

## INTRODUCTION

State laws 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 2019 First Regular Session and Chapter 531 of the First Special Session of the 129th Legislature. 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.

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## ALCOHOLIC BEVERAGES

1. *Entertainment districts.* Municipalities may issue common consumption area licenses for the consumption of alcoholic beverages within designated entertainment districts. See 28-A M.R.S.A. § 221.

## 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.* Subject to certain exceptions, 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 state-licensed 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* (e.g., “Uber”). Subject to certain exceptions, ordinances regulating transportation network companies are preempted. 29-A M.R.S.A. § 1677.

4. *Earned paid leave.* A municipality or other political subdivision may not enact an ordinance or other rule purporting to have the force of law under its home rule or other authority regulating earned paid leave. See 26 M.R.S.A. § 637.

## **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 state statute. See 38 M.R.S.A. § 480-F.

4. *Air pollution control.* Municipal air pollution control ordinances must be no less stringent than state statute. See 38 M.R.S.A. § 597.

5. *Municipal hazardous waste control.* Municipal hazardous waste control and abatement ordinances must be no less stringent than those established by, or pursuant to, state statute. See 38 M.R.S.A. § 1319-P.

6. *Commercial hazardous waste facilities.* Municipalities may enact necessary police power ordinances dealing with commercial hazardous waste facilities, provided that the ordinances are not more stringent than or duplicative of state law, rules and orders. See 38 M.R.S.A. § 1319-R.

7. *Wellhead protection.* Municipal wellhead protection ordinances must be more stringent than state 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 state statute. See 38 M.R.S.A. § 480-CC.

9. *Subsurface sewage disposal.* Ordinances regulating subsurface sewage disposal must be more restrictive than state statute. See 22 M.R.S.A. § 42.

10. *Shellfish conservation ordinances.* 12 M.R.S.A. § 6671 was amended in 2019.

11. *Single-use plastic bags.* A local government may not adopt an ordinance regulating single-use carry-out bags at retail establishments. See 38 M.R.S.A. § 1611.

## **HEALTH**

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

## **OFFENSES AND MISCELLANEOUS PROVISIONS**

1. *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.

2. *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.

3. *Marijuana establishments.* Local authorization is required for operation of a marijuana establishment within a municipality. See 28-B M.R.S.A. § 402.

4. *Litter.* Litter control ordinances must be more stringent than statute. See 17 M.R.S.A. § 2271.

5. *Mass gatherings.* Mass gathering ordinances must be more stringent than statute. See 22 M.R.S.A. § 1602.

6. *Noise at sport shooting ranges.* Ordinances pertaining to noise at sport shooting ranges are restricted. See 30-A M.R.S.A. § 3011.

7. *Farm operations or agricultural composting operations.* Municipal regulation of farm operations or agricultural composting operations is restricted. See 7 M.R.S.A. § 154.

## **PLANNING AND ZONING**

1. *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.

2. *Manufactured housing and mobile home parks.* Municipal zoning of manufactured housing and regulation of mobile home parks is restricted. See 30-A M.R.S.A. § 4358 and 10 M.R.S.A. § 9099.

3. *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 state statute. Other restrictions are also authorized. See 33 M.R.S.A. § 1604-111.

4. *Site plans.* The provisions of 30-A M.R.S.A. § 4402 were amended in 2019.

5. *Subdivisions.* Local subdivision ordinances have been restricted. See 30-A M.R.S.A. § 4401(4).

6. *Small wireless facilities.* Local regulation of small wireless facilities is restricted. See 30-A M.R.S.A. § 4362.