

THE RULE

RULE 80K. LAND USE VIOLATIONS

(a) *Applicability.* Except as otherwise provided in this rule, these rules shall apply to proceedings in the District Court involving alleged violations of land use laws and ordinances, whether administered and enforced primarily at the state or the local level, including but not limited to, those statutes, ordinances, codes, rules and regulations set forth in 4 M.R.S.A. § 152(6).

(b) *Commencement of Proceedings; Service.*

(1) *In General.* A proceeding under this rule shall be commenced by one of the following methods:

(A) A Land Use Citation and Complaint may be filled out in the manner prescribed in paragraph (1) of subdivision (c) of this rule and served upon the alleged violator within the state by any certified municipal official, any certified employee of the Department of Environmental Protection, or any other official authorized to serve civil process to enforce a statute, ordinance, code, rule or regulation to which this rule applies, if such official has reasonable grounds to believe that a violation of any provision of law as to which the official is authorized to serve process and to which this rule applies has been or is being committed. Service under this subparagraph shall be made upon an individual by delivering a copy of the Land Use Citation and Complaint to the individual personally and, if the alleged violator is an infant or incompetent person, personally to the appropriate individual specified in Rule 4(d)(2) or (3) of these rules. Service under this subparagraph shall be made upon any other entity by delivering a copy of the citation personally to one of the appropriate individuals specified in Rule 4(d)(4)-(14) of these rules.

(B) A Land Use Citation and Complaint may be filled out in the manner prescribed in paragraph (1) of subdivision (c) of this rule by any public official who has reasonable grounds to believe that a violation of any provision of law that the official is authorized to enforce and to which this rule applies has been or is being committed. The complainant shall transmit the Land Use Citation and Complaint to any officer or person authorized to

serve civil process under Rule 4(c) of these rules, who may serve it, or cause it to be served, upon the alleged violator by any method provided in Rule 4(d), (e), (f), (g), or (j) of these rules.

(C) In any proceeding under this rule in which a temporary restraining order is sought, the original of a Land Use Citation and Complaint, filled out as prescribed in paragraph (2) of subdivision (c) of this rule may be filed with the court by any person authorized under subdivision (h) of this rule to represent the plaintiff, or by the plaintiff's attorney, if such person has reasonable grounds to believe that a violation of any provision of law as to which the person has such authority is being committed and that immediate and irreparable injury, loss, or damage will result from such violation before the alleged violator can be heard personally or by counsel in opposition to the order. The person filing the Land Use Citation and Complaint shall, at the earliest opportunity, serve, or cause to be served, a copy of it on the alleged violator by any method provided in subparagraph (A) or (B) of this paragraph, together with notice of the hearing on the preliminary injunction.

(2) *Additional Service on Property Owner.* When the alleged violator is not the owner of the property on which the violation is alleged to have occurred or is occurring, the person making service on the alleged violator shall serve, or cause to be served, a copy of the Land Use Citation and Complaint upon the owner of the property by any appropriate method provided in Rule 4 of these rules.

(3) *Return of Service.* As soon as practicable after service upon the alleged land use violator, and the property owner if appropriate, the person making service shall cause the original of the Land Use Citation and Complaint to be filed with the court, together with the appropriate proof of service as provided in Rule 4(h) or (j) of these rules.

(4) *Proceedings in Name of Municipality or State.* All proceedings arising under the provisions of locally administered and enforced laws and ordinances or regulations shall be brought in the name and to the use of the municipality. All proceedings arising under laws administered or enforced by the State shall be brought in the name of the State.

(c) Content of Land Use Citation and Complaint.

(1) A Land Use Citation and Complaint that is to be served as provided in subparagraph (1)(A) or (B) of subdivision (b) of this rule shall contain

the name and address of the alleged violator; the name and address of the property owner if different; the time and place of the alleged violation or, if they are not known, the time and place at which it was first observed by the complainant; a brief description of the alleged violation; a summary of the law or ordinance provision which is alleged to have been violated, including the penalties for violation; if a preliminary injunction is sought, a statement to that effect; the time, date, and place the alleged violator is to appear in court; where applicable, a statement that the alleged violator was advised of the violation; the signature and title of the complainant; and the signature of the alleged violator acknowledging receipt of the citation and complaint or a statement that the alleged violator refused to sign, or was unable to sign. If the violation alleged is of a state agency rule or a municipal ordinance or regulation, an attested or certified copy of the section or sections alleged to have been violated, together with a statement describing the place where the complete text may be obtained, shall be attached to the original of the Land Use Citation and Complaint. The Land Use Citation and Complaint shall notify the alleged violator that in the event of failure to appear on the date specified, a judgment by default may be entered.

(2) A Land Use Citation and Complaint that is to be filed with the court as provided in subparagraph (1)(C) of subdivision (b) of this rule shall contain the matters provided in paragraph (1) of this subdivision and a statement that a temporary restraining order is sought. It shall be accompanied by the affidavit and the certificate required by Rule 65(a) of these rules.

No other summons, complaint, or pleading shall be required of the municipality or the State, but motions for appropriate amendment of the Land Use Citation and Complaint shall be freely granted.

(d) Temporary Restraining Order and Preliminary Injunction: Security. The applicant for a temporary restraining order or a preliminary injunction under this rule shall not be required to give security as a condition upon the issuance thereof.

(e) Pleadings of Defendant.

(1) *Oral*. The alleged violator shall appear at the time and place specified, either personally or by counsel, and shall answer to the complaint orally.

