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HOUSING AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
132ND LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1299, L.D. 1940, “An Act to Revise the Growth Management Program Laws”

Amend the bill in section 1 in §4301 in subsection 3 in the 2nd line (page 2, line 8 in L.D.) by striking out the following: "that are consistent with the goals established under subchapter 2 containing" and inserting the following: 'containing that are consistent with the goals established under subchapter 2 and contain'

Amend the bill in section 1 in §4301 in subsection 3 in the 3rd line (page 2, line 9 in L.D.) by striking out the following: "subsections 1 to 4;" and inserting the following: 'subsections 1 to 4,'

Amend the bill in section 1 in §4301 in subsection 3 in the last line (page 2, line 11 in L.D.) by inserting after the following: "H" the following: 'subsection 1 or 2'

Amend the bill in section 1 in §4301 by striking out all of subsection 4-C (page 2, lines 28 to 38 in L.D.) and inserting the following:

4-C. Conserved lands. "Conserved lands" means any rural lands that are protected from development through conservation easements, through ownership in fee by a municipality, the State, the Federal Government or a land conservation organization or through other mechanisms. "Conserved lands" includes, but is not limited to, lands under permanent fee or conservation easement as identified by the Department of Agriculture, Conservation and Forestry in its inventory of conservation lands and includes lands or natural resources owned or managed by or held in trust by or for Indian nations, tribes and bands in the State as described in Title 30, chapter 601. "Conserved lands" does not include lands with temporary protections such as lease agreements, shoreland or municipal land use restrictions, carbon offset projects or enrollment in tree growth or open space current use tax law programs in Title 36, chapter 105, subchapters 2-A and 10, respectively.'

Amend the bill in section 1 in §4301 in subsection 4-D in paragraph C in the last line (page 3, line 4 in L.D.) by inserting after the following: "Resources;" the following: 'and'

Amend the bill in section 1 in §4301 in subsection 4-D by striking out all of paragraphs D and E (page 3, lines 5 and 8 in L.D.) and inserting the following:

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1 'D. Geographic areas described in the Natural Areas Program established in Title 12,
2 chapter 201-A, subchapter 1, including areas containing threatened or endangered plant
3 species.'

4 Amend the bill in section 1 in §4301 in subsection 5-D in the 2nd and 3rd lines (page
5 4, lines 6 and 7 in L.D.) by striking out the following: "that promote a pattern of
6 development through the identification of" and inserting the following: 'used to determine
7 if a pattern of development promotes'

8 Amend the bill in section 1 in §4301 in subsection 6-C in the last 5 lines (page 4, lines
9 24 to 28 in L.D.) by striking out the following: "a placetype or portion of a placetype that
10 has been identified by a municipality or multimunicipal region in a comprehensive plan as
11 an area for development and investment, including, but not limited to, new roads, utilities
12 and infrastructure expansion. "Growth area" includes high-impact corridors." and inserting
13 the following: 'an area that is designated in a municipality's or multimunicipal region's
14 comprehensive plan as suitable for orderly residential, commercial or industrial
15 development, or any combinations of those types of development; or a placetype or portion
16 of a placetype that has been identified by a municipality or multimunicipal region in a
17 comprehensive plan as an area for intentional development and investment, including, but
18 not limited to, new roads, utilities and infrastructure expansion.'

19 Amend the bill in section 1 in §4301 by striking out all of subsection 7-A (page 4, lines
20 40 to 44 and page 5, lines 1 to 13 in L.D.) and inserting the following:

21 '7-A. Important natural resources. "Important natural resources" means those areas
22 in the community that are important for strategic conservation planning purposes and are
23 not otherwise classified as critical natural resources, including, but not limited to:

24 A. Large habitat blocks as identified by the Department of Inland Fisheries and
25 Wildlife;

26 B. Habitat connections as identified by the Department of Inland Fisheries and
27 Wildlife;

28 C. Focus areas of statewide ecological significance as identified in the Department of
29 Inland Fisheries and Wildlife's federally required wildlife action plan;

30 D. Exemplary natural communities as defined by the Natural Areas Program under
31 Title 12, section 544;

32 E. Important water resources and associated riparian habitat as identified by the
33 Department of Inland Fisheries and Wildlife; or

34 F. Barriers and potential barriers to aquatic organism passage as identified by the
35 Department of Inland Fisheries and Wildlife.'

