

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

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
1999

C. Having custody of property pursuant to a rental or lease agreement with the owner thereof or a borrower's agreement with a library or museum whereby such property is to be returned to the owner at a specified time and place, the person knowingly fails to comply with the agreed terms concerning return of such property without the consent of the owner, for so lengthy a period beyond the specified time for return as to render the retention or possession or other failure to return a gross deviation from the agreement. For purposes of this paragraph, a gross deviation may be presumed when the person fails to return the property within 5 days of receiving a written demand from the owner, mailed by certified or registered mail or delivered by hand after the expiration of the rental period to the most current address known to the owner.

See title page for effective date.

CHAPTER 263

S.P. 666 - L.D. 1888

An Act to Amend the Laws Relating to Development and Centralized Listing of Municipal Ordinances that Apply to Forestry Practices

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

Sec. 1. 12 MRSA §8869, sub-§8, as amended by PL 1995, c. 122, §1 and affected by §2, is further amended to read:

8. Relationship to municipal rules and regulations. Nothing in this subchapter may be construed to preempt or otherwise limit the existing authority of municipalities to regulate harvesting, except that municipalities regulating timber harvesting shall adopt definitions for forestry terms used in their ordinances that are consistent with definitions in section 8868 and with forestry terms adopted by the commissioner pursuant to this subchapter. ~~A municipality may not adopt an ordinance that regulates timber harvesting unless the following process is followed in the development and review of the ordinance: Municipal timber harvesting ordinances adopted before September 1, 1990 must meet this standard of compliance with definitions no later than January 1, 2001.~~

A municipality may not adopt an ordinance that is less stringent than the minimum standards established in this section and in rules adopted by the commissioner to implement this section. A municipality may not adopt or amend an ordinance that regulates timber harvesting unless the process set out in this subsection

is followed in the development and review of the ordinance.

A. A licensed professional forester must participate in the development or amendment of the ordinance.

B. A ~~face-to-face~~ meeting must take place in the municipality during the development or amendment of the ordinance between representatives of the department and municipal officers and officials involved in developing the ordinance. Discussion at the meeting must include, but is not limited to, the ~~timber harvesting forest practices~~ goals of the municipality. At this meeting and subsequently, the department shall provide guidance to the municipality on how the municipality may use sound forestry practices to achieve the municipality's forest practices goals.

C. The municipality shall hold a public hearing to review a proposed ordinance or ordinance amendment at least 45 days before a vote is held on the ordinance. The municipality shall ~~provide~~ provide post and publish public notice of the public hearing according to the ~~method the municipality uses for its regular public meetings; and same~~ general requirements of posted and published notice for zoning ordinance public hearings as provided by Title 30-A, section 4352, subsection 9.

In addition, when a municipality proposes to adopt or amend a timber harvesting ordinance pursuant to its home rule authority as provided by Title 30-A, section 3001, the municipality shall mail notice of the hearing by first-class mail at least 14 days before the hearing to all landowners in the municipality at the last known address of the person on whom a property tax on each parcel is assessed. In the case of a timber harvesting ordinance or amendment that applies only to certain zones or land use districts in the municipality, the municipality may meet the requirements of this paragraph by mailing notice only to those landowners whose land is in a zone or land use district or immediately abutting the affected zone or land use district.

Mailed notice to individual landowners is not required under this subsection for any type of amendment to an existing local land use ordinance merely to conform that ordinance to the minimum timber harvesting guidelines required by Title 38, section 439-A, as those guidelines may be subsequently amended, or to conform any timber harvesting ordinance to the requirements of this section for conformity of definitions when the proposed amendments do not substantially change any previously established

timber harvesting standards adopted pursuant to home rule authority.

The municipal officers shall prepare and file with the municipal clerk a written certificate indicating those landowners 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. The certificate constitutes prima facie evidence that notice was sent to those landowners named in the certificate.

Any action challenging the validity of the adoption or amendment of a municipal timber harvesting ordinance based on the municipality's alleged failure to comply with the landowner notice requirement must be brought in Superior Court within 90 days after the adoption of the ordinance or amendment. The Superior Court may invalidate an ordinance or amendment only if the landowner demonstrates that the landowner was entitled to receive a notice under this section, that the municipality failed to send the notice as required, that the landowner had no knowledge of the proposed ordinance or amendment and that the landowner was materially harmed by that lack of knowledge.

D. The municipality municipal clerk shall notify the department of the time, place and date of the public hearing and provide the department with a copy of the proposed ordinance that will be reviewed at the hearing at least 30 days before the date of the hearing.

E. At the public hearing, representatives of the department must be provided an opportunity to present and discuss for the municipality's information any reports, articles, treatises or similar materials published by acknowledged experts in the field of sound forestry or silvicultural management to the extent such information is relevant to the proposed ordinance or ordinance amendment.

The proposed ordinance or ordinance amendment may be revised after the public hearing. The ordinance or amendment must be submitted to the legislative body of the municipality in accordance with the procedures the municipality uses for adopting ordinances.

F. Municipal timber harvesting ordinances may not be unreasonable, arbitrary or capricious and must employ means appropriate to the protection of public health, safety and welfare.

G. All direct costs incurred by a municipality associated with landowner notification requirements and other required public notice must be paid to the municipality in accordance with a

distribution schedule established under Title 30-A, section 5685, subsection 5. All direct costs incurred by a municipality in order to comply with this subsection for the amendment of ordinances adopted before September 1, 1990 must be paid to the municipality in accordance with a distribution schedule established under Title 30-A, section 5685, subsection 5.

~~The proposed ordinance may be revised after the public hearing. The revised ordinance or the proposed ordinance, if no changes are made following the public hearing, must be submitted to the legislative body of the municipality in accordance with the procedures the municipality uses for adopting ordinances.~~

~~The department must provide a municipality guidance on how the municipality may use sound forestry practices to achieve its timber harvesting goals.~~

Sec. 2. 12 MRSA §8869, sub-§9, as enacted by PL 1989, c. 555, §10, is repealed and the following enacted in its place:

9. Centralized listing of municipal ordinances.
The bureau shall maintain for informational purposes a statewide centralized listing of municipal ordinances that specifically apply to forest practices.

A. Within 30 days after the legislative body of the municipality votes on a timber harvesting ordinance developed according to the procedures of subsection 8, the clerk shall notify the bureau of the outcome and shall file a copy of the ordinance with the bureau.

Sec. 3. Funding. The Department of Conservation shall designate, from amounts appropriated to the Division of Forest Policy and Management, amounts sufficient to meet the requirements of the Maine Revised Statutes, Title 30-A, section 5685.

See title page for effective date.

CHAPTER 264

H.P. 1061 - L.D. 1492

An Act to Propose Changes to the Maine Election Laws

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

Sec. 1. 21-A MRSA §354, sub-§7, ¶B, as amended by PL 1995, c. 459, §26, is further amended to read: