

1-15-2014

# Annual Performance Report 2013

Maine Land Use Planning Commission

Maine Department of Agriculture, Conservation and Forestry

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STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
MAINE LAND USE PLANNING COMMISSION  
22 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0022

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GOVERNOR

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EXECUTIVE DIRECTOR

January 15, 2014

Senator Eloise Vitelli, Senate Chair  
Joint Standing Committee on Agriculture, Conservation and Forestry  
Maine Senate  
3 State House Station  
Augusta, Maine 04333

Representative James F. Dill, House Chair  
Joint Standing Committee on Agriculture, Conservation and Forestry  
Maine House of Representatives  
2 State House Station  
Augusta, Maine 04333

***RE: 2013 Annual Performance Report – Maine Land Use Planning Commission (LUPC)***

Dear Senator Vitelli and Representative Dill:

Enclosed please find the Land Use Planning Commission's Annual Performance Report for 2013. This report, required by 12 M.R.S. § 685-H:

- Highlights the Commission's efforts over the last calendar year;
- Summarizes the progress the Commission has made to implement recent legislation;
- Contains permit processing data, including processing times;
- Provides a status report on the Commission's prospective zoning initiative, Community Guided Planning and Zoning; and
- Identifies the Commission's goals for 2014.

We hope you find this report is informative. If you would like, I am prepared to present the report to the committee and to answer any questions you or your fellow committee members may have. Please contact the Commission's Director, Nick Livesay, if you would like to schedule a report presentation.

Sincerely,

Gwen Hilton, Chair  
Land Use Planning Commission

Enclosure

cc: Walter E. Whitcomb, Commissioner, Dept. of Agriculture, Conservation and Forestry  
Nicholas D. Livesay, Director, LUPC, Dept. of Agriculture, Conservation and Forestry

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LAND USE PLANNING COMMISSION  
MAINE DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

ANNUAL PERFORMANCE REPORT -- 2013

REPORT TO THE JOINT STANDING COMMITTEE ON  
AGRICULTURE, CONSERVATION AND FORESTRY

January 15, 2014

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## **SUMMARY**

The Land Use Planning Commission enjoyed another busy year in 2013. The Commission has and continues to be involved in a number of rulemakings, with nine rule amendments becoming effective within the calendar year. Among these nine were significant revisions intended to assist Maine's recreational lodging industry. Another major Commission initiative, Community Guided Planning and Zoning, is underway in Aroostook County. This is the first region in which the Commission is engaged in prospective planning and zoning, in partnership with the Northern Maine Development Commission, as directed by the 2012 reform legislation. Also in response to the reform legislation, the Commission has continued to revise its processes and procedures to make clear and straight forward the Commission's role in certifying larger-scale development projects now permitted by the Department of Environmental Protection. This annual report summarizes these initiatives and rulemakings, as well as other key projects undertaken by the Commission in 2013. This report also summarizes the Commission's permitting activity. In 2013, the Commission issued 554 permits, representing approval of 98.6 percent of all complete applications received. Of the permits issued, 407 were building permits and the majority of these were approved the same day the application was determined to be complete.

The Commission provides valuable services to residents of and property owners in the unorganized and deorganized areas, as well as to surrounding regions and, more broadly, the entire State. This report provides a high-level overview of the Commission's work in 2013 and concludes with a look ahead to the Commission's goals for 2014.

## I. INTRODUCTION

Title 12, section 685-H requires the Commission to provide an annual performance report to the Legislature. This section states:

*1. Report due. By January 15, 2013 and by January 15th annually thereafter, the commission shall report to the joint standing committee of the Legislature having jurisdiction over conservation matters regarding the commission's performance under this subchapter for the previous year and goals for the coming year.*

*2. Report components. The report must include:*

*A. The number of permits processed for the previous calendar year, by category;*

*B. A summary of preapplication consultation activities;*

*C. The average time for rendering a decision, with goals for improving processing times;*

*D. The status of regional planning and zoning initiatives, with goals for the calendar year; and*

*E. A description of staff and commission training initiatives to ensure increased customer service and consistency in application of commission rules and regulations, with goals for the calendar year ahead.*

*3. Public meeting. The chair of the commission shall present the annual performance report to the joint standing committee of the Legislature having jurisdiction over conservation matters at a meeting of that committee. The committee shall give the public an opportunity to comment on the performance report at this meeting.*

This document constitutes the Land Use Planning Commission's annual performance report for calendar year 2013. This is the second year in which the Commission has provided the report.

## II. OVERVIEW OF THE COMMISSION'S ACTIVITIES IN 2013

### A. Recreational Lodging Initiative

In recent years, the Commission observed the recreation business market had changed substantially and rules that apply to the recreational lodging facilities (*e.g.*, commercial sporting camps, campgrounds, group/youth camps, rental cabins, campsites, and back-country huts) needed to be upgraded. Starting in 2012, the Commission began a major overhaul of its rules that apply to recreational lodging. After a stakeholder process that provided those working in this industry an opportunity to explain their business needs and afforded these same individuals, and other interested parties, the chance to discuss potential changes to existing land use regulations, the Commission adopted the final recreational lodging rulemaking package on July 9, 2013. The revised rules provide those in the recreational lodging industry greater flexibility, with the goal of allowing them to deliver the services customers demand and better compete in the marketplace, while protecting natural resources (including the resources on which many in this industry depend) and traditional uses. (*See Appendix C for an informational sheet prepared and distributed by the Commission that provides an overview of these revisions.*)

Staff are working to implement the new rules so facility owners and operators can take advantage of the greater flexibility and benefits they provide. The Commission's staff are reaching out to facility owners in order to provide assistance as necessary.

### **B. Aroostook County – Community Guided Planning and Zoning**

Prospective planning and zoning is underway in Aroostook County as part of the Commission's Community Guided Planning and Zoning initiative. This initiative, which flows from the 2012 reform legislation, allows regions to self-identify and for those within a region to work collaboratively to plan for future land uses in their area of the State. Aroostook County is the first region to participate in this initiative. Community Guided Planning and Zoning and the status of the efforts in Aroostook County are discussed in more detail below in section III.D.

### **C. Implementation of 2012 Reform Legislation and Certification Process**

With the enactment of the 2012 reform legislation, P.L. 2011, ch. 682, the Commission is no longer responsible for permitting larger development projects within the unorganized and deorganized areas of Maine. The Department of Environmental Protection (DEP) now reviews and permits larger development projects – grid-scale wind energy development and projects triggering the Site Location of Development Law – within the unorganized and deorganized areas of Maine. For these larger projects now permitted by DEP, the Land Use Planning Commission, in many respects filling the role of a municipal planning board, is responsible for certifying to DEP that the development (a) is an allowed use within the subdistricts in which it is proposed and (b) complies with land use standards not considered by DEP in its review.

Prior to the 2012 legislation, the Commission did not issue certifications and, as a result, its procedural rules did not contemplate or provide for this type of review. To aid both applicants and the Commission, and to make the certification process clear to the public, in 2013 the Commission completed a rulemaking outlining the procedure for seeking and obtaining certification. The Commission also adopted formal guidance identifying which land use standards the Commission will continue to apply and which will effectively be considered by DEP in the Department's permit review process. Both the rulemaking and the development of the guidance document were subject to public review and comment.

In January of 2013, the Commission certified the first project, a grid-scale wind power project, under the new regulatory scheme. In total, the Commission has now certified four projects, three wind power development projects and one mill reopening.

### **D. Implementation of Other Legislation and Commission Activities**

In addition to the development of procedural rules governing certifications and the overhaul of the regulatory provisions applicable to the recreational lodging industry, both of which are noted above, the Commission has been busy implementing other legislation and initiating other rulemaking efforts. In 2013, the Commission:

- Amended Chapter 4, Rules of Practice, to clarify a person aggrieved by a staff decision has standing to appeal that decision to the Commission. (*See* Resolve 2011, ch. 144

