

**07-105**      **STATE PLANNING OFFICE** (*obsolete; the rule chapter has been reassigned to 01 - Department of Agriculture, Conservation and Forestry*)

**Chapter 201: PROCEDURAL RULE FOR SUBMISSION AND REVIEW OF ZONING ORDINANCES**

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**SUMMARY:** This chapter outlines the procedures and requirements governing the submission of new and amended municipal zoning ordinances to the State Planning Office pursuant to §4347-A of the Growth Management Act (30-A M.R.S.A §4312 *et seq.*). Separate rules cover the substantive review criteria for zoning ordinances (Chapter 210).

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**SECTION 1. PURPOSE AND DEFINITIONS**

**1. Purpose**

This rule is intended to establish procedures and requirements for the submission and review of new and amended municipal zoning ordinances developed pursuant to the requirements of the Growth Management Act (30-A M.R.S.A. §4312 *et seq.*). This rule:

- A. defines what constitutes a complete submission of a zoning ordinance in order to allow effective review;
- B. establishes procedures to allow review of submitted zoning ordinances in a timely and effective manner; and
- C. establishes procedures to allow review and comment on amendments to zoning ordinances in a timely and effective manner.

**2. Definitions**

The following definitions shall apply when interpreting the meanings of the provisions in this chapter:

- A. **Act:** "Act" means the *Growth Management Act* (30-A MRSA §4312 *et seq.*).
- B. **Amendments:** "Amendments" means an amendment to a zoning ordinance that has previously been found consistent with the Act. An amendment does not include ministerial changes that do not affect the substance of the zoning ordinance, such as typographical or grammar corrections.
- C. **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 town submitting a zoning ordinance is located.

- D. **Comprehensive plan:** "Comprehensive plan" means a document or interrelated documents developed by a municipality in accordance with the procedural provisions of §4324 of the Act and the substantive requirements of §4326 of the Act.
- E. **Local growth management program:** "Local growth management program" means a set of interrelated documents that comprise a comprehensive plan and implementation program, including zoning ordinances as described in §4326, sub-§§ 1 to 5 of the Act.
- F. **Planning committee:** "planning committee" means the committee established by the municipal officers of a municipality, or combination of municipalities, in accord with §4324, sub-§2 of the Act, which has general responsibility for a comprehensive plan.
- G. **Office:** "Office" means the State Planning Office.
- H. **Zoning Ordinance:** "Zoning ordinance" means a new or revised land use ordinance of general applicability in a municipality which:
- (1) Divides a municipality into zoning districts and prescribes the reasonable application of different regulations in each district to encourage orderly growth and development and implement a municipality'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 MRSA §§ 4324, 4326, and 4352.

## SECTION 2. PROCEDURES AND REQUIREMENTS FOR SUBMISSION OF ZONING ORDINANCES

### 1. Requirements for Submitting Zoning Ordinances

To be accepted by the Office for review, a submittal of a zoning ordinance must include the following:

- A. The zoning ordinance (7 copies; or 3 copies and an electronic copy containing all components). Each zoning ordinance must include sections that: describe and map(s) the zoning districts, identify permissible uses, describe development standards and include permit review and approval procedures. Map(s) must have a scale and a legend.
- B. A copy of the comprehensive plan upon which the ordinance is based, and that has been found by the Office to be consistent with the Act in accordance with the Office's Comprehensive Review Criteria Rule (Chapter 208).
- C. A list of all the implementation strategies related to zoning that are found in the comprehensive plan.

- D. **Zoning ordinance submission form** – obtained from the Office (2 copies). The form shall be developed by the Office and sent to the municipality to fill in and return with the following information:
- (1) Name of contact person of the municipality;
  - (2) Location of copies of the zoning ordinance for public review; and
  - (3) Certification by the chief elected official and the local planning committee chairperson that the submission is complete.
- E. **Waiver of Requirements.** The Office may grant a waiver of any of the requirements of this subsection.

## 2. **Delivery and Acceptance of Zoning Ordinances for Review**

A municipality shall deliver its Zoning Ordinance to the Office either in person or by certified mail, return receipt requested.

If the Office finds the submission to be incomplete according to the requirements of §2(A) above, it shall, within seven working days of the receipt of the material, notify the municipality's designated contact person of the deficiencies.

If the Office finds that the submission complies with all submission requirements of §2(A) above, it shall accept the submission for review. The Office shall:

- A. Record the date of such acceptance,
- B. Make a copy of the submission available for public inspection at the Office;
- C. Send a written notice of the acceptance to the local planning committee; and
- D. send a written notice of the comment period for the zoning ordinance to be posted in the Town Office or other public place in the municipality. The municipality shall promptly post a copy of the notice in all contiguous municipalities at a conspicuous public location. The notice will clearly indicate where copies of the material can be reviewed, the deadline for submitting written comments to the Office, and the address of the Office.

## **SECTION 3. PROCEDURES FOR ZONING ORDINANCE REVIEW**

### 1. **Review and Comment Period**

The deadline for Office receipt of comments on a zoning ordinance is forty-five (45) days after the date the Office accepted the material for review. The Office has no obligation to send comments received after this deadline to the municipality, or to address such comments in the Office findings.