36 Amend the bill in section 1 in §4301 in subsection 9 in the 2nd and 3rd lines (page 5,
37 lines 29 and 30 in L.D.) by striking out the following: "subsections 1 to 4" and inserting
38 the following: 'subsection 1 or 2'

39 Amend the bill in section 1 in §4301 by striking out all of subsection 14-C (page 6,
40 lines 35 to 40 in L.D.) and inserting the following:

41 '14-C. Transitional area. "Transitional area" means an area that is designated in a
42 municipality's or multimunicipal region's comprehensive plan as suitable for a share of

1 projected residential, commercial or industrial development but that is neither intended to
2 accept the amount or density of development appropriate for a growth area nor intended to
3 provide the level of protection for rural resources afforded in a rural area or critical rural
4 area.'

5 Amend the bill by striking out all of sections 2 and 3 and inserting the following:

6 '**Sec. 2. 30-A MRSA §4312, sub-§2, ¶G**, as amended by PL 2001, c. 578, §7, is
7 further amended to read:

8 G. Encourage the widest possible involvement by the citizens of each municipality in
9 all aspects of the planning and implementation process, in order to ensure that the plans
10 developed by municipalities have had the benefit of citizen input; ~~and~~

11 **Sec. 3. 30-A MRSA §4312, sub-§2, ¶I**, as enacted by PL 2001, c. 578, §8, is
12 amended to read:

13 I. Encourage the development and implementation of multimunicipal growth
14 management programs; and

15 **Sec. 4. 30-A MRSA §4312, sub-§2, ¶J** is enacted to read:

16 J. Encourage cooperation between municipalities and state agencies, regional councils
17 established under chapter 119, subchapter 1 and nonprofit organizations when a
18 municipality develops its comprehensive plans and establishes local land use policies.'

19 Amend the bill in section 4 in subsection 3 by striking out all of paragraph A-1 (page
20 7, lines 20 to 24 in L.D.) and inserting the following:

21 'A-1. To encourage orderly growth and development in areas of each community and
22 region while protecting the State's rural character, working lands and natural resource-
23 based industries and preventing development sprawl and sprawl-associated impacts on
24 public health, safety and welfare;'

25 Amend the bill in section 4 in subsection 3 in paragraph H in the 2nd line (page 8, line
26 8 in L.D.) by striking out the following: "forest soils,"

27 Amend the bill by striking out all of sections 6, 7 and 8.

28 Amend the bill in section 9 in subsection 3 in the 4th line (page 9, line 8 in L.D.) by
29 striking out the following: "~~and~~," and inserting the following: 'and'

30 Amend the bill in section 9 in subsection 3 in the 4th line (page 9, line 8 in L.D.) by
31 striking out the following: "and incorporating"

32 Amend the bill in section 10 in paragraph B in the 4th line (page 9, line 22 in L.D.) by
33 inserting after the following: "website" the following: ', if the municipality maintains such
34 a website.'

35 Amend the bill in section 11 in §4325 in subsection 1 in the first 2 lines (page 9, lines
36 33 and 34 in L.D.) by striking out the following: "participating in cooperative growth
37 management efforts"

38 Amend the bill in section 11 in §4325 in subsection 2 in paragraph A in the 3rd line
39 (page 9, line 42 in L.D.) by inserting after the following: "or" the following: 'jointly'

40 Amend the bill by striking out all of section 13 and inserting the following:

1 **'Sec. 13. 30-A MRSA §4326-A** is enacted to read:

2 **§4326-A. Growth management program options; elements**

3 A municipality or multimunicipal region seeking certification of a comprehensive plan
4 has the option of meeting the requirements of either subsection 1 or 2.

5 **1. Option A.** A growth management program must include at least a comprehensive
6 plan, as described in paragraphs A to E, including a timetable for the implementation
7 program.

