

MAINE DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY  
**MAINE LAND USE PLANNING COMMISSION**

**Draft 2021 Multi-Chapter Rulemaking –  
PART I: Chapters 2, 10, and 16**

March 10, 2021 Draft

This rulemaking package proposes revisions to two existing LUPC rules: Chapter 10, Land Use Districts And Standards; and Chapter 16, Rules Relating to Large Lot Divisions, and proposes a new rule Chapter 2, Definitions that combines provisions from numerous agency rules.

Proposed changes to most sections of these rules are shown in strikeout and underline format with additions in underlined text, deletions as ~~strikethroughs~~, and relocations within the same chapter as double underline and double ~~strikethroughs~~.

Where necessary, further explanations of some changes have been included in **[brackets]**. These explanatory notes will not be included in the final rule. Otherwise, a generalized summary of the revisions is provided on the next page.

## **Summary of Draft 2021 Multi-Chapter Rulemaking – PART I: Chapters 2, 10, and 16**

### **The primary purposes for these revisions include:**

- Appropriately reducing the size of the Commission’s rules without compromising regulatory effectiveness or user conveniences;
- Revise visual characteristics to contribute to improved function of the rule – such as formatting, spacing, and an alternating alpha numeric outline structure (e.g., 10.01(A)(1)(a));
- Correct citations and references; and
- Revise the usage of “shall” to more appropriate terminology or phrases.

Otherwise, the following provides a summary of changes unique to a particular chapter.

### **Chapter 2**

***See pages 3 through 50 of this packet.***

This would be a new rule, largely consolidating existing definitions from Chapters 1, 10, and 16. Only changes from existing text are shown in tracked changes; revisions include several new definitions, and a variety of clerical edits. A more detailed summary is provided on page 4.

### **Chapter 10**

***See pages 51 through 229 of this packet.***

These revisions include the relocation of Section 10.02 Definitions to Chapter 2, the relocation and reorganization of how special exceptions and lake management classifications are addressed, and a number of other clerical edits. A more detailed summary is provided on page 50.

### **Chapter 16**

***See pages 230 through 235 of this packet.***

These revisions include the relocation of Section 16.03 Definitions to Chapter 2, and minor clerical edits. A more detailed summary is provided on page 233.

MAINE DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY  
**MAINE LAND USE PLANNING COMMISSION**

CHAPTER 2, DEFINITIONS

**Proposed creation of Chapter 2**

*Date: February 26, 2021 DRAFT*

This rulemaking package proposes to create a new rule, Chapter 2, largely consolidating existing definitions from Chapters 1, 10, and 16. Only new definitions and changes from existing text are shown in strikeout and underline format.

Generalized summary of proposed Chapter 2 revisions by topic

New Chapter: Relocate most LUPC definitions within a new rule, Chapter 2.

- definitions previously part of Chapter 1, including draft revisions considered in 2020 (i.e., minor amendments, major amendments, Commission, development costs, director, minor change, and permits);
- definitions from Chapter 10 (including 263 terms);
- definitions relating to Chapter 4;
- definitions from Chapter 16 (i.e., Commission, plat, and registry); and
- provisions from Chapter 10 that are better suited as definitions (i.e., substantial start and substantial completion).

Additions: This rulemaking also proposes new definitions:

- applicant;
- application;
- average slope;
- sustained slope;
- interested person; and
- intervenor.

Standards: Several definitions have been revised to relocate portions that are less like a definition and are more consistent with a standard (e.g., home-based businesses and remote rental cabins). In these cases, the particular criteria are proposed to be added to the applicable portion of Chapter 10, sub-chapter III.

Clerical Edits:

- reorganize how terms are listed, including but not limited to:
  - o wetland related (e.g., Wetland, Forested and Wetland, Freshwater and Wetland, Coastal);
  - o road projects (e.g., Road Projects, Level A; Road Projects, Level B);
  - o mineral exploration (e.g., Mineral Exploration Projects, Level A)
- Additional minor revisions are included which act to improve consistency in structure or terminology

Department of Agriculture, Conservation and Forestry

**MAINE LAND USE PLANNING COMMISSION**

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**Definitions**

**Chapter 2 of the Commission's Rules**

Effective Date:  
[Not yet applicable / available]

**[Revision Note: The final rule will include a table of contents.]**

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## A NOTE ABOUT THIS CHAPTER

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This rule offers terminology and their applicable definition. Terminology are listed in alphabetical order of the primary term, particularly in cases involving multiple variants of a primary term (e.g., projecting sign is listed as “Sign, Projecting.”)

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### 2.01 **PURPOSE AND LEGAL AUTHORITY**

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The following **This rule establishes** definitions that 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., Chapter 206-A).

This rule is authorized by and adopted pursuant to 5 M.R.S. § 8051 and 12 M.R.S. § 684.

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## 2.02 DEFINITIONS

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~~The following definitions apply to the following terms as they appear in this chapter, the other chapters of the Commission's rules, and the Commission's statute (12 M.R.S., Chapter 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. § 682.

**2. Adjacent Grade:**

The natural elevation of the ground surface prior to construction next to the proposed wall of a structure.

**3. Advanced Exploration:**

~~"Advanced exploration" or "advanced exploration activity" means any~~ Any metallic mineral bulk sampling or exploratory activity that exceeds those activities that are exploration activities, but removes 10,000 tons or less of mine waste. Samples taken as part of "exploration" are not considered bulk sampling.

The term is further distinguished as follows:

**Tier One Advanced Exploration:**

~~"Tier one advanced exploration" means a~~Advanced exploration activities provided that bulk sampling does not exceed 2,000 tons of mine waste.

**Tier Two Advanced Exploration:**

~~"Tier two advanced exploration" means a~~Advanced exploration activities exceeding tier one advanced exploration provided that bulk sampling does not exceed 10,000 tons of mine waste.

**3.4. 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% percent~~ to ~~33% percent~~ 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% percent~~ to ~~33% percent~~ 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% percent~~ 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% percent~~ of the applicable HMFA/County median income. A "low income household" is a household with a

gross income over 50% percent, but less than or equal to 80% percent, of the applicable HMFA/County median income.

- d. A "moderate income household" is a household with a gross income over 80% percent, but less than or equal to 150% percent, 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.

**4.5. 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.

**5.6. 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.

**6.7. Agricultural Processing Facility:**

A facility or operation, and associated site improvements or buildings, that is located on land where farm products are produced, and that processes raw farm products to increase their value, to reduce bulk, or to enable efficient transportation for sale or further processing. Agricultural processing facilities may include temporary or permanent structures, and may include worker housing. Agricultural processing facilities do not include agricultural management activities. The term is further distinguished as follows:~~The term is further defined as small-scale and large-scale agricultural processing facilities as follows:~~

**Small-scale agricultural processing facility:** An agricultural processing facility where all the raw farm products used in the processing are grown onsite or on lands owned or leased by the operator, and that utilizes no more than 2,500 square feet of gross floor area.

**Large-scale agricultural processing facility:** An agricultural processing facility where a majority of the raw farm products used in the processing are grown onsite or on lands owned or leased by the operator, and that utilizes up to 5,000 square feet of gross floor area.

**7.8. Agritourism:**

An activity that:

- a. Draws people to a working farm for one or both of the following:
  - (1) The purchase of farm products, provided that the majority of items for sale are from products that are principally produced on the farm where the business is located; or



- (2) Educational, recreational, or social events that feature agricultural activities or farm products;
- b. Is clearly secondary to the principal use of the property for agricultural management activities; and
- c. Is operated by the farm owner or lessee.

The term is further distinguished as follows:~~defined as small-scale, medium-scale and large-scale:~~

**Small-scale Agritourism:** Agritourism that utilizes no more than 2,500 square feet of floor area at any given time in all principal and accessory buildings and employs no more than two people who work primarily in agritourism.

**Medium-scale Agritourism:** Agritourism that utilizes no more than 5,000 square feet of floor area at any given time in all principal and accessory buildings and employs no more than five people who work primarily in agritourism.

**Large-scale Agritourism:** Agritourism that does not meet the definition of small- or medium-scale agritourism. Also, agritourism that draws more than 100 people (including visitors and support staff) to more than three distinct events per year.

**8.9. 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~~handrail; and
- c. The construction, repair or alteration of a small structure with minimal impact such as a nesting box, pasture fence, or staff gauge.

**[Revision Note:** The following definition was initially part of Chapter 1, but has been deleted from the provisionally adopted Chapter 1 revisions in anticipation of this rulemaking. This definition is also consistent with anticipated revisions to Chapter 4.]

**10. Amendments:**

An action to modify a permit, petition, or request for certification previously issued by the Commission, except for minor changes.

The term is further distinguished as follows:

Minor Amendments include an action to modify a permit, petition, or certification previously issued by the Commission where the scale or nature of the proposed modification results in a development which is not substantially different from the one which has been approved, examples include but are not limited to:

- (1) Expanding existing or approved development which does not increase the total footprint or height of structures, impervious area, or limit of disturbance by more than 20 percent and does not involve a new land use activity for the parcel;

- (2) Relocating or reorienting structures, roadways, parking lots, or lot lines for the purpose of reducing nonconformance with the Commission’s dimensional requirements;
- (3) Permit transfers (in accordance with Chapter 4 of the Commission’s rules); and
- (4) Modifications to permit conditions which do not result in a substantially different outcome or impact on existing natural resources;

Major Amendments include an action to modify a permit, petition, or certification previously issued by the Commission that does not qualify as a minor change or minor amendment.

**11. Applicant:**

A person applying for a permit or zone change, or submitting a request for a variance or advisory ruling. In the case of a request for certification, the applicant is the person submitting an application to the Maine Department of Environmental Protection.

**12. Application:**

Materials submitted by a person applying for a permit or zone change, or requesting a variance, advisory ruling, or certification intending to demonstrate how a proposal satisfies applicable statutory or regulatory decision-making criteria or standards.

**9.13. Aquatic Vegetation:**

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

**14. Area of Special Flood Hazard: See Flood Hazard, Area of Special.**

~~**10.1. 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.~~

**11.15. Base Flood:**

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

**12.16. Basement:**

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

**13.17. 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.

**14.18. 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.

**15.19. Boat Ramp:**

See commercial trailered ramp, private trailered ramp, public trailered ramp, or trailered ramp.

**16.20. 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 either as constructed or natural lakes or ponds, or water impoundments.

**17.21. 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.

**18.22. 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. § 682. The Commission finds that a temporary camping tent constructed of fabric or similar materials is not considered a building.

**19.23. 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.

**20.24. 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.

**21.25. Bunkhouse:**

An accessory structure consisting of detached sleeping quarters having no plumbing, for the temporary accommodations of guests of the property owner or facility while the owner or facility operator is an occupant of the principal dwelling or at the facility. A bunkhouse that is accessory to a dwelling can be up to 750 square feet or 50% percent of the footprint of the principal dwelling unit, whichever is larger.

**22.26. Campground:**

Any area, other than a campsite, designed for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes or similar facility designed for temporary shelter. Campground does not include Residential Campsites.

**23.27. 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).

The term “tents” includes but is not limited to tents with ground level platforms not to exceed 150 square feet in area. The shelters for picnic tables shall not exceed 120 square feet in area. Outhouses shall not exceed 36 square feet in area. For the purpose of the application of the Commission’s rules, the statutory provision that a “campsite may be designed to contain a maximum of 4 camping sites for transient occupancy by 12 or fewer people per site” means there may be not more than 4 camping parties occupying a campsite, that an individual party may not exceed a total of 12 people, and that each camping site shall be designed for a single party of not more than 12 people. A group of people sharing an association or relationship, apart from staying in the same camping site, traveling together, or sharing meals and camping equipment shall be considered a camping party unless the assemblage of the group is intended to avoid regulation of the camping facilities as a campground.

**28. ~~Campsite, 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 not larger than 80 square feet in area consisting of a roof without walls; and
- d. require no other construction or grading and only minimal clearing of trees.

**29. ~~Campsite, Residential-Campsite:~~**

A camping location containing tents; or a legally registered tent trailer, pickup camper, recreational vehicle, or trailer; or similar device used for private non-commercial camping. “Residential campsite” includes a camping location that may have access to a pressurized water system or permanent structures. Except that each lean-to shall not have more than 200 square feet in floor area, each such additional permanent structure shall not have more than 150 square feet in floor area, shall not have a permanent foundation and, except for lean-tos and tent platforms, shall not be used for human habitation. A single lot may contain only one residential campsite, whether or not a dwelling is present, designed to contain not more than one camping site for transient occupancy by 12 or fewer people.

**24. ~~Campsite, Residential: See Residential-Campsite.~~**

**25.30. 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.

**26.31. ~~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.

**27.32. ~~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.

**28.33. \_\_\_\_\_ 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.

**29.34. \_\_\_\_\_ Coastal Nesting Island:**

An island used for nesting by sea birds during their breeding period.

**30. ~~Coastal Sand Dune System:~~  
(Reserved.)**

**~~31.1. Coastal Wetlands:~~**

~~Tidal and subtidal lands, including any of the following: 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 highest astronomical tide for the current National Tidal Datum Epoch as published by the National Oceanic and Atmospheric Administration (NOAA). Coastal wetlands may include portions of coastal sand dunes.~~

**32.35. \_\_\_\_\_ Combined Floor Area:**

The total floor area of all principal and accessory structures on a lot.

**33.36. \_\_\_\_\_ Combined Septic System:**

A disposal system designed to dispose of gray and black ~~waste water~~ wastewater 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.

**34.37. \_\_\_\_\_ 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.

**35.38. \_\_\_\_\_ Commercial Mineral Extraction:**

Mineral extraction other than Mineral Extraction for Road Purposes.

**36.39. \_\_\_\_\_ 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. § 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 as a transient development unit or as a base of operations for activities in another location, such as whitewater rafting. A sporting camp is usually located in a remote location and typically consists of, but does not have to include, all of the following: a number of cabins for the housing of guests, including but not limited to 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 not a part of commercial sporting camp facilities. Guests of outpost cabins may use the services of the commercial sporting camp whether or not the commercial sporting camp is permitted for expanded access (See Chapter 10, Section 10.27,(Q)-(1)). A resident, on-site attendant must be available on a full-time basis to meet the needs of guests.

**37.40. 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.

**38.41. 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 or services. Commercial use does not include a home-based business or the rental of a single dwelling unit on a single lot or incidental sales of goods or services as may be allowed by permit or standard within a recreational lodging facility or forest management activities where such activities are otherwise exempt from review.

[Revision Note: The following definition was previously located in Chapter 1 and is currently located in Chapters 4, 10, and 16. Concurrent with proposing locating the definition here, the definition is / will be proposed to be deleted from Chapters 4, 10 and 16.]

**39.42. Commission:**

The Maine Land Use Planning Commission.

[Revision Note: The following definition would be new, but is consistent with anticipated revisions to Chapter 4.]

