

Proposal for Reform of the Land Use Regulation Commission – Updated Version of Judy East Proposal – 11.16.11

Reference is made in this document to the changes to Title 12 made by the Maine Forest Products Council, Version 2.0 (MFPC Version 2.0) also being forwarded to Commission members on 11-16-11

1. INDEPENDENT AGENCY

- a. Retain jurisdiction-wide land use authority; could move central headquarters to Bangor (pro: closer to jurisdiction but more field offices may accomplish this; con: loss of existing institutional memory/experience/expertise if staff leave and cost)...on balance moving to Bangor may not be essential
- b. Change LURC name to Maine Land Use Commission (MLUC) (symbolic, not essential)
- c. Hold meetings in the UT or the service center communities that serve residents of the UT (very important change)
- d. Strengthen support for traditional uses and natural resource based economic vitality (*See proposed new Purpose and Scope, Title 12, Section 681, attached*)

2. COMMISSION MEMBERSHIP

- a. Increase size of MLUC to nine (9) Commissioners appointed by the Governor and approved by the Legislature
- b. All Commissioners must be residents of Aroostook, Oxford, Franklin, Somerset, Piscataquis, Penobscot, or Washington County, and three (3) must reside in the UT
- c. The Governor shall consider candidates recommended by County Commissioners from the eight counties with significant acreage within the unorganized territories.

Could also live with 9 Commissioners; 5 from each county with largest UT acreage who are themselves a County Commissioner or their designee; 3 others appointed by Governor; all approved by joint committee of legislature covering Ag, Forestry, Conservation and Economic Development – (this is very similar to membership in MFPC Version 2.0)

3. STAFF AND TRAINING

- a. The MLUC Director shall serve at the pleasure of the DOC Commissioner and shall be reviewed annually against performance goals (See #7 Performance Goals below).
- b. Staff shall receive annual human resource training to address customer service issues
- c. Staff shall develop and implement policy guidance memos to improve predictability, consistency and fairness of rules and standards, and shall make readily available to public
- d. Staff shall review and revise Chapter 10 rules to improve definitions, standards, permit by rule, non-conforming uses, etc., with goal of making the rules, rezoning, and permitting processes more user friendly and consistent

- e. Commissioners shall receive training including orientation and continuing education on Title 12, Chapter 10 and regulatory process
- f. Explore potential to cross train DOC field staff and county personnel (see section 5 b. below on opportunity for counties to be delegated permitting functions) to handle small permits
- g. Expand number of LUC field offices in service center and shire towns to at least 5 in the counties with the largest UT acreage; identify resources for this expansion
- h. Strengthen delegation to regional offices; add regional offices in counties not served with part time, or by appointment, staff hours; identify resources for this expansion

4. PLANNING AND PROSPECTIVE ZONING

- a. Allow counties, separately or in partnership, to petition LUC to initiate a process for developing and implementing a regional comprehensive land use plan and prospective zoning; can use Regional Planning Committees structure as indicated in MFPC Version 2.0
- b. Funding mechanisms to support regional planning shall be identified in cooperation with LURC staff, regional planning councils and/or consultants
- c. Each regional planning and zoning process must:
 - i. Include representatives from the Regional Economic Development Commission, Regional Planning Commission, the public, large UT landowners, and residents of the UT;
 - ii. Incorporate representatives of the service center community (and any other organized communities that wish to be included) with the goal of developing one plan that serves economic development planning in both the service center and the adjacent unincorporated townships; and
 - iii. Provide for rezoning to ensure that enough land is zoned for development purposes to accommodate the amount of development anticipated in areas where public services are available or could be readily made available.
- d. Amend statute to provide that the Comprehensive Land Use Plan (CLUP) in the future shall be approved by an up or down vote of the Legislature (akin to the adoption by Town Meeting or City Council of a local Comprehensive Plan) . If approved, it shall go into effect; if rejected, it shall be revised by MLUC to address concerns raised.

5. PERMITTING AND REGULATION

- a. Establish an independent ombudsman to assist landowners with the application process
- b. Provide opportunity for counties, or groups of counties, to request approval to be delegated small permitting functions (similar to the way MeDEP is authorized to implement some federal environmental laws) e.g.,

- i. Building permits
- ii. Accessory structures
- iii. Additions/renovations
- iv. Shoreland alteration permits
- v. Small subdivisions within designated growth areas (therefore after some planning has occurred via the jurisdiction-wide CLUP, prospective zoning, concept planning or regional planning)
- c. Expand permit by rule to additional applications, including accessory structures to commercial projects, docking structures, and shoreline alterations
- d. Transfer to Maine Forest Service the regulation of forest management activities in the UT
- e. Transfer to the DEP all permitting for wind power projects and other large projects that trigger Site Law
- f. Institute a workshop format to preview large projects with MLUC commissioners, providing an informal setting to discuss issues and receive input before the formal process begins
- g. Clarify standards for securing a permit and/or concept plan approval
- h. Eliminate “demonstrated need” standard for rezoning
- i. Enforcement duties shall be handled statewide by MLUC staff or delegated to counties who have demonstrated capacity for the permitting functions in 5b. above or who have created a regional plan.

6. APPEALS

- a. For an appeal of an agency action, appoint representative from the project County (a County Commissioner or their designee) to serve temporarily as a non-voting member
Note – this may be unnecessary if the Commission membership follows MFPC Version 2.0
- b. Meetings and public hearings of an appeal shall be held at a location as close as possible to the project(s) under consideration for appeal recognizing that multiple appeals from widely dispersed geographic areas may not all be accommodated close to their project (Maine is a big place)

7. PERFORMANCE GOALS AND OVERSIGHT

- a. MLUC shall report to the Agriculture, Conservation and Forestry Committee by January 15th of each year on the following:
 - i. Number of permits processed for the previous year, by category; the average time of pre-application consultation; the average time for reaching a decision (approval/denial); and goals for improvement in processing times for the year ahead.

- ii. Status of regional planning and prospective zoning initiatives, with goals for the year ahead.
- iii. Description of staff training initiatives to ensure increased customer service, and consistency in application of MLUC rules and regulations, with goals for the year ahead.
- b. The Agriculture, Conservation and Forestry Committee shall hold a public hearing annually for the presentation of the annual performance and goals report, to be presented by the Chair and other members of MLUC, with an opportunity for public comment.

8. MAINTAIN STATEWIDE UT VALUES

- 1. Freshwater Resources - Continue to provide strong protections for remote ponds and high quality lakes (Class 1&2)
- 2. Forest Economy and Wildlife Habitat - Encourage and maintain large forest blocks (more than 10,000 acres) for fiber supply and wildlife habitat

Comments on LURC Reform Legislation – Unallocated Sections (last page of MFPC Version 2.0)

In lieu of number 1 that simply removes the adjacency requirement.... I suggest (in DRAFT)...

Replace adjacency requirement with:

- 1) zoning districts created by any regional plan, prospective zoning rule or concept plan, and
- 2) (in the interim, before the adoption of the above) criteria to be followed in rezoning of a sub district including
 - a. proximity to public services (roads, utilities, fire protection)
 - b. soils suitable for development,
 - c. no significant impact on significant or critical natural resources as defined by ME Natural Areas Program,
 - d. consideration for statewide UT values