- (enacting L.D. 1647).) Status: major substantive rule provisionally adopted by Commission in 2012; approved by the Legislature in 2013 (Resolve 2013, ch. 33 (enacting LD 37); final adoption by Commission in 2013; effective October 18, 2013.
- Amended Chapter 10, Land Use Districts and Standards, to provide a greater degree of flexibility for the creation of maple sugar processing subdivisions. (*See* Resolve 2011, ch. 123 (enacting L.D. 1689).) Status: approved by Commission in 2012; effective February 22, 2013.
  - Amended Chapter 10, Land Use Districts and Standards, in response to and consistent with Public Law 2011, chapter 682 (enacting L.D. 1798), to revise the D-PD (Planned Development) Subdistrict rules to accommodate the shift of permitting authority to the DEP, while retaining review of the rezoning petition and associated preliminary development plan that are part of the creation of a D-PD Subdistrict. Status: approved by Commission in 2012; effective February 22, 2013.
  - Amended Chapter 10, Land Use Districts and Standards, to increase the maximum allowable lot coverage in the Commercial and Industrial Development (D-CI) and the Maritime Development (D-MT) subdistricts in order to better accommodate commercial and industrial growth and development, minimize the need for rezoning, and be more consistent with zoning in municipal portions of the State. Status: approved by Commission in 2013; effective August 5, 2013.
  - Amended Chapter 10, Land Use Districts and Standards, to reflect transfer of regulatory authority over forestry activities, land management roads, water crossings by land management roads, and gravel pits less than five acres from the Commission to the Maine Forest Service. (*See* P.L. 2011, ch. 599 (enacting L.D. 1739).) Status: Approved by Commission in 2013; effective August 5, 2013.
  - Amended Chapter 10, Land Use Districts and Standards, to clarify existing subdivision lot exemptions. Status: approved by Commission in 2013; effective September 1, 2013.
  - Amended Chapter 12, Land Use District Requirements for Metallic Mineral Mining and Level C Mineral Exploration Activities, to separate from the mining rezoning requirements those provisions related to the permitting mining activities. (*See* P.L. 2011, ch. 653, § 29(1).) Status: public hearing held in Presque Isle and Farmington; approved by Commission in 2013; effective May 27, 2013.
  - Initiated amendment of Chapter 13, Rules for Metallic Mineral Exploration, Advanced Exploration and Mining, to establish requirements governing certification of metallic mineral mining and advanced exploration in the unorganized and deorganized areas of the State to be permitted by the Department of Environmental Protection under the Maine Metallic Mineral Mining Act. (*See* P.L. 2011, ch. 653 (enacting L.D. 1853).) Status: Public hearing held November 13, 2013; major substantive rule provisionally adopted by Commission on January 8, 2014; legislative review and approval required.
  - Commenced discussion of amendment to Chapter 13, Rules for Metallic Mineral Exploration, Advanced Exploration and Mining, to clarify the Commission's role with regard to review and permitting of exploration activities not permitted by the Department of Environmental Protection. Status: potential rulemaking discussed by Commission in November 2013; development of draft rulemaking by staff underway; posting of rulemaking for public comment approved by Commission on January 8, 2014.

Other accomplishments and items of note in 2013 include:

- Updated the Commission’s Compliance and Enforcement Response Policy to make the Commission’s actions, including the amount of financial penalties for certain violations, more effective and fair; the policy was last updated in 1992.
- Approved a 20-year renewal of a landowner-initiated resource plan on the northern portion of Mechanic island; the plan will both protect seabirds and provide predictable development rights.
- Updated a number of application forms and developed a new supplement that implements the recreational lodging rule revisions;
- Conducted day-long, pre-application site visit to some of the areas proposed for development and conservation as part of the proposed Fisher River Lakes Concept Plan in Aroostook County; the site visit was attended by the prospective applicant, Commissioners, staff, and members of the public.
- Hosted expert panel discussion on metallic mineral mining.
- Participated in a multi-day site visit to the Bathurst Mining Camp in New Brunswick, Canada to learn about environmental and socio-economic issues associated with metallic mining operations that may be applicable to the Commission’s review of potential future mining sites in Maine.
- Visited islands and coastal communities to help local officials, residents, and property owners better understand changes proposed by the Federal Emergency Management Agency (FEMA) to flood insurance rate maps (commonly thought of as floodplain maps) and the associated zoning and land use implications.
- Assisted municipalities interested in deorganizing (*e.g.*, Atkinson and Bancroft), which includes relieving themselves of planning and zoning responsibilities, as well unorganized areas interested in assuming planning and zoning responsibilities (*e.g.*, Kingsbury).
- Developed electronic archive of historic permits by scanning older documents; this facilitates both staff and public access to prior permitting decisions.

#### **E. The Commission and its Staff**

The 2012 reform legislation increased the number of seats on the Commission from seven to nine and revised the appointment process. Prior to the legislation, the Governor filled all the seats on the Commission, with nominees subject to a public hearing held by the Joint Standing Committee on Agriculture, Conservation and Forestry and confirmation by the Senate. While the legislative review and confirmation process has not changed, the 2012 legislation shifted the appointment authority for eight of the nine seats from the Governor to the eight counties with the most acreage within the unorganized and deorganized areas of the State. These counties, listed from largest to smallest in terms of qualifying acreage, are: Aroostook, Piscataquis, Somerset, Penobscot, Washington, Franklin, Oxford, and Hancock.

Presently, the Commission is in a transition period. Aroostook and Piscataquis counties filled the two seats added by the reform legislation, with Somerset and Penobscot counties having filled seats as they became vacant. Presently, there is one vacancy on the Commission and Washington County nominated an individual to fill this vacancy. If all the existing

Commissioners complete their present terms, the next vacancy will be in 2015, when three terms are set to expire. Franklin, Oxford, and Hancock counties, in turn, will be responsible for filling these seats. (See Appendix A for a list of the Commissioners.)

At the end of 2013, the Commission was supported by 21 staff. This includes a director, a planning manager, a permitting and compliance manager, five planners (one of whom works 30 hrs/week), a GIS specialist, 11 permitting and compliance staff, and an office associate. One position, a secretary associate, currently is vacant and in the process of being filled.

The LUPC operates offices in Ashland, Augusta, Bangor, Greenville, East Millinocket, and West Farmington.

### **III. REPORT ITEMS REQUIRED BY SECTION 685-H**

#### **A. Number of Permits Processed in 2013 by Category**

In administering its land use standards, the Commission issues permits for a range of activities, including: shoreline alterations, new dwellings, campgrounds, construction of certain roads, subdivisions, and utility lines. While not permitting actions, the Commission also reviews and acts on matters such as rezoning petitions. For the purposes of this annual report, these other actions are included in the permitting summary tables. Not all development or Commission assistance, however, is captured in these tables or this report. Many activities are allowed without a permit, such as the development of certain accessory structures and agricultural activities. Although the Commission assists the public with understanding any requirements applicable to these activities, where a permit is not required this activity is not reflected below.

As noted above, the 2012 reform legislation established larger projects within the unorganized and deorganized areas are now permitted by the DEP (*i.e.*, projects triggering DEP review under the Site Location of Development Law or qualifying as grid-scale wind energy development). For these projects, the LUPC must certify to the DEP the proposed development (a) is an allowed use within the subdistrict or subdistricts in which it is proposed and (b) meets any land use standard established by the Commission not considered in the DEP's permit review. A LUPC certification is not a permit. However, for the purpose of this report and calculating the processing times presented in this report, certifications are included among the permits grouped together under the heading "All Other" in the tables below.

Tables 1 through 4 present the number of permits processed, by permit type. Only complete applications are processed. As a result, if the Commission receives an incomplete application, it will be returned to the applicant. In 2013, the Commission received 17 building permit applications, five development permit applications, and six applications in the all other category that were never completed. Incomplete applications are not reflected in the following tables. Tables 1 and 4 also show the type of action (*i.e.*, outcome) on various types of permits. Appendix B describes each type of permit and action listed in these tables.

Table 1. Permit Processing, 2013<sup>1</sup> by Outcome

Permit Type	Permit Type Name	Count by Action Type					TOTAL
		Approved	Approved / Disapproved in-part	Disapproved	Application Withdrawn	Application Returned	
BP	Building Permit	407		2	3	1	413
DP	Development Permit	46					46
All Other		101		1			102
BCP	Bridge Construction Permit	3					3
FOP	Forest Operation Permit	13					13
GP	Great Pond Permit	36					36
HP	Hydropower Permit						0
RP	Road Construction Permit	4					4
SA	Shoreland Alteration Permit	9					9
SD	Service Drop Permit	18					18
SLC	Site Law Certification	5					5
SP	Subdivision Permit	4					4
ULP	Utility Line Permit	3					3
WL	Wetland Alterations Permit	2					2
ZP	Zoning Petition	4		1			5
<b>TOTAL</b>		<b>554</b>	<b>0</b>	<b>3</b>	<b>3</b>	<b>1</b>	<b>561</b>

