

An Act to Improve the Growth Management Program Laws

Chapter 187 Planning & Land Use Regulations

Sec. 1. 30-A MRSA §4301, is further amended to read:

§4301. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Affordable housing. "Affordable housing" means decent, safe and sanitary dwelling or other living accommodation ~~for a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8 as defined in Title 30-A, chapter 206, section 5246, as amended.~~

1-B. Age-friendly community. "Age-friendly community" means a community where policies, services, settings and structures support and enable older people to actively age in place and that recognizes the capabilities, resources and needs of older people ~~adults~~, plans to meet the needs of older people ~~adults~~ in flexible ways that support healthy and active aging, promotes the inclusion and contributions of older people ~~adults~~ in all areas of community life, respects the self-determination and independence of older people ~~adults~~ and protects those older people who are most vulnerable.

3. Comprehensive plan. "Comprehensive plan" means a document or interrelated documents containing the elements established under section 4326, ~~subsections 1 to 4,~~ including the strategies for an implementation program which are consistent with the procedures, goals and guidelines established under subchapter 2 ~~H~~.

5-A. Downtown. "Downtown" means:

A. The central business district of a community that serves as the center for socioeconomic interaction in the community and is characterized by a cohesive core of commercial and mixed-use buildings, often interspersed with civic, religious and residential buildings and public spaces, typically arranged along a main street and intersecting side streets, walkable and served by public infrastructure; or

B. An area identified as a downtown in a comprehensive plan adopted pursuant to chapter 187, subchapter 2 ~~H~~.

5-B. Growth-related capital investment. "Growth-related capital investment" means investment by the State in only the following projects, even if privately owned, whether using state, federal or other public funds and whether in the form of a purchase, lease, grant, loan, loan guarantee, credit, tax credit or other financial assistance:

A. Construction or acquisition of newly constructed multifamily rental housing;

B. Development of industrial or business parks;

C. Construction ~~or~~, extension or upgrade of sewer, water and other utility infrastructure ~~lines~~;

D. Grants and loans for public or quasi-public service infrastructure, public or quasi-public facilities and community buildings;

E. Construction or expansion of state office buildings, state courts, hospitals and other quasi-public facilities and other civic buildings that serve public clients and customers;

F. Development of mixed-use housing projects; and

H. Bicycle and pedestrian infrastructure.

"Growth-related capital investment" does not include investment in the following: the operation or maintenance of a governmental or quasi-governmental facility or program; the renovation of a governmental facility that does not significantly expand the facility's capacity; general purpose aid for education; school construction or renovation projects; highway or bridge projects; programs that provide direct financial assistance to individual businesses; community revenue sharing; or public health programs.

5-C. Department. "Department" means the Department of Agriculture, Conservation and Forestry or its successor agency as assigned.

9. Growth management program. "Growth management program" means a document containing the components described in section 4326, including the implementation program, that is consistent with the procedures, goals and guidelines established by subchapter H-2 and that regulates land use beyond that required by Title 38, chapter 3, subchapter I1, article 2-B.

10. Planning committee. "Planning committee" means the committee established by the municipal officers of a municipality or multimunicipal region ~~combination of municipalities~~ that has the general responsibility established under sections 4324 and 4326.

12-A. Place types. "Place types" are a way of classifying an area's identity or sense of place by its design, use, resource characteristics, and regional context, or areas within the future land use plan.

14. Regional council. "Regional council" means a regional planning commission or a council of governments established under chapter 119, subchapter I ~~1~~ 1.

Sec. 2. 30-A MRSA §4312, sub-§2, ¶ I, is amended to read:

I. Encourage ~~the development and implementation of multimunicipal growth management programs~~ cooperation and efficiency among municipalities in the development of multimunicipal comprehensive plans, regional inventory and analyses, and local and regional policy development.

Sec. 3. 30-A MRSA §4312, sub-§3, is further amended to read:

3. State goals. The Legislature hereby establishes a set of state goals to provide overall direction and consistency to the planning and regulatory actions of all state and municipal agencies affecting natural resource management, land use and development. The Legislature declares that, in order to promote and protect the health, safety and welfare of the citizens of the State, it is in the best interests of the State to achieve the following goals:

