

## §4326. Growth management program elements

### (CONFLICT)

A growth management program must include at least a comprehensive plan, as described in subsections 1 to 4-A, and an implementation program as described in subsection 5. [PL 2019, c. 153, §4 (AMD).]

**1. Inventory and analysis.** A comprehensive plan must include an inventory and analysis section addressing state goals under this subchapter and issues of regional or local significance that the municipality or multimunicipal region considers important. The inventory must be based on information provided by the State, regional councils and other relevant local sources. The analysis must include 10-year projections of local and regional growth in population and residential, commercial and industrial activity; the projected need for public facilities; and the vulnerability of and potential impacts on natural resources.

The inventory and analysis section must include, but is not limited to:

- A. Economic and demographic data describing the municipality or multimunicipal region and the region in which it is located; [PL 2001, c. 578, §15 (AMD).]
- B. Significant water resources such as lakes, aquifers, estuaries, rivers and coastal areas and, when applicable, their vulnerability to degradation; [PL 2001, c. 578, §15 (AMD).]
- C. Significant or critical natural resources, such as wetlands, wildlife and fisheries habitats, significant plant habitats, coastal islands, sand dunes, scenic areas, shorelands, heritage coastal areas as defined under Title 5, section 3316, and unique natural areas; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]
- D. Marine-related resources and facilities such as ports, harbors, commercial moorings, commercial docking facilities and related parking, and shell fishing and worming areas; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]
- E. Commercial forestry and agricultural land; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]
- F. Existing recreation, park and open space areas and significant points of public access to shorelands within a municipality or multimunicipal region; [PL 2001, c. 578, §15 (AMD).]
- G. Existing transportation systems, including the capacity of existing and proposed major thoroughfares, secondary routes, pedestrian ways and parking facilities; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]
- H. Residential housing stock, including affordable housing, policies that assess community needs and environmental effects of municipal regulations, lessen the effect of excessive parking requirements for buildings in downtowns and on main streets and provide for alternative approaches for compliance relating to the reuse of upper floors of buildings in downtowns and on main streets and policies that provide for accessory dwelling units; [PL 2019, c. 145, §5 (AMD).]
- H-1. Housing that meets the needs of older residents, including housing that is rehabilitated, adapted or newly constructed to help older adults age in place; [PL 2019, c. 38, §5 (NEW).]
- I. Historical and archeological resources including, at the discretion of the municipality or multimunicipal region, stone walls, stone impoundments and timber bridges of historical significance; [PL 2001, c. 578, §15 (AMD).]
- J. Land use information describing current and projected development patterns; and [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

K. An assessment of capital facilities and public services necessary to support growth and development and to protect the environment and health, safety and welfare of the public and the costs of those facilities and services. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

[PL 2019, c. 38, §5 (AMD); PL 2019, c. 145, §5 (AMD).]

**2. Policy development.** A comprehensive plan must include a policy development section that relates the findings contained in the inventory and analysis section to the state goals. The policies must:

A. Promote the state goals under this subchapter; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. Address any conflicts between state goals under this subchapter; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. Address any conflicts between regional and local issues; and [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

D. Address the State's coastal policies if any part of the municipality or multimunicipal region is a coastal area. [PL 2001, c. 578, §15 (AMD).]

[PL 2001, c. 578, §15 (AMD).]

**3. Implementation strategy.** A comprehensive plan must include an implementation strategy section that contains a timetable for the implementation program, including land use ordinances, ensuring that the goals established under this subchapter are met. These implementation strategies must be consistent with state law and must actively promote policies developed during the planning process. The timetable must identify significant ordinances to be included in the implementation program. The strategies and timetable must guide the subsequent adoption of policies, programs and land use ordinances and periodic review of the comprehensive plan.

A. [PL 2001, c. 578, §15 (RP); PL 2001, c. 667, Pt. H, §1 (RP); PL 2001, c. 667, Pt. H, §3 (AFF).]

B. [PL 2001, c. 578, §15 (RP).]

C. [PL 2001, c. 578, §15 (RP).]

D. [PL 2001, c. 578, §15 (RP).]

E. [PL 2001, c. 578, §15 (RP).]

F. [PL 2001, c. 578, §15 (RP).]

G. [PL 2001, c. 578, §15 (RP).]

H. [PL 2001, c. 578, §15 (RP).]

I. [PL 2001, c. 578, §15 (RP).]

J. [PL 2001, c. 578, §15 (RP).]

[PL 2007, c. 247, §2 (AMD).]

**3-A. Guidelines for policy development and implementation strategies.** In developing its strategies and subsequent policies, programs and land use ordinances, each municipality or multimunicipal region shall employ the following guidelines consistent with the goals of this subchapter:

A. Except as otherwise provided in this paragraph, identify and designate geographic areas in the municipality or multimunicipal region as growth areas and rural areas, as defined in this chapter.