Table 2. Permit Processing, 2013 by County

Permit Type	Permit Type Name	Total Actions by County												TOTAL
		AR	FR	HA	KE	KN	LI	OX	PE	PI	SA	SO	WA	
BP	Building Permit	77	60	25		3	4	19	53	69		62	41	413
DP	Development Permit	12	5	1			1	8	3	4		5	7	46
All Other		12	19	8		2		8	16	18		12	7	102
BCP	Bridge Construction Permit	1							1				1	3
FOP	Forest Operation Permit	1	3					4	1	3		1		13
GP	Great Pond Permit	4	4						7	11		8	2	36
HP	Hydropower Permit													0
RP	Road Construction Permit		1	2				1						4
SA	Shoreland Alteration Permit	3	4					1		1				9
SD	Service Drop Permit	2	4	2					4	2			4	18
SLC	Site Law Certification	1		2					1			1		5
SP	Subdivision Permit			1				2				1		4
ULP	Utility Line Permit		1						1			1		3
WL	Wetland Alterations Permit			1		1								2
ZP	Zoning Petition		2			1			1	1				5
<b>TOTAL</b>		<b>101</b>	<b>84</b>	<b>34</b>	<b>0</b>	<b>5</b>	<b>5</b>	<b>35</b>	<b>72</b>	<b>91</b>	<b>0</b>	<b>79</b>	<b>55</b>	<b>561</b>
<i>Towns, Plantations, Townships, and (Islands) served by the LUPC</i>		<i>123</i>	<i>31</i>	<i>16 (71)</i>	<i>1</i>	<i>3 (88)</i>	<i>3 (37)</i>	<i>21</i>	<i>46</i>	<i>90 (109)</i>	<i>1</i>	<i>88</i>	<i>37 (70)</i>	<i>459 (308)</i>

Aroostook (AR); Franklin (FR); Hancock (HA); Kennebec (KE); Knox (KN); Lincoln (LN); Oxford (OX); Penobscot (PE); Piscataquis (PI); Sagadahoc (SA); Somerset (SO); Waldo (WL); Washington (WA)

<sup>1</sup> The LUPC’s permitting data represent activities that required permit approval from the LUPC when applicants sought permit approval. Generally, approval is sought prior to commencement of the activity requiring a permit. In some instances, individuals apply for after-the-fact permits for activity previously undertaken without the required permit. This table and the following tables include after-the-fact permits in the totals. Additionally, some activities do not require permit approval. Permitting trends only loosely reflect development trends, in that an unknown number of activities permitted by the LUPC may not have been started or may not have been completed. Additionally, some activities may have been completed without a permit where a permit was required.

**Table 3. Permit Processing, 2008-2013 Totals**

Permit Type	Permit Type Name	Total Applications Processed					
		2008	2009	2010	2011	2012	2013
BP	Building Permit	535	512	475	453	450	413
DP	Development Permit	70	67	55	79	56	46
All Other		94	73	84	81	97	102
BCP	Bridge Construction Permit	6	4	2	1	1	3
FOP	Forest Operation Permit	18	14	22	16	23	13
GP	Great Pond Permit	21	8	9	26	30	36
HP	Hydropower Permit			1	1		0
RP	Road Construction Permit	4	3	3	9	10	4
SA	Shoreland Alteration Permit	6	5	12	4	4	9
SD	Service Drop Permit	17	19	19	7	15	18
SLC	Site Law Certification	na	na	na	na		5
SP	Subdivision Permit	7	9	5	7	2	4
ULP	Utility Line Permit	5	4	7	4	3	3
WL	Wetland Alterations Permit	3	1	1	1	2	2
ZP	Zoning Petition	7	6	3	5	7	5
<b>TOTAL</b>		<b>699</b>	<b>652</b>	<b>614</b>	<b>613</b>	<b>603</b>	<b>561</b>

**Table 4. Permit Processing, 1971-2012 Annual Average by Outcome**

Permit Type	Permit Type Name	Annual Average of Applications Processed					Total
		Approved	Approved / Disapproved in-part	Disapproved	Application Withdrawn	Application Returned	
BP	Building Permit	530	2	12	27	1	572
DP	Development Permit	71	1	2	6		80
All Other		127	1	4	9		141
BCP	Bridge Construction Permit	6			1		7
FOP	Forest Operation Permit	24			2		26
GP	Great Pond Permit	26	1	2	1		30
HP	Hydropower Permit	1					1
RP	Road Construction Permit	7			1		8
SA	Shoreland Alteration Permit	6					6
SD	Service Drop Permit	8					8
SP	Subdivision Permit	13		1	2		16
ULP	Utility Line Permit	19					19
WL	Wetland Alterations Permit	2					2
ZP	Zoning Petition	15		1	2		18
<b>TOTAL</b>		<b>728</b>	<b>4</b>	<b>18</b>	<b>42</b>	<b>1</b>	<b>793</b>

In administering its land use standards, the Commission also issues a range of other determinations regarding land uses and development, including: advisory rulings, boat launch notifications, certifications of compliance, coastal zone management area consistency reviews, letters of exemption, review and approval of certain activity permitted by the Maine Forest Service, and water quality certifications. While these actions do not involve the issuance of permits, they are official determinations made by the Commission regarding allowed land uses and development, and current standards. Table 5 presents the number of these determinations processed, by type. Appendix B describes each type of action listed in Table 5.

**Table 5. Other Land Use Determinations, 2013**

Determination Type	Actions Processed
Advisory Rulings	15
Boat Launch Notifications	0
Certifications of Compliance	56
Coastal Zone Management Area Consistency Determinations	2
Letters of Exemption	0
Maine Forest Service Review and Approvals	3
Water Quality Certifications (not incorporated in other permits)	0
<b>TOTAL</b>	<b>76</b>

**B. Time for Rendering a Decision**

The Commission utilizes a database referred to as the Geographic Oriented Action Tracker (GOAT) to manage and track permitting activities. Many stages of the permit review process are cataloged in GOAT. For example, an action status and date are entered when an application is filed, when an application is deemed to be complete, when a final action or disposition occurs (e.g., approval, denial, withdrawal of application), and when a certificate of compliance is issued. The permit processing time – the time for rendering a decision – can be calculated by comparing the date when an application is deemed complete with the date of final action or disposition. The following figures and tables illustrate the processing times for the three main categories of permits – the same categories identified in the tables above:

- A. Building Permits (*i.e.*, residential development);
- B. Development Permits (*i.e.*, non-residential development); and
- C. All Other Permits.

Permit processing times may be impacted by any number of factors. For example, a thorough or well prepared application may help expedite review. Staff diligence and permitting work load also are factors. Common factors that may add to permit processing times, or otherwise warrant consideration when reviewing processing time data, include the following:

- Some permit actions may be after-the-fact permits, permits sought and issued after the development occurred without proper permit authorization. After-the-fact permits typically require additional review time due to the complexities of resolving components of the development that already exist, yet may not fully comply with the necessary rules and standards.
- Permits that are disapproved typically involve longer review times due to the effort to identify an approvable project. The same is true for withdrawn applications. (*See* Table 8 below.) In many instances an applicant may choose to withdraw a proposal rather than proceed and obtain a formal denial.
- Permit processing times may include periods when applications were put on hold to await information from the applicant.
- Some permit processing times include time required for review by outside agencies,

notice periods preceding public comment, public comment periods, public hearings and the associated notice period, and/or presentation to the Commission for action at a monthly business meeting. Permits in the “All Other” category often are more complicated and trigger the additional procedural requirements noted here.

The following Figures A, B, and C show the percentage of permits processed within a given time period. These figures show, for example:

- Building Permits – Of the 413 building permit applications, the Commission processed 65.9 percent in less than one full day and 89.1 percent in a week or less.
- Development Permits – Of the 46 development permit applications, the Commission processed 47.8 percent in a week or less and 73.9 percent in three weeks or less.
- All Other Permits – Of the 102 permit applications in the all other category, the Commission processed 45 percent in less than one full day and 73 percent in two weeks or less.

