LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FOURTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

Chapters 1 - 502

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PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE

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ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

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

Effective May 3, 1989.

CHAPTER 103

H.P. 91 - L.D. 126

An Act to Make Additional Allocations to the Department of Inland Fisheries and Wildlife for the Fiscal Year Ending June 30, 1989

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

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of the Department of Inland Fisheries and Wildlife will become due and payable before the next fiscal year; 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. 12 MRSA §7017, sub-§2, as enacted by PL 1983, c. 819, Pt. A, §17, is amended to read:

2. Unencumbered balances. Any unencumbered allocated balances, including existing balances, shall be carried forward into the next fiscal year and shall not be expended without allocation by the Legislature, except as provided in this section. Unencumbered balances in the boating access sites account shall be nonlapsing and shall be carried forward to be used for the same purpose.

Sec. 2. Additional allocation of Inland Fisheries and Wildlife funds. Income to the Department of Inland Fisheries and Wildlife for the fiscal year ending June 30, 1989 shall be segregated, apportioned and disbursed as designated in the following schedule.

	1988-89
INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF	
Boating Access Sites	
Capital Expenditures	$130,000

Allocates funds transferred from the Department of Conservation, Boating Facilities Fund, in order to provide for boat access, acquisition and maintenance projects.

Sec. 3. Encumbered balances at year end. At the end of the fiscal year, all encumbered balances shall not be carried more than once.

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

Effective May 3, 1989.

CHAPTER 104

H.P. 859 - L.D. 1199

An Act to Correct Errors in the County and Municipal Law Recodification

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

Whereas, certain laws amending the former Maine Revised Statutes, Title 30, were enacted last year but were inadvertently omitted from the recodification of the county and municipal laws which took effect on February 28, 1989; and

Whereas, the reenactment of these laws into the Maine Revised Statutes, Title 30-A, is urgently needed in order to accomplish the purposes of that legislation and to preserve the ability of local government to effectively address issues of local concern; 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:

PART A

Sec. 1. 30-A MRSA §2, sub-§1, ¶¶A to N, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, are repealed and the following enacted in their place:

	1988
A. Androscoggin County:	
(1) Commissioners	
(a) Chairman	$ 5,755
(b) Members	4,926
(2) Treasurer	18,500
(3) Sheriff	24,617

(4) Judge of Probate	11,173
(5) Register of Probate	12,444
(6) Register of Deeds	21,570

B. Aroostook County:	1988	1989
(1) Commissioners		
(a) Chairman		$2,000
(b) Members		2,000
(2) Treasurer	$7,207	8,000
(3) Sheriff	19,604	20,800
(4) Judge of Probate	10,210	10,210
(5) Register of Probate	14,560	16,560
(6) Register of Deeds		
(a) Northern District	14,280	16,280
(b) Southern District	14,280	16,280

C. Franklin County:	1988
(1) Commissioners	
(a) Chairman	$ 4,665
(b) Members	4,424
(2) Treasurer	4,828
(3) Sheriff	24,245
(4) Judge of Probate	11,130
(5) Register of Probate	15,900
(6) Register of Deeds	16,960

D. Hancock County:	1988
(1) Commissioners	
(a) Chairman	$ 6,870
(b) Members	6,411
(2) Treasurer	15,277
(3) Sheriff	26,500
(4) Judge of Probate	13,633
(5) Register of Probate	14,167
(6) Register of Deeds	15,277

E. Kennebec County:	1988
(1) Commissioners	
(a) Chairman	$ 6,396
(b) Members	6,004
(2) Treasurer	8,485
(3) Sheriff	24,571
(4) Judge of Probate	14,617
(5) Register of Probate	18,741
(6) Register of Deeds	18,741

F. Knox County:	1988	1989	1990	1991
(1) Commissioners				
(a) District 1	$3,611	$4,000	$4,000	$4,000
(b) District 2	3,439	4,000	4,000	4,000
(c) District 3	3,439	4,000	4,000	4,000
(d) Chairman differential	300	300	300	300
(2) Treasurer	6,000	6,000	6,000	7,000
(3) Sheriff	25,000			
(4) Judge of Probate	11,000	12,000	12,000	12,000
(5) Register of Probate	14,500			
(6) Register of Deeds	16,200			

G. Lincoln County:	1988
(1) Commissioners	
(a) Chairman	$ 5,542
(b) Members	4,765
(2) Treasurer	5,185
(3) Sheriff	25,232
(4) Judge of Probate	12,503
(5) Register of Probate	15,000
(6) Register of Deeds	19,128

H. Oxford County:	1988
(1) Commissioners	
(a) Chairman	$ 5,358
(b) Members	4,882
(2) Treasurer	6,453
(3) Sheriff	25,074
(4) Judge of Probate	13,451
(5) Register of Probate	15,413

(6) Register of Deeds	
(a) Eastern District	15,845
(b) Western District	12,600
I. Penobscot County:	1988
(1) Commissioners	
(a) Chairman	$ 7,384
(b) Members	7,072
(2) Treasurer	2,912
(3) Sheriff	25,012
(4) Judge of Probate	19,188
(5) Register of Probate	18,512
(6) Register of Deeds	18,512
J. Piscataquis County:	1988
(1) Commissioners	
(a) Chairman	$ 5,400
(b) Members	4,600
(2) Treasurer	5,500
(3) Sheriff	20,800
(4) Judge of Probate	12,168
(5) Register of Probate	13,988
(6) Register of Deeds	14,456
K. Sagadahoc County:	1988
(1) Commissioners	
(a) Chairman	$ 4,285
(b) Members	3,749
(2) Treasurer	7,298
(3) Sheriff	21,000
(4) Judge of Probate	13,446
(5) Register of Probate	14,690
(6) Register of Deeds	15,676
L. Somerset County:	1988
(1) Commissioners	
(a) Chairman	$ 4,511
(b) Members	3,865
(2) Treasurer	9,293
(3) Sheriff	26,670
(4) Judge of Probate	15,022
(5) Register of Probate	15,843
(6) Register of Deeds	16,275
M. Washington County:	1988
(1) Commissioners	
(a) Chairman	$ 4,872
(b) Members	4,061
(2) Treasurer	18,000
(3) Sheriff	27,000
(4) Judge of Probate	14,526
(5) Register of Probate	15,010
(6) Register of Deeds	15,010
N. York County:	1988
(1) Commissioners	
(a) Chairman	$4,500
(b) Members	4,500
(2) Treasurer	5,200
(3) Sheriff	28,000
(4) Judge of Probate	12,500
(5) Register of Probate	20,000
(6) Register of Deeds	20,000

Sec. 2. 30-A MRSA §82, sub-§4, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is repealed and the following enacted in its place:

4. County commissioners' compensation. Except as provided in paragraphs A and B, and notwithstanding any other provision of law, if the county commissioners hire a full-time county administrator, they shall forego the annual salary otherwise due them and shall receive only $75 each for each meeting attended and reimbursement for travel at the same rate established for state employees.

A. During 1989, if Aroostook County employs a full-time county administrator, the county commissioners may receive up to $100 for each meeting attended for up to 52 meetings in the fiscal year. They shall receive no compensation for any meetings in excess of 52. The county commissioners shall also receive the salary specified in section 2, in addition to the per meeting compensation, regardless of whether the county has a full-time county administrator.

B. The county commissioners of York County shall receive the salary specified in section 2, regardless of whether that county has a full-time county administrator.

Sec. 3. 30-A MRSA §102, first ¶, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

The county commissioners have final authority over the operation of all county offices by elected or appointed county ~~officers~~ officials, except in circumstances for which a County Personnel Board has been established under subchapter VII, article 2 with the powers and duties set forth in that article and in section 501. The county commissioners must act as a board and not on an individual basis in exercising this authority.

Sec. 4. 30-A MRSA §121, sub-§4, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

4. Parking areas. The county commissioners may lay out parking areas on county lands near county buildings and may enact ordinances for the reasonable use of those areas and enforce them by suitable penalties ~~for the reasonable use of those areas~~. Any violation of these ordinances is a traffic infraction.

County public parking areas are subject to any applicable requirements of the Maine Human Rights Act, Title 5, chapter 337, subchapter V.

Sec. 5. 30-A MRSA §201, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

§201. Clerical help

In all county offices, there shall be allowed for clerk hire the amount authorized by the county commissioners. The county commissioners shall determine the salary of all clerks after receiving a recommendation from the county ~~officer~~ official under whom the clerk is employed. The county treasurer shall pay weekly to the clerks employed by the county the wages to which they are entitled. The county commissioners shall certify the names of the clerks to the county treasurer. The county commissioners may provide for a county pay scale, vacations and sick leave for clerical help.

Sec. 6. 30-A MRSA §271, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

§271. Appointment of temporary substitutes

When the district attorney does not attend a criminal session or the office is vacant, the court may appoint an attorney to perform duties during the session and allow a reasonable compensation to be paid from the county treasury, in the county where the appointment is made. The ~~justice~~ court shall notify the Attorney General who shall deduct that amount from the district attorney's salary and forward it to the county treasurer.

Sec. 7. 30-A MRSA §272, sub-§6, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

6. Allowance for compensation. For the compensation of assistant district attorneys, the district attorneys shall be allowed annually sums up to the limit of $40,000 plus ~~68¢~~ 69¢ for each person constituting the population of the district according to the latest formal population estimate of the Office of Vital Statistics of the Department of Human Services ~~until June 30, 1988 and $40,000 plus 69¢ for each such person thereafter~~. In addition to the sums allowed in this section, funds shall be provided for fringe benefits for which other state employees, including confidential employees, are eligible.

Sec. 8. 30-A MRSA §353, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

§353. Officer not to act as attorney or draw papers; employee of jailer not to act as judge or attorney

No officer may appear before any court as attorney or adviser of any party in an action or draw any writ, complaint, declaration, citation, process or plea for any other person; all such acts are void. No person employed by the keeper of a jail in any capacity may exercise any power or duty of a ~~magistrate~~ judicial officer or notary public or act as attorney for any person confined in the jail; all such acts are void.

Sec. 9. 30-A MRSA §355, sub-§2, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

2. Full-time deputies. No full-time deputy may hold the municipal office of selectman, city ~~councilman~~ councillor or budget ~~committeeman~~ committee member or any county or state office.

Sec. 10. 30-A MRSA §453-A is enacted to read:

§453-A. Public safety answering point

Each county, in cooperation with the Department of Public Safety, shall establish an E-9-1-1 public safety answering point in each county which may be located in a county communications center or the county sheriff's communications facility. The department shall pay for the necessary E-9-1-1 equipment and for its installation and maintenance.

Sec. 11. 30-A MRSA c. 1, sub-c. VI, art. 9 is enacted to read:

ARTICLE 9. PARKING ENFORCEMENT SPECIALISTS

§471. County volunteer parking enforcement programs

1. Programs established. Each sheriff's department may establish a program to deputize volunteer parking

enforcement specialists to enforce handicapped parking restrictions in private parking lots within the county, in areas which are not within the jurisdiction of a municipal police department, pursuant to enforcement agreements entered into between the sheriff's department and the owners of those lots under section 3009, subsection 1, paragraph D.

2. Qualifications. To qualify as a volunteer parking enforcement specialist, an applicant:

A. Must be at least 18 years of age;

B. Must successfully complete a criminal history check to standards officially adopted by the sheriff's department; and

C. Must successfully complete an examination and training program, as established in section 473.

The sheriff's department should seek applicants who are handicapped.

3. Duties. After an applicant has qualified under subsection 2, the sheriff's department shall deputize the applicant as a volunteer parking enforcement specialist. A volunteer parking enforcement specialist shall:

A. Issue parking citations, tickets or oral warnings to operators of motor vehicles parked in violation of any handicapped parking restriction in private parking lots, pursuant to agreements entered into under section 3009, subsection 1, paragraph D; and

B. Make referrals to a law enforcement agency when proper and appropriate.

§472. Municipal volunteer parking enforcement programs

1. Programs established. Each municipal police department, with the approval of the municipal officers, may establish a program or contract with the sheriff to carry out a program to deputize volunteer parking enforcement specialists to enforce handicapped parking restrictions in private lots within the municipality, pursuant to enforcement agreements entered into between the police department and the owners of those lots under section 3009, subsection 1, paragraph D.

2. Qualifications. To qualify as a volunteer parking enforcement specialist, an applicant:

A. Must be at least 18 years of age;

B. Must successfully complete a criminal history check to standards officially adopted by the police department; and

C. Must successfully complete an examination and training program, as established in section 473, except that the police department may conduct the local orientation.

The police department should seek applicants who are handicapped.

3. Duties. After an applicant has qualified under subsection 2, the police department shall deputize the applicant as a volunteer parking enforcement specialist. A volunteer parking enforcement specialist shall:

A. Issue parking citations, tickets or oral warnings to operators of motor vehicles parked in violation of any handicapped parking restriction in private parking lots, pursuant to agreements entered into under section 3009, subsection 1, paragraph D; and

B. Make referrals to a law enforcement agency when proper and appropriate.

§473. Training and examination

1. Training manual. An applicant for the position of parking enforcement specialist shall be provided with a copy of a self-paced study guide and training manual approved by the Commissioner of Public Safety. The manual shall include, but is not limited to, instruction in:

A. What a ticket or citation is and how to issue one correctly;

B. Reporting and referring cases to a law enforcement officer or agency when appropriate and avoiding confrontation;

C. Communication and public relation skills that emphasize positive public relations and community education; and

D. Basic first aid.

2. Examination. The Commissioner of Public Safety shall devise the examination for parking enforcement specialists. The sheriff's department shall offer examinations as needed.

3. Local orientation. Upon successful completion of the examination, applicants shall be given an orientation program by the sheriff's department on local ordinances and procedures.

Sec. 12. 30-A MRSA c. 3, sub-c. I, art. 5, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is repealed.

Sec. 13. 30-A MRSA §2001, sub-§8, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

8. Municipality. "Municipality" means a city or town, except as provided in chapter 225.

Sec. 14. 30-A MRSA §2001, sub-§12, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

12. Municipal year. "Municipal year" means a municipality's fiscal year as determined by the municipal officers under section ~~708~~ 5651.

Sec. 15. 30-A MRSA §2253, sub-§2, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

2. Limitations. ~~Any~~ A public self-funded pool may not provide for hospital, medical, surgical or dental benefits to the employees of the member political subdivisions in the pool except when those benefits arise from the obligations and responsibilities of the pool in providing automobile insurance coverage and protection against other liability and loss associated with the ownership of motor vehicles.

Sec. 16. 30-A MRSA §2503, sub-§3, ¶F, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

F. If a majority of the voters who vote on a referred ordinance vote ~~against it~~ for its repeal, it is considered repealed upon certification of the election results.

Sec. 17. 30-A MRSA §2526, sub-§9, ¶A, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

A. Unless the oath is administered in the clerk's presence, the person who administers it shall give the official or deputy sworn a certificate which shall be returned to the clerk for filing. The certificate must state:

(1) The name of the official or deputy sworn;

(2) ~~His~~ The official or deputy's office;

(3) The name of the person who administered the oath; and

(4) The date when the oath was taken.

Sec. 18. 30-A MRSA §2528, sub-§4, ¶B, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

B. At the end of the list of candidates for each office, there shall be left as many blank spaces as there are vacancies to be filled in which a voter may write in the name and municipality of residence of any person for whom the voter desires to vote. A sticker may not be used to vote for a write-in candidate in any municipal election other than a primary election.

