



PAUL R. LEPAGE  
GOVERNOR

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

# Memorandum

**To:** LUPC Commissioners

**From:** Hugh Coxe, Chief Planner

**Date:** May 7, 2015

**Re:** Proposed Rule Revisions For Adoption: Exceptions to Dimensional Requirements for Public Recreational Facilities

---

## Introduction

Staff is seeking Commission adoption of this rulemaking. The proposed rulemaking is to provide an exception to dimensional lot standards for certain public recreational facilities - boat launches and trailheads.

This rulemaking was proposed at the March 11, 2015 Commission meeting and then posted for public comment. One comment was received and staff revised the proposed rule in accordance with that comment.

## Background

Plum Creek's Concept Plan for the Moosehead Lake Region (Concept Plan) provides that up to 50 acres of land within the Moosehead Region Conservation Easement (Conservation Easement) will be donated to the Bureau of Parks and Lands (BPL) to address future specified outdoor recreation needs. In identifying potential sites for public boat launches and public trailheads BPL determined that some of the Section 10.26 dimensional requirements for lots would cause the lots to be larger than is required for good site design in this particular case.

BPL suggests that requiring all public boat launch and public trailhead sites meet all dimensional standards reduces the total number of sites that could be developed from the 50 acre donation and reduces the public benefit that was part of the Concept Plan balance. BPL requested that LUPC staff consider ways these dimensional requirements might be reduced when proposed sites are surrounded by Conservation Easement lands with permanent prohibitions on incompatible development and use.

## Public Comments and Rule Revisions

The draft rule posted for public comment provides an exception to dimensional standards that would apply to boat launches, campsites, and trailheads that are owned, leased, or operated by a public entity. The exceptions would allow a minimum lot size of 20,000 square feet, minimum shoreline frontage of 100 feet, and minimum road frontage of 100 feet but only if the facility is otherwise sufficiently sized to fulfill the use for which it is designed.

Based on comments the Commission received for the separate rulemaking for Recreational Lodging and Revegetation Standards, those proposed rule revisions were drafted to capture past practice and explicitly state that lots developed only with a campsite are not required to meet a minimum shoreline or road frontage requirement. That past practice and rule interpretation regarding frontage requirements for campsites pre-dates the effective date of the Moosehead Region Concept Plan and therefore applies equally to dimensional requirements subject to the terms of that plan. Likewise the past practice to not require minimum lot size for lots developed only with a campsite pre-dates the Concept Plan.

Whether subject to the current version of Section 10.26 or to the Concept Plan's version of Section 10.26, campsites have no dimensional requirements for road frontage, shore frontage, or minimum lot size. An exception to dimensional requirements for certain public campsites would be meaningless given that no campsite is subject to those requirements. Therefore, "campsites" have been removed from the type of public recreational facility for which the exceptions that are the subject of this rulemaking would apply.

Staff also made some clarifying revisions to language and punctuation as set out in the basis statement.

### **Staff Recommendation**

The staff recommends that the Commission adopt the proposed Exceptions to Dimensional Requirements for Public Recreational Facilities rule revision and basis statement.

### *Attachments:*

*Proposed Rule (Exceptions to Dimensional Requirements for Public Recreational Facilities)*

*Basis Statement*

## Proposed Rule Revisions For Adoption: Exceptions to Dimensional Requirements for Public Recreational Facilities

The following amendments make changes 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 and indicates additions in underline and deletions with a ~~strikethrough~~.

---

### 10.26 DIMENSIONAL REQUIREMENTS

---

#### G. EXCEPTIONS TO DIMENSIONAL REQUIREMENTS

---

**18.** For lots improved with public recreational facilities the minimum lot size is 20,000 square feet, the minimum shoreline frontage is 100 feet, and the minimum road frontage is 100 feet, provided:

- 1) the abutting land is subject, in perpetuity, to legally binding provisions that prohibit incompatible land uses in locations that would be adversely affected by the public recreational facility, and
- 2) the public recreational facility is otherwise sufficiently sized to fulfill the use for which it is designed.

For lots improved with a public trailered ramp or public hand-carry launch that do not satisfy the above provisions, but where the ramp or launch will not have an undue adverse impact on existing uses in the project area, the minimum shoreline frontage is 200 feet. Except as provided here, the dimensional requirements contained in Section 10.26,A through F apply to lots improved with public recreational facilities. For purposes of this section, public recreational facilities are trailered ramps and hand-carry launches; trailheads; and associated facilities; that are owned, leased, or operated by a public entity and made available with or without a fee.