(2) *No Joinder*. Proceedings pursuant to this rule shall not be joined with any action other than another proceeding pursuant to this rule, nor shall an alleged violator file a counterclaim or cross-claim.

(f) Venue. A land use violation proceeding under this rule shall be brought in the division in which the violation is alleged to have been committed.

(g) Discovery. Discovery shall be had only by agreement of the parties or by order of the court on motion for good cause shown.

(h) Authority of Complainant. A person who is not an attorney may represent a municipality under 12 M.R.S.A. § 4812-C(2), 30-A M.R.S.A. § 4221(2), or 30-A M.R.S.A. § 4452(1), or the State under 38 M.R.S.A. § 342(7), if the person files with the court when first appearing a written authorization from the municipal officers or the Commissioner of the Department of Environmental Protection, as appropriate, and a current certificate of familiarity with court procedures awarded under a program established by the Commissioner of Human Services as provided in 30-A M.R.S.A. § 4221(2).

(i) Standard of Proof. Adjudication of an alleged land use violation shall be by a preponderance of the evidence.

(j) Appeal. A party entitled to appeal may do so as in other civil actions.

(k) Alternative Dispute Resolution. Alternative Dispute Resolution, as agreed to by the parties or as required by law, shall be conducted pursuant to the processes specified in Rule 92(a)(3).

STATUTES

30-A §4451. TRAINING AND CERTIFICATION FOR CODE ENFORCEMENT OFFICERS

30-A §4451. TRAINING AND CERTIFICATION FOR CODE ENFORCEMENT OFFICERS

1. Certification required; exceptions. A municipality may not employ any individual to perform the duties of a code enforcement officer who is not certified by the former State Planning Office or the Department of Economic and Community Development, Office of Community Development, except that:

A. An individual other than an individual appointed as a plumbing inspector has 12 months after beginning employment to be trained and certified as provided in this section; [1997, c. 296, §5 (AMD) .]

B. Whether or not any extension is available under paragraph A, the Department of Economic and Community Development, Office of Community Development may waive this requirement for up to one year if the certification requirements cannot be met without imposing a hardship on the municipality employing the individual; [2011, c. 655, Pt. FF, §16 (AFF); 2011, c. 655, Pt. FF, §8 (AMD) .]

C. An individual may be temporarily authorized in writing by the Department of Health and Human Services, Division of Health Engineering to be employed as a plumbing inspector for a period not to exceed 12 months; and [2009, c. 213, Pt. M, §5 (AMD) .]

D. An individual whose certification has expired or is about to expire may be temporarily authorized in writing by the Department of Economic and Community Development, Office of Community Development to extend that individual's certification for a period not to exceed 12 months in cases where the necessary training or examination is suspended under subsection 3-B, paragraph E. [2011, c. 655, Pt. FF, §16 (AFF); 2011, c. 655, Pt. FF, §8 (AMD) .]

[2011, c. 655, Pt. FF, §16 (AFF); 2011, c. 655, Pt. FF, §8 (AMD) .]

2. Penalty. Any municipality that violates this section commits a civil violation for which a forfeiture of not more than \$100 may be adjudged. Each day in violation constitutes a separate offense.

[1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

2-A. Code enforcement officer; definition and duties. As used in this subchapter, "code enforcement officer" means a person certified under this section and employed by a municipality to enforce all applicable laws and ordinances in the following areas:

A. Shoreland zoning under Title 38, chapter 3, subchapter 1, article 2-B; [2011, c. 655, Pt. FF, §16 (AFF); 2011, c. 655, Pt. FF, §8 (AMD) .]

B. Comprehensive planning and land use under Part 2, Subpart 6-A; [2011, c. 655, Pt. FF, §16 (AFF); 2011, c. 655, Pt. FF, §8 (AMD) .]

C. Internal plumbing under chapter 185, subchapter 3; [2011, c. 655, Pt. FF, §16 (AFF); 2011, c. 655, Pt. FF, §8 (AMD) .]

D. Subsurface wastewater disposal under chapter 185, subchapter 3; and [2011, c. 655, Pt. FF, §16 (AFF); 2011, c. 655, Pt. FF, §8 (AMD) .]

E. Building standards under chapter 141; chapter 185, subchapter 1; Title 5, sections 4582-B, 4582-C and 4594-F; beginning June 1, 2010, Title 10, chapter 1103; and Title 25, chapter 313. [2011, c. 613, §27 (AMD); 2011, c. 613, §29 (AFF) .]

[2011, c. 613, §27 (AMD); 2011, c. 613, §29 (AFF); 2011, c. 655, Pt. FF, §16 (AFF); 2011, c. 655, Pt. FF, §8 (AMD) .]

3. Training and certification of code enforcement officers. In cooperation with code enforcement officer professional associations, the Maine Community College System, the Department of Environmental Protection, the Department of Health and Human Services and the Department of Public Safety, except as otherwise provided in paragraph H, the Department of Economic and Community Development, Office of Community Development shall establish a continuing education program for individuals engaged in code enforcement. This program must provide basic training in the technical and legal aspects of code enforcement necessary for certification. The basic training program must include training to provide familiarity with the laws and ordinances related to the structure and practice of the municipal code enforcement office, municipal planning board and appeals board procedures, application review and permitting procedures, inspection procedures and enforcement techniques.

- A. [1991, c. 163, (RP) .]
- B. [1991, c. 163, (RP) .]
- C. [1991, c. 163, (RP) .]
- D. [1991, c. 163, (RP) .]
- E. [1991, c. 163, (RP) .]
- F. [1991, c. 163, (RP) .]
- G. [1991, c. 163, (RP) .]

