

How Do You Decide?

*A Citizen's Guide To Land Use
Decisions In Maine*

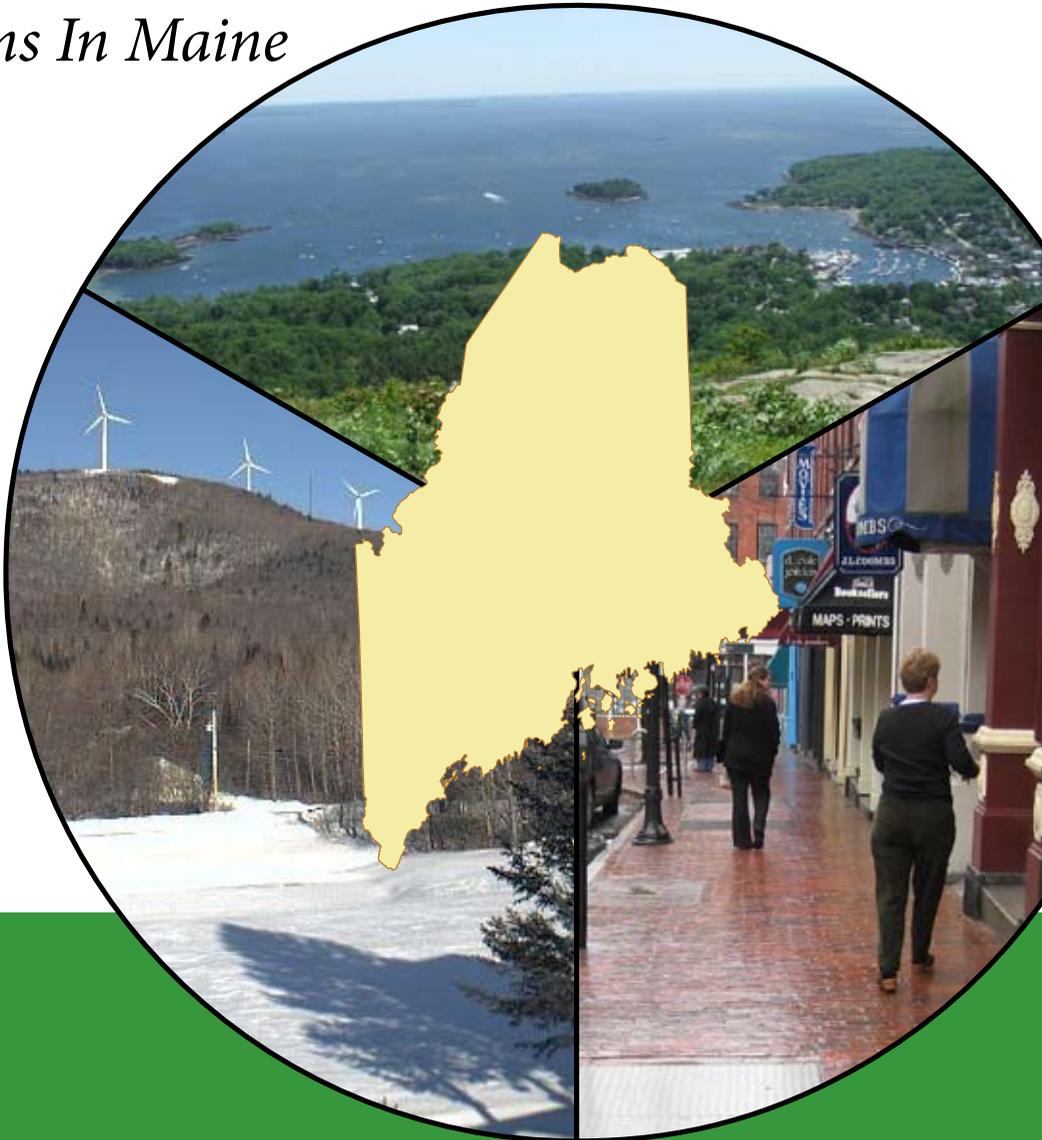
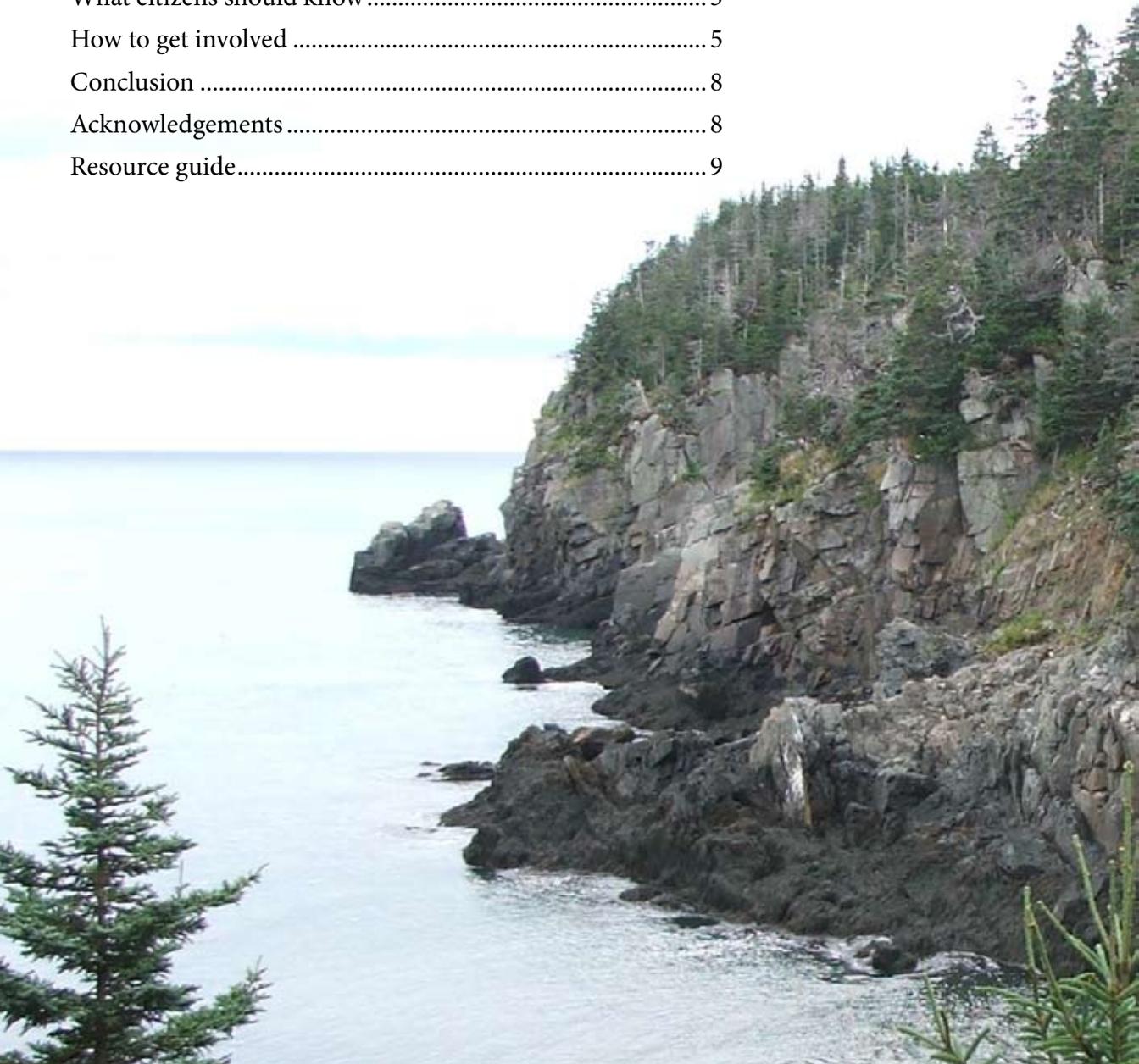