---

### 10.27 ACTIVITY-SPECIFIC STANDARDS

---

#### L. TRILERED RAMPS, HAND-CARRY LAUNCHES, AND WATER-ACCESS WAYS

---

##### 5. Design and Construction Standards for Trailered Ramps and Hand-carry Launches.

Unless otherwise ~~indicated~~stated, the following standards apply to trailered ramps and hand-carry launches that are subject to the notification provisions in Section 10.27,L,4, and to all commercial or private trailered ramps and hand-carry launches.

- n. **Dimensional Requirements.** The dimensional requirements in Section 10.26 apply. The shoreline frontage requirement for public boat launches may be waived to no less than 200 feet provided the applicant demonstrates there will be no undue adverse impact to existing uses in the project area.

# 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 EXCEPTIONS TO DIMENSIONAL REQUIREMENTS FOR PUBLIC RECREATIONAL FACILITIES**

May 13, 2015

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

**EFFECTIVE DATE OF THE RULE AMENDMENT:**

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

The Maine Land Use Planning Commission adopts rule changes in the Chapter 10 Land Use Districts and Standards that provide an exception to dimensional lot standards for certain public recreational facilities. The exceptions would apply to boat launches and trailheads that are owned, leased, or operated by a public entity. Eligible public facilities would be those that are within or surrounded by land protected by a conservation easement or other legally binding provisions that prohibit incompatible land uses in locations that would be affected by the reductions. The exceptions would be a minimum lot size of 20,000 square feet, minimum shoreline frontage of 100 feet, and minimum road frontage of 100 feet. The exceptions would be allowed only if the facility is otherwise sufficiently sized to fulfill the use for which it is designed.

**PUBLIC NOTICE OF RULEMAKING**

On March 11, 2015, the Commission voted to hold a 30-day comment period. Notice of this rulemaking appeared in the weekly consolidated rulemaking notice on March 25, 2015. The record remained open until Friday, April 24, 2015, to allow interested persons to file written statements with the Commission, and for an additional 7 days until Friday, May 1, 2015, to allow interested persons to file written statements in rebuttal of statements filed up to April 24, 2015.

## COMMENTS AND RESPONSES:

The Commission received one comment, and no rebuttal comments.

### 1. Exceptions to Dimensional Requirements for Campsites

The Commission staff commented that the Commission has two separate yet concurrent rulemaking proposals underway - *Exceptions to Dimensional Requirements for Public Recreational Facilities* (which this basis statement addresses) and *Recreational Lodging and Revegetation Standards*. Both rulemakings include provisions addressing shoreline and road frontage requirements for campsites. The Commission has received comments regarding the Recreational Lodging and Revegetation Standards rulemaking recommending that lots containing a campsite should not be required to meet a minimum shoreline or road frontage requirement. The comment calls for these two rulemakings to be consistent in how they address minimum shoreline or road frontage requirements for campsites.

**Commenter(s):** Land Use Planning Commission Staff

**Response:** Based on comments the Commission received regarding the Recreational Lodging and Revegetation Standards rulemaking, those proposed rule revisions were drafted to explicitly state that lots developed only with a campsite are not required to meet a minimum shoreline or road frontage requirement. Those provisions in that rulemaking serve to codify past practice and rule interpretation regarding frontage requirements for campsites; a practice and interpretation that pre-dates the effective date of the Moosehead Region Concept Plan and therefore applies equally to dimensional requirements subject to the terms of that plan. Likewise the provision in Section 10.26,A that states there is no minimum lot size for lots developed only with a campsite, is a recent codification of a practice which pre-dates the effective date of the Concept Plan.

Whether subject to the current version of Section 10.26 or to the Concept Plan’s version of Section 10.26, campsites have no dimensional requirements for road frontage, shore frontage, or minimum lot size. An exception to dimensional requirements for certain public campsites would be meaningless given that no campsite is subject to those requirements. Therefore, the Commission removed “campsites” from the type of public recreational facility for which the exceptions that are the subject of this rulemaking would apply.

In reviewing the proposed rule language and other chapter 10 provisions while preparing a response to this comment, staff felt the rule could be made clearer by explicitly stating that the definition of “public recreational facility” applies only to this section and not to chapter 10 generally and by adding punctuation clarifying that the “public entity” involvement applies to each type of facility. While the term “public recreational facility” is not used elsewhere in chapter 10, variations on the term “recreational facility” are found elsewhere in chapter 10.

**Action(s):** Revise the last sentence of Sections 10.26,G,18 of the proposed rule as follows:

For purposes of this section, Ppublic recreational facilities are: trailered ramps and hand-carry launches; ~~campsites, and~~ trailheads; ~~including and~~ associated facilities; that are owned, leased, or operated by a public entity and made available with or without a fee.