

Chapter 7

Implementation

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Implementing the Plan – the work of taking it from policy statement to reality – is a critical component of the Commission’s responsibility. This chapter serves as a framework for future action on major policy topics, both as a guide for the Commission and its staff, and for the public. Only the highest priority implementation measures discussed in the Plan are included here. A more complete discussion of these measures (as well as measures that are of a lower priority or are part of the Commission’s day-to-day work) is found in earlier chapters, as indicated by references set forth below.

Some of the issues raised in the text of the Plan are included for context and are not within the Commission’s scope of responsibility. There are no specific implementation items associated with those issues. For those issues that are within the Commission’s scope, action on specific measures will depend on resource and staffing availability. The Commission’s limited resources will be directed toward implementing the highest priority measures, as identified here.

Every day, the Commission carries out policy through routine permitting and enforcement activities and through participation in policy dialogue with other governmental agencies and groups. When a change is needed, the Commission has a number of tools at its disposal to identify a new policy direction and then create the structure necessary to apply it consistently. This Plan is the Commission’s primary statement of policy, and periodic revisions of the Plan allow for adjustments to policy over time. The Commission’s primary tools for implementing policy are:

- **Clarifying policy through guidance documents.** In making decisions about permit applications or rezoning petitions, the Commission sometimes finds it helpful to staff and to the public to clarify in written form the Commission’s thinking about particular issues. Guidance documents are not rules or new requirements. Rather, they are an explanation of the Commission’s thinking about a particular issue as an effort to promote consistency in interpreting and applying the Commission’s regulations.
- **Rezoning.** All areas in the Commission’s jurisdiction are zoned. Through a public process that is outlined in the Commission’s rules and in the Land Use Law, the Commission may change the zoning of a particular area from one subdistrict to another. This may change the type of activities that are allowed in a particular area.
- **Adopting routine technical rules.** Through the normal public rulemaking process, the Commission may make changes to rules, such as its land use standards. These changes go into effect upon approval by the Commission; however, the Legislature has the authority to reject or modify them in the next session.

- **Adopting major substantive rules.** Through the normal public rulemaking process, the Commission may make changes to certain rules, such as application fee schedules, which require direct approval of the Legislature. These rules do not go into effect until the Legislature approves them in the next session.
- **Proposing new laws.** The Commission may, at times, propose to the Legislature that certain land use laws be revised to better fit changing circumstances. New laws are exclusively acted upon by the Legislature, and the Commission is responsible for following the laws that the Legislature enacts.

Which process the Commission employs to implement its policies depends on whether the legal authority for the action already exists and which process best achieves the goals outlined in the Plan. For example, some new resource protections may best be achieved by rezoning sensitive areas, while others may require a change to the Commission's land use standards (Chapter 10). If the Commission does not have the required legal authority to implement a particular policy, the issue will need to be presented to the Legislature.

It is the Commission's intent that for certain of the most complicated implementation measures, particularly those regarding innovative tools for guiding the location of development, the Commission will engage in extensive stakeholder consultations. Because many of the options discussed in the Plan require the Commission and staff to learn about techniques and tools that the Commission has not previously employed, the process will benefit greatly from a robust discussion among many interests about the most effective and efficient ways to accomplish the goals and policies of the Plan. The Commission also recognizes the significant time commitment that stakeholder processes demand from all participants, and will carefully select the implementation issues and measures that would be most suited to this approach, while also pursuing other measures through established mechanisms.

Many implementation measures included in this section, although discussed in the context of a single resource or issue, have implications for other resources as well. The issues confronting the jurisdiction are inextricably linked. For example, the location of residential development has impacts on the forest resource and likewise, the health of the forest products industry has ramifications regarding development pressures. Due to the interconnectedness of resources and land uses in the jurisdiction, the implementation measures discussed here often address multiple challenges facing the jurisdiction. Development measures will often affect resource-related measures, but to avoid duplication, the development measures are collected in Sections 7.1.A and 7.2.A, and measures that are not directly related to development are in Sections 7.2.C through 7.2.E. All of the implementation measures outlined here relate directly to the Commission's vision, goals and policies for the jurisdiction and should be considered within that context.

7.1 The Commission's Highest Priority Issue

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7.1.A GUIDING THE LOCATION OF DEVELOPMENT

(See Chapter 4)

The Commission has concluded that the principal development issue is not the amount of development taking place in the jurisdiction, but rather where it is located. The strengths and weaknesses of the Commission's approach to guiding development within its jurisdiction are discussed in Chapter 4. To date, the Commission has used a largely reactive approach to identifying areas suitable for development within its jurisdiction. To provide greater predictability to landowners and the general public as to the most suitable locations for development, to concentrate development in suitable areas and to address the legislative charge given the Commission to plan for development, the Commission proposes the following actions.

