

# MAINE STATE LEGISLATURE

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**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

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Company  
Augusta, Maine  
1989

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION  
of the  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
1989

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G. Each executive branch agency to which the executive employee or the employee's immediate family has sold goods or services with a value in excess of \$1000.

In identifying the source of income, it shall be sufficient to identify the name and principal type of economic activity of the corporation, professional association, partnership, financial institution, nonprofit organization or other entity or person directly providing the income to the individual.

With respect to income from a law practice, it shall be sufficient for attorneys-at-law to indicate their major areas of practice and, if associated with a law firm, the major areas of practice of the firm.

**Sec. 16. 5 MRSA §19, sub-§7** is enacted to read:

7. Disclosure of reportable liabilities. Each executive employee shall include on the statement of income under subsection 2 all reportable liabilities incurred while employed as an executive employee. For the purposes of this subsection, "reportable liability" means any unsecured loan, except a loan made as a campaign contribution recorded as required by law, of \$3000 or more received from a person not a relative. The executive employee shall file a supplementary statement with the Secretary of State of any reportable liability within 30 days after it is incurred. The report shall identify the creditor in the manner of subsection 2.

**Sec. 17. 30-A MRSA §101, sub-§6**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

**6. Keep books and accounts.** Keep their books and accounts on forms and in a manner approved by the Department of Audit; ~~and~~

**Sec. 18. 30-A MRSA §101, sub-§6-A** is enacted to read:

6-A. Adopt ethics policy. In their discretion, the county commissioners may adopt an ethics policy governing the conduct of elected and appointed county officials.

**Sec. 19. 30-A MRSA §2605, sub-§7** is enacted to read:

7. Municipal officers adopt ethics policy. In their discretion, the municipal officers may adopt an ethics policy governing the conduct of elected and appointed municipal officials.

**Sec. 20. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1989-90	1990-91
ATTORNEY GENERAL, DEPARTMENT OF THE		
Administration - Attorney General		
All Other	\$2,000	\$2,000

Provides funds for bound compilations of laws pertaining to legislative ethics and conduct to be distributed to each Legislator.

DEPARTMENT OF THE ATTORNEY GENERAL		
TOTAL	<u>\$2,000</u>	<u>\$2,000</u>

GOVERNMENTAL ETHICS AND ELECTION PRACTICES, COMMISSION ON

Commission on Governmental Ethics and Election Practices

Positions	(1)	(1)
Personal Services	\$19,442	\$26,824
All Other	1,125	1,500
Capital Expenditures	1,000	

Provides funds for one Administrative Secretary and related expenses.

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES		
TOTAL	<u>\$21,567</u>	<u>\$28,324</u>

LEGISLATURE

Legislature

All Other	\$3,500	\$3,500
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Provides funds for the costs associated with printing disciplinary guidelines and procedures for Legislators.

LEGISLATURE		
TOTAL	<u>\$3,500</u>	<u>\$3,500</u>

TOTAL APPROPRIATIONS	<u>\$27,067</u>	<u>\$33,824</u>
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**Sec. 21. Transition.** Beginning in 1990, persons subject to the income disclosure requirements of this Act shall complete the forms and provide the information as required by this Act.

See title page for effective date.

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## CHAPTER 562

### H.P. 631 - L.D. 854

#### An Act To Amend the Growth Management Laws

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

**Whereas,** the Comprehensive Planning and Land Use Regulation Act created by the 113th Legislature is now being implemented; and

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

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

**Sec. 1. 30-A MRSA §4301, sub-§§1, 3 and 10,** as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, are amended to read:

**1. Affordable housing.** "Affordable housing" means decent, safe and sanitary dwellings, apartments or other living accommodations for low and moderate-income households which earn an income at or below 80% of the median household income as determined defined by rule by the Department of Economic and Community Development in consultation with the Maine State Housing Authority. 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.

**3. Comprehensive plan.** "Comprehensive plan" means a document or interrelated documents containing the elements established under section ~~4324~~ 4326, subsections 1 to 4, including the strategies for an implementation program which are consistent with the goals and guidelines established under 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 sections~~ sections 4324 and 4326.

**Sec. 2. 30-A MRSA §4313,** as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

**§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.~~

**1. Comprehensive plan.** Any comprehensive plan not consistent with the requirements, goals and guidelines of this subchapter is void 6 months after the applicable date established under section 4343, subsection 1.

**2. Zoning ordinances.** Any zoning ordinance not consistent with a comprehensive plan adopted according to this subchapter is void 18 months after the applicable date established under section 4343, subsection 1.

**3. Subdivision, site review and impact fee ordinances.** Notwithstanding any provision of a municipal timetable adopted under section 4326, subsection 3, any subdivision, site review or impact fee regulation or ordinance not consistent with a comprehensive plan adopted according to this subchapter is void 2 years after the applicable date established under section 4343, subsection 1.

**4. Other land use ordinances.** Any other land use regulation or ordinance not consistent with a comprehensive plan adopted according to this subchapter is void after January 1, 1998.