**43. Commission Decision:**

A final action taken by the Land Use Planning Commission including, but not limited to, permits, and amendments to land use district boundaries.

**40.44. Common Open Space:**

~~“Common open space” or “open space” means a~~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.

**41.45. 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. § 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.

**42.46. Community Public Water System:**

(Reserved-)

**43.47. Community Public Water System Primary Protection Areas:**

(Reserved-)

**44.48. 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.

**45.49. Compensation:**

Replacement of a lost or degraded wetland function with a function of equal or greater value.

**[Revision Note:** The following definition would be new, except that the first part of the third sentence would be relocated from Chapter 10, Section 10.11(D)(4). Concurrent with proposing locating the last sentence here, Section 10.11(D)(4) is proposed to be deleted from Chapter 10.]

**50. Conforming:**

Often describing or regarding a structure, use, or lot (e.g., conforming structure, conforming use, conforming lot). A structure constructed or placed, a use commenced, or a lot created in accordance with applicable requirements. A structure or use granted permit approval as a special exception is a conforming structure or use.

**46.51. Constructed Pond:**

A body of standing water that is man-made and is not within or fed by a protected natural resource.

**47.52. Conversion of Use:**

The alteration of a use or structure such that the use or structure constitutes a different use listing or defined term.

**~~48.1. Creation:~~**

~~An activity bringing a wetland into existence at a site where it did not formerly occur.~~

**49.53. 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.

**50.54. 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.

**51.55. Deer Wintering Areas:**

Areas used by deer during winter for protection from deep snows, cold winds, and low temperatures.

**52.56. 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.

[Revision Note: The following definition was initially part of the proposed Chapter 1 revisions, but has been deleted from the provisionally adopted Chapter 1 revisions.]

**57. ~~Development costs~~ Costs:**

~~“Development costs” means a~~All costs of a proposed project including, without limitation, site preparation, building and road construction, installation of wastewater disposal systems and monitoring, and erosion control devices, but ~~shall~~does not include the cost of acquiring the land.

**53.58. ~~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.

**54.59. ~~Dining Amenities:~~**

A common space where meals are served to guests of the recreational lodging facility or the general public. Dining amenities do not include private kitchens for individual cabins.

**55.60. ~~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.

[Revision Note: The following definition was initially part of Chapter 1, but has been deleted from the provisionally adopted Chapter 1 revisions in anticipation of this rulemaking.]

**56.61. ~~Director:~~**

~~“Director” means t~~The Director of the Maine Land Use Planning Commission is the principal administrative, operational, and executive employee of the Commission.

**57.62. ~~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.

**58.63. ~~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. The term is further distinguished as follows:

**Permanent Docking Structure:**

A docking 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, and associated on-shore structures used to secure a permanent dock or mooring.

**Temporary Docking Structure:**

A docking structure in place for less than seven months during any calendar year upon or over flowed or submerged lands any body of standing water, coastal wetland, or flowing water and which is of such a size or design that it can be removed on an annual basis without requiring



alteration of the shoreline, and associated temporary on-shore structures used to secure a temporary dock or mooring.

**59.64.                      Driveways:**

A vehicular access-way, other than a land management road, less than 1,000 feet in length serving two or fewer lots or dwelling units.

**60.65.                      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, outpost cabin, or other similar facility which is rented or leased on a relatively short term basis. Staff housing in such facilities is not considered to be a dwelling unit. However, the term shall include accommodations utilized by guests for transient occupancy that qualifies as a home occupation.

**61.66.                      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 Chapter 10, Section 10.25;(T);(2);(1). 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 Chapter 10, Section 10.25;(T);(2);(p);(b);(iii).

**62.67.                      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, bur-reed, tussock sedge, rice cut grass, phragmites, pickerel weed, arrowhead and bulrush).

~~**63.1.                      Enhancement:**~~

~~An activity increasing the net value of a wetland.~~

**64.68.                      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.

**65.69.                      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.

**66.70.                      Family:**

One or more persons occupying a premises~~premise~~ as a single housekeeping unit.

**67.71.                      Farm Product:**

"Farm product" means those plants and animals and their products that are useful to humans and includes, but is not limited to, forages and sod crops, grains and food crops, dairy and dairy products, poultry and poultry products, bees and bee products, livestock and livestock products, manure and compost, fish and fish products and fruits, berries, vegetables, flowers, seeds, grasses, Christmas trees, or any other plant, animal, or plant or animal product that supply humans with food, feed, fiber, or fur.

**68.72.                      FEMA:**

Federal Emergency Management Agency.

**69.73.                      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. § 465.

**70.74. 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 sub-part a,(1) of this definition.

**75. Flood, 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.

**71.76.                      Flood Boundary and Floodway Map (FBFM):**

An official map of a township, plantation or town, issued by the Federal Insurance Administrator, where the boundaries of the base flood and floodway have been designated.

**72.77.                      Flood Elevation Study:**

An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**73.78. 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.

**74.79. 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.

**75.80. Flood Insurance Study (FIS):** See Flood Elevation Study.

**81. Flood, 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 for townships, plantations, or towns. The Commission adopts the FEMA maps and incorporates them by reference into the P-FP subdistrict. The maps are referenced for public information in Chapter 10, Appendix E, and noted on the official Land Use Guidance Maps.

**76.82. Floodplain or Flood Prone Area:**

Any land area susceptible to being inundated by water from any source (see Flood or Flooding).

**77.1. 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.~~

**78.83. 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.

**79. Floodway:** See Regulatory Floodway.

**80.84. Floodway Encroachment Lines:**

The lines marking the limits of floodways on federal, state, and local floodplain maps.

**85. Floodway, 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.

**81.86. 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.

**82.87. Flowing Water:**

A channel that has defined banks created by the action of surface water and has two or more of the following characteristics:

- a. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map or, if that is not available, a 15-minute series topographic map.
- b. It contains or is known to contain flowing water continuously for a period of at least ~~6~~six months of the year in most years.
- c. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
- d. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed.
- e. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

Such waters are commonly referred to as rivers, streams, and brooks. Flowing water does not mean a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining storm water or a grassy swale.

The term is further distinguished as follows:

**Major Flowing Water:**

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

**Minor Flowing Water:**

A flowing water upstream from the point where such water drains less than 50 square miles.

**83.88. Footprint:**

The measure of the area in square feet within the exterior limits of the perimeter of a structure. This includes any overhangs, or attached porches or decks whether or not enclosed.

**84.89. Forest:**

A plant community predominantly of trees and other woody vegetation growing more or less closely together.

**85.90. 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.

**86.91. Forest Product:**

Any raw material yielded by a forest.

~~**87.1. Forested Wetland:**~~

~~Freshwater wetlands dominated by woody vegetation that is 20 feet tall or taller.~~

~~**88.1. 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 below the normal high water mark of a body of standing water, coastal wetland, or flowing water.~~

**89.92. 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.

**90.93. Gatehouse:** See Checkpoint Building.

**91.94. General Management Subdivision:** See Subdivision, General Management.

**92.95. Gravel Extraction:**

Any extraction of a deposit of sand, fill or gravel.

**93.96. Gravel Pit:**

A mining operation undertaken primarily to extract and remove sand, fill or gravel.

**94.97. 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.

**95.98. Height of Structure:**

The vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

**96.99. High Mountain Area:**

All mountain areas included in Mountain Area Protection Subdistricts (P-MA), as described in [Chapter 10](#), Section 10.23-(G) and shown on the Commission's Land Use Guidance Maps.

**97.100. High-density Subdivision:** See Subdivision Density.

**98.101. Hillside:**

An area of two or more contiguous acres having a sustained slope of 15 percent or greater.

**99.102. Historic Structure:**

Any structure that is:

- a. listed individually in the National Register of Historic Places (a listing maintained by the U.S. 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.

**100.103. 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.

**101.104. Home Child Day Care Provider:**

A person who receives consideration to provide ~~child care~~childcare 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.

**[Revision Note:** The sub-distinctions for minor and major home-based businesses are in-part duplicative of the primary portion of the definition, or are more consistent with a standard. The square footage limit removed below is proposed to be added to Chapter 10, Section 10.27(N).]

**102.105. Home-based Business:**

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 distinguished by Chapter 10, Section 10.27(N) as minor and major home-based business as follows:~~

~~**Minor Home-based Business:** A home-based business 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 1,500 square feet.~~

~~**Major Home-based Business:** A home-based business 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 2,500 square feet.~~

**103.106. 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.

**104.107. 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 constructed pond, water impoundment, or natural water body is not considered an impervious area.

**105.108. Incidental:**

A use, activity, service, or amenity that occurs by chance and not on a regular basis. Any use, activity, service, or amenity that is advertised individually is not incidental.

**106.109. Interested Person:**

A person who submits written comments on an application or who requests, in writing, receipt of materials related to a particular application.

**110. Intervenor:**

A person who, in accordance with the Maine Administrative Procedure Act, 5 M.R.S. §§ 9054(1) and (2), and the Commission's rules governing hearings, has been granted leave to participate as a party in a particular proceeding where a decision has been made to hold a hearing.

**107.111. 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.

**108.112. 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.

**109.113. Lean-To:**

A three-sided, roofed structure, limited to no larger than 200 square feet in area and no more than nine feet in height, used for transient occupancy and commonly constructed for campsites.

**110.1. Level A Mineral Exploration Activities:**

~~Mineral exploration activities conducted for the 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, trenching or outcrop stripping for the removal of overburden having a maximum surface opening of 100 square feet per test pit or trench, or other test sampling methods determined by the Commission which cause minimum disturbance to soil and vegetative cover.~~

~~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 and shall not exceed 1 acre of total disturbed area.~~

**~~111.1. Level B Mineral Exploration Activities:~~**

~~Mineral exploration activities which exceed those defined as Level A mineral exploration activities having a maximum surface opening of 300 square feet per test pit or trench. Level B mineral exploration activities shall not include bulk sampling of mineral deposits.~~

~~Access ways for Level B 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.~~

**~~112.1. 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.~~

**~~113.1. 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.~~

**~~114. 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.~~

**~~115.114. 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.~~

**~~116.115. Lot Coverage:~~**

~~The total footprint area of all **structures** **impervious area**, which includes, but is not limited to, buildings, driveways, sidewalks, parking lots, and other impervious surfaces.~~

**~~117.116. Low-density Subdivision:~~** See Subdivision Density.

**~~118.117. 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 [Chapter 10, Section 10.25;\(T\)-\(2\)-\(I\)](#).~~

**~~119.118. 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.

~~120.1. Major Flowing Water:~~

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

**121.119. Major Water Bodies:**

Major water bodies are bodies of standing water greater than 10 acres in size and major flowing waters.

**122.120. 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 [Chapter 10, 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 [Chapter 10, Appendix C](#) to these regulations with their Management Class noted.

**123.121. 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 two-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 [Chapter 10, Appendix C](#) ~~to these regulations~~ with their Management Class noted.

**124.122. 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 [Chapter 10, Appendix C](#) ~~to these regulations~~ with their Management Class noted.

**125.123. 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 two-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 [Chapter 10, Appendix C](#) ~~to these regulations~~ with their Management Class noted.

**126.124. 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 [Chapter 10, Appendix C](#) ~~to these regulations~~ with their Management Class noted.

**127.125. 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 [Chapter 10, Appendix C](#) ~~to these regulations~~ with their Management Class noted.

**~~128.126.~~ Management Class 7 Lake:**

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

**~~129.127.~~ 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.

**~~130.128.~~ Manufactured Home Park or Subdivision:**

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

**~~131.129.~~ Maple Sugar Processing Operations:**

The facilities and related structures and equipment for use in the processing of raw maple sap resources into maple syrup but not including the trees, taps and collection lines associated with the harvesting and collection of the raw maple sap resources. Commercial maple sugar processing operations may include temporary accommodations for a reasonable number of employees but shall not include other types of accommodations, dwelling units, or residential use.

**~~132.130.~~ Maple Sugar Processing Subdivision:** See Subdivision, Maple Sugar Processing.

**~~133.131.~~ 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.

**~~134.132.~~ 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.

**~~135.133.~~ Metallic Mineral Mining Activity:**

~~"Metallic mineral mining activity" means a~~ activities, facilities, or processes necessary for the extraction or removal of metallic minerals or overburden or for the preparation, washing, cleaning, or other treatment of metallic minerals and includes the bulk sampling, advanced exploration, extraction or beneficiation of metallic minerals as well as waste storage and other stockpiles and reclamation activities, but does not include Level A or B exploration activities.

**136.134. Mineral Deposit:**

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

**135. ~~Mineral Exploration Activities, Level A Mineral Exploration Activities:~~**

Mineral exploration activities conducted for the 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, trenching or outcrop stripping for the removal of overburden having a maximum surface opening of 100 square feet per test pit or trench, or other test sampling methods determined by the Commission which cause minimum disturbance to soil and vegetative cover.

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 and shall not exceed 1 acre of total disturbed area.

**136. ~~Mineral Exploration Activities, Level BB Mineral Exploration Activities:~~**

Mineral exploration activities which exceed those defined as Level A mineral exploration activities having a maximum surface opening of 300 square feet per test pit or trench. Level B mineral exploration activities shall not include bulk sampling of mineral deposits.

Access ways for Level B 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.

**137. Mineral Extraction:**

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

**138. Mineral Extraction for Road Purposes:**

Mineral extraction where at least 75% ~~percent~~ 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.

**139. 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.

**140. Mineral Soil:**

Soil material in which inorganic (mineral) constituents predominate.

**[Revision Note:** The following definition was initially part of Chapter 1, but has been deleted from the provisionally adopted Chapter 1 revisions in anticipation of this rulemaking. This definition is also consistent with anticipated revisions to Chapter 4.]

**141. Minor ~~changes~~Change:**

~~“Minor changes” means a revision or amendment to~~An action to modify a permit previously issued by the Commission where the revision ~~or amendment~~ is a result of:

- a. ~~(1) updating current transfer of~~ ownership or indicating a new permit holder;
- b. ~~(2) correcting clerical errorstypographical errors or other errors of transcription;~~
- c. ~~(3) clarifying the Commission’s decision, which clarification is consistent with the intent of the Commission’s decision and does not materially change any findings of fact or conclusions of law;changing the phrasing of the Commission’s written decision, where the phrasing is consistent with the intent of the Commission’s decision; or~~
- d. ~~(4) corrections ofcorrecting the dimensions of structures, or approving~~ minor variations to the dimensions of structures previously approved, or approving expansions or changes affecting less than ~~ten (10)~~ percent of a structure or project; or
- e. renewing a permit and extending the deadline for a substantial start or for substantial completion by up to two years.

~~**142.1. Minor Flowing Water:**~~

~~A flowing water upstream from the point where such water drains less than 50 square miles.~~

~~**143.142. 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.

~~**144.1. Mitigation Banking:**~~

~~Wetland restoration, enhancement, preservation or creation for the purpose of providing compensation credits in advance of future authorized impacts to similar resources.~~

~~**145.143. Moderate-density Subdivision:**~~ See Subdivision Density.