Sec. 19. 30-A MRSA §2528, sub-§5, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

5. Referendum questions. By order of the municipal officers or on the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10, the municipal officers shall have a particular article placed on the next ballot printed or shall call a special town meeting for its consideration. A petition or order under this subsection is subject to the filing provisions governing nomination papers under subsection 4.

The municipal officers shall hold a public hearing on the subject of the article at least 10 days before the day for voting on the article. At least 7 days before the date set for the hearing, the municipal officers shall give notice of the public hearing by having a copy of the proposed article, together with the time and place of hearing, posted in the same manner required for posting a warrant for a town meeting under section 2523. The municipal officers shall make a return on the original notice stating the manner ~~of~~ of notice and the time it was given.

A. The requirement for public hearing is not a prerequisite to the valid issuance of any bond, note or other obligation of a municipality authorized to borrow money by vote under any such particular article.

B. If a particular article to be voted on by secret ballot requests an appropriation of money by the municipality, the article, when printed in the warrant and on the ballot, must be accompanied by a recommendation of the municipal officers.

(1) If by town meeting vote or charter provision, a budget committee has been established to review proposed town expenditures, the recommendations of the budget committee shall be printed in addition to those of the municipal officers.

(2) If the action affects the school budget, a recommendation by the school board shall be printed in addition to those of the municipal officers and the budget committee, if any.

Sec. 20. 30-A MRSA §2528, sub-§6, ¶B, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

B. At the end of the list of candidates for each office, there shall be left as many blank spaces as there are vacancies to be filled in which a voter may write in the name and municipality of residence of any person for whom the voter desires to vote. A sticker may not be used to vote for a write-in candidate in any municipal election other than a primary election.

Sec. 21. 30-A MRSA §2554, sub-§2, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

2. Write-in votes. In any city election, a voter may write in the name and municipality of residence of any person for whom the voter desires to vote in the blank space provided at the end of the list of candidates for office. A sticker may not be used to vote for a write-in candidate in any city election other than a primary election.

Sec. 22. 30-A MRSA §2605, sub-§§5 and 6 are enacted to read:

5. Former municipal and county officials. This subsection applies to former municipal and county officials.

A. No former municipal or county official may, for anyone other than the municipality or county, knowingly act as an agent or attorney, or participate in a proceeding before a municipal or county government body for one year after termination of the official's employment or term of office with that government body in connection with any proceeding:

(1) In which the specific issue was pending before the municipal or county official and was directly within the responsibilities of that official; and

(2) Which was completed at least one year before the termination of that official's employment or term of office.

B. No former municipal or county official may, for anyone other than the municipality or county, knowingly act as an agent or attorney, or participate in a proceeding before a municipal or county government body at any time after termination of the official's employment or term of office with that government body in connection with any proceeding:

(1) In which the specific issue was pending before the municipal or county official and was directly within the responsibilities of that official; and

(2) Which was pending within one year of the termination of the municipal or county official's employment or term of office.

C. This subsection may not be construed to prohibit former municipal or county officials from doing personal business with the municipality or county. This subsection does not limit the application of Title 17-A, chapter 25.

For the purpose of this subsection, a municipal or county government body includes an agency, board, commission, authority, committee, legislative body, department or other governmental entity of a municipality or county.

6. Avoidance of appearance of conflict of interest. Every municipal and county official shall attempt to avoid the appearance of a conflict of interest by disclosure or by abstention.

Sec. 23. 30-A MRSA §2671, sub-§2, ¶F, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

F. As provided for in section ~~2675~~ 2674.

Sec. 24. 30-A MRSA §2691, sub-§3, ¶C, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

C. The board may provide, by regulation which shall be recorded by the secretary, for any matter relating to the conduct of any hearing, provided that the ~~chairman waives~~ chair may waive any regulation upon good cause shown.

Sec. 25. 30-A MRSA §2701, sub-§1, ¶B, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

B. Municipal records pertaining to an identifiable employee and containing the following:

(1) Medical information of any kind, including information pertaining to diagnosis or treatment ~~or~~ of mental or emotional disorders;

(2) Performance evaluations and personal references submitted in confidence;

(3) Information pertaining to the credit worthiness of a named employee;

(4) Information pertaining to the personal history, general character or conduct of members of an employee's immediate family; and

(5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after it is completed. The decision shall state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action; and

Sec. 26. 30-A MRSA §3007, sub-§2, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is repealed and the following enacted in its place:

2. Buildings, structures, mobile homes, travel trailers and related equipment. The following provisions apply to any ordinance enacted by a municipality concerning

buildings, structures, mobile homes, travel trailers intended to be used for human habitation and all related equipment.

A. Any building, structure, mobile home or travel trailer intended to be used for human habitation and travel trailer parking facility or any related equipment existing in violation of such an ordinance is a nuisance.

Sec. 27. 30-A MRSA §3007, sub-§3, ¶B, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

B. If the owner or lessee does not install effective roof guards within 14 days after notice is sent, the owner or lessee is ~~strictly~~ absolutely liable for all injury caused by failure to do so.

Sec. 28. 30-A MRSA §3009, sub-§1, ¶D, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is repealed and the following enacted in its place:

D. The following provisions apply to the establishment and policing of parking spaces for handicapped persons.

(1) Municipal public parking areas are subject to any applicable requirements of the Maine Human Rights Act, Title 5, chapter 337, subchapter V. The municipality shall post a sign adjacent to and visible from each handicapped parking space established by the municipality. The sign shall display the international symbol for accessibility.

(2) Owners of private off-street parking shall arrange for private enforcement or shall enter into agreements with local or county law enforcement agencies to enforce handicapped parking restrictions. Under these agreements, unauthorized vehicles will be ticketed. An owner of private off-street parking who fails to arrange for private enforcement or to enter into an agreement with a law enforcement agency commits a civil violation for which a forfeiture of not less than $50 may be adjudged.

Under these agreements, public law enforcement officials may ensure that parking spaces designated for the handicapped are used appropriately by handicapped persons, whether the designated handicapped parking spaces are located on public lots or on private lots open to the public. Handicapped parking restrictions in private lots may also be enforced by county or municipal volunteer parking enforcement specialists as provided in sections 471 and 472.

Where service facilities are established on the Maine Turnpike and on the interstate highway system in the State, the State Police shall enforce any handicapped parking restrictions at those facilities.

(3) Any vehicle or motorcycle parked in a parking space clearly marked as a handicapped parking space and which does not bear a special registration plate or placard issued under Title 29, sections 252, 252-A and 252-C, or a similar plate issued by another state, shall be cited for a forfeiture of not less than $50. "Clearly marked" includes painted signs on pavement and vertical standing signs which are visible in existing weather conditions.

Sec. 29. 30-A MRSA §3101, first ¶, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

A municipality may acquire real estate or easements for any public ~~purpose~~ use by using the condemnation procedure for town ways, as provided in Title 23, chapter 304, subject to the following provisions. The limitations set forth in this section do not apply to any taking authorized by any other law.

Sec. 30. 30-A MRSA §3156, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

§3156. Fire aid to other municipalities

Unless otherwise provided by charter or ordinance, the municipal officers may authorize the municipal fire department to aid in extinguishing fires in other municipalities. Municipal and volunteer firefighters when assisting other municipalities have the same privileges and immunities as when acting in their own municipality. Any municipality may compensate an aiding municipality or volunteer fire association for damage to the aiding department or association's property and to any firefighter or to the firefighter's ~~widow~~ surviving spouse or dependents because of injury or death sustained in the course of rendering aid to that municipality.

Sec. 31. 30-A MRSA §3506, sub-§2, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

2. Meetings. The directors shall meet at least 4 times a year or more often if required by the bylaws, and upon the call of the president. The president shall call any other meetings that are requested in writing directed to the president and signed by at least 1/3 of the members of the board of directors.

Sec. 32. 30-A MRSA §3605, sub-§4, ¶B, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

B. The lack of compliance is due to the landlord's failure to provide normal and adequate repair and maintenance.

The board or the administrator may refuse to grant a rent decrease under this section, if it is determined that a tenant is behind in the payment of rent.

Sec. 33. 30-A MRSA §3605, sub-§5, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

5. Termination procedure. The board or administrator may adjust or eliminate rent controls if it is determined that the need for continuing rental levels no longer exists because of sufficient construction of new rental units or because the demand for rental units has been otherwise met. Any maximum rental level removed under this subsection shall be reimposed or adjusted and reimposed upon a finding by the board or administrator that a substantial shortage of rental units exists in the municipality and that the reimposition of rent control is necessary in the public interest. Any action under this subsection is subject to ~~the hearing and notice requirements of~~ appeal under section 3606.

Sec. 34. 30-A MRSA §3834, sub-§2, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

2. Penalty. Notwithstanding Title 17-A, section 4-A, whoever refuses or fails to leave any such place when requested to do so by the owner, manager, clerk, agent or ~~servant~~ employee of the owner or manager is guilty of a Class D crime and shall be punished by a fine of not more than $1,000 or by imprisonment for not more than 11 months, or both.

Sec. 35. 30-A MRSA §3851, sub-§2, ¶B, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

B. Every keeper of an inn, hotel or boardinghouse is liable for any guest's loss of the articles or property listed in subsection 1 after those articles have been accepted for deposit, if the loss is caused by the theft or negligence of the keeper or any of the ~~servants~~ keeper's employees.

Sec. 36. 30-A MRSA §3853, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

§3853. Check or receipt for property delivered for safekeeping

Every guest and every person intending to be a guest of any hotel, inn or boardinghouse in this State, upon delivering any baggage or other articles of property of the guest to the proprietor of the hotel, inn or boardinghouse or to the ~~servants~~ proprietor's employees for safekeeping elsewhere than in the room assigned to that guest, shall demand, and the hotel or inn proprietor shall give, a check or receipt for the baggage or other property to evidence the fact of the delivery. No proprietor is liable for the loss of or injury to the baggage or other property of the guest, unless the guest has actually delivered the baggage or other property to the proprietor or ~~the servants~~ employees for safekeeping, or unless the loss or injury occurs through the negligence of the proprietor or ~~of the servants or~~ employees in the hotel or inn.

Sec. 37. 30-A MRSA §3854, first ¶, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

The liability of the keeper of any inn, hotel or boardinghouse for loss of or injury to personal property placed by guests under the keeper's care, other than that described in sections 3851 to 3853, shall be that of a depository for hire, except that if the loss or injury is caused by fire not intentionally produced by the keeper or ~~servants~~ employees, the keeper is not liable.

Sec. 38. 30-A MRSA §3862, sub-§2, ¶B, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

B. Mail a copy of the notice addressed to the guest or boarder at the ~~registered~~ place of residence entered in the register of the inn, hotel or boardinghouse.

Sec. 39. 30-A MRSA §4103, sub-§3, ¶¶A and B, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, are further amended to read:

A. The licensing authority may not issue any permit for a building or use for which the applicant is required to obtain a license under Title 38, section 413, until the applicant has obtained that license.

B. The licensing authority may not issue any permit for a building or use within a ~~land~~ subdivision, as defined in section ~~4551~~ 4401, subsection 4, unless that subdivision has been approved in accordance with ~~that section~~ chapter 187, subchapter IV.

Sec. 40. 30-A MRSA §4103, sub-§6, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is repealed and the following enacted in its place:

6. Appeal to Superior Court. An appeal may be taken from the decision of the municipal officers or the board of appeals as provided in section 2691, subsection 3, paragraph G.

Sec. 41. 30-A MRSA §4104, sub-§2, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

2. Liability. After the expiration of the 30-day period, the owner or lessee is ~~strictly~~ absolutely liable for all

injury caused by failure to correct any conditions cited in the order under subsection 1, and the building inspector shall order the building vacated.

Sec. 42. 30-A MRSA §4215, sub-§2, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

2. Permit for seasonal conversion. Before converting a seasonal dwelling which is located in the shoreland zoning area, as defined in Title 38, section 435, to a year-round or principal dwelling, a conversion permit must be obtained from the local plumbing inspector. A seasonal conversion permit shall not be approved if a holding tank is used as a means of waste water disposal or storage. The inspector shall issue a permit for conversion of a seasonal dwelling to a year-round or principal dwelling if one of the following conditions is met:

A. A subsurface waste water disposal application, completed after July 1, 1974, exists indicating that the dwelling's waste water disposal system substantially complies with departmental rules and applicable municipal ordinances, provided that the disposal system was installed with the required permit and certificate of approval;

B. A replacement for an existing waste water disposal system has been constructed so that it substantially complies with departmental rules and applicable municipal ordinances;

C. The dwelling unit's waste water is connected to an approved sanitary sewer system; or

D. A variance has been granted under this paragraph. The owner of a seasonal dwelling, upon application, shall be granted a variance from the requirements of this subsection if, based upon the site evaluation, the plumbing inspector finds that in the event of a malfunction of the existing system a replacement subsurface waste water system can be installed which will be in substantial compliance with departmental rules and applicable municipal ordinances and that the new system will not be likely to endanger the quality of the adjacent water bodies or of adjacent private water supplies.

(1) The applicant for a variance shall have a notice documenting the finding of the plumbing inspector recorded in the appropriate registry of deeds and shall send a copy of that notice by certified mail, return receipt requested, to each owner of an abutting lot. The department shall prescribe the form of the notice to be used. The notice shall include a site plan showing:

(a) The exact location of the replacement system;

(b) The approximate location of lot lines; and

(c) The exact location of existing wells serving the lot on which the replacement system will be located and those located on abutting lots.

(2) After the notice required by subparagraph (1) is recorded, an abutting landowner may not install a well on the landowner's property in a location which would prevent the installation of the replacement septic system. The owner of the lot on which the replacement system would be installed may not erect any structure on the proposed site of the replacement system or conduct any other activity which would prevent the use of the designated site for the replacement system.

(3) In the event of a malfunction of a system for which a variance has been granted, the owner of the converted seasonal dwelling shall obtain a permit and repair or replace the existing subsurface disposal system to bring the system into substantial compliance with departmental rules and applicable municipal ordinances and ensure that the system will not endanger the quality of adjacent water bodies or adjacent private water supplies. No variance for a new, expanded or replacement subsurface disposal system may be approved within the shoreland zoning area which is less restrictive than the requirements of this paragraph or rules adopted to carry out this paragraph. ~~A seasonal conversion permit shall not be approved if a holding tank is used as a means of waste water disposal or storage.~~

Sec. 43. 30-A MRSA §4216, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is repealed and the following enacted in its place:

§4216. Transfers of shoreland property

Any person transferring property on which a subsurface waste water disposal system is located within the shoreland area, as defined in Title 38, section 435, shall provide the transferee with a written statement by the transferor as to whether the system has malfunctioned during the 180 days preceding the date of transfer.

Sec. 44. 30-A MRSA §4221, sub-§1, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

1. Appointment; compensation; removal. In every municipality, the municipal officers shall appoint one or more inspectors of plumbing, who need not be residents of the municipality for which they are appointed. Plumbing inspectors shall be appointed ~~under section 2526, subsection~~ 9 for a term of one year and shall be sworn and the appointment recorded as provided in section 2526, subsection 9. An individual properly appointed as plumbing inspector and satisfactorily performing the duties may continue in that

capacity after the term has expired until replaced. The municipal officers shall notify the department of the appointment of a plumbing inspector in writing within 30 days of the appointment.

Compensation of plumbing inspectors shall be determined by the municipal officers and shall be paid by the respective municipalities.

The municipal officers may remove a plumbing inspector for cause, after notice and hearing.