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Preface

This citizen's guide was developed as part of the 2008-2009 Leadership Maine Pi Class. Coordinated by the Maine Development Foundation and led by the peerless Cheryl Miller, the Leadership Maine program is designed to build a broad pool of talented leaders to shape our state's future.

The Leadership Maine Green Team created, researched and compiled this guide. The Green Team members are: Mick Rogers, Ginger Shubert-Seavey, Taylor Smith, Brad Swanson, Dan Walker and Kelly Williams.

Introduction

“The way a society uses its land is the best reflection of what it holds dear.”

Evan D. Richert, *Changing Maine: 1960-2010*
(Tilbury House Publishers, 2004)

Development happens.

Strip malls are built in a farmer’s pasture, and 3,000-acre resorts spring up in the middle of the woods. The fact is, where there’s available space, some enterprising developer is probably already busy drawing up plans to install the latest retail complex or mixed-use project.

Some of these developments are wonderful — they make life easier, or create dozens of new jobs. Some aren’t as wonderful — development may mean that traffic gets worse, or that recreational access is limited.

Fortunately, here in Maine, you can do something about land use development projects. This guide offers ways that citizens can get involved and make their voices heard — on the local, regional and state levels.

But before you get involved, it’s important to understand how land use decisions affect you — and why citizens need to pay attention when such projects are being planned. From taxes and jobs to traffic and public access, land use decisions can have a host of complex impacts on a town or region. Understanding these impact areas is the key to becoming an informed citizen.

This guide is for every citizen in Maine, whether one lives in Kittery or Fort Kent. Because while there are different development pressures in Portland and Portage, and in Bangor and Blue Hill, citizens have a big say in how land gets used *but only if they get involved.*

Why should citizens pay attention to land use issues?

“...no post-industrial economy we know of has grown without spreading out across the landscape to some degree. The question before us, then, is not whether we shall spread, but how and how much.”

Charles Colgan, *Changing Maine: 1960-2010*
(Tilbury House Publishers, 2004)

We can all agree that Maine has a very special quality of place. It is a major reason that most of us live here. We have deep and far-reaching forests and woods, clear running rivers and streams, breathtaking mountains and ranges, open fields, hundreds of clean lakes and ponds, a coastline of world-renowned, historic downtowns with original and authentic buildings, and lively arts and culture. This is the basic infrastructure of Maine’s current and future prosperity.

But while Maine is still a rural state, our urban and suburban areas have grown steadily in recent decades. That growth is likely to continue, and how we grow is a question that must be answered collectively.

Experts and professionals involved with land use issues in Maine agree on several points:

- Development is inevitable. However, responsible, smart development is not guaranteed.
- Land use changes are permanent.
- In Maine, land use decisions need to be a priority.
- Citizen involvement in land use issues is essential to crafting Maine’s future, and will have a measurable impact.

As citizens we can have a powerful influence on local land use issues that determine how our Maine communities grow and develop. We just need to be more knowledgeable about the development process and inspired to become engaged earlier rather than later - to be proactive rather than reactive.

“...to retain Maine’s special character as a place that feels closely connected with the natural environment, Maine people will have to pay much, much more attention to the built environment....A strong commitment to developing a Maine sense of design for the built environment will make all the difference.”

A New and Needed Maine Investment Strategy,
2nd Report of the Governor’s Council on Maine’s Quality of Place

If we want to make wise and informed choices, each of us must consider not only what is most important to us but also what the impact will be as we choose how land is used. We must ask the following questions:

Does the project fit with my local comprehensive plan?

Comprehensive plans outline the town’s vision for future development, and typically include goals, guidelines and strategies for reaching the vision. Contact your town’s or city’s planning board and ask for a copy of the comprehensive plan to ensure that the proposed project aligns with the town’s vision for future development.

Will the project impact my property value or taxes?

Large development projects may lessen the overall taxes paid by individual property owners. Conversely, a development of upscale homes can make nearby property more valuable resulting in higher taxes paid by you or higher local infrastructure costs.

Will the project bring jobs?

The development phase often requires workers to build the project. On a long-term basis, a completed development project could create hundreds of jobs. Examples include jobs required to operate stores, restaurants, cinemas, golf courses, etc. These additional employment opportunities could have a significant impact on the survival and attractiveness of a given area.