~~**146.144. 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.~~

~~**147.145. Motorized Recreational Gold Prospecting:**~~

~~“Motorized recreational gold prospecting” means the 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. “Motorized recreational gold prospecting” includes, but is not limited to, the operation of a motorized suction dredge, sluice, pump, rocker box, or winch, individually or together.~~

**148.146. Multi-Family Dwelling:**

A building containing three or more dwelling units.

**149.147. 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)”.

**150.148. Natural Resource Extraction:**

The commercial development or removal of natural resources including, but not limited to, mineral deposits and water, but excluding Level A and Level B mineral exploration activities, metallic mineral mining, wind energy development, and solar energy development. Natural resource extraction also does not include timber harvesting, mineral processing equipment, or portable mineral processing equipment.

**151.149. Natural Resource Processing Facility:**

A facility or operation, and associated site improvements or buildings, that processes forest products to reduce bulk or otherwise enable efficient transportation for sale or further processing. Natural resource processing facilities may include temporary or permanent structures, or mobile processing equipment, and may include transient accommodations for a reasonable number of employees, but shall not include other types of accommodations, dwelling units, or residential use. Natural resource processing facilities do not include forest management activities, permanent worker housing, or further processing beyond what is necessary to do close to the source of the raw materials.

**152.150. Net Developable Land:**

“Net developable land” is the area of a parcel, as determined by the Commission, that is suitable for development. The area shall be calculated by subtracting the following from the total acreage of the parcel:

- a. Portions of the parcel subject to rights-of-way and easements for vehicular traffic; and
- b. Unbuildable land. Unbuildable land includes, but is not limited to, land that has a low or very low soil potential rating, or that contains sensitive areas such as slopes exceeding 20 percent, non-tidal water bodies, or wetlands. Regarding soil suitability, the Commission may determine land is buildable if the plan for development satisfies the provisions of [Chapter 10, Section 10.25,\(G\),\(2\)](#) for low or very low soil potential ratings.

**153.151. Net Developable Shorefront Area:**

For the purposes of ~~this section~~ [the Commission’s rules](#), “Net developable shorefront area” is land that:

- a. Meets the minimum water body setback requirements of [Chapter 10, Section 10.26,\(D\)](#) and is within 250 feet of a non-tidal water body or coastal wetland;
- b. Does not have a low or very low soil potential rating; and
- c. Contains or is part of a land area that contains at least 40,000 contiguous square feet in size of which no more than 20 percent is comprised of sensitive areas including, but not limited to, slopes exceeding 20 percent, non-tidal water bodies or wetlands.

Regarding soil suitability, the Commission may determine the shorefront area is developable if the plan for the development satisfies the provisions of Chapter 10, Section 10.25;(G)(2) for low or very low soil potential ratings.

**154.152. 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.

**155.153. 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. § 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.

**156.154. 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. § 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.

~~**157.1. Non-Forested Wetland:**~~

~~Freshwater wetlands not dominated by woody vegetation that is 20 feet tall or taller.~~

**158.155. Non-Tidal Water Bodies:**

All water bodies or portions thereof, which are not subject to ebb and flow as the result of tidal action, including bodies of standing water and flowing waters.

**159.156. Normal High Water Mark of Coastal Wetlands:**

That line on the shore of coastal wetlands reached by the shoreward limit of the highest astronomical tide for the current National Tidal Datum Epoch as published by the National Oceanic and Atmospheric Administration (NOAA). This is often referred to as the upland edge of the coastal wetland.

**160.157. Normal High Water Mark of Non-Tidal Water Bodies:**

That line on the shores and banks of non-tidal water bodies that is apparent from visible markings, changes in the character of soils due to prolonged action of the water or from changes in vegetation and that distinguishes between predominantly aquatic and predominantly terrestrial land. 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.

**161.158. 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, a change in size or capacity, or any land use activity that is a shoreline

alteration. 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.

**162.159. \_\_\_\_\_ North American Vertical Datum (NAVD):**

The national datum, established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps.

~~163.1. **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.~~

**164.160. \_\_\_\_\_ 100-year Flood:** See Base Flood.

**165.161. \_\_\_\_\_ Outpost Cabin:**

A building used primarily by the guests of a commercial sporting camp on a transient basis primarily in pursuit of primitive recreation or snowmobiling in an isolated setting and which is located more than one half mile from a commercial sporting camp as measured in a straight line from the nearest structure providing guest services. Outpost cabins are not a part of commercial sporting camp facilities and are not served by an on-site attendant while guests are present. Guests of outpost cabins may use the services of the commercial sporting camp whether or not the commercial sporting camp is permitted for expanded access (see [Chapter 10](#), Section 10.27;(Q)(1)).

**166.162. \_\_\_\_\_ 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.

**167.163. \_\_\_\_\_ Peatland:**

Freshwater wetlands, typically called bogs or fens, consisting of organic soils at least 16" inches deep, predominantly vegetated by ericaceous shrubs (heath family), sedges, and sphagnum moss and usually having a saturated water regime.

~~168.1. **Permanent Docking Structure:**~~

~~A docking 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, and associated on-shore structures used to secure a permanent dock or mooring.~~

**169.164. \_\_\_\_\_ 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.

**170.165. \_\_\_\_\_ Permanent Trail:**

A trail that is land-based, owned in-fee, and managed and maintained by one or more organizations or public entities for the purpose of allowing public access. The location of a permanent trail may vary slightly, but generally remains in the same physical location within a designated corridor. A trail that is established by lease, license, or informal agreement with a landowner who is not maintaining the trail is not a permanent trail.



[**Revision Note:** The following definition was initially part of Chapter 1, but has been deleted from the provisionally adopted Chapter 1 revisions in anticipation of this rulemaking. This definition is also consistent with anticipated revisions to Chapter 4.]

**171.166. Permits:**

“Permit” means a ny approval, license, certification, or other authorization issued by the Commission, including amendments thereto.

**172.167. Persistence:**

The overall ability of a wetland to be self-sustaining, continue to exist, and serve intended functions over an indefinite period of time, although its vegetation, soils, hydrologic characteristics and precise boundaries may change.

**173.168. Person:**

"An individual, firm, association, organization, partnership, trust, company, corporation, state agency or other legal entity." 12 M.R.S. § 682.

**174.169. 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. 'Personal watercraft' does not include a motorized watercraft that does not have a horsepower rating greater than 15 horsepower and does not generate an unreasonable amount of noise." 12 M.R.S. § 13001(23).

**175.170. 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.

**176.171. Piped Water:**

Water supplied to a building by means other than hand pump or hand carry.

[**Revision Note:** The following definition was previously located in Chapter 16. Concurrent with proposing locating the definition here, the definition is proposed to be deleted from Chapter 16.]

**177.172. Plat:**

“Plat” means a map or site plan of a subdivision showing the location and boundaries of individual parcels of land divided into lots and customarily drawn to a scale.

**178.173. 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.

**179.174. Practicable:**

Available and feasible considering cost, existing technology and logistics based on the overall purpose of the project.

**~~180.1. 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 and land trust acquisitions.~~

**181.175. Primary Location:**

Area identified within the primary location according to Chapter 10, Section 10.08-A;(C).

**182.176. 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.

**183.177. 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.

**184.178. 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.

**185.179. Principal Use:**

A use other than one which is wholly incidental or accessory to another use on the same premises.

**186.180. 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.

**~~187.1. 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.~~

**188.181. Property Line:**

Any boundary between parcels of land owned or leased by different persons or groups of persons.

**189.182. Protected Natural Resource:**

Coastal sand dune systems, coastal wetlands, significant wildlife habitat, high mountain areas, freshwater wetlands, community public water system primary protection areas, bodies of standing water, and flowing water.

**190.183. Public Drinking Water Source:**

Any groundwater well or any surface water source that directly or indirectly serves a water distribution system that has at least 15 service connections or regularly services an average of at least 25 individuals daily at least 60 days of the year (38 M.R.S. §490-A).

**191.184. Public Road or Roadway:**

Any roadway which is owned, leased, or otherwise operated by a governmental body or public entity.

**192.185. 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.

**193.186. 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.

**194.187. 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.

**195.188. Recreation Activity, Features, and/or Services:**

Recreation activity, features, and/or services do not include modes of transportation to and from the site (e.g., airplane, snowmobile, ATV, or car), but do include any on-site track or trail that does not extend off-site (e.g., motocross track, mud runs, airplane rides). Measures taken to reduce noise and odor, including but not limited to, soundproofing, buffering, hours of operation, or emissions control devices may be considered when evaluating noise and odor levels. Examples of on-site recreation activities, features, and/or services grouped by noise and odor impacts:

- a. Low noise/odor – climbing wall, horseshoes, open field activities, tennis, swimming, small range for sighting of firearms, archery, guiding, vehicle shuttle or transportation services, rental of non-motorized equipment, and mini golf;
- b. Some noise/odor – facilities for organized team sports (e.g., baseball), paintball, rafting base, rental of motorized equipment, and airplane rides for overnight guests; and
- c. Routine noise/odor – shooting range, atv/snowmobile/motocross racing, amusement park, public airplane rides.

**196.189. Recreation Day Use Facility:**

Site improvements, a building, part of a building, or a group of buildings, not part of a recreational lodging facility, where recreational activities are offered to the public.

**197.190. Recreation Supply Facility:**

A facility or operation that provides equipment rental, guide services, or pre-prepared food to the recreating public at or near the location of the recreational activity. Recreation supply facilities may be located in a permanent or temporary structure, or in a parked vehicle or trailer, and excludes restaurants, general stores, repair shops, and other more intensive uses.

**198.191. Recreational Lodging Facilities:**

Site improvements, a building or group of buildings, or any part thereof, used, maintained, advertised or held out to the public as a place where sleeping accommodations are furnished to the public for commercial purposes. Recreational lodging facilities primarily cater to recreational users who engage in recreation activities that are primarily natural resource-based. The term includes, but

is not limited to, commercial sporting camps, youth or group camps, back-country huts, rental cabins, outpost cabins, campgrounds, lodges, hotels, motels, inns, or any combination of these types of uses that exhibit characteristics of a unified approach, method or effect such as unified ownership, management or supervision, or common financing. To be included in a recreational lodging facility, rental units must be served by an on-site attendant while guests are present. Related development that is located more than one half mile, measured in a straight line, from the nearest structure providing guest services, such as dining, gathering places, retail, shower house, dumping station, check-in office, and equipment rental shall be considered a separate facility, unless the owner chooses to consider them as one facility. Caretaker or attendant housing will not be used to establish the one half mile distance unless no other guest services are provided. If no guest services are provided then all development on the regulatory parcel shall be considered part of the same facility and may be part of a facility on an adjoining parcel. The term is further distinguished as follows~~For the purposes of Land Use Planning Commission rules, recreational lodging facilities are divided into five levels:~~

**Level A Facilities** have minimal impacts on existing resources within the development site and surrounding areas. Level A recreational lodging facilities are specifically designated by Chapter 10, Section 10.27;(Q;)(1).

**Level B Facilities** have low impacts on existing resources within the development site and surrounding areas. Level B facilities are specifically designated by Chapter 10, Section 10.27;(Q;)(1).

**Level C Facilities** have moderate impacts on existing resources within the development site and surrounding areas. The standards for these facilities are designed to allow development while conserving the natural resource and recreation values of the development site and surrounding areas. Level C facilities are specifically designated by Chapter 10, Section 10.27;(Q;)(1). A Level C facility characterized by any of the factors in Chapter 10, Section 10.27;(Q;)(1), Table B is referred to as a “Level C – Expanded Access” facility.

**Level D Facilities** have moderate to high impacts on existing resources within the development site and surrounding areas. Level D facilities may provide limited on-site goods and/or services to meet the needs of guests, though these are not of a type, scale or design intended to meet the goods and services needs of the public at large that is not an overnight guest. The standards for these facilities are designed to allow larger-scale development while conserving the natural resource and recreation values of the development site and surrounding areas. Level D facilities are specifically designated by Chapter 10, Section 10.27;(Q;)(1). A Level D facility characterized by any of the factors in Chapter 10, Section 10.27;(Q;)(1), Table B is referred to as a “Level D – Expanded Access” facility. A Level D facility may be located in a geographic allowance area as provided in Chapter 10, Section 10.27;(Q;)(3).

**Level E Facilities** have the potential to have significant local and regional impacts. Level E facilities may include a range of lodging options at larger scales and typically include a broad range of recreational services and/or amenities that make the facility not only a recreation destination but also may meet some of the goods and services needs of the greater region. The standards for these facilities are designed to allow large scale development while conserving the natural resource and recreation values of the development site and surrounding areas. Level E facilities are specifically designated by Section 10.27;(Q;)(1).

**199,192. Recreational Vehicle:**

A vehicle which is:

- a. built on a single chassis;
- b. designed to be self-propelled or permanently towable by a motor vehicle;
- c. designed to provide temporary living quarters for recreational, camping, travel, or seasonal use, but not for use as a permanent dwelling;
- d. without structural additions to or removal of wheels from the vehicles; and
- e. 400 square feet or less when measured at the largest horizontal projection, not including slideouts, when located in a flood prone area.

**200.193.**                      Recreation-based Subdivision: See Subdivision, Recreation-based Subdivision.

**[Revision Note:** The following definition was previously located in Chapter 16. Concurrent with proposing locating the definition here, the definition is proposed to be deleted from Chapter 16.]

**201.194.**                      **Registry.** "Registry" means ~~†~~The Registry of Deeds for the county within which a parcel is located.

~~**202.1.**                      **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.~~

**203.195.**                      **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.

~~**204.1**                      **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.a. 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.a. have permanent structures limited to privies, fireplaces or fire rings, picnic tables, and picnic table shelters not larger than 80 square feet in area consisting of a roof without walls; and~~
- ~~d.a. require no other construction or grading and only minimal clearing of trees.~~

**205.196.**                      **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 1,000 feet of any public road or within 1,000 feet of any other type of residential or commercial development.~~

See [Chapter 10](#), Section 10.25,(Q) “Subdivision and Lot Creation” to determine how such buildings are counted for purposes of subdivision.

**206.197. 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.

**207.198. Rental 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 for a single party, and which is rented or leased on a relatively short term basis. This term does not include outpost cabins or remote rental cabins.

**208.199. Residential:**

Pertaining to a dwelling unit.

**209.1. Residential Campsite:**

~~A camping location containing tents; or a legally registered tent trailer, pickup camper, recreational vehicle, or trailer; or similar device used for private non-commercial camping. “Residential campsite” includes a camping location that may have access to a pressurized water system or permanent structures. Except that each lean-to shall not have more than 200 square feet in floor area, each such additional permanent structure shall not have more than 150 square feet in floor area, shall not have a permanent foundation and, except for lean-tos and tent platforms, shall not be used for human habitation. A single lot may contain only one residential campsite, whether or not a dwelling is present, designed to contain not more than one camping site for transient occupancy by 12 or fewer people.~~

**210.1. Residential Directional Sign:**

~~An off-premise sign erected and maintained by an individual or family to indicate the location of his or its residence.~~

**211.200. Residual:**

~~“Residual means s~~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.