(1) Within growth areas, each municipality or multimunicipal region shall:

(a) Establish development standards;

- (b) Establish timely permitting procedures;
  - (c) Ensure that needed public services are available; and
  - (d) Prevent inappropriate development in natural hazard areas, including flood plains and areas of high erosion.
- (2) Within rural areas, each municipality or multimunicipal region shall adopt land use policies and ordinances to discourage incompatible development. These policies and ordinances may include, without limitation, density limits, cluster or special zoning, acquisition of land or development rights, transfer of development rights pursuant to section 4328 and performance standards. The municipality or multimunicipal region should also identify which rural areas qualify as critical rural areas as defined in this chapter. Critical rural areas must receive priority consideration for proactive strategies designed to enhance rural industries, manage wildlife and fisheries habitat and preserve sensitive natural areas.
- (3) A municipality or multimunicipal region may also designate as a transitional area any portion of land area that does not meet the definition of either a growth area or a rural area. Such an area may be appropriate for medium-density development that does not require expansion of municipal facilities and does not include significant rural resources.
- (4) A municipality or multimunicipal region is not required to identify growth areas within the municipality or multimunicipal region for residential, commercial or industrial growth if it demonstrates, in accordance with rules adopted by the department pursuant to this article, that:
- (a) It is not possible to accommodate future residential, commercial or industrial growth within the municipality or multimunicipal region because of severe physical limitations, including, without limitation, the lack of adequate water supply and sewage disposal services, very shallow soils or limitations imposed by protected natural resources;
  - (b) The municipality or multimunicipal region has experienced minimal or no residential, commercial or industrial development over the past decade and this condition is expected to continue over the 10-year planning period;
  - (c) The municipality or multimunicipal region has identified as its growth areas one or more growth areas identified in a comprehensive plan adopted or to be adopted by one or more other municipalities or multimunicipal regions in accordance with an interlocal agreement adopted in accordance with chapter 115 with one or more municipalities or multimunicipal regions; or
  - (d) The municipality or multimunicipal region has no village or densely developed area.
- (6) A municipality or multimunicipal region exercising the discretion afforded by subparagraph 4 shall review the basis for its demonstration during the periodic revisions undertaken pursuant to section 4347-A; [PL 2011, c. 655, Pt. JJ, §17 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]
- B. Develop a capital investment plan for financing the replacement and expansion of public facilities and services required to meet projected growth and development; [PL 2001, c. 578, §15 (NEW).]
- C. Protect, maintain and, when warranted, improve the water quality of each water body pursuant to Title 38, chapter 3, subchapter I, article 4-A and ensure that the water quality will be protected from long-term and cumulative increases in phosphorus from development in great pond watersheds; [PL 2001, c. 578, §15 (NEW).]
- D. Ensure that its land use policies and ordinances are consistent with applicable state law regarding critical natural resources. A municipality or multimunicipal region, if authorized to enact

ordinances, may adopt ordinances more stringent than applicable state law; [PL 2001, c. 578, §15 (NEW).]

E. Ensure the preservation of access to coastal waters necessary for commercial fishing, commercial mooring, docking and related parking facilities. Each coastal area may identify and designate one or more critical waterfront areas and implement policies to ensure protection of those areas or otherwise discourage new development that is incompatible with uses related to the marine resources industry; [PL 2001, c. 578, §15 (NEW).]

F. Ensure the protection of agricultural and forest resources. Each municipality or multimunicipal region shall discourage new development that is incompatible with uses related to the agricultural and forest industries; [PL 2001, c. 578, §15 (NEW).]

G. **(CONFLICT: Text as amended by PL 2019, c. 38, §6)** Ensure that the municipality's or multimunicipal region's land use policies and ordinances encourage the siting and construction of affordable housing within the community and comply with the requirements of section 4358 pertaining to individual mobile home and mobile home park siting and design requirements. The municipality or multimunicipal region shall seek to achieve a level of at least 10% of new residential development, based on a 5-year historical average of residential development in the municipality or multimunicipal region, that meets the definition of affordable housing. A municipality or multimunicipal region is encouraged to seek creative approaches to assist in the development of affordable housing and housing that meets the needs of older residents, including, but not limited to, cluster housing, reduced minimum lot and frontage sizes, increased residential densities, adaptation, rehabilitation and construction of housing that helps older adults age in place, use of municipally owned land and establishment of policies that assess community needs and environmental effects of municipal regulations, lessen the effect of excessive parking requirements for buildings in downtowns and on main streets and provide for alternative approaches for compliance relating to the reuse of upper floors of buildings in downtowns and on main streets; [PL 2019, c. 38, §6 (AMD).]

G. **(CONFLICT: Text as amended by PL 2019, c. 145, §6)** Ensure that the municipality's or multimunicipal region's land use policies and ordinances encourage the siting and construction of affordable housing within the community and comply with the requirements of section 4358 pertaining to individual mobile home and mobile home park siting and design requirements. The municipality or multimunicipal region shall seek to achieve a level of at least 10% of new residential development, based on a 5-year historical average of residential development in the municipality or multimunicipal region, that meets the definition of affordable housing. A municipality or multimunicipal region is encouraged to seek creative approaches to assist in the development of affordable housing, including, but not limited to:

- (1) Cluster housing;
- (2) Reduced minimum lot and frontage sizes;
- (3) Increased residential densities;
- (4) Use of municipally owned land;
- (5) Establishment of policies that:
  - (a) Assess community needs and environmental effects of municipal regulations;
  - (b) Lessen the effect of excessive parking requirements for buildings in downtowns and on main streets; and
  - (c) Provide for alternative approaches for compliance relating to the reuse of upper floors of buildings in downtowns and on main streets; and
- (6) Provisions for accessory dwelling units; [PL 2019, c. 145, §6 (AMD).]