Will there be an environmental impact?

Environmental considerations include the impact on fish, flora and fauna, traffic, pollution, water, noise and views. A large commercial development, for example, may not only impact local wildlife, but may also result in increased ambient light and noise, or diminish local air quality.

How will the project affect my quality of place?

Quality of place is probably the most complex consideration for citizens evaluating land use proposals. As these proposals emerge, we must consider how they will affect the communities in which we live, our natural resources, our scenic landscapes, the built environment, and local arts and culture.

What citizens should know

In Maine, landowners are permitted reasonable use of their property within the regulatory system established by state and local governments. Local and state governments provide a host of opportunities for participation by concerned citizens in land use decisions.

Maine law is governed by a freedom of access law (or the “Right to Know” law). Under this law, all public proceedings in Maine must be done in the open, and all records of public actions are open to public inspection.

Local government

Local governments are organized one of two ways in Maine — either the direct town meeting form of government, where the town meeting is the legislative body of the town, or the representational form, where the town or city council is the legislative body of the municipality.

To fully affect their community, citizens should run for office, vote, or at least attend town meetings and participate in council proceedings. Without broad

participation in decision making, there is no guarantee that government can actually carry out the wishes of those it represents. A concerned citizen should also participate in a town's planning process to affect long-term decisions in the community.

Planning. Land use planning is among the essential services provided by local government. Most communities have a planning board, which plans and regulates the growth of the community. The planning board develops a comprehensive, long-term plan for the community, which is a public document that includes a review of physical, economic and human factors. The plan seeks to balance a community's concern for the environment with its economic and cultural well-being. An important factor in the comprehensive plan is how the land in the community should be used, generally designating lands within five categories: residential, agricultural, industrial, commercial and shoreland.

Zoning. Planning and zoning can protect a community from incompatible uses. Maine law requires that if a community enacts zoning, it also must develop a comprehensive plan. Applications for use within a zoning district usually go to the planning board for an initial decision. If applicants don't agree with the planning board's decision, they may appeal to a local board of appeals, whose decisions may also be reviewed by the court system.

State and federal laws

State and federal laws impact and in some cases limit the ability of a community to make land use decisions. The primary focus of these laws is environmental protection, solid waste disposal, shoreland zoning and subdivision rules.

Additionally, Maine has a statewide site plan review law that regulates major development proposals, such as those covering 20 acres or more, or involving structures covering more than three acres. Maine also has a law that requires zoning control over all shoreland areas, even in towns without any other zoning regulations or a local planning board.

Department of Environmental Protection (DEP). The DEP is responsible for protecting and restoring Maine's natural resources and enforcing the state's environmental laws. As such, the DEP engages in a wide range of activities, including:

- recommending to the Legislature ways to prevent, minimize and eliminate environmental pollution;
- issuing licenses;
- enforcing existing laws and regulations; and
- providing information and technical assistance.

Throughout these activities, there is much opportunity for citizen participation: For example, citizens are encouraged to comment on a rulemaking or draft report, participate in advisory groups, help monitor water quality or testify at public hearings.

Land Use Regulation Commission (LURC). LURC was created by the Maine Legislature in 1971 to serve as the planning and zoning authority for the state's townships, plantations and unorganized areas.

LURC has land use regulatory jurisdiction over these areas because they have no form of local government to administer land use controls or have chosen not to administer land use controls at the local level. The purpose of LURC is to extend the principles of planning and zoning; to preserve public health, safety and welfare; to encourage the well-planned, multiple use of natural resources; to promote orderly development; and to protect natural and ecological values.

When land use projects are proposed in the unorganized areas of the state, LURC is the entity that holds the public hearings. Citizens should participate in the LURC planning process (especially the development of the Comprehensive Land Use Plan) and LURC public hearings on specific projects.

How to get involved

All over Maine, there are great examples of citizens influencing land use decisions. Townspeople have shaped projects in their municipalities and helped guide the conversation of how land should be used throughout the state. But you can't hope to be a part of those conversations if you don't get involved. The following pages include some key ways to join the conversation — and make your voice heard.

