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The 2012 Comprehensive Plan Deadline

Q: I have been told that my comprehensive plan will expire in 2012. Why?

A: A comprehensive plan generally sets out recommendations for ten years into the future. Beyond that period, not just the recommendations but community attitudes and concerns may shift and condition and trends analysis lose relevancy. The original Growth Management Act provided no “expiration date,” but the legislature amended it in 2008 to say that the State Planning Office finding that a comprehensive plan is “consistent with the law” will expire after 12 years. For plans adopted prior to 2001, the grace period was extended to December 31, 2012.

Q: Will our plan become invalid if it is no longer consistent?

A: The way the law is written, it is not the plan itself that expires; it is the finding by the State Planning Office that the plan is consistent with the law. A consistency finding which has expired (“expired finding”) does not invalidate a locally adopted plan, nor any of the recommendations that the plan carries.

Q: Why should we care if the state no longer finds the plan consistent?

A: The SPO finding of consistency triggers a number of state actions and benefits. Since passage of the Growth Management Act, various state agencies have tied their growth-related programs to it. The most well-known is the CDBG program, which will not award grant funding for growth-related capital investments to a town without a consistent plan. Other grant programs award point priorities to towns with consistent plans. Some state agencies, such as the MaineDOT, give priority in funding their own projects to towns with consistent plans.

Q: What about our zoning ordinance? I understand a zoning ordinance must be based on a consistent plan.

A: The law says that zoning ordinances (as defined), impact fees and rate-of-growth ordinances (building permit caps) must conform to a plan which meets the requirements of the Growth Management Act (Refer to 30A M.R.S.A. §4314 (3)). An expired finding does not invalidate these ordinances. It does, however, provide an opening for a party affected by the ordinance to challenge it in court. Consultation with legal counsel is recommended.

Q: Can't the SPO just "re-affirm" our old plan?

A: No. Should a community choose to submit a plan to the SPO, it would have to be reviewed for completeness with the current standards. Among other things, data has to be refreshed, conclusions based on that data re-examined, and implementation strategies brought up to date. SPO makes updated data for plans available to communities to insure the use of current data available from State agencies. If the plan meets the threshold of the review standards it is accepted for consistency review. Until a plan is reviewed for consistency, its status would remain "unknown" in SPO records.

Q: What about plans that have been fixed after a SPO finding of inconsistency? Can these still be found consistent?

A: There is some latitude depending on the nature of what's 'fixed' to respond to a finding of inconsistency on a plan prepared under the old rule (Chapter 202). Issues identified in a finding or inconsistency must be addressed within two years of the date of the finding. After that period of time, the plan must be resubmitted to SPO under the new rule.