

Sub-Chapter I

GENERAL PROVISIONS

10.01 PURPOSE

The purpose of the Land Use Districts and Standards shall be to further the purposes of the Land Use Regulation Law as stated in 12 M.R.S.A. §681 and to fulfill the requirements of 12 M.R.S.A. §685-A(3) which states that:

"The Commission, acting on principles of sound land use planning and development, shall prepare land use standards prescribing standards for the use of air, lands and waters.

In addition to the purposes set forth in §681 the land use standards shall:

- A. Encourage the most desirable and appropriate use of air, land and water resources consistent with the comprehensive land use plan;
- B. Protect public health by reduction of noise, air pollution, water pollution and other environmental intrusions;
- C. Protect and preserve significant natural, scenic and historic features where appropriate, beneficial and consistent with the comprehensive plan;
- D. Advise and assist the Department of Transportation and other concerned agencies in transportation planning and operation;
- D-1. Provide for safe and appropriate loading, parking and circulation of land, air and water traffic;
- E. Encourage minimal adverse impact of one use upon the use of surrounding areas by setting standards of performance describing desirable and acceptable levels of operations in connection with any use and its relation to surrounding areas, including provisions for the eventual amelioration of existing adverse impact;
- F. Reflect a consideration of the availability and capability of the natural resources base, including soils, topography or sufficient healthful water supplies.
- G. Regulate, as necessary, motor vehicles as defined in title 29-A, section 101, subsection 42, on icebound inland lakes that are completely encompassed by unorganized territories during the hours from sunset to sunrise of the following day."

10.02 DEFINITIONS

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):

1. **Accessory Use or Accessory Structure:**
"A use or structure subordinate to a permitted or conditional use or structure and customarily incidental to the permitted or conditional use of the structure." 12 M.R.S.A. §682.
2. **Adjacent Grade:**
The natural elevation of the ground surface prior to construction next to the proposed wall of a structure.
3. **Affordable Housing:**
Affordable housing is decent, safe, and sanitary dwellings, apartments or other living accommodations that are affordable to lower income households and moderate income households, in accord with the following provisions.
 - a. An owner-occupied housing unit is "affordable" to a household if the unit's expected sales price is reasonably anticipated to result in monthly housing costs (including mortgage principal and interest payments, mortgage insurance costs, homeowners' insurance costs, real estate taxes, and basic utility and energy costs) that do not exceed 28% to 33% of the household's gross monthly income. Determination of mortgage amounts and payments are to be based on down payment rates and interest rates generally available to lower and moderate income households.
 - b. A renter-occupied housing unit is "affordable" to a household if the unit's monthly housing costs (including rent and basic utility and energy costs) do not exceed 28% to 33% of the household's gross monthly income.
 - c. A "lower income household" is a household with a gross income less than or equal to 80% of the applicable HMFA/County median income. Lower income households include both very low income households and low income households. A "very low income household" is a household with a gross income less than or equal to 50% of the applicable HMFA/County median income. A "low income household" is a household with a gross income over 50%, but less than or equal to 80%, of the applicable HMFA/County median income.
 - d. A "moderate income household" is a household with a gross income over 80%, but less than or equal to 150%, of the applicable HMFA/County median income.
 - e. The "applicable HMFA/County median income" is the median family income most recently published by the U.S. Department of Housing and Urban Development (HUD) for the federally-designated Metropolitan Fair Market Rent Area (HMFA) or County (non-HMFA part) in which the housing unit is located. Where appropriate to use of this definition, median family income may be adjusted for family size.
 - f. A household's "gross income" includes the income of all household members from all sources.

4. Affordable Housing Covenant:

Any agreement among one or more owners, one or more tenants of residential real estate and one or more qualified housing entities, or between one or more owners and one or more qualified housing entities, or between one or more tenants and one or more qualified housing entities, that permits a qualified housing entity to control, either directly or indirectly, the purchase or rental price of residential housing for the primary purpose of providing that the housing remains affordable to lower income and moderate-income households.

5. Agricultural Management Activities:

Land clearing if the land topography is not altered, tilling, fertilizing, including spreading and disposal of manure, liming, planting, pesticide application, harvesting or cultivating crops, pasturing of livestock, minor drainage and maintenance of drainage, and other similar or related activities, but not the construction, creation or maintenance of land management roads, nor the land application of septage, sludge and other residuals and related storage and composting activities.

6. Alteration:

Dredging; bulldozing; removing or displacing soil, sand, vegetation or other materials; draining or dewatering; filling; or any construction, repair or alteration of any permanent structure. On a case-by-case basis and as determined by the Commission, the term "alteration" may not include:

- a. An activity disturbing very little soil such as installing a fence post or planting shrubs by hand;
- b. The addition of a minor feature to an existing structure such as a bench or hand rail; and
- c. The construction, repair or alteration of a small structure with minimal impact such as a nesting box, pasture fence, or staff gauge.

7. Aquatic Vegetation:

Plants that usually grow on or below the surface of the water for most of the growing season in most years.

8. Area of Special Flood Hazard:

The land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in a Flood Insurance Study, where available, and/or as delineated on the Flood Insurance Rate Map (FIRM), Flood Hazard Boundary Map (FHBM), or Commission's Land Use Guidance Map.

9. Base Flood:

The flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

10. Basement:

Any area of the building having its floor subgrade (below ground level) on all sides.

11. Bed and Breakfast:

An owner-occupied, single-family dwelling comprising a single residential building and its accessory structures, in which up to six sleeping rooms are rented for a fee for transient occupancy by guests. Breakfast is the only meal to be served to overnight guests. There must be no kitchen facilities in rented rooms and no separate ownership of rooms.

12. Boathouse:

A structure that extends over or beyond the normal high water mark into which boats are directly maneuvered without leaving the water body. Boathouses are distinct from boat storage buildings, which require the boat to be removed from the water for entry.

- 13. Boat Ramp:**
See commercial trailered ramp, private trailered ramp, or trailered ramp.
- 14. Body of Standing Water:**
A body of surface water that has no perceptible flow and is substantially permanent in nature. Such water bodies are commonly referred to as man-made or natural lakes or ponds.
- 15. Breakaway Wall:**
A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
- 16. Building:**
“Any structure having a roof or partial roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals or objects regardless of the materials of which it is constructed.” 12 M.R.S.A. §682. The Commission finds that a temporary camping tent constructed of fabric or similar materials is not considered a building.
- 17. Bulk:**
The size, volume, and shape of buildings and structures, and the physical relationship of their exterior walls or their location to lot lines, other buildings, structures, and surrounding open space. Bulk does not suggest any architectural style or design. This term is used, for example, to ensure that new adjacent development is compatibly arranged and does not dwarf or overshadow existing development.
- 18. Bulk Sampling of Mineral Deposits:**
The removal of samples of mineral deposits for the purpose of testing to determine the feasibility, method or manner of extraction and/or processing of minerals. Such testing may include metallurgical analyses, milling or grinding tests and/or pilot plant and processing tests. Methods of bulk sampling may include, but not be limited to drilling and boring, the digging of shafts and tunnels, or the digging of pits and trenches.
- 19. Campground:**
Any area, other than a camp site, designed for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes or similar facility designed for temporary shelter.
- 20. Campsite:**
“A camping location containing tents, registered tent trailers, registered pickup campers, registered recreational vehicles, registered trailers or similar devices used for camping. “Campsite” does not include a camping location that has access to a pressurized water system or permanent structures other than outhouses, fireplaces, picnic tables, picnic tables with shelters or lean-tos. A campsite may be designed to contain a maximum of 4 camping sites for transient occupancy by 12 or fewer people per site, or numbers of sites and occupancy rates consistent with a landowner’s recreational policy filed with the commission. The commission may require a campsite permit if it determines that the recreational policy is inconsistent with the commission’s comprehensive land use plan.” 12 M.R.S.A §682(15).
- 21. Capacity Expansions of Utility Facilities:**
The addition of new telephone or electric wires or similar equipment to existing electric or telephone transmission and distribution poles for the purpose of increasing the capacity thereof.
- 22. Checkpoint Building:**
A structure on land under forest management which is used primarily for control of access to private roads or trails, provided it does not include more than one residence.

- 23. Children’s Day Care Facility:**
A building, not the residence of the operator, in which a person carries out a regular program, for consideration, for any part of a day providing care for three or more children under 19 years of age.
- 24. Cluster Development:**
A compact form of development that results in buildings being located in a group such that a significant amount of open space is preserved.
- 25. Coastal Nesting Island:**
An island used for nesting by sea birds during their breeding period.
- 26. Coastal Wetlands:**
Tidal and subtidal lands, including all areas below any identifiable debris line left by tidal action; all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.
- 27. Combined Floor Area:**
The total floor area of all principal and accessory structures on a lot.
- 28. Combined Septic System:**
A disposal system designed to dispose of gray and black waste water on or under the surface of the earth that includes but is not limited to: septic tanks; disposal fields; or any other fixture, mechanism, or apparatus used for this purpose.
- 29. Commercial Fishing Activities:**
Activities directly related to commercial fishing and those commercial activities commonly associated with or supportive of commercial fishing, such as the manufacture or sale of ice, bait and nets and the sale, manufacture, installation or repair of boats, engines and other equipment commonly used on boats.
- 30. Commercial Mineral Extraction:**
Mineral extraction other than Mineral Extraction for Road Purposes.
- 31. Commercial Sporting Camp:**
A “building or group of buildings devoted primarily to the offering of lodging facilities for a fee to persons primarily in pursuit of primitive recreation or snowmobiling.” 12 M.R.S.A. §682(14). In addition, for the purposes of the application of the Commission’s rules, the term “commercial sporting camp” shall be construed according to the following: A facility which functions primarily as a destination for the above activities rather than a transient lodging facility or a base of operations for activities in another location, such as whitewater rafting. A sporting camp is usually located in a remote location and may typically consist of, but not necessarily include, all of the following: a number of cabins for the housing of guests including housekeeping cabins; a main lodge for serving of meals and socializing for the guests; outbuildings for housing of the owners, guides, and other workers; workshop, woodsheds, laundry, equipment storage, and other utility buildings as needed. Outpost cabins are considered a part of the commercial sporting camp. A resident, on-site attendant must be available on a full-time basis to meet the needs of guests. Such a facility shall have a total floor area no greater than 10,000 square feet for all principal buildings associated with the facility.
- 32. Commercial Trailered Ramp, Hand-Carry Launch, or Dock:**
A trailered ramp, hand-carry launch, or dock, including an associated parking area and access road, that is privately owned and operated, and open to all members of the public, with or without a fee, but not meeting the definition of a public trailered ramp, hand-carry launch, or dock.

