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# Memorandum

**To:** LUPC Commissioners  
**From:** Hugh Coxe  
**Date:** March 3, 2016  
**Re:** Chapter 10 Rulemaking: Rural Business Subdistrict (D-RB)

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## Introduction

In November 2015 Northern Maine Development Commission (NMDC) approved the recommendations developed by the Aroostook County Community Guided Planning and Zoning (CGPZ) process. These recommendations included a proposed rule change regarding a new subdistrict developed for certain areas in Aroostook County. At the Commission's December 2015 meeting staff brought a proposed rulemaking to the Commission and requested it be posted for public comment. The 30-day comment period ran to January 22, 2016 and the Commission received five comments. A 21 day rebuttal comment period followed in which the Commission did not receive any rebuttal comments.

## Rule Changes

The proposed D-RB Subdistrict is designed to encourage a range of small commercial, light manufacturing, and support services in rural parts of Aroostook County near major transportation routes and organized towns that provide some level of services. The new subdistrict would be available in 30 towns, townships, and plantations (minor civil divisions or "MCDs") in Aroostook County identified by the steering committee as appropriate locations to encourage rural business development.

## Comments and Responses

The comments addressed twelve separate topics which fall into four groups: Categorization Factors; Locational Criteria; Process; and Clarifications and Technical Revisions. Staff has reviewed and considered each comment received and as a result, has drafted the following documents for your review and consideration:

- Draft Basis Statement

The attached Basis Statement summarizes the comments and presents draft responses. The Basis Statement is organized by sections of the rule, then by topic.

- Draft Rule

This draft rule incorporates revisions that were posted for the public comment period, and revisions that are proposed in response to all public comments received during the public comment period.

Staff does not recommend making any changes to the rules based on comments received from the public but does recommend some technical changes for clarification and consistency purposes.

### **Factual and Policy Basis for the Rule Amendment**

The basis statement is required to state the factual and policy basis for the rule amendment. For this rulemaking the basis statement includes discussion about how the D-RB is consistent with the comprehensive land use plan (the CLUP). This will serve as a record to help explain the changes for future CGPZ efforts and to document how this approach to planning for development is consistent with the LUPC's statutory requirements, including consistency with the CLUP.

### **Staff Recommendation**

*Staff recommends that the Commission adopt the Rule Revisions of the Aroostook County Community Guided Planning and Zoning Process: Rural Business Development Subdistrict and basis statement.*

### **Attachments:**

Draft Basis Statement

Draft Rule

# MAINE LAND USE PLANNING COMMISSION

Department of Agriculture, Conservation and Forestry



## BASIS STATEMENT and SUMMARY OF COMMENTS

For AMENDMENTS to

### CHAPTER 10: LAND USE DISTRICTS and STANDARDS REGARDING

### RULE REVISIONS OF THE AROOSTOOK COUNTY COMMUNITY GUIDED PLANNING AND ZONING PROCESS: RURAL BUSINESS DEVELOPMENT SUBDISTRICT

March 9, 2016

**STATUTORY AUTHORITY:** 12 M.R.S. § 685-A(3); § 685-A(7-A); § 685-A(8-B) and § 685-C(5)(A)

**EFFECTIVE DATE OF THE RULE AMENDMENT:**

**FACTUAL AND POLICY BASIS FOR THE RULE AMENDMENT:**

The Maine Land Use Planning Commission (LUPC) adopts rule changes to its Chapter 10 Land Use Districts and Standards regarding a new subdistrict developed for certain areas in Aroostook County in partnership with Northern Maine Development Commission (NMDC) through the Commission's Community Guided Planning and Zoning (CGPZ) program<sup>1</sup>. This regional planning effort implements

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<sup>1</sup> This rulemaking reflects the combined effort of Northern Maine Development Commission, the Aroostook Community Guided Planning Steering Committee, and the LUPC in the Aroostook Community Guided Planning and Zoning process. At the conclusion of that process NMDC submitted proposed rule revisions to implement the recommendations along with a lessons learned document discussing the process. NMDC also provided a substantial number of materials (such as meeting minutes, staff memos, presentation materials, etc.) which constitute the record of the Aroostook CGPZ process.

the directive in Public Law 2011, Chapter 682, Section 34, for the Commission to initiate prospective zoning in the unorganized and deorganized parts of the state. The purpose of the new Rural Business Development Subdistrict (D-RB) is to encourage an appropriate range of business development in rural areas, and locate development in or at the edge of existing development and in concentrated areas along appropriate portions of major transportation corridors.

### **Statutory Criteria for Amendment of Land Use Standards**

In order to adopt or amend land use standards, there must be “substantial evidence that the proposed land use standards would serve the purpose, intent and provisions of this chapter and would be consistent with the comprehensive land use plan.” (12 M.R.S. § 685-A(8-B).) The purpose and scope section of the LUPC’s statute (12 M.R.S. § 681) declares “it is desirable to extend principles of sound planning, zoning and development to the unorganized and deorganized townships of the State” and sets out the broad purposes the Commission is established to carry out. The comprehensive land use plan (the CLUP) provides guidance that the Commission is required by statute to consider, and determine consistency with, when “developing specific land use standards and delineating district boundaries and guiding development and generally fulfilling the purposes of this chapter.” (12 M.R.S. § 685-C(1).) When determining consistency with the CLUP, the Commission often must engage in a balancing of sometimes competing or conflicting goals or policies and, in so doing, assign the appropriate weight to be given.<sup>2</sup>

### **Relevant CLUP Provisions**

Provisions in the CLUP which encourage appropriate economic development activity and that “reference a proactive approach (a) to identifying areas best suited for economic development activities, as well as (b) to siting appropriate residential, recreational, commercial, and industrial land uses, including through prospective zoning” (Guidance for Interpreting the 2010 Comprehensive Land Use Plan, p.5) are of particular relevance to these rule amendments creating the D-RB subdistrict.

Among the CLUP provisions the Commission looks to in determining that the D-RB is consistent are the goals for: location of development; economic development; agricultural resources; forest resources; and recreational resources.<sup>3</sup> Several of the more specific policies associated with these goals are also

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NMDC’s submission letter, lessons learned document, and table of contents to the process record are included in the appendices.

<sup>2</sup> See, Guidance for Interpreting the 2010 Comprehensive Land Use Plan, October 5, 2012.  
<http://www.maine.gov/tools/whatsnew/attach.php?id=443691&an=1>

<sup>3</sup> **Location of Development:** Guide the location of new development in order to protect and conserve forest, recreational, plant or animal habitat and other natural resources, to ensure the compatibility of land uses with one another and to allow

relevant to the consistency of the D-RB with the CLUP, particularly as they relate to economic development and the location of new development. Among the relevant specific policies in the CLUP are:

#### Location of Development

- Provide for a sustainable pattern of development, consistent with historical patterns, which directs development to suitable areas and retains the principal values of the jurisdiction, including a working forest, integrity of natural resources, and remoteness.
- Guide development to areas near existing towns and communities and in other areas identified as appropriate development centers.
- Identify areas which are the most appropriate for growth when considering: (1) proximity and connectivity by public road to economic centers, organized towns and well established patterns of settlement; (2) compatibility of natural resources with development; (3) demonstrated demand for and public benefit from development<sup>4</sup>; and (4) availability of public infrastructure, facilities and services.
- In communities or areas without prospective zoning, encourage orderly growth within and proximate to existing, compatibly developed areas — i.e. existing development of similar type, use, occupancy, scale and intensity to that being proposed, or a village center with a range of uses for which the proposed development will provide complementary services, goods, jobs and/or housing.

#### Economic Development

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for a reasonable range of development opportunities important to the people of Maine, including property owners and residents of the unorganized and deorganized townships.

**Economic Development:** Encourage economic development that is connected to local economies, utilizes services and infrastructure efficiently, is compatible with natural resources and surrounding uses, particularly natural resource-based uses, and does not diminish the jurisdiction’s principal values.

**Agricultural Resources:** Conserve and protect working farms, encourage the development of new farming enterprises, and conserve agricultural soil resources.

**Forest Resources:** Conserve, protect and enhance the forest resource in a way that preserves its important values, including timber and fiber production, ecological diversity, recreational opportunities, as well as the relatively undeveloped remote landscape that it creates.

**Recreational Resources:** Conserve the natural resources that are fundamental to maintaining the recreational environment that enhances diverse, abundant recreational opportunities.

<sup>4</sup> P.L. 2011, ch. 682 (enacting LD 1798) amended the criteria for adoption or amendment of land use district boundaries, i.e., the rezoning standard, by eliminating the requirement that the proposed land use district satisfy a “demonstrated need” in the community or area. The Commission interprets the CLUP in a manner consistent with this statutory change and no longer giving weight to language related to the demonstrated need criterion.

- Encourage economic development in those areas identified as the most appropriate for future growth.
- Provide for expansion needs of intensive developments where such expansion will not have an undue adverse impact on the resources of the area.

#### Agricultural Resources

- Encourage agriculture in appropriate areas.
- Encourage the economic viability of agriculture by allowing diversification of farming enterprises where the new uses do not detract from the principal values of the jurisdiction.

#### Forest Resources

- Support uses that are compatible with continued timber and wood fiber production, as well as outdoor recreation, biodiversity and remoteness, and discourage development that will interfere unreasonably with these uses and values.

Other sections of the CLUP, such as section 4.7.C (Evaluation of the Commission’s Approach to Development) and 4.8.C (Location of Development: Recommended Refinements) are also relevant in assessing the consistency of the D-RB and are discussed in the section below.

### **D-RB Consistency with CLUP**

The principal goals of the D-RB – to allow for a range of economic opportunities and to guide the location of new development to suitable areas identified as appropriate for future growth – are consistent with the goals and policies of the CLUP. The steering committee identified and discussed economic development trends and needs in Aroostook County and determined that creation of a rural business development subdistrict that encourages agriculture through diversification of farming enterprises, supports uses that are compatible with continued timber and wood fiber production and outdoor recreation, provides for expansion of existing development, and encourages economic development in those areas identified as the most appropriate, would meet some of the economic development needs of the region. The D-RB encourages the growth of home-based businesses and new rural businesses that are in keeping with the historical development pattern in Aroostook County by locating development “in or at the edge of existing development and in concentrated areas along appropriate portions of major transportation corridors” (Section 10.21,I,1.) Large portions of the county would be ineligible for the new subdistrict because of the lack of public infrastructure and remoteness from population centers.