- A. To encourage orderly growth and development in appropriate areas of each community and region while protecting the State's rural character, making efficient use of public services and preventing development sprawl;
- B. To plan for, finance and develop an efficient system of public facilities, transportation infrastructure, and public services to accommodate anticipated growth and economic development;
- C. To promote an economic climate ~~that which~~ increases job opportunities and overall economic well-being;
- D. To promote and work to ensure choice, economic diversity and affordability in housing for low-income and moderate-income households and use housing policy to remove barriers to housing production and to help address disparities in access to educational, occupational and other opportunities;
- D-1. To promote land use policies and land use ordinances that encourage housing in proximity to jobs and services;
- E. To protect and improve the quality and to manage the quantity of the State's water resources, including lakes, aquifers, great ponds, estuaries, rivers and coastal areas;
- F. 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;
- G. To protect the State's marine resources industry, ports and harbors from incompatible development and to promote access to the shore for commercial fisheries ~~fishermen~~ and the public;
- H. To safeguard the State's agricultural and forest resources from development ~~that which~~ threatens those resources;
- I. To preserve the State's historic and archeological resources;
- J. To promote and protect the availability of outdoor recreation opportunities for all Maine citizens, including access to surface waters;
- L. To encourage municipalities to develop policies that accommodate older people ~~adults~~ with aging in place, including and that encourage the creation of age-friendly communities; and

N. To plan for the effects of natural hazards such as but not limited to rising-the rise in sea level, coastal and riverine flooding, and extreme weather on buildings, transportation infrastructure, sewage treatment facilities and other relevant state, regional, municipal or privately held infrastructure, property or resources.

Sec. 4. 30-A MRSA §4314, sub-§1, is further amended to read:

1. Comprehensive plan. A municipal comprehensive plan adopted or amended by a municipality ~~under former Title 30, chapter 239, subchapter 5 or 6~~ remains in effect until amended or repealed in accordance with the procedures, goals and guidelines established in this subchapter.

Sec. 5. 30-A MRSA §4314, sub-§3, ¶D & ¶F, is further amended to read:

~~D. The municipality or multimunicipal region is under contract with the department to prepare a comprehensive plan or implementation program, in which case the ordinance or portion of the ordinance remains valid for up to 4 years after receipt of the first installment of its first planning assistance grant or for up to 2 years after receipt of the first installment of its first implementation assistance grant, whichever is earlier;~~

~~F. The municipality or multimunicipal region applied for and was denied financial assistance for its first planning assistance grant or implementation assistance grant under this subchapter due to lack of state funds on or before January 1, 2003. If the department subsequently offers the municipality or multimunicipal region its first planning assistance or implementation assistance grant, the municipality or multimunicipal region has up to one year to contract with the department to prepare a comprehensive plan or implementation program, in which case the municipality's or multimunicipal region's ordinances will be subject to paragraph D; or~~

Sec. 6. 30-A MRSA §4324, sub-§8, ¶B, is further amended to read:

B. A copy of the proposed comprehensive plan must be made available for public inspection at each municipal office or other convenient location with regular public hours at least 30 days before the hearing and by whatever means a municipality regularly publishes their public information. If modification of the plan is proposed pursuant to comments made at a public hearing, and if a follow-up public hearing is to be held, the proposed changes must be made available for public inspection at each municipal office or other convenient location with regular public hours before any follow-up hearing.

Sec. 7. 30-A MRSA §4325, is further amended to read:

This section governs cooperative growth management efforts conducted by 2 or more municipalities.

1. Within municipality. A municipality participating in cooperative growth management activities may exercise its land use planning and management authority over the total land area within its jurisdiction.

2. Multimunicipal region. Any combination of municipalities may conduct joint planning and regulatory programs to meet the requirements of this subchapter upon adoption of a written comprehensive planning and enforcement agreement by the municipal legislative bodies involved. The municipalities must agree:

A. On procedures for ~~joint action in~~ the preparation and adoption of comprehensive plans, whether land use regulations and other implementation measures will be administered within a municipality or by two or more of these municipalities to be conducted on a multimunicipal basis;

B. On the manner of representation on any such joint land use body;

C. On the amount and source of contribution from each municipality for any costs incurred in the development, implementation and enforcement of the comprehensive plan and its implementation program; ~~and on the method of distributing the benefits or impacts of regional land use, economic development, housing, transportation, infrastructure and other shared plans and programs.~~

D. The comprehensive planning and enforcement agreement must be in writing, approved by the municipal legislative bodies for each municipality and forwarded to the department.

3. Requirements. ~~The comprehensive planning and enforcement agreement must be in writing, approved by the municipal legislative bodies and forwarded to the office.~~

Sec. 8. 30-A MRSA §4326, is further amended to read:

§4326. Growth management program elements

A growth management program must include at least a comprehensive plan, ~~described in subsections 1 to 4 A,~~ and an implementation program as ~~described in subsection 5~~ outlined below.