Areas Most Appropriate for Development

The Commission will identify areas within its jurisdiction which are the most appropriate for development, taking into consideration: (1) proximity and connectivity by public road to economic centers, organized towns and well-established patterns of settlement; (2) compatibility of natural resources with development; (3) demonstrated demand for and public benefit from development; and (4) availability of public infrastructure, facilities and services.

Outside of areas identified as the most appropriate for development, the Commission will identify smaller development centers throughout the jurisdiction which are appropriate for development on a limited scale. Small development centers could include areas such as the Caucomgomoc gate area, Northeast Carry, Musquacook lakes, Clayton Lake and other.

The Commission may consider new development centers on some landowners' properties to provide balance and equity. Specifically, the Commission will allow well-planned development in areas appropriate as new development centers where: (a) there is a demonstrated public demand for and benefit from the proposed development in that area; (b) there is a demonstrated need for locating the development not proximate to established developed areas; (c) the productivity of existing forest and agricultural resources in the jurisdiction is not unduly harmed; (d) recreational resources and uses are not unduly harmed; (e) remote, natural and plant or animal habitat values are not unreasonably degraded; and (f) needed services are available or can be provided without unreasonable financial, social or environmental costs to the public.

Areas Least Appropriate for Development

In implementing the policy of encouraging conservation of select large tracts of land for limited or no development, the Commission will work cooperatively with landowners. The Commission will promote and support landowner-initiated efforts to provide increased protection of lands through measures that include non-regulatory mechanisms, such as conservation easements and management agreements.

To further promote this policy, the Commission will identify areas in the jurisdiction that are least appropriate for development. It will establish guidelines to clarify its policy language that these tracts of

land be particularly representative of the jurisdiction's principal values and especially valued for their remote and relatively undeveloped condition.

Strategies for Guiding Development to Areas Most Appropriate for Development

The Commission will explore tools to guide development to areas identified as most appropriate for development. The Commission will look for ways to work cooperatively with interested parties, including landowners, to identify, explore and implement new strategies for directing development.

In particular the Commission will:

- Explore ways to guide the location of various types and intensities of development that have historically not received Commission review for appropriateness of location;
- Identify strategies to minimize impacts from development that does not undergo a review for appropriateness of location;
- Apply prospective zoning both in high-growth, high-value areas and in areas that are currently under less development pressure than high-growth areas, but where existing or future development could undermine the principal values of the jurisdiction; and
- Explore strategies and develop tools to guide development at the jurisdiction level, such as transfer of development rights programs and expansion of the level 2 subdivision tool.

Responding to Major Development Proposals

While various strategies for directing development may lessen the use of landowner-initiated petitions for rezoning over time, there will always be a need to consider rezoning petitions in a timely and predictable manner. In this regard the Commission will:

- Continually look for ways to improve the rezoning approach, including by refining the adjacency principle.
- Encourage planned developments (through application of the D-PD Subdistrict) in areas where development is dependent on a particular natural feature. Such development must be reasonably self-contained and self-sufficient and, to the extent practicable, provide for its own water and sewage services, road maintenance, fire protection, solid waste disposal and police security.
- Encourage the use of concept plans as a voluntary means of achieving a publicly beneficial balance between development and protection of resources.

7.2 *Other High Priority Issues*

7.2.A ADDRESSING OTHER DEVELOPMENT ISSUES

(See Chapter 4)

In some instances, the Commission's regulatory framework has not kept pace with changes in land use. Specific examples of how the changing environment is straining the regulatory framework, along with options for addressing these issues, are described in more detail in Chapter 4. The Commission will explore various options in an effort to ensure that its regulatory framework is adequate to handle existing circumstances and trends. These options may include:

- Evaluating where certain subdistricts are appropriate and which uses should be allowed in them. Review of uses in the General Management (M-GN) Subdistrict will be particularly important given its purpose and amount of area that it covers. The Commission will also consider applying jurisdiction-wide some of the subdistricts that are currently only applied in prospectively zoned areas or concept plan areas.
- Developing a systematic approach for handling new uses that are not explicitly allowed in current rules.
- Developing and implementing standards to limit the environmental and visual impacts of hillside and ridge development.
- Establishing incentives for bringing nonconforming lots and structures into compliance or closer compliance with current regulations.
- Considering measures to maintain the traditional character of dwellings in remote parts of the jurisdiction.
- Considering refinements to rules governing expansions of nonconforming shoreland development.
- Researching options for addressing issues associated with use of private roads to access development.

7.2.B ADDRESSING RESOURCE-RELATED ISSUES

(See Chapter 5)

Selected, high-priority resource-related implementation measures are presented here; however, there are many more resource-related issues identified in the Plan than are listed below. Measures that are part of the Commission's day-to-day activity or are lower priority were not repeated here in order to highlight the most significant items. Details about the many implementation measures associated with each resource section can be found in the text of the Plan.