## **2. State Agency and Regional Council Review of Zoning Ordinances**

- A. Notification. The Office shall send written notification that a zoning ordinance has been accepted for review to the applicable regional council and interested state agencies, including, but not limited, to those listed in §4346 sub§5 of the Act.
- B. Request for a copy of a Zoning ordinance. Upon the request of the agency's review coordinator, pursuant to §4347-A (3) of the Act, the Office shall send the agency a copy of the submission for review and comment, along with the following information:
  - (1) The name and address of the Office reviewer to whom comments should be sent;
  - (2) The deadline for Office receipt of comments; and
  - (3) The comment format called for in section 3(C) below.

## **3. Format of Comments**

- A. To be accepted by the Office, all comments submitted by a state agency, regional council, municipality, resident, or other person or organization must be written.
- B. State Agency Comments. State agency comments must:
  - (1) Include the date the comments are sent to the Office;
  - (2) Identify the zoning ordinance being commented on;
  - (3) Identify the state agency and the name and telephone number of its designated review coordinator;
  - (4) Conclude whether the zoning ordinance is consistent with the agency's programs and policies and, if not, identify where there are conflicts and the seriousness of these conflicts;
  - (5) Recommend what measures the municipality should take to ensure that its zoning ordinance addresses the identified conflicts; and
  - (6) Suggest what additional measures, if any, the municipality might take to improve the quality or effectiveness of its zoning ordinance.
- C. Regional Council Comments. Regional council comments shall:
  - (1) Include the date the comments are transmitted to the Office;
  - (2) Identify the proposed zoning ordinance being commented on;
  - (3) Identify the commenting regional council and the name and- telephone number of its principal reviewer;

- (4) Conclude whether the zoning ordinance is consistent with the adopted or proposed zoning ordinances of contiguous municipalities and addresses identified regional needs and policies and, if not, identify where there are conflicts and the seriousness of these conflicts;
- (5) Recommend what measures the municipality should take to ensure that its zoning ordinance addresses the identified conflicts; and
- (6) Suggest what additional measures, if any, the municipality might take to improve the quality or effectiveness of its zoning ordinance.

#### **4. Delivery of Comments to the Office**

Any state agency, regional council, municipality, resident, or other person or organization that prepares written comments on a zoning ordinance shall deliver the comments to the Office either in person, by mail or by email.

Upon receiving written comments on a zoning ordinance, the Office shall record the date of receipt.

#### **5. Office Review and Findings**

- A. **Review Criteria.** In reviewing a zoning ordinance and in preparing its findings, the Office shall apply the review criteria set forth in the goals and guidelines of the Act and in any criteria rule adopted by the Office such as 07-105 Chapter 210.
- B. **Consideration of Comments.** In preparing the Office findings, the Office shall review and consider all written comments received by the Office within the 45-day comment period. The Office findings shall identify points on which there exist significant conflicts among the comments and shall clearly state the Office's position on such points.

#### **6. Format of Office Findings**

Office findings shall:

- A. Conclude whether the zoning ordinance is consistent with the Act, including identification of any significant conflicts among the received comments regarding identified deficiencies and inconsistencies, and including clarification of the Office's conclusions regarding the points on which such conflicts exist;
- B. Raise objections regarding whether the zoning ordinance is consistent with the Act;
- C. Recommend what measures the municipality should take to ensure that its zoning ordinance addresses the identified deficiencies and inconsistencies, including identification of any significant conflicts among the received comments regarding recommended measures for addressing objections; and

- D. Suggest what additional measures, if any, the municipality might take to improve the quality or effectiveness of its zoning ordinance beyond that required for consistency with the Act.

#### 7. Delivery of Office Findings

The Office shall send any Office findings on a zoning ordinance, along with all written comments on the zoning ordinance received by the Office within the 45-day comment period, to the municipality and applicable regional council within 60 days after the date the Office accepted the zoning ordinance for review, or within such further time consented to in writing by the municipality's chief elected official. The Office shall deliver the findings to the municipality's designated contact person and its chief elected official, either in person or by certified mail, return receipt requested. The Office shall also send the findings to any state agency upon request.

### SECTION 4. PROCEDURES AND REQUIREMENTS FOR SUBMISSION AND REVIEW OF AMENDMENTS TO ZONING ORDINANCES

1. Municipalities may submit and the Office shall review amendments to zoning ordinances in the same manner as described in Sections 1 through 3 above, except that Section 2(B) shall not apply.
2. To be accepted by the Office for review, a submission of amendments to zoning ordinances must include the following:
  - A. The amendments (7 copies; or 3 copies and an electronic copy containing all components). The actual text of the amendments must be submitted to the Office. All amendments must be clearly marked "Amendments to (name of original document)" and indicate the date of the amendment. The submission must clearly indicate all additions and deletions to the document (by underlining, sidebars, strikeouts, or highlights). Proposed changes to the zoning map must also be included.
  - B. A summary of the proposed amendments (2 copies). The summary shall note the purpose and intent of all amendments, including amendments not made in response to the Office review. The summary should reference the page number of the text of the amendment.
  - C. Zoning ordinance amendment submission form – obtained from the Office (2 copies). The form shall be developed by the Office and sent to the municipality to fill in and return with the following information:
    - (1) Name of contact person of the municipality;
    - (2) Location of copies of the zoning ordinance for public review; and
    - (3) Certification by the chief elected official and the planning committee chairperson that the submission is complete.

- 6. Waiver of Requirements.** The Office may grant a waiver of any of the requirements of this subsection.
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STATUTORY AUTHORITY: 30-A M.R.S.A. §§ 4312(4) and 4347-A(3)

EFFECTIVE DATE:

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