8 A. A comprehensive plan must include:

9 (1) An inventory and mapping of environmental systems data and other
10 information important to making land use decisions, which must include, but is not
11 limited to, any maps maintained and made available by the State related to all
12 critical natural resources, all important natural resources and all data layers
13 provided by the Department of Inland Fisheries and Wildlife;

14 (2) An inventory and mapping of conserved lands, identified using data and maps
15 from federal and state agencies, regional councils and relevant local sources, as
16 applicable;

17 (3) Identification or description of locally important farmland, agricultural soils,
18 forest land, mineral resources, working waterfronts, heritage coastal areas, scenic
19 areas, public water supplies, other lands and water important to the local or regional
20 natural resource-based economy and land in Maine tree growth, farmland and open
21 space and working waterfront protection tax programs in Title 36, chapter 105,
22 subchapters 2-A, 10 and 10-A, respectively. As used in this subparagraph,
23 "heritage coastal areas" means areas containing an assemblage of geological,
24 botanical, zoological, historical or scenic features of exceptional state or national
25 significance; and

26 (4) A climate vulnerability assessment, where available from the State, or a local
27 climate action plan.

28 B. A comprehensive plan must designate, map and describe:

29 (1) Rural areas, including any critical rural areas deserving of protection from
30 unrestricted development, and open lands, including areas deserving additional
31 protections not provided by federal or state law, rule or regulation or local
32 ordinance. Within areas identified and mapped as rural areas or critical rural areas,
33 the comprehensive plan must identify any existing or proposed placetypes within
34 these rural and critical rural areas, which may include, but are not limited to,
35 placetypes described in department rules;

36 (2) Suburban areas, which may include identification of areas of existing suburban
37 development, intended new suburban development or areas intended to transition
38 from suburban development to another placetype. Within areas mapped as
39 suburban areas, the comprehensive plan must identify any existing or proposed
40 placetypes within these suburban areas, which may include, but are not limited to,
41 placetypes described in department rules;

42 (3) Areas or centers of existing or intended human and community activity,
43 including placetypes not identified in subparagraph (1) or (2) that are described in

1 department rules, including existing or proposed downtowns, high-impact
2 corridors or other placetypes described and designated locally; and

3 (4) Growth areas, which are placetypes or portions of placetypes identified and
4 mapped pursuant to subparagraph (3), where investment by the municipality and
5 the State may be necessary to implement the comprehensive plan. Identification
6 of designated growth areas must be informed by and consistent with the needs
7 analysis required by paragraph C and the goals established under paragraph D.

8 The municipality or multimunicipal region may identify as its growth areas one or
9 more growth areas adopted or to be adopted by one or more other municipalities
10 or multimunicipal regions in accordance with an interlocal agreement adopted in
11 accordance with chapter 115 with one or more municipalities or multimunicipal
12 regions.

13 A municipality or multimunicipal region is not required to identify growth areas
14 within the municipality or multimunicipal region for residential, commercial,
15 industrial or mixed-use growth if it demonstrates, in accordance with rules adopted
16 by the department pursuant to this article, that it is not possible to accommodate
17 future residential, commercial or industrial growth within the municipality or
18 multimunicipal region because of severe physical limitations, including, without
19 limitation, the lack of adequate water supply and sewage disposal services, very
20 shallow soils or limitations imposed by protected natural resources.

21 A municipality or multimunicipal region exercising the discretion afforded by this
22 subparagraph to not identify growth areas shall review the basis for its assertion
23 during the periodic revisions undertaken pursuant to section 4347-A.

24 This paragraph does not prohibit a municipality or a multimunicipal region from
25 identifying, describing or mapping placetypes not defined in this subchapter or in rules
26 adopted pursuant to this subchapter. A municipality or multimunicipal region may use
27 different names for placetypes defined in this subchapter or in rules adopted pursuant
28 to this subchapter in order to reflect local nomenclature or preferences.

29 C. A comprehensive plan must include a needs analysis that identifies existing
30 conditions or desired conditions within the municipality or multimunicipal region that
31 are necessary to support housing, economic growth and development; protect the
32 public health, safety and welfare of the community; and protect the environment and
33 critical resources.

