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Information Pamphlet No. 1: Regional and Municipal Planning Statutes in Maine - 1965

Maine Department of Economic Development

Maine Division of Research and Planning

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Information Pamphlet

No. 1

Regional and Municipal Planning Statutes In Maine—1965

Containing Excerpts from Title 30
Maine Revised Statutes

Planning

Zoning

Development

Authority

Membership

Official Map

Appeals

Subdivisions

Villages

Finance

Division of Research and Planning
Department of Economic Development
Augusta, Maine

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September, 1965

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This information pamphlet contains all parts of the statutes relating to community planning appearing in Title 30 of Maine Revised Statutes but excludes those sections related to general municipal and county government and others having only a secondary effect on planning and development activities.

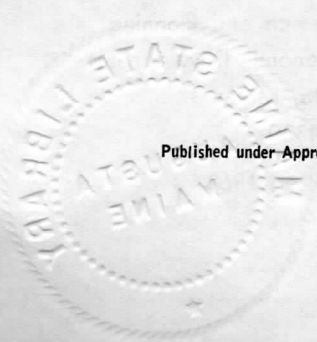
Maine community planning law consists of two parts; municipal planning or development, and regional planning or development. Therefore, sections of the statutes appearing herein are assigned to the respective categories described and subchapter designations are omitted.

The following definitions are extracted from section 1901 of Title 30 M.R.S. and apply to the statutes presented herein—"unless a different meaning is plainly required by the context:"

Municipality. "Municipality" includes only cities and towns.

Municipal officers. "Municipal officers" means the mayor and aldermen of a city, and the selectmen of a town.

Municipal official. "Municipal official" means any elected or appointed member of a municipal government.



MUNICIPAL DEVELOPMENT

§ 4951. Authority to act

A municipality may act for the purpose of municipal development according to this subchapter.

§ 4952. Planning board

1. **Establishment.** A municipality may establish a planning board.

A. Appointments to the board shall be made by the municipal officers.

B. The board shall consist of 5 members and 2 associate members.

C. The term of office of a member is 5 years, but initial appointments shall be made for 1, 2, 3, 4 and 5 years, respectively. The term of office of an associate member is 5 years.

D. A municipal officer may not be a member or associate member of the board.

E. When a member is unable to act because of interest, physical incapacity, absence from the State or any other reason satisfactory to the chairman, the chairman of the planning board shall designate an associate member to act in his stead. When there is a permanent vacancy, the municipal officers shall appoint a person to serve for the unexpired term.

F. An associate member may attend all meetings of the board and participate in its proceedings, but may vote only when he has been designated by the chairman to act for a member.

G. The board shall elect a chairman and secretary from its own membership.

2. **Plans.** The board shall prepare, adopt and may amend a comprehensive plan containing its recommendations for the development of the municipality.

A. Among other things, the plan may include the proposed general character, location, use, construction, layout, extent, size, open spaces and population density of all real estate, and the proposed method for rehabilitating blighted districts and eliminating slum areas.

B. The board shall hold a public hearing on its tentative proposals, before it adopts the plan or an amendment of it.

C. Once adopted by the board, the plan becomes a public record. It shall be filed in the office of the clerk.

D. After the board has adopted the plan, an ordinance or official map authorized by this subchapter may not be enacted, adopted or amended, and public property may not be established or modified in location or extent, until the board has made a careful investigation and reported its pertinent recommendations which are consistent with the plan. The board shall make its official report at the next meeting of the legislative body which is held not less than 30 days after the proposal has been submitted to the board. The failure of the board to issue its report constitutes approval of the proposal. A proposal which has been disapproved by the board may be enacted only by a 2/3 vote of the legislative body.

3. **Appropriations.** A municipality which has a planning board may raise or appropriate money and may contract with the State and Federal Governments for the purpose of the comprehensive planning authorized by this subchapter.

4. **Personnel and services.** The board may hire personnel and obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose.

§ 4953. Zoning ordinance

1. **Scope.** A municipality which has a planning board may enact a zoning ordinance dividing it into zones consistent with the proper development of the municipality. The zoning ordinance may regulate the following:

A. Location and use of real estate for industrial, commercial, residential and other purposes;

B. Construction, height, number of stories, area and bulk of all structures;

C. Size and open spaces of real estate;

D. Population density;

E. Setback of structures along ways of public property.

2. **Part of plan.** A zoning ordinance shall be drafted as an integral part of a comprehensive plan for municipal development, and promotion of the health, safety and general welfare of the residents of the municipality.

A. Among other things, it shall be designed to encourage the most appropriate use of land throughout the municipality; to promote traffic safety; to provide safety from fire and other elements; to provide adequate light and air; to prevent overcrowding of real estate; to promote a wholesome home environment; to prevent housing development in insanitary areas; to provide an adequate street system; to promote the coordinated development of unbuilt areas; to encourage the formation of community units; to provide an allotment of land area in new developments sufficient for all the requirements of community life; to conserve natural resources; and to provide for adequate public services.