In order to minimize impacts from new development on surrounding uses, resources, and services, the D-RB employs a two-pronged approach that defines where it would be appropriate to encourage the development of rural businesses. The two prongs include: 1) selection of eligible minor civil divisions (MCDs) for the new subdistrict based on existence of public infrastructure and proximity to services;

and 2) performance-based approach to appropriately locating uses near existing infrastructure within eligible areas based on their potential impacts.

The unorganized and deorganized areas of Aroostook County include 133 MCDs. Most are ineligible for the D-RB due to their undeveloped state and remoteness from population centers. The steering committee determined that only MCDs located in the eastern portion of the county (near to and east of state route 11) would be eligible because this is where most organized towns, employment centers, and major transportation infrastructure exists in the county. 30 MCDs are eligible for the D-RB primarily because of the presence of public roads<sup>5</sup>, but also due to the availability of community services from nearby service centers or retail hubs, existing parcelization, and development patterns.

Rural businesses allowed in the D-RB fall into one of three categories. Category 1 are moderate-scale natural resource based businesses, Category 2 are moderate-scale facilities for retail businesses, and Category 3 are larger scale commercial facilities for manufacturing, construction, and service businesses. All 30 eligible MCDs are appropriate for Category 1 rural businesses but Category 2 and 3 rural businesses, which potentially could include intensive forms of commercial development that generate more traffic or nuisance-type impacts such as noises or smells, are not allowed in eight of those 30 MCDs due to the low level of existing development, and distance to services, service hubs, and organized municipalities. The remaining 22 MCDs, in which all three categories of rural business are allowed, have more existing development<sup>6</sup> and are closer to public services provided by nearby organized communities.<sup>7</sup>

The location of rural businesses within an eligible MCD is further limited by the rules - Category 1 rural business must locate within 1 mile from a public road, Category 2 rural business must be within ¼ mile of a public road, and a Category 3 rural business must be within ½ mile of a public road. Category 2 & 3 rural businesses must be located closer to public roads and other infrastructure to facilitate efficient movement of goods and services without over burdening the existing public infrastructure. The D-RB allows for a small extension of this distance for locational flexibility that better meets the purposes of the subdistrict.

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<sup>5</sup> All MCDs with public roads were under consideration for eligibility for the D-RB, but a few were ultimately excluded due to remoteness and a lack of other essential infrastructure for commercial development, such as electricity.

<sup>6</sup> During the CGPZ process, the planning committee assessed the appropriateness of the proximity of these MCDs to existing services by looking at approximate levels of existing development, current population levels reported by the US Census, parcelization, and the presence of other commercial development and development subdistricts.

<sup>7</sup> Distances by road to existing service centers, retail hubs, and emergency services providers were modeled using spatial analysis techniques that measure distances by road mile within existing networks of public roads in Aroostook County.

The approach taken by the steering committee for locating rural business development through the D-RB addresses certain weaknesses with the Commission’s current reactive rezoning approach discussed in the CLUP. The CLUP identifies that the adjacency principle, which applies in most rezonings for development, “does not necessarily focus development near the most appropriate areas, such as service centers.” It states that the “case-by-case review of rezoning is increasingly inadequate as the principal tool for guiding growth” and that this has “become more readily apparent under changing market conditions and landowner objectives.” It suggests this approach does not sufficiently account for “the varying suitability for growth of different parts of the jurisdiction.” (CLUP pp.120-121.) The CLUP acknowledges that this approach creates uncertainty because it “requires many judgments from the Commission as it applies its rezoning criteria.” (CLUP p. 128.)

The D-RB provides a more refined and more predictable method to rezoning by adopting an approach that borrows aspects of prospective zoning without taking the step of creating new subdistrict boundaries. It uses local knowledge of “existing development patterns, natural resource constraints and recent trends” and applies regional considerations to proactively direct growth based on “proximity to development centers and infrastructure” (CLUP p. 63.)

The D-RB follows recommendations found in the CLUP discussion on guiding development, applying them in the context of the shifting market conditions and landowner objectives present in the Aroostook County region, particularly as they relate to the natural resource based economy of the region. Consistent with the CLUP, the steering committee evaluated “the suitability of different towns, plantations and townships for future growth based on their locations relative to population and job centers, the availability of roads and infrastructure, the demand for development, and the type and extent of principal values that they possess.” (CLUP p. 126.) The D-RB subdistrict and standards “recognize that areas within a single MCD may have varying suitability for development depending on conditions of access, natural resource sensitivity, economic value for other purposes, recreational values and other factors.” (CLUP pp. 126-127.)

### **Rezoning Criteria and the D-RB**

The Commission’s general criteria for adoption or amendment of land use district boundaries include: (i) “The proposed land use district is consistent with the standards for district boundaries in effect at the time, the comprehensive land use plan and the purpose, intent and provisions of this chapter”; and (ii) “the proposed land use district has no undue adverse impact on existing uses or resources or a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area (12 M.R.S.A. § 685-A(8-A)).”

For rezoning to a D-RB, the first criterion is presumed satisfied by the CGPZ process, which created locational criteria for the D-RB that are consistent with the CLUP and which direct development at the regional scale to appropriate locations in Aroostook County, as identified by the people in the region. Applicants for a rezoning to a D-RB meet the first rezoning criterion by locating within areas

determined to be eligible for the D-RB subdistrict and would not be required to submit detailed information regarding potential impacts on public services and consistency with the CLUP.<sup>8</sup>

The second criterion requiring that proposed development have “no undue, adverse, impact on existing uses or resources” must still be satisfied by an applicant for rezoning. The applicant would still need to address any anticipated environmental or other impacts resulting from a proposed development, and still must demonstrate that proposed development does not create an “undue adverse impact” on existing uses.

## **PUBLIC NOTICE OF RULEMAKING**

On December 9, 2015, the Commission voted to hold a 30-day public comment period. Notice of this rulemaking appeared in the weekly consolidated rulemaking notice on December 23, 2015. The comment period remained open until January 21, 2016, to allow interested persons to file written statements with the Commission, and for an additional 21 days until Friday, February 12, 2016, to allow interested persons to file written statements in rebuttal of statements filed up to Friday January 21, 2015.

## **COMMENTS AND RESPONSES:**

During the public comment period, the Commission received five written submissions of comments and no submissions with rebuttal comments. Each submission included multiple comments touching on a variety of themes. This document summarizes all comments received. Public comments pertaining to policy considerations are organized under three topics: Categorization Factors; Locational Criteria; and Process. Comments from the LUPC staff pertaining to clarifications and technical modifications of rule language are organized under the topic: Clarifications and Technical Revisions.

This rulemaking is a product of the Community Guided Planning and Zoning (CGPZ) process in Aroostook County. Throughout this process interested individuals and stakeholders had the opportunity to participate in the policy development and development of the draft rule language

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<sup>8</sup> An application for a Development Permit and a Zoning Petition could be submitted at the same time and share submissions. While this is available now, the greater predictability of the D-RB may provide sufficient reduction of risk to warrant an applicant to develop and submit the more detailed information required at the permitting stage. Consistent with existing LUPC policy for rezoning for most development, the Commission would rezone a sufficient size and configuration of land to accommodate the proposed development and ensure good design and environmental performance, but not more than is necessary for those purposes. The applicant would have the burden to show that the amount of land proposed for rezoning is sufficient and not more than is necessary.

through participation as a member of the planning committee; through attending steering committee meetings, which were open to the public; or responding to broad-based public outreach during the land use planning stage of the CGPZ process. An additional opportunity for public comment was provided during the Commission’s formal rulemaking process. The rulemaking posted for public comment by the Commission was the product of a collaborative, consensus-based approach to the development of rule changes.<sup>9</sup>

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## **A. Categorization Factors**

### **1. Expansion for Category 3 rural businesses beyond proposed size limitations [Section 10.27,R,1,c,(2)]**

Two commenters recommended creation of a mechanism to allow for expansion of Category 3 businesses beyond 20,000 s.f. of gross floor area, which is the limit in 10.27,R,1,c,(2). One commenter recommended adding this mechanism to the current rulemaking package, either through addition of another category for larger businesses or by increasing the size threshold for Category 3 rural businesses, while the other commenter recommended adopting the current proposal and monitoring its application over time (making adjustments as needed).

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<sup>9</sup> This rulemaking was developed within the Commission’s Community Guided Planning and Zoning program in a manner similar to a “Consensus-based Rulemaking Process” as described in 5 M.R.S. § 8051-B, in that the agency worked with regional partners to establish a representative group of participants with an interest in the subject of the rulemaking, and conducted the planning process in a manner similar to that described in 5 M.R.S § 8051-B(2)-(3).

**Commenter(s):** Pingree Associates Inc., Alexander R. Ingraham.; Seven Islands Land Company, Sarah Medina

**Response:** The rules encourage commercial expansion but a reasonable limit on the size of Category 3 rural businesses in the new D-RB subdistrict is necessary. The limit helps achieve the desired balance between providing for expanded commercial opportunity and fitting the scale of those businesses to the surroundings. The subdistrict was created to allow an increase in the intensity of use to occur without creating undue adverse impacts on surrounding uses and resources in the area, as identified by the locally driven process. The subdistrict and associated categories of allowed uses are set up to ensure that the intensity of use matches the locations in which the use could be permitted.

The Commission will monitor the application of the new subdistrict over time in Aroostook County. The Commission also may consult with regional stakeholders through the CGPZ program to help assess whether future modification of the Category 3 rural business size threshold is warranted.

**Action(s):** No action is recommended.

**2. Addition of a “footprint of clearing” categorization factor for each category of rural business** [Section 10.27,R,1]

Two commenters suggested adding “footprint of clearing” to the standards for each category of rural business. They propose specific clearing sizes modeled after the clearing sizes used to determine recreational lodging facility levels, and state that like recreational lodging facilities, the D-RB can be located in remote locations where the potential for negative impacts on visual and natural resources is greatest.

**Commenter(s):** Natural Resources Council of Maine, Eliza Donaghue; Maine Audubon, Jennifer Burns Gray

**Response:** NRCM has suggested limitations on the size of clearings which are patterned on the limits for clearing used to categorize recreational lodging facilities. However, the clearing provisions pertaining to recreational lodging facilities are designed to minimize potential impacts to water bodies (they pertain only to the first 250 feet from waterbodies), whereas NRCM’s proposed footprint of clearing would apply on any land proposed for a D-RB. Moreover, existing rules do not impose these types of limitations on the size of clearings for businesses in other subdistricts that permit commercial uses. The steering committee did not intend to impose additional limitations on the development of sites within a D-RB unless such limits would

alleviate a demonstrable impact. Very little of the area eligible for the D-RB contains waterbodies and where it does, development would still be subject to the Commissions existing clearing standards. Additionally, locations eligible for the D-RB were neither considered to be remote by the planning committee, nor are they described as remote in the CLUP. It would seem to run counter to the goals of the D-RB to impose additional restrictions on this moderate sized commercial development in the D-RB, particularly where such restrictions are not required of other commercial development.

