

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTIETH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 2, 2002 to April 25, 2002**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 25, 2002**

**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**  
**2002**

tion empowered to provide a program of education beyond the high school level; and

See title page for effective date.

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## CHAPTER 591

H.P. 1560 - L.D. 2062

### An Act to Clarify the Use of Municipal Rate of Growth Ordinances

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

Sec. 1. 30-A MRSA §4360 is enacted to read:

**§4360. Rate of growth ordinances**

A municipality that enacts a rate of growth ordinance shall review and update the ordinance at least every 3 years to determine whether the rate of growth ordinance is still necessary and how the rate of growth ordinance may be adjusted to meet current conditions.

See title page for effective date.

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## CHAPTER 592

H.P. 1546 - L.D. 2049

### An Act to Authorize the Transfer of Development Rights

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

Sec. 1. 30-A MRSA §4326, sub-§3, ¶A, as amended by PL 2001, c. 406, §4, is further amended to read:

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 or any combination of those types of 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 transfer of development rights pursuant to section 4328; or performance standards.

A municipality is not required to identify growth areas for residential, commercial or industrial growth if it demonstrates that it is not possible to accommodate future residential, commercial or industrial growth in these areas because of severe physical limitations, including, without limitation, the lack of adequate water supply and sewage disposal services, very shallow soils or limitations imposed by protected natural resources; or it demonstrates that the municipality has experienced minimal or no residential, commercial or industrial development over the past decade and this condition is expected to continue over the 10-year planning period. A municipality exercising the discretion afforded by this paragraph shall review the basis for its demonstration during the periodic revisions undertaken pursuant to section 4327;

Sec. 2. 30-A MRSA §4328 is enacted to read:

**§4328. Transfer of development rights**

In order to comply with the requirement in section 4326 for each municipality to adopt land use policies and ordinances to discourage incompatible development, a municipality may adopt a transfer of development rights program for the transfer of development rights within its boundaries. Two or more municipalities may adopt a program that provides for the transfer of development rights between the municipalities if the municipalities have entered into an interlocal agreement pursuant to chapter 115 for this purpose.

See title page for effective date.

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