3. **Public hearing.** A zoning ordinance or amendment may be enacted only after a public hearing has been held by the planning board for its consideration at least 10 days before it is submitted to the legislative body.

4. **Map.** The planning board shall prepare a zoning map outlining each zone established or modified by the municipality. The map shall be filed in the office of the clerk.

5. **Application.** A zoning ordinance does not apply to structures and uses existing at the time it is enacted, but applies to new structures and uses, and changes in structures and uses made afterward.

A. The changes in structure and use to which a zoning ordinance applies may be defined in the ordinance.

6. **Exemptions.** Real estate used or to be used by a public service corporation may be wholly or partially exempted from an ordinance authorized by this subchapter, when on petition, notice and public hearing, the Public Utilities Commission judges the exemption to be reasonably necessary for public welfare or convenience.

7. **Governments.** County and municipal governments shall abide by a zoning ordinance enacted by a municipality. A zoning ordinance is advisory with respect to the State Government.

8. **Nonconforming.** Any real estate or personal property existing in violation of an ordinance authorized by this subchapter is a nuisance.

9. **Building inspector.** The building inspector is the authority for the issue of a building or use permit, unless otherwise provided by the municipality.

A. An application for a building or use permit shall be in writing and shall be signed by the applicant and directed to the building inspector. The failure of the building inspector to issue a written notice of his decision, directed to the applicant, within 30 days from the date of filing of the application constitutes a refusal of the permit.

B. The building inspector shall be given free access at reasonable hours to all parts of structures regulated by a zoning ordinance.

§ 4954. Zoning board of appeals

1. **Organization.** The municipal officers of a municipality which enacts a zoning ordinance shall appoint a board of appeals.

A. The board shall consist of 3 members and one associate member.

B. The term of office of a member is 3 years, but initial appointments shall be made for 1, 2 and 3 years, respectively. The term of office of an associate member is 3 years.

C. A municipal officer may not be a member or associate member of a board of appeals.

D. When a member is unable to act because of interest, physical incapacity or absence from the State, the associate member shall act in his stead. When there is a permanent vacancy, the municipal officers shall appoint a person to serve for the unexpired term.

E. The board shall elect a chairman and secretary from its own membership.

F. Municipalities of 5,000 or more residents may by ordinance provide for a board of appeals con-

sisting of 5 or 7 members and one associate member. The terms of office of members shall not exceed 5 years and initial appointments shall be such that the terms of office of no more than 2 members shall expire in any single year.

2. Appeal. An appeal may be taken from any decision of the building inspector to the board of appeals, and from the board of appeals to the Superior Court.

A. On an appeal in writing to the board of appeals, it shall affirm, modify or set aside the decision appealed from according to the terms of the pertinent ordinance. The board may grant a variance from the terms of an ordinance where necessary to avoid undue hardship, provided there is no substantial departure from the intent of the ordinance. It may permit an exception to an ordinance only when the terms of the exception have been specifically set forth by the municipality. The failure of the board to issue a written notice of its decision, directed to the appellant, within 30 days from the date of filing of the appeal constitutes a denial of the appeal.

B. The appeal to the Superior Court shall be taken within 30 days after the decision. Notice of the appeal shall be ordered by the court, and the appeal shall be tried and determined by the court without a jury in the manner and with the rights provided by law in other civil actions so heard. Costs may be awarded to the prevailing party by the court as justice requires.

§ 4955. Official map

1. Public ways and property. A municipality may adopt and amend an official map showing the location of public ways and other public property, ways used in common by more than 2 owners of abutting property and approved subdivisions. The map may include all or part of the municipality and the following provisions apply only to that area outlined on the adopted map.

A. When the official map has been adopted or amended, the clerk shall certify that fact to the proper register of deeds who shall record it. The map shall be filed in the office of the clerk.

B. The lines of ways, public property and sub-

divisions established or modified after adoption of the official map shall be added to the map and become part of it. The municipal officers shall prepare the map and keep it current.

C. After the planning board has adopted a comprehensive plan, the municipality may require that the lines of planned new or modified ways and public property be placed on the official map.

D. The placing of a line on the official map does not constitute the establishment or modification of any way or public property, nor the taking or acceptance of land for any purpose.

E. A permit for the erection of any structure to be located within the boundaries of an existing or proposed way or public property shown on the official map may not be issued, except as provided by Title 35, sections 2341 and 2347. A permit for the erection of any structure or the use of land which requires access from a way may not be issued, unless a way which provides the required access appears on the map or has been approved for the purpose by the municipal officers. A public water supply, sewer or other public utility, pavement or other improvement may not be constructed along a way not shown on the map.

