



### Growth Management Law Change

Gro-WA Work Component A



#### Introduction

Relieving the burden on small local planning committees, this task is focused on creation and adoption of regional data and policy. Each town then ties the regional data and policy to its local comprehensive land use plan. The Comprehensive Planning and Land Use Regulation Act, AKA the Growth Management Act (30-A M.R.S.A. §§ 4312 - 4350), is the statute regulating review of local Comprehensive Plans for consistency with state policy. On-line data and mapping tools in Washington County were created under this task (<http://gro-wa.org/helping-washington-county-plan-its-future>) to address the impediments to local planning noted below.

With the loss of the Maine State Planning Office (SPO) and transfer of municipal land use support functions to the Maine Department of Agriculture, Conservation and Forestry (MDACF), communications regarding the Growth Management Act to communities declined. Closure of the SPO caused confusion about where the Land Use Planning staff and function was located, who to contact, and how to get information. Communications and provision of data has improved over time but lack of funding and inadequate locally specific data remains an issue.

Over the past 8 years, all state funding for the completion of comprehensive plans and ordinances has been eliminated. Financial support to Regional Councils from the State's General Fund, used to assist municipalities with adhering to the Growth Management Act, has also declined. Municipalities wishing to update their Comprehensive Plans and ordinances must do so with their own limited resources. Some have done so; many have not.

MDACF continues to provide data for communities wishing to develop plans. Data is gathered from State agencies and posted on the MDACF's website. However, the data is at times missing or incomplete, generic or statewide in scope, complex and not explained very well. There is no analysis and volunteer lay board members have difficulty using it. Though generic information is provided, the Growth Management Act requires town specific information. Towns must spend a great deal of time gathering and analyzing local data with resultant volunteer "burn-out" before spending time on goals, policy and strategies for the community.

Given the loss of funding, the intensive data demands and the reduction in technical support, planning has taken a back seat in many Aroostook County communities. Even as the consistency of many comprehensive plans expires, most Aroostook County communities have not seen the importance of updating their plans (<http://gro-wa.org/impediments-to-local-planning>). This is less of an issue in Washington County. In several communities where Comprehensive Plans have expired, updates are near completion (3 towns) and local funds are being raised over multiple fiscal years to prepare updates (2 towns).

#### Findings

In 2012, 29 communities in Aroostook County and 33 communities in Washington County had comprehensive plans developed under the guidelines and found consistent with Maine's Growth Management Act. By January 1, 2014, twenty-one (21) of those plans in Aroostook County and 9 in Washington County expired under the 12-year provision for the Act. However 3 out of 9



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Washington County towns (Baileyville, Princeton, Indian Township) are near completion on updates to their Comprehensive Plan and two others are starting (Roque Bluffs) or planning (East Machias) to update their Comprehensive Plan in 2014. Funded by the GROWashington-Aroostook project, the status of Comprehensive Plans relative to the Growth Management Act for all Washington County towns is now available in an on-line map and database here (<http://www.wccog.net/status>).

Of those plans that expired at the end of 2013, 10 in Aroostook County and 2 in Washington County have some form of land use regulation associated with the Plan. Only Fort Kent, Mars Hill, and Mapleton, Castle Hill and Chapman (1 Plan for the combined communities) completed and submitted an updated comprehensive plan for State review. At the time of the writing of this document, Fort Kent and Mapleton, Castle Hill and Chapman's Plans were found consistent with the Growth Management Act. Mars Hill's plan is still being reviewed at the State level with findings due in January 2014.

Without a consistent, locally adopted Comprehensive Plan, many communities are ineligible or at a disadvantage when applying for state and federal funding for community facilities or infrastructure. In addition, local land use ordinances based on Comprehensive Plans with an expired consistency status can be successfully challenged in court. There are many communities (16 in Aroostook County, 2 in Washington County) with land use regulations or zoning ordinances that are based on Comprehensive Plans whose consistency has expired under the Growth Management Act.

On average, comprehensive plans cost \$25,000 to complete while zoning ordinances range in the \$6,000 to \$12,000 range. Municipalities typically hire consultants; completing them can take 14 to 18 months and requires extensive public participation. Without State funding communities lack the funding, time or skill to complete them on their own. Ordinances are easier to complete; there are many models and templates (available through DACF or Regional Councils) that can be tailored by Planning Boards themselves.

Available data has changed significantly, especially US Census data. The decennial data does not compile much of the needed information, especially in the areas of income, housing, journey to work, transportation, and economic profiles. This data is collected in the American Community Survey that has very margins of error in small rural geographies; thus confidence in the data is low. State derived data is extensive but often very generic. Analysis of natural resource, transportation, economic and population projects can be difficult at the local level. Municipalities may not have the capability to develop data at the local or regional level.

### Analysis and Basic Conclusions

Locally developed comprehensive plans are not being completed at the level they were in the 1990s and early 2000s when state funding was easily obtained. To complete a plan municipalities must raise funds over 2 or 3 fiscal years; some do so and many do not. To address the gap towns must rely on their Regional Council to find additional resources to assist in the overall process. These additional resources are not available to all regions nor are they reliably available. The GROWashington-Aroostook regional planning initiative ([www.gro-wa.org](http://www.gro-wa.org)) will contribute to some regional data sets and regional policy (in housing, transportation, Brownfields redevelopment, adaptation to climate change, healthy communities, renewable



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energy) for all towns but the project is time limited. The WCCOG is eligible for funds from the Maine Coastal Program that NMDC in Aroostook County is not. Coastal Funds are used for direct support to Comprehensive Plan development in coastal towns and competitive coastal grant awards can assist with local data and policy development in marine habitat and resource issues, harbor management and adaptation to climate change.