1. Comprehensive Plan

A. Inventory, ~~and analysis and needs assessment.~~

(1) A comprehensive plan must include an inventory and analysis section addressing state goals under this subchapter and issues of regional or local significance that the municipality or multimunicipal region considers important. The inventory must be based on information provided by the State, regional councils and other relevant local sources. The analysis must include 10-year projections of local and regional growth in population and residential trends; the best available projection of trends in economic commercial and industrial activity; the projected need for public facilities; and the vulnerability of and potential impacts on natural resources. A tiered framework for inventory requirements shall be created in rule making based on municipal conditions.

(2) A comprehensive plan must include a needs assessment that identifies existing conditions or desired conditions within the municipality or multimunicipal region that are necessary to support housing, economic growth and development; protect public health, safety and welfare of the community; and protect the environment and critical resources. The Plan will describe the public input received to determine those needs.

~~The inventory and analysis section must include, but is not limited to:~~

~~A. Economic and demographic data describing the municipality or multimunicipal region and the region in which it is located;~~

~~B. Significant water resources such as lakes, aquifers, estuaries, rivers and coastal areas and, when applicable, their vulnerability to degradation;~~

~~C. Significant or critical natural resources, such as wetlands, wildlife and fisheries habitats, significant plant habitats, coastal islands, sand dunes, scenic areas, shorelands, heritage coastal areas as defined under Title 5, section 3316, and unique natural areas;~~

~~D. Marine related resources and facilities such as ports, harbors, commercial moorings, commercial docking facilities and related parking, and shell fishing and worming areas;~~

~~E. Commercial forestry and agricultural land Resources and Facilities;~~

~~F. Existing recreation, park and open space areas and significant points of public access to shorelands within a municipality or multimunicipal region;~~

~~G. Existing transportation systems, including the capacity of existing and proposed major thoroughfares, secondary routes, pedestrian ways and parking facilities;~~

~~H. Residential housing stock, including housing for low income and moderate income households, an assessment of community needs and environmental effects of municipal regulations, an examination of the effect of excessive parking requirements that limit the reuse of upper floors of buildings in downtowns and on main streets and an identification of opportunities for accessory dwelling units;~~

- ~~H. 1. Housing that meets the needs of older residents, including housing that is rehabilitated, adapted or newly constructed to help older adults age in place;~~
- ~~I. Historical and archeological resources including, at the discretion of the municipality or multimunicipal region, stone walls, stone impoundments and timber bridges of historical significance;~~
- ~~J. Land use information describing current and projected development pattern;~~
- ~~K. An assessment of capital facilities and public services necessary to support growth and development and to protect the environment and health, safety and welfare of the public and the costs of those facilities and services; and~~
- ~~L. For a municipality or multimunicipal region that has adopted a climate action plan, a climate vulnerability assessment specific to the municipality or multimunicipal region prepared by the municipality or multimunicipal region.~~

2-B. Local Goals and Policy development. A comprehensive plan must include a local goals and policy development section that relates the findings contained in the inventory and analysis section to the state goals. The policies must:

- ~~A. (1)~~ Promote the state goals under this subchapter;
- ~~B. (2)~~ Address any conflicts between state goals under this subchapter;
- ~~C. (3)~~ Address any conflicts between regional and local issues; and
- ~~D. (4)~~ Address the state's ~~State's~~ coastal policies as listed in Title 38 subsection 1801, if any part of the municipality or multimunicipal region is a coastal area.
- (5) Promote consistency with the State's Climate Action Plan

3-C. Implementation strategy. A comprehensive plan must include an implementation strategy section that contains a timetable for the implementation program, including land use ordinances, ensuring that the goals established under this subchapter are met. These implementation strategies must be consistent with state law and must actively promote policies developed during the planning process. ~~The timetable must identify significant ordinances to be included in the implementation program.~~ The strategies and timetable must guide the subsequent adoption of policies, programs and land use ordinances and periodic review of the comprehensive plan.

D. Guidelines for policy development and implementation strategies. In developing its strategies and subsequent policies, programs and land use ordinances, each municipality or multimunicipal region shall employ the following guidelines consistent with the goals of this subchapter:

- (1) Geographic Area Designation Criteria. Except as otherwise provided in Section 1.D., identify and designate geographic areas in the municipality or multimunicipal region as growth areas, and rural areas, as defined in this chapter.
 - (a) Growth Areas. Within growth areas, each municipality or multimunicipal region shall:
 - [1] Establish development standards;
 - [2] Establish timely permitting procedures;
 - [3] Ensure that needed public services are available; and
 - [4] Prevent inappropriate development in natural hazard areas, including flood plains and areas of high erosion.
 - (b) Rural Areas. Within rural areas, each municipality or multimunicipal region shall adopt land use policies and ordinances to discourage incompatible development. These policies and ordinances may include, without limitation, density limits, cluster or special zoning, acquisition of

land or development rights, transfer of development rights pursuant to section 4328 and performance standards. The municipality or multimunicipal region should also identify which rural areas qualify as critical rural areas as defined in this chapter. Critical rural areas must receive priority consideration for proactive strategies designed to enhance rural industries, manage wildlife and fisheries habitat and preserve sensitive natural areas.

