

FAQ: 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 the data and community attitudes on which they are based will quickly lose relevancy. The original Growth Management Law 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 any 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. The loss of the finding does not invalidate local adoption of the 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 law, 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 DOT, will give priority in funding their own projects to towns with consistent plans.

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

A: The law says that zoning ordinances (as defined), together with impact fees and rate-of-growth ordinances (building permit caps) must conform to a consistent plan. The expiration of the finding does not invalidate these ordinances. It does, however, provide an opening for someone who is affected by the ordinance to challenge it in court. While it is hard to believe that a court would throw out an ordinance just because a year had passed, it does create a doubt.

Q: Can't we just “re-affirm” our old plan?

A: No. The SPO will have to review whatever you write to retain your consistency status, and their current standards would have to be met. Among other things, data has to be refreshed, conclusions based on that data re-examined, and implementation strategies brought up to date. The SPO has rewritten its rules for reviewing plans since 2001, so in many cases, the entire format of the plan must be changed.

Q: What about plans that have never been reviewed by SPO, or which have been fixed after an SPO finding of inconsistency? Can we still get these found consistent?

A: Generally not. The window of opportunity for becoming “grandfathered” has passed. If the data is not up to date (within the past 2-3 years) or if a plan was prepared under the old rule rather than the new one, there is little chance that it will be consistent with the new rule. You can use the checklist (see below) to estimate for yourself how much additional work may be needed.

Q: If we decide to update our plan, what would be involved?

A: Unless your town already has a standing “Long Range Planning Committee,” one of the first steps would be to ask the selectmen or council to form a new committee. The committee should evaluate the old plan to determine how much needs to be updated and whether to hire outside assistance for the update. The rest of the process is pretty much similar to the original planning process, perhaps slightly shorter. The process used to last about 18-24 months; the update may be done in 12-18 months.

Q: What’s this about a “new rule?”

A: After September, 2008, the State Planning Office began reviewing all plans under a different set of rules. The new rules are much clearer about content and format. The online version of the rule, www.maine.gov/spo/landuse/compplans/annotated/index.htm, includes live links to publications and other technical assistance. The detailed checklist makes the rule easier to follow: <http://www.maine.gov/spo/landuse/docs/compplanning/checklist.pdf>. However, seeing the level of information and complexity involved may also lead you to conclude very quickly that it is not a job strictly for volunteers.

Q: If we decide to hire a consultant to assist us, what will it cost?

A: Consultants have different billing rates and planning approaches, but you should not expect to spend any less than the budget for your original plan. For most towns, this should be in the \$20,000 to \$25,000 range. Most old plans will need to be completely re-written to conform to the new rule. Also, mapping has moved completely to computer-based formats – easier to read and manipulate than paper maps, but more expensive to create. And of course, most billing rates have increased in the 10-20 years since your last plan.