

07 EXECUTIVE DEPARTMENT

105 STATE PLANNING OFFICE

Chapter 208: COMPREHENSIVE PLAN REVIEW CRITERIA RULE

SUMMARY: This chapter establishes the criteria the State Planning Office uses to review community comprehensive plans for consistency with the goals and guidelines of the Growth Management Act (30-A M.R.S.A. §§ 4312 - 4350). The Office uses this Chapter to review and comment on proposed comprehensive plans under §4347-A(1) of the Act, and to review the plan component of local growth management programs for which certification has been requested under §4347-A(2).

RULE

COMMENTARY

SECTION 1. GENERAL PROVISIONS AND PROCEDURES

1. Purpose

The primary purpose of this Chapter is to establish the process and criteria the State Planning Office uses to review community comprehensive plans for consistency with the goals and guidelines of the Growth Management Act (30-A M.R.S.A. §§ 4312 - 4350). If a community requests certification of its growth management program under 30-A M.R.S.A. §4347-A(2), the Office also uses this Chapter to review the comprehensive plan component of that program. This Chapter sets forth a two-part process for the Office's consistency review: 1) a completeness determination for all required elements of a comprehensive plan; and 2) a more in-depth review of the Future Land Use Plan.

In 2012 the State Planning Office was eliminated. However, this Chapter of state law remains, and is currently being administered by the Municipal Planning Assistance Program in the Department of Agriculture, Conservation and Forestry.

The criteria of this Chapter are based on the Act's goals, substantive guidelines, and procedures. They are not intended to prohibit or discourage a community from developing a plan, ordinance, or program that is more specific or detailed, or that covers more subject areas than called for by required elements.

2. Definitions

The following acronyms are used in this and other sections of the Rule:

MDEP = Maine Department of Environmental Protection

MIFW= Maine Department of Inland Fisheries and Wildlife

MDMR= Maine Department of Marine Resources

MDOC= Maine Department of Conservation

MNAP= Maine Natural Areas Program MDOC

BwH= Beginning with Habitat Program (MIFW)

SPO= Maine State Planning Office

M.R.S.A.= Maine Revised Statutes Annotated

LURC= Land Use Regulation Commission

In 2013 the Department of Conservation merged with the Department of Agriculture, Food and Rural Resources to become the Department of Agriculture, Conservation and Forestry (DACF). The Maine Natural Areas Program remains within this new Department.

As noted above, the Maine State Planning Office was eliminated in 2012. See specific commentaries later in this document for each reference to SPO.

In 2012 the Land Use Regulation Commission was renamed the Land Use Planning Commission.

The following terms, as used in the Act and this Chapter, have the following meanings unless the context indicates otherwise:

A. **Act:** "Act" means the Growth Management Act (30-A M.R.S.A. §§ 4312-4350.).

B. **Adopted regional plan:** "Adopted regional plan" means a land use planning document that was drafted no longer than 10 years prior to the applicable comprehensive plan submission and endorsed by the Executive Board of the applicable regional planning organization or adopted by at least 51% of the communities covered by the regional plan.

C. **Amendment:** "Amendment" means a change to a comprehensive plan that is adopted subsequent to an Office finding that the plan is consistent with the Growth Management Act.

This also applies to plans adopted subsequent to a finding of consistency as deemed by the Municipal Planning Assistance Program of the DACF.

D. **Applicable regional council:** "Applicable regional council" means the council of governments, established under 30-A M.R.S.A. §§ 2311-2316, or regional planning commission, established under 30-A M.R.S.A. §§ 2321-2326,

that is the authorized review agency for the regional planning and development district or subdistrict, designated under 30-A M.R.S.A. §§ 2341-2342, within which the community submitting a comprehensive plan or zoning ordinance is located.

E. **Arterial:** “Arterial” means a highway providing long-distance connections as approved by the Federal Highway Administration pursuant to 23 Code of Federal Regulation, Section 470.105(b)(1999) and as so designated by MaineDOT pursuant to the Maine Highway Driveway and Entrance regulations, 17-229 CMR 299.

F. **Business day:** “Business Day” means any day that the Office is open for business. *Any day that the DACF is open.*

G. **Capital Investment:** “Capital Investment” means expending municipal funds of \$20,000 or more to purchase assets of land, machinery, equipment, or buildings.

H. **Capital Investment Plan:** “Capital Investment Plan” (CInP) means a summary list of municipal capital investments anticipated during the planning period in order to implement the strategies in the comprehensive plan.

I. **Commercial development:** “Commercial development” means for-profit business operations that provide goods, services, or commodities. For the purposes of this Chapter, home occupations are not considered commercial development.

J. **Community:** “Community” means any municipality or multi-municipal region.

K. **Comprehensive plan:** “Comprehensive plan” or “plan” means a document or interrelated documents developed by a community in accordance with the procedural provisions of 30-A M.R.S.A. §4324, the substantive requirements of 30-A M.R.S.A. §4326, and contain the required elements identified in section 2 of this chapter.

L. **Comprehensive Planning Data Set:** “Comprehensive Planning Data Set” means data provided upon request by the Office or its designee for the preparation of a comprehensive

Data provided upon request by the Municipal Planning Assistance Program.

plan. Though additional data may be provided, only the minimum data components needed to meet the minimum requirements of this Chapter are considered the “Comprehensive Planning Data Set”.

M. Critical natural resource: “Critical natural resources” means the following natural resources which under federal and/or state law warrant protection from the negative impacts of development:

- (1) Resource Protection District areas as set forth in MDEP Guidelines for Municipal Shoreland Zoning Ordinances (Chapter 1000 § 13.A) pursuant to the Mandatory Shoreland Zoning Act (38 M.R.S.A. §438-A, subsection 1);
- (2) Wetlands of special significance as defined in MDEP Wetlands and Waterbodies Protection Rules (Chapter 310 § 4);
- (3) Significant wildlife habitat as defined in the Natural Resources Protection Act (38 M.R.S.A. §480-B(10))
- (4) Threatened, endangered and special concern animal species habitat as identified and mapped by MIFW pursuant to the Maine Endangered Species Act (12 M.R.S.A., Chapter 925);
- (5) Significant freshwater fisheries spawning habitat as identified and mapped by MIFW or MDMR;
- (6) Natural communities that are critically imperiled (S1), imperiled (S2) or rare (S3) as defined and mapped by MNAP;
- (7) Areas containing plant species declared to be threatened or endangered by the MDOC.
- (8) Coastal sand dune systems as defined in the Natural Resources Protection Act (38 M.R.S.A. §480-B(1));
- (9) Fragile mountain areas as defined in the Natural Resources Protection Act (38 M.R.S.A. §480-B(3)); or

(10) National Natural Landmarks designated by the National Park Service pursuant to its National Natural Landmark Program (36 Code of Federal Regulation, Section 62).

N. **Critical rural area:** "Critical rural area" means a rural area that is specifically identified and designated by a community's comprehensive plan as deserving maximum protection from development to preserve natural resources and related economic activities that may include, but are not limited to, significant farmland, forest land or mineral resources; high-value wildlife or fisheries habitat; scenic areas; public water supplies; scarce or especially vulnerable natural resources; and open lands functionally necessary to support a vibrant rural economy.

O. **Critical waterfront area:** "Critical waterfront area" means a shorefront area characterized by functionally water-dependent uses, as defined in M.R.S.A. 38 §436-A(6), and specifically identified and designated by a community's comprehensive plan as deserving maximum protection from incompatible development.

P. **Floor area:** "Floor area" means the total area covered by all floors in a building, typically measured in square feet or acres.

Q. **Growth area:** "Growth area" means an area that is designated in a community's comprehensive plan as suitable for orderly residential, commercial, or industrial development, or any combinations of those types of development and related infrastructure, and into which most development projected over 10 years is directed.

R. **Growth management program:** "Growth management program" means a set of interrelated documents that comprise a comprehensive plan and implementation program, including zoning ordinances, as described in 30-A M.R.S.A. §4326.

S. **Habitat connections:** "Habitat connections" means those areas that link large habitat blocks based on a prioritized habitat analysis prepared by Beginning with Habitat.

T. **Important Natural Resources:** “Important Natural Resources” means those areas in the community important for strategic conservation planning purposes, and not classified as Critical Natural Resources, comprised of one or more of the following:

- (1) Large habitat blocks as identified by the BwH;
- (2) Habitat connections as identified by the BwH;
- (3) Focus Areas of Statewide Ecological Significance as identified in Maine’s Wildlife Action Plan, prepared by the MIFW;
- (4) Exemplary Natural Community locations as defined by the MNAP.

U. **Industrial development:** “Industrial development” means business operations that manufacture, process, or store goods or commodities. For the purposes of this Chapter, home occupations are not considered industrial development.

V. **Institutional development:** “Institutional development” means establishments such as governmental facilities, colleges, vocational schools, hospitals, or health care facilities.

W. **Large habitat blocks:** “Large habitat blocks” means contiguous, undeveloped areas of 500 acres or more as identified and mapped by BwH.

X. **Low impact development:** “Low impact development” means a process of developing land that combines site design strategies and best management practices to limit the volume and flows of runoff from a developed site and treat and infiltrate precipitation on the site in a way that mimics its natural hydrology.

Y. **Managed forest lands:** “managed forest lands” means lands managed for any of the following purposes: timber stand improvement, timber or other forest products harvesting, regeneration of forest stands, habitat management, aesthetics, recreation, or water quality protection.

Z. **Marine transportation facilities:** “Marine transportation facilities” means public and private facilities used for cargo and/or passenger transport that rely on water access, including infrastructure and support facilities such as buildings, piers, docks, parking, and storage.

AA. **Minimal commercial/institutional development:** “Minimal commercial development” means that there has been less than a ten (10) percent increase in the floor area devoted to commercial and institutional development in the community over the previous ten (10) years.

BB. **Minimal industrial development:** “Minimal industrial development” means that there has been less than a ten (10) percent increase in the floor area devoted to industrial development in the community over previous ten (10) years.

CC. **Minimal residential development:** “Minimal residential development” means that residential development in the community is characterized by:

- (1) Less than five (5) percent population growth over the previous ten (10) years; and
- (2) Less than fifty (50) units of residential housing, including apartment, condominium, and seasonal units, constructed over previous ten (10) years.

DD. **Mobility corridor:** “Mobility corridor” means an arterial that is a designated “mobility corridor” pursuant to the Maine Highway Driveway and Entrance regulations, 17-229 CMR 299.

EE. **Multi-function wetlands:** “Multi-function wetlands” means those wetlands found to provide three or more wetland functions as depicted on the Wetlands Characterization Maps developed by the Office.

Wetlands Characterization Maps are now produced by the Beginning with Habitat Program.

FF. **Municipal growth-related capital investment:** “Municipal growth-related capital investment” means investment by the municipality in the following projects, even if privately-owned, using municipal, county, state, federal, or other public funds, in the form of a purchase, lease,

grant, loan, loan guarantee, credit, tax credit, or other financial assistance:

- (1) Construction of new transportation infrastructure or capacity;
- (2) Construction or acquisition of newly constructed multifamily rental or affordable housing;
- (3) Development of industrial or business parks;
- (4) Construction or extension of sewer, water, or other utility lines;
- (5) Construction of public, quasi-public, or private service infrastructure, facilities, and community buildings; or
- (6) Construction or expansion of municipal office buildings, municipal educational facilities, and other quasi-public facilities and other civic buildings that serve public clients and customers.