- 33. Commercial Use:**
The use of lands, buildings or structures the intent or result of which is the production of income from the buying or selling of goods and/or services. Commercial use does not include a home occupation or the rental of a single dwelling unit on a single lot or forest management activities where such activities are otherwise exempt from review.
- 34. Commission:**
The Maine Land Use Regulation Commission.
- 35. Community Living Facility:**
A housing facility for eight or fewer persons with disabilities that is approved, authorized, or certified by the State. A community living facility may include a group home, foster home, or intermediate care facility. Disability has the same meaning as the term “handicap” in the Federal Fair Housing Act, 42 USC §3602 [30-A M.R.S.A. §4357-A].
- Residents of a community living facility cannot be using or addicted to a “controlled substance” as defined in the Controlled Substances Act, 21 USC §802(6), or living in the facility as a result of a criminal offense.
- 36. Compatible Use:**
A land use which is capable of existing in harmony with other uses or resources situated in its immediate vicinity because that use does not adversely affect such other uses or resources.
- 37. Compensation:**
Replacement of a lost or degraded wetland function with a function of equal or greater value.
- 38. Creation:**
An activity bringing a wetland into existence at a site where it did not formerly occur.
- 39. Critically Imperiled Natural Community (S1):**
An assemblage of plants, animals and their common environment that is extremely rare in Maine or vulnerable to extirpation from the state due to some aspect of its biology. An example of an S1 community that occurs in freshwater wetlands is the Outwash Plain Pondshore community.
- 40. Cross-Sectional Area:**
The cross-sectional area of a stream channel shall be determined by multiplying the stream channel width by the average stream channel depth. The stream channel width is the straight line distance from the normal high water mark of one side of the channel to such mark on the opposite side of the channel. The average stream channel depth shall be the average of the vertical distances from a straight line between the normal high water marks of the stream channel to the bottom of the channel.
- 41. Deer Wintering Areas:**
Areas used by deer during winter for protection from deep snows, cold winds, and low temperatures.
- 42. Development:**
Any land use activity or activities directed toward using, reusing or rehabilitating air space, land, water or other natural resources, excluding, however, such specific uses or classes and categories of uses which by the terms of this chapter do not require a permit.
- 43. Development Unit:**
A single family dwelling unit or non-residential use containing a total of no more than 8,000 square feet of gross floor space for all principal buildings concerned. Multiple family dwelling units and larger non-residential uses shall be counted as an equivalent multiple number of development units.

- 44. Direct Watershed:**
That portion of the land area which drains surface water directly to a body of standing water without such water first passing through an upstream body of standing water.
- 45. Disturbed Area:**
The area of a parcel that is stripped, graded, grubbed or otherwise results in soil exposure at any time during the site preparation for, or construction of, a project. "Disturbed area" does not include maintenance of an existing impervious area, but does include a new impervious area or expansion of an existing impervious area.
- 46. Docking Structure:**
A structure placed in or near water primarily for the purpose of securing and/or loading or unloading boats and float planes, including but not limited to docks, wharfs, piers, and associated anchoring devices, but excluding boathouses and floatplane hangars.
- 47. Driveways**
A vehicular access-way, other than a land management road, less than 1000 feet in length serving two or fewer lots.
- 48. Dwelling Unit:**
A structure or any part thereof that is intended for use or is used for human habitation, consisting of a room or group of rooms designed and equipped for use primarily as living quarters, including any minor home occupations, for one family. Accessory structures intended for human habitation that have plumbing are considered separate dwelling units. Dwelling units do not include buildings or parts of buildings used as a hotel, motel, commercial sporting camp or other similar facility which is rented or leased on a relatively short term basis; provided, however, the term shall include a tourist home that qualifies as a home occupation.
- 49. Elevated Building:**
A building, without a basement,
a. built, in the case of a building in FEMA zones A1-30, AE, or A, to have the top of the elevated floor, or in the case of a building in Zone VE, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.
- In the case of Zones A1-30, AE, or A, elevated building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Section 10.25,T,2,l. In the case of Zone VE, elevated building also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Section 10.25,T,2,p,(b),(iii).
- 50. Emergent Marsh Vegetation:**
Plants that are erect, rooted and herbaceous; grow in saturated to permanently flooded areas; and do not tolerate prolonged inundation of the entire plant (e.g., cattails, burreed, tussock sedge, rice cut grass, phragmites, pickerel weed, arrowhead and bulrush).
- 51. Enhancement:**
An activity increasing the net value of a wetland.
- 52. Excursion Service:**
A water-borne transport service established to ferry tourists and other persons non-resident to the place of destination. This term shall also include sight-seeing and other recreational cruises such as "whale-watchers" where there may be no specific point of destination.

- 53. Expansion of a Structure:**
The increase in the floor area of a structure, including attached decks and porches, or the increase in the height of a structure.
- 54. Family:**
One or more persons occupying a premises as a single housekeeping unit.
- 55. FEMA:**
Federal Emergency Management Agency.
- 56. Fishery Management Practice:**
Activities engaged in for the exclusive purpose of management of freshwater and anadromous fish populations by manipulation of their environment for the benefit of one or more species. Such practices may include but not be limited to the construction of traps and weirs, barrier dams, stream improvement devices, fishways, and pond or stream reclamation, provided that any such activities are specifically controlled and designed for the purpose of managing such species and are conducted or authorized by appropriate state or federal fishery management agencies in compliance with the water quality standards contained in 38 M.R.S.A. §465.
- 57. Flood or Flooding:**
- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) the overflow of inland or tidal waters.
 - (2) the unusual and rapid accumulation or runoff of surface waters from any source.
 - b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Section 10.02,55,a,(1) of this definition.
- 58. Flood Elevation Study:**
An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.
- 59. Flood Hazard Boundary Map (FHBM):**
An official map of a township, plantation or town, issued by the Federal Insurance Administrator, where the boundaries of the base flood have been designated.
- 60. Flood Insurance Rate Map (FIRM):**
An official map of a township, plantation or town, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.
- 61. Flood Insurance Study (FIS):** See **Flood Elevation Study**.
- 62. Floodplain or Flood Prone Area:**
Any land area susceptible to being inundated by water from any source (see **Flood or Flooding**).

- 63. Floodplain Wetland:**
Wetlands that are inundated with flood water during a 100-year event based on site specific information including, but not limited to, flooding history, landform, and presence of hydric, alluvial soils, and that under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils.
- 64. Floodproofing:**
Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.
- 65. Floodway: See Regulatory Floodway.**
- 66. Floodway Encroachment Lines:**
The lines marking the limits of floodways on federal, state, and local floodplain maps.
- 67. Floor Area:**
The sum of the horizontal areas of the floor(s) of a structure, excluding basements, measured by their exterior dimensions. Floor area shall include, but not be limited to, all stories and lofts, decks, garages, porches and greenhouses.
- 68. Flowing Water:**
A surface water within a stream channel that has a perceptible flow and is substantially permanent in nature. Such waters are commonly referred to as rivers, streams, and brooks.
- 69. Footprint:**
The measure of the area in square feet within the exterior limits of the perimeter of a structure.
- 70. Forest:**
A plant community predominantly of trees and other woody vegetation growing more or less closely together.
- 71. Forest Management Activities:**
Forest management activities include timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands, and other similar or associated activities, but not the construction, creation, or maintenance of land management roads, nor the land application of septage, sludge and other residuals and related storage and composting activities.
- 72. Forest Product:**
Any raw material yielded by a forest.
- 73. Forested Wetland:**
Freshwater wetlands dominated by woody vegetation that is 6 meters tall, or taller.
- 74. Freshwater Wetland:**
Freshwater swamps, marshes, bogs and similar areas that are inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils and not part of a great pond, coastal wetland, river, stream or brook.

75. Functionally Dependent Use:

For purposes of regulating development in flood prone areas, a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

76. Gatehouse: See Checkpoint Building.

77. Hand-Carry Launch:

A shoreland alteration, including, but not limited to, a landing area (that portion of the launch at or below the normal high water mark), a launch area (that portion of the launch immediately adjacent to and above the normal high water mark) any associated parking area, access pathway and/or road, and other similar related facilities to allow an item, including but not limited to a boat, personal watercraft, or dock float, to be moved by hand, to or from the surface of a water body. Unless otherwise specified by permit condition, boat trailers or dollies designed to be moved by hand may be used at such facilities provided no special site design is required to accommodate such devices.

78. Historic Structure:

Any structure that is:

- a. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) by an approved state program as determined by the Secretary of the Interior, or
 - (2) directly by the Secretary of the Interior in states without approved programs.

79. Home Adult Day Services Program:

A group program of care, therapeutic activities and supervision maintained or carried out on a regular basis by a person or persons in a private dwelling, for consideration, for at least two hours a day, for three to 12 adults 19 years of age or older, who are not related to, or under the guardianship of the provider.

80. Home Child Day Care Provider:

A person who receives consideration to provide child care in his or her residence on a regular basis, for three to 12 children under 13 years old, who are not related to, or under the guardianship of the provider

81. Home Occupation:

A business, profession, occupation, or trade undertaken for gain or profit which: a) is clearly incidental and secondary to the use of the dwelling unit for residential purposes; b) is wholly carried on within a dwelling unit or other structure accessory to a dwelling unit; c) is carried on by a resident of the dwelling unit; and d) utilizes no more than 50 percent of all floor area of the dwelling unit or of the total combined floor area of the dwelling unit and accessory structure(s) in which the occupation is carried out. The term is further defined as minor and major home occupation as follows:

Minor home occupation: A home occupation not noticeable from the exterior of a building, except as herein allowed, that utilizes no more than 50 percent of all floor area of all principal and accessory structures up to a limit of 1,000 square feet.