H. If funding is not available to support the training and certification program authorized under this subsection, the Department of Economic and Community Development, Office of Community Development shall discontinue training and certification activities related to laws and ordinances referenced in subsection 2-A, paragraphs A and B and shall adopt by routine technical rules under Title 5, chapter 375, subchapter 2-A a program to register code enforcement officers that meet training and education qualifications. The Department of Economic and Community Development, Office of Community Development shall publish the list of persons registered for code enforcement who have submitted evidence of required qualifications. Persons registered under this paragraph must meet the requirements for training and certification under this subchapter. The Department of Economic and Community Development, Office of Community Development shall consult with the Department of Health and Human Services for the purposes of carrying out training and certification activities related to laws and ordinances referenced in subsection 2-A, paragraphs C and D. Within one month of discontinuation of training and certification under this paragraph, the Department of Economic and Community Development, Office of Community Development shall report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over state and local government matters a recommendation for funding the training and certification program or for further changes in program requirements. [2011, c. 655, Pt. FF, §16 (AFF); 2011, c. 655, Pt. FF, §8 (AMD) .]

[2011, c. 655, Pt. FF, §16 (AFF); 2011, c. 655, Pt. FF, §8 (AMD) .]

3-A. Training and certification of inspectors in the Maine Uniform Building and Energy Code. In accordance with the training and certification requirements developed pursuant to Title 10, section 9723, the Department of Economic and Community Development, Office of Community Development shall provide the training necessary to certify municipal building officials, local code enforcement officers and 3rd-party inspectors.

[2011, c. 655, Pt. FF, §16 (AFF); 2011, c. 655, Pt. FF, §8 (AMD) .]

3-B. Maine Code Enforcement Training and Certification Fund. The Maine Code Enforcement Training and Certification Fund, referred to in this section as "the fund," is established as a nonlapsing fund to support training and certification programs administered by the Department of Economic and Community Development, Office of Community Development for code enforcement officers, local plumbing inspectors, municipal building officials and 3rd-party inspectors in accordance with this subchapter.

A. Beginning July 1, 2009, and each year thereafter on July 1st, the funds identified in section 4215, subsection 4 for training and certifying local plumbing inspectors must be transferred to the fund. [2009, c. 213, Pt. M, §7 (NEW) .]

B. Beginning July 1, 2009, and each year thereafter on July 1st, the funds identified in Title 25, section 2374 for training and certifying municipal building officials, local code enforcement officers and 3rd-party inspectors must be transferred to the fund. [2009, c. 213, Pt. M, §7 (NEW) .]

C. The Department of Economic and Community Development, Office of Community Development shall place in the fund any money it receives from grants to support the requirements of this subchapter. [2011, c. 655, Pt. FF, §16 (AFF); 2011, c. 655, Pt. FF, §8 (AMD) .]

D. Funds related to code enforcement training and certification may be expended only in accordance with allocations approved by the Legislature and solely for the administration of this subchapter. Any balance remaining in the fund at the end of any fiscal year may not lapse but must be carried forward to the next fiscal year. [2009, c. 213, Pt. M, §7 (NEW) .]

E. If the fund does not contain sufficient money to support the costs of the training and certification provided for in this subchapter, the Department of Economic and Community Development, Office of Community Development may suspend all or reduce the level of training and certification activities. [2011, c. 655, Pt. FF, §16 (AFF); 2011, c. 655, Pt. FF, §8 (AMD) .]

[2011, c. 655, Pt. FF, §16 (AFF); 2011, c. 655, Pt. FF, §8 (AMD) .]

4. Examination. The Department of Economic and Community Development, Office of Community Development shall conduct at least one examination each year to examine candidates for certification at a time and place designated by it. The Department of Economic and Community Development, Office of Community Development may conduct additional examinations to carry out the purposes of this subchapter.

[2011, c. 655, Pt. FF, §16 (AFF); 2011, c. 655, Pt. FF, §8 (AMD) .]

5. Certification standards. The Department of Economic and Community Development, Office of Community Development shall adopt routine technical rules under Title 5, chapter 375, subchapter 2-A to establish the qualifications, conditions and licensing standards and procedures for the certification and recertification of individuals as code enforcement officers. A code enforcement officer need only be certified in the areas of actual job responsibilities. The rules established under this subsection must identify standards for each of the areas of training under subsection 2-A, in addition to general standards that apply to all code enforcement officers.

[2011, c. 655, Pt. FF, §16 (AFF); 2011, c. 655, Pt. FF, §8 (AMD) .]

6. Certification; terms; revocation. The Department of Economic and Community Development, Office of Community Development shall certify individuals as to their competency to successfully enforce ordinances and other land use regulations and permits granted under those ordinances and regulations and shall issue certificates attesting to the competency of those individuals to act as code enforcement officers. Certificates issued by the former State Planning Office or the Department of Economic and Community Development, Office of Community Development are valid for 6 years unless revoked by the District Court. An examination is not required for recertification of code enforcement officers. The Department of Economic and Community Development, Office of Community Development shall recertify a code enforcement officer if the code enforcement officer successfully completes at least 12 hours of approved training in each area of job responsibility during the 6-year certification period.

A. The District Court may revoke the certificate of a code enforcement officer, in accordance with Title 4, chapter 5, when it finds that:

- (1) The code enforcement officer has practiced fraud or deception;
- (2) Reasonable care, judgment or the application of a duly trained and knowledgeable code enforcement officer's ability was not used in the performance of the duties of the office; or
- (3) The code enforcement officer is incompetent or unable to perform properly the duties of the office. [1999, c. 547, Pt. B, §50 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

B. Code enforcement officers whose certificates are invalidated under this subsection may be issued new certificates provided that they are newly certified as provided in this section. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

[2011, c. 655, Pt. FF, §16 (AFF); 2011, c. 655, Pt. FF, §8 (AMD) .]