Educate yourself

Know the facts before you get involved. You don't need to be a legal or policy expert to make a difference, but knowing the general framework of how land use decisions are made can help you be more effective.

Learn as much as you can about a specific project: Find out when meetings are being held to discuss the project, and listen to what's being discussed. Also contact local or regional officials, as well as developers, for more details, including:

- developers' proposals;
- municipal or regional reports;
- environmental reports;
- traffic studies; and
- local comprehensive plans.



Mars Hill Wind Farm

Mars Hill, Aroostook County

Proposal:

In 2003, Evergreen Wind Power of Bangor approached Mars Hill with a proposal to erect 40 wind turbines on a ridge in the town. During several meetings with the Maine Department of Environmental Protection, local residents shared their thoughts and concerns about the project, including:

- the project's tax revenue impact on the town;
- whether the turbines would pose a danger to bats and migratory birds;
- a negative impact on local property values;
- a positive impact on the local economy; and
- the visual impact to Mars Hill

Final Project:

The project began construction in 2004, and 28 wind turbines began generating electricity in 2007. The construction generated \$22 million in local spending and employed more than 300 workers, most of whom were Mainers.

Impact:

Today, the project produces enough electricity to power 22,000 Maine homes while reducing the amount of carbon dioxide pollutants by 120,000 tons a year — the equivalent of taking 17,000 cars off the road. There has been a negligible impact on wildlife and local residents have seen their property taxes reduced by 20% thanks to the project.

Meanwhile, some neighbors of the project have seen their home values drop by 20%-50%, and a handful of residents have complained about significant noise issues caused by the whirring turbines.



Downeast Lakes Partnership

Grand Lake Stream, Washington County

Proposal:

As timber companies sold off thousands of acres of land in the mid-1990s, local residents of Grand Lake Stream — including local guides who depend upon the pristine area for their livelihood — became concerned that new landowners would make changes to old public access policies or would substantially degrade the resources through development or other land use decisions. Out of an initial meeting of 30 concerned citizens grew a community-led conservation effort, called the Downeast Lakes Land Trust, with a plan to purchase approximately 27,000 acres of land, including 62 miles of lakeshore and riverfront.

Final Project:

The initial group of citizens quickly realized the need to partner with other organizations with similar goals. As a result, the Downeast Lakes Partnership (DLP) was created. DLP ultimately consisted of three core project partners: The New England Forestry Foundation, The Downeast Lakes Land Trust, and The Woodie Wheaton Land Trust.

Impact:

By 2008, the \$35 million project protected, through ownership and easements, 342,000 acres of woodlands, 60 lakes, 445 miles of lakeshore, 1,500 miles of riverfront and tens of thousands of acres of wetlands.

Develop a vision

Once you've done your research, consider the impact of a proposed development or land use project. The following questions and suggestions will help you clarify your vision:

- Does it fit with what you want to see in your town or region? To answer this question, you need to decide what's important to you. Ask yourself if you want more land conservation or if your community needs more development.
- Think through the pros and cons of how the project will impact your community. Are there pieces of the project you like? Are there pieces of the project you don't like?
- When you're clear about where you stand, prioritize your vision. Identify which parts of the project you favor most and to which you are most opposed. Understand — and be able to support — your position.

While developing your vision is an important part of the process, remember that negotiation and compromise are key parts of any land use decision.

Getting involved in land use decision lets you have input in the process. Figuring out what you want that project to be — or not to be — will help you decide whether to make the necessary commitment to effect change. If so, *it's time to take action!*

Take action

Getting involved requires more than sitting on your couch or griping down at the local coffee shop. But how much time it takes is up to you: The more involved you can be, the greater your impact on the development or land use process.