Revisions to the Criteria Rule (Chapter 208) that is used to review local Comprehensive Plans were adopted on August 6, 2011. Testimony from several regional councils sought to allow adoption of regional data sets and policies specifically to replace local topic areas with regional data sets. (see testimony from WCCOG Executive Director Judy East here: <http://gro-wa.org/growth-management-law-change>). This change should reduce the burden of re-creating or repeating the creation of the material in local Comprehensive Plans. A new definition in the new Criteria Rule for an “Adopted Regional Plan” recognizes the creation of regional data and policy and should encourage municipal participation in drafting them.

GROWashington-Aroostook funds were used in a partnership between the Washington County Council of Governments and the University of Maine GIS Service Center to create on-line maps to assist with these data burdens and with on-going regulatory review. A Parcel Viewer provides the general public and other interested parties with information for tax parcels, wetlands, and conserved lands. This tool should ease the demands on small municipal offices with limited hours and staff (<http://gro-wa.org/public-parcel-viewer>)

Also developed for Washington County towns are Planners Maps (<http://gro-wa.org/planners-maps>) to provide access to town-specific data for planning and regulatory review. The Planners maps are a more sophisticated web mapping tool that provide Planning Boards and Code Enforcement Officers with the same information as the Public Parcel Viewer with the addition of clusters of data on public service, public infrastructure, DEP tank sites, Brownfields re-development sites, and Proposed Land Use from locally adopted Comprehensive Plans. Instructional guides are available to assist municipal officials to use the tools (<http://gro-wa.org/gis-map-instruction-guides>) and the WCCOG will use DACF funding going forward to provide targeted training.

The University of Maine at Machias GIS Service Center is making a long-term commitment to support and maintain the data services provided by these on-line mapping tools. Additional data layer clusters are under development for marine resources (shellfish habitat and sources of point source pollution), Beginning With Habitat data, and soils information interpreted for agricultural and development potential. Now that the mapping service is established it can be expanded with any available digital data layers that are of interest or use.

In Washington County, these tools will relieve the burden on town officials to provide this information to the public – anyone can view the Parcel Viewer on-line from any location – and provide lay boards and Code Enforcement Officers with up to date information for planning and regulatory review.

In Aroostook County lack of funding and difficulties in obtaining local data has brought local Comprehensive Planning to a virtual standstill. This raises concerns that local land use ordinances may no longer be legally enforceable and that Aroostook County municipalities will no longer be eligible for grant programs and projects. This is especially true with USDA, Maine



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Department of Conservation, National Park Service, and other grants that help offset infrastructure projects.

### Suggested Actions

#### Regional Coordination and State Support

- Encourage municipalities in both counties to review and adopt the Regional Plan elements prepared as part of the GROWashington-Aroostook regional planning initiative to reduce their data and policy development burden when updating their local Comprehensive Plans. Templates for a Regional Coordination Inventory chapter and Regional Coordination Policies for Washington County municipalities are available for download and customization here: <http://www.gro-wa.org/regional-coordination-templates>).
- In an effort to reduce cost, seek to complete multi-town plans that are similar to the corridor management planning activities initiated by the Maine Department of Transportation.
- Initiate and support legislation that brings local planning, comprehensive planning and the Growth Management Act back to a priority at the State and local level.
- Incorporate regional considerations into local planning and decision making so as to ensure consideration of regional needs and the regional impact of development.

#### Funding

- Reinstate State funding to prepare local Comprehensive Plans. Use the State's General Fund, as in the past, to develop the competitive grant program at MDACF.
- Increase funding to the State's regional Councils to increase the amount of technical assistance to communities.

#### Data

- Review and update the review criteria for local comprehensive plans to ensure that consistency can be accomplished with the data that is readily available and easily obtainable.
- Continue to streamline and simplify development of regional and local data sets for use by lay boards.
- Work with Maine Department of Agriculture, Conservation, and Forestry to provide up-to-date and accurate state, regional, and local information.
- Work with municipalities to identify what tools and resources they need to effectively plan for and manage future development within their jurisdictions with a maximum of local initiative and flexibility.

### Implementation already occurring

In Washington County, WCCOG is providing the three municipalities currently updating their Comprehensive Plans with an expanded baseline inventory for Regional Coordination and an expanded set of Regional Coordination policies. Expansions in both inventory and policy include the following substantive areas:

- Brownfields redevelopment
- Healthy Communities including opportunities for increasing physical activity, reducing substance abuse and increasing access to local food



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- Adaptation to impacts of climate change
- Water infrastructure
- Sub-regionally specific transportation and infrastructure needs

In Aroostook County implementation is very limited:

- NMDC outreach varies by topic and funding. Workshops range from “Why Plan”, to comprehensive plan development, to ordinance writing.
- Aroostook Code Enforcement Officer- Workshop based on obtaining CEO recertification credits. Revolve around Shoreland Zoning, Legal Issues, Land Use Planning, Zoning, and Building Standards.
- Maine Department of Environmental Protection- Shoreland Zoning and Site Location for Development Workshops.
- Soil and Water Conservation Districts- Watershed Management workshops
- Other groups may have workshops or meeting revolving around a specific land use such as wind farms, mining, and transportation projects.

### **Additional resource needs**

- Funding to assist UMM with on-going maintenance of data for on-line parcel and planning maps.
- Funding for local Comprehensive Planning.
- Extend the on-line mapping resource to Aroostook County