

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
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
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

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**

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

Sec. 1. 30-A MRSA §371-B is enacted to read:

§371-B. Selection; qualifications

1. Manner of election or appointment. Sheriffs are elected or appointed and hold their offices according to the Constitution of Maine. Their election must be conducted and determined as is provided for county commissioners. Sheriffs take office on the first day of January following their election.

2. Filling vacancies. Vacancies in the office of sheriff caused by death, resignation, removal from the county, permanent incapacity or any other reason must be filled as provided in the Constitution of Maine.

3. Minimum qualifications for officers. A person may not be appointed to the office of sheriff, be a candidate for election to the office of sheriff or serve as sheriff of any county in the State unless the candidate meets the following qualifications:

A. The candidate swears to or affirms the Law Enforcement Code of Ethics;

B. The candidate has never been convicted of a Class C or higher crime;

C. The candidate applies to the Secretary of State for a criminal background investigation; and

D. The candidate submits written certification from the Maine Criminal Justice Academy that the candidate has acquired the minimum college credits in required courses, training hours and years of experience, or combination thereof, to qualify for an executive certificate under academy standards.

4. Exception. Any person who is serving or who has previously served in the office of sheriff on the effective date of this section is deemed to meet the minimum qualifications of subsection 3.

See title page for effective date.

CHAPTER 38

S.P. 10 - L.D. 2

**An Act to Clarify Municipal Review
and Enforcement of Sludge
Spreading and Storage Permits**

Mandate preamble. This measure requires one or more local units of government to expand or

modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 30-A MRSA §4452, sub-§6, as enacted by PL 1991, c. 732, §4, is amended to read:

6. Septage and sludge permits issued by the Department of Environmental Protection. A municipality, after notifying the Department of Environmental Protection, may enforce the terms and conditions of a septage land disposal or storage site permit or a sludge land application or storage site permit issued by the Department of Environmental Protection pursuant to Title 38, chapter 13, subchapter 1.

Sec. 2. 38 MRSA §1305, sub-§8, as enacted by PL 1991, c. 732, §5, is amended to read:

8. Septage and sludge permits; municipal enforcement. Pursuant to Title 30-A, section 4452, subsection 6, a municipality, after notifying the department, may enforce the terms and conditions of a septage land disposal or storage site permit or a sludge land application or storage site permit issued by the department under this subchapter.

Sec. 3. 38 MRSA §1305, sub-§9 is enacted to read:

9. Coordination between municipality and department. Prior to approving an application for a sludge land application site or storage facility, the department shall consult with the municipal officers or their designees in the municipality in which the site or facility is proposed and provide them with an opportunity to suggest conditions to be imposed on a permit or license. If the department does not impose conditions on a permit or license that have been suggested in writing by the municipal officers, the department shall provide a written explanation to the municipal officers.

Sec. 4. 38 MRSA §1305, as amended by PL 1991, c. 732, §5, is further amended by adding at the end a new paragraph to read:

For purposes of this section, the term "sludge" includes municipal, commercial or industrial wastewater treatment plant sludge.

See title page for effective date.