§ 4956. Land subdivisions

1. Regulation. A municipality may regulate the subdivision of land.

A. Subdivision means the division into 3 or more lots in urban areas or 4 or more lots in rural areas, except this provision shall not apply to any divisions for agricultural uses, including associated sales, service, processing and storage.

(1) Urban areas shall mean areas so designated in the local zoning ordinance, or if there is no local zoning ordinance, the areas designated as urban compact by the State Highway Commission.

B. A register of deeds shall not record any plat of a proposed subdivision until it has been approved by the planning board and the approval noted on the plat. In a municipality which does not have a planning board, the municipal officers

shall act in its stead for the purposes of this section.

C. Approval of a subdivision is based on its compliance with municipal ordinances and its general reasonableness.

D. In a municipality which has an engineer, he shall make a report to the planning board with respect to the grades, drainage, sewerage and road surfacing of a proposed subdivision, before it may be approved.

E. The failure of the planning board to issue a written notice of its decision, directed to the applicant, within 30 days after a proposed subdivision has been submitted constitutes its disapproval. An appeal may be taken from the decision of the planning board to the Superior Court as provided in section 4954, subsection 2, paragraph B.

F. The recording of a plat without the approval required by this section is void.

G. A person who conveys or agrees to convey any land by reference to a plat which has not been approved as required by this section, and recorded by the proper register of deeds, may be enjoined by any municipality from the conveyance or agreement to convey.

H. A copy of each subdivision plot approved under this subchapter shall be filed with the municipal clerk.

§ 4957. Savings provision

In a municipality which does not have a planning board, an ordinance enacted under repealed sections 137 to 144 of chapter 5 of the Revised Statutes of 1930 as amended, and repealed sections 93 to 97 of chapter 91 of the Revised Statutes of 1954, remains effective, and may be amended in accordance with those sections until it is repealed or superseded by an ordinance authorized by this subchapter. In a municipality which has a planning board, an ordinance enacted under the repealed sections which is consistent with this subchapter remains effective and an ordinance which is inconsistent with this subchapter is void.

§ 5401. Powers and duties of village corporations

A village corporation or its municipal officers, as the case may be, shall have the same powers and duties which a town or its municipal officers, as the case may be, have under section 2151, subsection 3, and section 2153.

§ 5403. Development

A village corporation has the same powers and duties as a municipality under chapter 239, subchapter V. When there is a conflict between the zoning provisions of a village corporation and those of the municipality of which it is a part, the zoning provisions of the municipality prevail.

§ 5106. Development

A municipality may raise or appropriate money:

1. **Board of trade.** Supporting a chamber of commerce or board of trade.

2. **Advertising.** Advertising its resources and attractions or those of the State.

A. For this purpose, a sum not exceeding 2 mills on a dollar based on the local municipal valuation of the preceding year may be appropriated.

3. **Real estate.** Purchasing real estate and personal property from the Federal Government for municipal purposes.

4. **Recreation.** Providing real estate and personal property for recreational purposes and supporting a recreational program.

5. **Fish.** Propagating and protecting fish in public waters located wholly or partially within its boundaries.

A. For this purpose, not more than \$500 may be appropriated annually.

B. The money appropriated shall be spent by the municipal officers or a person appointed by them.

C. A written report of the expenditure shall be submitted to the legislative body within one year of the date of appropriation by the person authorized to spend the money.

6. **Historical society.** Assisting a local historical society.

7. **History.** Writing and publishing its history.

8. **Conventions.** Assisting conventions.

A. For this purpose a sum not exceeding $\frac{1}{2}$ mill on a dollar based on the local municipal valuation of the preceding year may be appropriated.

9. **Lands.** Providing for and acquiring open areas, including marsh lands, swamps or wet lands, as defined in section 3851. (1965, c. 203, § 4)

REGIONAL DEVELOPMENT

§ 4501. Regional planning commission

A municipality which has a planning board may join a regional planning commission for the purpose of regional development.

§ 4502. —Membership

1. **Composition.** The commission may be composed of 2 or more member municipalities.

2. **Budget.** The commission shall prepare an annual budget and shall determine on an equitable basis the amount to be paid by each member. The amount to be paid by each member shall be certified to its municipal officers by the commission in sufficient time to allow an appropriation to be made.

A. The failure of a member to appropriate and pay the amount determined by the commission terminates its membership.

3. **Planning.** A member may raise or appropriate money and furnish necessary services for the use of the commission. A member may contract with the commission for the furnishing of funds or services in the preparation of a comprehensive regional plan, and for special planning work to be done by the commission for the member.

§ 4503. —Representation

1. **Appointment.** Appointments to the commission shall be made by the municipal officers from

nominations of residents submitted by the planning board as follows:

A. Where the population of the municipality according to the last Decennial Census of the United States is less than 20,000, it is entitled to 2 representatives; 20,000 to 100,000, 3; and more than 100,000, 4.