Figure A. Permit Processing Times, 2013 – Building Permits

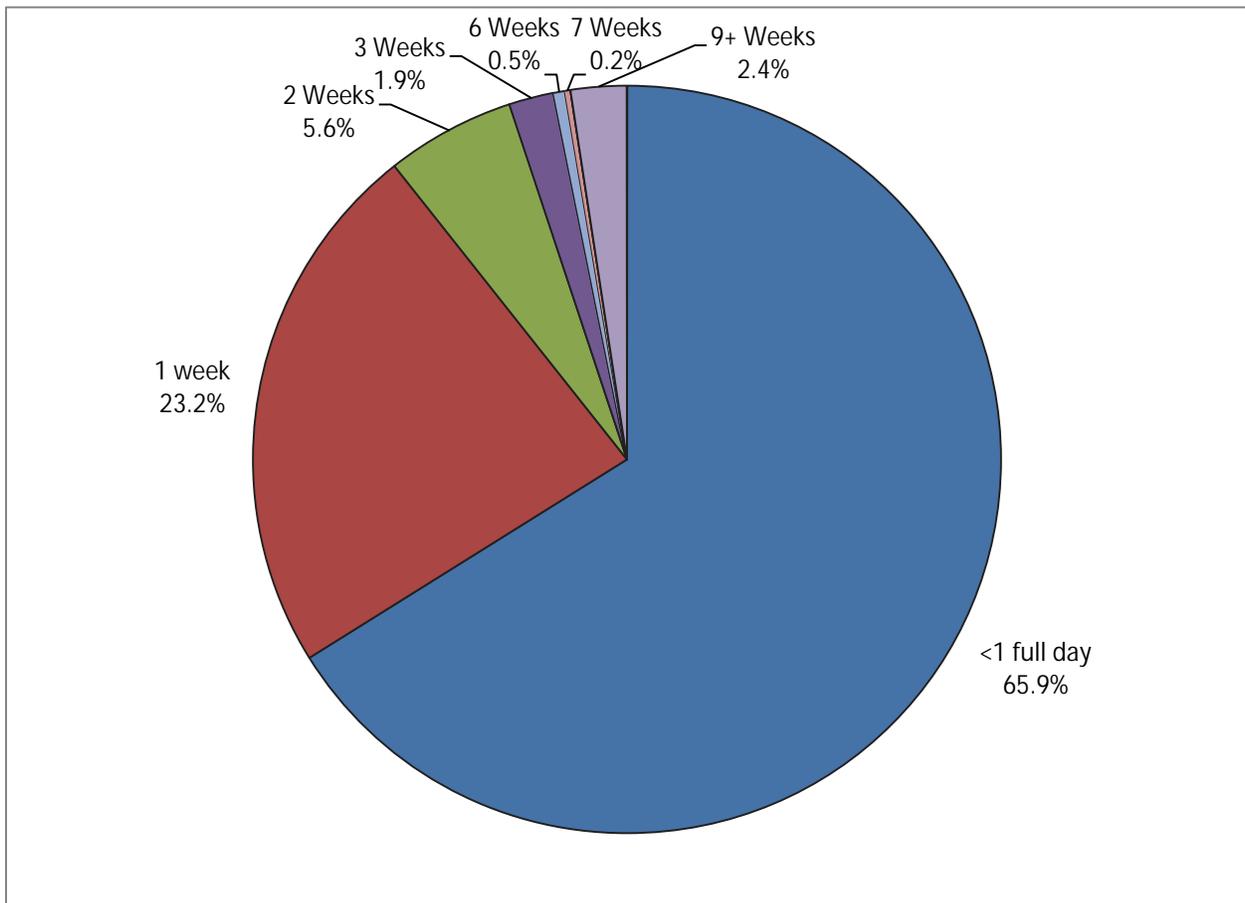


Figure B. Permit Processing Times, 2013 – Development Permits

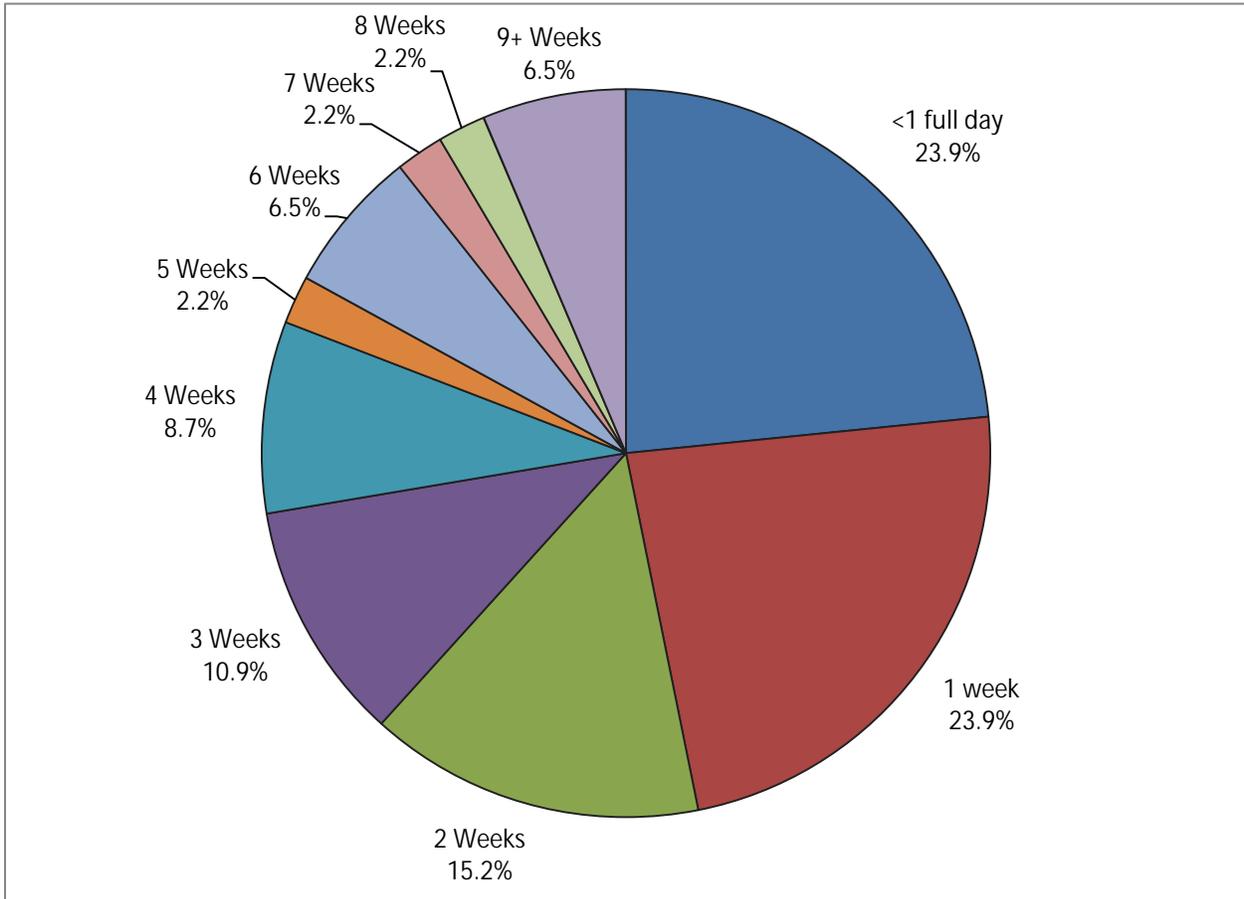
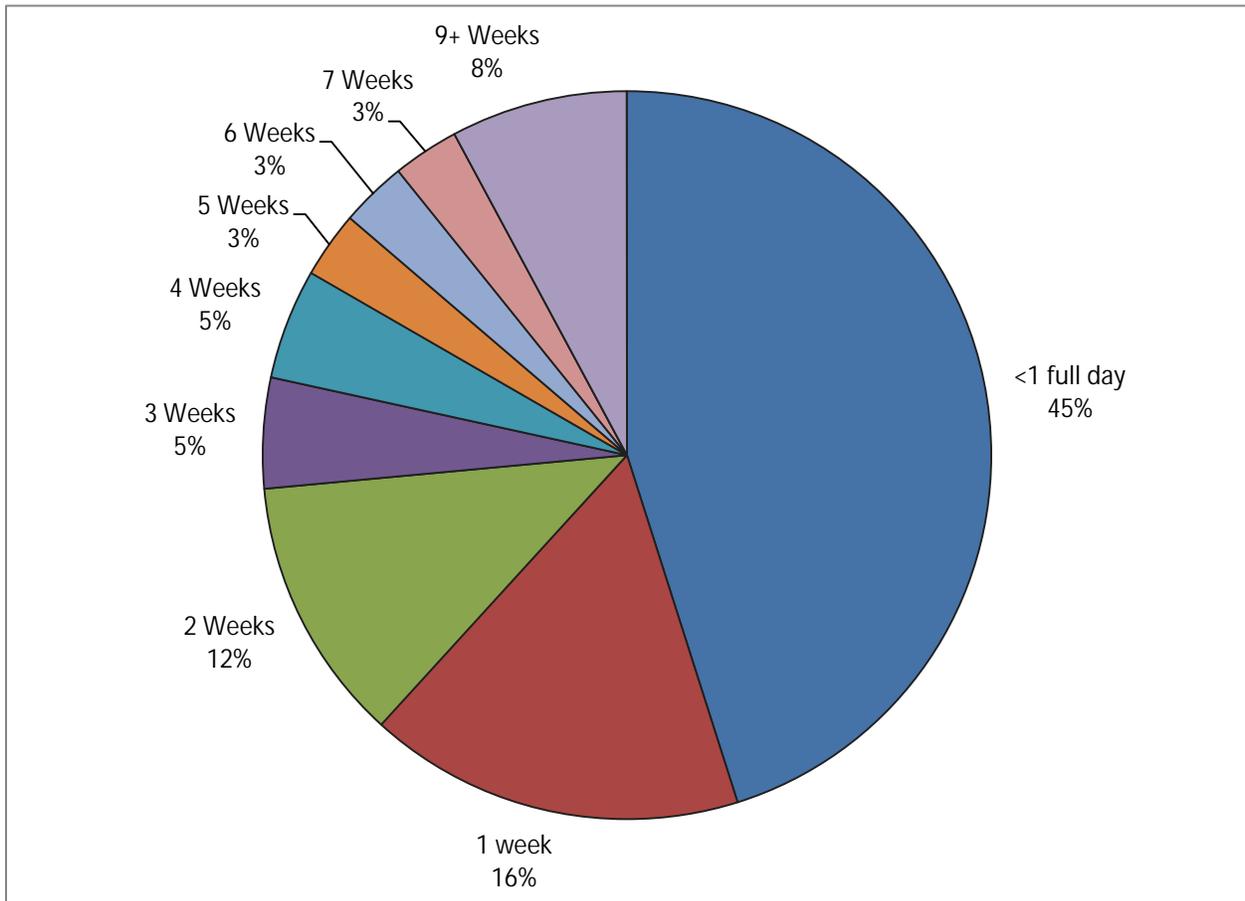