7. Other professions unaffected. This subchapter may not be construed to affect or prevent the practice of any other profession.

[1991, c. 163, (AMD) .]

SECTION HISTORY

1989, c. 104, §§A45, C10 (NEW). 1989, c. 878, §A87 (AMD). 1991, c. 163, (AMD). 1997, c. 296, §§5-7 (AMD). 1999, c. 547, §§B50, 78 (AMD). 1999, c. 547, §B80 (AFF). 2003, c. 20, §002 (AMD). 2003, c. 20, §004 (AFF). 2003, c. 689, §B6 (REV). 2007, c. 699, §§15-17 (AMD). 2009, c. 213, Pt. M, §§5-9 (AMD). 2009, c. 261, Pt. A, §14 (AMD). 2011, c. 613, §27 (AMD). 2011, c. 613, §29 (AFF). 2011, c. 655, Pt. FF, §16 (AFF). 2011, c. 655, Pt. FF, §8 (AMD) .

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30-A §4452. ENFORCEMENT OF LAND USE LAWS AND ORDINANCES

30-A §4452. ENFORCEMENT OF LAND USE LAWS AND ORDINANCES

1. Enforcement. A municipal official, such as a municipal code enforcement officer, local plumbing inspector or building official, who is designated by ordinance or law with the responsibility to enforce a particular law or ordinance set forth in subsection 5, 6 or 7, may:

A. Enter any property at reasonable hours or enter any building with the consent of the owner, occupant or agent to inspect the property or building for compliance with the laws or ordinances set forth in subsection 5. A municipal official's entry onto property under this paragraph is not a trespass; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

B. Issue a summons to any person who violates a law or ordinance, which the official is authorized to enforce; and [1993, c. 23, §1 (AMD) .]

C. When specifically authorized by the municipal officers, represent the municipality in District Court in the prosecution of alleged violations of ordinances or laws, which the official is authorized to enforce. [1993, c. 23, §1 (AMD) .]

[1993, c. 23, §1 (AMD); 2007, c. 699, §24 (REV) .]

2. Liability for violations. Any person, including, but not limited to, a landowner, the landowner's agent or a contractor, who violates any of the laws or ordinances set forth in subsection 5 or 6 is liable for the penalties set forth in subsection 3.

[1991, c. 732, §2 (AMD) .]

3. Civil penalties. The following provisions apply to violations of the laws and ordinances set forth in subsection 5. Except for paragraph H, monetary penalties may be assessed on a per-day basis and are civil penalties.

A. The minimum penalty for starting construction or undertaking a land use activity without a required permit is \$100, and the maximum penalty is \$2,500. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

B. The minimum penalty for a specific violation is \$100, and the maximum penalty is \$2,500. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

B-1. Notwithstanding paragraph B, the maximum penalty is \$5,000 for any violation of a law or an ordinance set forth in subsection 5, paragraph Q, if the violation occurs within an area zoned for resource protection. [1999, c. 370, §1 (NEW) .]

C. The violator may be ordered to correct or abate the violations. When the court finds that the violation was willful, the violator shall be ordered to correct or abate the violation unless the abatement or correction results in:

- (1) A threat or hazard to public health or safety;
- (2) Substantial environmental damage; or
- (3) A substantial injustice. [1989, c. 727, §1 (AMD) .]

C-1. [2007, c. 92, §1 (RP) .]

C-2. Notwithstanding paragraph C, for violations of the laws and ordinances set forth in subsection 5, paragraph Q, the provisions of this paragraph apply. The court must order the violator to correct or mitigate the violation unless the correction or mitigation would result in a threat or hazard to public health or safety, substantial environmental damage or a substantial injustice.

(1) Except for timber harvesting, correction or mitigation of a violation that involves the cutting of a tree or trees must include, but is not limited to, replacement of each tree cut with a tree or trees of varying size and species such that the visual impact from the cutting will be remediated, the tree canopy that was cut will be restored within a reasonable time period and a total basal area equal to at least 50% of the basal area cut will be replanted.

(2) Except for timber harvesting, correction or mitigation of a violation that involves the cutting of understory vegetation must include, but is not limited to, replacement of the understory vegetation with understory vegetation of substantially similar size and species to the extent reasonably available and feasible.

(3) For violations requiring correction or mitigation pursuant to subparagraph (1) or (2), the violator shall submit to the municipality a reforestation plan and 5-year management plan developed with and signed by a forester licensed pursuant to Title 32, chapter 76 or other qualified professional. The reforestation plan must include consideration of specified site conditions and address habitat and other riparian restoration, visual screening, understory vegetation and erosion and sedimentation control. The management plan must address how the replacement trees must be maintained to enable the trees to grow to a healthy, mature height.

For purposes of this paragraph, "timber harvesting" has the same meaning as in Title 38, section 438-B, subsection 1, paragraph C.

For purposes of this paragraph, "understory vegetation" means all saplings that measure less than 2 inches in diameter at 4.5 feet above ground level and all shrubs. [2011, c. 228, §1 (AMD) .]

D. If the municipality is the prevailing party, the municipality must be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust. If the defendant is the prevailing party, the defendant may be awarded reasonable attorney fees, expert witness fees and costs as provided by court rule. [1989, c. 727, §1 (AMD) .]