Major home occupation: A home occupation not noticeable from the exterior of a building, except as herein allowed, that utilizes no more than 50 percent of all floor area of all principal and accessory buildings up to a limit of 1,500 square feet.

82. Imperiled Natural Community (S2):

An assemblage of plants, animals and their common environment that is rare in Maine or vulnerable to further decline. Examples of S2 communities that occur in freshwater wetlands are Atlantic White Cedar Swamp, Alpine Bog-Meadow, Circumneutral Fen, Maritime Slope Bog, and Coastal Plain Pocket Swamp.

83. Impervious Area:

The area of a parcel that consists of buildings and associated constructed facilities or areas that will be covered with a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common impervious areas include, but are not limited to, rooftops, walkways, decks, porches, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and macadam or other surfaces which similarly impede the natural infiltration of stormwater. A natural or man-made water body is not considered an impervious area.

84. Land Management Road:

A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing material constructed for, or created by, the repeated passage of motorized vehicles and used primarily for agricultural or forest management activities, including associated log yards but not including skid trails, skid roads, and winter haul roads.

85. Land Use Subdistrict:

The area located within the boundaries of air, land or water delineated vertically or horizontally by the Commission to provide for distinct categories of uses or resources.

86. Lean-To:

A three-sided, roofed structure used for transient occupancy and commonly constructed for campsites.

87. Level A Mineral Exploration Activities:

Mineral exploration activities engaged in for purposes of determining the location, extent and composition of mineral deposits, provided that such activities are limited to test boring, test drilling, hand sampling, the digging of test pits having a maximum surface opening of 100 square feet, or other test sampling methods which cause minimum disturbance to soil and vegetative cover. Level A mineral exploration activities shall not include bulk sampling of mineral deposits.

Access ways for Level A mineral exploration activities shall include only access ways the creation of which involves little or no recontouring of the land or ditching, and does not include the addition of gravel or other surfacing materials. Clearing of the vegetative cover shall be limited to the minimum necessary to allow for the movement of equipment.

- 88. Level B Mineral Exploration Activities:**
Mineral exploration activities involving the bulk sampling of mineral deposits, or any mineral exploration activities which exceed those defined as Level A mineral exploration activities and which are not defined as Level C metallic mineral exploration activities.
- 89. Level C Mineral Exploration Activities:**
Metallic mineral exploration activities involving the disturbance of a site, by excavation, of more than two (2) acres of surface area or the excavation or removal of more than ten thousand (10,000) cubic yards of soil, overburden, ore or other earthen materials from the site of exploration.
- 90. Level A Road Projects:**
Reconstruction within existing rights-of-way of public or private roads other than land management roads, and of railroads, excepting bridge replacements. Examples of such activities include, without limitation, culvert replacements, resurfacing, ditching, and bridge repair. When there is no existing layout of right-of-way, the right-of-way should be assumed to extend 33 feet on either side of the existing centerline.
- 91. Level B Road Projects:**
Minor relocations, and reconstructions, involving limited work outside of the existing right-of-way of public roads or private roads other than land management roads and of railroads; bridge reconstruction and minor relocations whether within or outside of existing right-of-way of such roads; "Minor relocations" as used herein may not exceed 300 feet in horizontal displacement of centerline. "Reconstruction" as used herein may involve widening of existing rights-of-way not to exceed 50 feet on either side.
- 92. Level C Road Projects:**
Construction of new roads, and relocations or reconstruction of existing roads, other than that involved in level A or level B road projects; such roads shall include both public and private roadways excluding land management roads.
- 93. Locally Established Datum:**
For purposes of regulating development in flood prone areas, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.
- 94. Lot Coverage:**
The total footprint area of all structures, which includes, but is not limited to, buildings, parking lots, and driveways.
- 95. Lowest Floor**
The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Section 10.25,T,2,l.
- 96. Maintenance:**
Activities required to assure continuation of a wetland or the accomplishment of project goals after a restoration or creation project has been technically completed, including, but not limited to, water level manipulations and control of non-native plant species.

97. Major Flowing Water:

A flowing water downstream from the point where such water drains 50 square miles or more.

98. Management Class 1 Lake:

Lake, also referred to as a "Least Accessible, Undeveloped, High Value Lake", which meets the following criteria:

- a. Relatively undeveloped: As of November 17, 1988, having less than one development unit per shore mile within 250 feet of the normal high water mark, taken as an average over the entire lake shore. The shoreline is measured by following the shoreline of the lake, including all the shoreline irregularities, on the Commission's Land Use Guidance Map.
- b. Relatively inaccessible: As of November 17, 1988, having no road passable during summer months with a two-wheel drive vehicle within 1/4 mile of the normal high water mark of the lake.
- c. High resource value(s): Found to have one or more outstanding resource values according to the Commission's Wildlands Lake Assessment as shown in Appendix C of these regulations.

Such lakes are designated as MC1 on the Commission's Land Use Guidance Maps. All lakes included in the Wildlands Lake Assessment are listed in Appendix C to these regulations with their Management Class noted.

99. Management Class 2 Lake:

Lake, also referred to as an "Accessible, Undeveloped, High Value Lake", which meets the following criteria:

- a. Relatively Undeveloped: As of November 17, 1988, having less than one development unit per shore mile within 250 feet of the normal high water mark, taken as an average over the entire lake shore. The shoreline is measured by following the shoreline of the lake, including all the shoreline irregularities, on the Commission's Land Use Guidance Map.
- b. Relatively Accessible: As of November 17, 1988, having a road passable during the summer months with a 2-wheel drive motor vehicle within 1/4 mile of the normal high water mark of the lake.
- c. High Resource Value: Having at least two of the following outstanding resource values according to the Commission's Wildlands Lake Assessment:
 - (1) An outstanding rating for fisheries
 - (2) An outstanding rating for scenic value
 - (3) An outstanding rating for shore character
 - (4) An outstanding rating for wildlife when the rating was due to exceptional concentration and/or diversity of wildlife species.

Such lakes are designated as MC2 on the Commission's Land Use Guidance Maps. All lakes included within the Wildlands Lake Assessment are listed in Appendix C to these regulations with their Management Class noted.

100. Management Class 3 Lake:

Lake, also referred to as "Potentially Suitable for Development" which through a consideration of existing water quality, potential water quality impacts, location, access, conflicting uses, available shoreline, water level fluctuation, regional considerations, and special planning needs is found by the Commission to be a potentially suitable location for shoreland development. Such lakes are more specifically defined in the Commission's Comprehensive Land Use Plan.

Such lakes are designated as MC3 on the Commission's Land Use Guidance Maps encompassing such lakes. All lakes included within the Wildlands Lake Assessment are listed in Appendix C to these regulations with their Management Class noted.

101. Management Class 4 Lake:

Lake, also referred to as a "High Value, Developed Lake", which meets the following criteria:

- a. Two or more "outstanding" resource values as identified in the Maine Wildlands Lake Assessment;
- b. Relatively accessible: As of November 17, 1988, accessible to within 1/4 mile of the normal high water mark of the lake by 2-wheel drive motor vehicle during summer months;
- c. Relatively developed: As of November 17, 1988, having an average of more than one development unit per mile of shore within 250 feet of the normal high water mark of the lake. The shoreline is measured by following the shoreline of the lake, including all the shoreline irregularities, on the Commission's Land Use Guidance Map; and
- d. Not meeting the criteria for Management Class 3 Lakes.

Such lakes are designated as MC4 on the Commission's Land Use Guidance Maps. All lakes included within the Wildlands Lake Assessment are listed in Appendix C to these regulations with their Management Class noted.

102. Management Class 5 Lake:

Lake, also referred to as a "Heavily Developed Lake", which meets the following criteria:

- a. As of November 17, 1988, having more than one development unit per 10 acres of lake surface area; or
- b. As of November 17, 1988, having more than one development unit per 400 feet of shore frontage, taken as an average around the entire lake shore. The shoreline is measured by following the shoreline of the lake, including all the shoreline irregularities, on the Commission's Land Use Guidance Map.

Such lakes are designated as MC5 on the Land Use Guidance Maps. All lakes included within the Wildlands Lake Assessment are listed in Appendix C to these regulations with their Management Class noted.

103. Management Class 6 Lake:

Lake, also referred to as a "Remote Pond", which meets the following criteria:

- a. Having no existing road access by two-wheel drive motor vehicles during summer months within 1/2 mile of the normal high water mark of the water body;
- b. Having existing buildings within 1/2 mile of the normal high water mark of the water body limited to no more than one non-commercial remote camp and its accessory structures; and
- c. Supporting cold water game fisheries.

Such lakes are designated as MC6 on the Commission's Land Use Guidance Maps. All lakes included within the Wildlands Lake Assessment are listed in Appendix C to these regulations with their Management Class noted.

104. Management Class 7 Lake:

All lakes which are not otherwise classified in one of the other six lake Management Classes.

105. Manufactured Home:

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For purposes of regulating development in flood prone areas, the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 90 consecutive days.

106. Manufactured Home Park or Subdivision:

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

107. Mean High Water Level:

The shoreline of tidal waters; the average high tide level for the previous 19 years.

108. Mean Lower Low Water Level:

By a 1980 international convention, a standard for all nautical charts, as providing the lowest low water levels likely to be encountered in navigation.

109. Mean Sea Level:

For purposes of regulating development in flood prone areas, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

110. Metallic Mineral Mining Activity:

"Metallic mineral mining activity" means any activity or process that is for the purpose of extraction or removal of metallic minerals, and includes processes used in the separation or extraction of metallic minerals from other material including, but not limited to: crushing, grinding, beneficiation by concentration (gravity, flotation, amalgamation, electrostatic, or magnetic); cyanidation; leaching; crystallization; or precipitation; mine waste handling and disposal; and processes substantially equivalent, necessary, or incidental to any of the foregoing.