Figure C. Permit Processing Times, 2013 – All Other Permits



Tables 6 and 7 present the average and median processing times for 2013 and, to provide context, for the preceding four years. The data for the Table 6 calculations are the same data reflected in Figures A, B, and C above. Also to provide context, Table 8 presents both the average and median processing times for all types of permits, in aggregate, based on the type of action (e.g., approval, disapproval). In each of the following three tables, for the specified category of permit:

- Average = the sum of the processing time for all permit actions divided by the number of actions
- Median = the processing time in the middle of the of the range of processing times for all permit actions

Where the Commission determined an application was complete and made a final permitting decision the same day, the processing time is less than one full day. In calculating the average and median permit processing times, permitting decisions made in less than one full day are assigned a processing time of zero days. A median processing time of less than one full day (i.e., <1) means the Commission made a final permitting decision on at least half of the applications on the same day the application was deemed complete.

**Table 6. Permit Processing Times, 2013**

Permit Type	Processing Times (Days)	
	Average	Median
Building Permit (BP)	44.7*	<1
Development Permits (DP)	17.8	8
All Other Permits	15.7	1

*Note: If the six building permit applications noted below are excluded, the average building permit processing time is 3.7 days. In late 2012 and early 2013, the Commission conducted a comprehensive review of all pending matters. This review identified a handful of permit applications that had been pending for multiple years and were not being actively worked. Six of these applications were finally acted on in 2013, with three remaining applications that either have or will be acted on in 2014. Of the six applications acted on in 2013, four were not transferred to a new staff person when the staff member handling the matter left the LUPC (then LURC). One appears to have been handed off to another staff person without the recipient’s knowledge, and one was put on hold due to a separate land use violation on the property. The Commission now monitors and reviews the status of pending permit applications by looking not just at the applications assigned to current staff, but also at all pending matters in order avoid overlooking potentially pending matters mistakenly still assigned to former staff.*

**Table 7. Annual Permit Processing Times, 2009-2012**

Permit Type	2009		2010		2011		2012	
	Average (Days)	Median (Days)						
Building Permit (BP)	7	<1	7	7	7	<1	4	<1
Development Permits (DP)	25	8	24	25	24	8	98	11
All Other Permits	35	9	47	35	47	9	38	3

**Table 8. Permit Processing Times by Outcome, 2009-2013**

Action Type (Outcome)	Processing Time (Days)		Percent of All Actions
	Average	Median	
Approvals	18	1	98.8%
Approval/Disapproval in-part	73	71	0.1%
Disapprovals	245	50	0.4%
Withdrawn	1,852	1,642	0.3%
Returned	463	65	0.5%

**C. Preapplication Consultation Activities**

The Commission has developed procedures by which an applicant may request a public preapplication consultation meeting with the Commissioners to discuss a project. This is an option provided for in P.L. 2011, ch. 682. Staff routinely notify potential applicants of this option. In 2013, the Commission held two preapplication meetings, both with the same prospective applicant regarding a proposed concept plan in Aroostook County. One of the preapplication meetings involved a day-long site visit, which also was attended by members of the public. Other prospective applicants have expressed appreciation that they may request a preapplication meeting with the Commission and have indicated they may take advantage of this opportunity as they get closer to filing an application.

Additionally, Commission staff routinely meet with prospective applicants in order to provide assistance and guidance regarding the application processes. Staff also provide opportunities for unofficial but documented staff opinion through Advisory Rulings and Letters of Exemption. In 2013 the staff issued 15 advisory rulings.

**D. Community Guided Planning and Zoning**

The 2012 reform legislation directed the Land Use Planning Commission to “initiate prospective zoning in the unorganized and deorganized areas of the State” and to “coordinate prospective zoning in cooperation with efforts of local planning organizations and regional planning and development districts.” After conducting extensive outreach, in 2012 the Commission sought to identify those interested in participating in Community Guided Planning and Zoning – the prospective zoning directed by the Legislature. The Commission received fifteen letters of interest from county governments, nonprofit organizations involved with planning and/or economic development, representatives of property owners, private citizens, citizen groups, and resource agencies expressing a desire to participate. Six distinct regions emerged from the letters of interest. On February 1, 2013, the Commission selected Aroostook County, in partnership with the Northern Maine Development Commission (NMDC), to be the first region to participate in Community Guided Planning and Zoning.

In June, following a series of stakeholder meetings jointly coordinated by NMDC and the Commission, the local stakeholder group and then the NMDC Executive Board approved a framework document for the Aroostook County region. The Commission approved the document at its regular monthly meeting in July. This process document establishes the procedure for the various interests in this region to work together to develop land use recommendations that best serve the region and help the region fulfill its own vision. Those

prospective or proactive planning recommendations may include zoning or other approaches or combination of approaches.

With the groundwork laid, Community Guided Planning and Zoning began in earnest with an October meeting in Caribou. This meeting was, and the planning and zoning effort to come will be, led by NMDC and a thirteen member Steering Committee representing the county, municipalities, service providers, business owners, land owners, agricultural interests, environmental organizations, recreation/guide/sporting industry, Native American tribes, and permanent resident camp owners. The Steering Committee was appointed by, and is advisory to, the NMDC Executive Board. The Steering Committee will conduct fact finding and research, identify areas of focus, develop recommendations, and seek and respond to public input at key stages of the process. This committee is responsible for approving the draft final report and recommendations before forwarding them to the NMDC Executive Board for action. NMDC budgeted \$150,000 and has estimated the project will run for more than a year.

This is an exciting project in which the Commission is involved. Throughout the CGPZ process, Commission staff will assist NMDC and the Steering Committee by providing information and highlighting relevant statutory requirements to help ensure that the results of the Aroostook region's commitment of time and resources will both achieve local goals and be consistent with the Commission's statutory review criteria and statutory purpose, as well as with the guiding principles adopted by the Commission at the outset of this prospective planning and zoning process. Among the information sources already available to the participants and the public are a two-page handout describing the project (*see* Appendix D) and the NMDC<sup>2</sup> and LUPC<sup>3</sup> webpages providing background material and current information.

The Commission also has reached out to the other five regions that were not selected as the initial GCPZ region to ask if there are any interim projects those regions would like to undertake in cooperation with the Commission, and to gauge their continued interest in participating in Community Guided Planning and Zoning. The Commission anticipates continuing to communicate with the other regions to help them prepare for a future round and/or take immediate steps that would be less comprehensive and resource intensive than broad-scale prospective planning and zoning, but meet their immediate zoning needs. Additionally, the Commission will conduct a review of the Prospective Zoning Plan for the Rangeley Lakes Region to assess how well that plan and zoning has worked, whether it might benefit from some adjustments or amendments, and to apply lessons and products from that process to the current prospective zoning efforts.

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<sup>2</sup> [www.nmdc.org/planning/CGPZ.html](http://www.nmdc.org/planning/CGPZ.html)

<sup>3</sup> [www.maine.gov/dacf/lupc/projects/community\\_guided\\_planning/community\\_guided\\_planning\\_zoning.html](http://www.maine.gov/dacf/lupc/projects/community_guided_planning/community_guided_planning_zoning.html)

## **E. Staff and Commissioner Training**

### **1. Staff Training and Customer Service**

In 2013, Commission staff attended both internal and external training sessions and workshops intended to help with the delivery of quality customer service. For example, some of the training focused directly on how to work collaboratively with the public to resolve potentially contentious issues. Other sessions focused on promoting consistency across regional offices and providing staff with the substantive knowledge to be best positioned to answer questions and address challenges individual property owners may have or face. While this type of training is not focused directly on customer service, it positions staff to provide the quality service the Commission strives to provide.