B. Each member is entitled to one associate representative.

2. **Term.** The term of office of a representative is 4 years, but initial appointments shall be made for 2 and 4 years where a member is entitled to 2 representatives; 2, 3 and 4 years where a member is entitled to more than 2 representatives. The term of office of an associate representative is 4 years.

3. **Vacancy.** When a regular representative is unable to act because of interest, physical incapacity or absence, the associate representative shall act in his stead. A permanent vacancy shall be filled for the unexpired term in the same manner in which a regular appointment is made.

§ 4504. —Powers and duties

1. Jurisdiction.

A. The jurisdiction of a regional planning commission includes the area of its members.

B. The power of the commission is advisory, and pertains generally to the development of the whole region, or to the solution of a problem which involves more than one member.

2. Organization.

A. The commission shall elect annually a chairman, vice-chairman, secretary, treasurer and other necessary officers from its own representatives.

B. Meetings shall be held at the call of the chairman, and at other times determined by the commission.

C. The commission may adopt bylaws necessary to the conduct of its business. It may accept contributions of any type from any source for its work. It may hire personnel, rent offices and ob-

tain goods and services necessary to its proper function. It may contract with the State and Federal Governments for carrying out the purposes authorized by this section.

D. The secretary shall keep minutes of the proceedings of the commission which shall be filed in the office of the commission. The minutes are a public record.

3. Comprehensive regional plan.

A. The commission shall prepare a comprehensive regional plan containing its recommendations for the development of the area within its jurisdiction.

B. The purpose of the plan is to promote the health, safety and general welfare of the residents of the region.

C. Among other things, it shall be designed to encourage the most appropriate use of land for agriculture, forestry, industry, commerce and residence; to provide adequate transportation and communication; to provide for the proper location of public utilities and services; to encourage the development of adequate recreational areas; to promote good civic design; and to encourage the judicious expenditure of public funds.

D. Among other things, the commission may make recommendations for the use of land; the general location, extent, type of use, character, and development of public ways, public property, public utilities and services; and for the improvement, redevelopment, rehabilitation and conservation of industrial, commercial, residential and other areas.

E. When all or part of the plan is completed, the commission may file certified copies of it with the planning board of any member.

F. The commission may assist a member in carrying out any regional plan developed by the commission.

4. Local assistance.

A. The commission may make recommendations on the basis of its plans and studies to any planning board, to the municipal officers of any mem-

ber, and to any county, state or federal authorities.

B. A municipal planning board may adopt all or part of the regional plan which pertains to the area within its jurisdiction as its own comprehensive plan, subject to sections 4951 to 4956.

C. The commission may assist any of its members in solving a local planning problem. It shall keep an accurate account of the cost of the assistance, and shall provide the member with an itemized statement. The assistance shall be paid for entirely by the member to which the service is rendered.

(1) Where there has been a contribution to the commission for the purpose, part of the cost of local assistance may be paid from it.

§ 1301. Membership in regional planning commission.

A county in which a regional planning commission has been formed may become a member of the commission by resolution of the county commissioners. A county has the same powers and duties as a municipality with respect to chapter 239, subchapter 1, and the county commissioners have the powers and duties of municipal officers. A county is entitled to 2 representatives and one associate representative. They shall be appointed by the county commissioners. The term of office of a representative is 4 years, but initial appointments shall be made for 2 and 4 years, respectively. The term of office of an associate representative is 4 years. The jurisdiction of a regional planning commission may include all or part of a member county as determined by the commission.

and to any county, state or federal authority.

B. A municipal planning board may adopt all or part of the regional plan which pertains to the area within its jurisdiction as its own comprehensive plan subject to sections 1051 to 1055.

C. The commission may assist any of its members in solving a local planning problem. It shall keep an accurate account of the cost of the assistance and shall provide the member with an itemized statement. The assistance shall be paid for entirely by the member to which the service is rendered.

(1) Where there has been a contribution to the commission for the purpose, part of the cost of local assistance may be paid from it.

§ 1301. Membership in regional planning commission

A county in which a regional planning commission has been formed may become a member of the commission by resolution of the county commissioners. A county has the same powers and duties as a municipality with respect to chapter 233, and chapter 1, and the county commissioners have the powers and duties of municipal officers. A county is entitled to 2 representatives and one associate representative. They shall be appointed by the county commissioners. The term of office of a representative is 4 years, but initial appointments shall be made for 1 and 4 years, respectively. The term of office of an associate representative is 4 years. The jurisdiction of a regional planning commission may include all or part of a member county, as determined by the commission.

B. When a county is a member of the commission it shall be subject to the provisions of this chapter.

F. The commission shall have the same powers and duties as a municipality.

4. Commission level

A. The commission shall be composed of all the members of the regional planning commission.