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CHAPTER 12 LAND USE DISTRICT REQUIREMENTS FOR METALLIC MINERAL MINING AND LEVEL C MINERAL EXPLORATION ACTIVITIES

Section 1. Purpose

This rule establishes procedures and requirements for changes to land use subdistrict boundaries for metallic mineral mining activities and Level C mineral exploration activities in the Planned Development (D-PD) Subdistrict.

Section 2. Applicability

~~In addition to other applicable requirements of Chapter 10 of the Commission's Land Use Districts and Standards, the~~ The provisions of this rule apply to redistricting requirements for changing a subdistrict to a D-PD Development Subdistrict for the purposes of metallic mineral mining activities and Level C mineral exploration activities within the jurisdiction of the Maine Land Use ~~Regulation~~ Planning Commission. Level A and B mineral exploration activities are allowed in appropriate subdistricts in accordance with the requirements and standards set forth in Chapter 10 of the Commission's Land Use Districts and Standards. For the purposes of this rule, the terms "metallic mineral mining activities" and "Level C mineral exploration activities" shall have the meaning given them in Section 10.02 of the Commission's Land Use Districts and Standards.

Section 3. Certain Mining Activities to be Conducted in the Planned Development (D-PD) Subdistrict

Metallic mineral mining activities and Level C mineral exploration activities shall be allowed only within the D-PD Development Subdistrict ~~subject to the applicable requirements of that Subdistrict.~~ The size of such Subdistrict shall be limited to an area necessary to reasonably conduct authorized mining and Level C mineral exploration activities, and to adequately buffer those activities from surrounding resources or uses, but in no event shall it be less than 50 contiguous acres.

Section 4. Requirements for Changes to a Subdistrict Boundary

A. Commission Approval Required. An applicant who seeks a metallic mineral mining or an advanced exploration permit from the Department of Environmental Protection under ~~Chapter 13 of the Commission's Rules, Rules for Metallic Mineral Exploration, Advanced Exploration and Mining,~~Title 38, chapter 3, subchapter 1, article 9 for a metallic mineral mining project located wholly or ~~Level C mineral exploration activity,~~ in part within the unorganized and deorganized areas of the State must ~~first~~ petition and receive approval from the Commission for a change in the Subdistrict boundary to a D-PD Development Subdistrict. The Commission shall hold at least one public hearing on a petition for the D-PD Development Subdistrict designation in accordance with Chapter 5 of the Commission's Rules, Rules for the Conduct of Public Hearings.

B. Criteria for Approval of a Petition to Change a Subdistrict to a D-PD Development Subdistrict for Metallic Mineral Mining and Level C Mineral Exploration Activities.

(1) Pursuant to 12 M.R.S.A., Section 685-A(8), no change in a district boundary shall be approved by the Commission unless there is substantial evidence that:

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(a) The change would be consistent with the standards for ~~the~~ D-PD Development Subdistrict boundaries in effect at the time; the Comprehensive Land Use Plan; and the purpose, intent and provisions of 12 M.R.S.A. Chapter 206-A; and

(b) The change in districting will ~~satisfy a demonstrated need in the community or area and will~~ have 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.

(2) ~~For the purposes of determining, in part, whether the criteria for approval as set forth in B(1)(a) of this section have been met, the Commission shall consider the following in~~ When reviewing a petition to change a subdistrict to a D-PD Development Subdistrict for the purposes of metallic mineral mining or Level C mineral exploration activities ~~Impact~~ and applying the statutory criteria for approval as set forth in B(1)(a) of this section, the Commission, in addition to determining consistency with the standards for the D-PD Development Subdistrict boundaries and the Comprehensive Land Use Plan, shall consider the following factors when determining consistency with the purpose, intent and provisions of 12 M.R.S.A. Chapter 206-A:

(a) Positive and negative impacts upon the areas within and adjacent to the Commission's jurisdiction resulting from the change in use and development of the area. ~~and associated transportation routes and other infrastructure, and consistency with the Commission's Comprehensive Land Use Plan;~~. Such impacts may include impacts to regional economic viability, Maine's natural resource-based economy, local residents and property owners, ecological and natural values, and recreation;

(b) ~~Impact on protection subdistricts, development subdistricts or other land uses likely to be affected by the proposed activities; and~~ Positive and negative impacts upon the areas within and adjacent to the Commission's jurisdiction resulting from the use and development of associated transportation routes and other infrastructure; and

(c) Potential for future reclamation and beneficial use of the affected area, in accordance with the Commission's Comprehensive Land Use Plan, following closure of the site.