(c) Transitional Areas. A municipality or multimunicipal region may also designate as a transitional area any portion of land area that does not meet the definition of either a growth area or a rural area. Such an area may be appropriate for medium-density development that does not require expansion of municipal facilities and does not include significant rural resources.

(2) Develop a capital investment plan for financing the replacement and expansion of public facilities and services required to meet projected growth and development.

E. Future Land Use Plan. A comprehensive plan must include a future land use plan (FLUP). Except as otherwise provided in this subsection, a Future Land Use Plan shall identify and designate geographic areas in the municipality or multimunicipal region as growth areas, transitional areas, rural areas, or areas otherwise limiting or discouraging growth. This can be in a narrative or map form.

(1) Place Type Use: Within the Future Land Use Plan, more defined place types may be identified and designated to provide further guidance on the establishment or modification of a municipality's or multimunicipal region's rate of growth, zoning or impact fee ordinance.

(2) Growth Area Exemption. A municipality or multimunicipal region is not required to identify growth areas within the municipality or multimunicipal region for residential, commercial or industrial growth if it demonstrates, in accordance with rules adopted by the department pursuant to this article, that:

(a) It is not possible to accommodate future residential, commercial or industrial growth within the municipality or multimunicipal region 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 protected natural resources;

(b) The municipality or multimunicipal region has experienced minimal or no residential, commercial or industrial development over the past decade and this condition is expected to continue over the 10-year planning period; and

(c) The municipality or multimunicipal region has no downtown or densely developed area.

(3) Growth Area Exemption - Interlocal Agreement. The municipality or multimunicipal region may identify as its growth areas one or more growth areas identified in a comprehensive plan adopted or to be adopted by one or more other municipalities or multimunicipal regions in accordance with an interlocal agreement adopted in accordance with chapter 115 with one or more municipalities or multimunicipal regions.

(4) Continuation of Growth Area Exemption. A municipality or multimunicipal region exercising the discretion afforded by subparagraph 2 shall review the basis for its demonstration during the periodic revisions undertaken pursuant to section 4347-A.

F. Regional coordination program. A regional coordination program must be developed with other municipalities or multimunicipal regions to manage shared resources and facilities, such as rivers, aquifers, transportation facilities and others. This program must provide for consistency with the comprehensive plans of other municipalities or multimunicipal regions for these resources and facilities.

3-A. Guidelines for policy development and implementation strategies. In developing its strategies and subsequent policies, programs and land use ordinances, each municipality or multimunicipal region shall employ the following guidelines consistent with the goals of this subchapter:

~~A. Except as otherwise provided in this paragraph, identify and designate geographic areas in the municipality or multimunicipal region as growth areas, and rural areas, as defined in this chapter.~~

~~1. Within growth areas, each municipality or multimunicipal region shall:~~

~~a. Establish development standards;~~

~~b. Establish timely permitting procedures;~~

~~c. Ensure that needed public services are available; and~~

~~d. Prevent inappropriate development in natural hazard areas, including flood plains and areas of high erosion.~~

~~2. Within rural areas, each municipality or multimunicipal region shall adopt land use policies and ordinances to discourage incompatible development. These policies and ordinances may include, without limitation, density limits, cluster or special zoning, acquisition of land or development rights, transfer of development rights pursuant to section 4328 and performance standards. The municipality or multimunicipal region should also identify which rural areas qualify as critical rural areas as defined in this chapter. Critical rural areas must receive priority consideration for proactive strategies designed to enhance rural industries, manage wildlife and fisheries habitat and preserve sensitive natural areas.~~

~~(3) A municipality or multimunicipal region may also designate as a transitional area any portion of land area that does not meet the definition of either a growth area or a rural area. Such an area may be appropriate for medium density development that does not require expansion of municipal facilities and does not include significant rural resources.~~

~~(4) A municipality or multimunicipal region is not required to identify growth areas within the municipality or multimunicipal region for residential, commercial or industrial growth if it demonstrates, in accordance with rules adopted by the department pursuant to this article, that:~~

~~(a) It is not possible to accommodate future residential, commercial or industrial growth within the municipality or multimunicipal region 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 protected natural resources;~~