34 For all areas identified under paragraphs A and B, the comprehensive plan must
35 identify needs related to ensuring protection of critical natural resources, water quality
36 and, as applicable, access to coastal waters for commercial activities and protection of
37 agricultural and forest resources.

38 The comprehensive plan must include a narrative section describing the analysis
39 conducted pursuant to this subsection and how it informed the identification of each
40 need listed in the comprehensive plan. The narrative section must describe any public
41 input received, including public input received in response to solicitation of public
42 comment pursuant to section 4324, subsection 3, and how that input informed the
43 identification of needs listed in the comprehensive plan.

1 D. The comprehensive plan must include a narrative section that outlines the goals the
2 municipality or multimunicipal region has established to address each of the needs
3 identified under paragraph C. The narrative must describe how the municipality's or
4 the multimunicipal region's goals:

- 5 (1) Address the needs identified pursuant to paragraph C;
6 (2) Align with state goals listed in section 4312; and
7 (3) Align or, if applicable, conflict with the goals of the region.

8 E. The comprehensive plan must include a section that describes how the goals
9 established in paragraph D will be implemented, including:

- 10 (1) Identification of and a description of land use policies and land use ordinances
11 to be adopted in order to align with the maps created pursuant to this subsection
12 where those policies and ordinances are applicable;
13 (2) For municipalities with zoning ordinances, establishment of development
14 standards applicable to implement the goals in paragraph D;
15 (3) Plans for capital investment and, if feasible, identification of sources of capital;
16 and
17 (4) Establishment of the timetable for the implementation program.

18 **2. Option B. A growth management program must include at least a comprehensive**
19 **plan, as described in paragraphs A to F.**

20 A. A comprehensive plan must include an inventory and analysis section addressing
21 state goals under this subchapter and issues of regional or local significance that the
22 municipality or multimunicipal region considers important. The inventory must be
23 based on information provided by the State, regional councils and other relevant local
24 sources. The analysis must include 10-year projections of local and regional
25 population and residential trends; the best available projection of trends in economic
26 activity; the projected need for public facilities and services; and the vulnerability of
27 and potential impacts on natural resources. The department shall adopt rules to
28 establish a tiered framework for inventory requirements based on municipal and
29 regional conditions.

30 A comprehensive plan must include a needs assessment that identifies existing
31 conditions or desired conditions within the municipality or multimunicipal region that
32 are necessary to support housing, economic growth and development; protect the
33 public health, safety and welfare of the community; and protect the environment and
34 critical natural resources. The plan must describe the public input received to
35 determine those needs.

36 B. A comprehensive plan must include a local goals and policy development section
37 that relates the needs assessment contained in the inventory and analysis section under
38 paragraph A to the state goals. The policies must:

- 39 (1) Promote the state goals under this subchapter;
40 (2) Address any conflicts between state goals and local goals under this
41 subchapter;
42 (3) Address any conflicts between regional and local issues;

1 (4) Address the State's coastal management policies under Title 38, section 1801
2 if any part of the municipality or multimunicipal region is a coastal area; and

3 (5) Promote consistency with the State's climate action plan under Title 38, section
4 577.

5 C. A comprehensive plan must include an implementation strategies section that
6 contains a timetable for the implementation program described in paragraph F,
7 including land use ordinances, ensuring that the goals established under this subchapter
8 are met. These implementation strategies must be consistent with state law and
9 guidelines for the implementation program and must actively promote policies
10 developed during the planning process. The strategies and timetable must guide the
11 subsequent adoption of policies, programs and land use ordinances and periodic review
12 of the comprehensive plan, including a capital investment plan for the replacement and
13 expansion of public facilities and services required to meet projected growth and
14 development.

15 D. A comprehensive plan must include a future land use plan as described in this
16 paragraph.

17 (1) Except as otherwise provided in this paragraph, a future land use plan must
18 identify and designate geographic areas in the municipality or multimunicipal
19 region as growth areas and rural areas. This information may be presented in a
20 narrative or map form.