H. Ensure that the value of historical and archeological resources is recognized and that protection is afforded to those resources that merit it; [PL 2001, c. 578, §15 (NEW).]

I. Encourage the availability of and access to traditional outdoor recreation opportunities, including, without limitation, hunting, boating, fishing and hiking, and encourage the creation of greenbelts, public parks, trails and conservation easements. Each municipality or multimunicipal region shall identify and encourage the protection of undeveloped shoreland and other areas identified in the local planning process as meriting that protection; [PL 2015, c. 349, §5 (AMD).]

J. Develop management goals for great ponds pertaining to the type of shoreline character, intensity of surface water use, protection of resources of state significance and type of public access appropriate for the intensity of use of great ponds within the municipality's or multimunicipal region's jurisdiction; [PL 2019, c. 38, §7 (AMD); PL 2019, c. 145, §7 (AMD).]

K. Encourage policies that assess community needs and environmental effects of municipal regulations, lessen the effect of excessive parking requirements for buildings in downtowns and on main streets and provide for alternative approaches for compliance relating to the reuse of upper floors of buildings in downtowns and on main streets; [RR 2019, c. 1, Pt. A, §40 (COR).]

L. Ensure that land use policies encourage aging in place and appropriate housing options for older residents and address issues of special concern to older adults, including transportation to and accessibility and availability of needed services; and [RR 2019, c. 1, Pt. A, §41 (COR).]

**REVISOR'S NOTE:** Paragraph L as enacted by PL 2019, c. 145, §9 is REALLOCATED TO TITLE 30-A, SECTION 4326, SUBSECTION 3-A, PARAGRAPH M

M. **(REALLOCATED FROM T. 30-A, §4326, sub-§3-A, ¶L)** Encourage policies that provide for accessory dwelling units. [PL 2019, c. 145, §9 (NEW); RR 2019, c. 1, Pt. A, §42 (RAL).] [PL 2019, c. 38, §§6-9 (AMD); PL 2019, c. 145, §§6-9 (AMD); RR 2019, c. 1, Pt. A, §§40-42 (COR).]

**4. Regional coordination program.** A regional coordination program must be developed with other municipalities or multimunicipal regions to manage shared resources and facilities, such as rivers, aquifers, transportation facilities and others. This program must provide for consistency with the comprehensive plans of other municipalities or multimunicipal regions for these resources and facilities.

[PL 2001, c. 578, §15 (AMD).]

**4-A. Addressing sea level rise.** A municipality or multimunicipal region that is in the coastal area may include in its comprehensive plan projections regarding changes in sea level and potential effects of the rise in sea level on buildings, transportation infrastructure, sewage treatment facilities and other relevant municipal, multimunicipal or privately held infrastructure or property and may develop a coordinated plan for addressing the effects of the rise in sea level. For the purposes of this subsection, "coastal area" has the same meaning as in Title 38, section 1802, subsection 1.

[PL 2019, c. 153, §5 (NEW).]

**5. Implementation program.** An implementation program must be adopted that is consistent with the strategies in subsection 3-A.

[PL 2001, c. 578, §15 (AMD).]

#### SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 271, §4 (AMD). PL 1989, c. 562, §6 (AMD). PL 1989, c. 878, §A84 (AMD). PL 1991, c. 79 (AMD). PL 1991, c. 278, §2 (AMD). PL 1991, c. 622, §F29 (AMD). PL 1991, c. 722, §7 (AMD). PL 1991, c. 722, §11 (AFF). PL 1991, c. 838, §§8-11 (AMD). PL 1993, c. 166, §§6,7 (AMD). PL 1993, c. 721, §A3 (AMD). PL 1993, c. 721, §H1 (AFF). PL 1999, c. 776, §8 (AMD). PL 2001, c. 406, §4 (AMD). PL 2001, c. 578, §15

(AMD). PL 2001, c. 592, §1 (AMD). PL 2001, c. 667, §§H1,2 (AMD). PL 2001, c. 667, §H3 (AFF). PL 2007, c. 247, §§2, 3 (AMD). PL 2011, c. 655, Pt. JJ, §17 (AMD). PL 2011, c. 655, Pt. JJ, §41 (AFF). PL 2015, c. 349, §§3-6 (AMD). PL 2019, c. 38, §§5-9 (AMD). PL 2019, c. 145, §§5-9 (AMD). PL 2019, c. 153, §§4, 5 (AMD). RR 2019, c. 1, Pt. A, §§40-42 (COR).

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