Metallic mineral mining or metallic mineral mining activity does not include Level A, B or C exploration activities, or thermal or electric smelting.

111. Mineral Deposit:

Any deposit of peat, sand, gravel, rock, topsoil, limestone, slate, granite, coal, gems, metallic or non-metallic ores or other minerals.

112. Mineral Extraction:

Any extraction of a mineral deposit, other than peat extraction, metallic mineral mining activities or Level A, B, or C, exploration activities.

113. Mineral Extraction for Road Purposes:

Mineral extraction where at least 75% by volume of the minerals extracted over any three year period are used for the purposes of construction or maintenance of land management or other roads.

- 114. Mineral Processing Equipment:**
Equipment used to process minerals following extraction including, but not limited to, rock crushers and batch plants. The term does not include equipment used to remove, sort or transport minerals, such as front end loaders, screens or trucks.
- 115. Mineral Soil:**
Soil material in which inorganic (mineral) constituents predominate.
- 116. Minor Flowing Water:**
A flowing water upstream from the point where such water drains less than 50 square miles.
- 117. Mitigation:**
Actions taken to off-set potential adverse environmental impact. Such actions include the following:
- a. Avoiding an impact altogether by not taking a certain action or parts of an action;
 - b. Minimizing an impact by limiting the magnitude or duration of an activity, or by controlling the timing of an activity;
 - c. Rectifying an impact by repairing, rehabilitating, or restoring the affected environment;
 - d. Reducing or eliminating an impact over time through preservation and maintenance operations during the life of the project; and
 - e. Compensating for an impact by replacing affected resources or environments.
- 118. Mitigation Banking:**
Wetland restoration, enhancement, preservation or creation for the purpose of providing compensation credits in advance of future authorized impacts to similar resources.
- 119. Mooring:**
A structure for securing a vessel or aircraft that consists of a line and buoy that is fixed to the bottom of a water body, or attached to a weight that rests on the bottom of a water body.
- 120. Motorized Recreational Gold Prospecting:**
Operation of small-scale, motorized equipment for the removal, separation, refinement, and redeposition of sediments and other substrates occurring below the normal high water mark of a stream, for the noncommercial, recreational discovery and collecting of gold specimens. This includes, but is not limited to, the operation of a motorized suction dredge, sluice, pump, rocker box, or winch, individually or together.
- 121. Multi-Family Dwelling:**
A building containing three or more dwelling units.
- 122. National Geodetic Vertical Datum (NGVD):**
The national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".
- 123. Nonconforming Lot:**
A preexisting lot which, upon the effective date of adoption or amendment of these rules, does not meet the area, frontage or other dimensional requirements for a legally existing or proposed use.

124. Nonconforming Structure:

"A structure, lawfully existing at the time of adoption of district regulations or subsequent amendment made thereto, that does not conform to the district regulations." 12 M.R.S.A. §682 More specifically, a nonconforming structure is legally existing, but does not meet one of the following dimensional requirements: setback, lot coverage, or height requirements.

125. Nonconforming Use:

"A use of air, land, water or natural resources or a parcel of land, lawfully existing at the time of adoption of district regulations or subsequent amendments made thereto, that does not conform to the district regulations." 12 M.R.S.A. §682. More specifically, a nonconforming use is a legally existing use of buildings, structures, premises, lands, or parts thereof which would not be allowed to be established under current regulations in the subdistrict in which it is situated.

126. Non-Tidal Waters:

All waters or portions thereof, which do not ebb and flow as the result of tidal action.

127. Normal High Water Mark of Non-Tidal Waters:

That line on the shores and banks of non-tidal waters which is discernible because of the different character of the soil or the vegetation due to the influence of surface water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (aquatic vegetation includes but is not limited to the following plants and plant groups - water lily, pond lily, pickerel-weed, cat tail, wild rice, sedges, rushes, marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups - upland grasses, aster, lady slipper, wintergreen, partridge berry, sasparilla, pines, cedars, oaks, ashes, alders, elms, spruces, birches, beeches, larches, and maples). In places where the shore or bank is of such character that the normal high water mark cannot be easily determined (as in the case of rock slides, ledges, rapidly eroding or slumping banks) the normal high water mark shall be estimated from places where it can be determined by the above method.

128. Normal High Water Mark of Tidal Waters:

That line on the shore of tidal waters reached by the shoreward limit of the rise of the medium tides between the spring and the neap, commonly referred to as the mean high water level. This line may be identified where appropriate by discerning the debris line left by tidal action.

129. Normal Maintenance and Repair:

Unless otherwise provided, work necessary to maintain an improvement, structure, or docking structure in its original or previously improved state or condition, as long as there is no expansion of a nonconforming structure and less than 50 percent of a structure is replaced. This includes general upkeep, such as painting, fixing portions of the structure that are in disrepair, or the replacement of sill logs, roofing materials, siding, or windows. In-kind and in-place replacement of decking or exterior stairs is considered to be normal maintenance and repair. Normal maintenance and repair shall not include reconstruction, or change in design, change in structure, change in use, change in location, or a change in size or capacity. Activities involving a permanent docking structure constitute normal maintenance and repair only when less than 50 percent of those portions of the permanent docking structure that are above the level of the water during normal high water are maintained or repaired.

130. On Premise Sign:

A sign which is located upon the same lot or parcel of real property where the business, facility, or point of interest being advertised is located.

- 131. Open Space:**
Any parcel or area of land essentially unimproved and set aside, dedicated, designated, or reserved for the public use, for the common use of owners and occupants of land adjoining or neighboring such open space, or for purposes intended to preserve important natural features of the site.
- 132. 100-year Flood:** See **Base Flood**
- 133. Parking Area:**
A place, whether or not paved, designed primarily for parking motor vehicles. "Parking area" includes parking lots, parking spaces, parking lanes, and circulation aisles and corridors.
- 134. Peatland:**
Freshwater wetlands, typically called bogs or fens, consisting of organic soils at least 16" deep, predominantly vegetated by ericaceous shrubs (heath family), sedges, and sphagnum moss and usually having a saturated water regime.
- 135. Permanent Docking Structure:**
A structure in place for longer than seven months in any calendar year or which is so large or otherwise designed as to make it impracticable to be removed on an annual basis without alteration of the shoreline.
- 136. Permanent Foundation:**
A supporting substructure that either extends below the frost line or is designed to permanently withstand freeze-thaw conditions. Permanent foundations include full foundations, basements, slabs and frost walls. For the purposes of this definition "sono tubes" or posts installed with augers are not considered permanent foundations.
- 137. Person:**
"An individual, firm, association, organization, partnership, trust, company, corporation, state agency or other legal entity." 12 M.R.S.A. §682.
- 138. Personal Watercraft:**
"Any motorized watercraft that is 14 feet or less in hull length as manufactured, has as its primary source of propulsion an inboard motor powering a jet pump and is capable of carrying one or more persons in a sitting, standing or kneeling position. 'Personal watercraft' includes, but is not limited to, a jet ski, wet bike, surf jet and miniature speedboat. 'Personal watercraft' also includes motorized watercraft whose operation is controlled by a water skier." 12 M.R.S.A. §7791, sub-§11-A.
- 139. Pesticide:**
A chemical agent or substance employed to kill or suppress pests (such as insects, weeds, fungi, rodents, nematodes or other organisms) or intended for use as a plant regulator, defoliant or desiccant.
- 140. Piped Water:**
Water supplied to a building by means other than hand pump or hand carry.
- 141. Portable Mineral Processing Equipment:**
Mineral processing equipment that is not fixed to a location on the ground but rather is designed to be readily moved from one mineral extraction operation to another.

- 142. Practicable:**
Available and feasible considering cost, existing technology and logistics based on the overall purpose of the project.
- 143. Preservation:**
The maintenance of a wetland area or associated upland areas that contribute to the wetland's functions so that it remains in a natural or undeveloped condition. Preservation measures include, but are not limited to, conservation easements.
- 144. Primitive Recreation:**
Those types of recreational activities associated with non-motorized travel, 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.
- 145. Primitive Septic System:**
A septic system that uses an alternative toilet, such as a pit privy, compost, chemical, recirculating, incinerating, and vacuum types and a minimal disposal field designed to treat gray waste water that originates from a non-pressurized water supply.
- 146. Principal Building:**
A building which provides shelter for the primary use of a parcel. On a single parcel, all buildings related to forest or agricultural management activities, including dwellings of the owner or lessee and employees, are considered one principal building.
- 147. Principal Use:**
A use other than one which is wholly incidental or accessory to another use on the same premises.
- 148. Private Trailered Ramp, Hand-Carry Launch, or Dock:**
A trailered ramp, hand-carry launch, or dock that is privately owned and operated, and not open to all members of the public.
- 149. Projecting Sign:**
A sign which is attached to a wall of a building and extends more than 15 inches from any part of the wall.
- 150. Property Line:**
Any boundary between parcels of land owned or leased by different persons or groups of persons.
- 151. Public Road or Roadway:**
Any roadway which is owned, leased, or otherwise operated by a governmental body or public entity.
- 152. Public Trailered Ramp, Hand-Carry Launch, or Dock :**
A trailered ramp, hand-carry launch, or dock, including associated facilities, that is owned, leased, or operated by a public entity and made available with or without a fee. Such entities include owners of federally licensed hydropower projects within the resource affected by the hydropower project for use by all members of the public.
- 153. Reclamation:**
The rehabilitation of the area of land affected by mineral extraction, including but not limited to, the stabilization of slopes and the creation of safety benches, the planting of vegetation including grasses, crops, shrubs, and/or trees, and the enhancement of wildlife and aquatic habitat and aquatic resources.

154. Reconstruction:

Unless otherwise provided, the addition of a permanent foundation or the rebuilding of a structure after more than 50 percent by area of its structural components, including walls, roof, or foundation, has been destroyed, damaged, demolished or removed. Leaving one or two walls or the floor of a structure in place, while rebuilding the remaining structure, is considered reconstruction, not normal maintenance and repair or renovation.