**212.1. 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.~~

**213.201. Ridgeline:**

A line formed by the meeting of steeply sloping surfaces of land that drop away from each other. Ridgeline includes existing vegetation growing on the sloping surfaces.

**202. Road Projects, 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.

**203. Road Projects, 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.

**204. Road Projects, 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.

**214.205. Roadway:**

A public or private road including any land management road.

**215.1. Roof Sign:**

~~A sign which is attached flat to, painted on, or pinned away from the roof of a building.~~

**216.206. Rural Business:**

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

**Category 1:** Natural resource based businesses that are small scale processing, storage, sale, and distribution of wood, fish and seafood, and agricultural product; or are related to or in support of agriculture, commercial fishing, forestry, natural resource extraction, or commercial outdoor recreation. Examples include but are not limited to ~~saw mills~~sawmills, value added food production, equipment maintenance and repair facilities, guide services, recreational equipment rental and storage, and motorized and non- motorized recreational centers. Category 1 businesses are specifically designated by Chapter 10, Section 10.27;(R-)(1-)(a).

**Category 2:** Moderate-scale business facilities for retail businesses, restaurants, food preparation businesses, professional offices, and similar types of businesses. Examples include, but are not

limited to, restaurants, art studios, nursing homes, and boarding kennels. Category 2 businesses are specifically designated by [Chapter 10](#), Section 10.27~~(R)~~(1~~)~~(b).

**Category 3:** Larger scale commercial facilities for manufacturing and assembly plants, contracting and construction businesses, automobile service and repair, and similar types of businesses. The term includes, but is not limited to, ~~saw mills~~sawmills, value added food production, equipment maintenance and repair facilities, recreational equipment rental and storage, motorized and non-motorized recreational centers, assembly plants, and automobile service and repair. Category 3 may also include Category 1 and Category 2 type businesses, as long as it meets all other criteria for Category 3. Category 3 businesses are specifically designated by [Chapter 10](#), Section 10.27~~(R)~~(1~~)~~(c).

**~~217~~207.                     Secondary Location:**

Area identified within the secondary location according to [Chapter 10](#), Section 10.08-A~~(C)~~.

**~~218~~208.                     Septage:**

~~“Septage means w~~aste, refuse, effluent, sludge, and any other materials from septic tanks, cesspools, or any other similar facilities.” 38 M.R.S. § 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

**~~219~~209.                     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~~five-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~~five-year period, requiring the installation of new utility poles or placed underground, is less than 2,000 feet.

**~~220~~210.                     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.

**~~221~~211.                     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 of 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,



trailed 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 [Chapter 10](#), 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.

**222-212. Shoreland with Heavy Development:**

Shoreland of lakes that have more than one development unit per 10 acres of lake surface area, or more than one development unit per 400 feet of shore frontage, taken as an average around the entire lake shore. For this purpose, development units within 700 feet of the normal high-water mark of the lake are counted in determining whether the density status has been met.

**223-213. Shoreline:**

The normal high water mark of a coastal wetland or non-tidal water body, or the upland edge of a freshwater wetland.

**224-214. Sign:**

Any structure, display, logo, device or representation which is designed or used to advertise or call attention to ~~any thing~~anything, 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.

**Sign, On Premises 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.

**Sign, 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.

**Sign, Roof-Sign:**

A sign which is attached flat to, painted on, or pinned away from the roof of a building.

**Sign, Residential Directional-Sign:**

An off-premise sign erected and maintained by an individual or family to indicate the location of his or its residence.

**Sign, 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.

**215. Sign or Device, 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.

**225:216. 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.

**217. Slope, Average:**

The change in elevation between two points divided by the horizontal distance between them, often expressed as a percentage.

**[REVISION NOTE: The following definition replicates a sentence in Section 10.27,F,5. Concurrent with adding the explanation here, the corresponding sentence in Section 10.27,F,5 is proposed to be deleted.]**

**218. Slope, Sustained:**

For the purposes of this standard, ~~sustained slope means a change in elevation~~ **A change in elevation** where the referenced percent grade **or slope** is substantially maintained or exceeded throughout the measured area.

**226:219. Sludge:**

~~“Sludge means n~~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.” DEP Rules, Chapter 400, § 1

**227:220. 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.

**228,221. Solar Energy Generation Facility:**

- a. **Grid-scale Solar Energy Generation Facility.** A Solar Energy System that is primarily or solely intended to generate electricity for commercial sale for off-site use, occupies an area of one or more acres, and has a nameplate capacity of more than 250 Kilowatts.

**229,222. Solar Energy System:** A device or structural design feature, or group of devices or structural design features, a substantial purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generation, or water heating.

**230,223. Sole Source Aquifer:**

An aquifer that supplies at least 50 percent of the drinking water for its service area and for which there is no reasonably available alternative drinking water sources should the aquifer become contaminated.

**231,224. 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. § 480-B.” 12 M.R.S. § 682(13)

**232,225. Special Flood Hazard Area:** See Area of Special Flood Hazard.

**233,226. Sporting camp:** See Commercial Sporting Camp.

**234,227. 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. § 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.

**235,228. Subdivision:**

Except as provided in 12 M.R.S. § 682-B, “subdivision” means a division of an existing parcel of land into 3 or more parcels or lots within any five-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 five-year period. 12 M.R.S. § 682(2-A).

Refer to [Chapter 10, Section 10.25-\(Q\)](#), “Subdivision and Lot Creation” for additional criteria on types of lots that are included or are exempt from this definition.

**229. Subdivision Density, Low-density Subdivision:** A residential subdivision with a minimum lot size of 11 acres, maximum lot size of 25 acres, and an average lot size of greater than 15 acres.

**230. Subdivision Density, Moderate-density Subdivision:** A residential subdivision with a minimum lot size of one acre, maximum lot size of 10 acres, and an average lot size between two and four acres.

**236:231. Subdivision Density, High-density Subdivision:** A residential subdivision with a minimum lot size of 20,000 square feet, maximum lot size of three acres, and an average lot size of less than two acres.

**237:232. Subdivision, General Management:**  
A general management subdivision is a residential subdivision that meets the criteria of Chapter 10, Section 10.25;(Q).

**238:233. Subdivision, Maple Sugar Processing:**  
A maple sugar processing subdivision is a subdivision that meets the criteria of Chapter 10, Section 10.25;(Q).

**239:234. Subdivision, Recreation-based:**  
A recreation-based subdivision is a moderate-density, residential subdivision designed to be integrated with a recreational resource, such as a lake or publicly accessible point of access to a permanent trail. Recreation-based subdivisions have sufficient connection to the recreational resource to facilitate its use, and include provisions for safe enforceable right of access to the resource by lot owners or lessees in the subdivision.

**240:235.**

**[Revision Note:** The following definition is currently part of Chapter 10, Section 10.17(C). Concurrent with proposing relocating the following provisions as a new definition, this text is proposed to be deleted from Chapter 10, Section 10.17(C).]

**241:236. Substantial Completion:**

**“Substantial completion” means:**

**a.** Except as provided in Section 10.17,C,2 sub-part b of this definition:

- (1) Approved construction has been completed to the point where normal functioning, use, or occupancy of the development can occur without concern for general health, safety, and welfare of the occupant or the general public; and
- (2) Completion of and full compliance with all permit conditions of approval, except those requiring ongoing compliance beyond the expiration date of the permit such as annual water quality monitoring or maintenance of structural stormwater and erosion control best management practices.

**b.** For approved subdivisions, the Commission has issued a certificate of compliance pursuant to Chapter 10, Section 10.25;(Q);(5);(c);(1) or (2). In cases where only a portion of the development has been completed and a partial certificate of compliance has been issued for the project as of the expiration date of the permit, substantial completion shall only apply to that portion of the project for which the partial certificate of compliance was issued. Approval for the remainder of the project authorized by the permit shall lapse unless a permit renewal has been issued pursuant to Section 10.17;(D)Chapter 4 of the Commission’s rules.

**242:237. Substantial Damage:**

For purposes of regulating development in areas of special flood hazard, damage of any origin

sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**243.238. Substantial Improvement:**

For purposes of regulating development in areas of special flood hazard, any reconstruction, rehabilitation, renovation, expansion, normal maintenance and repair or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term also includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure exclusively to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by any state or local enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure, and a variance is obtained from the Commission in conformance with [Chapter 10, Section 10.10, Variances](#).

**[Revision Note:** The following definition is currently part of Chapter 10, Section 10.17(B). Concurrent with proposing relocating the following provisions as a new definition, this text is proposed to be deleted from Chapter 10, Section 10.17(B).]

**244.239. Substantial Start: “Substantial start” means:**

Except as provided in ~~Sections 10.17,B,2 and 3sub-parts a and b~~, the first placement of a permanent structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation. Permanent structures include buildings that are custom-built, manufactured, or modular; and mobile homes.

A substantial start is not made by land preparation, such as clearing, grading, or filling; the installation of roads, driveways, or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms; or installation on the property of accessory structures, except where accessory structures are the only structures permitted on the parcel.

- a. Special Flood Hazard Areas. For substantial improvements in special flood hazard areas, substantial start means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- b. Subdivisions. For approved subdivisions:
  - (1) The signed subdivision plat has been recorded at the Registry of Deeds for the county in which the project is located; and
  - (2) The completion of a portion of the permitted improvements, which represents at least 10 percent of the costs of the permitted improvements within the subdivision, in accordance with the approved plan. For the purposes of ~~Section 10.17(B)(3)(b) sub-part b(2) of this definition~~, permitted improvements may include internal subdivision roads, docks and boat ramps or launches, structural stormwater and erosion control practices, utilities, and other similar infrastructure. A substantial start for subdivisions is not made by land preparation, such as clearing, grading, or filling.

**245.240. Subsurface ~~Waste Water~~ Wastewater Disposal System:**

- a. ~~“Subsurface waste water disposal system means:~~ Any system for the disposal of waste or ~~waste waterwastewater~~ 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 38 M.R.S. § 414;
  - (2) Any surface ~~waste waterwastewater~~ disposal system; or
  - (3) Any municipal or quasi-municipal sewer or ~~waste waterwastewater~~ treatment system.”  
30-A M.R.S. § 4201(5).

**246.241. Subsurface ~~Waste WaterWastewater~~ Disposal Rules:**

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

**242. Sustained Grade: See Slope, Sustained.**

**247.1. Temporary Docking Structure:**

~~A docking structure in place for less than seven months during any calendar year upon or over flowed or submerged lands and which is of such a size or design that it can be removed on an annual basis without requiring alteration of the shoreline, and associated temporary on-shore structures used to secure a temporary dock or mooring.~~

**248.1. Tier One Advanced Exploration:**

~~“Tier one advanced exploration” means advanced exploration activities provided that bulk sampling does not exceed 2,000 tons of mine waste.~~

**249.1. Tier Two Advanced Exploration:**

~~“Tier two advanced exploration” means advance exploration activities exceeding tier one advanced exploration provided that bulk sampling does not exceed 10,000 tons of mine waste.~~

**250.243. 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.

**251.1. 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.~~

**252.244. 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 pointsviewpoints~~, 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.

**253,245. 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.

**254,246. Trailhead:**

An outdoor space:

- a. Designated by an entity responsible for administering or maintaining a permanent trail and that is developed to serve as an access point to the trail;
- b. That is publicly accessible, and which provides adequate parking in an off-road lot for the use of the trail; and
- c. That is not just the junction of two or more trails or the undeveloped junction of a trail and a road.

**255,247. Transient Occupancy:**

“Occupancy that does not exceed 120 days in a calendar year” 12 M.R.S. § 682(18). With respect to campsites and residential campsites occupancy is measured by the length of time the tent, trailer, camper, recreational vehicle, or similar device used for camping is located on the site. There is no limit to the number of days a person may store an unoccupied camping device at a lawfully existing camping location within a lawfully existing campground.

**248. Unorganized and Deorganized Areas:**

“Unorganized and deorganized areas includes:

- a.        -all unorganized and deorganized townships;
- b.        -plantations that have not received commission approval under section 685-A, subsection 4 to implement their own land use controls;
- c.        -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
- d.        -all other areas of the State that are not part of an organized municipality except Indian reservations.

For the purposes of permitting a community-based offshore wind energy project and structures associated with resource analysis activities necessary for such an intended project, the area of submerged land to be occupied for such a project and resource analysis structures is considered to be in the unorganized or deorganized areas.” 12 M.R.S. § 682.

**256,249. 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~~pipelines or above ground storage tanks.

**257.1. 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.~~

**258.250. Water Bar:**

An obstruction placed across a roadway which effectively diverts surface water from and off the road.

**259.251. 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.

**260.252. 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.

**261.253. Water-Dependent Structures for Recreational Lodging Facilities:** Accessory structures, located within a recreational lodging facility, that require direct access or proximity to a water body or flowing water, and that are solely utilized to store or display water-related recreation or safety equipment. See [Chapter 10, Section 10.27-\(Q\)-\(7\)](#).

**262.254. 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 coastal waters.

**263.255. 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.

**264.256. Water Impoundment:**

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

**257. Wetland, Coastal Wetlands:**

Tidal and subtidal lands, including any of the following: 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 highest astronomical tide for the current National Tidal Datum Epoch as published by the National Oceanic and Atmospheric Administration (NOAA). Coastal wetlands may include portions of coastal sand dunes.

**258. Wetland Creation:**

An activity bringing a wetland into existence at a site where it did not formerly occur.

**259. Wetland Enhancement:**

An activity increasing the net value of a wetland.



**260. Wetland, 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.

**261. Wetland, Forested-Wetland:**

Freshwater wetlands dominated by woody vegetation that is 20 feet tall or taller.

**262. Wetland, 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 below the normal high water mark of a body of standing water, coastal wetland, or flowing water.

**263. Wetland Mitigation Banking:**

Wetland restoration, enhancement, preservation or creation for the purpose of providing compensation credits in advance of future authorized impacts to similar resources.

**264. Wetland, Non-Forested-Wetland:**

Freshwater wetlands not dominated by woody vegetation that is 20 feet tall or taller.

**265. Wetland 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 and land trust acquisitions.

**266. Wetland 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.

**265,267. Wetland Value:**

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

**266,268. Wildlife:**

All vertebrate species, except fish.

**267,269. 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 [Chapter 10, Section 10.23\(D\)](#), Figure 10.23,D-1 and the area of a Wildlife Management District is based on land and water acreage within [the LUPC jurisdiction service area](#).

**268,270. 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.

**269-271. 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.

**272. Zones A, AE, A1-30, VE: See Flood, Zones A, AE, A1-30, VE.**

**273. ~~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 for townships, plantations, or towns. The Commission adopts the FEMA maps and incorporates them by reference into the P-FP subdistrict. The maps are referenced for public information in Appendix E, and noted on the official Land Use Guidance Maps.~~

MAINE DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY  
**MAINE LAND USE PLANNING COMMISSION**

CHAPTER 10, *LAND USE DISTRICTS AND STANDARDS*

March 10, 2021 DRAFT

The following amendments propose changes to Chapter 10, *Land Use Districts and Standards for Areas Served by the Maine Land Use Planning Commission*. This document only includes relevant sections of Chapter 10.

Proposed changes to sections of Chapter 10 are shown in strikeout and underline format with additions in underlined text, deletions as ~~strikethroughs~~, and relocations as double underline and double ~~strikethroughs~~. However, while edits are illustrated for sub-Chapter II, the section will be repealed and replaced.

*A generalized summary of the revisions is provided on the next page.*

## **Generalized Summary of Proposed Revisions by Topic**

The primary goal of these revisions is to appropriately reduce the size of Chapter 10 without compromising its regulatory effectiveness. Generally, this includes:

- relocating provisions that apply to more than just Chapter 10 (e.g., definitions);
- collocating provisions in one section that are currently listed within each subdistrict (i.e., standards regarding lake management classifications and requirements for uses allowed by special exception); and

These changes are estimated to reduce the size of Chapter 10 by approximately 100 pages.

The following further describe the revisions suggested by this proposal.

**Definitions:** The Commission is taking action to locate all appropriate definitions from its various rules into one chapter. One portion of this includes deleting Section 10.02 Definitions from Chapter 10. Through a companion rulemaking proposal, the definitions from Chapter 10 will be included in a new Chapter 2 rule.

**Special Exceptions:** Many subdistricts stipulate the same special exception requirements in one combination or another. This rulemaking proposes to combine all common special exception requirements from existing locations (see Sections 10.21 through 10.23, sub-sections 3(d)) into one section of Chapter 10 (a new Section 10.24(B)) to streamline and simplify the rule, and improve consistency and functionality.

**Lake Management Classifications:** Revise Sections 10.21 through 10.23 and Section 10.25(A) to consolidate provisions regarding lake management classifications and lake related provisions (e.g., water quality limited lakes) that are listed in numerous subdistricts, by relocating all applicable provisions into Section 10.25(B).

**Expiration of Permit:** Relocate the provisions from Section 10.17 Expiration of Permit to instead be included in Chapter 2 Definitions or Chapter 4 Rules of Practice. Specifically, provisions of Section 10.17 either are more consistent with a definition, or are applicable to other Commission rules; in both cases, warranting placement in one of the two other rules. [Note that citations in this rulemaking proposal may be adjusted prior to adoption to coincide with possible revisions to Chapter 4 through a separate rulemaking.]

**Clerical Edits:**

- Revise the usage of “shall” to “must” within those portions of Chapter 10 which are otherwise affected by this rulemaking.
- Revisions to Appendix C and Appendix F to reflect changes to the Commission’s service area.

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**Throughout Chapter 10:**

**[REVISION NOTE: Concurrent with the relocation of definitions from Section 10.02 to Chapter 2, all references to Section 10.02 within Chapter 10 will be revised to instead reference Chapter 2. The following illustrate several variations as examples.]**

“...as defined in ~~Section 10.02~~Chapter 2 of the Commission’s rules, ...”

“... defined as Significant Wildlife Habitat in ~~Section 10.02~~Chapter 2 of the Commission’s rules; ...”

“... in accordance with ~~Section 10.02~~Chapter 2 of the Commission’s rules, normal ...”

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## **10.02    DEFINITIONS(RESERVED)**

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**[REVISION NOTE: While not illustrated here, all definitions currently included in Section 10.02 are proposed through a separate rulemaking proposal, to be repealed from Chapter 10, Section 10.02 and adopted as a new rule, Chapter 2 Definitions.]**

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## **10.07    EXEMPTIONS**

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Notwithstanding any other provisions contained in this chapter, and provided that unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures:

- A. Normal maintenance and repair, or renovations of any lawfully existing structure or use do not require a permit from the Commission, except that normal maintenance and repair or renovations in areas of special flood hazard shall be regulated in conformance with the requirements of Section 10.23,C and must meet applicable development standards in Section 10.25,T, Activities in Flood Prone Areas, and all other applicable statutory and regulatory requirements.
- 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 utility, as defined in Title 35-A, section 102, subsection 13, or a person who is issued a certificate by the Public Utilities Commission under Title 35-A, section 122 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, notice and public hearing, the Public Utilities

Commission determines that such exemption is necessary or desirable for the public welfare or convenience." 12 M.R.S. § 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.
- F. Public utility facilities located within a public right-of-way do not require a permit from the Commission. 35-A M.R.S. § 2503(20)

**[REVISION NOTE: The existing list in Section 10.07 is incomplete and does not suggest that other exemptions apply.]**

Other activities may be exempt from Commission review and approval, including but not limited to those listed in 12 M.R.S. §§ 685-A(5) and (12); and 685-B(1-A).

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## 10.11 NONCONFORMING USES AND STRUCTURES

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### A. PURPOSE AND SCOPE

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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. § 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, except for those located in areas of special flood hazard as defined by rule. However, 12 M.R.S. § 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, including such a structure or use that is legally existing nonconforming pursuant to 12 M.R.S. § 685-B(7-B).

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## D. NONCONFORMING USES

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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, unless it is in an area designated as a DACSS in Appendix G, Section 2 of this chapter within two years of when the use was discontinued or abandoned. Within a DACSS the Commission may waive this requirement for good cause.

**[REVISION NOTE:** This provision is more appropriate as part of the definition of conforming use, which is proposed to be included in the creation of Chapter 2.]

4. ~~**Special Exceptions.** Any use granted a special exception permit shall be deemed a conforming use [see 12 M.R.S. § 685-A(10)].~~

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## 10.16 ~~USE NOTIFICATIONS~~(RESERVED)

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**[REVISION NOTE:** While not illustrated here, the provisions of Section 10.16 are proposed to be repealed from Chapter 10. Through a separate yet related rulemaking proposal, Section 10.16 is proposed to be added to Chapter 4, Rules of Practice.]

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## 10.17 ~~EXPIRATION OF PERMIT~~(RESERVED)

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**[REVISION NOTE:** While not illustrated here, Section 10.17 is proposed to be repealed from Chapter 10. Through separate yet related rulemaking proposals, Sections 10.17(A) and (D) are proposed to be added to Chapter 4, Rules of Practice; and Sections 10.17(B) and (C) are proposed to be added to Chapter 2, Definitions.]

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## 10.18 (RESERVED)

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5.4.

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**10.19 (RESERVED)**

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**10.20 (RESERVED)**

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**[REVISION NOTE: While individual edits are illustrated below for user convenience, Sub-Chapter II (including Sections 10.21 through 10.23) is proposed to be repealed and replaced.]**

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## 10.21 DEVELOPMENT SUBDISTRICTS

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Pursuant to 12 M.R.S. §685-A and consistent with the Commission's Comprehensive Land Use Plan, the following development subdistricts are established:

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### A. COMMERCIAL INDUSTRIAL DEVELOPMENT SUBDISTRICT (D-CI)

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#### 1. Purpose

The purpose of the D-CI subdistrict is to allow for commercial, industrial and other development that is not compatible with residential uses. Designation of commercial, industrial and other similar areas of intensive development as D-CI subdistricts will ensure that other land values and community standards are not adversely affected, and will provide for the location and continued functioning of important commercial and industrial facilities.

#### 2. Description

The D-CI subdistrict ~~shall~~must include:

- a. Areas having existing commercial, industrial or other buildings, structures or uses, that are incompatible with residential uses, including the following:
  - (1) Areas of 2 or more acres devoted to intensive, commercial ~~and~~/or industrial buildings, structures or uses; except that ~~saw mills~~sawmills and chipping mills and structures devoted to composting of septage, sludge or other residuals affecting an area of 5 acres or less in size ~~shall~~must not be included in this subdistrict unless such areas are part of a larger pattern of development which otherwise meets the criteria for redistricting to this subdistrict;
  - (2) Areas of 2 or more acres devoted to refuse disposal including, but not limited to, dumps and sanitary land fill operations;
  - (3) Areas used for aircraft landing and takeoff and the storage and maintenance of aircraft;
  - (4) Areas of 2 or more acres used for the storage of junk, oil products, or industrial or commercial materials or inventory;
  - (5) Areas of 2 or more acres devoted to buildings, structures or uses similar to those listed in Section 10.21,A,2,a,(1) through (4) that are incompatible with residential uses; and
  - (6) Areas where one or more existing principal buildings exist within a 500 foot radius and where the gross floor area of all such principal building(s) is more than 8,000 square feet provided the uses thereof are incompatible with residential uses.

The designated D-CI subdistrict boundary ~~shall~~must include all those areas described in Section 10.21,A,2,a,(1) through (6) above, as well as adjoining areas directly related to, and necessary for, the conduct of those activities.

- b. Areas the Commission determines meet the criteria for redistricting to this subdistrict, pursuant to Section 10.08, are proposed for development that is consistent with the purposes of this subdistrict, and are generally suitable for the development activities proposed.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses are allowed without a permit from the Commission within D-CI subdistricts.

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including, fishing, hiking, wildlife study and photography, wild crop harvesting, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing but not including hunting and trapping;
- (6) Surveying and other resource analysis; and
- (7) Wildlife and fishery management practices.

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

The following uses are allowed without a permit from the Commission within D-CI subdistricts subject to the applicable requirements set forth in Sub-Chapter III.

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two-year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural activities: Agricultural management activities;
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters, provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Filling and grading;
- (5) Hand-carry launches: Commercial and private hand-carry launches;
- (6) Mineral exploration activities: Level A and B mineral exploration activities, excluding associated access ways;
- (7) Road projects: Level A road projects;
- (8) Service drops;
- (9) Signs;
- (10) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (11) Water crossings of minor flowing waters.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-CI subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, subject to the applicable requirements set forth in Sub-Chapter III and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 lakes, subject to the applicable requirements of Section ~~10.21,A,3,f, and g~~ below 10.25.A.2 and 3:

- (1) Agricultural activities: Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Commercial and industrial: Any commercial and industrial uses, except natural resource extraction;
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Draining or altering the water table or water level for other than mineral extraction;
- (5) Driveways;
- (6) Filling and grading, which is not in conformance with the standards of Section 10.27,F;
- (7) Hand-carry launches addressed in Section 10.21,A,3,b which are not in conformance with the standards of Section 10.27,L;
- (8) Land application of septage, sludge and other residuals, and related storage and composting activities and structures;
- (9) Land management roads;
- (10) Metallic mineral mining activities: Tier one advanced exploration;
- (11) Mineral exploration activities: Access ways for Level A and B mineral exploration activities, and Level A and B mineral exploration activities which are not in conformance with the standards of Section 10.27,C;
- (12) Recreational lodging facilities:
  - (a) Level C;
  - (b) Level C – Expanded Access;
  - (c) Level D;
  - (d) Level D – Expanded Access; and
  - (e) Level E;
- (13) Road projects: Level B and C road projects, except for water crossings as provided for in Section 10.21,A,3,b;
- (14) Shoreland alterations, excluding water crossings of minor flowing waters, trailered ramps and hand-carry launches;
- (15) Signs which are not in conformance with the standards of Section 10.27,J;
- (16) Solar energy generation facility: grid-scale energy generation facility not located on soils recognized by the U.S. Department of Agriculture as prime farmland soils;
- (17) Solid waste disposal;
- (18) Subdivisions: Commercial and industrial subdivisions for uses permitted in this subdistrict;
- (19) Timber harvesting;
- (20) Trailered ramps: Commercial and private trailered ramps;
- (21) Utility facilities, excluding service drops, and wire and ~~pipe line~~pipeline extensions which do not meet the definition of service drops;
- (22) ~~Water access~~Water-access ways;
- (23) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;

- (24) Water impoundments;
- (25) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. §682(19); offshore wind power projects, as defined in 38 M.R.S. §480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (26) Other structures, uses or services that are essential to the uses listed in Section 10.21,A,3,a through c; and
- (27) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed uses.

**[REVISION NOTE:** This rulemaking proposes to combine all special exception criteria into one section of Chapter 10 (see Section 10.24(B)) to streamline and simplify the rule, and improve consistency and functionality. The edits illustrated in sub-part d below (and each subsequent subdistrict) illustrate the proposed change to subdistrict use listings.]

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

The following uses, and related accessory structures, may be allowed within D-CI subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Sections 10.24,B,3 and 9, and the applicable requirements set forth in Sub-Chapter III; ~~and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) upon decommissioning of the facility all structures and materials associated with the development will be removed, and affected soils will be replaced or restored to a state such that they could be utilized for active agricultural production; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (1) Solar energy generation facility: grid-scale solar energy generation facility located on soils recognized by the U.S. Department of Agriculture as prime farmland soils.

#### **e. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, are prohibited in D-CI subdistricts.

**[REVISION NOTE:** This rulemaking proposes to combine all lake related criteria regarding water quality limited lakes and lake management classifications into one section of Chapter 10 (see Section 10.25(A)) to streamline and simplify the rule, and improve consistency and functionality. The edits illustrated in sub-parts f and g below (and each subsequent subdistrict) illustrates the proposed change to each subdistrict.]

#### **f. ~~Water Quality Limiting Lakes~~**

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

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

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

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

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

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

## **B. EXTENDED SETTLEMENT DEVELOPMENT SUBDISTRICT (D-ES)**

### **1. Purpose**

The purpose of the D-ES subdistrict is to separate those land uses that create impacts incompatible with residential areas and community centers, as well as provide for appropriate areas to concentrate development at the edge of rural growth centers designated as development subdistricts. Concentrated development seeks to avoid the visual and fiscal impacts of sprawl.

### **2. Description**

This subdistrict is designed to accommodate a wide range of commercial, light manufacturing, and public uses that create impacts incompatible with other smaller scale commercial, public, and residential uses. This subdistrict allows facilities that generate traffic or noise such as transfer stations, gasoline stations, warehouses, self storage, and contracting businesses. The subdistrict is not designed to accommodate general retail establishments better located in a community center or rural settlement; or to facilitate strip development along highways.

This subdistrict will only be applied in areas appropriate to accommodate this type of development in a community after a prospective planning process has been undertaken. Appropriate areas will be adjacent to other development subdistricts, particularly D-GN2 subdistricts. Adjacent is interpreted to mean within a distance of one road mile. The D-ES subdistrict will not be located in remote or lightly settled areas or separately from established or proposed development centers.

Using Section 10.08 of these rules, the Commission ~~shall~~must designate areas for this subdistrict that are consistent with its purpose and suitable for supporting development when measured against the standards of 12 M.R.S. § 685-B(4) and the Commission's rules and regulations.