Municipal growth-related capital investment does not include investment in the following: mobile equipment, the operation or maintenance of a municipal facility or program; maintenance of existing transportation infrastructure without significantly expanding capacity; or municipal revenue sharing.

GG. Municipal officers. "Municipal officers" means the selectmen or councilors of a town, or the mayor and aldermen or councilors of a city.

HH. Non-point sources of pollution. "Nonpoint sources of pollution" means facilities, activities, or any circumstance that cause rainfall, snowmelt, or irrigation water, running over land or through the ground, to pick up pollutants and to deposit them into rivers, lakes, coastal waters, or ground water.

This essentially means any source of pollution other than point sources of pollution. A point source of pollution has a single point from which the pollution emerges, such as a sewage treatment outfall pipe.

II. Office: "Office" means the State Planning Office.

As noted above, the Maine State Planning Office was eliminated in 2012.

JJ. Planning committee: "Planning committee" means the committee established by the municipal officers of a municipality, or

combination of municipalities, in accord with 30-A M.R.S.A. §4324(2), which has general responsibility for the comprehensive plan.

KK. Planning period: “Planning period” means a minimum of ten (10) years.

LL. Regional council: "Regional council" means the council of governments, established under 30-A M.R.S.A. §§ 2311-2316, or regional planning commission, established under 30-A M.R.S.A. §§ 2321-2326, that is the authorized review agency for the regional planning and development district or subdistrict, designated under 30-A M.R.S.A. §§ 2341-2342.

Regional Councils provide planning services to municipalities throughout the State. They act as a liaison between local governments and state agencies.

MM. Rural area. "Rural area" means a geographic area that is identified and designated in a community's comprehensive plan as an area that is deserving of some level of regulatory protection from unrestricted development for purposes that may include, but are not limited to, supporting agriculture, forestry, mining, open space, wildlife habitat, fisheries habitat, and scenic lands, and away from which most development projected over 10 years is diverted.

NN. Shoreland zone: “Shoreland zone” means the same as “Shoreland Area” in the Mandatory Shoreland Zoning Act (38 M.R.S.A. §§ 435 - 449.).

OO. Significant freshwater fisheries habitat: “Significant freshwater fisheries habitat” means any freshwater river, stream, brook, lake, or pond that is identified as:

- (1) a brook trout habitat as depicted on maps developed by the Maine Department of Inland Fisheries and Wildlife; or
- (2) rare, native fish habitat as depicted on maps developed by the MIFW; or
- (3) diadromous fisheries habitat as depicted on maps developed by the Maine Department of Marine Resources.

PP. State Transportation System: “State transportation system” means:

- (1) Maine Department of Transportation and Maine Turnpike Authority administered or supervised state or state aid highways along with associated sidewalks, paths, trails, and/or bridges;
- (2) Maine Department of Transportation administered or supervised marine highways, airports, and rail lines along with associated sidewalks, paths, trails, and/or bridges; and
- (3) Any associated facilities essential to the safe and efficient operation of those state transportation systems, including but not limited to highway maintenance facilities, transit/rail stations, toll plazas, ferry terminals, cargo ports, intermodal transportation centers, weigh stations, rest areas, visitor information centers, service plazas, and park-and-ride lots, as well as parking lots and other infrastructure serving those facilities.

QQ. **Stream:** "Stream" means the same as "Stream" in the Mandatory Shoreland Zoning Act (38 M.R.S.A. §436-A (12))

RR. **Strip development:** "Strip development" means a pattern of development, usually commercial in nature, in which individual establishments have direct access to a single arterial or main thoroughfare. Strip developments are generally not in downtown areas and often lack pedestrian facilities, but are characterized by automobile-focused access with multiple curb cuts in relatively short distances.

SS. **Transit services:** "Transit services" means public or private operations that provide transportation to the public, such as rail and bus operations.

TT. **Transitional area:** "Transitional area" means an area that is designated in a community's comprehensive plan as suitable for a share of projected residential, commercial, or industrial development but that is neither intended to accept the amount or density of development appropriate for a growth area nor intended to provide the level of protection for rural resources afforded in a rural area or critical rural area.

UU. **Wetlands:** "Wetlands" means any coastal wetlands or freshwater wetlands as defined below:

(1) Coastal wetlands means all tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

(2) Freshwater wetlands include freshwater swamps, marshes, bogs, and similar areas (other than areas considered part of a great pond, coastal wetland, river, stream, or brook) that are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above defining criteria.

VV. **Zoning ordinance:** "Zoning ordinance" means a municipal land use ordinance that:

(1) Divides a community into zoning districts and prescribes the reasonable application of different regulations in each district to encourage orderly growth and development and implement a community's designation of growth and rural areas in its comprehensive plan; and

(2) Has been developed by the community in accordance with the procedural provisions and the substantive requirements of 30-A M.R.S.A. §§ 4324, 4326, and 4352.

3. Transition Clause

A. Communities that have submitted plans or amendments to plans to the Office for review prior to July 1, 2011 but have not yet received a Finding of Consistency have two options:

(1) Resubmit the plan for review under the provisions set forth in this Chapter. Resubmission resets the comment and findings deadlines set forth in 30-A M.R.S.A. §4347-A(3-A); or

(2) Continue to be reviewed under the review standards of the earlier version of Chapter 208 (as originally adopted September 20, 2007) until found consistent, provided consistency is determined within 24 months after the initial finding letter is issued pursuant to 30-A M.R.S.A. §4347-A(3-A).

B. Plans or amendments to plans submitted to the Office for review after July 1, 2011 must comply with the requirements of this Chapter, except that if a community submits a plan or amendments to a plan developed by a planning committee that was formed and held its first meeting prior to the effective date of this Chapter, the community has the option of having the Office review the plan or amendments under the review standards of the earlier version of Chapter 208 (as originally adopted September 20, 2007) or this amended Chapter, provided that the plan is submitted for review prior to December 30, 2011.

4. Submission Requirements

Plans submitted to the Office for review under this Chapter must be submitted in a manner and on forms prescribed by the Office. The submission must include all of the applicable required elements in Section 2.

5. Review Process

A. Comment Solicitation

Pursuant to 30-A M.R.S.A. §4347-A(3-A), upon receipt of a comprehensive plan for review, the Office shall request written comments from applicable regional councils, state agencies, all municipalities contiguous to the community submitting a comprehensive plan, and any interested residents of the community or of contiguous municipalities. Comments must be received within twenty-five (25) business days of the Office receiving the plan submittal. The Office shall consolidate all written comments from all sources and forward them to the community and any applicable regional council.

(1) State Agency Comments

State agencies may comment on a submitted comprehensive plan. If they do so, comments must:

- a. Identify the comprehensive plan being commented on.
- b. Identify the state agency and the name and contact information of its designated review coordinator.
- c. List any missing elements identified during the agency's review.
- d. Conclude whether the comprehensive plan demonstrates the appropriate use of data provided by the agency, how the plan's policies, implementation strategies, and other provisions relate to the agency's objectives and directives, whether the plan supports the agency's programs and policies in carrying out the goals of the Act, and, if necessary, what goal of the Act is not adequately addressed.
- e. Suggest what additional measures, if any, the community might take to improve the quality or effectiveness of its comprehensive plan.

(2) Regional Council Comments

Regional councils may comment on a submitted comprehensive plan. If they do so, comments must:

- a. Identify the proposed comprehensive plan being commented on.
- b. Identify the regional council and the name and contact information of its principal reviewer.
- c. List any missing elements identified during the council's review.
- d. Evaluate whether the comprehensive plan addresses identified regional needs and policies, supports existing, adopted regional plans, and whether the plan supports the adopted or proposed comprehensive plans of contiguous municipalities.
- e. Solicit and provide comments to the Office from contiguous municipalities.

f. Suggest what additional measures, if any, the community might take to improve the quality or effectiveness of its comprehensive plan.

B. Notification of Completeness

Upon receipt of a comprehensive plan for review for consistency with the Act, the Office will review the plan for completeness; consider any comments received pursuant to Section 1.5(A); and, within thirty-five (35) business days of receiving the plan submittal, either issue a Notification of Completeness or notify the community in writing if there are any missing elements. The Office will issue a Notification of Completeness and begin its focused review of the Future Land Use Plan if the comprehensive plan:

- (1) Is submitted in a manner and on forms as prescribed by the Office;
- (2) Includes a vision statement that summarizes the community's desired future community character;
- (3) Includes a summary of the public participation process undertaken in accordance with the 30-A M.R.S.A. §4324;
- (4) Includes a regional coordination program is included in accordance with Section 2.3;
- (5) Includes the minimum required analyses, condition and trend data, policies, and strategies from Section 3;
- (6) Includes a Future Land Use Plan with associated maps and narrative;
- (7) Includes an implementation section; and,
- (8) Provides for future periodic evaluation of the plan and its implementation.

A Notification of Completeness means that portions of the plan other than the Future Land Use Plan have been accepted by the Office as consistent with the Act.

If missing elements are identified during the completeness review, the Office will notify the community in writing of the missing elements. If a community submits additional information to the Office in response to a notification of missing elements within ninety (90) business days, the Office will review the additional information and, within ten (10) business days of receipt, notify the community in writing if the missing elements have been adequately addressed. If the missing elements have been adequately addressed, the Office will issue a Notification of Completeness.

A new completeness review process begins if a community submits additional information to the Office in response to a notification of missing elements more than ninety (90) business days from that notification.

The deadline for issuing a Notification of Completeness may be extended upon mutual written agreement between the Office and the community.

C. Notification of Consistency

Following the issuance of a Notification of Completeness, the Office will review a community's Future Land Use Plan under Section 4 of this Chapter, taking into account any comments received pursuant to Section 1.5(A). Within ten (10) business days of issuing a Notification of Completeness, the Office will notify the community by certified mail, return receipt requested, whether its plan has been found consistent with the Growth Management Act. This deadline may be extended upon mutual written agreement between the Office and the community.

The Office shall issue a Finding of Consistency for the comprehensive plan if:

- (1) A Notification of Completeness has been issued; and
- (2) The Office finds that the Future Land Use Plan conforms to Section 4.

The Office shall issue a Finding of Inconsistency if it finds that the comprehensive plan is not consistent with the Growth Management Act. A Finding of Inconsistency must identify:

- (1) The goal(s) of the Growth Management Act that is (are) not adequately addressed;
- (2) The specific section(s) of this Chapter that is not adequately addressed; and
- (3) Recommended measure(s) needed for a Finding of Consistency.

If the Office issues a Finding of Inconsistency, a community may submit revisions to address the inconsistencies in the findings within 24-months of the date of the Finding of Inconsistency. These revisions need not address new review standards that are established during that 24-month review time interval.

Within ten (10) business days of receipt of revisions, the Office will notify the community whether or not the revisions have addressed the inconsistencies. If the inconsistencies have been addressed, the Office will issue a Finding of Consistency. If not, the Office will issue a new Finding of Inconsistency.

If revisions are not submitted within twenty-four (24) months of the original Finding of Inconsistency, the community will need to resubmit its plan in accordance with section 1.4, if it wishes to pursue a finding of consistency.

A community may appeal the Office's Finding of Inconsistency to the Director of the Office pursuant to Section 1.6.

A community may appeal to the Commissioner of the Department of Agriculture, Conservation and Forestry.

6. Appeal of a Finding of Inconsistency

A. Making an Appeal

A community whose comprehensive plan is found inconsistent with the Growth Management Act may appeal that finding to the Director of the Office, hereinafter referred to as the Director, as follows:

(1) Any appeal of a Finding of Inconsistency must be made by the municipal officers of the community and must be received no later than twenty (20) business days after such a finding is received.