~~(3) For the purposes of determining, in part, whether the criteria for approval as set forth in B(1)(b) of this section have been met, the Commission shall consider the following in~~

(3) When reviewing a petition to change a subdistrict to D-PD Development Subdistrict for the purposes of metallic mineral mining or Level C mineral exploration activities and applying the statutory criteria for approval as set forth in B(1)(b) of this section, the Commission shall consider the following potential impacts:

(a) ~~The~~ Potential short and long term socioeconomic impacts, both positive and negative, upon the immediate area and communities likely to be affected by the proposed activities and resulting from the construction, operation and closure of the proposed activity; ~~Such factors include, but are not limited to:~~

~~i. Necessity of the location of the proposed activities and related facilities;~~

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~~ii. Anticipated demands for primary and secondary services and utilities, and proximity or availability of those services and utilities;~~

~~iii. Existing and proposed infrastructure to support the proposed activities and service requirements of communities likely to be affected by the proposed activities;~~

~~iv. Dislocation or relocation of, or other effects on, existing natural and human resources, residences, businesses or industries resulting from the proposed activities, in the immediate area or communities likely to be affected by the proposed activities;~~

~~v. Obligations or burdens upon communities, the State or local governments to provide essential services relating to the proposed activities during operation and following closure of the site;~~

~~vi. Socioeconomic impacts on local residents and communities likely to be affected by the establishment, operation and cessation of the proposed activities;~~

~~vii. Other benefits and costs or other impacts to the area and communities likely to be affected as a result of establishment, operation and cessation of the proposed activities; and~~

~~ix. Reasonably available siting and operational alternatives to the proposed activities and components related thereto;~~

(b) Potential impacts on primary and secondary services and utilities, proximity or availability of those services and utilities, and obligations or burdens for communities or State or local governments to provide those services;

(c) Potential impacts on existing infrastructure and any needs for new infrastructure to support the proposed activities; and

~~(b)~~(d)Potential ~~adverse~~ impacts to existing uses and natural resources including, but not limited to: forest resources; historic sites; wildlife and plant habitats; scenic resources; water resources; and recreation resources~~; and identification of measures to minimize or mitigate any adverse impacts on these uses and resources~~.

~~Note: In considering these factors, the Commission need not find a proposal is beneficial with respect to each of these factors in order to conclude that the Commission requirements have been met.~~

In considering these impacts and determining whether any adverse impact associated with the proposed rezoning is an undue adverse impact on existing uses or resources, the Commission shall consider the potential for a metallic mineral mining or Level C mineral exploration permittee to minimize, or mitigate to the extent permitted by law, a potentially adverse impact so that the resulting impact is not an undue adverse impact.

C. Submittal Requirements.

(1) In order to demonstrate to the satisfaction of the Commission that a petition meets the criteria set forth in subsection B above, a petition to change a Subdistrict to a D-PD Development Subdistrict for a proposed metallic mineral mining or Level C mineral exploration activity must, at a minimum, contain the following:

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(a) A narrative description of the nature and basis for the subdistrict change being requested;

~~(a)~~(b) A legal description and delineation of the property boundaries proposed for redistricting, including names, addresses and affiliations of current owners and any other entities having a legal interest in the property;

~~(b)~~(c) Names and addresses of property owners located within 1,000 feet of the subject property;

~~(c)An Environmental Impact Report which analyzes the potential socioeconomic, environmental and other natural resource impacts associated with the proposed activities, discusses measures to mitigate negative effects and evaluates reasonable land use alternatives associated with the proposed activities. The scope of this report will be determined by the Commission, based upon the nature of the proposed activities and the specific area characteristics, and may include relevant portions of, but not be limited to, an assessment of the impacts on those factors described in Chapter 13, Section 23(C)(1)(g) of the Commission's Rules.~~

~~(d) A development schedule and construction program specifying proposed phases of operations, completion and closure;~~

(d) A preliminary plan for general location and timing of project elements;

(e) A location map drawn to scale on the most recent version of the USGS topographic map and a Maine Land Use ~~Regulation~~ Planning Commission Land Use Guidance Map that indicates the area for which a D-PD Development Subdistrict designation is sought and the estimated boundaries of the ore body proposed to be explored or mined;