**Sec. 3. 30-A MRSA §4324, sub-§5, ¶¶A and B,** as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, are amended to read:

A. At least 60 75 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 75 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.

**Sec. 4. 30-A MRSA §4324, sub-§7,** as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

**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 upon receipt with the proposed comprehensive plan or zoning ordinance as required in subsection 8.

**Sec. 5. 30-A MRSA §4324, sub-§8, ¶A,** as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

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~~ are expected from the office and will be available for distribution before, and for discussion at, the public hearing.

**Sec. 6. 30-A MRSA §4326, sub-§§3 and 5,** as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, are amended to read:

**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 and timetable 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 and use of municipally owned land;

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; and encourage the creation of greenbelts, public parks, trails and conservation easements. Each municipality shall identify and encourage the protection of undeveloped shoreland and other areas identified in the local planning process as meriting such protection.

**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~~ 18 months of the applicable deadline date established in section 4343, subsection 1, with the remainder of the strategies adopted according to the timetable set in the plan and the provisions of section 4313.

**Sec. 7. 30-A MRSA §4341, sub-§3, ¶F**, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

F. The council shall report annually by January 4, 1989, and ~~every 2 years thereafter~~, 1st to the Governor and the joint standing committee of the Legislature having jurisdiction over natural resources on any changes that may be required to accomplish the purposes of this subchapter.

**Sec. 8. 30-A MRSA §4343, sub-§1, ¶B**, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is repealed.

**Sec. 9. 30-A MRSA §4343, sub-§1, ¶C**, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

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.

**Sec. 10. 30-A MRSA §4343, sub-§§1-A to 1-C** are enacted to read:

**1-A. Comprehensive plans; transition.** No comprehensive plan or amendment to a comprehensive plan adopted by a municipality between August 4, 1988 and the applicable date established under subsection 1 may be found to be void before the date established under section 4313, subsection 1, for failure to comply with this subchapter except that adoption of the plan or amendment after September 1, 1989 must comply with the requirements for public hearing under section 4324, subsection 8.

**1-B. Zoning ordinances; schedule.** Each municipality shall submit for review a zoning ordinance proposed as part of its implementation program within one year of the applicable date for submission of the comprehensive plan established under subsection 1. Each municipality shall adopt a zoning ordinance consistent with an adopted comprehensive plan within 18 months after that applicable date established under subsection 1.

**1-C. Other land use ordinances; schedules.** Subject to section 4313, components of the municipality's implementation program other than the zoning ordinance shall be adopted in accordance with the timetable provided in the municipality's comprehensive plan under section 4326, subsection 3.

**Sec. 11. 30-A MRSA §4343, sub-§3, ¶E**, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

E. If warranted, the office shall issue findings specifically describing ~~the deficiencies in how~~ the submitted plan or ordinance is not consistent with this subchap-

ter and the recommended measures for remedying the deficiencies. In its findings, the office shall clearly indicate its position on any point in the event that there are significant conflicts between the written comments on that point submitted to the office.

**Sec. 12. 30-A MRSA §4343, sub-§4**, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

**4. Updates; amendment of comprehensive plans and zoning ordinances.** Each municipality shall submit any comprehensive plans and zoning ordinances ~~revised proposed to be amended~~ 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.

**Sec. 13. 30-A MRSA §4343, sub-§5, ¶C**, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

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 findings~~ prepared by the office at that time.

**Sec. 14. 30-A MRSA §4344, sub-§§3, 4, 7, 8 and 9**, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, are amended to read:

**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, administer and enforce 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 development and 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 preparation of policies, programs and land use ordinances adopted as part of a certified growth management program implementing a

comprehensive plan that is consistent with this subchapter. 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.

**7. Municipal legal defense fund.** The office shall develop and administer a nonlapsing 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. After 2 years subsequent to the applicable deadline dates established under section 4343, subsection 1, assistance under this subsection is limited to the enforcement and defense of land use ordinances adopted as part of a certified local growth management program in accordance with this subchapter. The balance of the fund shall not exceed \$250,000 at any time. Amounts in excess of this \$250,000 limit shall lapse to the General Fund.

**8. Eligibility for other state aid.** After 2 years subsequent to 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, and after 2 years subsequent to the applicable deadline date established in section 4343, subsection 1, 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.

**Sec. 15. 30-A MRSA §4344, sub-§10** is enacted to read:

10. Assistance from housing authorities. Notwithstanding any other provision of law, the Maine State Housing Authority and municipal housing authorities may provide technical assistance to municipalities with respect to housing components of comprehensive plans developed under this subchapter.

**Sec. 16. 30-A MRSA §4354, first ¶,** as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

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 No later than 2 years 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.

**Sec. 17. 30-A MRSA §4354, sub-§2, ¶D,** as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

D. The ordinance must establish a mechanism by which the municipality ~~may~~ shall refund impact fees, or ~~a~~ that 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.

**Sec. 18. 30-A MRSA §4354, sub-§2, ¶E,** as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is repealed.

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

Effective July 11, 1989.

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## CHAPTER 563

H.P. 229 - L.D. 313

### An Act to Expand the Types of Medication Included in the Elderly Low-cost Drug Program