(2) Such appeal must be made by filing with the Director a written notice of appeal specifying which portion or portions of the finding is being appealed, and on what grounds, in accordance with Section 1.6(B).

B. Grounds for Appeal

The grounds for an appeal are limited to and must specifically address one or more of the following:

- (1) errors of fact made during the review;
- (2) failure to apply and follow the process and criteria of this Chapter or the Act; or
- (3) arbitrary or capricious decision.

C. Procedure on Appeal

The Director may delegate the appeal to another senior staff person outside of the Office's Land Use Team who was not involved in the consistency review; hereinafter referred to as the Designee.

The Commissioner may delegate the appeal to another senior staff person outside of the Municipal Planning Assistance Program.

Upon being notified of an appeal, the Land Use Team Director shall transmit to the Director or Designee all of the papers constituting the record of the decision being appealed.

Upon being notified of an appeal, the director of the Municipal Planning Assistance Program shall transmit to the Commissioner or Designee all papers constituting the record of the decision being appealed.

In considering an appeal, the Director or Designee shall:

- (1) examine relevant portions of the comprehensive plan submission, the relevant requirements of the Act and this Chapter, and the Finding of Inconsistency by the Land Use Team;
- (2) determine, on the basis of the entire record presented, whether the Land Use Team followed the required process and reasonably interpreted the facts to reach the conclusion(s) upon which the Finding of Inconsistency under appeal was based; and

(3) determine whether there are grounds for the appeal of the Finding of Inconsistency pursuant to Section 1.6(B).

D. Decisions of the Director and Appeals to Superior Court

(1) Remand

If the Director or Designee finds, based on the record presented, that there are ground(s) for appeal under Section 1.6(B), the Director or Designee shall remand with recommendation(s) all or a portion of the finding to Land Use Team Director for reconsideration. The decision of the Director or Designee to remand is not final agency action by the Office and is not appealable to Superior Court.

In the case of such a remand, the Land Use Team Director shall reconsider the original finding and issue a new finding based on the recommendation(s) of the Director or Designee within ten (10) business days. The Office will notify the community of the new consistency finding by certified mail, return receipt requested. The new consistency finding constitutes final agency action.

(2) Decision finding no grounds for appeal

If the Director or Designee finds no grounds for appeal, he/she will issue a notice of decision so stating. The Office will notify the community of the new consistency finding by certified mail, return receipt requested. The notice of decision finding no grounds for appeal constitutes final agency action.

(3) Notice of right to appeal to Superior Court

The Office's new finding or the Director's notice of decision finding no grounds for appeal must include an explanation of the community's right to judicial review of final agency action under 5 M.R.S.A. §§ 11001 -11008.

7. Duration of Consistency Findings

A Finding of Consistency under this Chapter is deemed valid for twelve (12) years from the date of issue. A Finding of Consistency issued under Chapter 202 is deemed valid until December 31, 2012 or twelve (12) years from the date of issue, whichever is later. An expired Finding of Consistency does not automatically make a plan inconsistent with the Act and this Chapter.

8. Review of Amendments to Approved Comprehensive Plans

If a community proposes or adopts amendments to a comprehensive plan that previously has been found consistent with the Act, the community may submit the amendment(s) for review to determine if the changes affect the consistency finding. The Office will review the submitted amendments in the same manner as provided in this Chapter commensurate with the scope of the amendments. A state agency may be asked to comment if amendments are relevant to its topic area. Once the review process is complete, the Office will issue a finding in accordance with Section 1.5(C).

Communities need not submit amendments that do not affect the substance of the plan, such as typographical or grammar corrections. Such non-substantive corrections do not affect the consistency status of a community's comprehensive plan. Communities need not submit amendments that implement specific plan improvements suggested by the Office in a Finding of Consistency. Changes that implement such suggestions do not affect the consistency status of a community's comprehensive plan.

A Finding of Consistency for amendments does not reset the duration of the original plan consistency finding for the purposes of Section 1.6.

SECTION 2. REQUIRED ELEMENTS

1. Vision Statement

The plan must include a vision statement that summarizes the community's desired future community character in terms of economic development, natural and cultural resource conservation, transportation systems, land use patterns and its role in the region.

2. Public Participation Summary

The plan must include a summary of the public participation process used by the planning committee in developing the plan pursuant to 30-A M.R.S.A. §4324. The summary must indicate how information gathered during the public process was used to guide the plan's vision statement, analyses, policies and strategies.

3. Regional Coordination Program

Pursuant to 30-A M.R.S.A. §4326(4), a regional coordination program must be pursued with other communities (or LURC if the community abuts land under its jurisdiction) to manage shared resources and facilities, including but not limited to lakes, rivers, aquifers, and transportation facilities. The plan must identify any shared resources and facilities, describe any conflicts with neighboring communities' policies and strategies pertaining to shared resources and facilities and describe what approaches the community will take to coordinate management of shared resources and facilities. In addition, the plan must include a summary of regional coordination efforts from all applicable topic areas.

4. Future Land Use Plan

The plan must include a Future Land Use Plan that meets the requirements set forth in Section 4. The Future Land Use Plan will be the focus of the Office's in-depth review for consistency with the Act.

5. Topic Area Components

In order to be found consistent with the Growth Management Act, the plan must contain the state goal, analyses, condition and trend data, policies, and strategies for each of the required topic areas in Section 3. These minimum requirements in no way limit a community from expanding its plan to include additional information, analyses, policies, and strategies. A comprehensive plan submission may replace a Topic Area Component as described in Section 3 with an adopted regional (multi-municipal) plan (e.g. regional housing plan, regional transportation plan, etc.) so long as the regional plan meets the minimum required analyses, conditions and trend data, policies, and strategies from Section 3, the regional plan is included as an appendix in your comprehensive plan, and the regional plan was drafted within 10 years of the comprehensive plan submission.

A. State Goals

The plan must indicate the state goal or goals relevant to each topic area as identified in Section 3. Local goals may be added but are not required.

B. Analyses

The plan must identify the issues facing the community using the series of questions for each of the topic areas in Section 3. These questions get to the heart of the issues a community must plan for to address the state goals. A community must address each of these questions in its plan's narrative, unless determined not to be applicable per Section 2.6.

C. Conditions and Trends

To provide a basis for the analyses, the plan must include sufficient data necessary to identify current conditions and future trends for each of the topic areas in Section 3. Some of the data requirements will not be applicable in a given community and therefore will not be required in accordance with Section 2.6. Much of the data will be provided by state agencies. Some data are only available from local sources. All data should be verified locally, if possible.

Contact your Regional Council at the beginning of the comprehensive planning process. The Regional Council will then put you on a list to receive a comprehensive planning data set from the Municipal Planning Assistance Program. The comprehensive planning data set contains data compiled by all state agencies.

Data provided by state agencies for each of the topic areas are compiled into comprehensive planning data sets. The comprehensive planning data sets are provided by the Office upon request from a community, regional council, or consultant on behalf of a community. If a community or regional council has requested a comprehensive planning data set and not received it within eight months of the request, then those state data components and associated analyses are not required for a Notification of Completeness or a Finding of Consistency.

Data included in the comprehensive planning data sets are considered the most current data available and will be considered current for comprehensive plan reviews for three (3) years. Communities taking longer than three years to prepare a plan should request a new state data set from the Office and update the plan accordingly prior to submitting it to the Office for a consistency review.

If a community obtains data directly from a state agency by any means other than the request of a comprehensive planning data set from the Office then that data will also be considered current for comprehensive plan reviews for three (3) years from the date the data was received from its source.

If a community chooses to replace a topic area component with an adopted regional plan as defined and described in Section 2.5 then the topic area data components are exempted from the three (3) year age limit.

D. Policies

The minimum required policies for each topic area in Section 3 must be incorporated into a plan for it to be found consistent with the Growth Management Act. The language may be altered to better suit a community, but the specific intent of the minimum policy must remain. Altered policies must reflect the desired future direction of the community as stated in the community's vision statement.

E. **Implementation Strategies**

The strategies describe what actions the community will take to carry out its policies. Minimum required strategies identified in Section 3 for each topic area must be included unless sufficient alternative strategies are included. Alternative strategies will be considered by the Office to determine if they, in combination with the other strategies in the plan, address the goals of the Act. Strategies must identify the responsible party, anticipated timeline, and be developed pursuant to 30-A M.R.S.A. §4326(3).

Where policies are general statements of intent, strategies are specific descriptions of actions. For example, a policy of protecting significant historic resources could have a corresponding strategy of working with the local historical society to develop a comprehensive survey of historic resources.

6. **Applicability**

If a required element is determined by the community to not be applicable, an explanation for that determination must be provided in the comprehensive plan submission. Some items, such as the applicability of marine resources in inland communities, will require only a simple explanation or notation. Other items will require more detailed explanation. This provision is not intended to allow communities to circumvent the requirements for consistency with the Act. During its review of a comprehensive plan, the Office will make a final decision on the applicability of a required element by considering the following criteria:

- A. Does the information provided in the plan support the community's explanation of non-applicability?
- B. Does the exclusion of the required element create a gap in the information needed to support the Future Land Use Plan?

7. **Evaluation**

The plan must include an outline describing how the community will periodically (at least every five years) evaluate the following:

- A. The degree to which future land use plan strategies have been implemented;
- B. Percent of municipal growth-related capital investments in growth areas;

C. Location and amount of new development in relation to community's designated growth areas, rural areas, and transition areas (if applicable)

D. Amount of critical natural resource, critical rural, and critical waterfront areas protected through acquisition, easements, or other measures.

If the community's evaluation concludes that portions of the current plan and/or its implementation are not effective, the community is encouraged to propose changes as needed.

8. Certification

A plan submitted for review under this Chapter must include the original signature(s) of the municipal officer(s) of the community under the following certification:

I (we) certify that this comprehensive plan was prepared with the intent of complying with the Growth Management Act (30 M.R.S.A. §§ 4312 - 4350.), that it includes all of the applicable required elements of the Maine Comprehensive Plan Review Criteria Rule (07-105 CMR 208), and that it is true and accurate.

SECTION 3. REQUIRED TOPIC AREAS

1. Historic and Archaeological Resources

A. State Goal

To preserve the State's historic and archaeological resources.

B. Analyses

To generate minimum analyses to address state goals, use Conditions and Trends data in Section 3.1(C) to answer the following questions.

(1) Are historic patterns of settlement still evident in the community?

(2) What protective measures currently exist for historic and archaeological resources and are they effective?

(3) Do local site plan and/or subdivision regulations require applicants proposing development in areas that may contain historic or archaeological resources to conduct a survey for such resources?

(4) Have significant historic resources fallen into disrepair, and are there ways the community can provide incentives to preserve their value as an historical resource?

C. Condition and Trends

Minimum data required to address Analyses:

(1) The community's Comprehensive Planning Historic Preservation Data Set prepared and provided to the community by the Historic Preservation Commission, and the Office, or their designees.

(2) An outline of the community's history, including a brief description of historic settlement patterns and events contributing to the development and character of the community and its surroundings.

(3) An inventory of the location, condition, and use of any historical or archaeological resource that is of local importance.

(4) A brief description of threats to local historic resource and to those of state and national significance as identified by the Maine Historic Preservation Commission.

This is not meant to be a comprehensive historic and archaeological resources inventory. Creating that comprehensive survey is one of the strategies suggested later in this section. Here we simply ask you to converse with local residents, and the local historical society if applicable, in identifying significant resources.