(f) A map drawn to scale of at least 1 inch to 100 feet showing existing site conditions, including contours at 10 foot intervals or less, water courses, ~~including streams zoned P-SL2,~~ unique or unusual natural conditions, forest cover, wetlands, known or likely deer wintering areas, lakes, ponds, existing structures, road and transportation routes, property boundaries and names of adjoining property owners, scenic locations and other prominent topographical and natural resource features;

~~(g) A soils map of high intensity or equivalent that encompasses those portions of the property proposed for D-PD Development Subdistrict designation, including identification of soils used in the USDA Soil Series;~~

~~(h)~~(g)Surficial and bedrock geology maps at a scale of 1:24,000 of the property proposed for D-PD Development Subdistrict designation;

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~~(i) A description of groundwater characteristics which delineates flow rates and travel direction of the groundwater for the property proposed for D-PD Development Subdistrict designation;~~

~~(j) A site plan that shows the approximate location and size of all existing and proposed structures, facilities, and other improvements, including roads, bridges, mills, waste units, stockpiles, storm drainage control systems and cut and fill operations. Such plans need not be final design or construction plans of the facilities;~~

~~(k) A map and description of the approximate type, size, source, location and route of proposed utility systems including waste disposal, water supply, and electrical and telephone. Where an on-site water supply, central sewage collection or non-mine waste treatment system is proposed, evidence is required to demonstrate that these facilities will meet applicable federal and State requirements and that the soils are suitable for such use;~~

~~(l)~~(h) A map and description of the location and extent of existing infrastructure to include roadways and transportation routes to be utilized, potential impacts on this existing infrastructure, as well as infrastructure to be constructed~~, utilized~~ or improved;~~ and~~

~~(m)~~(i) A map identifying significant natural resources and sensitive natural areas located within a three-mile radius of the mine or exploration site including protected water bodies, significant wildlife and plant areas, fragile mountain areas, historic sites, scenic resources, public lands, registered critical areas, and Commission subdistricts;

(j) A map and description of existing uses, such as recreational uses, within a three-mile radius of the mine or exploration site;

(k) A description of general measures that may be undertaken to assure that mining in the specified location will not have significant adverse impacts on existing uses and resources and measures that a permittee may take to minimize or mitigate any adverse impacts;

(l) A description of socioeconomic impacts of the proposed metallic mineral mining or level C mineral exploration activities upon the immediate area and communities within and adjacent to the Commission's jurisdiction likely to be affected by the proposed activities;

(m) An evaluation of the sufficiency of existing services and utilities, a description of any general measures necessary to increase those service capacities and an examination of the burdens on communities or government to provide those services;

(n) An explanation of how this proposal is consistent with the standards and purpose of the D-PD Development Subdistrict; and

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(o) A description of the anticipated site conditions following closure and the potential for future reclamation and beneficial use of the affected area.

D. Subdistrict Boundary Change for a Limited Period.

A decision by the Commission on a petition for a subdistrict change to a D-PD Development Subdistrict for a metallic mineral mining or Level C mineral exploration activity may occur before a decision is made on a metallic mineral mining or exploration permit by the Department of Environmental Protection (Department), as applicable. Such a subdistrict boundary change is limited to the longer of a ~~specific time~~ period ~~associated with the completion of the activity, including post-closure care, or to seven~~ of 10 years~~, if no substantive~~ from the date of approval of the subdistrict change or the expiration date of a permit issued by the Department or the Commission for metallic mineral mining activities or Level C mineral exploration activities ~~occur~~ within ~~that period. Once such activities associated with an authorized permit are completed, or~~ the D-PD Development Subdistrict. If no ~~substantive~~ metallic mineral mining or Level C mineral exploration activities occur within ~~seven~~ ten years of the Commission granting the zone change, the D-PD Development Subdistrict designation shall automatically revert to the appropriate Subdistrict designation(s). If an application for the development of the site is pending either with the Department or the Commission, the Commission, at its discretion, and for good cause shown, may extend the duration of the D-PD Development Subdistrict to allow for the completion of the proceeding. Following closure and reclamation, the landowner or lessee of the mining area shall ~~automatically revert to the~~ petition the Land Use Planning Commission for rezoning to an appropriate Subdistrict designation(~~s) in accordance with Chapter 10 of the Commission's Land Use Districts and Standards.~~