**Action(s):** No action is recommended.

**3. Equipment storage for Rural Businesses** [Section 10.27,R,1,c,(6)]

One commenter stated that some of the restrictions described in the standards for Category 3 rural businesses would limit the opportunity for certain businesses to form in the new subdistrict. For example, a logging contractor would find it difficult to meet the limitation of 8 or less pieces of equipment at their facility at one time even though this subdistrict could provide opportunities for logging contractors due to its availability near both working forest lands and paved highways. The commenter states that the limit on equipment storage may inhibit these opportunities and that equipment use and storage in locations likely to be developed would minimally impact traffic patterns and is unlikely to create “nuisance-type impacts.”

**Commenter(s):** Pingree Associates Inc., Alexander R. Ingraham

**Response:** The steering committee discussed potential impacts from exterior effects such as vehicle and equipment use and storage, and ultimately settled on the threshold limits described in the proposed rule (up to 6 pieces of heavy equipment for Category 1 rural businesses, and up to 8 pieces for Category 3 rural businesses). The judgement of the steering committee was based on a variety of factors and a solid understanding of the local patterns of land use and the needs and desires of the region, as well as a policy choice to place appropriate limits on the size and intensity of Category 3 businesses. The comment does not provide objective data refuting those judgments. The Commission finds the factors and existing limits proposed by the steering committee appropriate for defining Category 3 rural businesses. Going forward, review of the rulemaking, including in collaboration with the committee, may identify certain factors that could be revised or changed based on the experience and information gathered from any zoning petitions for the D-RB.

**Action(s):** No action is recommended.

## B. Locational Criteria

### 1. Strip Development [Section 10.21,I,1-2]

Two commenters expressed concern that the D-RB may promote strip development along public roads in Aroostook County, particularly in remote locations, which would degrade the character of the unorganized territories, and be inconsistent with its purpose. The commenters state that the D-RB would not prevent the rezoning of multiple adjacent D-RB subdistricts along highways, and that LUPC rules only serve to prevent strip development if the proposed development is subject to subdivision review.

**Commenter(s):** Natural Resources Council of Maine, Eliza Donaghue; Maine Audubon, Jennifer Burns Gray

**Response:** As observed by the commenters, the proposed rules do not prohibit the rezoning of multiple, adjacent D-RB subdistricts along highways but it does not follow that the result would be “strip development.” The steering committee discussed, and came to the conclusion, that linear development for rural businesses along public roads in the areas eligible for the D-RB would not result in any significant reduction in the level of service of those roads for transporting goods and services, and would not result in development patterns along those roads that were inconsistent or incompatible with the existing uses, resources, and development patterns in the region. The steering committee determined that the state’s access management policies for public roads, in combination with the level of economic activity likely to occur in the selected minor civil divisions (MCDs), mitigate any potential impacts on the level of service of these roads. Moreover, the selected minor civil divisions (MCDs) are appropriate locations for the type of development contemplated for the D-RB because they are in places where economic activity already occurs and at distances from existing development and existing services that are common for this region. The Commission concurs with this assessment. Additionally, these areas are not “remote” as that term is used in the Commission’s 2010 Comprehensive Land Use Plan (CLUP).

NRCM proposes language requiring a two mile separation between groupings of three D-RBs. Such a provision may confer uneven benefits on property owners in areas that are eligible for the D-RB. For example, along a given stretch of road the first three lots to rezone to the D-RB subdistrict would essentially prevent neighboring property owners from developing their land in a similar manner. This may well have the effect of incentivizing an early proliferation of D-RB zoning so that a property owner protects against being shut out from future D-RB zoning due to the location of prior established D-RBs.

**Action(s):** No action is recommended.

**2. Removal of four MCDs from Category 2 & 3 eligible areas** [Section 10.21,I,2,b,(1)]

Two commenters suggested removal of four MCDs from Category 2 and 3 eligible areas, because Category 2 & 3 type businesses are not natural-resource based. The commenters suggested that Category 2 & 3 type businesses only be eligible in MCDs adjacent to organized towns and directly connected to organized towns by highway.

**Commenter(s):** Natural Resources of Maine, Eliza Donaghue; Maine Audubon, Jennifer Burns Gray

**Response:** The planning committee spent a great deal of time and effort analyzing and discussing which MCDs were appropriate for inclusion and which were not. The judgement of the steering committee was based on a variety of factors and a solid understanding of the local patterns of land use and the needs and desires of the region. The criteria suggested by NRCM were considered in the discussions, and influenced the selection of MCDs, but were not the only criteria considered. E township is an example of a MCD that the steering committee excluded from the list of eligible MCDs despite meeting the criteria proposed by NRCM, but, because of other factors such as the population and amount of existing development, was determined to not be appropriate for D-RB zoning.

NRCM has characterized the four MCDs they suggest removing from the list as being in “the heart of the unorganized territories.” These particular MCDs each are adjacent to an organized town. Three of them have a substantial level of existing development – some of which is in a fairly dense, hamlet-like pattern. Two of them have what in this region is considered a major crossroads. And each has existing utility line infrastructure.

**Action(s):** No action is recommended.

## C. Process

**1. Subdivision** [Section 10.25,Q,6,e]

Two commenters stated that there exists a loophole in which commercial and industrial subdivisions could avoid subdivision review. The definition of subdivision includes the “placement or construction of a structure or structures on a tract or parcel of land resulting in 3 or

more dwelling units within a 5 year period.” Because a business does not fall within the definition of a dwelling unit (Section 10.02, 55), an applicant could avoid subdivision review even when placing or constructing 3 or more businesses on a tract or parcel within a 5 year period.

**Commenter(s):** Natural Resources Council of Maine, Eliza Donaghue; Maine Audubon, Jennifer Burns Gray

**Response:** The concern expressed in this comment applies jurisdiction wide and is not appropriate to address in this regional CGPZ process or in the rulemaking that flows from that process. The definitions of “subdivision” and “dwelling unit” comes from statute and would require legislative action to make any changes to address the issue raised in this comment. The scenario presented by NRCM could occur (a business does not fall within the definition of dwelling unit so subdivision review could be avoided by placing 3 or more commercial structures on a single tract or parcel). However, whether it constitutes a subdivision or not, such development would be subject to development permit review provisions in 12 M.R.S. § 685-B, and Chapter 10, Sections 10.24 & 10.25.

**Action(s):** No action is recommended.

## 2. Review of D-RB and continuation of CGPZ in Aroostook County

One commenter recommended creation of a mechanism to periodically review application of the D-RB subdistrict and to continue CGPZ in Aroostook County and address other issues identified by the planning committee during the planning process including: in-woods processing; infrastructure/utility corridors, and planning for communities located near remote border crossings; and other topics captured in the “Lessons Learned” document created by the planning committee.

**Commenter(s):** Seven Islands Land Company, Sarah Medina

**Response:** The steering committee recommended that the Commission review implementation of the D-RB at periodic intervals to evaluate its effectiveness “to encourage an appropriate range of business development in rural areas, and locate development in or at the edge of existing development and in concentrated areas along appropriate portions of major transportation corridors.” The purpose of this review would be: a) to ensure the new subdistrict is meeting its purpose; and b) if the subdistrict is not meeting its purpose, to change or alter it as needed.

Over the course of the CGPZ process, several other topics were discussed and explored. While these subtopics were not specifically addressed in the current proposal, the steering committee felt that each was important and should be taken up again at the earliest opportunity, and that some form of the process should continue into the future. While no formal recommendation was made, the steering committee asked NMDC staff to consider meeting on a six month or annual basis to discuss on-going or topical issues. The committee felt that these meetings would help identify and address future unforeseen land use needs in the region.

**Action(s):** No action is recommended.

The Commission intends to work with NMDC and other regional partners to review application of the D-RB subdistrict through rezonings in eligible MCDs in Aroostook County at periodic intervals. The Commission intends the CGPZ program to continue in Aroostook County if requested by regional partners and stakeholders, and provided that resources are available to support future planning efforts.

## D. Clarifications and Technical Revisions

### 1. Eligible Locations [Section 10.21,I,2,b(2) and Sections 10.21,I,3,c(2)&d(2)]

The proposal of the Aroostook Community Guided Planning and Zoning Committee included provisions to modify the locations of each category of business beyond the designated distance from a public road. As drafted, the proposed rule requires the D-RB subdistrict must be within one mile from public roads, measured from the traveled portion of the road, in eligible townships and plantations. Section 10.21,I,2,b,(2) of the proposed rule then provides for modification of that distance by up to five percent “to allow development design in the project area that better meets the purpose of this subdistrict; or to locate subdistrict boundary lines along established property or parcel lines.” The requirements that Category 2 rural businesses be within one quarter mile of a public road, and that Category 3 rural businesses be within one half mile of a public road, are contained in the use listings (Land Uses, Sections 10.21,I,3,c(2)&d(2)). The use listings do not include a provision for modification of that distance by up to five percent for Category 2 and 3 rural businesses.

**Commenter:** Land Use Planning Commission Staff

**Response:** The Commission concurs with the comment, in that the rule should be as clear as possible and should meet the intended purposes.

**Action(s):** Revise Section 10.21,I,2,b,(2) as follows:

(2) Modification of Locational Criteria. The depth of this subdistrict, and the distance a Category 2 and Category 3 rural business may be located from a public road, may be extended ~~further~~farther from a public road to allow development design in the project area that better meets the purpose of this subdistrict; or to locate subdistrict boundary lines along established property or parcel lines. Adjustments will only be made that do not increase the distance of the subdistrict from the public road, and the distance a Category 2 and Category 3 rural business may be located from a public road, by more than five percent.

and Sections 10.21,I,3,c(2)&d(2) as follows:

**c. Uses Requiring a Permit**

(2) Commercial and industrial:

(a) Rural Business in conformance with the requirements of Section 10.27,R:

i. Category 1; and

ii. Category 2, within one quarter mile of a public road in Category 2 & 3 townships, plantations and towns, or in accordance with Section 10.21,I,2,b(2).

**d. Special Exceptions**

(2) Commercial and industrial:

(a) Rural Business in conformance with the requirements of Section 10.27,R:

i. Category 3, within one half mile of a public road in Category 2 & 3 townships, plantations and towns, or in accordance with Section 10.21,I,2,b(2);

**2. Land Uses** [Section 10.21, I,3]

Use listings in the proposed rule revisions were drafted to largely match the use listings in the M-GN and D-GN subdistricts. In doing so, a provision excepting gravel extraction less than 5 acres in size was inadvertently included under uses requiring a permit. This provision is in the M-GN subdistrict where that use/activity is designated as a use regulated by the Maine Forest Service, and thus is an allowed use. In the D-RB the Maine Forest Service will not regulate any uses so the exception in the draft has the effect of prohibiting gravel extraction less than 5 acres in size.

**Commenter:** Land Use Planning Commission Staff

**Response:** The Commission concurs with the comment, in that the rule should be as clear as possible and should meet the intended purposes.

**Action(s):** Revise Sections 10.21,I,3,b,(12) and 10.21,I,3,c(11) as follows:

**b. Uses Allowed Without a Permit Subject to Standards**

(12) Mineral extraction operations, less than 5 acres in size, ~~except for gravel extraction less than 5 acres in size;~~

**c. Uses Requiring a Permit**

(11) Mineral extraction operations, ~~except for gravel extraction less than 5 acres in size,~~

(a) affecting an area less than 5 acres in size and which are not in conformance with the standards of Section 10.27,C;

(b) affecting an area between 5 and 30 acres provided the unreclaimed area is less than 15 acres; and

(c) structures essential to the extraction activity having a total gross floor area of no more than 2,000 square feet;

**3. Subdivision Conditions** [Section 10.27,R,4]

In order to promote consistency and clarity in the Chapter 10 rules, the Commission often cross-references related provisions. This helps to ensure that any future rule revisions do not inadvertently create conflicting provisions.

**Commenter:** Land Use Planning Commission Staff

**Response:** The Commission concurs with the comment, in that the rule should be as clear as possible and should meet the intended purposes.

**Action(s):** Revise Section 10.27,R,4 as follows:

As required by Section 10.25,Q,6,e, aAll subdivision lots permitted for Rural Businesses in the D-RB subdistrict shall include a condition requiring that the lot be used only for Rural Businesses unless the Commission, or its legal successor in function, releases the condition.

**4. Definitions** [Section 10.02]

In order to clarify the meaning of the definitions, revise Section 10.02 as shown below.

**Commenter:** Land Use Planning Commission Staff

**Response:** The Commission concurs with the comment, in that the rule should be as clear as possible and should meet the intended purposes.

**Action(s):** Revise Section 10.02 as follows:

**Category 1** Natural resource based businesses that are small scale processing, storage, sale, and distribution of wood and agricultural product; or are related to or in support of agriculture, forestry, ~~certain~~ natural resource extraction, or commercial outdoor recreation.

**Category 2** ~~Retail, restaurants, offices, and similar small businesses that are in~~ Moderate-scale business facilities for retail businesses, restaurants, food preparation businesses, professional offices, and similar types of businesses.

**Category 3** ~~Manufacturing, construction, service, and similar businesses that are in~~ Larger scale commercial facilities for manufacturing and assembly plants, contracting and construction businesses, automobile service and repair, and similar types of businesses.

## 5. Activity Specific Standards [Section 10.27,R]

In order to clarify the meaning of provisions relating to the storage and use of vehicles and equipment, revise sections: 10.27,R,1,a,(6); and 10.27,R,1,c,(6).

**Commenter:** Land Use Planning Commission Staff

**Response:** The Commission concurs with the comment, in that the rule should be as clear as possible and should meet the intended purposes.

**Action(s):** Revise Sections 10.27,R,1,a(6) as follows:

Vehicles and Equipment. A business must not involve the regular exterior use or storage of more than an aggregate of six tractor trucks, ~~and~~ semitrailers, ~~and/or pieces of~~ heavy equipment such as construction equipment, all of which must be operable or in the process of being made operable. Exterior storage of abandoned or inoperable vehicles or ~~pieces of~~ heavy equipment is not permitted.

Revise Section 10.27,R,1,c(6) as follows:

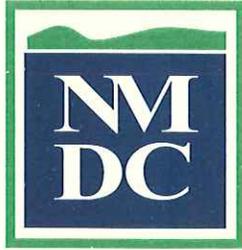
(6) **Vehicles and Equipment.** A business must not involve the regular exterior use or storage of more than an aggregate of eight tractor trucks, ~~and~~ semitrailers, ~~and/or pieces of~~ heavy equipment such as construction equipment, all of which must be operable or in the process of

being made operable. Exterior storage of abandoned vehicles or ~~pieces of~~ heavy equipment is not permitted.

Seasonal variations in the number of units stored are permissible as long as the seasonal increase is for a relatively short period of time and the increase above the limit of six stored units does not cause undue adverse impacts to surrounding uses and resources.

## **APPENDICES**

1. November 25, 2015 letter from Robert P. Clark, Northern Maine Development Commission, submitting proposed rule revisions to implement the recommendations of the Aroostook County Community Guided Planning and Zoning process.
2. Aroostook County Community Guided Planning and Zoning - Lessons Learned.
3. Aroostook County CGPZ Process Record – Table of Contents: 2013, 2014, 2015



**Northern  
Maine  
Development  
Commission**

November 25, 2015

Everett Worcester  
Chair  
Land Use Planning Commission  
22 State House Station  
Augusta, ME 04333-0022

Dear Mr. Worcester:

Northern Maine Development Commission (NMDC) is pleased to submit the Proposed Rule Revisions of the Aroostook County Community Guided Planning and Zoning Process: Rural Business Development Subdistrict (D-RB) to the Land Use Planning Commission. Also submitted is the Lesson's Learned document, staff memos, agendas, presentations, and maps. This product is the result of nearly three years of work by the Aroostook Community Guided Planning and Zoning Steering Committee. The D-RB is designed to:

- Encourage an appropriate range of small business development in rural areas.
- Concentrate development in or at the edge of existing development and in concentrated areas along appropriate portions of major transportation corridors as identified by the people of the region.
- Maintain rural character of region and avoid visual and fiscal impacts of unplanned growth.

NMDC staff made a formal presentation during the November 12, 2015 Executive Board meeting. At that time, the Board unanimously approved the documents as presented. The Executive Board requests that the Land Use Planning Commission act upon the recommendation approved by the Board. I will send a copy of the final meeting minutes of that meeting once approved by the Board at their January, 2016 meeting.

We believe that the new Development subdistrict will allow for increased economic competitiveness, make land use regulations easier and more predictable, and protect the valuable natural and scenic resources that this region enjoys. If you have any questions, please do not hesitate to contact me.

Sincerely

Robert P. Clark,  
Executive Director



Equal Opportunity Lender/Agency

[www.nmdc.org](http://www.nmdc.org)

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## **Aroostook County Community Guided Planning and Zoning Lessons Learned**

### **Introduction**

Aroostook County recently completed a Community Guided Planning and Zoning effort. The nearly three year project resulted in the creation of a Rural Business Development (D-RB) subdistrict to be included in the Land Use Planning Commission's (LUPC) Chapter 10 Standards. Northern Maine Development Commission (NMDC) working closely with LUPC staff and a regional Steering Committee developed standards that were submitted to the Commission for their approval.

This paper is a "lessons learned" document. Being the first in the State to complete such a project, Steering Committee members asked staff to develop this paper to identify what worked well, and what needed improvements. It is hoped that this document is used by LUPC and other regions as they begin similar planning projects. It is by no means a definitive document but highlights some of the items that were learned as the region worked on the project.

### **Funding**

NMDC submitted a Letter of Intent to complete the project. Within that letter was the commitment of funding and staff time over a three year period. NMDC had identified several potential funding sources to help offset the cost of the project but was unsuccessful at obtaining these funds. Thanks to a contract with the County of Aroostook, a portion of the required funds were encumbered but these funds did not fully cover staff time and expenses of the project. It is recommend that full funding (best case scenario) or at a minimum one half of the expected cost be available before a Letter of Intent is submitted to LUPC.

#### Recommendation:

- Funding in place before Letter of Intent is submitted.

### **Locational Consideration**

In NMDC's Letter of Intent, all of Aroostook County was identified as under consideration for the CGPZ effort. While this met with the Steering Committee's goal of being more inclusive to development, it also created problems. With an approximately 6,600 square mile area, the region is diverse and the issues within the unorganized are varied. Additional thought should have been given to narrow the geography early in the process or before the Letter was submitted. This would allow for a stronger review of the issues in the region, faster data gathering, and help point to an issue/topic that should be addressed. This would also help focus the steering committee and may point to additional members serving on that committee.

## Recommendation

- Narrow the geography early in the planning process. Even if the geography is large, a narrowing to a subregion would be helpful.

## **Process Paper**

At the beginning of the project, three (3) facilitated meetings were held to develop a process document designed to guide steering committee members and staff through the planning effort. The document identified committee membership, meeting protocols, and some public participation methods. It also detailed the roles of the NMDC and LUPC staff. This document proved to be useful and was often referred to by committee members and staff when protocol or procedural questions arose.

However, more time was spent to develop the paper than necessary. Three meetings, with a duration of 2 to 3 hours, were not needed and committee members generally agreed to the items in the document early during the second meeting. Significant time was spent reviewing items previously agreed to. The process paper could have been developed and approved in a meeting and ½ time frame.

Steering committee members felt that the remaining meeting and ½ could have been used to vision or brainstorm potential topics of importance in the region. During the process paper development specific topics were mentioned (recreational lodging, in-woods processing, subdivisions, mining, wind energy, ATV etc.) informally as potential issues. While these topics were identified, the main purpose of the meeting was to develop the process. It appears that an opportunity was lost, while a larger group met, to identify and formalize a list of potential topics to be worked on.

LUPC staff developed a paper that identified what types of product could be developed for LUPC, ranging from a series of standards, to plans, or a combination of both. This was provided to the steering committee later in the process and would have been useful earlier in the project. Many steering committee members remarked that they wished they had this at the start as it would have made the process easier to understand and better focus the group. This document should be provided to all groups during the process development stage.

## Recommendations

- One to one and a half meetings on the development of the process paper. Now that a paper has been developed, other regions can utilize and amend to fit their situation.
- One to one and one half meetings on visioning or topic identification for the region. While not specific in nature, these visioning exercises should identify topics, scheduling of meetings, and general administration.
- Provide LUPC product paper to group early in this stage of the planning program.

## **Phase I- Data Collection**

The Aroostook Community Guided Planning and Zoning effort was divided into two phases. Phase I was the data gathering stage with the first 5 to 6 meetings dedicated to collection. NMDC had committed to utilize the Mobilize Maine model and gathered data relating to agriculture, forestry, recreation, land use, and residential development. Also developed was a report on permitting activity in Aroostook County from 2000 to present. Data was gathered from a number of sources including state agencies, guest speakers, reports and plans, and interviews with business and industry in the region.

A series of guest speakers presented at each of these first meetings and were provided with a list of four questions beforehand:

1. What is happening today in the industry?
2. What are the future plans?
3. How does land use regulation impact, or help, those plans?
4. Other topics or issues.

The speakers, while excellent, were generally able to answer and address the first two questions. Many did not fully explain future plans as they may have been confidential or they did not know. A good example was the identification of in-woods processing. This topic was discussed at several meetings but it was difficult to understand what in-woods processing actually meant and where it may be potentially located. Steering committee members were never able to fully understand what this is. None of the speakers were able to address the land use regulation aspect.

Additionally significant time was spent gathering data on permitting activity, animal/vehicle collisions, and census data at a subregional level. At times, some of this data, while requested was not utilized nor did it provide meaningful insight. As a whole, data gathering never pointed to a “golden nugget” as far as a topic or product and lead to some frustration on the part of the steering committee.

And finally, a large number of maps were developed by NMDC and LUPC throughout the process. These maps were useful and committee members often remarked that the visual aspect of the map clearly pointed to the topic(s) and issues at hand. Maps were utilized in PowerPoint presentation and during public meetings.

### Recommendations:

- Focus topic area and data gathering to one to three topics.
- Focus any guest speakers to land use regulations and its role or hindrance to the topic.
- Gather data that is relevant to the topic.
- Work with LUPC staff, local and state, to ensure that data is consistent.
- Develop mapping for the region based on the topic.

## Phase II- Product Development

Product development began in January 2015 when the committee decided to create a **Development-Rural Business (D-RB)** subdistrict that supported the creation of small natural resource based businesses or the expansion of home based businesses. Product development, while time consuming went well and there were few, if any, issues. LUPC staff played a greater role in the development of the product.

The consensus minus one model was never challenged during the creation of the D-RB and steering committee members were respectful of opposing viewpoints. The two topics that created the most discussion were **locational considerations** and **subdivisions**.

- **Locational Considerations:** There was considerable discussion relating to eligible townships, plantations, or towns known here as minor civil divisions ((MCDs). The Steering Committee began to identify potential MCDs based on a set of criteria which included: contains a major public road, has population, is located in close proximity to service center and/or retail hub, and amount of land parcelization. Committee members felt that the primary criteria be that the MCD have a major public road. When this criteria was used, 32 MCDs could have potentially contained a D-RB.

Several of the MCDs under consideration (while having a major public road) were remote, did not contain any population, land parcelization was minimal, and were removed from service center/retail hubs. Including these MCDs created concern with some committee members and at one point there was a proposal to remove 10 MCDs from consideration. Several members felt that the removal of those MCDs whittled down the opportunity in the region and reduced the ability of some landowners to develop their land. Other members felt that removing them, especially along the Route 11 corridor was advantageous to protect the mobility of the corridor and protect habitat. Members approved the removal of 2 MCDs (T7 R5 WELS and T8 R5 WELS) when the subdivision issue (see below) was resolved.

- **Subdivisions:** There were differing opinions among steering committee members regarding subdivisions in the eligible MCDs. Several members felt that subdivisions should not be allowed in the unorganized townships due to the rural nature of those townships, the potential impacts to transportation and wildlife corridors, and the perceived ability for developers to “game the system.” Others felt that allowing subdivisions that are reviewed under Chapter 10 may be the best mechanism to protect those resources. Committee members finally agreed to allow subdivisions in all MCDs where the D-RB was allowed. However in 8 rural MCDs, subdivisions would be allowed by special exception only.

## Recommendation:

- Process worked well.

## **Public Meetings**

At the completion of Phase I and Phase II, a series of public meetings were held to inform the public as to the progress of the project. Meetings were held in the evenings at locations in northern, central, and southern Aroostook County. Public service announcements and advertisements were submitted to all media sources in the region and articles were published in most of the weekly newspapers. The local radio station also interviewed NMDC staff and aired several news stories just prior to both sets of meetings. Local media was very responsive to the community guided planning and zoning project.

Public participation at the meetings was low. The largest turnout was in Fort Kent where 10 residents of the unorganized townships, plantations, or townships attended. Other locations had between 0 and 3 public members. Steering committee members felt that had the proposed product been controversial, public attendance would have been greater. Committee members also believe that the low attendance was an indication that the product was generally acceptable to the region.

### **Recommendation:**

- While important to hold public meeting, turnout may be low when product or topics are non-controversial.

## **Role of the Steering Committee**

The Steering Committee played a vital role in the project and is to be commended for the product produced. There were many meetings during the duration of the project and members often traveled long distances to attend. They provided well thought out and timely suggestions for data and product development. Their commitment to the project resulted in the production of a document that will have a positive impact on small businesses in the unorganized townships of Aroostook County. Several areas should have been better represented.

### Recommendation:

- Ensure that appropriate sectors are represented and provide input during the process such as recreation, agriculture, and local natural resource/environmental organizations.

## **Role of LUPC**

The role of LUPC staff changed through the process. During Phase I, staff acted in an advisory or technical assistance role and for the most part answered questions as they arose. LUPC staff also made presentations on their process and rulemaking. NMDC provided meeting facilitation but the committee struggled at times to identify specific goals or particular products for the process. While it was valuable for the Steering Committee to consider its region, and identify its priorities, independently of LUPC policy or guidance, it sometimes spent a considerable amount of time on topics that were unlikely to produce practical and effective recommendations to identify appropriate areas for economic development. The role of the LUPC staff changed in December 2014 when they became more active in the process with NMDC and Phase II began.

LUPC planners from Augusta provided valuable assistance in the creation of the final product and ensured that it would be consistent with relevant statutory provisions, the LUPC policies set out in its Comprehensive Land Use Plan (CLUP), and provisions of its Chapter 10 Land Use District and Standards. A significant amount of time was required by both LUPC and NMDC to provide meeting materials to the Committee. This included product and agenda development. The change in the role of LUPC staff during Phase II was important to the success of the project.

In addition to attendance by planners from Augusta, an equally critical staff person is the LUPC regional staff person. In the case of Aroostook County, this person is located at the Ashland office. She was able to provide valuable on-the-ground information as to what was happening in the region.

Recommendation:

- LUPC staff (local and Augusta) remain an active and equal partner in the process from the beginning and as needed.

**Future topics/on-going meetings**

During the course of the project, several other topics were discussed and minimally explored. While they were not addressed by the Steering Committee, they felt that each was important and should be addressed at some point in the future. These included:

Border Town Discussion

The Steering Committee spent a portion of two meetings on this topic and considered land uses in two (2) Aroostook County border townships - T15 R15 (St. Pamphile) and Big Twenty Township (Escourt). Each of these townships are located on major private roads, contain a border crossing, and residential and commercial development. In both cases, the “service center/retail hub” is located in the Province of Quebec. Development on the U.S. side provides long standing and increasingly vital accommodations and services for workers stationed deep in the woods far from US services.

These two townships have significantly different land use patterns and land features than the other townships being considered for a Rural Business Development District (D-RB). They do not contain a major public road and are not located near a U.S. service center or retail hub. However, there is a small year round population that requires services, and changes in the forest and recreational industry may require additional housing, lodging, and small scale commercial development.

**This topic is one that the committee has asked to keep tabs on and possibly discuss at future regional meetings.**

## Mining

As the CGPZ process began, the Maine Department of Environmental Protection started to rewrite mining regulations in Maine. This effort was brought about by a resurgence of interest in the Bald Mountain site located in T12 R8 west of Portage Lake and Ashland. Bald Mountain contains significant metallic deposits and has been an area of interest for many years in the region. Steering Committee members felt that this was a separate issue and decided they would not address mining as part of the CGPZ project. They did however, discuss the potential for ancillary businesses development in support of a potential mine and potential rezoning efforts to support that industry.

## Fish River Lakes Region and Concept Plan

Irving Woodlands LLC began working on the Fish River Chain of Lakes Concept Plan before the CGPZ Steering Committee was formed. This plan seeks to rezone approximately 51,015 acres of land around 4 of the lakes that comprise the Fish River chain of lakes to create a new Resource Protection Subdistrict. The plan area lies within 6 unorganized townships and includes over 400 existing camp lots. Representatives from Irving were asked to speak at a regularly scheduled meeting but declined. Similar to mining, Steering Committee members felt that this project was far enough along in the process, and taking a parallel track, that there was limited opportunity for them to provide meaningful feedback.

## In Woods Processing

There was considerable discussion at committee meetings regarding in-woods processing. The committee was interested in looking at how in-woods processing would be addressed in the LUPC jurisdiction but in-woods processing appears to mean different things to different people and entities and it was difficult to obtain a good definition or future plans for this type of land use. **This topic is one that the committee has asked to keep tabs on and possibly discuss at future regional meetings.**

## Wind Energy

Wind farms and transmission lines were reviewed briefly by the committee. Projects were/are underway in southern and central Aroostook County as the committee began their data gathering. The committee decided that supporting efforts that make it easier for ancillary businesses to locate near facilities would be a better use of time.

## Future Meetings/Topics

The Steering Committee recommends that some form of process continue into the future. They understand that financial constraints at NMDC should be taken into consideration but a sufficient number of topics were identified to warrant on-going meetings. While no formal recommendation was made, they asked NMDC staff to consider meeting on a 6 month or annual basis to discuss on-going or topical issues. The committee felt that these meetings could help keep the CGPZ effort alive and address future needs. They may also increase participation from representatives of various industries or topics without committing to a longer-term project.

12/3/2015

*Aroostook County CGPZ Process Record*

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2013:

- **4/24/2013:** Agenda, Minutes, Prospective Zones are Different, CGPZ for Regions within Maine's Unorganized Territories, CGPZ Presentation
- **5/15/2013:** Agenda, Minutes,
- **6/4/2013:** Agenda, Straw Man Proposal,
- **6/25/2013:** Process Document, NMDC letter and process document, Commission Meeting Minutes
- **10/23/2013:** Agenda, Minutes,
- **12/11/2013:** Agenda, Minutes, Maps: Existing Industrial Facilities; Existing Parcels, Prime Farm Soils; Existing Zoning,
- **12/12/2013:** NMDC Presentation to Board of Directors

12/3/2015

*Aroostook County CGPZ Process Record*

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2014:

- **1/8/2014:** Agenda, Minutes, Public Participation Plan,
- **3/19/2014:** Agenda, Sandy River Plantation Land Use Guidance Map, Rangeley Prospective Zoning Presentation
- **4/16/2014:** Agenda, Minutes, CGPZ Products Description, CGPZ Products Matrix
- **5/21/2014:** Agenda, Minutes, Chapter 10 Presentation,
- **6/24/2014:** Agenda, Minutes, CGPZ Permit Activity Review, Permitting Data Requested by NMDC, Guide to LUPC Data
- **7/22/2014:** Agenda, Aroostook Partnership for Progress Agriculture Presentation
- **9/17/2014:** Agenda, Minutes, Home Occupation Standards Presentation,

12/3/2015

*Aroostook County CGPZ Process Record*

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2015:

- **1/21/2015:** Agenda, Minutes, Timeline, Presentation, MFPC Letter, Zoning and Adjacency, Selected Findings from ZP 744, D-SB Topic Questionnaire, Comments from Committee Members (phone check in)
- **2/18/2015:** Agenda, Minutes, Memo, Narrowing the Geography, D-SB Concept, Sign in Sheet
- **3/18/2015:** Agenda, Minutes, Memo, Narrowing the Geography, D-SB Concept, Moose & Deer Crashes (Route 11), Moose & Deer Crashes (Route 11) part 2, D-SB Scenarios Presentation
- **4/8/2015:** Agenda, Minutes, Memo, D-SB Concept, Map: Candidate MCDs, Memo (Border Communities),
- **April Public Meetings:** Public Presentation, Presentation to NMDC Executive Board, Notes from Public Meetings, Map: Candidate MCDs, D-SB Concept,
- **5/20/2015:** Agenda, Memo, D-SB Concept, Map: Candidate MCDs,
- **6/17/2015:** Agenda, Minutes, Mapping Exercise, Retail Hubs – Data Methodology,
- **7/17/2015:** Agenda, Minutes, Memo, Sign-in sheet, D-SB Concept, D-SB Concept (Public), Public Notice, D-SB Concepts Presentation; LEAD Presentation; Rotary Club Presentation
- **8/11/2015 call:** Agenda, Notes, Memo, Parcel Analysis, D-SB Concept
- **8/20/2015 call:** Agenda,
- **9/24/2015 call:** Agenda, Lesson's Learned, Memo, Redline D-RB Proposal
- **11/12/2015 NMDC Board Meeting:** Final D-RB Proposal (Approved); CGPZ Lessons Learned (Approved); and Transmittal Letter

# Proposed Rule Revisions of the Aroostook County Community Guided Planning and Zoning Process For Adoption: Rural Business Development Subdistrict

The following revisions propose amendments to Chapter 10, Land Use Districts and Standards for Areas within the Jurisdiction of the Maine Land Use Planning Commission. This document only includes relevant sections of Chapter 10 indicates additions in underline.

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## 10.02 DEFINITIONS

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The following definitions apply to the following terms as they appear in this chapter, the other chapters of the Commission's rules, and the Commission's statute (12 M.R.S.A. §206-A):

...

**#. Rural Business:** A building, group of buildings, or site, or any part thereof, used, maintained, or advertised as a commercial, institutional, or light industrial business. Rural business facilities may be operated as a for-profit, non-profit, or public entity. Rural business facilities are either 1) compatible with, and complementary to, natural resource-based land uses such as agriculture, forestry, small-scale natural resource processing and manufacturing, and outdoor recreation, or 2) of a scale and intensity appropriate to rural areas that are lightly developed but proximate to services and transportation infrastructure. For the purposes of Land Use Planning Commission rules, rural businesses are divided into three categories:

**Category 1** Natural resource based businesses that are small scale processing, storage, sale, and distribution of wood and agricultural product; or are related to or in support of agriculture, forestry, natural resource extraction, or commercial outdoor recreation. Examples include but are not limited to saw mills, value added food production, equipment maintenance and repair facilities, guide services, recreational equipment rental and storage, and motorized and non-motorized recreational centers. Category 1 businesses are specifically designated by Section 10.27.R.1.a.

**Category 2** Moderate-scale business facilities for retail businesses, restaurants, food preparation businesses, professional offices, and similar types of businesses. Examples include, but are not limited to, restaurants, art studios, nursing homes, and boarding kennels. Category 2 businesses are specifically designated by Section 10.27.R.1.b.

**Category 3** Larger scale commercial facilities for manufacturing and assembly plants, contracting and construction businesses, automobile service and repair, and similar types of businesses. The term includes, but is not limited to, saw mills, value added food production, equipment maintenance and repair facilities, recreational equipment rental and storage, motorized and non-motorized recreational centers, assembly plants, and automobile service and repair. Category 3 may also include Category 1 and Category 2 type businesses, as long as it meets all other criteria for Category 3. Category 3 businesses are specifically designated by Section 10.27.R.1.c.

[NOTE: Renumber all definitions from this point forward.]

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## 10.21 DEVELOPMENT SUBDISTRICTS

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Pursuant to the Commission's Comprehensive Land Use Plan, the following development subdistricts are established:

...

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### I. RURAL BUSINESS DEVELOPMENT SUBDISTRICT (D-RB)

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(Applies only to certain locations within Aroostook County)

#### 1. Purpose

The purpose of the D-RB is to encourage an appropriate range of business development in rural areas, and locate development in or at the edge of existing development and in concentrated areas along appropriate portions of major transportation corridors. The locations for development are selected to maintain the rural character of the region and avoid significant visual, natural resource, and fiscal impacts of unplanned growth.

Where a D-RB subdistrict petition is granted, subsequent development in that subdistrict shall not provide the basis for redistricting of the area to another development subdistrict, nor shall it serve to satisfy those requirements for redistricting surrounding areas to development subdistricts pursuant to Section 10.08.

#### 2. Description

a. The D-RB subdistrict shall include areas to accommodate a range of small commercial, light manufacturing, and institutional facilities and businesses that are generally compatible with, and complementary to, natural resource-based land uses but may create some adverse impacts to residential uses, recreation uses, or resource protection. Businesses are typically larger than a permissible home-based business, but are not large-scale commercial or industrial developments, and may generate some level of nuisance-type impacts (e.g., noise, vibration, smoke, fumes, dust, odors, heat, light, glare, electrical interference) that extend beyond the property lines of the business.

The D-RB subdistrict encourages the commercial expansion of new and existing facilities in locations that are suitable for growth because of proximity to existing development, infrastructure, services, and major transportation corridors. The D-RB subdistrict is not designed to facilitate strip development along highways.

The designated D-RB subdistrict boundaries shall include all buildings, paved or other compacted surfaces, and areas directly related to, and necessary for, the conduct of those activities associated with the above described uses and buildings, as well as other intervening areas between such buildings, paved or other compacted surfaces, and areas.

The D-RB subdistrict shall include areas that contain small commercial, light manufacturing, and institutional facilities and businesses that meet the purpose and other provisions of the subdistrict. The D-RB subdistrict shall also include areas which the Commission determines meet the criteria for redistricting to this subdistrict, pursuant to Section 10.08 hereof, are proposed for development which is consistent with the purposes of this subdistrict, and are

suitable for the development activities proposed when measured against the standards of 12 M.R.S.A. §685-B(4) and the Commission's Rules and Regulations relating thereto.

Areas within ¼ mile of Management Class 1 lakes or within ½ mile of Management Class 6 lakes shall not be included within the D-RB Subdistrict.

The D-RB subdistrict distinguishes between three types of rural businesses with differing impact categories, as provided in Section 10.27,R,1.

**b. Eligible Locations**

(1) The following townships, plantations, and towns are eligible for the D-RB subdistrict:

Bancroft Twp., Benedicta Twp., Cary Plt., Connor Twp., Cross Lake Twp., Cyr Plt., E Twp., Forkstown Twp., Garfield Plt., Glenwood Plt., Hamlin, Hammond, Macwahoc Plt., Madawaska Lake Twp., Molunkus Twp., Moro Plt., Nashville Plt., North Yarmouth Academy Grant Twp., Oxbow Plt., Reed Plt., Silver Ridge Twp., St. John Plt., TA R2 WELS, T1 R5 WELS, T9 R5 WELS, T14 R6 WELS, T15 R6 WELS, T17 R4 WELS, Upper Molunkus Twp., and Winterville Plt.

For purposes of this section, “Category 2 & 3 towns, plantations and townships” are:

Bancroft Twp., Benedicta Twp., Cary Plt., Connor Twp., Cross Lake Twp., Cyr Plt., Garfield Plt., Hamlin, Hammond, Macwahoc Plt., Madawaska Lake Twp., Molunkus Twp., Moro Plt., Nashville Plt., Oxbow Plt., Reed Plt., St. John Plt., T15 R6 WELS, T17 R4 WELS, and Winterville Plt.

Except as provided in Section 10.21,I,2,b,(2), the D-RB subdistrict must be fully located within one mile from public roads, measured from the traveled portion of the road, in eligible townships, plantations and towns.

(2) Modification of Locational Criteria. The depth of this subdistrict, and the distance a Category 2 and Category 3 rural business may be located from a public road, may be extended farther from a public road to allow development design in the project area that better meets the purpose of this subdistrict; or to locate subdistrict boundary lines along established property or parcel lines. Adjustments will only be made that do not increase the distance of the subdistrict from the public road, and the distance a Category 2 and Category 3 rural business may be located from a public road, by more than five percent.

**3. Land Uses**

**a. Uses Allowed Without a Permit**

The following uses shall be allowed without a permit from the Commission within D-RB subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Land application of septage, sludge and other residuals, and related storage and composting activities in compliance with regulations promulgated by the Maine Department of Environmental Protection under 38 M.R.S.A. §13: Maine Hazardous Waste, Septage and Solid Waste Management Act;
- (5) Motorized vehicular traffic on roads and trails, and snowmobiling;

- (6) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (7) Surveying and other resource analysis;
- (8) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (9) Wildlife and fishery management practices.

**b. Uses Allowed Without a Permit Subject to Standards**

The following uses shall be allowed without a permit from the Commission within D-RB subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Accessory structures: New or expanded structures accessory to any legally existing principal structures and uses, provided that the total square footage of the footprint of all new or expanded accessory structures built on a lot within a two (2) year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural management activities, including cranberry cultivation, the construction, alteration or maintenance of farm or livestock ponds which are not fed or drained by a flowing water, and the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for agricultural management activities;
- (3) Campsites;
- (4) Checkpoint buildings;
- (5) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those described in Section 10.21,I,3,b,(1) above, less than 1 acre in size which are not fed or drained by flowing waters, in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (6) Driveways associated with residential uses;
- (7) Filling and grading;
- (8) Forest management activities, except for timber harvesting, involving the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for forest management activities;
- (9) Hand-carry launches: Commercial and public hand-carry launches;
- (10) Home occupations: Minor home occupations;
- (11) Mineral exploration activities: Level A mineral exploration activities, including associated access ways;
- (12) Mineral extraction operations, less than 5 acres in size;
- (13) Road projects: Level A and B road projects;
- (14) Service drops;
- (15) Signs;
- (16) Trailered ramps: Public trailered ramps;
- (17) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (18) Water crossings of minor flowing waters.

**c. Uses Requiring a Permit**

The following uses may be allowed within D-RB subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-B, subject to the applicable requirements set forth in Sub-Chapter III and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 and Management Class 5 lakes, subject to the applicable requirements of Section 10.21,C,3,g, h and i below:

- (1) Campsites, Residential;
- (2) Commercial and industrial:
  - (a) Rural Business in conformance with the requirements of Section 10.27,R:
    - i. Category 1; and
    - ii. Category 2, within one quarter mile of a public road in Category 2 & 3 townships, plantations and towns, or in accordance with Section 10.21,I,2,b(2).
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those described in Section 10.21,I,3,b, above, which are 1 acre or more in size, or such ponds less than 1 acre which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Draining, dredging, and alteration of the water table or water level for other than mineral extraction;
- (5) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (6) Family burying grounds of not more than ¼ acre, in accordance with 13 M.R.S.A. §1142;
- (7) Filling and grading which is not in conformance with the standards of Section 10.27,F;
- (8) Hand-carry launches: Private hand-carry launches and hand-carry launches addressed in Section 10.23,E,3,b which are not in conformance with the standards of Section 10.27,L; Home occupations: Major home occupations, except in the townships or plantations listed in Section 10.21,I,3,d;
- (9) Maple sugar processing operations;
- (10) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;
- (11) Mineral extraction operations,
  - (a) affecting an area less than 5 acres in size and which are not in conformance with the standards of Section 10.27,C;
  - (b) affecting an area between 5 and 30 acres provided the unreclaimed area is less than 15 acres; and
  - (c) structures essential to the extraction activity having a total gross floor area of no more than 2,000 square feet;
- (12) Peat extraction affecting an area less than 30 acres in size;
- (13) Portable mineral processing equipment;
- (14) Recreational lodging facilities:
  - (a) Level A;
  - (b) Level B;
  - (c) Level C;
  - (d) Level D (inside the geographic allowance area); and
  - (e) Level C facilities, and Level D facilities (inside the geographic allowance area), that are commercial sporting camps legally existing as of August 5, 2013 may provide fuel and dining to the public, subject to the fuel dispensing provisions for public fuel sales, provided a permit is issued for such use within 3 years of August 5, 2013;

- (15) Road projects: Level C road projects;
- (16) Sawmills and chipping mills on sites of less than 5 acres;
- (17) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (18) Signs which are not in conformance with the standards of Section 10.27,J;
- (19) Solid waste disposal facilities affecting an area less than 2 acres in size;
- (20) Structures: Non-commercial structures utilized for educational, scientific, or nature observation purposes; structures devoted to composting of sludge, septage or other residuals affecting an area less than 5 acres in size; and structures devoted to the storage of sand or salt;
- (21) Subdivisions: Commercial and industrial subdivisions for rural business within Bancroft Twp., Benedicta Twp., Cary Plt., Connor Twp., Cross Lake Twp., Cyr Plt., E Twp., Garfield Plt., Hamlin, Hammond, Macwahoc Plt., Madawaska Lake Twp., Molunkus Twp., Moro Plt., Nashville Plt., Oxbow Plt., Reed Plt., Silver Ridge Twp., St. John Plt., T15 R6 WELS, T17 R4 WELS, and Winterville Plt.
- (22) Timber harvesting;
- (23) Trailered ramps: Commercial trailered ramps and trailered ramps addressed in Section 10.21,I,3,b which are not in conformance with the standards of Section 10.27,L;
- (24) Truck and equipment storage in accordance with Sections: 10.27,R,1,a,(6); 10.27,R,1,b,(6); and 10.27,R,1,c,(6);
- (25) Utility facilities, excluding service drops; and wire and pipe line extensions which do not meet the definition of service drops;
- (26) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (27) Water impoundments;
- (28) Wind projects: Community-based offshore wind energy projects, as defined in Title 12 M.R.S.A., Section 682, Subsection 19; offshore wind power projects, as defined in Title 38 M.R.S.A., Section 480-B, Subsection 6A, and wind energy development in accordance with Title 35-A, M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (29) Other structures, uses, or services that are essential to the uses listed in Section 10.21,I,3,a through c; and
- (30) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses they protect, and are of similar type, scale and intensity as other allowed uses.

#### **d. Special Exceptions**

The following uses may be allowed within the D-RB subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Maple Sugar Processing Subdivisions: Subdivisions containing lots created by lease for the purpose of establishing and operating commercial maple sugar processing operations provided that:

- The maximum number of leased lots shall be no more than one (1) per every 300 acres of the lot or parcel being subdivided<sup>1</sup>;
- The maximum size of each leased lot shall be no more than 4 acres;
- Any two leased lots in a maple sugar subdivision may be located less than 1,000 feet from each other; these lots will be considered a set of lots for the purpose of determining leased lot separation;
- Each set of leased lots must be separated from any other leased lot or set of leased lots in the subdivision by a minimum of 1,000 feet, measured horizontally from the closest point between lots or sets of leased lots; and

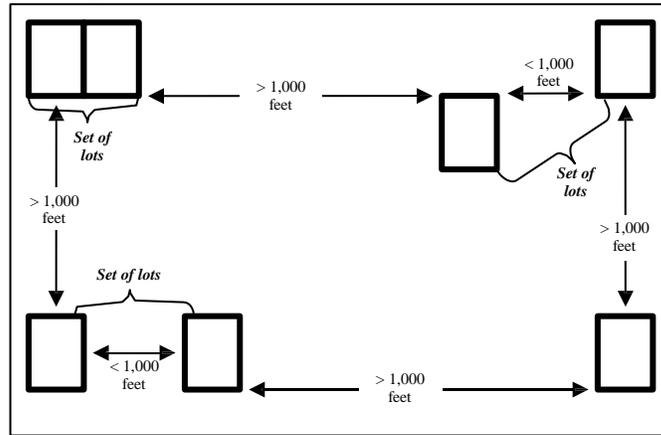


Figure 10.21,I-1. Leased lots in maple sugar subdivisions.

- Fee ownership in each of the leased lots shall only be transferred as part of a sale of the entire parcel originally so subdivided, or with a deed restriction requiring that the lot be used only for commercial maple syrup production unless the Commission, or its legal successor in function, releases the restriction and records such release in the registry of deeds.

The following uses may be allowed as special exceptions, either singly or in combination, provided the applicant shows by substantial evidence, that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan; (c) that there is sufficient infrastructure to accommodate the additional traffic and activity generated by the facility; and (d) that surrounding resources and uses that may be sensitive to such increased traffic and activity are adequately protected:

(2) Commercial and industrial:

(a) Rural Business in conformance with the requirements of Section 10.27,R:

- (i) Category 3, within one half mile of a public road in Category 2 & 3 townships, plantations and towns, or in accordance with Section 10.21,I,2,b(2);

(3) Recreational lodging facilities:

- (a) Level C (occupancy may exceed the standard in Section 10.27,Q,1, Table A up to the Expanded Access occupancy limit, provided that the majority of occupancy is accommodated at campsites);
- (b) Level C – Expanded Access (inside the geographic allowance area); and

<sup>1</sup> Calculated by dividing the total acreage of the lot or parcel being subdivided by 300 and rounding down to the nearest whole number.

(c) Level D – Expanded Access (inside the geographic allowance area).

The following uses may be allowed as special exceptions provided the applicant also shows by substantial evidence that there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant:

- (4) Docking structures: New or expanded permanent docking structures;
- (5) Trailered ramps: Private trailered ramps; and
- (6) Water-access ways.

The following uses may be allowed as special exceptions provided the applicant shows by substantial evidence, in addition to (a), (b), (c) and (d) above, and the provisions of 10.25,D,2, that (e) the project will not result in traffic safety or capacity deficiencies in the vicinity of the project site.

- (7) Subdivisions: Commercial and industrial subdivisions for rural business within Forkstown Twp., Glenwood Plt., North Yarmouth Academy Grant Twp., TA R2 WELS, T1 R5 WELS, T9 R5 WELS, T14 R6 WELS, and Upper Molunkus Twp.;

The following uses may be allowed as special exceptions provided the applicant shows by substantial evidence that either: (a) the use is integral to the business; or (b) the use predates [DATE OF RULE].

- (8) Residential: Single family dwellings.

**e. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception shall be prohibited in a D-RB subdistrict.

**f. Water Quality Limiting Lakes**

For information relative to water quality limiting lakes see Section 10.23,E,3,g.

**g. Management Class 2 Lakes** (Accessible, Undeveloped, High Value Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to single family dwelling proposals within 500 feet of the normal high water mark of Management Class 2 Lakes, the Commission will require an average density per landownership of no more than one dwelling unit per shore mile.

**h. Management Class 4 Lakes** (High Value, Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

Within 250 feet of the normal high water mark of Management Class 4 lakes, the Commission will:

- (1) With respect to subdivisions and commercial, industrial, and other non-residential structures, require the applicant to indicate future plans for other undeveloped shorelands on the lake that are owned by the applicant. Such indication of future plans shall address, at a minimum, the next 10 years, and shall include, but not be limited to, the following information regarding the applicant's landownership on the lake:

- (a) area and shoreline length;

- (b) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and
- (c) development proposed or anticipated, if any.

This indication of future plans shall be considered part of the proposal. Therefore, changes in such plans, evidenced by a development proposal not included in the description of future plans, will require approval of an application to amend the original proposal in which these future plans were indicated.

- (2) With respect to subdivision proposals, require cluster developments which meet the requirements of Section 10.25,R.

**i. Management Class 5 Lakes (Heavily Developed Lakes) as shown on the Commission's Land Use Guidance Maps.**

With respect to subdivision proposals within 250 feet of Management Class 5 lakes, the Commission will require cluster developments which meet the requirements of Section 10.25,R.

**j. Management Class 1 and 6 Lakes (Least Accessible, Undeveloped High Value Lakes and Remote Ponds) as shown on the Commission's Land Use Guidance Maps. Areas around these lakes are not eligible to be zoned D-RB (see Section 10.21,I,2).**

[NOTE: by adding the previous section (in alphabetical order by subdistrict name), the subsequent Sections 10.21,I through L will be relettered as appropriate; all references in Chapter 10 to those sections will be updated; and the table of contents will be revised accordingly. These include sections 10.21,I; 10.21,I,3,c; 10.21,I,3,c,(6), (10), (15), and (20); 10.21,I,3,j; 10.21,J; 10.21,J,2,a,(3); 10.21,J,3,c; 10.21,J,3,c,(9), (15), (20), and (25); 10.21,K; 10.21,K,3,c; 10.21,K,3,c,(11), (17), and (22); 10.21,L; 10.21,L,3,c; 10.21,L,3,c,(8), (13), and (22).]

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## 10.25 DEVELOPMENT STANDARDS

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This section contains review standards for structures and uses that require issuance of a permit from the Commission, or as otherwise required in Sub-Chapter II. Except as herein provided, development not in conformance with the standards of this section are prohibited.

Nothing in this section shall preclude the Commission from imposing additional reasonable terms and conditions in its permits as the Commission may deem appropriate in order to satisfy the criteria for approval and purposes set forth in the Commission's statutes, rules and the Comprehensive Land Use Plan.

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### Q. SUBDIVISION AND LOT CREATION

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This section governs the division of lots and the creation of subdivisions.

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#### 6. Subdivision Filing with Registry of Deeds and Sale of Lots

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- e. All subdivision lots permitted for rural businesses in the D-RB subdistrict shall include a condition requiring that the lot be used only for rural businesses unless the Commission, or its legal successor in function, releases the condition.

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## 10.27 ACTIVITY-SPECIFIC STANDARDS

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The documents referenced within this section may be obtained from the Commission's office in Augusta, or any of its regional offices.

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### **R. RURAL BUSINESSES**

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The following requirements shall apply to rural businesses located in the D-RB subdistrict except as otherwise provided herein.

#### **1. Category of Rural Businesses<sup>2</sup>**

Except as hereinafter provided, rural businesses not in conformance with the standards of this section are prohibited.

##### **a. Category 1 Rural Business.**

- (1) **Description.** Natural resource-based business.
- (2) **Size.**
  - (a) Up to three acres utilized by the business, and
  - (b) Up to 4,000 square feet of gross floor area, or as provided by Section 10.27,R,2.
- (3) **Exterior effects.** There must be no exterior display, no exterior storage of materials, and no other exterior indications of a rural business with the following exceptions:
  - (a) Outdoor storage of raw materials and finished product are allowed, provided at least 50 percent of the raw materials used in production come from the site or working farm or forest lands under the same ownership;
  - (b) Outdoor storage of outdoor recreation equipment and supplies;
  - (c) Shipping and receiving areas appropriate for Category 1 type businesses, particularly when considering one or more of the following factors: (a) maximum number of delivery vehicles accommodated at the same time; (b) daily shipping and receiving hours of operation, including any seasonal variation; and (c) type of delivery vehicle.
- (4) **Traffic.** The level of vehicular traffic generated by a Category 1 rural business must not significantly exceed that commonly associated with Category 1 types of business. If not located on a numbered state or federal route, traffic on the network of roads used to facilitate movement of goods and services to and from the business may not exceed levels common to the surrounding setting and uses.

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<sup>2</sup> See Section 10.21.I.2.b for eligible locations for Category 1, 2, and 3 rural business.

- (5) **Hours of Operation.** The Commission may limit hours of operation to minimize impacts to adjacent residents or uses.
- (6) **Vehicles and Equipment.** A business must not involve the regular exterior use or storage of more than an aggregate of six tractor trucks, semitrailers, and heavy equipment such as construction equipment, all of which must be operable or in the process of being made operable. Exterior storage of abandoned or inoperable vehicles or heavy equipment is not permitted.

Seasonal variations in the number of units stored are permissible so long as the seasonal increase is for a relatively short period of time and the increase above the limit of stored units does not cause undue adverse impacts to surrounding uses and resources.

This factor does not address delivery or pickup vehicles, which are addressed by Section 10.27,R,1,a,(3),(c).

- (7) **Hazardous wastes.** A Category 1 rural business must not generate or store quantities of hazardous wastes that exceed the amounts set for “Small Quantity Generators” by the Maine Department of Environmental Protection (DEP) and must meet the requirements of DEP rules, Chapter 850 DEP Rules, Section 3(A)(5)(d)(vii), if applicable.

**b. Category 2 Rural Business.**

- (1) **Description.** Retail, restaurants, offices, and similar small businesses.
- (2) **Size.**
- (a) Up to 2,500 square feet of gross floor area, or as provided by Section 10.27,R,2.
- (3) **Exterior effects.**
- (a) No outdoor storage is allowed;
- (b) Outdoor activity areas are allowed including for child day care and adult day service programs, dining, display of merchandise (during hours of operation), outdoor dispensing or sale of products, and other activities associated with these types of businesses.
- (c) Shipping and receiving areas appropriate for Category 2 type businesses, particularly when considering one or more of the following factors: (a) maximum number of delivery vehicles accommodated at the same time; (b) daily shipping and receiving hours of operation, including any seasonal variations, and; (c) type of delivery vehicle.
- (4) **Traffic.** The level of vehicular traffic generated by a Category 2 rural business must not significantly exceed that commonly associated with Category 2 types of business. If not located on a numbered state or federal route, traffic on the network of roads used to facilitate movement of goods and services to and from businesses may not exceed levels common to the surrounding setting and uses.

- (5) **Hours of Operation.** Hours of operation must conform to surrounding settings and uses. The Commission may limit hours of operation to minimize impacts to adjacent residents or uses.
- (6) **Vehicles and Equipment.** A business may not involve the regular exterior use or storage of heavy equipment such as construction equipment, except building maintenance or grounds keeping equipment generally used in a Category 2 type of business.

This factor does not address delivery or pickup vehicles, which are addressed by Section 10.27,R,1,b,(3),(c).

- (7) **Hazardous wastes.** A Category 2 rural business must not generate or store quantities of hazardous wastes that exceed the amounts set for “Small Quantity Generators” by the Maine Department of Environmental Protection (DEP) and must meet the requirements of DEP rules, Chapter 850 DEP Rules, Section 3(A)(5)(d)(vii), if applicable.

**c. Category 3 Rural Business.**

- (1) **Description.** Manufacturing, Construction, Service and Similar Businesses.
- (2) **Size.**
- (a) Up to 20,000 square feet of gross floor area, or as provided by Section 10.27,R,2.
- (3) **Exterior effects.**
- (a) Site may be used for storage of raw materials and finished products;
- (b) Site may be used for equipment storage;
- (c) Shipping and receiving areas appropriate for Category 3 type businesses, particularly when considering one or more of the following factors: (a) maximum number of delivery vehicles accommodated at the same time; (b) daily shipping and receiving hours of operation, including any seasonal variations, and; (c) type of delivery vehicle.
- (d) Adequate provisions must be made for noise and dust abatement.
- (4) **Traffic.** The level of vehicular traffic generated by a Category 3 rural business must not significantly exceed that commonly associated with Category 3 types of business. If not located on a numbered state or federal route, traffic on network of roads used to facilitate movement of goods and services may not exceed levels common to the surrounding setting and uses.
- (5) **Hours of Operation.** Hours of operation must conform to surrounding settings and uses. The Commission may limit hours of operation to minimize impacts to adjacent residents or uses.
- (6) **Vehicles and Equipment.** A business must not involve the regular exterior use or storage of more than an aggregate of eight tractor trucks, semitrailers, and heavy equipment such as construction equipment, all of which must be operable or in the process of being made operable. Exterior storage of abandoned

vehicles or heavy equipment is not permitted.

Seasonal variations in the number of units stored are permissible as long as the seasonal increase is for a relatively short period of time and the increase above the limit of six stored units does not cause undue adverse impacts to surrounding uses and resources.

This factor does not address delivery or pickup vehicles, which are addressed by Section 10.27,R,1,c,(3),(c).

- (7) **Hazardous wastes.** A Category 3 rural business must not generate or store quantities of hazardous wastes that exceed the amounts set for “Small Quantity Generators” by the Maine Department of Environmental Protection (DEP) and must meet the requirements of DEP rules, Chapter 850 DEP Rules, Section 3(A)(5)(d)(vii), if applicable.

## **2. Existing Businesses and Buildings**

### **a. Expansion of Existing Rural Business**

For the purposes of Section 10.27,R, Existing Rural Business is a business that meets the definition of Rural Business, in accordance with Section 10.02 and is an ongoing functional enterprise as of [effective date of rules].

- (1) Existing Category 1 or 2 Rural Business located within the respective locational requirements for Category 1 or Category 2 Rural Business may expand in size up to 30 percent larger than the applicable size limits, provided:
- (a) All other applicable Category limits are met; and
  - (b) All other applicable standards (such as dimensional requirements of Section 10.26) are met.

### **b. Utilization of Existing Buildings**

For the purposes of Section 10.21,I, Existing Building is a structure that is legally existing and meets the definition of “building”, in accordance with Section 10.02, as of [effective date of rules].

The use of an Existing Building for a Rural Business located within the locational requirements for any category rural business within the D-RB, including reconstruction within the existing footprint, may be permitted without regard to building size provided:

- (1) the applicant demonstrates that the use of the building will meet all other applicable category factors for that location;
- (2) reconstructed buildings remain within the existing footprint and have a maximum height no higher than the height of the existing building, or 35 feet, whichever is higher<sup>3</sup>; and
- (3) all other applicable standards (such as dimensional requirements of Section 10.26) are met.

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<sup>3</sup> Structures used for agricultural management, structures with no floor area, or features of buildings which contain no floor area such as chimneys, towers, ventilators, and spires may exceed these maximum heights with the Commission’s approval.

**3. Buffering.**

A buffer strip shall be provided so as to minimize visual and other impacts on surrounding residential uses from non-residential buildings and uses located within the D-RB subdistrict. When required, buffering will consist of:

- a. A vegetated strip of no less than 15 feet in width sited in such a way as to minimize visual impacts from non-residential buildings and uses on surrounding residential uses; or
- b. Where no natural vegetation exists, the buffer may consist of fences, walls, or berms; or tree plantings and/or hedges.

Adequate provision shall be made for the maintenance, repair and replacement of all buffers to ensure continuous year round effective screening of any abutting residential property.

The Commission may allow a buffer area of less width when site conditions, such as natural features, vegetation, topography, or site improvements, such as additional landscaping, berming, fencing, or low walls, make a lesser area adequate to achieve the purposes of this section.

**4. Subdivision Conditions.**

As required by Section 10.25,Q,6,e, all subdivision lots permitted for Rural Businesses in the D-RB subdistrict shall include a condition requiring that the lot be used only for Rural Businesses unless the Commission, or its legal successor in function, releases the condition.