Sec. 45. 30-A MRSA sub-pt. 6-A is enacted to read:

SUBPART 6-A

PLANNING AND LAND USE REGULATION

CHAPTER 187

PLANNING AND LAND USE REGULATION

SUBCHAPTER I

GENERAL PROVISIONS

§4301. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Affordable housing. "Affordable housing" means decent, safe and sanitary dwellings, apartments or other living accommodations for households which earn an income at or below 80% of the median household income as determined by the Department of Economic and Community Development. Affordable housing includes, but is not limited to:

A. Government assisted housing;

B. Housing for low-income and moderate-income families;

C. Manufactured housing;

D. Multi-family housing; and

E. Group and foster care facilities.

2. Coastal areas. "Coastal areas" means all municipalities and unorganized townships contiguous to tidal waters and all coastal islands. The inland boundary of the coastal area is the inland line of any coastal town line.

3. Comprehensive plan. "Comprehensive plan" means a document or interrelated documents containing the elements established under section 4324, subsections 1 to 4, including the strategies for an implementation program which are consistent with the goals and guidelines established under subchapter II.

4. Conditional zoning. "Conditional zoning" means the process by which the municipal legislative body may rezone property to permit the use of that property subject to conditions not generally applicable to other properties similarly zoned.

5. Contract zoning. "Contract zoning" means the process by which the property owner, in consideration of the rezoning of that person's property, agrees to the imposition of certain conditions or restrictions not imposed on other similarly zoned properties.

6. Development. "Development" means a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

7. Implementation program. "Implementation program" means that component of a local growth management program which includes the policies and ordinances or other land use regulations which carry out the purposes and general policy statements and strategies of the comprehensive plan in a manner consistent with the goals and guidelines of subchapter II.

8. Land use ordinance. "Land use ordinance" means an ordinance or regulation of general application adopted by the municipal legislative body which controls, directs or delineates allowable uses of land and the standards for those uses.

9. Local growth management program. "Local growth management program" means a document containing the components described in section 4326, including the implementation program, which is consistent with the goals and guidelines established by subchapter II.

10. Local planning committee. "Local planning committee" means the committee established by the municipal officers of a municipality or combination of municipalities which has the general responsibility established under section 4326.

11. Moratorium. "Moratorium" means a land use ordinance or other regulation approved by a municipal legislative body which temporarily defers development by withholding any authorization or approval necessary for development.

12. Municipal reviewing authority. "Municipal reviewing authority" means the municipal planning board, agency or office, or if none, the municipal officers.

13. Office. "Office" means the Office of Comprehensive Land Use Planning in the Department of Economic and Community Development.

14. Regional council. "Regional council" means a regional planning commission or a council of governments established under chapter 119, subchapter I.

15. Zoning. "Zoning" means the division of a municipality into districts and the prescription and reasonable application of different regulations in each district.

§4302. Nuisances

Any property or use existing in violation of a municipal land use ordinance or regulation is a nuisance.

SUBCHAPTER II

GROWTH MANAGEMENT PROGRAM

ARTICLE 1. GENERAL PROVISIONS

§4311. Short title

This subchapter shall be known and may be cited as the "Comprehensive Planning and Land Use Regulation Act."

§4312. Statement of findings, purpose and goals

1. Legislative findings. The Legislature finds that:

A. The natural resources of the State, including its forests, agricultural lands, wetlands, waters, fisheries, wildlife, minerals and other related resources, are the underpinnings of the State's economy;

B. These same natural resources and traditional patterns of development have defined the quality of life which the citizens of the State treasure and seek to protect;

C. The pace of land speculation and development has accelerated and outstripped the capacity of the State and municipalities to manage this growth under existing state and local laws;

D. This unplanned growth threatens the integrity of the State's natural resource base, the ability of local government and State Government to provide necessary public services, the affordability of decent housing, the long-term economic viability of the State's economy and the quality of life presently enjoyed by Maine's citizens;

E. The most effective land use planning can only occur at the local level of government and comprehensive plans and land use ordinances developed and implemented at the local level are the key in planning for Maine's future;

F. Continued application of the current reactive, case-by-case system of land use regulation is detrimental to the public health, safety and welfare;

G. The State must take appropriate measures to protect and manage certain areas and natural resources which are of statewide significance and concern; and

H. The State has a vital interest in ensuring that a comprehensive system of land use planning and growth management is established as quickly as possible which, while building on the strong foundation of local land use planning, also protects unique aspects of the State's heritage and environment, encourages appropriate uses of the State's natural resources, guides sound economic development and ensures prosperity for Maine citizens in all regions of the State.

2. Legislative purpose. The Legislature declares that it is the purpose of this Act to:

A. Establish, in each municipality of the State, local comprehensive planning and land use management according to the schedule contained in this subchapter and consistent with the goals and policies of the State;

B. Provide municipalities with the tools and resources to effectively plan for and manage future development within their jurisdictions with a maximum of local initiative and flexibility;

C. Encourage, through state and regional technical and financial assistance and review, local land use ordinances, tools and policies that are based on local comprehensive plans that are prospective and inclusive of all matters determined by the Legislature to be in the best interests of the State;

D. Incorporate regional considerations into local planning and decision making so as to ensure consideration of regional needs and the regional impact of development;

E. Create a strong partnership between State Government and local government, while clarifying the respective roles of each, to improve land use planning and management;

F. Provide for continued direct state regulation of development proposals that occur in areas of statewide concern, that directly impact natural resources of statewide significance or that by their scale or nature otherwise affect vital state interests;

G. Encourage the widest possible involvement by the citizens of each municipality in all aspects of the planning and implementation process, in order to ensure that the plans developed by municipalities and reviewed by the State have had the benefit of citizen input; and

H. Ensure predictable, timely and cost-effective land use decision making that is coordinated and consistent between State Government and local governments and that minimizes unnecessary duplication.

3. State goals. The Legislature hereby establishes a set of state goals to provide overall direction and consistency to the planning and regulatory actions of all state and municipal agencies affecting natural resource management, land use and development. The Legislature declares that, in order to promote and protect the health, safety and welfare of the citizens of the State, it is in the best interests of the State to achieve the following goals:

A. To encourage orderly growth and development in appropriate areas of each community, while protecting the State's rural character, making efficient use of public services and preventing development sprawl;

B. To plan for, finance and develop an efficient system of public facilities and services to accommodate anticipated growth and economic development;

C. To promote an economic climate which increases job opportunities and overall economic well-being;

D. To encourage and promote affordable, decent housing opportunities for all Maine citizens;

E. To protect the quality and manage the quantity of the State's water resources, including lakes, aquifers, great ponds, estuaries, rivers and coastal areas;

F. To protect the State's other critical natural resources, including without limitation, wetlands, wildlife and fisheries habitat, sand dunes, shorelands, scenic vistas and unique natural areas;

G. To protect the State's marine resources industry, ports and harbors from incompatible development and to promote access to the shore for commercial fishermen and the public;

H. To safeguard the State's agricultural and forest resources from development which threatens those resources;

I. To preserve the State's historic and archeological resources; and

J. To promote and protect the availability of outdoor recreation opportunities for all Maine citizens, including access to surface waters.

4. Limitation on state rule-making authority. This section shall not be construed to grant any separate regulatory authority to any state agency beyond that necessary to implement this subchapter.

§4313. Transition; savings clause

Except as otherwise provided in this section, any comprehensive plan or land use regulation or ordinance adopted or amended by a municipality before the applicable date established under section 4343 shall remain in effect until amended or repealed subject to this subchapter.

Any zoning, subdivision, site review or impact fee regulation or ordinance adopted or amended before the applicable date established under section 4343 and not consistent with a comprehensive plan adopted according to this subchapter is void one year after the applicable date established under section 4343.

Any other land use regulation or ordinance adopted or amended before the applicable date established under section 4343 and not consistent with a local growth management program adopted according to this subchapter is void after January 1, 1998.

ARTICLE 2. LOCAL GROWTH MANAGEMENT PROGRAMS

§4321. Local comprehensive planning

There is established a program of local growth management to accomplish the goals of this subchapter.

§4322. Exception

This article and section 4343, subsection 1, do not apply to municipalities within the jurisdiction of the Maine Land Use Regulation Commission.

§4323. Local authority for growth management

Through the exercise of its home rule authority, subject to the express limitations and requirements of this subchapter, every municipality shall:

1. Planning. Plan for its future development and growth;

2. Growth management program. Adopt and amend local growth management programs, including comprehensive plans and implementation programs, consistent with this subchapter; and

3. Other. Do all other things necessary to carry out the purposes of this subchapter.

§4324. Local responsibility for growth management

This section governs a municipality's responsibility for the preparation or amendment of its local growth management program. Where procedures for the adoption of comprehensive plans and ordinances are governed by other provisions of this Title or municipal charter or ordinance, the municipality may modify the procedural requirements of this section as long as a broad range of opportunity for public comment and review is preserved.

1. Growth management program required. Pursuant to the schedule established in section 4343, each municipality shall prepare a local growth management program in accordance with this section and which is consistent with the goals, guidelines and other provisions of this subchapter, or shall amend its existing comprehensive plan and existing land use ordinances to comply with this subchapter.

2. Local planning committee. The municipal officers of a municipality or combination of municipalities shall designate and establish a local planning committee.

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

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

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

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

3. Citizen participation. In order to encourage citizen participation in the development of a local growth management program, municipalities shall adopt local growth management programs only after soliciting and considering a broad range of public review and comment. The intent of this subsection is to provide for the broad dissemination of proposals and alternatives, opportunity for written comments, open discussions, information dissemination and consideration of and response to public comments.

4. Meetings to be public. The local planning committee shall conduct all of its meetings in open, public session with prior notice posted in one or more conspicuous places designed to provide public notice.

5. State review. Each municipality shall submit its proposed comprehensive plan and zoning ordinance or its amended, existing comprehensive plan and existing zoning ordinance, to the office according to the schedule established under section 4343 for review.

A. At least 60 days before any public hearing required in subsection 8, the local planning committee shall forward its proposed comprehensive plan to the office and to any applicable regional council for review and comment.

B. At least 60 days before the initial adoption of any zoning ordinance or any revision under section 4327, the local planning committee or municipal reviewing authority, as appropriate, shall forward its proposed ordinance to the office and to any applicable regional council for review and comment. Notice, hearing and other procedural requirements for adoption are governed by applicable provisions of this Title, municipal charter or ordinance.

6. Comments sent to municipality. The office shall submit its comments and suggested revisions prepared as provided in section 4343, subsection 3, to the municipality within 60 days after receiving the municipality's proposed comprehensive plan or zoning ordinance.

7. Comments and revisions. The local planning committee or municipal reviewing authority shall consider and may adopt any comments and suggested revisions received from the office within the time limits established by this subchapter. The comments and suggested revisions received from the office shall be made available for public inspection with the proposed comprehensive plan or zoning ordinance as required in subsection 8.

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

A. Notice of any public hearing shall be published in a newspaper of general circulation in the municipality at least 2 times. The date of the first publication must be at least 30 days before the hearing. This notice shall also contain a statement that the comments have been received from the office and will be available for distribution before, and for discussion at, the public hearing.

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

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

§4325. Cooperative municipal growth management activities

This section governs cooperative local growth management efforts conducted by 2 or more municipalities.

1. Within municipality. A municipality shall exercise its land use planning and management authority over the total land area within its jurisdiction.

2. Agreement. Any combination of contiguous municipalities may conduct joint planning and regulatory programs to meet the requirements of this subchapter upon adoption of a written comprehensive planning and enforcement agreement by the municipal legislative bodies involved. The municipalities must agree:

A. On procedures for joint action in the preparation and adoption of comprehensive plans and land use regulations;

B. On the manner of representation on any such joint land use body; and

C. On the amount of contribution from each municipality for any costs incurred in the development, implementation and enforcement of the plan and land use ordinances.

3. Requirements. The agreement must be in writing, approved by the municipal legislative bodies and forwarded to the office.

§4326. Local growth management program

A local growth management program shall include at least a comprehensive plan, as described in subsections 1 to 4, and an implementation program as described in subsection 5.

1. Inventory and analysis. A comprehensive plan shall include an inventory and analysis section addressing state goals under this subchapter and issues of regional or local significance the municipality considers important. The inventory shall be based on information provided by the State, regional councils and other relevant local sources. The analysis shall include 10-year projections of local and regional growth in population and residential, commercial and industrial activity; the projected need for public facilities; and the vulnerability of and potential impacts on natural resources.

The inventory and analysis section shall include, but is not limited to:

A. Economic and demographic data describing the municipality and the region in which it is located;

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

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

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

E. Commercial forestry and agricultural land;

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

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

H. Residential housing stock, including affordable housing;

I. Historical and archeological resources;

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

K. An assessment of capital facilities and public services 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.

2. Policy development. A comprehensive plan shall include a policy development section which relates the findings contained in the inventory and analysis section to the state goals. The policies shall:

A. Promote the state goals under this subchapter;

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

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

D. Address the State's coastal policies.

3. Implementation strategy. A comprehensive plan shall include an implementation strategy section which contains a timetable for the implementation program, including land use ordinances, ensuring that the goals established under this subchapter are met. These implementation strategies must be consistent with state law and shall actively promote policies developed during the planning process. The timetable shall identify significant ordinances to be included in the implementation program. The strategies shall guide the subsequent adoption of policies, programs and land use ordinances. In developing its strategies and subsequent policies, programs and land use ordinances, each municipality shall employ the following guidelines consistent with the goals of this subchapter:

A. Identify and designate at least 2 basic types of geographic areas:

(1) Growth areas which are those areas suitable for orderly residential, commercial and industrial development forecast over the next 10 years. Each municipality shall:

(a) Establish standards for these developments;

(b) Establish timely permitting procedures;

(c) Ensure that needed public services are available within the growth area; and

(d) Prevent inappropriate development in natural hazard areas, including flood plains and areas of high erosion; and

(2) Rural areas which are those areas where protection should be provided for agricultural, forest, open space and scenic lands within the municipality. Each municipality shall adopt land use policies and ordinances to discourage incompatible development.

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

B. Develop a capital investment plan for financing the replacement and expansion of public facilities and services required to meet projected growth and development;

C. Protect, maintain and, when warranted, improve the water quality of each water body pursuant to Title 38, chapter 3, subchapter I, article 4-A;

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

E. Ensure the preservation of access to coastal waters necessary for commercial fishing, commercial mooring, docking and related parking facilities. Each coastal municipality shall discourage new development that is incompatible with uses related to the marine resources industry;

F. Ensure the protection of agricultural and forest resources. Each municipality shall discourage new development that is incompatible with uses related to the agricultural and forest industry;

G. Ensure that its land use policies and ordinances encourage the siting and construction of affordable housing within the community. The municipality shall seek to achieve a level of 10% of new residential development, based on a 5-year historical average of residential development in the municipality, meeting the definition of affordable housing. Municipalities are encouraged to seek creative approaches to assist in the development of affordable housing, including, but not limited to, cluster zoning, reducing minimum lot and frontage sizes and increasing densities;

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

I. Encourage the availability of and access to traditional outdoor recreation opportunities, including, without limitation, hunting, boating, fishing and hiking. Each municipality shall identify and encourage the protection of undeveloped shoreland and other areas identified in the local planning process as meriting such protection.

4. Regional coordination program. A regional coordination program shall be developed with other municipalities to manage shared resources and facilities, such as rivers, aquifers, transportation facilities and others. This program shall provide for consistency with the comprehensive plans of other municipalities for these resources and facilities.

5. Implementation program. An implementation program shall be adopted that is consistent with the strategies in subsection 3. A zoning ordinance shall be adopted within one year of the adoption of a comprehensive plan, with the remainder of the strategies adopted according to the timetable set in the plan.