E. In setting a penalty, the court shall consider, but is not limited to, the following:

- (1) Prior violations by the same party;
- (2) The degree of environmental damage that cannot be abated or corrected;
- (3) The extent to which the violation continued following a municipal order to stop; and
- (4) The extent to which the municipality contributed to the violation by providing the violator with incorrect information or by failing to take timely action. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

F. The maximum penalty may exceed \$2,500, but may not exceed \$25,000, when it is shown that there has been a previous conviction of the same party within the past 2 years for a violation of the same law or ordinance. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

G. The penalties for violations of a septage land disposal or storage site permit issued by the Department of Environmental Protection under Title 38, chapter 13, subchapter 1, are as prescribed in Title 38, section 349. [1997, c. 794, Pt. A, §1 (AMD) .]

H. If the economic benefit resulting from the violation exceeds the applicable penalties under this subsection, the maximum civil penalties may be increased. The maximum civil penalty may not exceed an amount equal to twice the economic benefit resulting from the violation. Economic benefit includes, but is not limited to, the costs avoided or enhanced value accrued at the time of the violation as a result of the violator's noncompliance with the applicable legal requirements. [1989, c. 727, §1 (NEW) .]

[2011, c. 228, §1 (AMD) .]

4. Proceedings brought for benefit of municipality. All proceedings arising under locally administered laws and ordinances shall be brought in the name of the municipality. All fines resulting from those proceedings shall be paid to the municipality.

[1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

5. Application. This section applies to the enforcement of land use laws and ordinances or rules that are administered and enforced primarily at the local level, including:

A. The plumbing and subsurface waste water disposal rules adopted by the Department of Health and Human Services under Title 22, section 42, including the land area of the State that is subject to the jurisdiction of the Maine Land Use Planning Commission; [2007, c. 699, §18 (AMD); 2011, c. 682, §38 (REV) .]

B. Laws pertaining to public water supplies, Title 22, sections 2642, 2647 and 2648; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

C. Local ordinances adopted pursuant to Title 22, section 2642; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

D. Laws administered by local health officers pursuant to Title 22, chapters 153 and 263; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

E. Laws pertaining to fire prevention and protection, which require enforcement by local officers pursuant to Title 25, chapter 313; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

F. Laws pertaining to the construction of public buildings for the physically disabled pursuant to Title 5, sections 4582-B, 4582-C and 4594-F; [2011, c. 613, §28 (AMD); 2011, c. 613, §29 (AFF) .]

G. Local land use ordinances adopted pursuant to section 3001; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

H. [2007, c. 699, §18 (RP) .]

I. [2007, c. 699, §18 (RP) .]

J. Laws pertaining to junkyards, automobile graveyards and automobile recycling businesses and local ordinances regarding junkyards, automobile graveyards and automobile recycling businesses, pursuant to chapter 183, subchapter 1 and Title 38, section 1665-A, subsection 3; [2007, c. 699, §18 (AMD) .]

K. Local ordinances regarding electrical installations pursuant to chapter 185, subchapter 2; [2007, c. 699, §18 (AMD) .]

L. Local ordinances regarding regulation and inspection of plumbing pursuant to chapter 185, subchapter 3; [2007, c. 699, §18 (AMD) .]

M. Local ordinances regarding malfunctioning subsurface waste water disposal systems pursuant to section 3428 and laws regarding malfunctioning subsurface waste water disposal systems pursuant to Title 38, section 424-A; [2007, c. 568, §6 (AMD) .]

N. The subdivision law and local subdivision ordinances adopted pursuant to section 3001 and subdivision regulations adopted pursuant to section 4403; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

O. Local zoning ordinances adopted pursuant to section 3001 and in accordance with section 4352; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

P. Wastewater discharge licenses issued pursuant to Title 38, section 353-B; [1999, c. 127, Pt. A, §46 (AMD) .]

Q. Shoreland zoning ordinances adopted pursuant to Title 38, sections 435 to 447, including those that were state-imposed; [2005, c. 240, §4 (AMD) .]

R. The laws pertaining to harbors in Title 38, chapter 1, subchapter 1, local harbor ordinances adopted in accordance with Title 38, section 7 and regulations adopted by municipal officers pursuant to Title 38, section 2; [2007, c. 112, §4 (AMD) .]

S. Local ordinances and ordinance provisions regarding storm water, including, but not limited to, ordinances and ordinance provisions regulating nonstorm water discharges, construction site runoff and postconstruction storm water management, enacted as required by the federal Clean Water Act and federal regulations and by state permits and rules; [2007, c. 661, Pt. A, §1 (AMD); 2007, c. 699, §18 (AMD) .]

T. Laws pertaining to limitations on construction and excavation near burial sites and established cemeteries in Title 13, section 1371-A and local ordinances and regulations adopted by municipalities in accordance with this section and section 3001 regarding those limitations; [2007, c. 2, §16 (COR) .]

U. Standards under a wind energy development certification issued by the Department of Environmental Protection pursuant to Title 35-A, section 3456 if the municipality chooses to enforce those standards ; and [2007, c. 2, §17 (COR) .]

(Paragraph U as enacted by PL 2007, c. 699, §18 is REALLOCATED TO TITLE 30-A, SECTION 4452, SUBSECTION 5, PARAGRAPH V)

V. (REALLOCATED FROM T. 30-A, §4452, sub-§5, ¶U) The Maine Uniform Building and Energy Code, adopted pursuant to Title 10, chapter 1103. [2007, c. 2, §18 (RAL) .]

