

This is the email referenced in the list of Maine State Statute Citations being up-dated. The Public Hearing is scheduled for March 2, 2016.

From: Natalie L. Burns [<mailto:nburns@JBGH.com>]
Sent: Tuesday, February 09, 2016 4:27 PM
To: 'Tammy Bellman'
Cc: 'Lee Jay Feldman (lifeldman@smpdc.org)'
Subject: RE: Maine Statute Citations Up-date

Tammy and Lee Jay,

I have revised the citations to use standard formatting and to correct a few items. One of the biggest things to keep in mind is that the current ordinance often refers to ordinances being enacted under the Town's Home Rule Authority (which would be referred to in 30-A M.R.S.A. Section 3001 or with a constitutional reference). However, under Maine law, land use regulations set forth in Chapter 187, Subchapter 3, of 30-A are a limitation upon home rule authority (see 30-A M.R.S.A. Section 4351). This includes variances, rezoning, impact fees, rate of growth ordinances, moratoria, and regulation of manufactured housing. For this reason, it would be best to get away from references to home rule authority (for example in Section 11.01) as that can cause some confusion. Because of this limitation, a municipality can only enact an ordinance on any of those topics that complies with the specific statutory provisions. An example of this is that a municipality is not allowed to waive setback requirements except through a variance or through a cluster development or similar ordinance meeting the statutory requirements. Section 11.01 also refers to statutory provisions from the old Title 30. I think these may be references to the old subdivision law, but any statutory reference is confusing here since the Planning Board does a lot more than subdivision review. I would suggest deleting the "acting pursuant to" language in this section to avoid this.

In addition, I have eliminated statutory subsection references, mostly as to variances. These have changed a few times over the years, with different types of variances being added.

Please let me know if there are questions.

Thanks,

Natalie

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