External staff training in 2013 included:

- *Getting to Yes* – On one of two days (February 12 or April 24), permitting and compliance staff attended the all-day training, *Getting to Yes*. The program introduced skills that can be used to transform a potentially adversarial process to one of mutual problem solving.
- *Property Access Training* – On June 24, permitting and compliance staff attended training with presenters from the Office of the Attorney General that focused on private property rights and Maine law governing access to property by individuals conducting official duties. The training also addressed the 4<sup>th</sup> Amendment to the U.S. Constitution, the proper procedures for gaining site access, and other issues concerning property access.
- *Natural Resource & Soils* – On September 4, several Commission staff participated the 2013 MAPSS/MAWS/MASE/SSSNNE Soils and Natural Resource Workshop held at Mt. Blue State Park in Weld, Maine. This workshop combined soil evaluation with natural resource identification and included discussion of regulatory issues faced by the Commission and other agencies with permitting responsibilities.
- *Streams and Stream Crossings* – On October 22, several staff from the Commission, along with multiple State and federal agencies, participated in a Stream-Smart Workshop. The training was held to educate staff how to maintain fish and wildlife habitat while protecting roads and public safety. It also was intended to help prepare for large storm events that have been washing out roads around the State and the northeast.
- *Development in Flood Prone Areas* – The Federal Emergency Management Agency (FEMA) is in the process of updating its flood maps for many coastal areas in Maine. In November, Commission staff attended a 2-day training workshop put on by the Maine Floodplain Management Program. The training provided staff with an overview of mortgage loan inspections, boundary surveys, and flood hazard determinations. It also discussed subdivisions in the floodplain, gave an update of FEMA flood hazard mapping, and reviewed GIS capabilities. The training better prepared staff for assisting owners of property in floodplain areas.

Internal training in 2013 included:

- *Permit Processing and Data Management* – On January 9, 2013, the Commission held a half day training session to discuss permit processing procedure and to review and educate all staff on the proper procedure for entering data into the Geographically Oriented Action Tracker database (GOAT). GOAT is used by all Commission staff for multiple purposes, including entering and tracking permits, entering and monitoring enforcement actions, and logging site visits. The training increased staff's knowledge of the database, increased consistency with data management, underscored the importance of efficiently and effectively processing permit applications, and facilitated discussion about ways to improve both permit processing and data management.
- *Consistency* – On July 18, all Commission staff participated in a full-day training session to discuss implementation of the new rules pertaining to recreational lodging, forestry, and certification of Site Law projects permitted by DEP. This training was designed to help the Commission provide consistent and reliable customer service throughout the unorganized and deorganized areas.

Customer service and consistent application of the Commission's standards across the LUPC's offices is a Commission priority. In the late fall of 2012, a new permitting and compliance manager, headquartered in the Bangor, joined the Commission. To help identify common permitting questions that arise across the Commission's offices and ensure consistent application of the Commission's standards, throughout 2013 the manager has regularly traveled to the regional offices to discuss, in person, ongoing permit review. In 2014 there will be a continued effort by the manager and permitting and compliance supervisor to make regular visits to the regional offices to directly review challenging applications or difficult enforcement cases one-on-one with the staff. This will help increase the consistency in the application of the Commission's standards. Additionally, the manager holds monthly conference calls for all permitting and compliance staff to better facilitate cross-office dialogue, identify and resolve inconsistencies in approaches to applying the Commission's standards, provide staff an opportunity to discuss strategies for improvement, and help staff across all offices function as a team. Quality customer service is the intended result.

## **2. Commissioner Orientation and Continuing Education**

All new Commissioners receive an orientation/training session prior to their first meeting. This orientation involves a discussion of the controlling statutory and regulatory provisions, the functions served by the Commission and its staff, and the various resources that a Commissioner may refer to for assistance. In addition, orientation also includes a discussion of the legal roles and responsibilities of Commissioners lead by an Assistant Attorney General (AAG).

Over the course of a year, the Commission also schedules agenda items at its regular, monthly meetings that serve as annual continuing education on Title 12, chapter 206-A; Commission rules; and planning and regulatory processes. For example, in 2013 topics presented to the Commission included the scope of the Commission's statutory and regulatory enforcement authority, an overview of concept plans, how they function, and the Commission's role in reviewing concept plan proposals, and the purpose and function of resources plans. An example

of anticipated continuing education in 2014 involves presentations on potential conflicts of interest that may arise for private citizens serving on a commission, the Commission's role in reviewing variance requests, and Commissioners' responsibilities when participating in site visits.

#### **IV. Commission Goals for 2014**

Throughout each year, the Commission reviews its goals and priorities in order to best focus its efforts and most efficiently use its resources. Presently, the Commission's goals for 2014 include:

- Assisting Aroostook County and the Northern Maine Development Commission with Community Guided Planning and Zoning.
- Working with regions to identify a second area to participate in Community Guided Planning and Zoning and beginning the prospective planning and zoning process.
- Implementing the recent recreational lodging rule changes and working with owners and prospective owners of recreational lodging facilities to both understand and take advantage of the opportunities created by the rule changes.
- Reviewing the Commission's subdivision rules and, working with stakeholders, evaluating how existing Level 2 subdivision standards and existing subdivision approval requirements may be improved.
- Coordinating with local officials and individuals affected by the Prospective Zoning Plan for the Rangeley Lakes Region to evaluate how the Plan is serving the region.
- Reviewing the Commission's Land Use Districts and Standards and updating sections identified as needing improvement
- Completing rulemakings to be prepared for implementation of the Maine Metallic Mineral Mining Act.
- Reviewing and updating Chapter 10 rules so they are consistent with the requirements of the Natural Resources Protection Act.
- Continuing update of permit application forms to improve efficiency and ease of use by applicants.
- Finalize guidance document providing an overview of the concept planning process and plan components.

The Commission anticipates adding to this list as the year progresses and new issues emerge and as new legislation is adopted.

Finally, throughout the year and in addition to its list of goals and policies, the Commission and its staff are committed to working to provide efficient, quality service to the people with whom they interact and the people of this State.

**Appendix A:  
LUPC Commissioners**

**Commission Membership as of December 31, 2013**

Gwendolyn Hilton, Starks, Chair (appointed by Somerset County)  
Robert Dunphy, Embden, Vice Chair (appointed by Governor)  
William Gilmore, Freeman (appointed by Governor)  
Durward Humphrey, Benedicta (appointed by Governor)  
Charlie Pray, Millinocket (appointed by Penobscot County)  
Michael Theriault, Greenville (appointed by Governor)  
Paul Underwood, Presque Isle (appointed by Aroostook County)  
Everett Worcester, Orville (appointed by Piscataquis County)  
Vacant (to be appointed by Washington County)

## Appendix B: Types of LUPC Permits and Actions

### Action Types

Each application received by the Maine Land Use Planning Commission is reviewed and results in a final action or disposition. Final action or disposition includes the following outcomes:

- *Approved* – The proposed activity meets the necessary standards; a decision (*i.e.*, permit) indicating approval is issued by staff or the Commission.
- *Approved / Disapproved in-part* – Parts of the proposed activity meet the necessary standards and are approved, and parts of the proposed activity do not meet the necessary standards and are disapproved. A decision (*i.e.*, permit) indicating the approved and disapproved components is issued by staff or the Commission.
- *Disapproved* – The proposed activity does not meet the necessary standards; a decision (*i.e.*, denial) is issued by staff or the Commission.
- *Application Withdrawn* – The applicant chooses to withdraw their application prior to final action by staff or the Commission. The application is returned and no final action is issued by staff or the Commission.
- *Application Returned* – The application is incomplete and the applicant has made insufficient effort to address the issue(s). The application is returned and no final action is issued by staff or the Commission.

### Permit Types & Land Use Determinations

The Commission uses a variety of action types to identify and record various permitting actions and land use determinations. Each action includes the action type and number (*e.g.*, AR 95-001, BP 123, and ZP 456) at the top of the document and a corresponding entry in the LUPC’s database – Geographic Oriented Action Tracker (GOAT). The following summarizes the various types of permits and land use determinations:

Type	Permit Type	General Description <sup>4</sup>
AR	Advisory Ruling	A documented yet informal staff opinion requested at the option of the landowner / developer. Applicants typically seek advisory rulings in order to receive advice as to whether or not a permit is required for specified activities, or for the interpretation of specified provisions of the Commission’s rules. ( <i>See</i> LAR and LOE below.)
BCP	Bridge Construction Permit	Permits for the construction, replacement or repair of bridges.

<sup>4</sup> Chapter 10 of the Commission’s rules, *Land Use Districts and Standards*, contains specific criteria and standards.