~~(b) The municipality or multimunicipal region has experienced minimal or no residential, commercial or industrial development over the past decade and this condition is expected to continue over the 10-year planning period;~~

~~(c) The municipality or multimunicipal region has identified as its growth areas one or more growth areas identified in a comprehensive plan adopted or to be adopted by one or more other municipalities or multimunicipal regions in accordance with an interlocal agreement adopted in accordance with chapter 115 with one or more municipalities or multimunicipal regions; or~~

~~(d) The municipality or multimunicipal region has no village or densely developed area.~~

~~(6) A municipality or multimunicipal region exercising the discretion afforded by subparagraph (4) shall review the basis for its demonstration during the periodic revisions undertaken pursuant to section 4347-A; [RR 2021, c. 2, Pt. A, §109 (COR).]~~

~~B. Develop a capital investment plan for financing the replacement and expansion of public facilities and services required to meet projected growth and development; [PL 2001, c. 578, §15 (NEW).]~~

~~C. Protect, maintain and, when warranted, improve the water quality of each water body pursuant to Title 38, chapter 3, subchapter I, article 4 A and ensure that the water quality will be protected from long term and cumulative increases in phosphorus from development in great pond watersheds; [PL 2001, c. 578, §15 (NEW).]~~

~~D. Ensure that its land use policies and ordinances are consistent with applicable state law regarding critical natural resources. A municipality or multimunicipal region, if authorized to enact ordinances, may adopt ordinances more stringent than applicable state law; [PL 2001, c. 578, §15 (NEW).]~~

~~E. Ensure the preservation of access to coastal waters necessary for commercial fishing, commercial mooring, docking and related parking facilities. Each coastal area may identify and designate one or more critical waterfront areas and implement policies to ensure protection of those areas or otherwise discourage new development that is incompatible with uses related to the marine resources industry; [PL 2001, c. 578, §15 (NEW).]~~

~~F. Ensure the protection of agricultural and forest resources. Each municipality or multimunicipal region shall discourage new development that is incompatible with uses related to the agricultural and forest industries; [PL 2001, c. 578, §15 (NEW).]~~

~~G. Ensure that the municipality's or multimunicipal region's land use policies and ordinances encourage the siting and construction of affordable housing within the community and comply with the requirements of section 4358 pertaining to individual mobile home and mobile home park siting and design requirements. The municipality or multimunicipal region shall seek to achieve a level of at least 10% of new residential development, based on a 5 year historical average of residential development in the municipality or multimunicipal region, that meets the definition of affordable housing. A municipality or multimunicipal region is encouraged to seek creative approaches to assist in the development of affordable housing, including, but not limited to:—~~

~~(1) Cluster housing;—~~

~~(2) Reduced minimum lot and frontage sizes;—~~

~~(3) Increased residential densities;—~~

~~(4) Use of municipally owned land;—~~

~~(5) Establishment of policies that:—~~

~~(a) Assess community needs and environmental effects of municipal regulations;—~~

~~(b) Lessen the effect of excessive parking requirements for buildings in downtowns and on main streets;—~~

~~(c) Provide for alternative approaches for compliance relating to the reuse of upper floors of buildings in downtowns and on main streets;—~~

~~(d) Promote housing choice and economic diversity in housing; and—~~

~~(e) Address disparities in access to educational and occupational opportunities related to housing;—~~

~~(6) Provisions for accessory dwelling units and greater density where such density is consistent with other laws governing health and safety;—~~

~~(7) Promotion of housing options for older adults that address issues of special concern, including the adaptation, rehabilitation and construction of housing that helps older adults age in place with adequate transportation and accessibility to services necessary for them to do so in a safe and convenient manner; and—~~

~~(8) Establishment of policies that affirmatively advance and implement the federal Fair Housing Act, 42 United States Code, Chapter 45; [PL 2021, c. 657, §6 (RPR).]~~

~~H. Ensure that the value of historical, archeological, tribal and cultural resources is recognized and that protection is afforded to those resources that merit it; [PL 2021, c. 657, §7 (AMD).]~~

~~I. Encourage the availability of and access to traditional outdoor recreation opportunities, including, without limitation, hunting, boating, fishing and hiking, and encourage the creation of greenbelts, public parks, trails and conservation easements. Each municipality or multimunicipal region shall identify and encourage the protection of undeveloped shoreland and other areas identified in the local planning process as meriting that protection; [PL 2023, c. 646, Pt. A, §35 (AMD).]~~

J. Develop management goals for great ponds pertaining to the type of shoreline character, intensity of surface water use, protection of resources of state significance and type of public access appropriate for the intensity of use of great ponds within the municipality's or multimunicipal region's jurisdiction; and [PL 2023, c. 646, Pt. A, §36 (AMD).]