D. Policies

Minimum policy required to address state goals:

Protect to the greatest extent practicable the significant historic and archaeological resources in the community.

E. Strategies

Minimum strategies required to address state goals:

- (1) For known historic archeological sites and areas sensitive to prehistoric archeology, through local land use ordinances require subdivision or non-residential developers to take appropriate measures to protect those resources, including but not limited to, modification of the proposed site design, construction timing, and/or extent of excavation.
- (2) Adopt or amend land use ordinances to require the planning board (or other designated review authority) to incorporate maps and information provided by the Maine Historic Preservation Commission into their review process.
- (3) Work with the local or county historical society and/or the Maine Historic Preservation Commission to assess the need for, and if necessary plan for, a comprehensive community survey of the community's historic and archaeological resources.

2. Water Resources

A. State Goal

To protect the quality and manage the quantity of the State's water resources, including lakes, aquifers, great ponds, estuaries, rivers, and coastal areas.

B. Analyses

To generate minimum analyses to address state goals, use Conditions and Trends data in Section 3.2(C) to answer the following questions.

- (1) Are there point sources (direct discharges) of pollution in the community? If so, is the community taking steps to eliminate them?
- (2) Are there non-point sources of pollution? If so, is the community taking steps to eliminate them?
- (3) How are groundwater and surface water supplies and their recharge areas protected?

Every community has non-point sources of pollution. The real issue is whether these sources are causing significant levels of pollution and whether the municipality is taking steps to mitigate the pollution.

(4) Do public works crews and contractors use best management practices to protect water resources in their daily operations (e.g. salt/sand pile maintenance, culvert replacement street sweeping, public works garage operations)?

(5) Are there opportunities to partner with local or regional advocacy groups that promote water resource protection?

Partnerships can be with private organizations, such as land trusts, semi-public organizations such as soil & water conservation districts, or public organizations such as county regional planning commissions.

C. Conditions and Trends

Minimum data required to address Analyses:

(1) The community's Comprehensive Planning Water Resources Data Set prepared and provided to the community by the Department of Inland Fisheries and Wildlife, the Department of Environmental Protection and the Office, or their designees.

(2) A description of each great pond, river, surface drinking water supply, and other water bodies of local interest including:

A great pond is any inland body of water which in a natural state has a surface area in excess of 10 acres and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres.

- a. ecological value;
- b. threats to water quality or quantity;
- c. documented water quality and/or invasive species problems.

(3) A summary of past and present activities to monitor, assess, and/or improve water quality, mitigate sources of pollution, and control or prevent the spread of invasive species.

This includes all activities, whether conducted by public or private entities.

(4) A description of the location and nature of significant threats to aquifer drinking water supplies.

(5) A summary of existing lake, pond, river, stream, and drinking water protection and preservation measures, including local ordinances.

D. Policies

Minimum policies required to address state goals:

(1) To protect current and potential drinking water sources.

(2) To protect significant surface water resources from pollution and improve water quality where needed.

(3) To protect water resources in growth areas while promoting more intensive development in those areas.

(4) To minimize pollution discharges through the upgrade of existing public sewer systems and wastewater treatment facilities.

(5) To cooperate with neighboring communities and regional/local advocacy groups to protect water resources.

Low-impact development (LID) techniques are designed to minimize the environmental impact of stormwater runoff from new development. Water resources in developed areas can be protected through the use of LID techniques. Numerous examples of LID techniques exist in Maine. Contact your local soil & water conservation district or regional council for more information.

E. **Strategies**

Minimum strategies to meet state goals:

(1) Adopt or amend local land use ordinances as applicable to incorporate stormwater runoff performance standards consistent with:

a. Maine Stormwater Management Law and Maine Stormwater regulations (Title 38 M.R.S.A. §420-D and 06-096 CMR 500 and 502).

b. Maine Department of Environmental Protection's allocations for allowable levels of phosphorus in lake/pond watersheds.

c. Maine Pollution Discharge Elimination System Stormwater Program

(2) Consider amending local land use ordinances, as applicable, to incorporate low impact development standards.

(3) Where applicable, develop an urban impaired stream watershed management or mitigation plan that will promote continued development or redevelopment without further stream degradation.

(4) Maintain, enact or amend public wellhead and aquifer recharge area protection mechanisms, as necessary.

(5) Encourage landowners to protect water quality. Provide local contact information at the municipal office for water quality best management practices from resources such as the Natural Resource Conservation Service, University of Maine Cooperative Extension, Soil and Water Conservation District, Maine Forest Service, and/or Small Woodlot Association of Maine.

(6) Adopt water quality protection practices and standards for construction and maintenance of public and private roads and public properties and require their implementation by contractors, owners, and community officials and employees.

(7) Participate in local and regional efforts to monitor, protect and, where warranted, improve water quality.

(8) Provide educational materials at appropriate locations regarding aquatic invasive species.

3. Natural Resources

A. State Goal

To protect the State's other critical natural resources, including without limitation, wetlands, wildlife and fisheries habitat, sand dunes, shorelands, scenic vistas, and unique natural areas.

B. Analyses

To generate minimum analyses to address state goals, use Conditions and Trends data in Section 3.3(C) to answer the following questions.

(1) Are any of the community's critical natural resources threatened by development, overuse, or other activities?

(2) Are local shoreland zone standards consistent with state guidelines and with the standards placed on adjacent shorelands in neighboring communities?

(3) What regulatory and non-regulatory measures has the community taken or can the community take to protect critical natural resources and important natural resources?

This provides a perfect opportunity to contact neighboring communities and obtain a shoreland zoning map for each neighboring town. Most waterbodies are not fully contained in one municipality. Planning Boards and code enforcement officers should monitor and reference adjacent shoreland zoning issues in neighboring municipalities when addressing shoreland zoning in their own towns.

(4) Is there current regional cooperation or planning underway to protect shared critical natural resources? Are there opportunities to partner with local or regional groups?

Yes, there are opportunities to form partnerships in protecting resources. You should identify possible partnerships here, including the benefits such partnering would bring to the municipality.

C. Conditions and Trends

Minimum data required to address Analyses:

(1) The community's Comprehensive Planning Natural Resources Data Set prepared and provided to the community by the Department of Inland Fisheries and Wildlife, Department of Environmental Protection and the Office, or their designees.

(2) A map or description of scenic areas and scenic views of local importance, and regional or statewide importance, if available.

Local land trusts and other conservation organizations oftentimes have this information available. There are many state and national scenic byways throughout the state; contact your regional council, MDOT or America's Byways for more information. Many municipalities also identify scenic views during the comprehensive planning process, and include a scenic view map with the final Comprehensive Plan. Contact your regional council for information on developing a scenic inventory.

D. Policies

Minimum policies required to address state goals:

(1) To conserve critical natural resources in the community.

(2) To coordinate with neighboring communities and regional and state resource agencies to protect shared critical natural resources.

E. Strategies

Minimum strategies required to address state goals:

(1) Ensure that land use ordinances are consistent with applicable state law regarding critical natural resources.

(2) Designate critical natural resources as Critical Resource Areas in the Future Land Use Plan.

(3) Through local land use ordinances, require subdivision or non-residential property developers to look for and identify critical natural resources that may be on site and to take appropriate measures to protect those resources, including but not limited to, modification of the proposed site design, construction timing, and/or extent of

excavation.

(4) Through local land use ordinances, require the planning board (or other designated review authority) to include as part of the review process, consideration of pertinent BwH maps and information regarding critical natural resources.

(5) Initiate and/or participate in interlocal and/or regional planning, management, and/or regulatory efforts around shared critical and important natural resources.

(6) Pursue public/private partnerships to protect critical and important natural resources such as through purchase of land or easements from willing sellers.

(7) Distribute or make available information to those living in or near critical or important natural resources about current use tax programs and applicable local, state, or federal regulations.

For information on current use tax programs, contact the Maine State Board of Property Tax Review or the Property Tax Division of Maine Revenue Services. Both offices are located in the Maine Dept. of Administrative & Financial Services.

4. Agricultural and Forest Resources

A. State Goal

To safeguard the State's agricultural and forest resources from development which threatens those resources.

B. Analyses

To generate minimum analyses to address state goals, use Conditions and Trends data in Section 3.4(C) to answer the following questions.

(1) How important is agriculture and/or forestry and are these activities growing, stable, or declining?

(2) Is the community currently taking regulatory and/or non-regulatory steps to protect productive farming and forestry lands? Are there local or regional land trusts actively working to protect farms or forest lands in the community?

(3) Are farm and forest land owners taking advantage of the state's current use tax laws?

For information on current use tax programs, contact the Maine State Board of Property Tax Review or the Property Tax Division of Maine Revenue Services. Both offices are located in the

(4) Has proximity of new homes or other incompatible uses affected the normal farming and logging operations?

Maine Dept. of Administrative & Financial Services.

(5) Are there large tracts of agricultural or industrial forest land that have been or may be sold for development in the foreseeable future? If so, what impact would this have on the community?

(6) Does the community support community forestry or agriculture (i.e. small woodlots, community forests, tree farms, community gardens, farmers' markets, or community-supported agriculture)? If so, how?

(7) Does the community have town or public woodlands under management, or that would benefit from forest management?

Contact the Bureau of Forestry in the Maine Dept. of Agriculture, Conservation & Forestry for a list of district foresters who can provide education and training.

C. **Conditions and Trends**

Minimum data required to address Analyses:

(1) The community's Comprehensive Planning Agriculture and Forestry Data Set prepared and provided to the community by the Department of Agriculture, the Maine Forest Service, and the Office, or their designees.

(2) A map and/or description of the community's farms, farmland, and managed forest lands and a brief description of any that are under threat.

(3) Information on the number of parcels and acres of farmland, tree growth, and open space enrolled in the state's farm, tree growth, and open space law taxation programs, including changes in enrollment over the past 10 years.

(4) A description of any community farming and forestry activities (e.g. community garden, farmer's market, or community forest).

D. **Policies**

Minimum policies required to address state goals:

(1) To safeguard lands identified as prime farmland or capable of supporting commercial forestry.

- (2) To support farming and forestry and encourage their economic viability.

E. **Strategies**

(1) Minimum strategies required to address state goals: Consult with the Maine Forest Service district forester when developing any land use regulations pertaining to forest management practices as required by 12 M.R.S.A. §8869.

(2) Consult with Soil and Water Conservation District staff when developing any land use regulations pertaining to agricultural management practices.

(3) Amend land use ordinances to require commercial or subdivision developments in critical rural areas, if applicable, maintain areas with prime farmland soils as open space to the greatest extent practicable.

(4) Limit non-residential development in critical rural areas (if the town designates critical rural areas) to natural resource-based businesses and services, nature tourism/outdoor recreation businesses, farmers' markets, and home occupations.

(5) Encourage owners of productive farm and forest land to enroll in the current use taxation programs.

(6) Permit land use activities that support productive agriculture and forestry operations, such as roadside stands, greenhouses, firewood operations, sawmills, log buying yards, and pick-your-own operations.

At the State level, you can contact the Municipal Planning Assistance Program; you can also contact the private Maine Farmland Trust – both have information on regulatory and non-regulatory strategies that encourage farming.

(7) Include agriculture, commercial forestry operations, and land conservation that supports them in local or regional economic development plans.

5. Marine Resources (if applicable)

A. State Goal and State Coastal Policies

(1) To protect the State's marine resources industry, ports and harbors from incompatible

development and to promote access to the shore for commercial fishermen and the public.