§4327. Monitoring and revision

A municipality shall periodically review and revise its local growth management program in a timely manner to account for changes caused by growth and development. A municipality shall update its program at least once every 5 years in accordance with this section. The municipality shall submit any comprehensive plan and zoning ordinance revised under this section to the office for review as provided in section 4343, subsection 4.

ARTICLE 3. STATE ROLE IN GROWTH MANAGEMENT

§4341. State duties

There is established a program of local growth management assistance and review to promote the preparation and implementation of local growth management programs and to provide technical and financial assistance to accomplish this purpose. The program shall also encourage all local growth management programs and state agency activities to be consistent with the State's goals and guidelines established by this subchapter.

1. Review agency designated. The Office of Comprehensive Land Use Planning in the Department of Economic and Community Development shall carry out this article and ensure that the objectives of this subchapter are achieved.

2. Biennial progress report. The office shall prepare progress reports on local and state growth management efforts. These reports shall be submitted to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over natural resources for their review. The first report shall be submitted on or before January 1, 1990; the 2nd reprot on January 1, 1991; and biennially thereafter on or before January 1st.

A. In preparing the report, the office shall survey state agencies and municipalities for growth management activities conducted under this subchapter. The office shall provide data describing:

(1) The level of comprehensive planning activity at the state, regional and local level;

(2) The implementation of local growth management programs, including both regulatory and nonregulatory approaches; and

(3) The costs incurred by the State and municipalities through these efforts.

B. The office shall include in the report a summary of experience to date in the technical and financial assistance program, the review and comment program and the voluntary certification program. This summary shall include a quantitative and qualitative analysis of these programs.

C. The office shall include in the report any recommendations it may have for statutory changes in this subchapter or other relevant areas of law. These recommendations shall include a proposal for the appropriations needed over the following one-year, 2-year and 5-year periods to accomplish the objectives of this subchapter.

3. Planning Advisory Council. There is established a Planning Advisory Council composed of 7 members. The office shall consult with the council on the development of all rules, guidelines and reports for the implementation of this subchapter.

A. The Governor shall appoint the members of the council, selecting them on the basis of their knowledge of planning, local government, land conservation and land development.

B. Members shall serve for staggered 4-year terms. Initial members shall have terms as follows: Three members for 2-year terms; 3 members for 3-year terms; and one member for a 4-year term. A member may serve no more than 2 consecutive 4-year terms.

C. Members shall not be compensated but shall be reimbursed for all expenses directly related to their participation in council business.

D. Four members constitute a quorum for the conduct of business by the council.

E. The council shall elect a chairman from among its members.

F. The council shall report by January 1, 1989, and every 2 years thereafter, to the Governor and the Legislature on any changes that may be required to accomplish the purposes of this subchapter.

4. Provision of natural resource and other planning information. The office shall develop and supply to all municipalities available natural resource and other planning information for use in the preparation of local growth management programs. By July 1, 1990, the office shall complete an inventory of the State's natural resources sufficient to ensure adequate identification and protection of critical natural resources of statewide significance.

A. The office shall make maximum use of existing information available from other state agencies including, but not limited to:

(1) The Department of Conservation;

(2) The Department of Inland Fisheries and Wildlife;

(3) The Department of Marine Resources;

(4) The Department of Environmental Protection;

(5) The State Planning Office; and

(6) The Department of Economic and Community Development.

B. The office may contract with regional councils to develop the necessary planning information at a regional level and with other state agencies as necessary to provide support for local planning efforts.

5. Rule-making authority. The office may adopt rules, with the advice of the Planning Advisory Council, necessary to carry out the purposes of this subchapter, subject to Title 5, chapter 375, subchapter II.

§4342. State planning review program

1. Coordination. Each state agency with regulatory or other authority affecting the goals established in this subchapter shall submit to the office before January 1, 1990, a written report which addresses how each agency has incorporated the goals of this subchapter into its planned activities. This report shall be revised as necessary but at least once every 2 years. After January 1, 1990, these agencies shall conduct their respective activities in a manner consistent with the goals established under this subchapter.

2. State agencies. Without limiting the application of this section to other state agencies, the following agencies shall comply with this section:

A. Department of Conservation;

B. Department of Economic and Community Development;

C. Department of Environmental Protection;

D. Department of Agriculture, Food and Rural Resources;

E. Department of Inland Fisheries and Wildlife;

F. Department of Marine Resources;

G. Department of Transportation;

H. Finance Authority of Maine; and

I. Maine State Housing Authority.

§4343. State review of local programs

Subject to the availability of state assistance under section 4344, municipalities shall submit their comprehensive plans and zoning ordinances to the office for review as provided in this section.

1. Review schedule. This subsection provides review deadlines for municipalities.

A. The following municipalities must submit their comprehensive plans to the office for review by the following dates:

(1) By January 1, 1991, those municipalities which have experienced population growth of 10% or more between 1980 and 1987 and which have total populations in excess of 500 persons, based on population estimates provided by the State Planning Office;

(2) By January 1, 1993, those municipalities which have experienced population growth of 5% or more between 1980 and 1987, based on population estimates provided by the State Planning Office; and

(3) All other municipalities by January 1, 1996.

B. Each municipality shall submit for review a zoning ordinance proposed as part of its implementation program within one year after it submits its comprehensive plan under this section. Other components of the municipality's implementation program not submitted for review shall be adopted in accordance with the timetable provided in the municipality's comprehensive plan.

C. The office shall revise the schedule deadlines under paragraph A for a municipality based on the availability of state assistance and the municipality's rank in the priorities set forth in section 4344, subsection 1. Nothing in this subsection prevents a municipality from submitting its plan or other program component in advance of this schedule.

2. Review standard. The office shall review any comprehensive plan and zoning ordinance submitted to it for consistency with the goals and guidelines established in this subchapter.

3. Review procedure. The office shall follow the following procedure in reviewing local growth management programs.

A. The office shall solicit written comments on any proposed comprehensive plan or zoning ordinance from regional councils, state agencies, all municipalities contiguous to the municipality submitting a comprehensive plan or zoning ordinance and any interested residents of the municipality or of contiguous municipalities. The comment period shall extend for 45 days after the office receives the proposal.

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

B. Each regional council shall review and submit written comments on the proposal of any municipality within its planning region. The comments shall be submitted to the office and shall contain an analysis of:

(1) How the proposal addresses identified regional needs; and

(2) Whether the proposal is consistent with those of other municipalities which may be affected by the proposal.

C. The office shall prepare all written comments from all sources in a form to be forwarded to the municipality.

D. The office shall send all written comments on the proposal to the municipality within 60 days after receiving its proposal. The office shall also forward its comments and suggested revisions to any applicable regional council.

E. If warranted, the office shall issue findings specifically describing the deficiencies in the submitted plan or ordinance and the recommended measures for remedying the deficiencies.

4. Updates; amendment of comprehensive plans and zoning ordinances. Each municipality shall submit any comprehensive plans and zoning ordinances revised under section 4327 to the office for review in the same manner as provided for the review of new plans and ordinances. The office shall provide an expedited review procedure for those submissions which represent amendments to local growth management programs reviewed by it after January 1, 1989. After the initial review, municipalities shall file copies of any amendment to a zoning ordinance with the office within 30 days after adopting the amendment.

5. Voluntary certification of local growth management programs. Any municipality may at any time request

a certificate of consistency for its local growth management program. The office, upon request, shall review the program and base its certification decision on the program's consistency with the goals and guidelines established in this subchapter.

A. The office shall solicit written comments on any proposed local growth management program from regional and state agencies, all municipalities contiguous to the municipality submitting the proposed program and any interested residents of the municipality or contiguous municipalities.

B. Any regional council commenting on a proposed program or program component shall determine whether the proposed program or program component is compatible with those of other municipalities which may be affected by the proposal and with regional needs identified by the regional council.

C. Within 90 days after receiving the municipal request, the office shall issue a certificate of consistency or request revisions to the proposed program. If the same local growth management program or program component has been previously reviewed by the office under subsection 3, denial of certification or requested revisions must be based on written comments received or prepared by the office at that time.

D. If the office requests revisions to the proposed program, it shall provide the municipality with findings specifically describing the deficiencies in the submitted program and the recommended measures for remedying the deficiencies.

E. The office shall provide ample opportunity for the municipality submitting a local growth management program to respond to and correct any identified deficiencies in the program.

F. When a municipality receives a certificate of consistency, it is eligible for all benefits and incentives conditioned on the certification of a local growth management program.

G. The office shall provide an expedited review and certification procedure for those submissions which represent minor amendments to local growth management programs certified by it after January 1, 1989.

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

§4344. State technical and financial assistance

There is established a program of technical and financial assistance and incentives to regional councils and municipalities to encourage and facilitate the adoption and implementation of local growth management programs throughout the State. The office shall administer the program.

1. Municipal assistance priorities. With assistance from regional councils and municipalities, the office shall develop a priority list and establish funding levels for planning and technical assistance grants to municipalities. Priority for assistance shall be based on a municipality's:

A. Scheduled comprehensive plan development under section 4343, subsection 1; and

B. Population growth rates, seasonal population estimates, commercial and industrial development rates, the existence and quality of a comprehensive plan and other relevant factors.

The office shall submit biennial budget requests for this section sufficient to meet the statutory schedule established under section 4343, subsection 1.

2. Municipal planning assistance. The office shall develop and administer a grant program to provide direct financial assistance to municipalities in the preparation of comprehensive plans under this subchapter. The office shall establish provisions for municipal matching funds, not to exceed 25%, to conduct activities under this section. Grants may be expended for any purpose directly related to the preparation of a municipal comprehensive plan as the municipality and the office may agree, including, without limitation:

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

B. The hiring of planning and other technical staff;

C. The retention of planning consultants;

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

E. Other related purposes.

3. Municipal technical assistance. The office shall establish a program of technical assistance using its own staff, the staff of other state agencies and the resources of regional councils to help municipalities develop local growth management programs. By January 1, 1990, the office shall develop a set of model land use ordinances and other mechanisms consistent with the goals and guidelines of this subchapter.

4. Municipal implementation assistance. The office shall develop and administer a matching grant program to provide direct financial and technical assistance to municipalities for the implementation and administration of local growth management programs certified under section 4343, subsection 5. The maximum municipal cost share may not exceed 25%. The grants may be expended for any purpose directly related to the implementation of a local growth management program and the administration and enforcement of related land use ordinances adopted as part of a certified growth management program. Eligible activities include, but are not limited to:

A. Assistance in the development of ordinances;

B. Retention of technical and legal expertise for permitting activities; and

C. The updating of local growth management programs or components of the program.

5. Regional council assistance. The office shall develop and administer a program to develop regional education and training programs, regional policies to address state goals and regional assessments. These assessments may include, but are not 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 office shall establish guidelines to ensure methodological consistency among the State's regional councils. The office shall also develop and administer a series of contracts with regional councils to support the involvement of the regional councils in the office's review of local growth management programs.

6. Enforcement assistance program. The office shall administer a program of training and financial assistance for municipal code enforcement officers. For a period of up to 12 months for any municipal code enforcement officer, the program shall provide funding for educational expenses leading to certification under section 4451 and salary reimbursement while in training.

7. Municipal legal defense fund. The office shall develop and administer a municipal legal defense fund to assist municipalities with legal expenses related to the enforcement and defense of land use ordinances adopted as part of a certified local growth management program in accordance with this subchapter. Grants shall be targeted to cases of statewide significance.

8. Eligibility for other state aid. After the applicable deadline date established in section 4343, subsection 1, a state agency responsible for administering any grant and assistance program described in paragraph A shall award funds to a municipality only when the municipality has adopted and implemented a certified local growth management program or has, at a minimum, adopted a certified comprehensive plan and implemented certified components of the implementation program that are directly related to the purposes for which the grant or assistance is provided.

A. State grants and assistance in the following areas are subject to this subsection:

(1) Assistance in the enforcement of local growth management programs including the municipal legal defense fund and technical and financial assistance in the administration and enforcement of local land use ordinances;

(2) Assistance in the acquisition of land by the municipality for conservation, natural resource protection, open space or recreational facilities under Title 5, chapter 353; and

(3) Multi-purpose community development block grants.

9. Other state grants and assistance. Except for the programs specified in subsection 8, state agencies responsible for administering grant and direct or indirect financial assistance programs to municipalities designed to accommodate or encourage additional growth and development; to improve, expand or construct public facilities; to acquire land for conservation, recreation or resource protection; or to assist in planning or managing for specific economic and natural resource concerns shall allocate funds only to a municipality with an adopted comprehensive plan and implementation program which includes statements of policy or program guidelines directly related to the purposes for which the grant or financial assistance is provided. State agencies shall consider the content of the plan, policies and guidelines in awarding financial assistance to a municipality.

SUBCHAPTER III

LAND USE REGULATION

§4351. Home rule limitations

This subchapter provides express limitations on municipal home rule authority.

§4352. Zoning ordinances

A municipal zoning ordinance may provide for any form of zoning consistent with this chapter, subject to the following provisions.

1. Public participation required. The public shall be given an adequate opportunity to be heard in the preparation of a zoning ordinance.

2. Relation to comprehensive plan. A zoning ordinance must be pursuant to and consistent with a comprehensive plan adopted by the municipal legislative body.

3. Zoning map required. A zoning map describing each zone established or modified must be adopted as part of the zoning ordinance or incorporated in the ordinance. Any conflict between the zoning map and a description by metes and bounds shall be resolved in favor of the description by metes and bounds.

4. Exemption for public service corporations. Real estate used or to be used by a public service corporation is wholly or partially exempt from an ordinance only when on petition, notice and public hearing the Public Utilities Commission determines that the exemption is reasonably necessary for public welfare and convenience.

5. Effect on local governments. County and municipal governments and districts are subject to any zoning ordinance.

6. Effect on State. Any zoning ordinance is advisory with respect to the State.

7. Petition for rezoning; bond. Any zoning ordinance may provide that if a person petitions for rezoning of an area for the purpose of development in accordance with an architect's plan the area may not be rezoned unless the petitioner posts a performance bond equal to at least 25% of the estimated cost of the development. The bond shall become payable to the municipality if the petitioner fails to begin construction in a substantial manner and in accordance with the plan within one year of the effective date of the rezoning.

8. Conditional and contract rezoning. A zoning ordinance may include provisions for conditional or contract zoning. All rezoning under this subsection must:

A. Be consistent with the local growth management program adopted under this chapter;

B. Establish rezoned areas which are consistent with the existing and permitted uses within the original zones; and

C. Only include conditions and restrictions which relate to the physical development or operation of the property.

The municipal reviewing authority shall conduct a public hearing before any property is rezoned under this subsection. Notice of this hearing shall be posted in the municipal office at least 14 days before the public hearing. Notice shall also be published at least 2 times in a newspaper having general circulation in the municipality. The date of the first publication must be at least 7 days before the hearing. Notice shall also be sent to the owners of all property abutting the property to be rezoned at the owners' last known addresses. This notice shall contain a copy of the proposed conditions and restrictions with a map indicating the property to be rezoned.

§4353. Zoning adjustment

Any municipality which adopts a zoning ordinance shall establish a board of appeals subject to this section.

1. Jurisdiction; procedure. The board of appeals shall hear appeals from any action or failure to act of the official or board responsible for enforcing the zoning ordinance, unless only a direct appeal to Superior Court has been provided by municipal ordinance. The board of appeals is governed by section 2691, except that section 2691, subsection 2, does not apply to boards existing on September 23, 1971.

