

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
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NON-EMERGENCY LAWS IS
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NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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

J.S. McCarthy Company
Augusta, Maine
1997

CHAPTER 35**S.P. 165 - L.D. 494****An Act to Change the Time for Appointment of a Visitor or Guardian Ad Litem after Appointment of a Temporary Conservator or Guardian**

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

Sec. 1. 18-A MRSA §5-310-A, sub-§(a-1), as enacted by PL 1995, c. 203, §2, is amended to read:

(a-1) If the court takes action to exercise the powers of a guardian or to appoint a temporary guardian under subsection (a), then the court, within ~~48 hours~~ 2 days, excluding Saturdays, Sundays and legal holidays, of taking the action, shall appoint a visitor or a guardian ad litem to visit the allegedly incapacitated person and make a report to the court within 10 days of the appointment ~~of the visitor or guardian ad litem~~. The visitor or guardian ad litem shall serve the allegedly incapacitated person with a copy of the order appointing the temporary guardian and shall explain the meaning and consequences of the appointment. The visitor or guardian ad litem shall inquire of the allegedly incapacitated person whether that person wishes to contest any aspect of the temporary guardianship or seek any limitation of the temporary guardian's powers. The visitor or guardian ad litem shall advise the allegedly incapacitated person of that person's right to contest the temporary guardianship by requesting a hearing under subsection (b) and shall advise the allegedly incapacitated person of that person's right to be represented in the proceeding by counsel of that person's own choice or by counsel appointed by the court. The visitor or guardian ad litem shall also interview the temporary guardian, except in cases where the court itself has taken action to exercise the powers of a temporary guardian. In the report to the court, the visitor or guardian ad litem shall inform the court that the allegedly incapacitated person has received a copy of the order appointing the temporary guardian. The visitor or guardian ad litem shall advise the court as to whether the allegedly incapacitated person wishes to contest any aspect of the temporary guardianship or seek a limitation of the temporary guardian's powers and whether the allegedly incapacitated person is already represented by counsel. The visitor or guardian ad litem shall also advise the court whether any issue exists with respect to whether the appointment of the temporary guardian is in the allegedly incapacitated person's best interest.

Sec. 2. 18-A MRSA §5-408-A, sub-§(a-1), as enacted by PL 1995, c. 203, §6, is amended to read:

(a-1) If the court takes action to exercise the powers of a conservator or to appoint a temporary conservator under subsection (a), then the court, within ~~48 hours~~ 2 days, excluding Saturdays, Sundays and legal holidays, of taking the action, shall appoint a visitor or a guardian ad litem to visit the protected person and make a report to the court within 10 days of the appointment of ~~the temporary conservator~~ the visitor or guardian ad litem. The visitor or guardian ad litem shall serve the protected person with a copy of the order appointing the temporary conservator and shall explain the meaning and consequences of the appointment. The visitor or guardian ad litem shall inquire of the protected person whether that person wishes to contest any aspect of the temporary conservatorship or seek any limitation of the temporary conservator's powers. The visitor or guardian ad litem shall advise the protected person of that person's right to contest the temporary conservatorship by requesting an expedited hearing under subsection (b) and shall advise the protected person of that person's right to be represented by counsel of that person's own choice or by counsel appointed by the court. The visitor or guardian ad litem shall also interview the temporary conservator, except in cases where the court itself has taken action to exercise the powers of a temporary conservator. In the report to the court, the visitor or guardian ad litem shall inform the court that the protected person has received a copy of the order appointing the temporary conservator and shall advise the court as to whether the protected person wishes to contest any aspect of the temporary conservatorship or seek a limitation of the temporary conservator's powers and whether the protected person is already represented by counsel. The visitor or guardian ad litem shall also advise the court whether any issue exists with respect to whether the appointment of the temporary conservator is in the protected person's best interest.

See title page for effective date.

CHAPTER 36**H.P. 58 - L.D. 83****An Act to Amend the Laws Requiring Notification for Public Hearings Concerning Ordinance Changes**

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

Whereas, this Act would enable municipal planning boards that meet bimonthly to give proper public notice of zoning ordinance hearings and to hold

the hearing at their next regularly scheduled meeting; and

Whereas, if this change is effective immediately, it may allow some municipalities to hold public hearings and present zoning ordinance changes at their town meetings this spring; 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 §4352, sub-§8, as amended by PL 1991, c. 504, §1, is further amended to read:

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 that are consistent with the existing and permitted uses within the original zones; and
- C. Only include conditions and restrictions that 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 must be posted in the municipal office at least ~~14~~ 13 days before the public hearing. Notice must 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 must also be sent to the owner or owners of the property to be rezoned and to the owners of all property abutting the property to be rezoned at the owners' last known addresses. This notice must contain a copy of the proposed conditions and restrictions with a map indicating the property to be rezoned.

Sec. 2. 30-A MRSA §4352, sub-§9, as repealed and replaced by PL 1993, c. 374, §3, is amended to read:

9. Notice; general requirements. Before adopting a new zoning ordinance or map or amending an existing zoning ordinance or map, including ordinances or amendments adopted under the laws

governing growth management contained in chapter 187, subchapter II or the laws governing shoreland zoning contained in Title 38, chapter 3, subchapter I, article 2-B, the municipal reviewing authority must post and publish notice of the public hearing required under subsection 1 in accordance with the following provisions.

A. The notice must be posted in the municipal office at least ~~14~~ 13 days before the public hearing.

B. The notice must be published at least 2 times in a newspaper that complies with Title 1, section 601 and that has a general circulation in the municipality. The date of the first publication must be at least ~~14~~ 12 days before the hearing and the date of the 2nd publication must be at least 7 days before the hearing. That notice must be written in plain English, understandable by the average citizen.

Sec. 3. 30-A MRSA §4352, sub-§10, ¶B, as enacted by PL 1993, c. 374, §4, is amended to read:

B. For each parcel within the municipality that is in or abutting the portion of the municipality affected by the proposed amendment, the notice must be mailed by first class mail at least ~~14~~ 13 days before the public hearing to the last known address of the person to whom property tax on each parcel is assessed. The municipal officers shall prepare and file with the municipal clerk a written certificate indicating those persons to whom the notice was mailed and at what addresses, when it was mailed, by whom it was mailed and from what location it was mailed. This certificate constitutes prima facie evidence that notice was sent to those persons named in the certificate. Notice is not required under this paragraph for any type of zoning ordinance adopted under the laws governing growth management contained in chapter 187, subchapter II or the laws governing shoreland zoning contained in Title 38, chapter 3, subchapter I, article 2-B.

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

Effective March 28, 1997.

CHAPTER 37

H.P. 109 - L.D. 133

An Act Regarding Qualifications for the Office of Sheriff