### **3. Land Uses**

The provisions of the D-ES subdistrict will not apply to any applications that have been received and deemed complete for processing by the Commission staff on or before January 1, 2001.

#### **a. Uses Allowed Without a Permit**

The following uses are allowed without a permit from the Commission within D-ES subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, wildlife study and photography, wild crop harvesting, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing, but not including hunting or trapping;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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

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

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lots as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a ~~two-year~~two-year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural activities: Agricultural management activities;
- (3) Constructed ponds: Creation, alteration, or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Driveways associated with residential uses;
- (5) Filling and grading;
- (6) Hand-carry launches: Commercial and public hand-carry launches;
- (7) Home-based businesses: Minor home-based businesses;
- (8) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (9) Road projects: Level A road projects;
- (10) Service drops;
- (11) Signs;
- (12) Trailered ramps: Public trailered ramps;
- (13) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (14) Water crossings of minor flowing waters.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-ES subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 and Management Class 5 lakes, subject to the applicable requirements of Section ~~10.25,A,2-10.21,B,3,g, h and i~~below:

- (1) Agricultural activities: Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Commercial and industrial: Commercial and light manufacturing facilities up to 20,000 square feet of gross floor area. Allowed uses include:
  - Businesses that relate to forestry or farming;
  - Light manufacturing and assembly plants;
  - Contracting businesses;
  - Automobile service and repair;
  - Self storage facilities;
  - Fuel storage;
  - Warehouses; and



- Sand and salt storage facilities;
- (3) Commercial boarding kennels, animal hospitals, and animal rescue facilities;
  - (4) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
  - (5) Draining or altering the water table or water level for other than mineral extraction;
  - (6) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
  - (7) Filling and grading which is not in conformance with the standards of Section 10.27,F;
  - (8) Hand-carry launches addressed in Section 10.21,B,3,b which are not in conformance with the standards of Section 10.27,L;
  - (9) Land management roads;
  - (10) Mineral exploration activities: Access ways for Level A mineral exploration activities, Level A mineral exploration activities which are not in conformance with the standards of Section 10.27,C, and Level B mineral exploration activities;
  - (11) Natural resource extraction: Mineral extraction including mineral extraction processing equipment;
  - (12) Peat extraction including the use of any related processing equipment;
  - (13) Public and institutional: fire stations, solid waste transfer or recycling stations, public works facilities, sand and salt storage, and other like facilities;
  - (14) Road projects: Level B and C road projects, except for water crossings as provided for in Section 10.21,B,3,b;
  - (15) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks or moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
  - (16) Signs which are not in conformance with the standards of Section 10.27,J;
  - (17) Subdivisions: Commercial and industrial subdivisions for uses allowed in this subdistrict;
  - (18) Timber harvesting;
  - (19) Trailered ramps: Public trailered ramps addressed in Section 10.21,B,3,b which are not in conformance with the standards of Section 10.27,L;
  - (20) Utility facilities compatible with residential uses, other than service drops; and wire and ~~pipe line~~ pipeline extensions which do not meet the definition of service drops;
  - (21) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
  - (22) Water impoundments;
  - (23) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
  - (24) Other structures, uses or services that are essential to the uses listed in Section 10.21,B,3,a,b,and c; and
  - (25) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within D-ES subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), ~~the criteria of Sections 10.24,B,2, 3, and 10, and the applicable requirements set forth in Sub-Chapter III; and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) the use can be buffered from other uses or in the case of residential uses, will not adversely affect permitted commercial uses within the subdistrict with which it is incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (1) Campsites, Residential;
- (2) Commercial:
  - Adult entertainment facilities;
  - Automobile or equipment sales with a total of more than 10,000 square feet of outdoor display or storage area combined;
  - Junkyards and automobile grave yards; and
  - Retail sale of gasoline with more than 2 pumps;
- (3) Home-based businesses: Major home-based businesses; and
- (4) Residential: Single and two-family dwellings.

The following uses, ~~and related accessory structures,~~ may be allowed within D-ES subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,1 through 3, and 10, and the applicable requirements set forth in Sub-Chapter III; ~~provided the applicant also shows by substantial evidence that there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant:~~

- (5) Docking structures: New or expanded permanent docking structures;
- (6) Marinas;
- (7) Trailered ramps:
  - (a) Commercial trailered ramps; and
  - (a)(b) private trailered ramps, in accordance with Section 10.27,L,1; and
- ~~(7)~~(8) Water-access ways, in accordance with Section 10.27,L,1.

**e. Prohibited Uses**

All uses not expressly allowed, with or without a permit, notification, or by special exception are prohibited in a D-ES subdistrict.

**~~f. Water Quality Limiting Lakes~~**

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

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

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

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

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

~~(1) — Require applicants to indicate future plans for other undeveloped shorelands in their ownership when a subdivision or other non-residential use is proposed. The plans shall address, at a minimum, the next 10 years, and shall include, but not be limited to, the following information regarding the applicant's land ownership on the lake:~~

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

~~These future plans shall be considered part of the proposal. Therefore, changes in such plans, for example a development proposal that was not originally included, will require approval of an application to amend the original proposal in which these future plans were indicated.~~

~~(2) — Require cluster developments for all subdivisions that shall meet the requirements of Section 10.25,Q,4,b.~~

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

~~With respect to subdivision proposals within 250 feet of Management Class 5 lakes, the Commission will require cluster developments which meet the requirements of Section 10.25,Q,4,b.~~

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## C. GENERAL DEVELOPMENT SUBDISTRICT (D-GN)

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### 1. Purpose

The purpose of the D-GN subdistrict is to recognize existing patterns of development in appropriate areas and to encourage further patterns of compatible development therein and adjacent thereto. It is the Commission's intent to promote these areas as future growth centers in order to encourage the location of compatible developments near each other and to minimize the impact of such development upon incompatible uses and upon public services and facilities. Thus the Commission's purpose is to encourage the general concentration of new development, and thereby avoid the fiscal and visual costs of sprawl, and to provide a continuing sense of community in settled areas.

### 2. Description

The D-GN subdistrict ~~shall~~must include:

- a. Areas with the following patterns of existing intensive development use:
- (1) Areas where 4 or more principal buildings exist within a 500 foot radius provided that one or more of such buildings is other than a single family detached dwelling unit; and all such buildings are compatible with such residential units; or
  - (2) Recorded and legally existing subdivisions, other than for exclusively single family detached residential purposes, having 4 or more lots; or
  - (3) Areas of 2 acres or more devoted to intensive non-residential development, other than that land devoted to forest and agricultural management activities, provided that such uses are compatible with residential uses. Such areas ~~shall~~must include but not be limited to:
    - (a) Existing intensive development used for recreational purposes;
    - (b) Existing recreational lodging facilities otherwise allowed in the subdistrict;
    - (c) Existing groups of stores and restaurants including related parking and landscaped areas; or
  - (4) Areas where one or more existing principal buildings exist within a 500 foot radius and where the gross floor area of all such principal building(s) is more than 8,000 square feet, provided the uses thereof are compatible with residential uses.

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

- b. Areas which the Commission determines meet the criteria for redistricting to this subdistrict, pursuant to Section 10.08 hereof, are proposed for development which is consistent with the purposes of this subdistrict, and are suitable for the development activities proposed when measured against the standards of 12 M.R.S. § 685-B(4) and the Commission's Rules and Regulations relating thereto.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses are allowed without a permit from the Commission within D-GN subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, wildlife study and photography, wild crop harvesting, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing, but not including hunting or trapping;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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

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

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a ~~two (2) year~~two-year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural activities: Agricultural management activities;
- (3) Commercial: Recreation supply facilities that do not involve structural development, are not within one-quarter mile of Management Class 1 or Management Class 2 lakes, and not within one-half mile of Management Class 6 lakes, and that are in conformance with the requirements for such activities in Section 10.27,S;
- (4) Constructed ponds: Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (5) Driveways associated with residential uses;
- (6) Filling and grading;
- (7) Hand-carry launches: Commercial and public hand-carry launches except on Management Class 1 and 2 lakes;
- (8) Home-based businesses: Minor home-based businesses;
- (9) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (10) Road projects: Level A road projects;
- (11) Service drops;
- (12) Signs;
- (13) Trailered ramps: Public trailered ramps except on Management Class 1 and 2 lakes;

- (14) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (15) Water crossings of minor flowing waters.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-GN subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 lakes, subject to the applicable requirements of Section ~~10.25,A,2-10.21,C,3,g and h below~~:

- (1) Agricultural activities: Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Campsites;
- (3) Campsites, Residential;
- (4) Cemeteries, and family burying grounds in accordance with 13 M.R.S. § 1142;
- (5) Commercial and industrial:
  - (a) Facilities having not more than 2,500 square feet of gross floor area including facilities offering food and beverages prepared on the premises, retail stores and services, and laundromats but excluding auto service stations or repair garages and uses which may create a nuisance or unsafe or unhealthy conditions or are otherwise incompatible with residential uses;
  - (b) Recreation supply facilities that do not involve structural development, are not within one-quarter mile of Management Class 1 or Management Class 2 lakes, and not within one-half mile of Management Class 6 lakes, and that are not in conformance with the requirements for such activities in Section 10.27,S; and
  - (c) Recreation supply facilities that may involve structural development and are not within one-quarter mile of Management Class 1 or Management Class 2 lakes, and not within one-half mile of Management Class 6 lakes;
- (6) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (7) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;
- (8) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (9) Filling and grading which is not in conformance with the standards of Section 10.27,F;
- (10) Hand-carry launches: Private hand-carry launches and hand-carry launches addressed in Section 10.21,C,3,b which are not in conformance with the standards of Section 10.27,L;
- (11) Home-based businesses: Major home-based businesses;
- (12) Land management roads;
- (13) Mineral exploration activities: Access ways for Level A mineral exploration activities, Level A mineral exploration activities which are not in conformance with the standards for such activities in Section 10.27,C, and Level B mineral exploration activities;
- (14) Public and institutional: Places of worship and other religious institutions; public, private and parochial schools, public and other institutional buildings such as, but not limited to, libraries, fire stations, post offices, and day nurseries;

- (15) Recreation facilities: Public or private recreation facilities including, but not limited to, parks, playgrounds, and golf courses;
- (16) Recreational lodging facilities:
  - (a) Level B;
  - (b) Level C;
  - (c) Level C – Expanded Access; and
  - (d) Level D (inside geographic allowance area);
- (17) Residential: Single family dwellings, two-family dwellings, and multi-family dwellings;
- (18) Road projects: Level B and C road projects, except for water crossings as provided for in Section 10.21,C,3,b;
- (19) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (20) Signs which are not in conformance with the standards of Section 10.27,J;
- (21) Subdivisions:
  - (a) Commercial and industrial subdivisions for uses allowed in this subdistrict; and
  - (b) Residential subdivisions: High- and moderate-density subdivisions;
- (22) Timber harvesting;
- (23) Trailered ramps addressed in Section 10.21,C,3,b which are not in conformance with the standards of Section 10.27,L;
- (24) Utility facilities compatible with residential uses, other than service drops, and wire and ~~pipe line~~pipeline extensions which do not meet the definition of service drops;
- (25) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (26) Water impoundments;
- (27) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (28) Other structures, uses or services that are essential to the uses listed in Section 10.21,C,3,a through c; and
- (29) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed uses.

#### d. Special Exceptions

The following uses, and related accessory structures, may be allowed within D-GN subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,1 through 3, and ~~and subject to the applicable requirements set forth in Sub-Chapter III; provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (1) Commercial and industrial:
  - (a) Auto service stations or repair garages;

- (b) Light industrial uses and other commercial uses having a gross floor area of more than 2,500 square feet; and
- (c) Stores, commercial recreational uses not including recreational lodging facilities, and entertainment or eating establishments having a gross floor area of more than 2,500 square feet.

(2) Recreational lodging facilities:

- ~~(d)(a)~~ Level D (outside geographic allowance area).

The following uses, and related accessory structures, may be allowed within D-GN subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,2 through 4, and applicable requirements set forth in Sub-Chapter III; ~~either singly or in combination, provided the applicant shows by substantial evidence, in addition to (a) and (b) above, that (c) that there is sufficient infrastructure to accommodate the additional traffic and activity generated by the facility; and (d) that surrounding resources and uses that may be sensitive to such increased traffic and activity are adequately protected:~~

~~(2)(3)~~ Recreational lodging facilities:

- (a) Level D – Expanded Access (inside or outside geographic allowance area); and
- (b) Level E (inside geographic allowance area).

The following uses, and related accessory structures, may be allowed within D-GN subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,1 through 4, and the applicable requirements set forth in Sub-Chapter III; ~~provided the applicant also shows by substantial evidence that there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant:~~

~~(3)(4)~~ Docking structures: New or expanded permanent docking structures;

(5) Hand-carry launches:

- (a) Commercial hand-carry launches on Management Class 1 or 2 lakes; and
- ~~(a)(b)~~ Public hand-carry launches on Management Class 1 ~~and or~~ 2 lakes, in accordance with Section 10.27.L.1;

~~(4)(6)~~ Marinas;

(7) Trailered ramps:

- (a) Commercial trailered ramps; ~~and~~
- (b) ~~p~~Private trailered ramps, in accordance with Section 10.27.L.1; and
- ~~(a)(c)~~ pPublic trailered ramps on Management Class 1 ~~and or~~ 2 lakes; and

~~(5)(8)~~ Water-access ways, in accordance with Section 10.27.L.1.

**e. Prohibited Uses**

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

**~~f. Water Quality Limiting Lakes~~**

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

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



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

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

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

- ~~(1) With respect to subdivisions and commercial, industrial, and other non-residential structures, require the applicant to indicate future plans for other undeveloped shorelands on the lake that are owned by the applicant. Such indication of future plans shall address, at a minimum, the next 10 years, and shall include, but not be limited to, the following information regarding the applicant's landownership on the lake:~~
- ~~(a) area and shoreline length;~~
  - ~~(b) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and~~
  - ~~(c) development proposed or anticipated, if any.~~

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

## **D. COMMUNITY CENTER DEVELOPMENT SUBDISTRICT (D-GN2)**

### **1. Purpose**

The purpose of the D-GN2 subdistrict is to provide for a range of complementary uses that have a similar size, scale, and character that make up community centers. It is designed to concentrate development in order to limit the fiscal and visual impact of sprawling development and to provide a continuing sense of community in settled areas. Adaptive reuse and rehabilitation of legally existing structures is encouraged in this subdistrict.

### **2. Description**

Community centers are areas where there is a mix of complementary residential, commercial, and civic uses that create a focal point for community life. This subdistrict is similar to the D-GN subdistrict but provides for a wider range of appropriate uses and increased size thresholds for general commercial uses. This wider range of uses is permitted because additional development standards for uses in this subdistrict ensure that adjacent uses are compatibly developed and undertaken.