2. Powers. In deciding any appeal, the board may:

A. Interpret the provisions of an ordinance called into question;

B. Approve the issuance of a special exception permit or conditional use permit in strict compliance with the ordinance except that, if the municipality has authorized the planning board, agency or office to issue these permits, an appeal from the granting or denial of such a permit may be taken directly to Superior Court if required by local ordinance; and

C. Grant a variance in strict compliance with subsection 4.

3. Parties. The board shall reasonably notify the petitioner, the planning board, agency or office and the municipal officers of any hearing. These persons shall be made parties to the action. All interested persons shall be given a reasonable opportunity to have their views expressed at any hearing.

4. Variance. The board may grant a variance only when strict application of the ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

A. The land in question cannot yield a reasonable return unless a variance is granted;

B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

C. The granting of a variance will not alter the essential character of the locality; and

D. The hardship is not the result of action taken by the applicant or a prior owner.

Under its home rule authority a municipality may, in a zoning ordinance, adopt additional limitations on the granting of a variance, including but not limited to, a provision that a variance may be granted only for a use permitted in a particular zone.

5. Variance recorded. If the board grants a variance under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form. This certificate must be recorded in the local registry of deeds within 30 days of final approval of the variance or the variance is void. The variance is not valid until recorded as provided in this subsection.

§4354. Impact fees

A municipality may enact an ordinance under its home rule authority requiring the construction of off-site capital improvements or the payment of impact fees instead of the construction. After the applicable deadlines established under section 4343, subsection 1, any impact fee ordinance must have been adopted as part of a certified local growth management program.

1. Construction or fees may be required. The requirements may include construction of capital improvements or impact fees instead of capital improvements including the expansion or replacement of existing infrastructure facilities and the construction of new infrastructure facilities.

A. For the purposes of this subsection, infrastructure facilities include, but are not limited to:

(1) Waste water collection and treatment facilities;

(2) Municipal water facilities;

(3) Solid waste facilities;

(4) Fire protection facilities;

(5) Roads and traffic control devices; and

(6) Parks and other open space or recreational areas.

2. Restrictions. Any ordinance that imposes or provides for the imposition of impact fees must meet the following requirements.

A. The amount of the fee must be reasonably related to the development's share of the cost of infrastructure improvements made necessary by the development.

B. Funds received from impact fees must be segregated from the municipality's general revenues. The municipality shall expend the funds solely for the purposes for which they were collected.

C. The ordinance must establish a reasonable schedule under which the municipality is required to use the funds in a manner consistent with the capital investment component of the comprehensive plan.

D. The ordinance must establish a mechanism by which the municipality may refund impact fees, or a portion of impact fees, actually paid that exceed the municipality's actual costs or that were not expended according to the schedule under this subsection.

E. The ordinance must be adopted as part of and consistent with a local growth management program, including the component regarding capital investment, meeting the requirements of this chapter.

§4355. Application fees

Any application fee charged by a municipality for an application for any land use permit issued by the municipality may not exceed the reasonable cost of processing, review, regulation and supervision of the application by the municipality and its consultants and the administration of any requirement for a certificate of compliance with any permit conditions.

§4356. Moratoria

Any moratorium adopted by a municipality on the processing or issuance of development permits or licenses must meet the following requirements.

1. Necessity. The moratorium must be needed:

A. To prevent a shortage or an overburden of public facilities that would otherwise occur during the effective period of the moratorium or that is reasonably foreseeable as a result of any proposed or anticipated development; or

B. Because the application of existing comprehensive plans, land use ordinances or regulations or other applicable laws, if any, is inadequate to prevent serious public harm from residential, commercial or industrial development in the affected geographic area.

2. Definite term. The moratorium must be of a definite term of not more than 180 days. The moratorium may be extended for additional 180-day periods if the municipality adopting the moratorium finds that:

A. The problem giving rise to the need for the moratorium still exists; and

B. Reasonable progress is being made to alleviate the problem giving rise to the need for the moratorium.

3. Extension by selectmen. In municipalities where the municipal legislative body is the town meeting, the selectmen may extend the moratorium in compliance with subsection 2 after notice and hearing.

§4357. Community living arrangements

1. Legislative intent. It is the intent of the Legislature that persons seeking to establish a community living facility in a single-family residential zone are not prohibited on the basis of the disability served. It is also the intent of the Legislature that community living facilities for mentally handicapped and developmentally disabled persons are not prohibited from single-family residential zones in a municipality. Municipal ordinances or actions which have the effect of prohibiting these community living facilities from single-family residential zones, particularly by establishing criteria for single-family residential zones in excess of the criteria in subsections 4 and 5, are a violation of legislative intent.

2. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Board of appeals" means the board of appeals established by a municipality to hear appeals related to enforcement of the zoning ordinances.

B. "Community living facility" means a housing facility for 8 or fewer mentally handicapped or devel-

opmentally disabled persons which is approved, authorized, certified or licensed by the State. A community living facility may include a group home, foster home or intermediate care facility.

C. "Single-family residential zone" means a residential zone designated by a municipality for single-family housing except as provided in this section. If there are no residential zones designated or considered by a municipality as single-family residential zones, all residential zones in the municipality in which community living facilities are not a permitted use are deemed to be single-family residential zones.

3. Permitted or conditional community living use; definition. In order to implement the policy of this State that mentally handicapped or developmentally disabled persons shall not be excluded by municipal zoning ordinances from the benefits of normal residential surroundings, a community living facility shall be deemed a permitted or conditional single-family residential use of property for the purposes of zoning.

4. Hearing. The municipality shall hold a public hearing within 60 days of receipt of an application to establish a community living use within a single-family residential zone, unless a community living use is a permitted use within the single-family zone. The failure to hold the public hearing required by this subsection within the 60-day period constitutes approval of the application unless the time period is extended by mutual agreement of the parties.

A. The public hearing shall be conducted by the board of appeals and interested parties shall be notified. The notice period and procedure for zoning appeals, as established by the municipality, must meet the notice requirements of this section.

B. The board of appeals shall receive public comment on the proposed community living facility. The board may modify or disapprove the application only upon a finding of one or more of the following:

(1) The proposed use would create or aggravate a traffic hazard;

(2) The proposed use would hamper pedestrian circulation;

(3) The proposed use would not permit convenient access to commercial shopping facilities, medical facilities, public transportation, fire protection or police protection;

(4) The proposed use would not comply with applicable building, housing, plumbing and other safety codes, including municipal minimum lot size and building set-back requirements for new construction; or

(5) The proposed use would not comply with the density requirements of subsection 5.

5. Density. Density regulation of community living uses is intended to permit the location of these uses within a municipality while ensuring that they will not become overly concentrated in neighborhoods to the detriment of either the neighborhoods or those residing in the community living uses.

No state agency may approve, authorize, certify or license a community living use nor may the board of appeals, pursuant to an authorized public hearing, approve an application for a community living use, if:

A. A proposed community living use would be located within 1,500 feet of an existing community living use; or

B. A proposed community living use would result in the excessive concentration of these uses within the zone or municipality.

The board of appeals may waive density regulations for adjacent community living uses providing essential components of a single program.

6. Appeals. Any decision by the board of appeals under this section may be appealed in accordance with section 2691, subsection 3, paragraph G.

7. Applicability. Except for the density requirements of subsection 5, this section does not apply to:

A. Community living uses authorized, certified or licensed before July 13, 1982;

B. Community living uses for which an application was made before July 13, 1982; or

C. Facilities licensed by the Department of Human Services under Title 22, section 8101, subsections 1 to 3, subsection 4, paragraph A and subsection 5.

8. Repeal of designation. If a municipality repeals the designation of single-family residential zones, community living facilities located in the other residential zones before September 29, 1987 are not required to meet the criteria of subsections 4 and 5.

§4358. Regulation of manufactured housing

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

A. "Manufactured housing" means a structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, 2 types of

manufactured housing are included. Those 2 types are:

(1) Those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit;

(a) This term also includes any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.; and

(2) Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with Title 10, chapter 957, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.

B. "Mobile home park" means a parcel of land under unified ownership approved by the municipality for the placement of manufactured housing.

C. "Mobile home subdivision or development" means a parcel of land approved by the municipal reviewing authority under subchapter IV for the placement of manufactured houses on individually owned lots.

D. "Permanent foundation" means all of the following:

(1) A full, poured concrete or masonry foundation;

(2) A poured concrete frost wall or a mortared masonry frost wall, with or without a concrete floor;

(3) A reinforced, floating concrete pad for which the municipality may require an engineer's certification if it is to be placed on soil with high frost susceptibility; and

(4) Any foundation which, pursuant to the building code of the municipality, is permitted for other types of single-family dwellings.

E. "Pitched, shingled roof" means a roof with a pitch of 2 or more vertical units for every 12 horizontal units of measurement and which is covered with asphalt or fiberglass composition shingles or other materials, but specifically excludes corrugated metal roofing material.

2. Location of manufactured housing. Municipalities shall permit manufactured housing to be placed or erected on individual house lots in a number of locations on undeveloped lots where single-family dwellings are allowed, subject to the same requirements as single-family dwellings, except as otherwise provided in this section.

A. For the locations required by this section, municipal ordinances may not require that manufactured housing on individual lots be greater than 14 feet in width, although municipalities may establish design criteria, including, but not limited to, a pitched, shingled roof; a permanent foundation; and exterior siding that is residential in appearance, provided that:

(1) The requirements do not have the effect of circumventing the purposes of this section; and

(2) The design requirements may not be used to prevent the relocation of any manufactured housing, regardless of its date of manufacture, that is legally sited within the municipality as of August 4, 1988.

B. Providing one or more zones or locations where mobile home parks or mobile home subdivisions or developments are allowed does not constitute compliance with this section.

C. This section does not prohibit municipalities from establishing controls on manufactured housing which are less restrictive than are permitted by this section.

D. Municipalities shall not prohibit manufactured housing, regardless of its date of manufacture, solely on the basis of a date of manufacture before June 14, 1976, or the failure of a unit to have been manufactured in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Chapter 70.

Municipalities may apply the design standards permitted by this section to all manufactured housing, regardless of its date of manufacture, and may apply reasonable safety standards to manufactured housing built before June 15, 1976, or not built in accordance with the National Manuafactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Chapter 70.

3. Regulation of mobile home parks. This subsection governs a municipality's regulation of mobile home parks.

A. A municipality shall not enact or enforce any ordinance which requires the minimum size of lots within a mobile home park to be any larger than that which is required by the Manufactured Housing Board by rule under Title 10, section 9005.

Municipalities shall not enact or enforce any ordinance concerning the construction of private roads within mobile home parks which is more restrictive than the standards established by the American National Standards Institute standard 225.1.

B. Notwithstanding any provision in this subsection, a person developing or expanding a mobile home park has the burden of proving that development will not pollute a public water supply or aquifer or violate any state law relating to land development, subdivision or use.

C. A municipality shall permit mobile home parks to expand and to be developed in a number of environmentally suitable locations in the municipality with reasonable consideration being given to permit existing mobile home parks to expand in their existing locations. A municipality may not select a location for a mobile home park development which is not reasonably suitable because of:

(1) Prior lot division;

(2) Locational setting within the municipality;

(3) Natural features; or

(4) Other similar factors.

This paragraph is effective January 1, 1990.

4. Certification of payment of sales tax. No municipality may allow the construction or location of any new manufactured housing within the municipality by any person other than a dealer licensed by the State with a sales tax certificate, without:

A. A bill of sale indicating the name, address, dealer registration number and sales tax certificate number of the person who sold or provided the manufactured housing to the buyer locating the housing in the municipality; or

B. If no such bill of sale is presented, evidence of certification of payment of the sales tax in accordance with Title 36, section 1760, subsection 40, and Title 36, section 1952-B.

In municipalities which require any type of permit for manufactured housing, the permit is deemed to be not approved or valid until payment of the sales tax has been certified.

§4359. State policy relating to municipal commercial landfill facilities moratoria

It is the policy of this State, with respect to commercial landfill facilities:

1. State and municipal control. To affirm the importance of state and municipal control over the establishment of new commercial landfill facilities and over the substantial expansion of existing commercial landfill facilities; and

2. Recognition of home rule authority. To recognize that any municipality may, under its home rule authority, enact a moratorium on the issuance or processing of any municipal permit for a new commercial landfill facility or the substantial expansion of a commercial landfill facility, as defined by Title 38, section 1303, subsection 11-B.

SUBCHAPTER IV

SUBDIVISIONS

§4401. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Densely developed area. "Densely developed area" means any commercial, industrial or compact residential area of 10 or more acres with an existing density of at least one principal structure per 2 acres.

2. Dwelling unit. "Dwelling unit" means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, apartments and time-share units.

3. Principal structure. "Principal structure" means any building other than one which is used for purposes wholly incidental or accessory to the use of another building on the same premises.

4. Subdivision. "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period and the division of an existing structure or structures previously used for commercial or in-

dustrial use into 3 or more dwelling units within a 5-year period.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

(1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence or for open space land as defined in Title 36, section 1102, for a period of at least 5 years before the 2nd dividing occurs; or

(2) The division of the tract or parcel is otherwise exempt under this subchapter.

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

C. A lot of 40 or more acres shall not be counted as a lot, except:

(1) When the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in Title 38, section 435; or

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435.

D. A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality, unless the intent of that gift is to avoid the objectives of this subchapter, or a division accomplished by the transfer of any interest in land to the owner of abutting land, does not create a lot or lots for the purposes of this definition.

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.

H. Nothing in this subchapter may be construed to prevent a municipality from enacting an ordinance under its home rule authority which expands the definition of subdivision to include the division of a structure for commercial or industrial use or which otherwise regulates land use activities.

5. New structure or structures. "New structure or structures" includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this subchapter.

6. Tract or parcel of land. "Tract or parcel of land" means all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road.