(2) For coastal communities, the Growth Management Act requires that a local comprehensive plan address the state coastal management policies (38 M.R.S.A. §1801). These are:

a. To promote the maintenance, development, and revitalization of the State's ports and harbors for fishing, transportation and recreation;

b. To manage the marine environment and its related resources to preserve and improve the ecological integrity and diversity of marine communities and habitats, to expand our understanding of the productivity of the Gulf of Maine and coastal waters and to enhance the economic value of the State's renewable marine resources;

c. To support shoreline management that gives preference to water-dependent uses over other uses, that promotes public access to the shoreline and that considers the cumulative effects of development on coastal resources;

d. To discourage growth and new development in coastal areas where, because of coastal storms, flooding, landslides or sea-level rise, it is hazardous to human health and safety;

e. To encourage and support cooperative state and municipal management of coastal resources;

f. To protect and manage critical habitat and natural areas of state and national significance and maintain the scenic beauty and character of the coast even in areas where development occurs;

g. To expand the opportunities for outdoor recreation and to encourage appropriate coastal tourist activities and development;

h. To restore and maintain the quality of our fresh, marine and estuarine waters to allow for the broadest possible diversity of public and private uses; and,

Due to historic development patterns, coastal areas are some of the most densely developed in the state. Rather than discourage overall growth along the coast, this policy asks that residents consider specific locations where studies have demonstrated hazards are most likely to occur (such as increased levels of flooding due to sea level rise), and contemplate LID practices, open space easements, redesigning infrastructure, or similar methods to mitigate safety risks.

i. To restore and maintain coastal air quality to protect the health of citizens and visitors and to protect enjoyment of the natural beauty and maritime characteristics of the Maine coast.

B. Analyses

To generate minimum analyses to address state goals, use Conditions and Trends data in Section 3.5(C) to answer the following questions.

- (1) Is coastal water quality being monitored on a regular basis? *The Maine DMR provides reports on how water quality is affecting marine resources, such as shellfish habitat. The Maine DEP provides reports on permitted activities, such as overboard discharges. Please contact each of these organizations for their respective reports for your municipality. Also, please describe the local municipal and local private efforts to monitor and improve water quality.*
- (2) Is there a local or regional plan in place to identify and eliminate pollution sources?
- (3) Has closing of clam or worm flats threatened the shellfishing industry, and are sources of contamination known? If so, are sources point (direct discharge) or nonpoint sources?
- (4) Are traditional water-dependent uses thriving or in decline? What are the factors affecting these uses? If current trends continue, what will the waterfront look like in 10 years?
- (5) Is there reasonable balance between water-dependent and other uses, and between commercial and recreational uses? If there have been recent conversions of uses, have they improved or worsened the balance? *There is an imbalance when the cost of living, including the cost of leasing harbor/marina space, is prohibitive for local fisherman and others who need access to coastal water for their livelihood.*
- (6) How does local zoning treat land around working harbors?
- (7) Is there a local or regional harbor or bay management plan? If not, is one needed?
- (8) Are there local dredging needs? If so, how will they be addressed?
- (9) Is there adequate access, including parking, for commercial fishermen and members of the public? Are there opportunities for improved access?
- (10) Are important points of visual access identified and protected?

C. **Conditions and Trends**

Minimum data required to address Analyses:

- (1) The community's Comprehensive Planning Marine Resources Data Set prepared and provided to the community by the Department of Marine Resources, and the Office, or their designees.
- (2) A map and / or description of water-dependent uses.
- (3) A brief summary of current regulations influencing land use patterns on or near the shoreline.
- (4) A description of any local or regional harbor or bay management plans or planning efforts.
- (5) The location of facilities (wharves, boat ramps, pump-out stations, etc.), with a brief description of any regional or local plans to improve facilities.
- (6) A description or map showing public access points to the shore. Include a brief description of their use, capacity, physical condition, and plans to improve, expand, or acquire facilities such as parking or toilets.
- (7) A list of scenic resources along the shoreline, including current ownership (public or private) and any protections.

Please contact the Municipal Planning Assistance Program in the Maine DACF for a copy of the Scenic Assessment Handbook, a resource for assisting communities in identifying coastal scenic resources.

D. **Policies**

Minimum policies required to address state goals:

- (1) To protect, maintain and, where warranted, improve marine habitat and water quality.
- (2) To foster water-dependent land uses and balance them with other complementary land uses.
- (3) To maintain and, where warranted, improve harbor management and facilities.

(4) To protect, maintain and, where warranted, improve physical and visual public access to the community's marine resources for all appropriate uses including fishing, recreation, and tourism.

E. Strategies

Minimum strategies required to address state goals:

(1) Identify needs for additional recreational and commercial access (which includes parking, boat launches, docking space, fish piers, and swimming access).

(2) Encourage owners of marine businesses and industries to participate in clean marina/boatyard programs.

Contact the Maine DEP for a copy of "Brightwork – A Best Management Practices Manual for Maine's Boatyards and Marina." Contact the Maine Marine Trades Association for information on the Clean Boatyards & Marinas Program.

(3) Provide information about the Working Waterfront Access Pilot Program and current use taxation program to owners of waterfront land used to provide access to or support the conduct of commercial fishing activities.

(4) Support implement of local and regional harbor and bay management plans.

(5) If applicable, provide sufficient funding for and staffing of the harbormaster and/or harbor commission.

(6) Work with local property owners, land trusts, and others to protect major points of physical and visual access to coastal waters, especially along public ways and in public parks.

6. Population and Demographics

A. State Goal

None required.

B. Analyses

To generate minimum analyses to address state goals, use Conditions and Trends data in Section 3.6(C) to answer the following questions.

(1) Is the rate of population change expected to continue as in the past, or to slow down or speed up? What are the implications of this change?

(2) What will be the likely demand for housing and municipal and school services to accommodate the change in population and demographics, both as a result of overall change and as a result of change among different age groups?

(3) Does your community have a significant seasonal population, is the nature of that population changing? What is the community's dependence on seasonal visitors?

(4) If your community is a service center or has a major employer, are additional efforts required to serve a daytime population that is larger than its resident population?

If your community has a significant seasonal population, this is an opportunity to begin contemplating how that population affects the municipality. Discuss ramifications of the seasonal population in the appropriate section elsewhere in the Plan; for example, if the seasonal population supports a certain portion of the local economy, explain that in the Economy section.

C. **Conditions and Trends**

Minimum data required to address Analyses:

(1) The community's Comprehensive Planning Population and Demographic Data Set (including relevant local, regional, and statewide data) prepared and provided to the community by the Office or its designee.

D. **Policies**

None required.

E. **Strategies**

None required.

7. **Economy**

A. **State Goal**

Promote an economic climate that increases job opportunities and overall economic well-being.

B. **Analyses**

To generate minimum analyses to address state goals, use Conditions and Trends data in Section 3.7(C) to answer the following questions.

(1) Is the economy experiencing significant change, and how does this, or might this, affect the local population, employment, and municipal tax base?

Discuss changes at the national (such as the Great Recession), state (such as significant downsizing of pulp and paper manufacturing industry), and local (such as new major employer) levels.

(2) Does the community have defined priorities for economic development? Are these priorities reflected in regional economic development plans?

(3) If there is a traditional downtown or village center(s) in the community? If so, are they deteriorating or thriving?

(4) Is tourism an important part of the local economy? If so, what steps has the community taken to support this industry?

(5) Do/should home occupations play a role in the community?

(6) Are there appropriate areas within the community for industrial or commercial development? If so, are performance standards necessary to assure that industrial and commercial development is compatible with the surrounding land uses and landscape?

(7) Are public facilities, including sewer, water, broadband access or three-phase power, needed to support the projected location, type, and amount of economic activity, and what are the issues involved in providing them?

(8) If there are local or regional economic development incentives such as TIF districting, do they encourage development in growth areas?

(9) How can/does the community use its unique assets such as recreational opportunities, historic architecture, civic events, etc. for economic growth?

C. **Conditions and Trends**

Minimum data required to address Analysis:

(1) The community's Comprehensive Planning Economic Data Set prepared and provided to the community by the Office or its designee.

(2) A brief historical perspective on how and why the current economy of the community and region developed.

This is often provided in a chapter on the community's history, elsewhere in the Plan.

(3) A list of local and regional economic development plans developed over the past five years, which include the community.

(4) Where does the community's population work and where do employees in your community reside? A description of the major employers in the community and labor market area and their outlook for the future.

(5) A description of any economic development incentive districts, such as tax increment financing districts, in the community.

D. **Policies**

Minimum policies required to address state goals:

(1) To support the type of economic development activity the community desires, reflecting the community's role in the region.

(2) To make a financial commitment, if necessary, to support desired economic development, including needed public improvements.

(3) To coordinate with regional development corporations and surrounding towns as necessary to support desired economic development.

E. **Strategies**

Minimum strategies required to address state goals:

(1) If appropriate, assign responsibility and provide financial support for economic development activities to the proper entity (e.g., a local economic development committee, a local representative to a regional economic development organization, the community's economic development director, a regional economic development initiative, or other).

(2) Enact or amend local ordinances to reflect the desired scale, design, intensity, and location of future economic development.

- (3) If public investments are foreseen to support economic development, identify the mechanisms to be considered to finance them (local tax dollars, creating a tax increment financing district, a Community Development Block Grant or other grants, bonding, impact fees, etc.)
- (4) Participate in any regional economic development planning efforts.

8. Housing

A. State Goal / Minimum Policy

To encourage and promote affordable, decent housing opportunities for all Maine citizens.

B. Analyses

To generate minimum analyses to address state goals, use Conditions and Trends data in Section 3.8(C) to answer the following questions.

- (1) How many additional housing units (if any), including rental units, will be necessary to accommodate projected population and demographic changes during the planning period?
- (2) Is housing, including rental housing, affordable to those earning the median income in the region? Is housing affordable to those earning 80% of the median income? If not, review local and regional efforts to address issue.
- (3) Are seasonal homes being converted to year-round use or vice-versa? What impact does this have on the community?
- (4) Will additional low and moderate income family, senior, or assisted living housing be necessary to meet projected needs for the community? Will these needs be met locally or regionally?
- (5) Are there other major housing issues in the community, such as substandard housing?
- (6) How do existing local regulations encourage or discourage the development of affordable/workforce housing?

C. Conditions and Trends

Minimum data required to address Analyses:

- (1) The community's Comprehensive Planning Housing Data Set prepared and provided to the community by the Maine State Housing Authority, and the Office, or their designees.
- (2) Information on existing local and regional affordable/workforce housing coalitions or similar efforts.
- (3) A summary of local regulations that affect the development of affordable/workforce housing.

D. Policies

Minimum policies required to address state goals:

- (1) To encourage and promote adequate workforce housing to support the community's and region's economic development.
- (2) To ensure that land use controls encourage the development of quality affordable housing, including rental housing.
- (3) To encourage and support the efforts of the regional housing coalitions in addressing affordable and workforce housing needs.

E. Strategies

Minimum strategies required to address state goals:

- (1) Maintain, enact or amend growth area land use regulations to increase density, decrease lot size, setbacks and road widths, or provide incentives such as density bonuses, to encourage the development of affordable/workforce housing.
- (2) Maintain, enact or amend ordinances to allow the addition of at least one accessory apartment per dwelling unit in growth areas, subject to site suitability.
- (3) Create or continue to support a community affordable/workforce housing committee and/or regional affordable housing coalition.

(4) Designate a location(s) in growth areas where mobile home parks are allowed pursuant to 30-A M.R.S.A. §4358(3)(M) and where manufactured housing is allowed pursuant to 30-A M.R.S.A. §4358(2).