K. [PL 2021, c. 657, §10 (RP).]

L. [PL 2023, c. 646, Pt. A, §37 (RP).]

Revisor's Note: Paragraph L as enacted by PL 2019, c. 145, §9 is REALLOCATED TO TITLE 30-A, SECTION 4326, SUBSECTION 3-A, PARAGRAPH M

M. (REALLOCATED FROM T. 30-A, §4326, sub §3-A, ¶L) [PL 2023, c. 646, Pt. A, §38 (RP).]

N. Notwithstanding paragraph G, ensure that in a service center community at least 10% of the housing stock is affordable housing.—

4. Regional coordination program. A regional coordination program must be developed with other municipalities or multimunicipal regions to manage shared resources and facilities, such as rivers, aquifers, transportation facilities and others. This program must provide for consistency with the comprehensive plans of other municipalities or multimunicipal regions for these resources and facilities.

[PL 2001, c. 578, §15 (AMD).]

4-A. Addressing sea level rise. A municipality or multimunicipal region that is in the coastal area may include in its comprehensive plan projections regarding changes in sea level and potential effects of the rise in sea level on buildings, transportation infrastructure, sewage treatment facilities and other relevant municipal, multimunicipal or privately held infrastructure or property and may develop a coordinated plan for addressing the effects of the rise in sea level. For the purposes of this subsection, "coastal area" has the same meaning as in Title 38, section 1802, subsection 1.—

[PL 2019, c. 153, §5 (NEW).]

4-B. Addressing climate risks and building resilience to natural hazards. A municipality or multimunicipal region may include in its comprehensive plan projections regarding risks posed by climate change as identified in its climate vulnerability assessment prepared pursuant to subsection 1, paragraph L and the potential effects of those risks on buildings, transportation infrastructure, sewage treatment facilities and other relevant municipal, multimunicipal or privately held infrastructure, property or protected natural resources and may develop a coordinated plan for addressing those risks and for building resilience to natural hazards.—

As used in this subsection, "protected natural resource" has the same meaning as in Title 38, section 480-B, subsection 8.—

[PL 2021, c. 590, Pt. A, §9 (NEW).]

5. Implementation program. An implementation program must be adopted that is consistent with the strategies in subsection 3-A.

Sec. 9. 30-A MRSA §4346, 2nd ¶, is further amended to read:

The department may enter into financial assistance grants only to the extent that funds are available. In making grants, the department shall consider the need for planning in a municipality or multimunicipal region, the proximity of the municipality or multimunicipal region to other areas that are conducting or have completed the planning process and the economic and geographic role of the municipality or multimunicipal region within a regional context. The department shall give priority in making grants to any municipality or multimunicipal region that has adopted a local climate action plan and, if the municipality or multimunicipal region has adopted a comprehensive plan or growth management program, prepared a climate vulnerability assessment, ~~pursuant to section 4326, subsection 1, paragraph L.~~ The department may consider other criteria in making grants, as long as the criteria support the goal of encouraging and facilitating the adoption and implementation of local and multimunicipal growth management programs consistent with the procedures, goals and guidelines established in this subchapter. In order to maximize the availability of the

technical and financial assistance program to all municipalities, multimunicipal regions and regional councils, financial assistance programs administered competitively under this article are exempt from rules adopted by the Department of Administrative and Financial Services pursuant to Title 5, section 1825-C for use in the purchase of services and the awarding of grants and contracts. The department shall publish a program statement describing its grant program and advertising its availability to eligible applicants.

Sec. 10. 30-A MRSA §4346, sub-§5, is amended to read:

5. Coordination. State agencies with regulatory or other authority affecting the goals established in this subchapter shall conduct their respective activities in a manner consistent with the goals established under this subchapter, including, but not limited to, coordinating with municipalities, regional councils and other state agencies in meeting the state goals; providing available information to ~~regions and~~ municipalities and multimunicipal regions as described in ~~Section section~~ 4326, subsection 1, ~~cooperating with efforts to integrate and provide access to geographic information and system data;~~ making state investments and awarding grant money as described in section 4349-A; and conducting reviews of growth management programs as provided in section 4347-A, subsection 3, paragraph A. Without limiting the application of this section to other state agencies, the following agencies shall comply with this subchapter:

Sec. 11. 30-A MRSA §4347-A, is further amended to read:

§4347-A. Review of programs by department

1. Comprehensive plans. A municipality or multimunicipal region that chooses to prepare a growth management program and receives a planning grant under this article shall submit its comprehensive plan to the department for review. A municipality or multimunicipal region that chooses to prepare a growth management program without receiving a planning grant under this article may submit its comprehensive plan to the department for review. The department shall review plans for consistency with the procedures, goals and guidelines established in this subchapter. A contract for a planning assistance grant must include specific timetables governing the review of the comprehensive plan by the department. A comprehensive plan submitted for review more than 12 months following a contract end date may be required to contain data, projections and other time-sensitive portions of the plan or program that are in compliance with the department's most current review standards.