155. Recreational Vehicle:

For purposes of regulating development in flood prone areas, a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

156. Regulatory Floodway:

The channel of a river or other flowing water and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. When not designated on the township's, plantation's, or town's Flood Insurance Rate Map, Flood Boundary and Floodway Map, or Flood Hazard Boundary Map, it is considered to be the channel of a river or other flowing water and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

157. Remote Camp:

A dwelling unit consisting of not more than 750 square feet of gross floor area, that is not served by any public utilities, except radio communications.

158. Remote Campsites:

Campsites which are not part of commercial campgrounds and which are characterized by their remoteness, limited scale, dispersed nature, and limited usage. More specifically, remote campsites include sites which:

- a. are designed to be accessible and generally are only accessible by water or on foot;
- b. are comprised of not more than four individual camping areas designed for separate camping parties, and are designed for a total of not more than 12 overnight campers;
- c. have permanent structures limited to privies, fireplaces or fire rings, picnic tables, and picnic table shelters consisting of a roof without walls; and
- d. require no other construction or grading and only minimal clearing of trees.

159. Remote Rental Cabin:

A building used only as a commercial lodging facility on a transient basis by persons primarily in pursuit of primitive recreation or snowmobiling in an isolated and remote setting. A remote rental cabin cannot be larger than 750 square feet in gross floor area; cannot be served by any public utilities providing electricity, water, sewer, or telephone services; cannot have pressurized water; and cannot have a permanent foundation. Placement of these buildings does not create a lot for subsequent lease or sale.

A remote rental cabin cannot be located within 1000 feet of any public road or within 1000 feet of any other type of residential or commercial development.

See Section 10.25,Q "Subdivision and Lot Creation" to determine how such buildings are counted for purposes of subdivision.

- 160. Renovation:**
Restoring or remodeling a structure. Renovation includes interior modifications, and the installation of new windows, floors, heating systems, or other features, as long as there is no expansion of a nonconforming structure and less than 50 percent of the building's structural components are replaced. The introduction of plumbing to a structure may constitute a change in use that requires a permit.
- 161. Residential:**
Pertaining to a dwelling unit.
- 162. Residential Directional Sign:**
An off-premise sign erected and maintained by an individual or family to indicate the location of his or its residence.
- 163. Residual:**
"Residual means solid wastes generated from municipal, commercial or industrial facilities that is suitable for agronomic utilization. These materials may include: food, fiber, vegetable and fish processing wastes; dredge materials; sludges; dewatered septage; and ash from wood or sludge fired boilers." DEP Rules, Chapter 400, §1.
- 164. Restoration:**
An activity returning a wetland from a disturbed or altered condition with lesser acreage or fewer functions to a previous condition with greater acreage or function.
- 165. Roadway:**
A public or private road including any land management road.
- 166. Roof Sign:**
A sign which is attached flat to, painted on, or pinned away from the roof of a building.
- 167. Septage:**
"Septage means waste, refuse, effluent, sludge, and any other materials from septic tanks, cesspools, or any other similar facilities." 38 M.R.S.A. §1303-C "Septage is defined as a mixture of liquids and solids derived from residential sanitary wastewater, and includes sanitary wastewater from tanks connected to commercial and institutional establishments which have inputs similar to residential wastewater. Septage also includes wastes derived from portable toilets." DEP Rules, Chapter 420, §1
- 168. Service Drop:**
Any utility line extension which does not cross or run beneath any portion of a body of standing water provided that:
- a. in the case of electric service
 - (1) the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 - (2) the total length of the extension within any 5 year period is less than 2,000 feet.
 - b. in the case of telephone service
 - (1) the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles; or
 - (2) the total length of the extension within any 5 year period, requiring the installation of new utility poles or placed underground, is less than 2,000 feet.

169. Setback:

The minimum horizontal distance from the lot line, shoreline, upland edge of a wetland, or road to the nearest part of the structure or other regulated area such as a driveway or parking area.

170. Shoreland Alteration:

Any land use activity, which alters the shoreland area, either at, adjacent to or below the normal high water mark, of any surface water body, including but not limited to:

- a. dredging or removing materials from below the normal high water;
- b. construction or repairing any permanent structure below the normal high water mark.

For purposes of this subsection, permanent structure shall mean any structure, including but not limited to, causeways, wharfs, piers, docks, concrete or similar slabs, bridges, hand-carry launches, trailered ramps, water-access ways, piles, marinas, retaining walls, riprap, buried or submarine utility cables and lines, permanent docking structures, mooring structures, and water lines. A structure which is not fixed in or over the water or below the normal high water mark for more than 7 months in a calendar year shall not be a permanent structure;

- c. depositing any dredged spoil or fill below the high water mark; and
- d. depositing dredged spoil or fill, or bulldozing, scraping or grading, on land adjacent to a water body in such a manner that the material or soil may fall or be washed into the water body, except that filling and grading or water crossings which do not require a permit as specified in Section 10.27, or other provisions of these rules shall not constitute shoreland alteration.

Activities which cause additional intrusion of an existing structure into or over the water body, are also considered shoreland alterations.

171. Shoreline:

The mean high water level of tidal water, or the normal high water mark of a body of standing water, flowing water, or stream channel.

172. Sign:

Any structure, display, logo, device or representation which is designed or used to advertise or call attention to any thing, person, business, activity, or place and is visible from any roadway or other right-of-way. It does not include the flag, pennant, or insignia of any nation, state or town.

Visible shall mean capable of being seen without visual aid by a person of normal visual acuity.

The size of a ground, roof, or projecting sign shall be the area of the smallest square, rectangle, triangle, circle, or combination thereof, which encompasses the facing of a sign, including copy, insignia, background and borders; the structural supports of a sign are to be excluded in determining the sign area; where a supporting structure bears more than one sign, all such signs on the structure shall be considered as one sign, and so measured; only one face of a double-faced sign is included as the area of such sign. The area of a wall or window sign shall be the area of a regular geometric form enclosing a single display surface or display device containing elements organized, related, and composed to form a unit; where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

173. Significant Wildlife Habitat:

The following areas to the extent that they have been identified by the Department of Inland Fisheries and Wildlife: habitat, as determined by the Department of Inland Fisheries and Wildlife, for species appearing on the official state or federal lists of endangered or threatened animal species; deer wintering areas and travel corridors as determined by the Department of Inland Fisheries and Wildlife; high and moderate value water fowl and wading bird habitats, including nesting and feeding areas as determined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as determined by the Atlantic Sea Run Salmon Commission; shorebird nesting, feeding and staging areas and seabird nesting islands as determined by the Department of Inland Fisheries and Wildlife; and significant vernal pools as defined and identified in specific locations by the Department of Inland Fisheries and Wildlife.

174. Sludge:

“Sludge means non-hazardous solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant, or wet process air pollution control facility or any other such waste having similar characteristics and effect. The term does not include industrial discharges that are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended.” DEP Rules, Chapter 400, §1

175. Soil Survey:

An inventory of soil resources that is based on a systematic field examination, description and classification of soils in an area. Using the results of the field investigation, a soil map and a written report are prepared which describe and classify the soil resources and interpret the soil suitability for various uses based upon soil limitations.

176. Spaghetti-lot:

“A parcel of land with a lot depth to shore-frontage ratio greater than 5 to 1. Shore frontage means land abutting a river, stream, brook, coastal wetland, or great pond as these features are defined in 38 M.R.S.A. §480-B.” 12 M.R.S.A. §682(13)

177. Special Flood Hazard Area: See Area of Special Flood Hazard.

178. Sporting camp: See Commercial Sporting Camp.

179. Stream Channel:

A channel between defined banks created by the action of surface water and characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil parent material or bedrock.

180. Structure:

“[A]nything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground, including, but not limited to, buildings, mobile homes, retaining walls, billboards, signs, piers and floats.” 12 M.R.S.A. §682. For purposes of regulating development in flood prone areas, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

181. Structure Height:

The vertical distance between the original grade at the downhill side of the structure and the highest point of the structure.

182. Subdivision:

Except as provided in 12 M.R.S.A §682-B, “subdivision” means a division of an existing parcel of land into 3 or more parcels or lots within any 5-year period, whether this division is accomplished by platting of the land for immediate or future sale, by sale of land or by leasing. The term “subdivision” also includes the division, 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. 12 M.R.S.A. §682(2-A)

Refer to Section 10.25,Q, “Subdivision and Lot Creation” for additional criteria on types of lots that are included or are exempt from this definition.

Level 1 subdivision: Any subdivision that does not meet the criteria of a level 2 subdivision is considered a level 1 subdivision.

Level 2 subdivision: Any subdivision that meets the criteria of Section 10.25,Q,2 is considered a level 2 subdivision.

183. Subsurface Waste Water Disposal System:

“Subsurface waste water disposal system means:

- a. Any system for the disposal of waste or waste water on or beneath the surface of the earth including, but not limited to:
 - (1) Septic tanks;
 - (2) Drainage fields;
 - (3) Grandfathered cesspools;
 - (4) Holding tanks; or
 - (5) Any other fixture, mechanism or apparatus used for these purposes; but
- b. Does not include:
 - (1) Any discharge system licensed under Title 38, §414;
 - (2) Any surface waste water disposal system; or
 - (3) Any municipal or quasi-municipal sewer or waste water treatment system.” 30-A M.R.S.A. §4201(5).

184. Subsurface Waste Water Disposal Rules:

The Maine Subsurface Waste Water Disposal Rules, 144A CMR 241, administered by the Department of Human Services.

185. Temporary Docking Structure:

Docking structures that are in place for less than seven months during any calendar year upon or over flowed or submerged lands, and are of such a size or design that they can be removed on an annual basis without requiring alteration of the shoreline.

186. Tidal Waters:

All waters or portions thereof which customarily ebb and flow as the result of tidal action.

187. Timber Harvesting:

The cutting and removal of trees from their growing site, and the attendant operation of mobile or portable chipping mills and of cutting and skidding machinery, including the creation and use of skid trails, skid roads, and winter haul roads, but not the construction or creation of land management roads.