Type	Permit Type	General Description <sup>4</sup>
BLN	Boat Launch Notice	A landowner notification to the LUPC, after providing their intent to file notice yet prior to construction or repair of a boat launch, in accordance with 10.27,L of the Commission’s <i>Land Use Districts and Standards</i> .
BP	Building Permit	Permits for activities associated with residential development that requires a permit ( <i>e.g.</i> , activities involving: a camp, a garage, porches, etc.).
COC	Certificate of Compliance	A Commission document confirming the development, activity, and/or use complies with both the applicable rules and permits issued.
CZMA Consistency Determination	Coastal Zone Management Area Consistency Determination	A letter from the LUPC staff regarding concurrence with the Federal Consistency Determination; that the proposed activities, in Federal Waters within the coast of Maine, do not trigger review by the LUPC. (16 U.S.C. § 1456(c) and 15 C.F.R, Part 930, Subpart C)
DP	Development Permit	Permits for activities associated with non-residential development that requires a permit ( <i>e.g.</i> , activities involving: commercial sporting camps, retail store, warehouse, mill, wind turbines, campground, resort, etc.)
FOP	Forestry Operations Permit	Permits for forest operations that exceed the standards of Section 10.27,E of the Commission’s <i>Land Use Districts and Standards</i> or are located within a Development Subdistrict or the Mountain Area Protection (P-MA) Subdistrict. FOPs issued after July 15, 2013, depending upon the subdistricts involved, may differ from FOPs issued before that date. ( <i>See</i> MFS-RA below for more details.)
GP	Great Ponds Permit	Permits for activities affecting great ponds ( <i>i.e.</i> , bodies of standing water greater than 10 acres in size). Activities permitted as a Great Ponds Permit include but are not limited to, permanent docks, dredging, some boat launches/ramps, breakwaters, and retaining walls.
HP	Hydropower Permit	Permits for and relating to hydropower activities.
IFN	Intent to File Notice	A landowner notification to the LUPC, of their intent to file a Boat Launch Notification (BLN) described above, in accordance with 10.27,L of the Commission’s <i>Land Use Districts and Standards</i> .

Type	Permit Type	General Description <sup>4</sup>
LAR	Letter of Exemption/Advisory Rulings	A letter from the LUPC staff confirming the proposed activity is exempt from one or more provisions of the Commission’s rules and therefore does not require permit approval and a documented, but informal, staff opinion regarding other aspects of the specified project. LARs are issued when both an Advisory Ruling and a Letter of Exemption are appropriate. ( <i>See AR and LOE herein.</i> )
LOE	Letter of Exemption	A letter from the LUPC staff confirming the proposed activity is exempt from one or more provisions of the Commission’s rules and therefore does not require permit approval. Historically, LOEs were issued only for utility lines that were exempt; however, as of 2011 they are used for any proposed activity that is exempt from either the Commission’s review or exempt from permit approval. ( <i>See AR and LAR above.</i> )
MFS-RA	Maine Forest Service Review and Approval	Review and approvals issued by the Commission for timber harvesting activities that are permitted by the Maine Forest Service (MFS) (12 M.R.S.A. § 685-A(12)). As of July 15, 2013, the MFS regulates timber harvesting, land management roads, water crossings on/for land management roads, and gravel pits less than five acres in size in management and protection subdistricts. When these activities require a permit from the MFS and are conducted in the Unusual Area Protection (P-UA), Recreation Protection (P-RR) and Special River Transition Protection (P-RT) subdistricts, Commission approval is required before the MFS may issue a permit. In these cases, the Commission must determine whether or not the project conforms to its standards that are not otherwise regulated by the MFS. Commission review focuses largely on impacts to existing uses, such as recreational, historic, cultural, or scenic resources, with the technical review of these activities remaining with the MFS. These activities, when conducted in development subdistricts and in development areas in Resource Plan Protection Subdistricts (P-RP) are regulated by the Commission, and not the MFS.
MISC	Miscellaneous	Applications returned or withdrawn prior to assignment of permit type. In GOAT queries these applications will be identified by the unpopulated “Permit_Type” and “ActionNumber” fields.

Type	Permit Type	General Description <sup>4</sup>
RP	Road Construction Permit	Permits for the construction, realignment, and substantial repair of roads (excluding land management roads).
SA	Shoreland Alteration Permit	Permits for activities affecting the shoreline of lakes, ponds, rivers, or streams ( <i>e.g.</i> , activities involving: riprap, dredging, permanent docks, the intrusion of structures into or over a wetland or waterbody, and utility lines within or buried beneath a wetland or waterbody).
SD	Service Drop	Permits for certain utility lines. See Section 10.02 of the Commission’s <i>Land Use Districts and Standards</i> . Some building permits (BP) and development permits (DP) include(d) authorization of a service drop.
SP	Subdivision Permit	Permits to create new lots where the lot(s) do not qualify as exemptions, see Section 10.25,Q,1 of the Commission’s <i>Land Use Districts and Standards</i> .
SPDP	Subdivision/Development Permit	Permits regarding activities including both the subdivision and subsequent development of a land area. This permit type combined the review of and action on subdivision permits (SP) and development permits (DP). <i>Permit type no longer in use.</i>
SLC	Statutory LUPC Certification or Site Law Certification	Certifications issued by the Commission for projects that trigger review by the DEP according to Site Law. In these cases, the Commission must certify whether the use is allowed in the subdistrict(s) in which it is proposed and whether the project conforms to Commission’s standards that are not otherwise effectively applied by the DEP. Projects that typically trigger Site Law include: larger subdivisions, larger commercial development, and grid-scale wind development.
ULP	Utility Line Permit	Permits for certain utility lines ( <i>e.g.</i> , activities involving: electric power transmission or distribution lines, telephone lines, etc.) that require a permit and therefore do not qualify as an exemption or as a Service Drop described above.
WL	Wetlands Alteration Permit	Permits related to the alteration of wetlands ( <i>e.g.</i> , activities involving: filling or dredging of wetlands, etc.).

Type	Permit Type	General Description <sup>4</sup>
WQC	Water Quality Certification	A Commission action certifying that activities meet applicable water quality standards, pursuant to Section 401 of the U.S. Clean Water Act. <sup>5</sup> When permits are required the Commission incorporates the WQC into the permit; stand-alone WQC actions represent certification of projects that did not also require permit approval ( <i>e.g.</i> , FERC relicensing).
ZP	Zoning Petition	Petitions to rezone a specified land area to another subdistrict(s). <i>See</i> Section 10.08 of the Commission’s <i>Land Use Districts and Standards</i> .

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<sup>5</sup> Executive Order #16 FY 91/92 designated LURC (now the LUPC) as the certifying agency for issuance of Section 401 Water Quality Certifications for all activities located wholly within its jurisdiction. Section 401 is a reference to the U.S. Clean Water Act, 33 U.S.C. § 1341.

**Appendix C:  
Recreational Lodging Initiative  
Informational Sheet: Part 1 – General Summary and Guide**

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## Recreational Lodging Initiative

### Informational Sheet: Part 1 – General Summary and Guide

Over the past two years the Maine Land Use Planning Commission (Commission) worked with recreational lodging facility owners and other stakeholders to understand changing market demands for recreational lodging services and identify ways in which the Commission's regulatory structure could be improved to match these changes. Based on stakeholder feedback, ideas, and concerns the Commission adopted rule revisions that address a majority of the issues identified.

This document, one of four in a series, summarizes the rule revisions for recreational lodging in the unorganized territories of Maine.

#### What the revisions are intended to accomplish

##### 1. Maximize flexibility

- Categorize uses based on impact rather than specific labels like "campground" or "sporting camp." Historically, how a facility was labeled was significant because the label influenced where a facility could be located. Determining how to label a facility was not always straight forward, especially when a facility was put to multiple uses. Impact-based regulation provides flexibility for facilities to adapt to market changes and offer multiple services at any one time or during different seasons, without worrying how they are labeled.
- Establish five categories (levels) of lodging facilities – ranging from low impact facilities (*e.g., a small campground or cabin*), to a higher impact facilities (*e.g., resort or lodging complex; specifically, Levels A through E*).
- Provide facility owners with options so they may elect to increase their facility's size or the services they offer, referred to in the rules as facility adjustments, by meeting certain standards.
- Allow recreational lodging facilities in a wider range of areas (rezonings should be necessary less often), and increase the rezoning options for current and future lodging businesses through the creation of two new recreational lodging-specific subdistricts (zones).

##### 2. Improve predictability

- Provide business owners and the public a better understanding of where different activities and facilities are allowed, particularly multi-use facilities that have been more challenging to define in the past.
- Incorporate existing policies and practices into rule so that the expectations for prospective applicants are clear (*e.g., how to: measure square footage limits, handle conversion of recreational lodging to another use, and evaluate what constitutes "transient occupancy" in a campsite or campground*).

##### 3. Support Maine's recreational lodging industry

- Increase existing limits to allow facilities to respond to changing market demands.
- Allow traditional and new types of recreation facilities that are consistent with jurisdiction values, economic needs, and traditional uses.
- Allow lodging facilities in more locations where other commercial development may not be appropriate.

##### 4. Respect traditional uses

- Retain existing: i) reconstruction rights for legally existing, nonconforming structures within a commercial sporting camp; and ii) attention to existing sporting camps when reviewing nearby development proposals.
- Protect commercial sporting camp brand from dilution by allowing other recreational uses to be located appropriately without having to awkwardly categorize these other uses as sporting camps.