2. Growth management programs. A municipality or multimunicipal region may at any time request a certificate of consistency for its growth management program.

A. Upon a request for review under this section, the department shall review the program and determine whether the program is consistent with the procedures, goals and guidelines established in this subchapter.

B. Certification by the ~~department former State Planning Office or the department of a municipality's or multimunicipal region's growth management program under this article~~ is valid for ~~10~~12 years. To maintain certification, a municipality or multimunicipal region shall periodically review its growth management program and submit to the department in a timely manner any revisions necessary to account for changes, including changes caused by growth and development. Certification does not lapse in any year in which the Legislature does not appropriate funds to the department for the purposes of reviewing programs for recertification.

C. Upon a request for review under this section, the department may review rate of growth, impact fee and zoning ordinances to determine whether the ordinances are consistent with a comprehensive plan that has been found consistent under this section without requiring submission of all elements of a growth management program. An affirmative finding of consistency by the department is required for a municipality or multimunicipal region to assert jurisdiction as provided in section 4349-A.

3. Review of growth management program. In reviewing a growth management program, the department shall:

A. Solicit written comments on any proposed growth management program from regional councils, state agencies, all municipalities contiguous to the municipality or multimunicipal region submitting a growth management program and any interested residents of the municipality or multimunicipal region or of contiguous

municipalities. The comment period extends for 45 days after the department receives the growth management program.

(1) Each state agency reviewing the proposal shall designate a person or persons responsible for coordinating the agency's review of the growth management program.

(2) Any regional council commenting on a growth management program shall determine whether the program is compatible with the programs of other municipalities that may be affected by the program and with regional policies or needs identified by the regional council;

B. Prepare all written comments from all sources in a form to be forwarded to the municipality or multimunicipal region;

C. Within 90 days after receiving the growth management program, send all written comments on the growth management program to the municipality or multimunicipal region and any applicable regional council. If warranted, the department shall issue findings specifically describing how the submitted growth management program is not consistent with the procedures, goals and guidelines established in this subchapter and the recommended measures for remedying the deficiencies.

(1) In its findings, the department shall clearly indicate its position on any point on which there are significant conflicts among the written comments submitted to the department.

(2) If the department finds that the growth management program was adopted in accordance with the procedures, goals and guidelines established in this subchapter, the department shall issue a certificate of consistency for the growth management program.

(3) Notwithstanding paragraph D, if a municipality or multimunicipal region requests a certificate of consistency for its growth management program, any unmodified component of that program that has previously been reviewed by the ~~former State Planning Office or the~~ department and has received a finding of consistency will retain that finding during program certification review by the department as long as the finding of consistency is current as defined in rules adopted by the department;

D. Provide ample opportunity for the municipality or multimunicipal region submitting a growth management program to respond to and correct any identified deficiencies in the program. A finding of inconsistency for a growth management program may be addressed within 24 months of the date of the finding without addressing any new review standards that are created during that time interval. After 24 months, the program must be resubmitted in its entirety for state review under the department's most current review standards; and

E. Provide an expedited review and certification procedure for those submissions that represent minor amendments to certified growth management programs.

The department's decision on consistency of a growth management program constitutes final agency action.

3-A. Review of comprehensive plan. In reviewing a comprehensive plan, the department shall:

A. Solicit written comments on any proposed comprehensive plan from regional councils, state agencies, all municipalities contiguous to the municipality or multimunicipal region submitting a comprehensive plan and any interested residents of the municipality or multimunicipal region or of contiguous municipalities. The comment period extends for 2025 business days after the department receives ~~the~~ a comprehensive plan that has been deemed complete by the department. Each state agency reviewing the proposal shall designate a person or persons responsible for coordinating the agency's review of the comprehensive plan;

B. Prepare all written comments from all sources in a form to be forwarded to the municipality or multimunicipal region;

C. Within ~~35~~ 10 business days after receiving the comprehensive plan, notify the municipality or multimunicipal region if the plan is complete for purposes of review. If the department notifies the municipality or multimunicipal region that the plan is not complete for purposes of review, the department shall indicate in its notice necessary additional data or information;

D. Within ~~40-35~~ business days of issuing notification that a comprehensive plan is complete for purposes of review, issue findings specifically describing whether the submitted plan is consistent with the procedures, goals and guidelines established in this subchapter and identify which inconsistencies in the plan, if any, may directly affect rate of growth, zoning or impact fee ordinances.