- 188. Traffic Control Sign or Device:**
A route marker, guide sign, warning sign, sign directing traffic to or from a bridge, ferry or airport, or sign regulating traffic, which is not used for commercial or advertising purposes.
- 189. Trail:**
A route or path other than a roadway, and related facilities, developed and used primarily for recreational activities including but not limited to hiking, backpacking, cross-country skiing and snowmobiling, which passes through or occurs in a natural environment. Related facilities may include but not be limited to subsidiary paths, springs, view points, and unusual or exemplary natural features in the immediate proximity of the trail which are commonly used or enjoyed by the users of the trail.
- 190. Trailered Ramp:**
A shoreland alteration, including, but not limited to, an associated parking area, access road, and other similar related facilities to allow a trailer to be backed below the normal high water level of a water body in order to load or unload an item, including but not limited to a boat, personal watercraft, float plane, or dock float.
- 191. Transient Occupancy:**
“Occupancy that does not exceed 90 consecutive days” 12 M.R.S.A. §682(18). For the purposes of the application of the Commission’s rules regarding campsites, the Commission considers occupancy to mean the length of time the tent, trailer, camper, recreational vehicle, or similar device used for camping is located on the site.
- 192. Unorganized and Deorganized Areas:**
“Unorganized and deorganized areas includes all unorganized and deorganized townships, plantations that have not received commission approval under section 685-A, subsection 4 to implement their own land use controls, municipalities that have organized since 1971 but have not received commission approval under section 685-A, subsection 4 to implement their own land use controls and all other areas of the State that are not part of an organized municipality except Indian reservations.” 12 M.R.S.A. §682.
- 193. Utility Facilities:**
Structures normally associated with public utilities, including without limitation: radar, radio, television, or other communication facilities; electric power transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; municipal sewage lines; gas, oil, water, slurry or other similar pipe lines or above ground storage tanks.
- 194. Wall Sign:**
A sign which is attached flat to, painted on or pinned away from the wall of a building and does not project more than 15 inches from such wall.
- 195. Water Bar:**
An obstruction placed across a roadway which effectively diverts surface water from and off the road.
- 196. Water-Access Ways:**
A structure consisting of a pair of parallel rails, tracks, or beams extending from above the normal high water mark to below the normal high water mark of a water body, and designed as the conveying surface from which an item, including but not limited to a boat, personal watercraft, float plane, or dock float, with or without a support cradle, is launched into or removed from the water body.

197. Water Crossing:

A roadway or trail crossing of any body of standing or flowing water (including in its frozen state) by means of a bridge, culvert, or other means.

198. Water-Dependent Uses:

Those uses that require for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal waters and which cannot be located away from these waters. These uses include commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale marketing facilities, waterfront dock and port facilities, boat building facilities, navigation aides, basins and channels, uses dependent upon water-borne transportation that cannot reasonably be located or operated at an inland site and uses which primarily provide general public access to marine or tidal waters.

199. Water Impoundment:

Any water body created, or elevation of which is raised, by man through the construction of a dam.

200. Wetland Functions:

The roles wetlands serve which are of value to society or the environment including, but not limited to, flood water storage, flood water conveyance, ground water recharge and discharge, erosion control, wave attenuation, water quality protection, scenic and aesthetic use, food chain support, fisheries, wetland plant habitat, aquatic habitat and wildlife habitat.

201. Wetland Value:

The importance of a wetland with respect to the individual or collective functions it provides.

202. Wildlife:

All vertebrate species, except fish.

203. Wildlife Management District (WMD):

A geographic area identified by the Maine Department of Inland Fisheries and Wildlife to facilitate the management of wildlife. For purposes of these regulations, the boundaries of Wildlife Management Districts are as shown in Figure 10.23,D-1 and the area of a Wildlife Management District is based on land and water acreage within LURC jurisdiction.

204. Wildlife Management Practices:

Activities engaged in for the exclusive purpose of management of wildlife populations by manipulation of their environment for the benefit of one or more species. Such practices may include, but not be limited to, harvesting or removal of vegetation, controlled burning, planting, controlled hunting and trapping, relocation of wildlife, predator and disease control, and installation of artificial nesting sites, provided that such activities are specifically controlled and designed for the purpose of managing such species. This term does not include impounding water.

205. Winter Haul Road:

A route or travel way that is utilized for forest management activities conducted exclusively during frozen ground conditions. Winter haul roads must have the following characteristics:

- a. they are constructed with no significant soil disturbance;
- b. they do not make use of fill or surfacing material; and
- c. they are substantially revegetated by the end of the following growing season and are maintained in a vegetated condition.

206. Zones A, AE, A1-30, VE:

The areas identified by FEMA as areas of special flood hazard on Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

10.03 MAJOR DISTRICT CLASSIFICATIONS

Pursuant to the provisions of 12 M.R.S.A. §685-A(1), the Commission will classify areas within its jurisdiction into one of the following three major districts:

- A. **Protection districts:** Areas where development would jeopardize significant natural, recreational and historic resources, including, but not limited to, flood plains, precipitous slopes, wildlife habitat and other areas critical to the ecology of the region or State;
- B. **Management districts:** Areas that are appropriate for commercial forest product or agricultural uses or for the extraction of nonmetallic minerals and for which plans for additional development are not presently formulated nor development anticipated; and
- C. **Development districts:** Areas discernible as having patterns of intensive residential, recreational, commercial or industrial use or commercial removal of metallic minerals, and areas appropriate for designation as development districts when measured against the purpose, intent and provisions of this chapter.” 12 M.R.S.A. §685-A(1).

Pursuant to the Commission's Comprehensive Land Use Plan, the above major districts are divided into various subdistricts. The definition, purpose, and activities regulated within each of the subdistricts are provided in Sub-Chapter II.

10.04 OFFICIAL LAND USE GUIDANCE MAPS

The initial boundaries of the various subdistricts shall be shown on the Official Land Use Guidance Maps filed in the office of the Commission, which maps, and all amendments thereto, are incorporated by reference in these regulations.

The maps shall be the official record of the zoned status of all areas within the Commission's jurisdiction. Official Land Use Guidance Maps shall be identified as follows:

"This Land Use Guidance Map was adopted by the Maine Land Use Regulation Commission on _____, and became effective on _____.

This map is certified to be a true and correct copy of the Official Land Use Guidance Map of the Maine Land Use Regulation Commission.

By: _____”
Director, Maine Land Use Regulation Commission

Copies of such maps, and all amendments thereto, certified by a member of the Commission or the Director thereof shall be filed with the State Tax Assessor and with the several Registers of Deeds in the counties wherein the lands depicted on such maps are located.

10.05 INTERPRETATION OF DISTRICT BOUNDARIES

Whenever uncertainty exists as to the boundaries of subdistricts as shown on the Official Land Use Guidance Map, the provisions of 12 M.R.S.A. §685-A(2) shall apply.

In addition, in cases where two (2) or more major districts (protection, management or development) apparently apply to a single land area, the Commission will designate the land area for inclusion in that major district which best achieves the legislative purpose and intent as set forth in 12 M.R.S.A. §681 and §685-A(1).

Except as otherwise provided, a subdistrict designation appearing on the official Land Use Guidance Maps applies throughout the whole area bounded by such subdistrict boundary lines.

10.06 INTERPRETATION OF LAND USE STANDARDS

The following shall apply to all uses in all subdistricts except as otherwise provided:

- A. The description of permitted uses herein does not authorize any person to unlawfully trespass, infringe upon or injure the property of another, and does not relieve any person of the necessity of complying with other applicable laws and regulations.
- B. Unless otherwise specified herein, accessory uses and structures which are permitted in a subdistrict must conform to the requirements for the principal use or structure to which they relate.
- C. Where two or more protection subdistricts apply to a single land area, the combination of the more protective standards for each subdistrict shall apply. Where another protection subdistrict applies to the same land area as a P-FW subdistrict, any activities within such area which are not in conformance with the applicable standards of Section 10.27 shall require a permit.
- D. Wherever an M-NC subdistrict surrounds another management or protection subdistrict, no commercial, industrial, or residential development shall be allowed in such management or protection subdistricts except as allowed in such M-NC subdistrict.
- E. Notwithstanding any other provisions contained in this chapter, a “land use standard may not deprive an owner or lessee or subsequent owner or lessee of any interest in real estate of the use to which it is lawfully devoted at the time of adoption of that standard.” 12 M.R.S.A. §685-A(5).
- F. Subdivisions are prohibited unless allowed with a permit pursuant to the standards set forth for the subdistrict involved, except as provided in Section 10.25,Q,5.
- G. “A permit is not required for those aspects of a project approved by the Department of Environmental Protection under Title 38 if the commission determines that the project is an allowed use within the subdistrict or subdistricts for which it is proposed. Notice of intent to develop and a map indicating the location of the proposed development must be filed with the commission prior to or concurrently with submission of a development application to the Department of Environmental Protection.” 12 M.R.S.A. §685-B(1)(B).

- H. If a proposed activity other than timber harvesting requires a permit and will alter 15,000 or more square feet of a mapped wetland (P-WL1, P-WL2, or P-WL3 subdistrict), or 1 acre or more of overall land area, the applicant must delineate on the ground and in a site plan all wetlands within the general project area using methods described in the "Corps of Engineers Wetlands Delineation Manual" (1987).
- I. The size of a mineral extraction operation is determined by adding the reclaimed and unreclaimed acreages. While a single mineral extraction operation may be located in multiple subdistricts, mineral extraction operations 30 contiguous acres or greater in size must be located in a D-CI subdistrict.