[2011, c. 613, §28 (AMD); 2011, c. 613, §29 (AFF); 2011, c. 682, §38 (REV) .]

6. Septage and sludge permits issued by the Department of Environmental Protection. A municipality, after notifying the Department of Environmental Protection, may enforce the terms and conditions of a septage land disposal or storage site permit or a sludge land application or storage site permit issued by the Department of Environmental Protection pursuant to Title 38, chapter 13, subchapter 1.

[1997, c. 38, §1 (AMD) .]

7. Natural resources protection laws. A code enforcement officer, authorized by a municipality to represent that municipality in District Court and certified by the former State Planning Office or the Department of Economic and Community Development, Office of Community Development under section 4453 as familiar with court procedures, may enforce the provisions of Title 38, section 420-C, Title 38, chapter 3, subchapter 1, article 5-A and Title 38, chapter 13-D by instituting injunctive proceedings or by seeking civil penalties in accordance with Title 38, section 349, subsection 2.

[2011, c. 655, Pt. FF, §16 (AFF); 2011, c. 655, Pt. FF, §9 (AMD) .]

SECTION HISTORY

1989, c. 104, §§A45,C10 (NEW). 1989, c. 287, §§3,4 (AMD). 1989, c. 727, §1 (AMD). 1991, c. 548, §D6 (AMD). 1991, c. 732, §§1-4 (AMD). RR 1993, c. 1, §77 (COR). 1993, c. 23, §§1,2 (AMD). 1995, c. 58, §1 (AMD). 1995, c. 704, §B1 (AMD). 1995, c. 704, §C2 (AFF). 1997, c. 38, §1 (AMD). 1997, c. 296, §8 (AMD). 1997, c. 794, §A1 (AMD). 1999, c. 127, §A46 (AMD). 1999, c. 370, §1 (AMD). 2003, c. 689, §B6 (REV). 2005, c. 148, §1 (AMD). 2005, c. 240, §§4-6 (AMD). RR 2007, c. 2, §§16-18 (COR). 2007, c. 92, §§1, 2 (AMD). 2007, c. 112, §§4-6 (AMD). 2007, c. 568, §6 (AMD). 2007, c. 569, §1 (AMD). 2007, c. 661, Pt. A, §§1-3 (AMD). 2007,

c. 699, §18 (AMD). 2007, c. 699, §24 (REV). 2011, c. 228, §1 (AMD).
2011, c. 613, §28 (AMD). 2011, c. 613, §29 (AFF). 2011, c. 655, Pt. FF,
§16 (AFF). 2011, c. 655, Pt. FF, §9 (AMD). 2011, c. 682, §38 (REV).

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30-A §4453. CERTIFICATION FOR REPRESENTATION IN COURT

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The Department of Economic and Community Development, Office of Community Development shall establish certification standards and a program to certify familiarity with court procedures for the following individuals: [2011, c. 655, Pt. FF, §10 (AMD); 2011, c. 655, Pt. FF, §16 (AFF) .]

1. Code enforcement officers. Code enforcement officers as set forth in sections 4451 and 4452 and Title 38, section 441;

[1997, c. 296, §9 (NEW) .]

2. Plumbing inspectors. Plumbing inspectors as set forth in sections 4221 and 4451;

[1997, c. 296, §9 (NEW) .]

3. Department of Environmental Protection. Department of Environmental Protection employees as set forth in Title 38, section 342, subsection 7; and

[2009, c. 213, Pt. M, §10 (AMD) .]

4. Maine Land Use Planning Commission. Maine Land Use Planning Commission employees as set forth in Title 12, section 685-C, subsection 9.

[2009, c. 213, Pt. M, §11 (AMD); 2011, c. 682, §38 (REV) .]

5. Humane agents and state veterinarians.

[2009, c. 213, Pt. M, §12 (RP) .]

SECTION HISTORY

1997, c. 296, §9 (NEW). 1997, c. 683, §§B16,17 (AMD). 2009, c. 213, Pt. M, §§10-12 (AMD). 2011, c. 655, Pt. FF, §10 (AMD). 2011, c. 655, Pt. FF, §16 (AFF). 2011, c. 682, §38 (REV).

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4 §152. DISTRICT COURT; CIVIL JURISDICTION

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The District Court has jurisdiction in the following civil matters: [1999, c. 731, Pt. ZZZ, §4 (AMD); 1999, c. 731, Pt. ZZZ, §42 (AFF).]

1. Jurisdiction exercised by trial justices and municipal courts. The civil jurisdiction exercised by all trial justices and municipal courts in the State on September 16, 1961;

[1983, c. 796, §1 (RPR) .]

2. Civil actions for money damages. Original jurisdiction, concurrent with that of the Superior Court, of all civil actions when no equitable relief is demanded, except those actions for which exclusive jurisdiction is vested in the Superior Court by statute;

[1999, c. 731, Pt. ZZZ, §4 (AMD); 1999, c. 731, Pt. ZZZ, §42 (AFF) .]

3. Civil actions to enforce liens. Original jurisdiction, concurrent with the Superior Court, of all civil actions to enforce liens under Title 10, chapter 603 and under Title 35-A, section 706, and the court shall determine the amount pursuant to Title 10, section 3258;

[1999, c. 731, Pt. ZZZ, §4 (AMD); 1999, c. 731, Pt. ZZZ, §42 (AFF) .]