7. Outstanding river segments. In accordance with Title 12, section 402, outstanding river segments include:

A. The Aroostook River from the Canadian border to the Masardis and T.10, R.6, W.E.L.S. town line, excluding the segment in T.9, R.5, W.E.L.S.;

B. The Carrabassett River from the Kennebec River to the Carrabassett Valley and Mt. Abram Township town line;

C. The Crooked River from its inlet into Sebago Lake to the Waterford and Albany Township town line;

D. The Damariscotta River from the Route 1 bridge in Damariscotta to the dam at Damariscotta Mills;

E. The Dennys River from the Route 1 bridge to the outlet of Meddybemps Lake, excluding the western shore in Edmunds Township and No. 14 Plantation;

F. The East Machias River, including the Maine River, from 1/4 of a mile above the Route 1 bridge to the East Machias and T.18, E.D., B.P.P. town line, from the T.19, E.D., B.P.P. and Wesley town line to the outlet of Crawford Lake, and from the No. 21 Plantation and Alexander town line to the outlet of Pocomoonshine Lake, excluding Hadley Lake, Lower Mud Pond and Upper Mud Pond;

G. The Fish River from the bridge at Fort Kent Mills to the Fort Kent and Wallagrass Plantation town line, from the T.16, R.6, W.E.L.S. and Eagle Lake town

line to the Eagle Lake and Winterville Plantation town line, and from the T.14, R.6, W.E.L.S. and Portage Lake town line to the Portage Lake and T.13, R.7, W.E.L.S. town line, excluding Portage Lake;

H. The Kennebago River from its inlet into Cupsuptic Lake to the Rangeley and Lower Cupsuptic Township town line;

I. The Kennebec River from Thorns Head Narrows in North Bath to the Edwards Dam in Augusta, excluding Perkins Township, and from the Route 148 bridge in Madison to the Caratunk and The Forks Plantation town line, excluding the western shore in Concord Township, Pleasant Ridge Plantation and Carrying Place Township and excluding Wyman Lake;

J. The Machias River from the Route 1 bridge to the Northfield and T.19, M.D., B.P.P. town line;

K. The Mattawamkeag River from the Penobscot River to the Mattawamkeag and Kingman Township town line, and from the Reed Plantation and Bancroft town line to the East Branch in Haynesville;

L. The Narraguagus River from the ice dam above the railroad bridge in Cherryfield to the Beddington and Devereaux Township town lines, excluding Beddington Lake;

M. The Penobscot River, including the Eastern Channel, from Sandy Point in Stockton Springs to the Veazie Dam and its tributary the East Branch of the Penobscot from the Penobscot River to the East Millinocket and Grindstone Township town line;

N. The Piscataquis River from the Penobscot River to the Monson and Blanchard Plantation town line;

O. The Pleasant River from the bridge in Addison to the Columbia and T.18, M.D., B.P.P. town line, and from the T.24, M.D., B.P.P. and Beddington town line to the outlet of Pleasant River Lake;

P. The Rapid River from the Magalloway Plantation and Upton town line to the outlet of Pond in the River;

Q. The Saco River from the Little Ossipee River to the New Hampshire border;

R. The St. Croix River from the Route 1 bridge in Calais to the Calais and Baring Plantation town line, from the Baring Plantation and Baileyville town line to the Baileyville and Fowler Township town line, and from the Lambert Lake Township and Vanceboro town line to the outlet of Spednik Lake, excluding Woodland Lake and Grand Falls Flowage;

S. The St. George River from the Route 1 bridge in Thomaston to the outlet of Lake St. George in Liberty, excluding White Oak Pond, Seven Tree Pond, Round Pond, Sennebec Pond, Trues Pond, Stevens Pond and Little Pond;

T. The St. John River from the Van Buren and Hamlin Plantation town line to the Fort Kent and St. John Plantation town line, and from the St. John Plantation and St. Francis town line to the Allagash and St. Francis town line;

U. The Sandy River from the Kennebec River to the Madrid and Township E town line;

V. The Sheepscot River from the railroad bridge in Wiscasset to the Halldale Road in Montville, excluding Long Pond and Sheepscot Pond, including its tributary the West Branch of the Sheepscot from its confluence with the Sheepscot River in Whitefield to the outlet of Branch Pond in China;

W. The West Branch Pleasant River from the East Branch in Brownville to the Brownville and Williamsburg Township town line; and

X. The West Branch Union River from the Route 181 bridge in Mariaville to the outlet of Great Pond in the Town of Great Pond.

§4402. Exceptions

This subchapter does not apply to:

1. Previously approved subdivisions. Proposed subdivisions approved by the planning board or the municipal officials before September 23, 1971 in accordance with laws then in effect;

2. Previously existing subdivisions. Subdivisions in actual existence on September 23, 1971 that did not require approval under prior law; or

3. Previously recorded subdivisions. A subdivision, a plan of which had been legally recorded in the proper registry of deeds before September 23, 1971.

§4403. Municipal review and regulation

This section governs municipal review of proposed subdivisions.

1. Municipal reviewing authority. The municipal reviewing authority shall review all requests for subdivision approval. On all matters concerning subdivision review, the municipal reviewing authority shall maintain a permanent record of all its meetings, proceedings and correspondence.

2. Regulations; review procedure. The municipal reviewing authority may, after a public hearing, adopt, amend or repeal additional reasonable regulations governing subdivisions which shall control until amended, repealed or replaced by regulations adopted by the municipal legislative body. The municipal reviewing authority shall give at least 7 days' notice of this hearing.

A. The regulations may provide for a multi-stage application or review procedure consisting of no more than 3 stages:

(1) Preapplication sketch plan;

(2) Preliminary plan; and

(3) Final plan.

Each stage must meet the time requirements of subsections 4 and 5.

3. Application; notice; completed application. This subsection governs the procedure to be followed after receiving an application for a proposed subdivision.

A. When an application is received, the municipal reviewing authority shall give a dated receipt to the applicant and shall notify by mail all abutting property owners of the proposed subdivision, specifying the location of the proposed subdivision and including a general description of the project.

B. Within 30 days after receiving an application, the municipal reviewing authority shall notify the applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to complete the application.

C. After the municipal reviewing authority has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed subdivision.

4. Public hearing; notice. If the municipal reviewing authority decides to hold a public hearing on an application for subdivision approval, it shall hold the hearing within 30 days after receiving a complete application. The municipal reviewing authority shall have notice of the date, time and place of the hearing:

A. Given to the applicant; and

B. Published, at least 2 times, in a newspaper having general circulation in the municipality in which the subdivision is proposed to be located. The date of the first publication must be at least 7 days before the hearing.

5. Decision; time limits. The municipal reviewing authority shall, within 30 days of a public hearing or, if no hearing is held, within 60 days of receiving a complete application or within any other time limit that is otherwise mutually agreed to, issue an order:

A. Denying approval of the proposed subdivision;

B. Granting approval of the proposed subdivision; or

C. Granting approval upon any terms and conditions that it considers advisable to:

(1) Satisfy the criteria listed in section 4404;

(2) Satisfy any other regulations adopted by the reviewing authority; and

(3) Protect and preserve the public's health, safety and general welfare.

6. Burden of proof; findings of fact. In all instances, the burden of proof is upon the person proposing the subdivision. In issuing its decision, the reviewing authority shall make findings of fact establishing that the proposed subdivision does or does not meet the criteria described in subsection 5.

7. Conditioned on variance. If the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance, the subdivider must comply with section 4406, subsection 1, paragraph B.

§4404. Review criteria

When adopting any subdivision regulations and when reviewing any subdivision for approval, the municipal reviewing authority shall consider the following criteria and, before granting approval, must determine that:

1. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:

A. The elevation of the land above sea level and its relation to the flood plains;

B. The nature of soils and subsoils and their ability to adequately support waste disposal;

C. The slope of the land and its effect on effluents;

D. The availability of streams for disposal of effluents; and

E. The applicable state and local health and water resource rules and regulations;

2. Sufficient water. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;

3. Municipal water supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;

4. Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

5. Traffic. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed;

6. Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal;

7. Municipal solid waste and sewage disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste and sewage, if municipal services are to be used;

8. Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

9. Conformity with local ordinances and plans. The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;

10. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section;

11. Surface waters; outstanding river segments. Whenever situated entirely or partially within 250 feet of any pond, lake, river or tidal waters, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

A. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.

(1) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.

(2) The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, chapter 3, subchapter I, article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of section 4401, subsection 1, on September 23, 1983;

12. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water; and

13. Flood areas. The subdivider will determine, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plat approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

§4405. Access to direct sunlight

The municipal reviewing authority may, to protect and ensure access to direct sunlight for solar energy systems, prohibit, restrict or control development through subdivision regulations. The regulations may call for subdivision development plans containing restrictive covenants, height restrictions, side yard and set-back requirements or other permissible forms of land use controls.

§4406. Enforcement; prohibited activities

The Attorney General, the municipality or the planning board of any municipality may institute proceedings to enjoin a violation of this subchapter.

1. Sales or other conveyances. No person may sell, lease, develop, build upon or convey for consideration, or offer or agree to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision which has not been approved by the municipal reviewing authority of the municipality where the subdivision is located and recorded in the proper registry of deeds.

A. No register of deeds may record any subdivision plat or plan which has not been approved under this subchapter. Approval for the purpose of recording must appear in writing on the plat or plan. All subdivision plats and plans required by this subchapter must contain the name and address of the person under whose responsibility the subdivision plat or plan was prepared.

B. Whenever the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance from any applicable subdivision approval standard, that fact shall be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds.

(1) In the case of an amendment, if no amended plan is to be recorded, a certificate shall be prepared in recordable form and recorded in the registry of deeds. This certificate shall:

(a) Indicate the name of the current property owner;

(b) Identify the property by reference to the last recorded deed in its chain of title; and

(c) Indicate the fact that a variance, including any conditions on the variance, has been granted and the date of the granting.

(2) The variance is not valid until recorded as provided in this paragraph. Recording must occur within 30 days of the final subdivision approval or the variance is void.

C. No building inspector may issue any permit for a building or use within a land subdivision unless the subdivision has been approved under this subchapter.

D. Any person who sells, leases, develops, builds upon, or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision which has not been approved under this subchapter shall be penalized in accordance with section 4452.

2. Permanent marker required. No person may sell or convey any land in an approved subdivision unless at least one permanent marker is set at one lot corner of the lot sold or conveyed. The term "permanent marker" includes, but is not limited to, the following:

A. A granite monument;

B. A concrete monument;

C. An iron pin; or

D. A drill hole in ledge.

3. Utility installation. No public utility, water district, sanitary district or any utility company of any kind may install services to any lot or dwelling unit in a subdivision, unless written authorization attesting to the validity and currency of all local permits required under this chapter has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials indicating that installation has been completed.

§4407. Revisions to existing plat or plan

Any application for subdivision approval which constitutes a revision or amendment to a subdivision plan which has been previously approved shall indicate that fact on the application and shall identify the original subdivision plan being revised or amended.

1. Recording. If a subdivision plat or plan is presented for recording to a register of deeds and that plat or plan is a revision or amendment to an existing plat or plan, the register shall:

A. Indicate on the index for the original plat or plan that it has been superseded by another plat or plan;

B. Reference the book and page or cabinet and sheet on which the new plat or plan is recorded; and

C. Ensure that the book and page or cabinet and sheet on which the original plat or plan is recorded is referenced on the new plat or plan.

SUBCHAPTER V

ENFORCEMENT OF LAND USE REGULATIONS

§4451. Training and certification for code enforcement officers

1. Certification required; exceptions. Beginning January 1, 1993, a municipality may not employ any individual to perform the duties of a code enforcement officer who is not certified by the office, except that:

A. An individual has 12 months after beginning employment to be trained and certified as provided in this section; and

B. Whether or not any extension is available under paragraph A, the office may waive this requirement for up to one year if the certification requirements cannot be met without imposing a hardship on the municipality employing the individual.

2. Penalty. Any municipality that violates this section commits a civil violation for which a forfeiture of not more than $100 may be adjudged. Each day in violation constitutes a separate offense.

3. Training and certification of code enforcement officers. In cooperation with the Vocational-Technical Institute System and the Department of Human Services, the office shall establish a continuing education program for individuals engaged in code enforcement. This program shall provide basic and advanced training in the technical and legal aspects of code enforcement necessary for certification, including, but not limited to:

A. Plumbing inspection;

B. Soils and site evaluation;

C. Electrical inspection;

D. State and federal environmental requirements;

E. Zoning ordinances;

F. Court techniques; and

G. Other enforcement information.

4. Examination. The office shall conduct at least one examination each year to examine candidates for certification or recertification at a time and place designated by it. The office may conduct additional examinations to carry out the purposes of this subchapter.

5. Certification standards. The office shall establish by rule the qualifications, conditions and licensing standards and procedures for the certification and recertification of individuals as code enforcement officers. A code enforcement officer need only be certified in the areas of actual job responsibilities. The rules established under this subsection shall identify standards for each of the areas of training under subsection 3, in addition to general standards that apply to all code enforcement officers.

6. Certification; terms; revocation. The office shall certify individuals as to their competency to successfully enforce ordinances and other land use regulations and permits granted under those ordinances and regulations and shall issue certificates attesting to the competency of those individuals to act as code enforcement officers. Certificates are valid for 5 years unless revoked by the Administrative Court.

A. The Administrative Court may revoke the certificate of a code enforcement officer, in accordance with Title 4, chapter 25, when it finds that:

(1) The code enforcement officer has practiced fraud or deception;

(2) Reasonable care, judgment or the application of a duly trained and knowledgeable code enforcement officer's ability was not used in the performance of the duties of the office; or

(3) The code enforcement officer is incompetent or unable to perform properly the duties of the office.

B. Code enforcement officers whose certificates are invalidated under this subsection may be issued new certificates provided that they are newly certified as provided in this section.

7. Other professions unaffected. This subchapter shall not be construed to affect or prevent the practice of any other profession.

§4452. Enforcement of land use laws and ordinances

1. Enforcement. A municipal official, such as a municipal code enforcement officer, local plumbing inspector or building inspector, who is designated by ordinance or law with the responsibility to enforce a particular law or ordinance set forth in subsection 5, may:

A. Enter any property at reasonable hours or enter any building with the consent of the owner, occupant or agent to inspect the property or building for compliance with the laws or ordinances set forth in subsection 5. A municipal official's entry onto property under this paragraph is not a trespass;

B. Issue a summons to any person who violates a law or ordinance which the official is authorized to enforce; and

C. When specifically authorized by the municipal officers, represent the municipality in District Court in the prosecution of alleged violations of ordinances or laws which the official is authorized to enforce.

2. Liability for violations. Any person, including, but not limited to, a landowner, the landowner's agent or a contractor who violates any of the laws or ordinances set forth in subsection 5 is liable for the penalties set forth in subsection 3.

3. Civil penalties. The following provisions apply to violations of the laws and ordinances set forth in subsection 5. All monetary penalties are civil penalties.

A. The minimum penalty for starting construction or undertaking a land use activity without a required permit is $100, and the maximum penalty is $2,500.

B. The minimum penalty for a specific violation is $100, and the maximum penalty is $2,500.

C. The violator may be ordered to correct or abate the violations. When the court finds that the violation was willful, the violator shall be ordered to correct or abate the violation unless the abatement or correction will:

(1) Result in a threat or hazard to public health or safety;

(2) Result in substantial environmental damage; or

(3) Result in a substantial injustice.

D. If the municipality is the prevailing party, it shall be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust. If the defendant is the prevailing party, the defendant may be awarded reasonable attorney fees, expert witness fees and costs as provided by court rule.

E. In setting a penalty, the court shall consider, but is not limited to, the following:

(1) Prior violations by the same party;

(2) The degree of environmental damage that cannot be abated or corrected;

(3) The extent to which the violation continued following a municipal order to stop; and

(4) The extent to which the municipality contributed to the violation by providing the violator with incorrect information or by failing to take timely action.

F. The maximum penalty may exceed $2,500, but may not exceed $25,000, when it is shown that there

has been a previous conviction of the same party within the past 2 years for a violation of the same law or ordinance.

G. The penalties for violations of waste discharge licenses issued by the municipality pursuant to Title 38, section 413, subsection 8, is as prescribed in Title 38, section 349.

4. Proceedings brought for benefit of municipality. All proceedings arising under locally administered laws and ordinances shall be brought in the name of the municipality. All fines resulting from those proceedings shall be paid to the municipality.