In balancing flexibility, predictability, and appropriate resource protections, the categorization system was found to be the simplest way to achieve all three goals.

## Section-specific Overview of Changes to Chapter 10

The following is a section-by-section overview of the changes to the Commission's Land Use Districts and Standards. This list does not capture every change and is intended only as a brief summary of the revisions.

- **Section 10.02 Definitions** – amended to clarify existing terms and add new definitions for terms that result from the categorization system.
- **Section 10.11,C Nonconforming Structures** – amended to clarify standards regarding how nonconforming structures within a commercial sporting camp can be reconfigured, and how outpost cabins are considered part of a commercial sporting camp, while retaining the ability for legally existing, nonconforming structures within a commercial sporting camp to be reconstructed in place.
- **Section 10.21 – 10.23 Development, Management, and Protection Subdistricts** –
  1. Revises use listings that implement the categorization system (e.g., “Recreational lodging facilities: Level C”).
  2. Adds two new subdistrict options. While the traditional subdistricts accommodate a range of facility levels, some sites would need to be rezoned in order to be developed with a recreational lodging facility. Two new subdistricts address common issues specific to rezoning for a recreational lodging facility and will make these types of rezonings more straightforward in those areas suitable for accommodating recreational lodging.
- **Section 10.26,A, D, and G Dimensional Requirements** – amended to incorporate the lodging categories within existing dimensional requirements.
- **Section 10.27,Q Recreational Lodging Facilities** – a new set of activity-specific standards:
  1. Recreational lodging categories – categorizes recreational lodging facilities into one of five different facility levels, based on impacts. (*Factors considered in evaluation of impact include: on-site recreation features, retail space, utilities, floor area, footprint of clearing near a waterbody, overnight occupancy, and the availability of dining amenities, fuel, and recreation services to the general public*).
  2. Facility adjustments – adds tools to adjust what a facility can include and how or where a facility is allowed in order to provide an additional layer of flexibility.
  3. Geographic allowance areas – provides, at a broad and general scale, a mechanism to allow more services or moderately intense facilities in locations that are especially appropriate for the subsequent increased traffic and demand for services.
  4. Clarifies existing policies – incorporates into the revised rule existing policies regarding:
    - § how to measure square footage limits;
    - § if and how RVs can be modified and stored at campgrounds; and
    - § if and how a recreational lodging facility may convert to another use.
  5. Water-dependent structures – allows facilities to include small structures near waterbodies for equipment or safety, with limitations on use, size, and location, as well as requirements for screening.

### For more information:

- [www.maine.gov/dacf/lupc/projects/recreational\\_lodging/recreational\\_lodging.shtml](http://www.maine.gov/dacf/lupc/projects/recreational_lodging/recreational_lodging.shtml)
- contact the LUPC office that serves your area: **Ashland Office** – (207) 435-7963; **Downeast Office** – (207) 941-4052; **East Millinocket Office** – (207) 746-2244; **Greenville Office** – (207) 695-2466; **Rangeley Office** – (207) 670-7493; **Augusta Office** – (207) 287-2631; or
- contact Tim Beaucage at (207) 287-4894 or [timothy.beaucage@maine.gov](mailto:timothy.beaucage@maine.gov)

**Appendix D:  
Community Guided Planning and Zoning Information**

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## COMMUNITY GUIDED PLANNING & ZONING INFORMATION

### INTRODUCTION

Community Guided Planning & Zoning (CGPZ) is an initiative of the Maine Land Use Planning Commission (LUPC or Commission) through which the Northern Maine Development Commission will assist Aroostook County to proactively plan for land uses in its unorganized and deorganized areas (the UT). This prospective planning and zoning initiative will provide those living, working, and owning land, as well as others with a direct interest in a region, an opportunity to evaluate the present and future land use needs for their region and to develop a strategy for meeting these needs. Prospective planning and zoning also will allow the LUPC to ensure greater predictability of land use regulation for businesses, property owners, and others with an interest in the use of land and development patterns in the UT.

Many approaches to planning proactively for land use in the UT are possible through CGPZ. The goal is to produce practical and effective recommendations – perhaps for a rezoning, the creation of new zones, a transportation and infrastructure plan, an industrial growth plan, a recreation plan, an open space strategy, a habitat connectivity strategy, a comprehensive plan for a specific area, or some other approach or some combination of the above approaches – in light of the need for more prospective or proactive planning, particularly in identifying appropriate areas for economic development.

After an open application period, the LUPC selected Aroostook County as the first region to participate in the CGPZ process. The Northern Maine Development Commission (NMDC) prepared a proposal and is now facilitating the planning process. NMDC has appointed a Steering Committee representing diverse interests whose task will be to lead the planning effort, conduct regular meetings open to the public, and develop a draft final report and recommendations. As described in NMDC's Process Document – a document developed by the Steering Committee which outlines the planning structure - the process is designed to provide opportunities for a broad spectrum of residents, property owners, and interested parties to participate, as well as to allow for a respectful consideration of different views. This work will take place at meetings held by NMDC starting in the Fall of 2013, with video conferencing available, when possible. These meetings are open to anyone interested and the public is encouraged to attend.

*The first Steering Committee meeting is Wednesday, October 23<sup>rd</sup> at 9:00 AM at Caribou Inn and Convention Center in Caribou. For questions regarding the NMDC process, contact Jay Kamm, Senior Planner at 498-8736 or by email at [jkamm@nmdc.org](mailto:jkamm@nmdc.org).*

### WHAT IS PROSPECTIVE PLANNING AND ZONING?

Prospective planning and zoning is a process that allows residents, property owners, businesses and other interested parties in the UT to work together to plan for future land uses of specific areas, including to allow for new appropriate uses which may include business, residential and/or recreational uses. Rather than a "top – down" plan from a State agency, this is an opportunity for a locally-driven redrawing of the map in the UT where co-operative, "bottom – up" solutions can be agreed upon by the participants and documented for LUPC consideration.

In regions that participate in a prospective planning and zoning process, suitable areas may be identified prospectively for commercial, residential and/or recreational uses, so that businesses and property owners can propose new uses with greater assurance that the proposal is appropriate for that location.

A CGPZ process may include, or result in, rezoning of specific areas for future development. This may allow businesses or property owners to propose new uses or development without the need for seeking a rezoning of the land. This would allow proposed projects to go straight to the application processes for the actual development work, thereby simplifying and expediting the review process. New prospectively zoned areas may allow residents, property owners, businesses and other interested parties to plan ahead with greater confidence for strategic investment in land use decision-making, whether for commercial and residential development, resource management or conservation.

#### WHAT IS THE LUPC'S ROLE AND WHAT IS IT LOOKING FOR?

The LUPC is a nine-member board charged with overseeing land use planning and much of the land use permitting in the UT, an area that covers almost half of the State. The Commission acts much as a planning board would in an organized town. Among the LUPC's responsibilities, as set forth in State law, is to encourage appropriate residential, recreational, commercial and industrial land uses; to honor the rights and participation of residents and property owners in the UT while recognizing the unique value of these lands and waters to the State; to discourage the intermixing of incompatible industrial, commercial, residential and recreational activities; and to encourage well-planned and well-managed multiple uses, including conservation, of land and resources and to encourage and facilitate regional economic viability.

Ultimately, any product developed through the CGPZ process will require Commission acceptance if it is to be implemented by the Commission and any rezoning or modification to the Commission's rules must satisfy statutory criteria. Throughout the CGPZ process, LUPC staff will assist NMDC and the Steering Committee by providing information and highlighting the relevant statutory requirements. This will help ensure that the result of the Aroostook region's significant commitment of time and resources will both achieve local goals, and be consistent with LUPC's statutory review criteria as well as the Commission's statutory purpose and guiding principles.

When the LUPC receives the maps, plans or recommendations that the Steering Committee and NMDC produce, the Commission has identified a set of Overarching Principles that it will apply when determining whether to approve and act upon the recommendations. The product of the CGPZ effort and the process through which it is developed must:

- Ensure a locally driven, locally desired process
- Encourage broad participation
- Respect property owner equity
- Balance regional uniqueness and statewide consistency for stakeholders
- Be consistent with statutory purpose and guiding principles

These principles are furthered by NMDC's Process Document.

The goal of land use planning in the UT is to encourage the well-planned and well-managed multiple use, including conservation, of land and resources and to encourage and facilitate regional economic viability. It is hoped that Aroostook County will become a model for using the CGPZ process as a path to a stronger economic future.

#### WHAT CAN YOU CONTRIBUTE?

Are you a business owner, property owner, resident or otherwise familiar with some portion of the unorganized and deorganized areas of Aroostook County? Please consider participating in the Community Guided Planning and Zoning process. Your opinion and perspective will be valuable to the Steering Committee.