21 (2) A municipality or multimunicipal region may also designate any portion of
22 land area that is not a growth area or a rural area as a transitional area and as
23 appropriate for medium-density development that does not require expansion of
24 municipal facilities and does not include significant rural resources.

25 (3) The department shall develop and maintain a catalog of implementation
26 strategies appropriate for various placetypes. Within the future land use plan, more
27 placetypes may be identified and designated to provide further guidance on the
28 establishment or modification of a municipality's or multimunicipal region's rate
29 of growth ordinance, zoning ordinance or impact fee ordinance.

30 (4) A municipality or multimunicipal region is not required to identify growth
31 areas within the municipality or multimunicipal region for residential, commercial
32 or industrial growth if it demonstrates, in accordance with rules adopted by the
33 department pursuant to this article, that:

34 (a) It is not possible to accommodate future residential, commercial or
35 industrial growth within the municipality or multimunicipal region because of
36 severe physical limitations, including, without limitation, the lack of adequate
37 water supply and sewage disposal services, very shallow soils or limitations
38 imposed by protected natural resources;

39 (b) The municipality or multimunicipal region has experienced minimal or no
40 residential, commercial or industrial development over the past decade and this
41 condition is expected to continue over the 10-year planning period; or

42 (c) The municipality or multimunicipal region has no downtown or densely
43 developed area.

1 (5) A municipality or multimunicipal region may identify as its growth areas one
2 or more growth areas identified in a comprehensive plan adopted or to be adopted
3 by one or more other municipalities or multimunicipal regions in accordance with
4 an interlocal agreement adopted in accordance with chapter 115 with one or more
5 municipalities or multimunicipal regions.

6 (6) A municipality or multimunicipal region exercising the discretion afforded by
7 subparagraph (4) shall review the basis for its assertion during the periodic
8 revisions undertaken pursuant to section 4347-A.

9 E. A comprehensive plan must include a regional coordination program, which must
10 be developed with other municipalities or multimunicipal regions to manage shared
11 resources and facilities, such as rivers, aquifers, transportation facilities and others.
12 This program must provide for consistency with the comprehensive plans of other
13 municipalities or multimunicipal regions for these resources and facilities.

14 F. An implementation program must be adopted that is consistent with the strategies
15 in the comprehensive plan prepared pursuant to this subsection. In developing its
16 implementation program, a municipality or multimunicipal region shall employ the
17 following guidelines consistent with the goals of this subchapter.

18 (1) Within growth areas, a municipality or multimunicipal region shall:

19 (a) Establish development standards;

20 (b) Establish timely permitting procedures;

21 (c) Ensure that needed public services are available; and

22 (d) Prevent inappropriate development in natural hazard areas, including
23 floodplains and areas of high erosion.

24 (2) Within rural areas, a municipality or multimunicipal region shall adopt land
25 use policies and ordinances to discourage incompatible development. These
26 policies and ordinances may include, without limitation, density limits, cluster or
27 special zoning, acquisition of land or development rights, transfer of development
28 rights pursuant to section 4328 and performance standards. The municipality or
29 multimunicipal region shall also identify which rural areas qualify as critical rural
30 areas. Critical rural areas must receive priority consideration for proactive
31 strategies designed to enhance rural industries, manage wildlife and fisheries
32 habitats and preserve sensitive natural areas.'

33 Amend the bill in section 16 in subsection 5 in the 7th line (page 13, line 26 in L.D.)
34 by inserting after the following: "information" the following: 'system data and maps'

35 Amend the bill by striking out all of sections 24 and 25 and inserting the following:

36 '**Sec. 24. Rules; guidance.** The Maine Office of Community Affairs, established in
37 the Maine Revised Statutes, Title 5, section 3202, shall amend or adopt rules governing the
38 growth management program to be consistent with the laws governing the program as
39 amended by this Act. Notwithstanding Title 30-A, section 4312, subsection 4, rules initially
40 amended or adopted by the Maine Office of Community Affairs pursuant to this section
41 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. The Maine
42 Office of Community Affairs shall adopt guidance to assist municipalities and
43 multimunicipal regions on comprehensive plans, including guidance on placetypes.