This subdistrict will be applied only in communities in the fringe of the Commission's jurisdiction as defined in the Comprehensive Land Use Plan, and in areas appropriate as centers of growth after a prospective planning process has been undertaken by the Commission.

Using Section 10.08 of these rules, the Commission ~~shall~~must designate areas for this subdistrict that are consistent with its purpose and suitable for supporting development when measured against the standards of 12 M.R.S. § 685-B(4) and the Commission's rules and regulations.

### **3. Land Uses**

The provisions of the D-GN2 subdistrict will not apply to any applications that have been received and deemed complete for processing by the Commission staff on or before January 1, 2001.

#### **a. Uses Allowed Without a Permit**

The following uses are allowed without a permit from the Commission within D-GN2 subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, wildlife study and photography, wild crop harvesting, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing, but not including hunting or trapping;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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

The following uses are allowed without a permit from the Commission within D-GN2 subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a ~~two-year~~~~two (2) year~~ period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural activities: Agricultural management activities;
- (3) Constructed ponds: Creation, alteration, or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Driveways associated with residential uses;
- (5) Filling and grading;
- (6) Hand-carry launches: Commercial and public hand-carry launches;
- (7) Home-based businesses: Minor home-based businesses;
- (8) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (9) Road projects: Level A road projects;
- (10) Service drops;
- (11) Signs;
- (12) Trailered ramps: Public trailered ramps;
- (13) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (14) Water crossings of minor flowing waters.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-GN2 subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 and Management Class 5 lakes, subject to the applicable requirements of Section 10.25,A,2. Facilities allowed by permit may use legally existing structures that exceed dimensional requirements. However, structures exceeding the size limitations in Section 10.21,D,3,c may not be expanded.10.21,D,3,g, h and i below:

- (1) Agricultural activities: Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Campsites, Residential;
- (3) Cemeteries, and family burying grounds in accordance with 13 M.R.S. § 1142;
- (4) Commercial: Commercial facilities having not more than 4,000 square feet of gross floor area, or as provided in Section 10.25,A,2,e10.21,D,3,i that are compatible with residential uses including:
  - (a) Art studios or artisan shops;

- (b) Commercial uses associated with a residence, other than home-based businesses;
  - (c) Facilities for commercial recreation, such as guide services;
  - (d) Facilities offering food and beverages prepared on the premises;
  - (e) Professional offices, financial institutions, health care facilities, nursing homes, children's day care facilities, home child day care providers serving more than 12 children, and home adult day service providers serving more than 12 adults;
  - (f) Recreational lodging facilities:
    - (i) Level A;
    - (ii) Level B; and
    - (iii) Level C;
  - (g) Retail stores and services, laundromats, convenience stores, or retail gasoline stations with no more than 2 gas pumps where each pump can serve no more than 2 vehicles simultaneously;
- (5) Community living facilities;
  - (6) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
  - (7) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;
  - (8) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
  - (9) Filling and grading, which is not in conformance of standards in Section 10.27,F;
  - (10) Golf courses: Public or private golf courses;
  - (11) Hand-carry launches: Private hand-carry launches, and hand-carry launches addressed in Section 10.21,D,3,b which are not in conformance with the standards of Section 10.27,L;
  - (12) Home-based businesses: Major home-based businesses;
  - (13) Land management roads;
  - (14) Mineral exploration activities: Access ways for Level A mineral exploration activities, Level A mineral exploration activities which are not in conformance with the standards of Section 10.27,C, and Level B mineral exploration activities;
  - (15) Public and institutional: Places of worship and other religious institutions; public, private and parochial day schools; non-profit children's day care or adult day service facilities; libraries; fire stations; post offices; community centers; parks; and playgrounds;
  - (16) Residential: Single and two-family dwellings; and three to six multi-family dwellings;
  - (17) Road projects: Level B and C road projects, except for water crossings as provided for in Section 10.21,D,3,b;
  - (18) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
  - (19) Signs which are not in conformance with the standards of Section 10.27,J;
  - (20) Subdivisions:
    - (a) Commercial and industrial subdivisions for uses allowed in this subdistrict, provided that the subdivision is integrated with the community center and designed to promote pedestrian access; and
    - (b) Residential subdivisions: High- and moderate- density subdivisions;
  - (21) Timber harvesting;

- (22) Trailered ramps: Trailered ramps addressed in Section 10.21,D,3,b which are not in conformance with the standards of Section 10.27,L;
- (23) Utility facilities compatible with residential uses, other than service drops, and wire and ~~pipe line~~pipeline extensions which do not meet the definition of service drops;
- (24) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (25) Water impoundments;
- (26) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (27) Other structures, uses or services that are essential to the uses listed in Section 10.21,D,3,a through c; and
- (28) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed uses.

#### d. Special Exceptions

The following uses, and related accessory structures, may be allowed within D-GN2 subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,1 through 3, the applicable requirements set forth in Sub-Chapter III, and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 and Management Class 5 lakes, subject to the applicable requirements of Section 10.25,A,2. Facilities allowed with a permit by special exception may use legally existing structures that exceed dimensional requirements. However, structures exceeding the size limitations in Section 10.21,D,3,d may not be expanded and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Commercial:
  - (a) Commercial uses between 4,000 and 8,000 square feet in size, except as provided in Section ~~10.25,A,2,e~~10.21,D,3,i; and
  - (b) Commercial uses with a total of no more than 10,000 square feet of outdoor display or storage area combined; and
- (2) Recreational lodging facilities having more than 4,000 but not more than 8,000 square feet of gross floor area:
  - (a) Level B;
  - (b) Level C;
  - (c) Level C – Expanded Access;
  - (d) Level D; and
  - (e) Level D – Expanded Access;
- (3) Residential: Multi-family dwellings with more than 6 units.

The following uses, and related accessory structures, may be allowed within D-GN2 subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,1 through 3, and the applicable

~~requirements set forth in Sub-Chapter III: provided the applicant also shows by substantial evidence that there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant:~~

- ~~(4) Docking structures: New or expanded permanent docking structures;~~
  - ~~(5) Marinas;~~
  - ~~(6) Trailered ramps:
 
    - ~~(a) Commercial trailered ramps; and~~
    - ~~(a)(b) pPrivate traile~~red ramps, in accordance with Section 10.27,L,1; and~~
- ~~(6)(7) Water-access ways, in accordance with Section 10.27,L,1.~~

#### **e. Prohibited Uses**

All uses not expressly allowed, with or without a permit, notification, or by special exception are prohibited in a D-GN2 subdistrict.

#### **f. ~~Water Quality Limiting Lakes~~**

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

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

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

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

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

- ~~(1) Require applicants to indicate future plans for other undeveloped shorelands in their ownership when a subdivision or other non-residential use is proposed. The plans shall address, at a minimum, the next 10 years, and shall include, but not be limited to, the following information regarding the applicant's landownership on the lake:
 
  - ~~(a) area and shoreline length;~~
  - ~~(b) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and~~
  - ~~(c) development proposed or anticipated, if any.~~~~

~~These future plans shall be considered part of the proposal. Therefore, changes in such plans, for example a development proposal that was not originally included, will require approval of an application to amend the original proposal in which these future plans were indicated.~~

- ~~(2) Require cluster developments for all subdivisions that shall meet the requirements of Section 10.25,Q,4,b.~~

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

~~With respect to subdivision proposals within 250 feet of Management Class 5 lakes, the Commission will require cluster developments which meet the requirements of Section 10.25,Q,4,b.~~

~~**j. Adaptive Reuse of Legally Existing Structures**~~

~~Facilities allowed under Section 10.21,D,3,c and d may use legally existing structures that exceed dimensional requirements. However, structures exceeding the size limitations in Section 10.21,D,3,c and d may not be expanded.~~

## **E. RURAL SETTLEMENT DEVELOPMENT SUBDISTRICT (D-GN3)**

### **1. Purpose**

The purpose of the D-GN3 subdistrict is to provide for a range of complementary uses that have a similar size, scale, and character that make up a settlement area in remote or interior areas of the jurisdiction. It is designed to concentrate and control the rate of growth by prohibiting subdivision. This subdistrict seeks to limit the fiscal and visual impact of sprawling development and to provide a continuing sense of community in lightly settled areas. Adaptive reuse and rehabilitation of legally existing structures is encouraged in this subdistrict.

### **2. Description**

Rural settlements are areas where there is a mix of complementary residential, commercial, and civic uses that create a focal point for community life. This subdistrict is similar to the D-GN2 subdistrict but allows uses of an appropriately smaller size and intensity, also subject to specific development standards. It is also different from the D-GN2 subdistrict as it prohibits subdivisions in order to maintain the remote and small-scale feel of these development nodes. Gradual lot creation is allowed via the existing exemptions in the Commission's statute and these rules and regulations.

The D-GN3 subdistrict ~~shall~~must be applied only in areas appropriate as centers of development in lightly settled and remote communities after a prospective planning process has been undertaken by the Commission.

Using Section 10.08 of these rules, the Commission ~~shall~~must designate areas for this subdistrict that are consistent with its purpose and suitable for supporting development when measured against the standards of 12 M.R.S. § 685-B(4) and the Commission's rules and regulations.

### **3. Land Uses**

The provisions of the D-GN3 subdistrict will not apply to any applications that have been received and deemed complete for processing by the Commission staff on or before January 1, 2001.

#### **a. Uses Allowed Without a Permit**

The following uses are allowed without a permit from the Commission within D-GN3 subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (4) Primitive recreational uses, including fishing, hiking, wildlife study and photography, wild crop harvesting, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing, but not including hunting or trapping;
- (5) Surveying and other resource analysis;
- (6) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (7) Wildlife and fishery management practices.



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

The following uses are allowed without a permit from the Commission within D-GN3 subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a ~~two-year~~**two (2) year** period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural activities: Agricultural management activities;
- (3) Constructed ponds: Creation, alteration, or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Driveways associated with residential uses;
- (5) Filling and grading;
- (6) Forest management activities, provided that the buffering requirements in Section 10.25,B,2 are met;
- (7) Hand-carry launches: Commercial and public hand-carry launches;
- (8) Home-based businesses: Minor home-based businesses;
- (9) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (10) Road projects: Level A road projects;
- (11) Service drops;
- (12) Signs;
- (13) Trailered ramps: Public trailered ramps;
- (14) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (15) Water crossings of minor flowing waters.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-GN3 subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 lakes, subject to the applicable requirements of Section 10.25,A,2. Facilities allowed by permit may use legally existing structures that exceed dimensional requirements. However, structures exceeding the size limitations in Section 10.21,E,3,c may not be expanded.~~10.21,E,3,g and h below:~~

- (1) Agricultural activities: Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Campsites, Residential;
- (3) Cemeteries, and family burying grounds in accordance with 13 M.R.S. § 1142;

- (4) Commercial: General commercial facilities having not more than 2,500 square feet of gross floor area that are compatible with residential uses including:
- (a) Art studios or artisan shops;
  - (b) Businesses related to forestry, farming, or natural resource extraction;
  - (c) Commercial uses associated with a residence, other than home-based businesses;
  - (d) Facilities offering food and beverages prepared on the premises;
  - (e) Professional offices, financial institutions, health care facilities, nursing homes, and children's day care facilities, home child day care providers serving more than 12 children, and home adult day service providers serving more than 12 adults; and
  - (f) Retail stores and services, laundromats, convenience stores, or retailing of gasoline with no more than 2 gas pumps where each pump can serve no more than 2 vehicles simultaneously;
- (5) Commercial:
- (a) Recreational facilities having not more than 8,000 square feet of gross floor area, such as guide services; and
  - (b) Recreational lodging facilities having not more than 8,000 square feet of gross floor area:
    - (i) Level A;
    - (ii) Level B; and
    - (iii) Level C;
- (6) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (7) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;
- (8) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (9) Filling and grading which is not in conformance with the standards of Section 10.27,F;
- (10) Hand-carry launches: Private hand-carry launches, and hand-carry launches addressed in Section 10.21,E,3,b which are not in conformance with the standards of Section 10.27,L;
- (11) Home-based businesses: Major home-based businesses;
- (12) Mineral exploration activities: Access ways for Level A mineral exploration activities; Level A mineral exploration activities which are not in conformance with the standards for such activities in Section 10.27,C; and Level B mineral exploration activities;
- (13) Public and institutional: Places of worship and other religious institutions; public, private and parochial day schools; non-profit children's day care and adult day service facilities; libraries; fire stations; post offices; solid waste transfer or recycling stations; community centers; parks; and playgrounds;
- (14) Residential: Single and two-family dwellings;
- (15) Road Projects: Level B and C road projects, except for water crossings as provided for in Section 10.21,E,3,b;
- (16) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (17) Signs which are not in conformance with the standards of Section 10.27,J;
- (18) Trailered ramps: Trailered ramps addressed in Section 10.21,E,3,b which are not in conformance with the standards of Section 10.27,L;

- (19) Utility facilities compatible with residential uses, other than service drops; and wire and pipeline extensions which do not meet the definition of service drops;
- (20) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (21) Water impoundments;
- (22) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (23) Other structures, uses or services that are essential to the uses listed in Section 10.21,E,3,a through c; and
- (24) Other structures, uses, or services that the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed uses.

#### d. Special Exceptions

The following uses, and related accessory structures, may be allowed within D-GN3 subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,1 through 3, and subject to the applicable requirements set forth in Sub-Chapter III, and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 lakes, subject to the applicable requirements of Section 10.25,A,2 Facilities allowed by permit by special exception may use legally existing structures that exceed dimensional requirements. ~~However, structures exceeding the size limitations in Section 10.21,E,3,d may not be expanded, provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (1) Commercial:
  - (a) Commercial facilities with a total of less than 5,000 square feet of outdoor display or storage area combined; and
  - (b) Commercial uses with less than 2,500 square feet of gross floor area, other than those provided for in Section 10.21,E,3,c,(4); and
- (2) Recreational lodging facilities having more than 8,000 but not more than 15,000 square feet of gross floor area:
  - (a) Level B;
  - (b) Level C;
  - (c) Level C – Expanded Access;
  - (d) Level D; and
  - (e) Level D – Expanded Access.

The following uses, and related accessory structures, may be allowed in D-GN3 subdistricts as special exceptions within D-GN3 subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,1 through 3, subject to the applicable requirements set forth in Sub-Chapter III, and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 lakes, subject to the applicable requirements of Section 10.25,A,2. Facilities allowed by permit by special exception may use legally existing structures that exceed dimensional requirements.

~~However, structures exceeding the size limitations in Section 10.21,E,3,d may not be expanded. The following uses may be allowed as special exceptions provided the applicant also shows by substantial evidence that there is no alternative site that is both suitable to the proposed use and reasonably available to the applicant:~~

- ~~(3) Docking structures: New or expanded permanent docking structures;~~
- ~~(4) Marinas;~~
- ~~(5) Trailered ramps:
 
  - ~~(a) Commercial trailered ramps; and~~
  - ~~(a)(b) Private trailered ramps, in accordance with Section 10.27,L,1; and~~~~
- ~~(5)(6) Water-access ways, in accordance with Section 10.27,L,1.~~

#### **e. Prohibited Uses**

All uses not expressly allowed, with or without a permit, notification, or by special exception are prohibited in a D-GN3 subdistrict.

