. "Accessory dwelling unit"** means a dwelling unit of 600
37 square feet or fewer within a single-family dwelling or a
38 building accessory to and on the same lot as the
39 single-family dwelling when the owner of the property
40 occupies either the main dwelling or the accessory dwelling
41 unit.

42 **B. "Common open space"** means a parcel or parcels of land,
43 an area of water or a combination of land and water,
44 including floodplains and wetlands, within a development
45 area.

2 designed and intended for the use and enjoyment of residents
3 of the development. "Common open space" does not include
4 land or yards allocated to specific dwelling units or other
5 structures or in public rights-of-way.

6 C. "Complete plan" means a plan signed and sealed by the
7 professional land surveyor under whose responsible charge a
8 land survey was completed and signed and sealed by a
9 landscape architect certified in the State under whose
10 responsible charge all elements of the plan, as required by
11 the design guidelines established in subsection 4, have been
12 addressed.

13 D. "Internal open space" means a component of common open
14 space, consisting of one or more parcels with a minimum area
15 of 500 square feet, of a distinct geometric shape and
16 bounded by streets or other rights-of-way.

17 E. "Precertified development" means a development that,
18 prior to final approvals by a local board, has been reviewed
19 by the State Development Review Board established in
20 subsection 2 and certified as a traditional neighborhood
21 development.

22 F. "Traditional neighborhood development" means a primarily
23 residential development designed to be compact and walkable,
24 served by public sewer, with common and internal open space,
25 with small-scale nonresidential uses either built within the
26 development or within 1/2 mile of the development, with at
27 least 30% of dwelling units in the development affordable
28 housing as defined by section 4301, and meeting design
29 guidelines established pursuant to subsection 4.

30 **2. State Development Review Board.** The State Development
31 Review Board is established.

32 A. The State Development Review Board, referred to in this
33 subsection as the "board," is established within the Maine
34 State Housing Authority. Its membership consists of the
35 director of the Maine State Housing Authority or the
36 director's designee, who is its chair; the Director of the
37 State Planning Office or the director's designee; the
38 Commissioner of Environmental Protection or the
39 commissioner's designee; a landscape architect certified in
40 the State, appointed by the Governor; a town or city planner
41 employed by a municipality in the State appointed by the
42 Governor; and an elected municipal official, appointed by
43 the Governor.

2 B. Appointed members of the board shall serve 3-year terms,
4 or until a successor is named, whichever is later, as long
as they continue to hold a position that qualified them for
appointment. A quorum is 4 members.

6 C. Within 60 days of receiving a written request, along
8 with a complete plan, the board shall, by a vote of at least
2/3 of the members present and voting, issue a written
finding:

10 (1) Certifying that the plan meets the criteria and
12 design guidelines, as established in this section, for
14 a traditional neighborhood development; or

16 (2) Denying certification that the plan meets the
18 criteria and design guidelines for a traditional
20 neighborhood development, and the reasons for the
denial. An applicant whose request for certification
is denied may resubmit a new complete plan at a later
date.

22 D. Members of the board who are employed by state
24 government shall serve without pay. Other members of the
26 board are entitled to receive \$75 per day for their services
and to reimbursement for reasonable expenses, including
travel, to be paid by the Maine State Housing Authority.

28 **3. Regulation of traditional neighborhood development.**
30 Traditional neighborhood developments are regulated as follows.

32 A. Except as required under Title 38, or an ordinance
34 adopted pursuant to Title 38, a municipality may not require
36 a single-family house lot within a precertified traditional
38 neighborhood development to be larger than 6,500 square feet
40 or to have frontage of more than 50 feet on a road, except
that it may require the average frontage of all lots in the
development to be at least 70 feet, and may not require
dimensional standards for lots, buildings or roads in excess
of the guidelines established pursuant to subsection 4.

42 B. Except as required under Title 38, or an ordinance
44 adopted pursuant to Title 38, a municipality may not require
46 a multifamily lot within a precertified traditional
48 neighborhood development to have fewer than 7 dwelling units
per acre, and may not require dimensional standards for
lots, buildings or roads in excess of the guidelines
established pursuant to subsection 4.

50 C. A certified traditional neighborhood development may be
located in any area of a municipality where other

2 residential development is allowed, as long as public sewer
3 is available to the development and, if a municipal zoning
4 district enacted pursuant to a consistent comprehensive plan
5 permits only single-family dwellings, the certified
6 traditional neighborhood development must be restricted to
7 single-family dwellings, accessory dwelling units and
8 small-scale nonresidential structures and uses found by the
9 board to be integral to the development.

10 D. A precertified traditional neighborhood development is
11 subject to the same municipal subdivision and site plan
12 approvals as other developments in the municipality.

13 E. A municipality may substitute its definition of
14 "accessory dwelling unit," as long as it does not have the
15 effect of prohibiting those units in a traditional
16 neighborhood development.

17 4. Design guidelines; rule. The board shall adopt, by
18 rule, design guidelines that define a traditional neighborhood
19 development. The rule must include submission requirements and
20 related fees. The State Planning Office, in cooperation with the
21 board, shall prepare draft guidelines for the board's
22 consideration. The guidelines must generally respect the
23 principles of walkable neighborhoods with a variety of lot sizes
24 and types and choice of housing for households of different
25 incomes that are built to human scale, respect the natural
26 environment, provide for adequate fire and public safety and
27 provide for appropriate internal and other common open space.
28 The rule is a major substantive rule as defined in Title 5,
29 chapter 375, subchapter II-A and must be submitted to the
30 Legislature no later than December 1, 2001.

31 **Sec. 23. 36 MRS §1951-A, sub-§3 is enacted to read:**

32 3. Report to treasurer; treasurer's obligations. At the end
33 of each month, and based on the reports provided under subsection
34 1, the State Tax Assessor shall certify to the State Treasurer
35 the sales tax revenues collected on the value of living quarters
36 in any hotel, rooming house, tourist or trailer camp and on the
37 value of prepared food sold in establishments that are licensed
38 for on-premises consumption of liquor pursuant to Title 28-A,
39 chapter 43 during the most recently completed reporting period.
40 Upon receiving that certification, the State Treasurer shall
41 transfer 10% of the certified amount to the Municipal Investment
42 Trust Fund, established under Title 30-A, section 5953-D. The
43 funds transferred to the Municipal Investment Trust Fund in
44 accordance with this section may only be made available to
45 municipalities, multimunicipal regions or land use planning
46 regions that are eligible for funding in accordance with Title
47 30-A, section 5953-D.

2 30-A, chapter 187, subchapter I, and must be used by the
4 municipality, multimunicipal region or land use planning region
6 for the payment of principal and interest to holders of bonds
8 issued for the construction of a major capital project undertaken
10 by the municipality, multimunicipal region or land use planning
12 region. For the purposes of this subsection, "major capital
14 project" means the construction or expansion of a building or
facility to be used for public purposes with a total construction
cost of \$1,000,000 or more.

SUMMARY

The bill amends the growth management law and laws relating to growth management.