10.07 EXEMPTIONS

Notwithstanding any other provisions contained in this chapter:

- A. Normal maintenance and repair, or renovations of any lawfully existing structure or use do not require a permit from the Commission.
- B. Utility relocations within the right-of-way of any roadway made necessary by road construction activity do not require a permit from the Commission.
- C. "Real estate used or to be used by a public service corporation may be wholly or partially exempted from regulation to the extent that the Commission may not prohibit such use but may impose terms and conditions for use consistent with the purpose of this chapter, when, upon timely petition to the Public Utilities Commission and after a hearing, the said Commission determines that such exemption is necessary or desirable for the public welfare or convenience." 12 M.R.S.A. §685-A(11).
- D. Capacity expansions of utility facilities do not require a permit from the Commission.
- E. Archaeological excavation adjacent to a body of standing water, flowing water, freshwater wetland, coastal wetland, or sand dune system does not require a permit from the Commission as long as the excavation is conducted by an archaeologist listed on the Maine Historic Preservation Commission level 1 or level 2 approved list, and that unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
- F. Public utility facilities located within a public right-of-way do not require a permit from the Commission. 35-A M.R.S.A. §2503(20)

10.08 CRITERIA FOR ADOPTION OR AMENDMENT OF LAND USE DISTRICT BOUNDARIES

A. GENERAL CRITERIA

“A land use district boundary may not be adopted or amended unless there is substantial evidence that:

1. 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
 2. The proposed land use district satisfies a demonstrated need in the community or area and 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).
-

B. AREAS ADJACENT TO LAKES

The review standards listed in Section 10.25,A must be considered in applying the above criteria to proposed changes in subdistrict boundaries adjacent to lakes.

C. PROSPECTIVELY ZONED AREAS

1. Additional Approval Criteria:

In addition to meeting the requirements of Section 10.08,A,1 and 2 above, for areas that have been prospectively zoned by the Commission, a petition for amendment to a development district boundary shall not be approved unless the petitioner demonstrates that:

- a. the requested change is needed due to circumstances that did not exist or were not anticipated during the prospective zoning process;
- b. the new development subdistrict is either contiguous to existing development subdistricts or within areas that are suitable as new growth centers; and
- c. the change will better achieve the goals and policies of the Comprehensive Land Use Plan, including any associated prospective zoning plans.

2. List of plantations and townships that have been prospectively zoned by the Commission:

- | | |
|--|---|
| - Adamstown Township, Oxford County | - Richardsontown Township, Oxford County |
| - Dallas Plantation, Franklin County | - Sandy River Plantation, Franklin County |
| - Lincoln Plantation, Oxford County | - Township C, Oxford County |
| - Magalloway Plantation, Oxford County | - Township D, Franklin County |
| - Rangeley Plantation, Franklin County | - Township E, Franklin County |

10.09 CRITERIA FOR AMENDMENT OF LAND USE STANDARDS

Adoption or amendment of land use standards may not be approved unless there is substantial evidence that the proposed land use standards would serve the purpose, intent and provisions of 12 M.R.S.A. §206-A, and would be consistent with the Comprehensive Land Use Plan.

10.10 VARIANCES

The Commission may grant variances pursuant to 12 M.R.S.A. §685-A(10) and adopts this section to interpret and implement the statutory provision.

A. PETITIONS

Any property owner or lessee may petition the Commission for permission to develop the property in a manner otherwise prohibited by the Commission's rules. Variances may be granted only from dimensional requirements, but shall not be granted for establishment of uses otherwise prohibited by the Commission's rules.

B. GRANTING OF A VARIANCE

The Commission may grant a variance when the Commission finds that the proposed development is in keeping with the general spirit and intent of this chapter, that the public interest is otherwise protected and that strict compliance with the rules and standards adopted by this Commission would cause unusual hardship or extraordinary difficulties because of the following:

1. The access and use needs of a person with a physical disability as defined in 5 M.R.S.A. §4553 sub-§7-B who resides in or regularly uses a structure; this provision shall be applicable only under the following circumstances:
 - a. Where necessary for the use of residential structures;
 - b. An alternate proposal approvable under either the provisions of Sub-Chapter III or Section 10.11 would not provide a reasonable accommodation to the disability;
 - c. The variance requested is necessary to afford relief;
 - d. The hardship is not the result of action taken by the petitioner; and
 - e. The Commission may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives on the property; or
2. Exceptional or unique conditions of topography, access, location, shape, size or other physical features of the site; or
3. Unusual circumstances that were not anticipated by the Commission at the time the rules and standards were adopted.

4. In order to be granted a variance, under either Section 10.10,B,2 or 3 above, a petitioner must demonstrate, by substantial evidence, that:
 - a. The land in question can not yield a reasonable return unless a variance is granted;
 - b. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c. The granting of a variance will not alter the essential character of the locality; and
 - d. The hardship is not the result of action taken by the petitioner or a prior owner or lessee.

5. In addition to the provisions of Section 10.10,B above, in flood prone areas, variances:
 - a. Shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - b. Shall be granted only upon:
 - (1) A showing of good and sufficient cause; and,
 - (2) A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public; and,
 - (3) A showing that the issuance of the variance will not conflict with other state or federal laws.
 - c. Shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Commission may impose such conditions to a variance as it deems necessary.
 - d. May be issued for development for the conduct of a functionally dependent use provided that:
 - (1) Other criteria of Section 10.10 and Section 10.25,T,2,k are met; and,
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
 - e. May be issued for Historic Structures upon the determination that the development:
 - (1) Meets the criteria of Section 10.10,B,5,a-d above; and,
 - (2) Will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

C. ISSUANCE

The Commission may issue a variance only after making written findings of fact and conclusions indicating that the petition, as modified by such terms and conditions as the Commission deems appropriate, has met the standards of Section 10.10,B. If the Commission denies the requested variance, it shall provide the petitioner with written explanation of the reasons for denial.

D. VARIANCES IN FLOOD PRONE AREAS

Any applicant who meets the criteria of Section 10.10,B,5,a-e above shall be notified by the Commission in writing over the signature of the Director that:

1. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
2. Such construction below the base flood level increases risks to life and property; and,
3. The applicant must agree in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the state against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the state from any claims the applicant may have against the state that are related to the use of land located in a floodplain.

10.11 NONCONFORMING USES AND STRUCTURES

A. PURPOSE AND SCOPE

This section governs structures, uses and lots that were created before the Commission's rules or laws were established, but which do not meet the current rules or laws. This section also governs structures, uses and lots that met the Commission's rules or laws when built or created, but no longer are in conformance due to subsequent revisions to those rules or laws.

In accordance with 12 M.R.S.A. §685-A(5), legally existing nonconforming structures, uses and lots will be allowed to continue. Renovations of these structures, and the construction of certain accessory buildings, are allowed without a permit. However, 12 M.R.S.A. §685-B(7) authorizes the Commission to regulate or prohibit extensions, enlargement, or movement of nonconforming uses and structures. This section clarifies which activities are allowed with a permit, without a permit, or are prohibited in the modification of a legally existing nonconforming structure, use or lot.

B. GENERAL

1. **Criteria for Approval.** Permits are required for all expansions, reconstructions, relocations, changes of use, or other development of nonconforming structures, uses and lots, except where specifically provided in Section 10.11. In order to obtain a permit, the applicant must meet the approval criteria in 12 M.R.S.A. §685-B(4) and demonstrate that:
 - a. the project will not adversely affect surrounding uses and resources: and
 - b. there is no increase in the extent of nonconformance, except as provided in Section 10.11,B,9 or in instances where a road setback is waived by the Commission in order to increase the extent of conformance with a water body setback.

2. **Extent of Nonconformance with Respect to Setbacks.** Section 10.26,D of these rules establishes minimum setbacks from water bodies, roads and property boundaries. Where legally existing, nonconforming structures do not meet these setbacks, an existing setback line will be established. The existing setback line will run parallel to the water body, road or property boundary at a distance equal to the closest point of the existing structure (including attached decks or porches) to the feature from which the setback is established. This is shown graphically below in Figure 10.11,B-1.

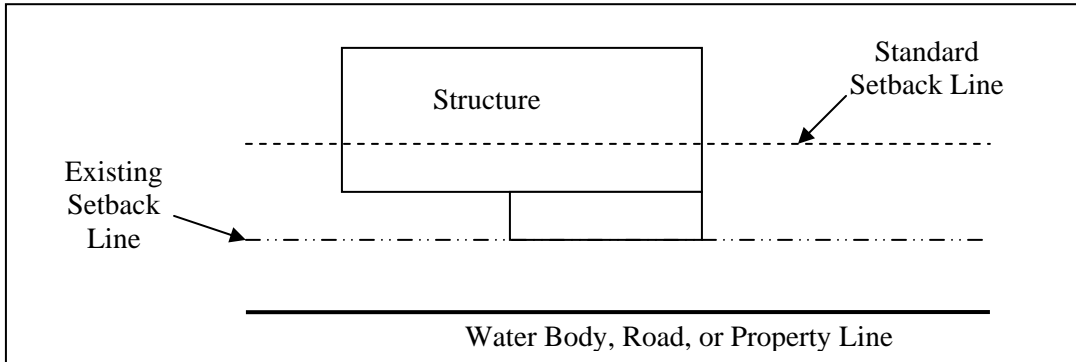


Figure 10.11,B-1. Determination of setback

Subject to the other requirements in this section, a nonconforming structure may be expanded up to the existing setback line without being considered to be more nonconforming than the original structure. Expansions between the existing setback line and the water body, road or property boundary will be considered to increase nonconformity, and will not be allowed, except as provided in Section 10.11,B,9.

3. **Transfer of Ownership.** Legally existing, nonconforming structures, uses, and lots may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming lot or structure as before, subject to the provisions of the Commission's rules.
4. **Normal Maintenance and Repair.** A permit is not required for the normal maintenance and repair of legally existing nonconforming structures, structures associated with nonconforming uses, or structures on nonconforming lots.
5. **Renovation.** A permit is not required for the renovation of legally existing nonconforming structures, structures associated with nonconforming uses, or structures on nonconforming lots.
6. **Waiver of Road Setbacks.** To allow a structure to become either conforming or less nonconforming to the water body setback, the Commission may reduce the road setback to no less than 20 feet in cases of reconstruction or relocation of legally existing structures or construction of new accessory structures on developed, legally existing nonconforming lots.
7. **Conformance with Maine Subsurface Waste Water Disposal Rules.** All changes to legally existing nonconforming structures, structures for nonconforming uses or structures on nonconforming lots must comply with the Maine State Subsurface Waste Water Disposal Rules (144A CMR 241), including changes that do not require a permit under this rule.
8. **Conflicting Requirements.** In cases where two or more provisions of this section apply to a particular structure, use or lot, the more restrictive provision shall control.