(1) In its findings, the department shall clearly indicate its position on any point on which there are significant conflicts among the written comments submitted to the department.

(2) If the department finds that the comprehensive plan was developed in accordance with the procedures, goals and guidelines established in this subchapter, the department shall issue a finding of consistency for the comprehensive plan.

(3) A finding of inconsistency must identify the goals under this subchapter not adequately addressed, specific sections of the rules relating to comprehensive plan review adopted by the department not adequately addressed and recommendations for resolving the inconsistency;

E. Send all written findings and comments on the comprehensive plan to the municipality or multimunicipal region and any applicable regional council; and

F. Provide ample opportunity for the municipality or multimunicipal region submitting a comprehensive plan to respond to and ~~correct any identified deficiencies in the plan~~ revise the plan to be consistent with the procedures, goals and guidelines of this subchapter. A finding of inconsistency for a comprehensive plan may be addressed within 24 months of the date of the finding without addressing any new review standards that are created during that time interval. After 24 months, the plan must be resubmitted in its entirety for state review under the department's most current review standards.

If the department finds that a plan is not consistent with the procedures, goals and guidelines established in this subchapter, the municipality or multimunicipal ~~district~~ region that submitted the plan may appeal that finding to the department within 20 business days of receipt of the finding in accordance with rules adopted by the department, which are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

The department's decision on consistency of a comprehensive plan constitutes final agency action.

A finding by the department pursuant to paragraph D that a comprehensive plan is consistent with the procedures, goals and guidelines established in this subchapter is valid for 12 years from the date of its issuance. ~~A finding by the former State Planning Office issued pursuant to this subchapter prior to December 31, 2000 that a comprehensive plan is consistent with the procedures, goals and guidelines established in this subchapter is valid until December 31, 2012.~~ For purposes of section 4314, subsection 3 and section 4352, subsection 2, expiration of a finding of consistency pursuant to this subsection does not itself make a comprehensive plan inconsistent with the procedures, goals and guidelines established in this subchapter.

Sec. 12 30-A MRSA §5953-D, sub-§3, ¶D, is further amended by amending subparagraph (2), division (a) to read:

(a) Has adopted a comprehensive plan that is determined by the ~~department Executive Department, former State Planning Office or the Department of Agriculture, Conservation and Forestry~~ to be consistent with section 4326.

Sec. 13. Savings clause. This Act does not apply to a comprehensive plan under Title 30-A, section 4314, subsection 1 that was submitted to the department for a consistency review up to 12 months after the final adoption of rules necessary to implement this amendment.

An Act to Improve the Growth Management Program Laws
Sponsored by Representative Tiffany Roberts

An Act to Improve the Growth Management Program Laws was written with the expertise of professional planners with decades of experience statewide, in consultation with key agency stakeholders and legal review. Representative Roberts' bill provides municipalities cost and time savings, limits legal challenges, and provides process flexibility across the state with particular regard for rural Maine.

The Maine Association of Planners (MAP) supports comprehensive planning as the best means to battle the **three costs of unmanaged growth**:

- Sprawling development and increased state and local spending on infrastructure, emergency services, and education.
- Loss of natural habitats, working farmlands, working waterfront, and open spaces.
- Loss of community character, vibrant villages, downtowns, and social connections.

Comprehensive plans allow municipalities to balance housing, economic, social, and environmental goals by planning for and managing growth. Representative Roberts' bill will improve Maine's **growth management program** and encourage communities to develop and update comprehensive plans through **efficiency, flexibility, and cost effectiveness**:

- Enhances state goals related to housing and expressly states "to remove barriers to housing production".
- Retains the current legal findings section as requested by municipal legal review.
- Saves time and money for small towns by encouraging the creation of multimunicipal regions to conduct comprehensive plans.
- Streamlines the state review timelines.
- Continues the current growth area exemption, providing flexibility for small communities.
- Allows each municipality the ability to conduct planning board reviews.
- Simplifies the inventory process by only requiring already available information.
- Provides communities with consistency by linking the inventory with state goals.
- Promotes consistency with Maine's Climate Action Plan.

Rep. Roberts' bill allows communities to invest less volunteer capital on inventory, and more time on action; acknowledges the variations of Maine communities; and encourages first-time comprehensive plans by using existing state tools.

The Maine Association of Planners asks for your support on this important initiative.