At the same time, getting involved doesn't have to be an individual pursuit. Ask around. Find out if there are other citizens or groups that share your concerns. Banding together with others can not only cut down your workload, but also create a collective voice that may be louder and more effective than any single voice. History shows time and again that groups committed to impacting local, regional or state land use decisions can increase their chances for success by employing a well-considered approach to effecting change. Typically they:

- get organized and create a plan;
- define their land use concerns and put them in writing;
- play offense by being visible, vocal and vigilant about their concerns;
- attend all important hearings and meetings related to their concerns;
- present cogent facts, based on their research, when testifying about a land use issue;
- stay cool in the face of misunderstanding and disagreement; and
- remain open to appropriate development.



Sears Island

Searsport, Waldo County

Proposal:

Sears Island is the largest undeveloped island on the eastern seaboard with more than five miles of undisturbed coastline. The island is easily accessible to the public, and also has for years been eyed by developers for its value as a potential transportation hub because of its deep-water port and proximity to the Maine, Montreal & Atlantic Railway. Over the years, other development proposals have included a nuclear-powered industrial complex, a petroleum refinery and a cargo port.

In 2008, a 40-member group - the Sears Island Planning Initiative - released a plan to develop roughly one-third of the island for a potential port development, with the rest of the island set aside for recreational, educational and conservation facilities. Recently, the Maine Department of Transportation hired a consultant to market the island to potential developers.

Final Project:

Based on previous development discussions for Sears Island, any proposal will need to balance the many needs and wants of the local community, conservation groups and the state. These include thinking about the impact of a project on future development, marine transportation, education, recreation and conservation initiatives of the state and the community.

Impact:

Sears Island is a unique piece of our state. The rugged and untouched island exemplifies our rural heritage. But its deep-water access and strategic location make it a significant target as an economic development tool. This is an island that will continue to be a central player in the debate over land use in Maine.



Conclusion

And change *is* going to continue in Maine. But smart change will only happen if citizens get involved. If you have questions about land use in your area, speak up, talk with others and express your concerns. Get involved, ask questions and learn more about the proposal.

Landowners have the right to develop the land they own, as long as that development adheres to local land use ordinances and town comprehensive plans. But there are countless examples of local citizens getting involved and influencing the outcome of land use projects to everyone's benefit. Although you may not be able to completely stop a project, you may be able to ensure the project aligns more closely with your vision for your town and state. The lesson: Don't sit around and hope someone does something. Instead, get involved and be proactive!

Educate yourself. Work to help revise or discuss your town's land use ordinances and comprehensive plans. Join or start a citizens' group to examine a particular land use project. Taking an active role in land use development is an important step in making sure that the place where you live continues to be the place you love.



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Resource guide

Here are several online resources to help you get involved in land use decisions, from finding your town's comprehensive plan, reading in-depth project assessments or learning about downtown development trends.

The Brookings Institution, "Charting Maine's Future":

www.brookings.edu/reports/2006/10cities.aspx

Conservation Law Foundation: www.clf.org/states/maine

Cooperative Forestry Research Unit, University of Maine (CFRU): www.umaine.edu/cfru

Governor's Council on Maine's Quality of Place:

www.maine.gov/spo/specialprojects/qualityofplace/index.htm

GrowSmart Maine: www.growsmartmaine.org

Landowners and Sportsmen Relation Advisory Board:

www.maine.gov/lor/landowner_user.htm

Land for Maine's Future Program: www.maine.gov/spo/lmf

Land Use Regulation Commission: www.maine.gov/doc/lurc

Maine Department of Environmental Protection: www.maine.gov/dep

Maine Forest Products Council: www.maineforest.org/

Maine Geological Survey: www.state.me.us/doc/nrimc/mgs/mgs.htm

Maine Landowner Relations Program: www.maine.gov/lor/index.htm

Maine Municipal Association: www.memun.org

Maine Natural Areas Program: www.maine.gov/doc/nrimc/mnap

Maine State Planning Office, Land Use Planning:

www.state.me.us/spo/landuse/about/about.htm

Municipal offices, statewide: www.maine.gov/local

Natural Resources Council of Maine: www.nrcm.org

Regional planning councils: www.state.me.us/spo/landuse/techassist/regionalcouncilist.htm

Small Woodland Owners Association of Maine: www.swoam.org

Sportsman's Alliance of Maine: www.samcef.org