(5) Support the efforts of local and regional housing coalitions in addressing affordable and workforce housing needs.

(6) Seek to achieve a level of at least 10% of new residential development built or placed during the next decade be affordable.

Seek housing that is affordable to those earning the median income in the region.

9. Recreation

A. State Goal

To promote and protect the availability of outdoor recreation opportunities for all Maine citizens, including access to surface waters.

B. Analyses

To generate minimum analyses to address state goals, use Conditions and Trends data in Section 3.9(C) to answer the following questions.

(1) Will existing recreational facilities and programs in the community and region accommodate projected growth or changes in age groups in your community?

This includes both organized and unorganized recreational opportunities.

(2) Is there a need for certain types of services or facilities or to upgrade or enlarge present facilities to either add capacity or make them more usable?

(3) Are important tracts of open space commonly used for recreation publicly-owned or otherwise permanently conserved?

(4) Does the community have a mechanism, such as an open space fund or partnership with a land trust, to acquire important open spaces and access sites, either outright or through conservation easements?

(5) Does the public have access to each of the community's significant water bodies?

Significant water bodies include great ponds, rivers, and the ocean.

(6) Are recreational trails in the community adequately maintained? Are there use conflicts on these trails?

(7) Is traditional access to private lands being restricted?

C. Condition and Trends

Minimum data required to address Analyses:

(1) The community's Comprehensive Planning Recreation Data Set prepared and provided to the community by the Department of Conservation, and the Office, or their designees.

(2) A description of important public and private active recreation programs, land and water recreation areas (including hunting and fishing areas), and facilities in the community and region, including regional recreational opportunities as appropriate, and identification of unmet needs.

(3) An inventory of any fresh or salt water bodies in the community determined locally to have inadequate public access.

(4) A description of local and regional trail systems, trail management organizations, and conservation organizations that provide trails for all-terrain vehicles, snowmobiling, skiing, mountain biking, or hiking.

(5) A map or list of important publicly-used open spaces and their associated facilities, such as parking and toilet facilities.

The map and/or list should clearly identify whether the publicly-used recreation space is publicly- or privately-owned.

D. Policies

Minimum policies required to address state goals:

(1) To maintain/upgrade existing recreational facilities as necessary to meet current and future needs.

(2) To preserve open space for recreational use as appropriate.

(3) To seek to achieve or continue to maintain at least one major point of public access to major water bodies for boating, fishing, and swimming, and work with nearby property owners to address concerns.

E. **Strategies**

Minimum strategies required to address state goals:

(1) Create a list of recreation needs or develop a recreation plan to meet current and future needs. Assign a committee or community official to explore ways of addressing the identified needs and/or implementing the policies and strategies outlined in the plan.

(2) Work with public and private partners to extend and maintain a network of trails for motorized and non-motorized uses. Connect with regional trail systems where possible.

(3) Work with an existing local land trust or other conservation organizations to pursue opportunities to protect important open space or recreational land.

(4) Provide educational materials regarding the benefits and protections for landowners allowing public recreational access on their property. At a minimum this will include information on Maine's landowner liability law regarding recreational or harvesting use, Title 14, M.R.S.A. §159-A.

10. Transportation

Sensible Transportation Policy Act

If a community has adopted a local or applicable regional long-range transportation plan that has been approved by the Maine Department of Transportation as consistent with the Sensible Transportation Policy Act (23 M.R.S.A. §73), then the transportation section is deemed complete for the purposes of review under this Chapter. The transportation section of the comprehensive plan need only include a letter from the Maine Department of Transportation stating that the community's long-range transportation plan is consistent with 17-229 CMR Chapter 103 subchapter 3 and is current in accordance with 17-

229 CMR Chapter 103 subchapter 3.2(F).

Absent such approval, the following information, analyses, policies and strategies are required. Regional transportation plans must be consulted in preparing this section.

Contact your regional council for information on current regional transportation plans affecting your community.

A. State Goal

To plan for, finance and develop an efficient system of public facilities and services to accommodate anticipated growth and economic development.

B. Analyses

To generate minimum analyses to address state goals, use Conditions and Trends data in Section 3.10(C) to answer the following questions.

- (1) What are the transportation system concerns in the community and region? What, if any, plans exist to address these concerns?
- (2) Are conflicts caused by multiple road uses, such as a major state or U.S. route that passes through the community or its downtown and serves as a local service road as well?
- (3) To what extent do sidewalks connect residential areas with schools, neighborhood shopping areas, and other daily destinations?
- (4) How are walking and bicycling integrated into the community's transportation network (including access to schools, parks, and other community destinations)?
- (5) How do state and regional transportation plans relate to your community?
- (6) What is the community's current and approximate future budget for road maintenance and improvement?
- (7) Are there parking issues in the community? If so what are they?
- (8) If there are parking standards, do they discourage development in village or downtown areas?

Contact your regional council for information on state and regional transportation plans. You can also contact the Maine Department of Transportation for a list of current work plans, rail plans, multi-modal plans, and other plans and projects affecting your region.

This is not restricted to automobiles. Think also about other modes of transportation, such as bicycle parking and how provision of bike racks may encourage more biking, or moorings and docks for boats.

(9) Do available transit services meet the current and foreseeable needs of community residents? If transit services are not adequate, how will the community address the needs?

Contact your regional council for information on available local transit. If applicable, you can also contact your regional Metropolitan Planning Organization (MPO). An MPO is a federally-designated entity created to assist areas with large populations in determining how to provide transportation without significantly harming the environment. The Maine Department of Health and Human Services also has information on transportation services, including such services provided by local Community Action Programs.

(10) If the community hosts a transportation terminal, such as an airport, passenger rail station, or ferry terminal, how does it connect to other transportation modes (e.g. automobile, pedestrian, bicycle, transit)?

(11) If the community hosts or abuts any public airports, what coordination has been undertaken to ensure that required airspace is protected now and in the future? How does the community coordinate with the owner(s) of private airports?

(12) If you are a coastal community are land-side or water-side transportation facilities needed? How will the community address these needs?

(13) Does the community have local access management or traffic permitting measures in place?

Access Management means regulating access to a publicly-funded road. In other words, can anyone build a house on the side of a road and connect the new driveway to the public road? Over time, this often leads to stop-and-go traffic on previously scenic rural roads. Contact your regional council for information on access management options.

(14) Do the local road design standards support the community's desired land use pattern?

(15) Do the local road design standards support bicycle and pedestrian transportation?

If there are local road design standards, do they address multiple modes of transportation, or just automobiles? For example, are bicycle lanes and sidewalks required in more densely developed areas?

(16) Do planned or recently built subdivision roads (residential or commercial) simply dead-end or do they allow for expansion to adjacent land and encourage the creation of a network of local streets? Where dead-ends are unavoidable, are mechanisms in place to encourage shorter dead-ends resulting in compact and efficient subdivision designs?

C. Conditions and Trends

Minimum data required to address Analyses:

(1) The community's Comprehensive Planning Transportation Data Set prepared and provided to the community by the Department of Transportation, and the Office, or their designees.

(2) Location and overall condition of roads, bridges, sidewalks, and bicycle facilities, including any identified deficiencies or concerns.

(3) Identify potential on and off-road connections that would provide bicycle and pedestrian connections to neighborhoods, schools, waterfronts and other activity centers.

(4) Identify major traffic (including pedestrian) generators, such as schools, large businesses, public gathering areas/activities, etc. and related hours of their operations.

Please identify major traffic generators for residents in your community, even if the generator itself is not in your community. For example, if there is a large manufacturing plant in an adjacent town for which many of your town's residents work, please list the plant as a traffic generator, and discuss implications of such on your community's transportation network.

(5) Identify policies and standards for the design, construction and maintenance of public and private roads.

(6) List and locate municipal parking areas including capacity, and usage.

(7) Identify airports within or adjacent to the community and describe applicable airport zoning and airspace protection ordinances your community has in place.

(8) Identify bus or van services.

(9) Identify existing and proposed marine and rail terminals within your community including potential expansions.

(10) If coastal communities identify public ferry service and private boat transportation support facilities (may be covered under Marine Resources with cross reference) including related water-side (docks/piers/wharves) and land-side (parking) facilities.

D. Policies

Minimum policies required to address state goals:

(1) To prioritize community and regional needs associated with safe, efficient, and optimal use of transportation systems.

(2) To safely and efficiently preserve or improve the transportation system.

Improving the transportation system is not necessarily preserving and paving all roads. Consider all modes of the overall transportation system.

(3) To promote public health, protect natural and cultural resources, and enhance livability by managing land use in ways that maximize the efficiency of the transportation system and minimize increases in vehicle miles traveled.

(4) To meet the diverse transportation needs of residents (including children, the elderly and disabled) and through travelers by providing a safe, efficient, and adequate transportation network for all types of users (motor vehicles, pedestrians, bicyclists).

(5) To promote fiscal prudence by maximizing the efficiency of the state or state-aid highway network.

E. **Strategies**

Minimum strategies required to address state goals:

(1) Develop or continue to update a prioritized improvement, maintenance, and repair plan for the community's transportation network.

(2) Initiate or actively participate in regional and state transportation efforts.

Contact your regional council for information on such efforts.

(3) Maintain, enact or amend local ordinances as appropriate to address or avoid conflicts with:

a. Policy objectives of the Sensible Transportation Policy Act (23 M.R.S.A. §73);

b. State access management regulations pursuant to 23 M.R.S.A. §704; and

c. State traffic permitting regulations for large developments pursuant to 23 M.R.S.A. §704-A.

(4) Maintain, enact or amend ordinance standards for subdivisions and for public and private roads as appropriate to foster transportation-efficient growth patterns and provide for future street and transit connections.

11. **Public Facilities and Services**

A. **State Goal**

To plan for, finance and develop an efficient system of public facilities and services to accommodate anticipated growth and economic development.

B. Analyses

To generate minimum analyses to address state goals, use Conditions and Trends data in Section 3.11(C) to answer the following questions.

(1) Are municipal services adequate to meeting changes in population and demographics?

(2) Has the community partnered with neighboring communities to share services, reduce costs and/or improve services? In what ways?

(3) If the community has a public sewer system, what issues or concerns are there currently and/or anticipated in the future? Is the sanitary district extension policy consistent with the Future Land Use Plan as required by (38 M.R.S.A. §1163), or will it be?

(4) If the community has a public water system are any public water supply expansions anticipated? If so, have suitable sources been identified and protected? Is the water district extension policy consistent with the Future Land Use Plan?

(5) If the town does not have a public sewer or water system, is this preventing the community from accommodating current and projected growth?

Please indicate if residents wish to accommodate future growth in a more dense growth area, but are unable to do so without public sewer and/or public water services.

(6) Are existing stormwater management facilities adequately maintained? What improvements are needed? How might future development affect the existing system?

(7) How do residents dispose of septic tank waste? Are there issues or concerns regarding septic tank waste?

(8) Is school construction or expansion anticipated during the planning period? Are there opportunities to promote new residential development around existing and proposed schools?

(9) Is the community's emergency response system adequate? Are improvements needed?

(10) Is the solid waste management system meeting current needs? Is the community reducing the reliance on waste disposal and increasing recycling opportunities? Are improvements needed to meet future demand?

(11) Are improvements needed in the telecommunications and energy infrastructure?

(12) Are local and regional health care facilities and public health and social service programs adequate to meet the needs of the community?

Consider preventive care services and facilities, in addition to larger hospitals and doctor's offices. Contact the Division of Local Public Health at the Maine Department of Health and Human Services for more information on local preventive health care.

