

INTRODUCTION

State law changes in Maine impact many provisions in the ordinance codes of Maine municipalities. This pamphlet is intended to assist municipal attorneys in the identification of provisions in ordinance codes that may require revision in light of state law. The information in this pamphlet is based upon the experience of the legal staff of Municipal Code Corporation in working with the ordinance codes of Maine municipal codes.

This pamphlet is current through the 2015 Second Regular Session of the 127th Legislature, which session convened January 6, 2016 and adjourned sine die April 29th, 2016. Not all provisions of this pamphlet will apply to your Code, nor does this pamphlet purport to include all state laws that may somehow affect the language of your Code.

The provisions of this pamphlet are intended to assist municipal attorneys and are not intended to be a substitute for the advice of counsel.

It is not the intent of Municipal Code Corporation in publishing this pamphlet to provide legal advice. An attorney admitted to practice in Maine must be consulted as to the applicability of a given statute or case to a particular situation.

Copyright

This state law pamphlet is copyrighted by Municipal Code Corporation. Copyright is not claimed as to any part of the original work prepared by a state government officer or employee as part of that person's official duties. No part of this state law pamphlet may be copied, downloaded, stored in a retrieval system, further transmitted, or otherwise reproduced, stored, disseminated, transferred, or used, in any form for commercial purposes, without the express written consent of Municipal Code Corporation.

Prepared by

Roger D. Merriam, Senior Code Attorney

Copyrighted material

Municipal Code Corporation. 2016.

ANIMALS

1. *Animal control ordinances.* Local animal control ordinances are restricted. See 7 M.R.S.A. § 3950.

BUILDINGS AND BUILDING REGULATIONS

1. *State building code.* The Maine Uniform Building and Energy Code is mandatory. See 10 M.R.S.A. § 9724.

2. *Solar energy devices.* Certain ordinances regulating the use or installation of solar energy devices must comply with 33 M.R.S.A. § 1421 et seq. See 30-A M.R.S.A. § 3013.

3. *Electricians.* Municipalities may not license electricians. See 32 M.R.S.A. § 1103.

4. *Plumbers.* Municipalities may not license plumbers. See 32 M.R.S.A. § 3302.

BUSINESSES

1. *Insurance.* Subject to certain exceptions, the field of regulating, or of imposing excise, privilege, franchise, income, license, permit, registration and similar taxes, licenses and fees upon insurers is preempted to the state. See 24-A M.R.S.A. § 605.

2. *Automobile graveyards and junkyards.* Local regulation of automobile graveyards and junkyards is restricted. See 30-A M.R.S.A. § 3754-A.

3. *Transportation network companies (uber)*. Ordinances regulating transportation network companies are preempted. 29-A M.R.S.A. 1677.

ENVIRONMENT AND NATURAL RESOURCES

1. *Forest harvest regulations*. Forest harvest regulations are restricted. See 12 M.R.S.A. § 8869.
2. *Shoreland zoning*. Shoreland zoning ordinances are required. See 38 M.R.S.A. § 438-A.
3. *Natural resource protection*. Ordinances protecting natural resources must be more stringent than statute. See 38 M.R.S.A. § 480-F.
4. *Air pollution control*. Municipal air pollution control ordinances must be no less stringent than statute. See 38 M.R.S.A. § 597.
5. *Municipal hazard waste control*. Municipal hazard waste control and abatement ordinances must be no less stringent than those established by, or pursuant to, statute. See 38 M.R.S.A. § 1319-P.
6. *Commercial hazard waste facilities*. Ordinances dealing with commercial hazardous waste facilities must be no more stringent than those established by, or pursuant to, statute. See 38 M.R.S.A. § 1319-R.
7. *Wellhead protection*. Municipal wellhead protection ordinances must be more stringent than statute. See 38 M.R.S.A. § 1399.
8. *Shorebird feeding habitats*. Ordinances regulating cutting or removal of vegetation within a shorebird feeding buffer must be more stringent than statute. See 38 M.R.S.A. § 480-CC.
9. *Subsurface sewage disposal*. Ordinances regulating subsurface sewage disposal must be more stringent than statute. See 22 M.R.S.A. § 42.

HEALTH

1. *Children's home*. A municipality may impose requirements for children's homes that are more stringent than statute. See 22 M.R.S.A. § 8103.

OFFENSES AND MISCELLANEOUS PROVISIONS

1. *Display of tobacco for sale*. Municipal ordinances must be more stringent than statute. See 22 M.R.S.A. § 1555-B.
2. *Firearms and ammunition*. Subject to certain exceptions the entire field of legislation concerning the regulation of firearms, components, ammunition and supplies is preempted to the state. See 25 M.R.S.A. § 2011.
3. *Sex offenders*. The regulation of persons convicted of a sex offense is preempted to the state and municipalities cannot impose restrictions or requirements on persons convicted of a sex offense that are not imposed upon other persons who have not been convicted of a sex offense; however certain residency restrictions are authorized. See 30-A M.R.S.A. § 3014.
4. *Medical marijuana*. Subject to certain exceptions, regulation of medical marijuana dispensaries is preempted to the state. See 22 M.R.S.A. § 2428.
5. *Litter*. Litter control ordinances must be more stringent than statute. See 17 M.R.S.A. § 2276.
6. *Mass gatherings*. Mass gathering ordinances must be more stringent than statute. See 22 M.R.S.A. § 1602.
7. *Noise at sport shooting ranges*. Ordinances pertaining to noise at sport shooting ranges are restricted. Such restrictions were recently revised. See 30-A M.R.S.A. § 3011.
8. *Farm operations or agricultural composting operation*. Municipal regulation of farm operations or agricultural composting operations are restricted. See 7 M.R.S.A. § 154.

PLANNING AND ZONING

1. *Growth management plans.* Municipal growth management plans are subject to certain municipal requirements. See 30-A M.R.S.A. § 4326.
2. *Group homes.* Certain group homes for persons with disabilities are considered a single-family use of property. See 30-A M.R.S.A. § 4357-A.
3. *Manufactured housing and mobile home parks.* Municipal zoning of manufactured housing and regulation of mobile home parks are restricted. See 30-A M.R.S.A. § 4358, 10 M.R.S.A. § 9099.
4. *Condominium conversions.* Municipalities may impose provisions relative to notice to tenants of conversion to condominiums and the right of the tenant to purchase that are more stringent than statute. See 33 M.R.S.A. § 1604-111.
5. *Judicial review of significant municipal land use decisions.* Judicial review of significant municipal land use decisions is now provided for in 30 M.R.S.A. 4481 et seq.