4. (CONFLICT: Text as amended by PL 2011, c. 542, Pt. A, §1) Exclusive jurisdiction. Original jurisdiction, not concurrent with that of the Superior Court, of mental health commitment hearings under Title 34-B, chapter 3, subchapter 4, intellectual disability certification hearings under Title 34-B, chapter 5, habitual truancy actions under Title 20-A, chapters 119 and 211 under which equitable relief may be granted and small claims actions under Title 14, chapter 738;

[2011, c. 542, Pt. A, §1 (AMD) .]

4. (CONFLICT: Text as amended by PL 2011, c. 614, §1) Exclusive jurisdiction. Original jurisdiction, not concurrent with that of the Superior Court, of mental health commitment hearings under Title 34-B, chapter 3, subchapter 4, mental retardation certification hearings under Title 34-B, chapter 5, truancy actions under Title 20-A, chapters 119 and 211 under which equitable relief may be granted and small claims actions under Title 14, chapter 738;

[2011, c. 614, §1 (AMD) .]

5. Other actions. Original jurisdiction, concurrent with that of the Superior Court, of the following types of actions, and in these actions the District Court may grant equitable relief:

A. [1999, c. 731, Pt. ZZZ, §4 (RP); 1999, c. 731, Pt. ZZZ, §42 (AFF) .]

B. Actions to quiet title to real estate under Title 14, sections 6651 to 6658; [1983, c. 796, §1 (RPR) .]

C. Actions to quiet title to real estate under Title 36, section 946; [1983, c. 796, §1 (RPR) .]

D. Actions for breach of implied warranty and covenant of habitability under Title 14, section 6021; [1983, c. 796, §1 (RPR) .]

E. Actions to foreclose mortgages under Title 14, chapter 713, subchapter VI; [1985, c. 293, §1 (AMD) .]

F. Actions for restitution under Title 5, section 213; [1989, c. 392, §1 (AMD) .]

G. Actions for illegal evictions under Title 14, section 6014; [1989, c. 392, §1 (AMD) .]

H. Actions for the foreclosure of mortgages of real and personal property and for redemption of estates mortgaged; [1989, c. 392, §1 (NEW) .]

I. Actions to compel the specific performance of written contracts and to cancel and compel the discharge of written contracts, whether under seal or otherwise, when full performance or payment has been made to the contracting party; [1989, c. 392, §1 (NEW) .]

J. Actions for relief in cases of fraud, duress, unjust enrichment, trust, accident or mistake; [1989, c. 392, §1 (NEW) .]

K. Actions concerning nuisance and waste; [1989, c. 392, §1 (NEW) .]

L. Actions concerning partnership, and between partners or part owners of vessels and of other real and personal property to adjust all matters of the partnership and between the part owners, compel contribution, make final decrees and enforce their decrees by proper process in cases where all interested persons within the jurisdiction of the court are made parties; [1989, c. 392, §1 (NEW) .]

M. [1999, c. 731, Pt. ZZZ, §4 (RP); 1999, c. 731, Pt. ZZZ, §42 (AFF) .]

N. Civil actions for redelivery of goods or chattels taken or detained from the owner and secreted or withheld so that the goods or chattels cannot be replevied, and in civil actions by creditors to reach and apply in payment of a debt any property, right, title or interest, legal or equitable, of a debtor or debtors, which cannot be attached on writ or taken on execution in a civil action, and any property or interest conveyed in fraud of creditors; [1989, c. 392, §1 (NEW) .]

O. Actions in which the pleading demands a judgment:

(1) To exclude a person from a vested or contingent interest in or lien upon specific property within the State;

(2) That a vested or contingent interest in or lien upon specific property within the State be enforced;

(2-A) That real property be partitioned by sale; or

(3) Otherwise affecting title to any real property; [1999, c. 547, Pt. A, §1 (AMD) .]

P. Actions to compel the compliance with court orders including the right to appoint persons to sign instruments as provided for in the Maine Rules of Civil Procedure; [1989, c. 392, §1 (NEW); 1989, c. 919, §§1, 18 (AMD) .]

Q. Actions in which the equitable relief is sought through an equitable defense, a counterclaim, a cross-claim or other responsive pleading or reply permitted by the Maine Rules of Civil Procedure; [2011, c. 80, §1 (AMD) .]

R. Actions to enforce access to health care under Title 22, section 1715; and [2011, c. 80, §2 (AMD) .]

S. Actions under the Uniform Arbitration Act, Title 14, chapter 706. [2011, c. 80, §3 (NEW) .]

Nothing in this subsection may be construed to affect the right of any party to remove an action to the Superior Court in accordance with the Maine Rules of Civil Procedure;

[2011, c. 80, §§1-3 (AMD) .]

6. Environmental laws.

[1989, c. 878, Pt. A, §6 (RP); 1993, c. 349, §3 (AMD) .]

6-A. Environmental laws. Original jurisdiction, concurrent with that of the Superior Court, to grant equitable relief and impose penalties in proceedings involving alleged violations of a local environmental ordinance or regulation or a state environmental law or rule, including, but not limited to, the following:

- A. The laws pertaining to the Maine Land Use Planning Commission, Title 12, chapter 206-A; [1989, c. 878, Pt. A, §7 (NEW); 2011, c. 682, §38 (REV).]
- B. The minimum lot size law, Title 12, sections 4807 to 4807-G; [1989, c. 878, Pt. A, §7 (NEW).]
- C. Shoreland zoning ordinances enacted under Title 30-A, section 3001, and in accordance with Title 38, sections 435 to 446; [2011, c. 120, §1 (AMD).]
- D. The plumbing and subsurface waste water disposal rules adopted by the Department of Health and Human Services under Title 22, section 42; [1989, c. 878, Pt. A, §7 (NEW); 2003, c. 689, Pt. B, §6 (REV).]
- E. Laws pertaining to public water supplies, Title 22, chapter 601, subchapter IV; [1999, c. 731, Pt. ZZZ, §4 (AMD); 1999, c. 731, Pt. ZZZ, §42 (AFF).]
- F. Local ordinances enacted under Title 22, section 2642, and in accordance with Title 30-A, section 3001; [1989, c. 878, Pt. A, §7 (NEW).]
- G. Local land use ordinances enacted under Title 30-A, section 3001; [1989, c. 878, Pt. A, §7 (NEW).]
- H. Local building codes adopted pursuant to Title 30-A, section 3001, and in accordance with Title 30-A, chapter 185, subchapter I; [1989, c. 878, Pt. A, §7 (NEW).]
- I. Automobile junkyards, Title 30-A, chapter 183, subchapter I; [1989, c. 878, Pt. A, §7 (NEW).]
- J. Regulation and inspection of plumbing, Title 30-A, chapter 185, subchapter III; [1989, c. 878, Pt. A, §7 (NEW).]
- K. Malfunctioning domestic waste water disposal units, Title 30-A, section 3428; [1989, c. 878, Pt. A, §7 (NEW).]
- L. The subdivision law, Title 30-A, chapter 187, subchapter IV; local subdivision ordinances enacted under Title 30-A, section 3001; and subdivision regulations adopted under Title 30-A, section 4403; [1989, c. 878, Pt. A, §7 (NEW).]
- M. Local zoning ordinances enacted under Title 30-A, section 3001, and in accordance with Title 30-A, section 4352; [1989, c. 878, Pt. A, §7 (NEW).]
- N. All laws administered by the Department of Environmental Protection, Title 38, chapters 2 to 16; [1989, c. 878, Pt. A, §7 (NEW).]
- O. Local ordinances regarding air pollution control enacted pursuant to Title 38, section 597; [2005, c. 240, §1 (AMD).]
- P. The laws pertaining to harbors in Title 38, chapter 1, subchapter 1; local harbor ordinances adopted in accordance with Title 38, section 7 and regulations adopted by municipal officers pursuant to Title 38, section 2; and [2005, c. 240, §2 (AMD).]
- Q. Local ordinances and ordinance provisions regarding storm water, including, but not limited to, ordinances and ordinance provisions regulating nonstorm water discharges, construction site runoff and postconstruction storm water management, enacted as required by the federal Clean Water Act and federal regulations and by state permits and rules; [2005, c. 240, §3 (NEW).]

[2011, c. 120, §1 (AMD); 2011, c. 682, §38 (REV) .]

7. Air quality laws.

[1989, c. 311, §2 (RP) .]

8. Consent to minor's abortion. Original jurisdiction, concurrent with that of the Probate Court, to grant equitable relief in proceedings brought under Title 22, section 1597-A;

[1999, c. 547, Pt. B, §5 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

9. Licensing jurisdiction. Except as provided in Title 5, section 10004; Title 8, section 279-B; Title 10, section 8003; Title 20-A, sections 10712 and 10713; Title 29-A; Title 32, chapters 2-B, 114 and 135; and Title 35-A, section 3132, exclusive jurisdiction upon complaint of an agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General to revoke or suspend licenses issued by the agency. The District Court has original jurisdiction upon complaint of a licensing agency to determine whether renewal or reissuance of a license of that agency may be refused. The District Court has original concurrent jurisdiction to grant equitable relief in proceedings initiated by an agency or the Department of the Attorney General alleging any violation of a license or licensing laws or rules.

Notwithstanding any other provisions of law, a licensing agency may not reinstate or otherwise affect a license suspended, revoked or modified by the District Court pursuant to a complaint filed by the Attorney General without the approval of the Attorney General;

[2009, c. 112, Pt. B, §1 (AMD) .]

10. Appellate jurisdiction.

[2009, c. 112, Pt. B, §2 (RP) .]

11. Actions for divorce, separation or annulment. Original jurisdiction, not concurrent with the Superior Court, of actions for divorce, annulment of marriage or judicial separation and proceedings under Title 19-A, except as otherwise specifically provided.

Actions for divorce, annulment or separation pending in the Superior Court may be transferred, upon agreement of the parties, from the Superior Court to the District Court in accordance with rules adopted by the Supreme Judicial Court. An action so transferred remains in the District Court, which has exclusive jurisdiction thereafter, subject to the rights of appeal to the Law Court as to matters of law;

[1999, c. 731, Pt. ZZZ, §4 (NEW); 1999, c. 731, Pt. ZZZ, §42 (AFF) .]

12. Property matters between spouses. Original jurisdiction, not concurrent with the Superior Court, of actions to hear and determine property matters between spouses as provided in Title 19-A, section 806 and to make all necessary orders and decrees relating to these matters, to issue all necessary process to enforce the orders and decrees and to cause all the orders and decrees to be enforced. This subsection does not apply to or affect actions initiated in the Superior Court before the effective date of this subsection;

[1999, c. 731, Pt. ZZZ, §4 (NEW); 1999, c. 731, Pt. ZZZ, §42 (AFF) .]

13. Desertion and nonsupport. Jurisdiction over complaints for desertion and nonsupport or nonsupport of dependents in the district where either the spouse, the dependent or the respondent resides;

[2007, c. 670, §1 (AMD) .]

14. Civil violations. Jurisdiction over all civil violations, as provided in Title 17-A, section 9, and traffic infractions; and

[2007, c. 670, §2 (AMD) .]