5. Application. This section applies to the enforcement of land use laws and ordinances or rules which are administered and enforced primarily at the local level, including:

A. The plumbing and subsurface waste water disposal rules adopted by the Department of Human Services under Title 22, section 42, including the land area of the State which is subject to the jurisdiction of the Maine Land Use Regulation Commission;

B. Laws pertaining to public water supplies, Title 22, sections 2642, 2647 and 2648;

C. Local ordinances adopted pursuant to Title 22, section 2642;

D. Laws administered by local health officers pursuant to Title 22, chapters 153 and 263;

E. Laws pertaining to fire prevention and protection, which require enforcement by local officers pursuant to Title 25, chapter 313;

F. Laws pertaining to the construction of public buildings for the physically disabled pursuant to Title 25, chapter 331;

G. Local land use ordinances adopted pursuant to section 3001;

H. Local building codes adopted pursuant to sections 3001 and 3007;

I. Local housing codes adopted pursuant to sections 3001 and 3007;

J. Local ordinances regarding automobile junkyards pursuant to chapter 183, subchapter I;

K. Local ordinances regarding electrical installations pursuant to chapter 185, subchapter II;

L. Local ordinances regarding regulation and inspection of plumbing pursuant to chapter 185, subchapter III;

M. Local ordinances regarding malfunctioning subsurface waste water disposal systems pursuant to section 3428;

N. The subdivision law and local subdivision ordinances adopted pursuant to section 3001 and subdivision regulations adopted pursuant to section 4403;

O. Local zoning ordinances adopted pursuant to section 3001 and in accordance with section 4352;

P. Waste water discharge licenses issued pursuant to Title 38, section 413, subsection 8; and

Q. Shoreland zoning ordinances adopted pursuant to Title 38, sections 435 to 447, including those which were state-imposed.

CHAPTER 189

RIVER CORRIDOR COMMISSIONS

§4461. River corridor commissions encouraged

1. Findings. The Legislature finds that:

A. The effectiveness of local governments in implementing their responsibilities under shoreland zoning can be enhanced by coordination and cooperation among municipalities;

B. River corridor commissions have proven their effectiveness as one mechanism to bring about such coordination and cooperation;

C. Additional river corridor commissions are not likely to be formed without state encouragement and incentives; and

D. Such cooperation serves state interests as stated in Title 12, section 402 and Title 38, chapter 3, subchapter I, article 2-B.

2. Purpose. It is the policy of the State to encourage the formation of river corridor commissions. The purpose of this law is to:

A. Clarify the procedures for forming river corridor commissions;

B. Delegate authority to the Commissioner of Conservation to approve acceptable proposals to form the river corridor commissions;

C. Grant additional powers to those river corridor commissions beyond those provided for in chapter 115; and

D. Provide a portion of the funding for the operation of the river corridor commissions.

§4462. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Commission. "Commission" means a river corridor commission granted approval by the commissioner under section 4463 and authorized by Title 5, chapter 379, or as established under Title 38, chapter 6.

2. Commissioner. "Commissioner" means the Commissioner of Conservation.

3. Department. "Department" means the Department of Conservation.

§4463. Approval of river corridor commissions

The commissioner may grant commission status and all the privileges and powers enjoyed by the commissions, as specified in this chapter, when the commissioner finds that:

1. Occupation of shoreland by 2 or more municipalities. Two or more municipalities, which collectively occupy enough of the shoreland on a river segment to be effective in managing the shorelands of the river, have entered into an agreement under chapter 115, which satisfies the requirements of section 4464;

2. Comprehensive plan. The same municipalities have prepared a comprehensive plan which satisfies the requirements of section 4465;

3. Ordinance. The same municipalities have prepared an ordinance to implement the comprehensive plan which satisfies the requirements of section 4466; and

4. Other commissions. No other commission exists on the same river, or the distance between the proposed and existing commissions makes the formation of one larger commission impractical.

§4464. Interlocal agreement

In addition to the requirements of section 2203, the interlocal agreement must be consistent with rules adopted by the commissioner under the Maine Administrative Procedure Act, Title 5, chapter 375. These rules may include, but are not limited to:

1. Minimum duration. The minimum duration of the agreement;

2. Members; appointment. How members may be appointed;

3. Municipal responsibilities for financing. What the municipalities' responsibilities for financing the commission are; and

4. Withdrawal. How and under what circumstances municipalities may withdraw from the commission.

§4465. Comprehensive plan

The comprehensive plan must be consistent with rules adopted by the commissioner under the Maine Administrative Procedure Act, Title 5, chapter 375. These rules may include, but are not limited to:

1. Resources; problems. What resources or problems the plan must address;

2. Information; analyses. Information and analyses the plan must contain; and

3. Specificity; clarity. The degree of specificity and clarity sought in the plan.

§4466. Ordinance

The ordinance to implement the plan must be at least as restrictive as the State's guidelines for municipal shoreland zoning ordinances and shall supersede existing shoreland zoning ordinances. The ordinance must contain adequate procedures for processing permit requests and for considering appeals of a decision made by the commission.

§4467. Powers of a river corridor commission

Notwithstanding section 2203, subsection 8, an approved commission may:

1. Amendment to comprehensive plan. Amend the comprehensive plan, after notice and hearing on the proposed amendment in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375;

2. Adoption of rules or ordinances. Adopt and amend rules or ordinances covering an area up to 500 feet from the normal high-water mark necessary to implement the comprehensive plan, after notice and hearing on the proposed amendment or adoption, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375;

3. Issuance of permits. Issue permits, subject to reasonable conditions for activities requiring permits, or may deny permits under ordinances and rules adopted by the commission;

4. Fees. Assess fees for permit or variance applications, or for any publications of the commission;

5. Suit. Sue and be sued; and

6. Enforcement. Enforce the rules or ordinances of the commission by instituting any lawful action, injunction or other proceeding to prevent, restrain, correct or abate any violation of its rules or ordinances, and may impose fines as permitted under Title 38, chapter 3, subchapter I, article 2-A.

§4468. Commission budget; financing; staff

The commission shall prepare and submit to the commissioner a biennial budget sufficient to cover its oper-

ating and other expenses. Provided the commission continues to satisfy the requirements of section 4463, the commissioner shall request funds to match the funds raised by the commission. In no event may the state contribution exceed $25,000 for any one commission in any year. The commission may accept contributions of any type from any source to assist it in carrying out its assigned tasks, and make any agreements with respect to the administration of those funds, not inconsistent with the purpose of this law, that are required as conditions precedent to receiving the funds, federal or otherwise. Staff of the commission are not considered employees of the State.

§4469. Appeals to Superior Court

Except where otherwise specified by law, any party or person aggrieved by any order or decision of the commission may, within 30 days after notice of the filing of that order or decision, appeal to the Superior Court by filing a notice of appeal stating the grounds for appeal. The appeal shall be taken under Title 5, section 11001.

Sec. 46. 30-A MRSA Pt. 2, sub-pt. 7, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is repealed.

Sec. 47. 30-A MRSA §5253, sub-§1, ¶E, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is repealed and the following enacted in its place:

E. The designation of captured assessed value of property within a tax increment financing district is subject to the following limitations.

(1) The Commissioner of Economic and Community Development shall adopt any rules necessary to allocate or apportion the designation of captured assessed value of property within tax increment financing districts in accordance with these limitations.

(2) Fifteen percent of the project costs for the development program must be incurred within 9 months of the designation of the tax increment financing district by the Commissioner of Economic and Community Development. The development program must be completed within 5 years of the designation of the tax increment financing district by the Commissioner of Economic and Community Development.

Sec. 48. 30-A MRSA §5254, sub-§1, ¶A, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is repealed.

Sec. 49. 30-A MRSA §5682 is enacted to read:

§5682. State funds

Effective July 1, 1990, each municipality shall accept funds provided by the Legislature only upon an affirmative vote of its legislative body. Those municipalities holding a town meeting shall include a separate article on the warrant for each category of state funding which shall read as follows: "Shall the town vote to accept (category of funding) as provided by the Maine State Legislature?" The town shall indicate an estimate of the amount to be received for each category of state funding on the warrant, but it does not have to be part of the article. Those funds not accepted by any municipality shall remain with the State. This section applies to any town meeting held after January 1, 1990.

Sec. 50. 30-A MRSA §5772, sub-§9 is enacted to read:

9. Interest or dividend exemption from state taxation. Interest or dividends paid on general obligation securities issued under this section are exempt from taxation within the State, whether or not such income is subject to taxation under the United States Internal Revenue Code, as amended.

Sec. 51. 30-A MRSA §6101, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

§6101. Membership

The Board of Emergency Municipal Finance, as authorized by Title 5, chapter 379, section 12004, subsection 8, and referred to in this chapter as the "board," shall be composed of the 3 persons who hold the offices of the Commissioner of Finance, Treasurer of State and State Tax Assessor. The successor of any person to any of these offices immediately becomes a member of the board and the person who formerly held that office ceases to be such a member. The person holding the office of State Tax Assessor is the ~~chairman~~ chair of the board. The members of the board shall be compensated according to the provisions of Title 5, chapter 379.

Sec. 52. 30-A MRSA §6303, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is repealed and the following enacted in its place:

§6303. Planning and land use regulation

A village corporation may enact planning and land use regulation ordinances, subject to the same guidelines and standards which apply to municipalities under chapter 187. When a conflict exists between a land use regulation ordinance of a village corporation and an ordinance of the municipality of which it is a part, the municipal ordinance prevails.

Sec. 53. 30-A MRSA §7001, sub-§4, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

4. Organization meeting. At the time and place appointed for meetings for the organization of plantations under subsections 2 and 3, a moderator shall be chosen by ballot by the voters present to preside at the meeting. The

person to whom the warrant was directed shall preside until the moderator is chosen and sworn by that person. A clerk, 3 assessors, treasurer and school committee shall be chosen by ballot and sworn by the moderator or a ~~notary public~~ dedimus justice. Other plantation officers may be chosen by ballot or other method agreed on by vote of the meeting and shall be sworn by the moderator or a ~~notary public~~ dedimus justice.

Sec. 54. 30-A MRSA §7059, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is repealed and the following enacted in its place:

§7059. Planning and land use regulation

Plantations are subject to chapter 187 regarding planning and land use powers and duties in the same manner as a town or city, except as otherwise provided in chapter 187. Any planning or land use ordinance related to buildings and equipment must comply with section 7060.

Sec. 55. 30-A MRSA §7060, sub-§1, ¶C, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is repealed and the following enacted in its place:

C. Requiring persons, other than a dealer licensed by the State with a sales tax certificate issued by the State Tax Assessor, who intend to construct or locate in the plantation new manufactured housing, as defined in section 4358, subsection 1, to provide:

(1) A bill of sale indicating the name, address, dealer registration number and sales tax certificate number of the person who sold or provided the manufactured housing to the buyer locating the housing in the plantation; or

(2) Certification of payment of the sales tax in accordance with Title 36, section 1760, subsection 40 and Title 36, section 1952-B.

In any plantation which requires a permit for manufactured housing, the permit is deemed to be not approved or valid until payment of the sales tax has been certified with the assessors or the Maine Land Use Regulation Commission.

Sec. 56. 30-A MRSA §7060, sub-§2, ¶E, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is repealed and the following enacted in its place:

E. An appeal may be taken from any order issued by the building inspector or from the licensing authority's refusal to grant a permit.

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

(2) An appeal may be taken from the decision of the plantation assessors or the board of appeals as provided in section 2691, subsection 3, paragraph G.

PART B

Sec. 1. 10 MRSA c. 951, sub-c. VII, first 3 lines, are repealed and the following enacted in their place:

CHAPTER 953

REGULATION OF MOBILE HOME PARKS; LANDLORD AND TENANT

Sec. 2. 10 MRSA §9091, first ¶, as enacted by PL 1987, c. 737, Pt. B, §1 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

As used in this ~~subchapter~~ chapter, unless the context otherwise indicates, the following terms have the following meanings.

Sec. 3. 10 MRSA §9094, as enacted by PL 1987, c. 737, Pt. B, §1 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is repealed and the following enacted in its place:

§9094. Restrictions on sale or removal of mobile homes

1. Park acting as agent; advertising. No mobile home park owner or operator may:

A. Exact a commission or fee with respect to the price realized by the seller of the mobile home unless the park owner or operator has acted as agent for the mobile home owner in the sale under a written contract;

B. Require as a condition of tenancy or continued tenancy that a mobile home owner designate the park owner or operator or any other individual or

agent to act as agent for the mobile home owner in the sale of the mobile home; or

C. Restrict in any manner the reasonable advertising for sale of any mobile home in that park, except that the mobile home owner shall notify the park owner or operator before placing a "for sale" sign or other form of advertising within the mobile home park.

2. Rules. No mobile home park owner or operator may require a mobile home to be removed from the park except pursuant to a rule contained in the written copy of park rules given to the tenant under section 9097, subsection 4. The rules shall clearly describe the standards under which the park owner or operator may require a tenant to remove a mobile home from the park.

A. These standards shall specify, but are not limited to, fair and reasonable rules governing the conditions of:

(1) Protective exterior coating or siding;

(2) Roof;

(3) Windows and doors;

(4) Plumbing, heating and electrical systems;

(5) Anchoring system;

(6) Skirting around the base;

(7) Steps and handrails;

(8) Porches, decks or other additions to the home and the exterior structure;

(9) Width of home, if less than 11 feet, 6 inches;

(10) Aesthetic appearance;

(11) Smoke detectors wired into the electrical system; and

(12) Other aspects of the structural safety or soundness of the home.

B. The park owner or operator has the burden of proof to show that the mobile home does not meet the standards of the rules adopted under this subsection.

C. No aesthetic standard may be applied against the mobile home if the standard relates to physical characteristics such as size, except as provided in paragraph A, subparagraph (9), original construction materials or color which cannot be changed without undue financial hardship to the mobile home owner.

D. Neither age of the mobile home nor the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Chapter 70, shall by themselves be a sufficient standard for a park owner or operator to require removal of a mobile home.

E. No mobile home park owner or operator may be liable for any claim or any damages of any kind arising from the presence in the park of a mobile home manufactured before June 15, 1976.

F. The Manufactured Housing Board, in conjunction with the State Fire Marshal, the Department of the Attorney General, representatives of the manufactured housing industry, representatives of mobile home park owners or operators and representatives of mobile home owners and tenants, shall develop recommendations concerning the standards for rules covered by this subsection. The recommendations shall include standards designed to ensure the safety of the mobile home and its occupants, while being objective and measurable to provide for enforcement. The recommendations shall be made to the joint standing committees of the Legislature having jurisdiction over legal affairs and business legislation by January 15, 1990.

G. This subsection is repealed January 15, 1991.

3. Buyer's right of rescission. The buyer of a mobile home located in a mobile home park may rescind the contract for the purchase of the mobile home within 30 days of execution of the contract if:

A. At the time of entering into the contract, the seller or the seller's agent represented to the buyer or the buyer's agent that the mobile home may remain in that mobile home park; and

B. The buyer is not permitted to keep the mobile home in that mobile home park or the buyer is not accepted as a tenant in that mobile home park.

Sec. 4. 10 MRSA §9097, sub-§1, ¶¶F and G, as enacted by PL 1987, c. 737, Pt. B, §1 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, are further amended to read:

F. Condemnation or change of use of the mobile home park, provided that, in the case of change of use, one year's notice is given in writing to the tenant, unless at the beginning of the tenancy the tenant is given notice of the scheduled change of use;

G. Renovation or reconstruction of any portions of the park, provided that 60 days' notice, in addition to any other notice required by this section, is given in writing to the tenant. In the case of a reconstruction which changes the number of mobile homes which can be accommodated on a lot or lots, other than that required by a state or local governmental body, one year's notice shall be given in accordance with paragraph F;

Sec. 5. 10 MRSA §9097, sub-§5, ¶B, as enacted by PL 1987, c. 737, Pt. B, §1 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

B. A written copy of this ~~subchapter~~ chapter.

Sec. 6. 10 MRSA §9097, sub-§6, as enacted by PL 1987, c. 737, Pt. B, §1 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

6. Enforcement. In addition to any other remedy under this ~~subchapter~~ chapter, any mobile home park resident may sue to enforce any provision of this section and the court may award damages or grant injunctive or other appropriate relief.