(13) Will other public facilities, such as town offices, libraries, and cemeteries accommodate projected growth?

(14) To what extent are investments in facility improvements directed to growth areas?

(15) Does the community have a street tree program?

Contact Project Canopy within the Department of Agriculture, Conservation & Forestry for more information on street trees.

C. **Conditions and Trends**

Minimum data required to address Analyses includes the identification of the following as applicable for the public facilities and services in 3.11 C (5) (a through i):

(1) location of facilities and service areas (mapped as appropriate);

Many public facilities and services are regional. Please include those servicing residents in your town, regardless of whether the actual physical location is in your town.

(2) general physical condition of facilities and equipment;

(3) capacity and anticipated demand during the planning period;

(4) identification of who owns/manages the systems;

(5) estimated costs of needed capital improvements to public facilities; and

(6) the following information related to each of these public facilities and services:

- a. Sewerage and/or Water Supply – Identify number and types of users, and percent of households served
- b. Septage – Identify any community policies or regulations regarding septage collection and disposal.
- c. Solid Waste – Describe the community’s solid waste management system. Identify types and amounts of municipal solid waste and recycled materials for the past five (5) years.
- d. Stormwater Management – Identify combined sewer overflows. For Municipal Separate Stormwater System (MS4) communities, describe plan and status of the major goals of the MS4 requirements.
- e. Power and Communications – Availability of 3-phase power, Internet (including broadband), and cable within the community.
- f. Emergency Response System – Average call response times for fire, police, and emergency/rescue.
- g. Education – Identify school administrative unit. Include primary/secondary school system enrollment for the most recent year information is available and for the ten (10) years after the anticipated adoption of plan.
- h. Health Care - Describe major health care facilities (hospitals, clinics) and other providers serving the community. Identify public health and social services supported by the community through municipal subsidy.
- i. Municipal Government Facilities and Services – Describe facilities and staffing for municipal administrative, enforcement, and public works operations.
- j. Street Tree Program - Describe the community's street tree program.

Combined sewer overflows (CSOs) occur when storms cause a mixture of wastewater and stormwater to overflow the combined sewer and stormwater collection system before receiving treatment at a wastewater treatment facility. All CSOs are licensed by Maine DEP.

D. Policies

Minimum policies required to address state goals:

- (1) To efficiently meet identified public facility and service needs.
- (2) To provide public facilities and services in a manner that promotes and supports growth and development in identified growth areas.

E. Strategies

Minimum strategies to meet state goals:

- (1) Identify any capital improvements needed to maintain or upgrade public services to accommodate the community's anticipated growth and changing demographics.
- (2) Locate new public facilities comprising at least 75% of new municipal growth-related capital investments in designated growth areas.
- (3) Encourage local sewer and water districts to coordinate planned service extensions with the Future Land Use Plan.
- (4) If public water supply expansion is anticipated, identify and protect suitable sources?
- (5) Explore options for regional delivery of local services.

12. Fiscal Capacity and Capital Investment Plan**A. State Goal**

To plan for, finance and develop an efficient system of public facilities and services to accommodate anticipated growth and economic development.

B. Analyses

To generate minimum analyses to address state goals, use Conditions and Trends data in Section 3.12(C) to answer the following questions.

(1) How will future capital investments identified in the plan be funded?

Provide a Capital Investment Plan for the municipality.

(2) If the community plans to borrow to pay for capital investments, does the community have sufficient borrowing capacity to obtain the necessary funds?

(3) Have efforts been made by the community to participate in or explore sharing capital investments with neighboring communities? If so, what efforts have been made?

C. **Conditions and Trends**

Minimum data required to address Analyses:

(1) Identify community revenues and expenditures by category for the last five (5) years and explain trends.

(2) Describe means of funding capital items (reserve funds, bonding, etc.) and identify any outside funding sources.

(3) Identify local and state valuations and local mil rates for the last five (5) years.

(4) How does total municipal debt (including shares of county, school and utility) compare with the statutory and Maine Bond Bank recommended limits on such debt?

D. **Policies**

Minimum policies required to address state goals:

(1) To finance existing and future facilities and services in a cost effective manner.

(2) To explore grants available to assist in the funding of capital investments within the community.

(3) To reduce Maine's tax burden by staying within LD 1 spending limitations.

E. **Strategies**

Minimum strategies required to address state goals:

(1) Explore opportunities to work with neighboring communities to plan for and finance shared or adjacent capital investments to increase cost savings and efficiencies.

F. **Capital Investment Plan**

The comprehensive plan must include a capital investment plan that:

(1) Identifies and summarizes anticipated capital investment needs within the planning period in order to implement the comprehensive plan, including estimated costs and timing, and identifies which are municipal growth-related capital investments;

(2) Establishes general funding priorities among the community capital investments; and

(3) Identifies potential funding sources and funding mechanisms.

13. **Existing Land Use**

A. **State Goal**

None required.

B. **Analyses**

To generate minimum analyses to address state goals, use Conditions and Trends data in Section 3.13(C) and the community's vision statement to answer the following questions.

(1) Is most of the recent development occurring: lot by lot; in subdivisions; or in planned developments? Is recent development consistent with the community's vision?

This includes all types of development, not just residential. For example, an industrial park can be considered a subdivision for businesses. Like a residential subdivision, industrial parks are large pieces of land that have been subdivided into smaller parcels.

(2) What regulatory and non-regulatory measures would help promote development of a character, and in locations that are consistent with the community's vision?

(3) Is the community's administrative capacity adequate to manage its land use regulation program, including planning board and code enforcement officer?

This includes state and federal laws that are administered at the local level. For example, shoreland zoning is a state law that is administered at the local level by code enforcement officers. If a municipality has significant shoreland, and

(4) Are floodplains adequately identified and protected? Does the community participate in the National Flood Insurance Program? If not, should it? If so, is the floodplain management ordinance up to date and consistently enforced? Is the floodplain management ordinance consistent with state and federal standards?

shoreland development, then the municipality should have adequate code enforcement capacity for regulating that shoreland (regardless of how many people live in the town year-round).

C. **Conditions and Trends**

Minimum data required to address Analyses:

- (1) An existing land use map, by land use classification (such as mixed-use, residential, commercial, institutional, industrial, agricultural, commercial forests, marine, park/recreational, conserved, and undeveloped land).
- (2) A summary of current lot dimensional standards.
- (3) A description or map identifying the location of lots and primary structures created within the last ten years. Include residential, institutional, commercial, and industrial development.
- (4) Provide a brief description of existing land use regulations and other tools utilized to manage land use, including shoreland zoning, floodplain management, subdivision, site plan review, and zoning ordinances.
- (5) Estimate the minimum amount of land needed to accommodate projected residential, institutional, commercial, or industrial development at least ten (10) years into the future.

D. **Policies**

None Required

E. **Strategies**

None required

SECTION 4. FUTURE LAND USE PLAN

1. State Goal

To encourage orderly growth and development in appropriate areas of each community, while protecting the state's rural character, making efficient use of public services, and preventing development sprawl.

2. Future Land Use Plan Overview

The plan must include a Future Land Use Plan that is consistent with the community's vision and other policies in the plan. The Future Land Use Plan brings together plan elements that affect land use. It is intended to synthesize these elements into a cohesive guide to realizing the community's vision, including the development of land use regulations/ordinances. Use the analysis of conditions and trends data in Section 4, in conjunction with the vision statement, to develop the community's Future Land Use Plan.

The Future Land Use Plan divides the community into geographical areas identified as either most suitable for growth or most suitable for rural uses unless exempted under 30-A M.R.S.A. §4326(3-A), more fully described below. The Future Land Use Plan also incorporates a map of critical natural resources and any designated critical rural and critical waterfront areas within the community. The Future Land Use Plan will be the focus of the Office review for consistency with the Act.

3. Review Criteria for Future Land Use Plan Designations

A. Growth Areas

A community's Future Land Use Plan must identify a growth area or areas. The designation of growth areas is intended to ensure that planned growth and development and related infrastructure are directed to areas most suitable for such growth and development. Land areas designated as growth area must be consistent with the following provisions.

(1) The Future Land Use Plan must designate as growth area those lands into which the community intends to direct a minimum of 75% of dollars for municipal growth-related capital investments made during the planning period.

(2) Built-out or developed areas that may not have capacity for further growth but require maintenance, replacement, or additional capital investment to support existing or infill development must also be designated as growth areas.

(3) Growth areas must generally be limited to land areas that are physically suitable for development or redevelopment. Growth areas may include incidental land areas that are physically unsuitable for development or redevelopment, including critical natural resource, however, the plan must address how these areas will be protected from negative impacts of incompatible development to the greatest extent practicable or, at a minimum, as prescribed by law.

(4) To the greatest extent practicable growth areas should be located adjacent to existing densely-populated area.

(5) Growth areas, to the greatest extent practicable, should be limited to an amount of land area and a configuration to encourage compact, efficient development patterns (including mixed uses) and discourage development sprawl and strip development.

(6) Growth areas along roads should be configured to avoid strip development and promote nodes or clusters of development.

Even if your village or town center is unlikely to accommodate much new growth, it should still be classified as a Growth Area. Capital investment to maintain and improve existing public facilities and infrastructure in these areas make them more attractive and vital. This, in turn, helps to limit sprawl by drawing more new development into areas that are close to the town center.

Growth areas should not be limited to lands that are or will be developed. There is nothing wrong with delineating varied topography, unique habitat, or even parks as part of a growth area. Simply explain how you intend to incorporate these special areas into the surrounding development.

You are identifying growth areas, not growth strips. Avoid the easy tendency to draw a 200 ft. buffer around major roads and call that your growth area.

B. Growth Area Exemptions

In some communities, conditions may make the identification of specific areas for residential, institutional, commercial, and/or industrial growth inappropriate. These conditions, as described in 30-A M.R.S.A. §4326(3-A) and Section 4.5 of this Chapter, include:

- (1) Severe physical limitations;
- (2) Minimal or no growth; or

- (3) The lack of a village or densely populated area.

Communities with one or more of these conditions may develop a Future Land Use Plan that does not identify growth areas for residential, institutional, commercial, or industrial growth pursuant to the criteria identified in Section 4.5. If a growth area exemption is proposed, the plan's description of existing trends and conditions must support the exemption request. Communities with growth caps or rate-of-growth ordinances are not eligible for a growth area exemption.

C. Shared Growth Areas

Pursuant to and in accordance with 30-A M.R.S.A. §4325, communities may enter into an interlocal agreement with one or more neighboring communities to designate regional growth areas for anticipated residential, institutional, commercial, or industrial growth and/or related services or infrastructure.

D. Transitional Areas

The Future Land Use Plan may designate as transitional area those land areas which the community identifies as suitable for a share of projected residential, institutional, commercial or industrial development but that is neither intended to accept the amount or density of development appropriate for a growth area nor intended to provide the level of protection for rural resources afforded in a rural area or critical rural area. Designated transitional areas are intended to provide for limited suburban or rural residential development opportunities. Land areas designated as transitional area must be consistent with the following provisions:

- (1) Transitional areas cannot be defined as growth areas for the purposes of state growth related capital investment pursuant to 30-A M.R.S.A. §4301(5-B).
- (2) Development standards in transitional areas must limit strip development along roads through access management, minimum frontage requirements, and other techniques.

(3) Transitional areas cannot include significant contiguous areas of working farms, wood lots, properties in state tree growth and farm and open space tax programs, prime agricultural and forestry soils, unfragmented habitat, or marine resources identified in the conditions and trends in Sections 3.3, 3.4, and 3.5.