9. **Waiver of Property Line Setbacks.** The Commission may reduce the property line setback where there is no practical alternative and upon prior written agreement of the adjoining property owner.

C. NONCONFORMING STRUCTURES

1. **Expansion.** A permit is required for the expansion of a nonconforming structure. In addition to meeting permit requirements, expansions must also comply with the following limitations. These limitations do not apply to water dependent uses as defined in Section 10.02.
- a. **Certain Expansions Prohibited.** If any portion of a structure is located within 25 feet, horizontal distance, of the normal high water mark of a water body, expansion of that portion of the structure is prohibited. That portion beyond 25 feet may be expanded provided the size limitations in Section 10.11,C,1,b are met.
 - b. **Size of Structures Near Water Bodies Limited.** The maximum size of expansions of nonconforming structures is limited within areas described by either of the categories below:
 - (1) The area within 100 feet, horizontal distance, of the normal high water mark of bodies of standing water 10 acres or greater in size or flowing waters draining 50 square miles or more.
 - (2) The area within 75 feet, horizontal distance, of the normal high water mark of tidal waters or bodies of standing water less than 10 acres in size (but excluding bodies of standing water less than three acres in size not fed or drained by a flowing water).

Legally existing, principal and accessory structures located within these areas may be expanded subject to the other requirements of this section, provided that lot coverage limitations and other applicable land use standards are met. The maximum height of all structures within these areas shall be 25 feet, or existing structure height, whichever is greater. The maximum combined footprint for all structures within these areas may not exceed the limits in Table 10.11,C-1.

Closest Distance of Expansion from Water Body	Maximum Combined Footprint for all Structures not Meeting Water Body Setbacks
Greater than 25 and less than 50 feet.	750 square feet.
Between 50 and 75 feet.	1,000 square feet.
Greater than 75 and less than 100 feet (if applicable setback is more than 75 feet).	1,500 square feet.

Table 10.11,C-1. Limitations on size of structures near water bodies.

2. **Reconstruction or Replacement.** A legally existing, nonconforming structure may be reconstructed or replaced with a permit, provided that the permit application is completed and filed within two years of the date of damage, destruction or removal, and provided that the structure was in regular active use within a two year period immediately preceding the damage, destruction, or removal.
 - a. **Meeting Setbacks to the Greatest Extent Possible.** Reconstruction or replacement must comply with current minimum setback requirements to the greatest possible extent. In determining whether the proposed reconstruction or replacement meets the setback to the greatest possible extent, the Commission may consider the following factors:
 - size of lot,
 - slope of the land,
 - potential for soil erosion and phosphorus export to a water body,
 - location of other legally existing structures on the property,
 - location of the septic system and other on-site soils suitable for septic systems,
 - type and amount of vegetation to be removed to accomplish the relocation, and
 - physical condition and type of existing foundation, if any.
 - b. **Reconstruction of Attached Decks.** Decks attached to a legally existing, nonconforming structure may be reconstructed in place with a permit, except that replacement of any portion of a deck that extends into or over the normal high water mark is prohibited.
 - c. **Permanent Foundations.** The addition of a permanent foundation beneath a legally existing, nonconforming structure constitutes a reconstruction subject to the provisions in Section 10.11,C,2,a.
 - d. **Boathouses.** Except in a D-MT subdistrict, boathouses shall not be reconstructed or replaced. Normal maintenance and repair, and renovation of a legally existing boathouse is allowed without a permit.
 - e. **Sporting Camps.** A legally existing, nonconforming structure within a commercial sporting camp may be reconstructed in place, provided that the reconstruction occurs within 2 years of damage, destruction or removal and the Commission issues a permit [see 12 M.R.S.A. §685-B(7-A)]. The Commission may, consistent with public health, safety and welfare, waive standards that made the original structure nonconforming. The reconstructed structure must replicate the original structure and use to the maximum extent possible and it must be in the same location and within the same footprint as the original structure. Minor modifications to dimensions may be allowed provided the total square footage of the structure is not increased.
3. **Relocation.** In order to make it conforming or less nonconforming, a legally existing, nonconforming structure may be relocated within the boundaries of the lot upon the issuance of a permit. Cleared openings created as part of a relocation shall be stabilized and revegetated. Relocated structures that are altered such that they meet the definition of reconstruction shall meet the requirements of Section 10.11,C,2.
4. **Change of Use of a Nonconforming Structure.** The use of a nonconforming structure shall not be changed without permit approval.

5. **New, Detached Accessory Structures.** New, detached accessory structures associated with pre-1971 residences and operating farms are allowed without a permit if they meet all setbacks, do not cause lot coverage requirements to be exceeded and otherwise conform with the Commission's rules. Permits are required for all other new detached accessory structures.

The construction of new, detached accessory structures that do not meet water body setbacks is allowed with a permit only if the structure cannot be physically sited on the lot to meet the water body setback requirement. In this case, the new accessory structure shall not be located closer to the normal high water mark than the principal structure, shall not be located within 25 feet of the normal high water mark, and shall be of a size and height that, when combined with legally existing principal buildings will not exceed the size and height requirements of Section 10.11,C,1,b.

6. **Enclosure of Decks and Porches.** A permit is required for the complete or partial enclosure of decks and porches. Enclosure of decks and porches is not an expansion of floor area. The enclosure of the structure which results in additional stories is considered an expansion and must meet the provisions of Section 10.11,C,1,b. If any portion of the structure is located within 25 feet, horizontal distance, of the normal high water mark of a water body, complete or partial enclosure of that portion of the structure is prohibited.

D. NONCONFORMING USES.

1. **Expansion of Use.** Extension, enlargement or expansion of nonconforming uses requires a permit.
2. **Change in Use.** A nonconforming use may not be changed to another use without a permit.
3. **Resumption of Use.** A nonconforming use shall not be resumed if it has been discontinued or abandoned for a period exceeding two years, or if it has been superseded by a conforming use.
4. **Special Exceptions.** Any use granted a special exception permit shall be deemed a conforming use [see 12 M.R.S.A. §685-A(10)].

E. NONCONFORMING LOTS.

1. **Expansion of Structures.** Structures on nonconforming lots may not be expanded without a permit.
2. **Creation of Nonconforming Lots.** A lot which has an established use or structure to which dimensional standards apply may not be divided or altered in a manner that makes the lot, or any structure or use, nonconforming or more nonconforming.
3. **Pre-1971, Unimproved, Nonconforming Lots.** An unimproved, nonconforming lot, legally existing as of September 23, 1971, may not be developed unless the Commission grants a variance to those standards that make the lot nonconforming. However, if a lot is at least 20,000 square feet in size, has at least 100 feet of shore frontage, and is not a contiguous lot as described in Section 10.11,E,5 below, the Commission may allow for development by waiving, to the minimum extent necessary, the requirements that make the lot nonconforming. In this case a variance is not required. This waiver may only be granted if the proposed development would meet the shoreline setback requirements in Section 10.26,D.

4. **Development of Other Nonconforming Lots.** When a lot was lawfully created after September 23, 1971, in conformity with LURC dimensional requirements applicable at the time, the Commission may waive, to the minimum extent necessary the current dimensional requirements. Waived setbacks shall not be reduced below those in effect at the time of creation of the lot.
5. **Contiguous Lots.** Two or more contiguous lots in the same ownership that individually do not meet dimensional requirements shall be combined to the extent necessary to meet the dimensional requirements, except where:
 - a. such lots are part of a subdivision approved by the Commission, or
 - b. each lot has a legally existing dwelling unit that conformed to the Commission's rules at the time each lot was developed.

Under these two circumstances the lots may be conveyed separately or together.

6. **Expansion of Septic Systems.** The conversion from primitive to combined septic systems on legally created and developed lots is allowed without a permit provided authorization is obtained from the local plumbing inspector or from the Department of Human Services, Division of Health Engineering and provided there are no limitations on combined septic systems established by prior permit conditions

10.12 SEVERABILITY

The provisions of this chapter are severable. If a section, sentence, clause or phrase of this chapter is adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this chapter.

10.13 EFFECTIVE DATE

The effective date of this chapter shall be, as to each particular area within the Commission's jurisdiction, the effective date of the zoning map for such particular area adopted pursuant to this chapter, except as otherwise provided by 12 M.R.S.A. §685-A(6).

10.14 PENALTIES FOR VIOLATIONS

A person violating a provision of this chapter is subject to the provisions of 12 M.R.S.A. §685-C(8).

10.15 APPEALS

The appeal of a decision of the Commission or Commission's staff must be taken in accordance with Chapter 4 of these rules and applicable statutes.

10.16 NOTIFICATION FORMAT

Where a written notification is required by this chapter, such notification must be submitted in advance of the date on which the activity, which is the subject of the notification, is commenced. Except as provided in Section 10.27,L such notification must state the:

- A. Location of the proposed project by use of an official Commission Land Use Guidance Map of the area;
- B. Nature of the proposed project; and
- C. Time period of the proposed project;

Such notification must also state that the activity or project will be accomplished in conformance with the applicable minimum standards of Sub-Chapter III and must be signed by a duly authorized person who shall be responsible for the execution of the activity.

10.17 EXPIRATION OF PERMIT

If a development or use requiring a permit is not substantially started within the time period specified in the permit conditions of approval, or is not substantially completed within the time period specified, the permit lapses and further development or activity is prohibited thereafter unless and until a new permit is granted, or the Commission otherwise specifically authorizes.

Except as otherwise authorized by the Commission, uses authorized under a permit must be substantially started within 2 years of the effective date of the permit and substantially completed within 5 years of the effective date of the permit; provided that, with respect to permits issued prior to July 1, 2003, that do not specify any expiration date, that date shall be October 1, 2004.

For the purpose of these rules, “substantial start” shall mean the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Also for the purpose of these rules, “substantial completion” shall mean completion of all permit conditions of approval.

10.18 RESERVED

10.19 RESERVED

10.20 RESERVED