Agricultural Resources

(See Section 5.1)

- Design and implement incentive-based and/or regulatory programs to protect working farms and prime agricultural soils from incompatible land uses where appropriate. Innovative conservation tools, accommodation of the changing uses of farms and farmland as part of the agricultural creative economy, and the availability of better soils data will be key elements of this effort.

Air and Climate Resources

(See Section 5.2)

- Review the Commission's regulations with regard to climate change issues and work collaboratively with appropriate state agencies to identify and implement measures to reduce the causes, and mitigate the effects of, climate change.

Coastal Resources

(See Section 5.3)

- Develop a regional plan for the coastal islands to address their distinctive set of planning and land use issues.
- Re-examine the application of adjacency and make any needed adjustments for islands, within the context of either refining the use of the adjacency principle for the entire jurisdiction or developing a regional plan for coastal islands.

Energy Resources

(See Section 5.5)

- Work cooperatively with other entities, including the Maine Department of Environmental Protection ("DEP"), to develop a consistent regulatory process, review criteria and performance standards that address site suitability and specific impacts associated with grid-scale energy installations.
- Encourage a process of identifying areas that are unsuitable for wind power and comparable uses. Any such effort is best conducted as a coordinated, statewide effort which would include the State Planning Office, DEP and other interested parties.

Forest Resources

(See Section 5.6)

- Re-evaluate and modify, as necessary, the permitted uses of the General Management (M-GN) Subdistrict to ensure these uses are compatible with forestry and agricultural uses, as envisioned by the Commission's statute.

Plant and Animal Habitat Resources

(See Section 5.8)

- Update significant wildlife habitat protection efforts to achieve consistency with the Natural Resources Protection Act. This update should include incorporating recently available waterfowl and wading bird habitat information into the Commission's regulatory framework and preparing rule changes consistent with recently enacted amendments regarding vernal pools regulations. Also update the Fish and Wildlife Protection (P-FW) Subdistrict rules for existing seabird nesting islands and other identified significant bird habitat.

- Examine the Commission's regulations and guidance documents and revise as necessary to support the efforts of the Maine Natural Areas Program and Maine Department of Inland Fisheries and Wildlife in promoting landscape-scale habitat management.

Recreational Resources

(See Section 5.9)

- Re-evaluate the Commission's regulations on recreational trail construction and campgrounds, involving other state agencies, landowners, recreation groups and interested parties in these efforts.
- Evaluate the merits of prospectively identifying sites for large-scale nature-based resort facilities either through the current zoning framework or by means of a modified zoning approach.
- Re-examine the appropriateness of the current zoning of sporting camp facilities as General Development (D-GN), particularly those in remote settings.
- Continue to apply, and refine as needed, experiential- and opportunity-based approaches to evaluating impacts on recreation resources.

Scenic Resources

(See Section 5.10)

- Establish guidelines for evaluating scenic impacts when reviewing development proposals.

Water Resources

(See Section 5.11)

- Evaluate and update as necessary the wildlands lake assessment, including assessment of the effectiveness of current lake management classes.
- Review the Commission's rules governing water withdrawal, and revise as necessary.
- Review the Commission's rules governing water quality protection, including the adequacy of riparian standards and phosphorus controls (including small-scale development that may occur on individual lots), and revise as necessary.
- Take appropriate actions to help minimize the spread of aquatic invasive species.

7.2.C COMPLIANCE

(See Chapter 6)

The compliance program, which includes education, assistance, monitoring and enforcement efforts, is central to all of the Commission's objectives and programs. The Commission will therefore continue to pursue, as a top priority, a vigorous compliance program. Among other efforts, the Commission will inform landowners, land managers, contractors, citizens, real estate agents, lawyers, bankers and others concerning the laws and regulations that the Commission administers.

7.2.D INVENTORY NEEDS

Collecting better land use data, perhaps in the form of a land use inventory, is a top priority for the Commission. Such information would facilitate the planning, permitting and enforcement process and help monitor the significance of land use changes occurring in the jurisdiction for future revisions to this Plan. The Commission will attempt to utilize the field staff of other agencies to assist in such efforts.

If the Commission determines that a land use inventory is practicable and the best means of improving available data, it will endeavor to integrate its inventory of land uses with Maine Revenue Service records to facilitate the tracking of land use changes over time, including the creation of lots through the 2-in-5 exemption. To facilitate the maintenance of such an inventory, the Commission will utilize Geographic Information System (GIS) technology to the extent possible given available resources. The success of this effort will be contingent on pooling resources with many other agencies and organizations to accomplish the goal of a rigorous and reliable data set.

7.2.E OTHER ACTIONS

The Commission will undertake other actions from time to time to more fully implement the goals and policies of this Plan.