(4) Transitional areas must be compatible with designations in adjacent communities or provide buffers or transitions to avoid land use conflicts with neighboring communities.

E. Rural Areas

The community's Future Land Use Plan must identify a rural area or areas. The designation of rural areas is intended to identify areas deserving of some level of regulatory protection from unrestricted development for purposes that may include, but are not limited to, supporting agriculture, forestry, mining, open space, wildlife habitat, fisheries habitat and scenic lands, and away from which most development projected over ten (10) years is diverted.

A community's Future Land Use Plan must designate as rural area or areas any portion of the community consistent with the following provisions:

(1) To the greatest extent practicable, rural areas must include working farms, wood lots, properties enrolled in current-use tax programs related to forestry, farming or open space, areas of prime agricultural soils, critical natural resources, and important natural resources.

(2) The Future Land Use Plan must identify proposed mechanisms, both regulatory and non-regulatory, to ensure that the level and type of development in rural areas is compatible with the defined rural character and does not encourage strip development along roads.

(3) Rural areas shall not include land areas where the community actively encourages new residential, institutional, or commercial development.

If an area has few development regulations, then one can interpret that as "encouraging" development. Developers will naturally be active in areas where it is easy to do so. This is in contrast to most conditions in rural Maine. Therefore, if you want to designate an area as "rural" in your

(4) Rural areas must be compatible with designations in adjacent communities or provide buffers or transitions to avoid land use conflicts with neighboring communities.

comprehensive plan, and that area is currently lacking significant regulations, then an implementation strategy in the comprehensive plan should be to develop the necessary regulations to “discourage” development in that rural area.

F. Critical Natural Resources

For the purpose of protecting Critical Natural Resources from the impacts of incompatible development, the Future Land Use Plan must distinguish between areas where those resources are present and where they are absent.

The Future Land Use Plan must include a map or maps depicting Critical Natural Resources and a description of proposed regulations (including ongoing local, state and federal regulations) and non-regulatory measures designed to ensure that these resources are, to the greatest practicable extent, protected from the impacts of incompatible development. (Typically, some of the information contained in a plan’s Natural Resources section will be repeated or summarized in the Future Land Use section.)

G. Critical Rural Areas and Critical Waterfront Areas

As an option, the community may identify and designate one or more critical rural areas or critical waterfront areas as defined in this Chapter on the Future Land Use Plan. If the community chooses to make such designations, land areas so designated must be consistent with the following provisions:

(1) Critical rural areas and critical waterfront areas are those rural and waterfront areas in a community most vulnerable to impacts from incompatible development.

Incompatible development is development that will make the rural areas no longer rural. For example, an undeveloped rural road would lose its rural character if multiple two-acre lots were developed along a strip of the road, each with its own driveway accessing the public road. A critical waterfront area is characterized by functionally water-dependent uses; for example, those who fish commercially need access to the water for their boats, as opposed to condominiums which benefit from being close to the water but do not in fact require access to the water.

(2) The Future Land Use Plan must identify current and proposed mechanisms, both regulatory and non-regulatory, to ensure that critical rural areas and critical waterfront areas are, to the greatest extent practicable, protected from the impacts of incompatible development.

(3) Critical rural areas and critical waterfront areas must be compatible with designations in adjacent communities or provide buffers or transitions to avoid land use conflicts with

neighboring communities.

4. Required Elements for the Future Land Use Plan

A. Analyses

(1) Does the Future Land Use Plan align and/or conflict with the community's vision statement?

(2) Is the configuration of the growth area(s) shaped by natural opportunities and/or constraints (i.e. the physical suitability or unsuitability of land for development)? The location of public facilities? The transportation network?

Is the growth area based upon the analyses done in previous sections of the Plan?

(3) How does the Future Land Use Plan relate to recent development trends?

(4) Given current regulations, development trends, and population projections, estimate how many new residential units and how much commercial, institutional, and/or industrial development will likely occur in the planning period? Where is this development likely to go?

Where is future development likely to go, given current regulations? If there is an historic pattern of sprawl, and current regulations encourage that development pattern, then analysis here should conclude that the municipality needs to modify development regulations.

(5) How can critical natural resources and important natural resources be effectively protected from future development impacts?

B. Components

The Future Land Use Plan must include:

(1) A map or maps showing:

a. Growth area(s) (unless exempted) and Rural area(s) and any land use districts within each;

b. Critical Natural Resources in accordance with 4.3.F, above

c. Any of the following optional land use areas, if proposed, along with any land use districts within each: Transitional, Critical Rural, Critical Waterfront.

(2) A map depicting the constraints to development identified in the plan (may be a combination of maps from other sections).

(3) A narrative description of each land use district including:

- a. The district's relationship to the community's vision;
- b. The district's natural opportunities and/or constraints;
- c. The types and intensity of proposed land uses, including residential density;
- d. The compatibility or incompatibility of proposed uses to current uses, critical natural resources and important natural resources within and around the district along with any special development considerations (e.g. need for additional buffers, conservation subdivision provisions, architectural design standards, etc.); and
- e. Any anticipated major municipal capital investments needed to support the proposed land uses.

C. **Policies**

Minimum policies to address state goals:

- (1) To coordinate the community's land use strategies with other local and regional land use planning efforts.
- (2) To support the locations, types, scales, and intensities of land uses the community desires as stated in its vision.
- (3) To support the level of financial commitment necessary to provide needed infrastructure in growth areas.
- (4) To establish efficient permitting procedures, especially in growth areas.
- (5) To protect critical rural and critical waterfront areas from the impacts of development.

D. **Strategies**

In addition to the strategies required below, include any strategies as necessary to support the

establishment of any rate of growth or impact fee ordinances proposed. These may include strategies found in other sections of the plan.

Minimum strategies required to address state goals:

- (1) Assign responsibility for implementing the Future Land Use Plan to the appropriate committee, board or municipal official.
- (2) Using the descriptions provided in the Future Land Use Plan narrative, maintain, enact or amend local ordinances as appropriate to:
 - a. Clearly define the desired scale, intensity, and location of future development;
 - b. Establish or maintain fair and efficient permitting procedures, and explore streamlining permitting procedures in growth areas; and
 - c. Clearly define protective measures for critical natural resources and, where applicable, important natural resources.
 - d. Clearly define protective measures for any proposed critical rural areas and/or critical waterfront areas, if proposed.
- (3) Include in the Capital Investment Plan anticipated municipal capital investments needed to support proposed land uses.
- (4) Meet with neighboring communities to coordinate land use designations and regulatory and non-regulatory strategies.
- (5) Provide the code enforcement officer with the tools, training, and support necessary to enforce land use regulations, and ensure that the Code Enforcement Officer is certified in accordance with 30-A M.R.S.A. §4451.
- (6) Track new development in the community by type and location.
- (7) Direct a minimum of 75% of new municipal growth-related capital investments into designated growth areas identified in the Future Land Use Plan.

(8) Periodically (at least every five years) evaluate implementation of the plan in accordance with Section 2.7.

5. Criteria for Growth Area Exemptions

A. Severe Physical Limitations

The Future Land Use Plan need not identify growth areas if the plan demonstrates that it is not possible to accommodate future residential, institutional, commercial, or industrial growth because of severe physical limitations, including, without limitation, the lack of adequate water supply and sewage disposal services, very shallow soils, or limitations imposed by critical natural resources.

A growth area exemption may make sense for some communities, but don't forget that a municipality and its residents can benefit from concentrating public facilities and capital investments in a central location, even if only a crossroads. A projected population increase is not a necessary ingredient for a growth area.

To be considered for a growth area exemption because of severe physical limitations, the Future Land Use Plan must clearly indicate the physical limitation and the rationale for the exemption, based on one or more of the following three criteria:

(1) **Water delivery and sewage disposal limitations.** To qualify under this criterion, the Future Land Use Plan shall include descriptions of existing water delivery system(s) and sewage disposal system(s), including an analysis of the current capacity of the system(s) and potential for service expansion or introduction of such services. This discussion must also include descriptions and maps of aquifers in the planning area, and a description of how these aquifers relate to future capacity to serve as water supply.

(2) **Soils.** Description of soils types and conditions (available from the Natural Resources Conservation Service and the Maine Geological Survey), including the presence of ledge or steep slopes. This discussion must also describe the limitations of these soils related to wastewater disposal [pursuant to Maine Subsurface Wastewater Disposal regulations (10-144 CMR 241)], and describe how these soil limitations make designation of any growth areas in the community with densities in the range of 20,000 to 80,000 square feet impractical.

(3) **Critical natural resources.** Description of critical natural resources, with accompanying map(s) detailing the location of those resources. Based on this information, this discussion must also include a description of the constraints placed on future development by critical natural resources, alone or in conjunction with other physical limitations.

B. **Minimal or No Growth**

The Future Land Use Plan is not required to identify growth areas for residential, institutional, commercial or industrial growth if it demonstrates that the community or region has experienced minimal or no residential, institutional, commercial, or industrial development over the past decade and this condition is expected to continue over the planning period. Communities that have adopted growth caps or rate-of-growth ordinances are not eligible for a growth area exemption.

For consideration of a growth area exemption because of minimal residential, institutional, commercial, or industrial development, the Future Land Use Plan must clearly indicate the rationale for the exemption according to the type of exemption, as described below:

(1) **Residential growth area exemption.** For both the preceding 10-year period and the projected planning period, the Future Land Use Plan must include: the community's population; the number of households; and the average household size. Based on this information, the Future Land Use Plan must demonstrate that the community has experienced minimal or no residential development as defined in Section 1.2(CC) and expects such a trend to continue.

(2) **Commercial/Institutional growth area exemption.** The Future Land Use Plan must include: information on the type and amount (square footage) of institutional or commercial development that occurred in the community during the preceding 10-year period, and a discussion of the type and amount of institutional or commercial development that is likely during the projected planning period. Based on this information, the Future Land Use Plan must

demonstrate that the community has experienced minimal or no commercial/ institutional growth, as defined in Section 1.2(AA), and expects such trends to continue.

(3) **Industrial growth area exemption.** The Future Land Use Plan must include: information on the type and amount (square footage) of industrial development that occurred in the community during the preceding 10-year period, and a discussion of what type and amount of industrial development is likely during the projected planning period. Based on this information, the Future Land Use Plan must demonstrate that the community has experienced minimal or no industrial development, as defined in Section 1.2(BB), and expects such a trend to continue.

C. **Lack of a Village or Densely Populated Area**

The Future Land Use Plan is not required to identify growth areas for residential, institutional, commercial, or industrial growth anywhere in the community if it demonstrates that the community or region growth patterns do not include a village center or other densely populated area, and that no such areas are expected over the planning period.

For consideration of a growth area exemption because of the absence of a village or densely populated area, the Future Land Use Plan must discuss the manner in which the community intends to remain a rural community. As part of this discussion, the Future Land Use Plan must describe the rationale for the exemption, and must meet the following three criteria:

- (1) Except for shoreland zones, the community has no land areas with residential dwelling densities greater than one unit per two acres within an area encompassed by any 500-foot radius; and
- (2) The community has no land areas with village characteristics, such as a compact mix of commercial, civic, and residential development or a mix of housing types; and
- (3) The community has no municipal or quasi-public water or wastewater systems.

Note that remaining a rural community requires the municipality to actively regulate and manage growth and change. Doing nothing is equivalent to encouraging unplanned growth, which is making the entire town a growth area.

STATUTORY AUTHORITY: 30-A M.R.S.A. §§
4312(4) and 4347-A (3-A)

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