Sec. 7. 10 MRSA §9097, sub-§7, as enacted by PL 1987, c. 737, Pt. B, §1 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

7. Waiver prohibited. No lease or rental agreement, oral or written, may contain any provision by which the tenant waives any rights under this ~~subchapter~~ chapter. Any such waiver is contrary to public policy and unenforceable.

Sec. 8. 10 MRSA §9097, sub-§9, as enacted by PL 1987, c. 737, Pt. B, §1 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is repealed.

Sec. 9. 10 MRSA §9097, sub-§10 is enacted to read:

10. Discrimination against tenants with children prohibited. Discrimination against any tenant with children is prohibited in accordance with Title 14, section 6027.

Sec. 10. 10 MRSA §9098, sub-§3, ¶B, as enacted by PL 1987, c. 737, Pt. B, §1 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

B. A mobile home park operator who willfully retains a security deposit in violation of this ~~subchapter~~ chapter is liable for double the amount of that portion of the security deposit wrongfully withheld from the tenant, together with reasonable attorney's fees and court costs.

Sec. 11. 10 MRSA §9100, as enacted by PL 1987, c. 737, Pt. B, §1 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

§9100. Violations

A violation of this ~~subchapter~~ chapter is a violation of Title 5, chapter 10, the unfair trade practices laws.

Sec. 12. 12 MRSA §581, sub-§3, ¶A, as enacted by PL 1987, c. 737, Pt. B, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

A. Before taking any action, the members of the committee formed under this subsection must be sworn before a ~~notary public~~ dedimus justice. A certificate of the swearing shall be endorsed on the court's warrant.

Sec. 13. 38 MRSA §411, first ¶, as amended by PL 1987, c. 751, §12, is further amended to read:

The department may pay an amount not to exceed 80% of the expense of a municipal or quasi-municipal pollution abatement construction program or a pollution abatement construction program in an unorganized township or plantation authorized by the county commissioners. The department may make payments to the Maine Municipal Bond Bank to supply the State's share of the revolving loan fund established by Title ~~30~~ 30-A, section ~~5171-A~~ 6006-A. The department may pay up to 90% of the expense of a municipal or quasi-municipal pollution abatement construction program or a pollution abatement construction program in an unorganized township or plantation authorized by the county commissioners in which the construction cost of the project does not exceed $100,000 as long as total expenditures for the small projects do not exceed $1,000,000 in any fiscal year and not more than one grant is made to any applicant each year, except that the department may pay up to 50% of the expense of individual projects serving seasonal dwellings or commercial establishments. The application for a grant under this paragraph for a project serving a single-family dwelling, including outbuildings, or a single commercial establishment, shall include a signed statement of the financial condition of the owner of the single-family dwelling or commercial establishment describing the need for the grant. That statement will become part of the application record and no further evidence of need will be required.

PART C

Sec. 1. 4 MRSA §152, sub-§6, ¶¶M and N, as repealed and replaced by PL 1987, c. 737, Pt. C, §§2 and 106, and as amended by PL 1989, c.c. 6 and 9, are repealed and the following enacted in their place:

M. The subdivision law, Title 30-A, chapter 187, subchapter IV; local subdivision ordinances enacted under Title 30-A, section 3001; and subdivision regulations adopted under Title 30-A, section 4403;

N. Local zoning ordinances enacted under Title 30-A, section 3001, and in accordance with Title 30-A, section 4352;

Sec. 2. 4 MRSA §807, first ¶, as amended by PL 1987, c. 559, Pt. B, §1, as repealed and replaced by PL 1987, c. 737, Pt. C, §§4 and 106, and as amended by PL 1989, c.c. 6 and 9, is repealed and the following enacted in its place:

No person may practice law or hold that person out to practice law within the State or before its courts, or demand or receive any remuneration for those services rendered in this State, unless that person has been admitted to the bar of this State and has complied with section 806-A, or unless that person has been admitted to try cases in the courts of this State under section 802. Any person who

practices law in violation of these requirements is guilty of the unauthorized practice of law, which is a Class E crime. This section shall not be construed to apply to practice before any Federal Court by any person admitted to practice therein; nor to a person pleading or managing that person's own cause in court; nor to the officer or employee of a corporation, partnership, sole proprietorship or governmental entity, who is not an attorney, but is appearing for that organization in an action cognizable as a small claim under Title 14, chapter 738; nor to a person who is not an attorney, but is representing a municipality under Title 30-A, section 2671, subsection 3; section 4221, subsection 2; section 4452, subsection 1; or Title 38, section 441, subsection 2; nor to a person who is not an attorney, but is representing the Department of Environmental Protection under Title 38, section 342, subsection 7; nor to a person who is not an attorney, but is representing the Bureau of Employment Security or the Bureau of Taxation under section 807-A; nor to a person who is not an attorney, but is representing a party in any hearing, action or proceeding before the Workers' Compensation Commission as provided in Title 39, section 110-A. In all proceedings, the fact, as shown by the records of the Board of Overseers of the Bar, that that person is not recorded as a member of the bar shall be prima facie evidence that the person is not a member of the bar licensed to practice law in the State.

Sec. 3. 5 MRSA §12004-G, sub-§12, as enacted by PL 1987, c. 786, §5, is amended to read:

12. Environment/ Natural Resources	(General) River Corridor Commission	Not Authorized	~~30 MRSA §1961~~ 30-A MRSA §4461

Sec. 4. 22 MRSA §42, sub-§3, as amended by PL 1987, c. 737, Pt. C, §§64 and 106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

3. Plumbing and subsurface waste water disposal. The department shall adopt minimum rules relating to plumbing and subsurface sewage disposal systems and the installation and inspection thereof consistent with Title 30-A, chapter 185, subchapter III, and Title 32, chapter 49, but this does not preempt the authority of municipalities under Title 30-A, section 3001, to adopt more restrictive ordinances; and shall hold hearings on the first Tuesday of February of each year for the purpose of considering changes in the rules pertaining to plumbing and subsurface sewage disposal systems and the installation and inspection thereof. These rules may regulate the location of water supply wells to provide minimum separation distances from subsurface sewage disposal systems. The department may require a deed covenant or deed restriction when determined necessary.

Any person who violates the rules adopted under this subsection, or who violates a municipal ordinance adopted pursuant to Title 30-A, sections 4201 and 4211 or uses a subsurface waste water disposal system not in compliance with rules applicable at the time of installation or modification shall be penalized in accordance with Title 30-A, section ~~4506~~ 4452. Enforcement of the rules shall be the responsibility of the municipalities rather than the department. The department or a municipality may seek to enjoin violations of the rules or municipal ordinances. In the prosecution of a violation by a municipality, the court shall award reasonable attorney's fees to a municipality if that municipality is the prevailing party, unless the court finds that special circumstances make the award of these fees unjust.

Sec. 5. 30-A MRSA c. 3, sub-c. I, art. 3, as amended, is repealed.

Sec. 6. Transition clause. The following provisions apply to the transition from the Maine Revised Statutes, Title 30 to Title 30-A.

1. Personnel. This Act does not affect the term or appointment of any officer, official, employee or other personnel of any county, municipality, plantation, village, quasi-municipal corporation or any state agency, department or board governed by any statute repealed or amended by this Act.

2. Agreements, leases, contracts, authorizations or bonds. All agreements, leases, contracts, authorizations, notes or bonds issued before the effective date of this Act under provisions repealed or amended by this Act shall continue to be valid under the terms of issuance until they expire or are rescinded, amended or revoked.

3. Ordinances, rules and regulations. All ordinances, rules and regulations enacted or adopted by any county, municipality, plantation, village, quasi-municipal corporation or any state agency, department or board under the authority of any provision repealed or amended by this Act shall continue in force until they are repealed, rescinded, amended or revoked.

4. Dedicated revenues. This Act shall not be construed to change the status of any dedicated revenues. All dedicated revenues existing prior to this Act shall not lapse because of this Act, but shall be transferred to the funds of the same name which are created by this Act.

Sec. 7. Legislative intent. It is the intent of the Legislature that Parts A to C of this Act shall be considered as part of the recodification of county and municipal law enacted by PL 1987, chapter 737, and shall not in any way be considered to change or revise the meaning or intent of prior law.

Sec. 8. PL 1987, c. 737, Pt. C, §106, as amended by PL 1989, c.c. 6 and 9, is further amended to read:

Sec. 106. Effective date. This Act shall take effect on February 28, 1989 ~~and shall be retroactive to that date~~.

Sec. 9. PL 1989, c. 9, §§3 and 4 are amended to read:

Sec. 3. Transition and savings clause. The following provisions apply to the transition from the Maine Revised Statutes, Title 30 to Title 30-A, and to the transition between Public Law 1989, chapter 6 and this Act.

1. Personnel. ~~This Act does not affect the term or appointment of any officer, official, employee or other personnel of any county, municipality, plantation, village, quasi-municipal corporation or any state agency, department or board governed by the Maine Revised Statutes, Titles 30 and 30-A.~~ Any election, appointment, hiring or other selection of any officer, official, employee or other personnel of any county, municipality, plantation, village, quasi-municipal corporation or any state agency, department or board taken in compliance with the Maine Revised Statutes, Title 30 or 30-A, between February 28, 1989, and the effective date of this Act are ratified and validated.

2. Agreements, leases, contracts, authorizations or bonds. All agreements, leases, contracts, authorizations, notes or bonds issued ~~under~~ in compliance with the Maine Revised Statutes, ~~Titles~~ Title 30 ~~and~~ or 30-A, before the effective date of this Act shall continue to be valid under the terms of issuance until they expire or are rescinded, amended or revoked.

3. Ordinances, rules and regulations. All ordinances, rules and regulations enacted or adopted by any county, municipality, plantation, village, quasi-municipal corporation or any state agency, department or board ~~under the authority of~~ in compliance with the Maine Revised Statutes, ~~Titles~~ Title 30 or 30-A shall continue in force until they are repealed, rescinded, amended or revoked.

4. Dedicated revenues. This Act shall not be construed to change the status of any dedicated revenues. All dedicated revenues existing prior to this Act shall not lapse because of this Act, but shall be transferred to the funds of the same name which are created by this Act.

5. Ratification. All acts of any state, county or municipal officer or official and of any governmental, municipal or quasi-municipal entity taken in compliance with the Maine Revised Statutes, ~~Titles~~ Title 30 ~~and~~ or 30-A, between February 28, 1989, and the effective date of this Act are ratified and validated.

Sec. 4. Legislative intent. It is the intent of the Legislature that this Act shall be considered a revision of the effective date of certain laws concerning state and local government and shall not in any way be considered to change or revise ~~the~~ any other meaning or intent of those laws. It is the further intent of the Legislature that this Act shall be liberally construed to effectuate the purposes set forth in section 1 of this Act.

Sec. 10. Effective date. This Act shall be retroactive to February 28, 1989.

PART D

Sec. 1. 30-A MRSA §522, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

§522. Membership, terms and compensation

The County Personnel Board shall be composed of ~~not less than~~ 3 ~~nor more than~~ or 5 members who may not be county officers or employees. The county commissioners shall appoint the members. The term of office of the members is 3 years, except that for the first appointment ~~one~~ approximately 1/3 of the members shall be appointed for one year, ~~one~~ approximately 1/3 for 2 years and ~~one~~ the remainder for 3 years. Vacancies shall be filled for the remainder of the term of the vacated appointment. The board shall elect its own ~~chairman~~ chair annually. The members may receive $25 a day for the time actually spent in the discharge of their duties and their necessary expenses.

Sec. 2. 30-A MRSA §2501, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is repealed and the following enacted in its place:

§2501. Applicability of provisions

Except as otherwise provided by this Title or by charter, the method of voting and the conduct of a municipal election are governed by Title 21-A.

1. Clerk to perform duties of Secretary of State. When Title 21-A applies to any municipal election, the municipal clerk shall perform the duties of the Secretary of State prescribed by Title 21-A.

2. Qualifications for voting. The qualifications for voting in a municipal election conducted under this Title are governed solely by Title 21-A, section 111.

Sec. 3. 30-A MRSA §2526, sub-§9, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and as amended by PL 1989, cc. 6 and 9, is further amended to read:

9. Sworn in. Before assuming the duties of office, a town official or deputy shall be sworn by the moderator in open town meeting, by the clerk, or by any other person authorized by law to administer an oath, including a notary public or dedimus justice.

A. Unless the oath is administered in the clerk's presence, the person who administers it shall give the official or deputy sworn a certificate which shall be returned to the clerk for filing. The certificate must state:

(1) The name of the official or deputy sworn;

(2) ~~His~~ The official's or deputy's office;

(3) The name of the person who administered the oath; and

(4) The date when the oath was taken.

B. The clerk shall be sworn to accurately record the votes of town meetings and to discharge faithfully all the other duties of that office, until another clerk is elected and sworn.

C. After the town meeting, the clerk shall immediately issue a warrant directed to a constable containing the names of persons chosen for office who have not been sworn.

(1) The constable shall immediately summon the named persons to appear before the clerk within 7 days from the time of notice to take the oath of office.

(2) The constable shall make a return immediately to the clerk.

(3) The town shall pay the constable a reasonable compensation for these services.

D. The clerk shall record the election or appointment of each official or deputy, including the clerk's own, and the other information specified in paragraph A.

E. A record by the clerk that a person was sworn for a stated town office is sufficient evidence that the person was legally sworn for the office. The entire oath need not be recorded.

Sec. 4. 30-A MRSA §2552, sub-§2, ¶A, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

A. Any city choosing a single assessor may adopt a board of assessment review by vote of the city council at least ~~30~~ 90 days before the annual city election.

Sec. 5. 30-A MRSA §2552, sub-§2, ¶D, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

D. Any city adopting a board of assessment review may discontinue the board by vote of the city council at least ~~30~~ 90 days before the annual city election, in which case the board ceases to exist at the end of the municipal year.

Sec. 6. 30-A MRSA §2671, sub-§2, ¶E, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9, is further amended to read:

E. Arrest a person who travels beyond the limits of the municipality in which the officer is appointed when in fresh pursuit of that person. This paragraph applies to ~~felonies, misdemeanors~~ all crimes and traffic infractions. As used in this paragraph:

(1) With respect to ~~felonies~~ Class A, Class B and Class C crimes, the term "fresh pursuit" is defined in Title 15, section 152; and

(2) With respect to ~~misdemeanors~~ Class D and Class E crimes and traffic infractions, "fresh pursuit" means instant pursuit of a person with intent to apprehend; or

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

Effective May 4, 1989, unless otherwise indicated.

CHAPTER 105

H.P. 758 - L.D. 1062

An Act to Enhance the Economic Corridor Action Grant Program

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

Whereas, the Second Regular Session of the 113th Legislature created and funded the Economic Corridor Action Grant Program to assist municipalities in the development of public facilities; and

Whereas, elements of that program, as enacted, are not in harmony with the Comprehensive Planning and Land Use Regulation Act, thereby making it impossible to implement the Economic Corridor Action Grant Program, and preventing the use of the grant by the State's municipalities; and

Whereas, the need of the State's municipalities to develop public facilities to encourage appropriate development and promote orderly growth remains significant; 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:

5 MRSA §13075, sub-§3, as enacted by PL 1987, c. 855, §1, is repealed and the following enacted in its place:

3. Municipal eligibility. The Department of Economic and Community Development may make grants to municipalities within economic growth corridors in support of capital investments in public service facilities or projects which support economic growth and development. Following the applicable date set forth in Title 30-A, section 4343, subsection 1, any municipality within an economic growth corridor is eligible to apply for grants under this article when it has adopted a comprehensive plan in accordance with the requirements of Title 30-A, chapter 187, subchapter II.