#### **f. Water Quality Limiting Lakes**

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

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

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

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

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

- ~~(1) Require applicants to indicate future plans for other undeveloped shorelands in their ownership when a non-residential use is proposed. The plans shall address, at a minimum, the next 10 years, and shall include, but not be limited to, the following information regarding the applicant's landownership on the lake:
 
  - ~~(a) area and shoreline length;~~
  - ~~(b) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and~~
  - ~~(c) development proposed or anticipated, if any.~~~~

~~These future plans shall be considered part of the proposal. Therefore, changes in such plans, for example a development proposal that was not originally included, will require approval of an application to amend the original proposal in which these future plans were indicated.~~

#### **i. Adaptive Reuse of Legally Existing Structures.**

~~Facilities allowed under Section 10.21,E,3,c and d may use legally existing structures that exceed dimensional requirements. However, structures exceeding the size limitations in Section 10.21,E,3,c and d may not be expanded.~~

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## F. LOW-DENSITY DEVELOPMENT SUBDISTRICT (D-LD)

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### 1. Purpose

The purpose of the D-LD subdistrict is to allow for development of well-designed, low-density subdivisions in suitable locations. Low-density subdivisions are compatible with settings that have patterns of dispersed residential development and do not include sensitive fish or wildlife habitats, or exceptional recreation resources. The D-LD subdistrict is designed to allow for the location of low-density subdivisions in areas that are easily accessible from towns and villages, but are not within the growth areas of towns or villages, or in other areas where land is in high demand, such as near major water bodies.

### 2. Description

The D-LD subdistrict ~~shall~~must include:

Areas that are proposed for development activities that are consistent with the purposes of this subdistrict; meet the criteria for redistricting to this subdistrict, pursuant to Section 10.08; and are generally suitable for development of the type associated with the uses allowed in the subdistrict when considered in light of the standards of 12 M.R.S. §685-B(4) and the Commission's Land Use Districts and Standards.

Areas within one-half mile of a body of standing water 10 acres or greater, a major flowing water, or areas within two miles of the boundary of a rural hub as described in Section 10.08-A,B, ~~shall~~must not be included within the D-LD subdistrict.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses are allowed without a permit from the Commission within D-LD subdistricts:

- (1) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (2) Forest management activities, except for timber harvesting;
- (3) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (4) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, horseback riding, tent and shelter camping, canoe portaging, cross country skiing and snowshoeing;
- (5) Surveying and other resource analysis;
- (6) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (7) Wildlife and fishery management practices.

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

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

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:

- (a) The accessory structure is located in a subdistrict that allows the principal use; and
- (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two-year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural activities: Agricultural management activities;
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size that are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Driveways associated with residential uses;
- (5) Filling and grading;
- (6) Home-based businesses: Minor home-based businesses;
- (7) Land management roads that are in conformance with all applicable terms and conditions of a valid subdivision permit;
- (8) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (9) Road projects: Level A road projects;
- (10) Service drops;
- (11) Signs;
- (12) Timber harvesting that is in conformance with all applicable terms and conditions of a valid subdivision permit;
- (13) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (14) Water crossings of minor flowing waters.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-LD subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agricultural activities: Agricultural management activities that are not in conformance with the standards of Section 10.27,A;
- (2) Campsites;
- (3) Campsites, Residential;
- (4) Cemeteries, and family burying grounds in accordance with 13 M.R.S. §1142;
- (5) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size that are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size that are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (6) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;
- (7) Driveways associated with non-residential uses; driveways associated with residential uses that are not in conformance with the standards of Section 10.27,H;
- (8) Filling and grading that is not in conformance with the standards of Section 10.27,F;
- (9) Home-based businesses: Major home-based businesses;
- (10) Land management roads that are not in conformance with the standards of Section 10.21,F,3,b;

- (11) Mineral exploration activities: Access ways for Level A mineral exploration activities; Level A mineral exploration activities that are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;
- (12) Residential: Single and two-family dwellings;
- (13) Road projects: Level B and C road projects, except for water crossings as provided for in Section 10.21,F,3,b;
- (14) Shoreland alterations, including water crossings of minor flowing waters;
- (15) Signs that are not in conformance with the standards of Section 10.27,J;
- (16) Subdivisions: Residential, low-density subdivisions;
- (17) Timber harvesting that is not in conformance with the standards of Section 10.21,F,3,b;
- (18) Utility facilities compatible with residential uses other than service drops; and wire and ~~pipe line~~pipeline extensions that do not meet the definition of service drops;
- (19) Water crossings of minor flowing waters that are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (20) Water impoundments;
- (21) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. §682(19); offshore wind power projects, as defined in 38 M.R.S. §480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (22) Other structures, uses or services that are essential to the uses listed in Section 10.21,F,3,a through c; and
- (23) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within ~~the~~D-LD subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,2 through 4, and subject to the applicable requirements set forth in Sub-Chapter III;~~and subject to the applicable requirements set forth in Sub-Chapter III, provided the applicant shows by substantial evidence, that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan; (c) that there is sufficient infrastructure to accommodate the additional traffic and activity generated by the facility; and (d) that surrounding resources and uses that may be sensitive to such increased traffic and activity are adequately protected:~~

- (1) Recreational lodging facilities:
  - (a) Level A; and
  - (b) Level B.

**e. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception are prohibited in D-LD subdistricts.

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## G. MARITIME DEVELOPMENT SUBDISTRICT (D-MT)

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### 1. Purpose

The purpose of the D-MT subdistrict is to reserve a reasonable portion of the waterfront in coastal plantations and townships for water-dependent uses. The intention is to protect commercial water dependent uses, particularly commercial fishing activities, from other competing but incompatible use; to conserve points of public access to coastal waters; and to give preference in identified areas to commercial water-dependent uses over recreational and residential uses.

### 2. Description

- a. D-MT1:** Areas above the normal high water mark of coastal wetlands in which the existing pattern of development is predominately commercial fishing activities and conforms with the specified purposes and allowed uses for this subdistrict and where there is a demonstrated need for this subdistrict.

Other areas which the Commission determines:

- (1) meet the criteria for redistricting to this subdistrict, pursuant to Section 10.08 hereof,
- (2) are proposed for development which is consistent with the purposes of this subdistrict,
- (3) are suitable for the development activities proposed when measured against the standards of 12 M.R.S. § 685-B(4) and the Commission's Rules and Regulations relating thereto, with particular consideration given to:
  - (a) shelter from prevailing winds and waves,
  - (b) upland slopes within 250 feet of the normal high water mark, measured as a horizontal distance, which are not so steep as to make access to the water impracticable,
  - (c) adequate mean low water depth for boat movement and mooring within 150 feet of the shore measured as a horizontal distance, and
  - (d) historical use of the area for commercial fishing activities.

- b. D-MT2:** Areas above the normal high water mark of coastal wetlands in which the existing pattern of development is predominately water-dependent activities and conforms with the specified purposes and allowed uses for this subdistrict and where there is a demonstrated need for this subdistrict.

Other areas which the Commission determines:

- (1) meet the criteria for redistricting to this subdistrict, pursuant to Section 10.08 hereof,
- (2) are proposed for development which is consistent with the purposes of this subdistrict,
- (3) are suitable for the development activities proposed when measured against the standards of 12 M.R.S. § 685-B(4) and the Commission's Rules and Regulations relating thereto, with particular consideration given to:
  - (a) shelter from prevailing winds and waves,
  - (b) upland slopes within 250 feet of the normal high water mark, measured as a horizontal distance, which are not so steep as to make access to the water impracticable,
  - (c) adequate mean low water depth for boat movement and mooring within 150 feet of the shore measured as a horizontal distance, and
  - (d) historical use of the area for water-dependent activities.



### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses are allowed without a permit from the Commission within the D-MT subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Motorized vehicular traffic on roads;
- (4) Primitive recreational uses;
- (5) Surveying and other resource analysis; and
- (6) Wildlife and fishery management practices.

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

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

- (1) Filling and grading;
- (2) Hand-carry launches: Commercial, private and public hand-carry launches;
- (3) Service drops;
- (4) Trailered ramps: Public trailered ramps;
- (5) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (6) Signs.

#### c. Uses Requiring a Permit

The following uses, and related accessory structures, may be allowed within D-MT subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Commercial fishing activities, except as provided for in Section 10.21,G,3,d below;
- (2) Docking structures: Permanent docking structures;
- (3) Draining, dredging, or alteration of the water table or water level;
- (4) Driveways;
- (5) Ferry service facilities;
- (6) Filling and grading which is not in conformance with the standards of Section 10.27,F;
- (7) Hand-carry launches: Hand-carry launches addressed in Section 10.21,G,3,b which are not in conformance with the standards of Section 10.27,L;
- (8) Retail sales of shellfish ~~and~~/or finfish, solely ancillary to a permitted use such as a finfish or shellfish buying or off-loading stations and under the same ownership as the permitted use;
- (9) Signs which are not in conformance with the standards of Section 10.27,J;
- (10) Trailered ramps: Commercial and private trailered ramps, and trailered ramps addressed in Section 10.21,G,3,b which are not in conformance with the standards of Section 10.27,L;
- (11) Utility substation, including sewage collection and pumping stations, water pumping stations, transformer stations, wire and ~~pipe line~~ pipeline extensions, telephone

- electronic equipment enclosures and other similar public utility structures which do not meet the definitions of Section 10.21,G,3,b,(3) and (5);
- (12) Water-access ways;
  - (13) Water-dependent uses, except as provided for in Section 10.21,G,3,d below;
  - (14) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. §682(19); offshore wind power projects, as defined in 38 M.R.S. §480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
  - (15) Other structures, uses or services that are essential to the uses permitted; and
  - (16) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed uses.

#### d. Special Exceptions

The following uses, and related accessory structures, may be allowed within D-MT subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Section 10.24,B,6, and subject to the applicable requirements set forth in Sub-Chapter III; ~~and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) the proposed use will not unreasonably obstruct navigation channels or unreasonably preclude boating support facilities elsewhere in the harbor; and (b) the proposed use is designed and located, to the extent feasible, so that it does not significantly interfere with the needs of the local fishing industry; and (c) the proposed use, if not a water dependent use: (i) will not replace an existing water dependent use; and (ii) will not substantially reduce existing public access to coastal wetlands.~~

##### (1) Commercial

The following commercial uses ~~shall~~must be permitted as special exceptions in the D-MT2 subdistricts:

- (a) On-premise restaurants, retail and service establishments provided they are accessory to ferry service facilities;
- (b) Restaurants, occupying not more than 900 square feet of floor area, provided that such establishments cater primarily to persons directly associated with other permitted uses in this district; and
- (c) Retail sales of packaged or bulk foods, toiletries, hardware and other daily necessities as an ancillary business to a permitted use.

##### (2) Industrial

The following industrial use ~~shall~~must be permitted as a special exception in both the D-MT1 and D-MT2 subdistricts:

- (a) Facilities for combined marine and general construction provided that the primary use of the site is for the marine segment of the contractor's business.

##### (3) Marine

The following marine uses ~~shall~~must be permitted as special exceptions in both the D-MT1 and D-MT2 subdistricts:

- (a) Fabrication of marine related goods, including fishboat equipment, provided that a location on the water is essential for their production; and

- (b) Fish by-products processing.

The following marine uses ~~shall~~must be permitted as special exceptions in the D-MT2 subdistrict:

- (c) Harbor and marine supplies and services, such as ship chandler, provided that sales are primarily for purpose of serving water-dependent uses or that the applicant can demonstrate that the business is essential to water dependent uses;
- (d) Excursion services which do not displace existing water dependent uses, or occupy docking and berthing space which had been actively and substantially used by commercial fishing boats and vessels within the preceding twelve (12) month period; and which do not sell any product except for the excursion service; and which provide for all parking space outside of this zone or district; and
- (e) Publicly owned wharves for general public access to the shore, provided that the facility or facilities do not unreasonably interfere with permitted commercial fishing uses and which provide for all parking space outside of this zone or district.

- (4) Residential

The following residential use must be permitted as a special exception in the D-MT2 subdistrict:

- (a) Single family detached dwelling units, home-based businesses, and transient accommodations of less than six units per principal building.

**e. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, are prohibited in a D-MT subdistrict including without limitation the conversion of existing structures which are currently used for commercial fishing activities to any noncommercial fishing activities for use, including but not limited to residential or recreational uses.

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## H. PLANNED DEVELOPMENT SUBDISTRICT (D-PD)

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### 1. Purpose

The purpose of the D-PD subdistrict is to allow for large scale, well-planned development (Planned Development). The Commission's intent is to consider Planned Development proposals, including those separated from existing developed areas, provided they can be shown to be of high quality and not detrimental to other values established in the Comprehensive Land Use Plan, and provided they depend on a particular natural feature or location that is available at the proposed site. A petition to establish a D-PD subdistrict will be granted when the Commission concludes the location of the site is the best reasonably available for the proposed use and that the goals and policies of the Comprehensive Land Use Plan are served.

The D-PD zoning process is intended to encourage creative and imaginative design and site planning, to promote efficient use of the land, and to accommodate well-designed, natural feature dependent development in appropriate locations.

Planned Development within a D-PD subdistrict must be consistent with a Development Plan approved as part of the subdistricting process. A Development Plan identifies land uses allowed within the subdistrict, specifying which uses require a development permit, and outlines the nature, location, and design of the Planned Development for which the subdistrict was created.

### 2. Description

D-PD subdistricts include areas potentially separated from existing development patterns for which the Commission has approved a Development Plan. Residential, recreational, commercial, or industrial uses, or some combination of these uses, may be allowed in the subdistrict. Depending on the nature of the activity within the subdistrict, the following limitations apply:

- a. A D-PD subdistrict for predominantly residential and/or recreational land uses ~~shall~~must have a Development Plan for a minimum of 30,000 square feet of building floor area and ~~shall~~must include at least 150 contiguous acres. (A predominance of uses ~~shall~~must exist when the majority of the gross building floor area is devoted to such uses.)
- b. A D-PD subdistrict for predominantly commercial and/or industrial land uses ~~shall~~must include at least 50 contiguous acres and, except wind energy generation facilities, ~~shall~~must have a Development Plan for a minimum of 30,000 square feet of gross building floor area.
- c. A D-PD subdistrict for metallic mineral mining activity ~~shall~~must include at least 50 contiguous acres.

In any of the above cases, all development, other than access roads and utility lines ~~shall~~must be at least 400 feet from any property line. Upon a showing of good cause, the Commission may, at its discretion, increase or decrease this setback. Furthermore, the project ~~shall~~must be reasonably self-contained and self-sufficient and, to the extent practicable, provide for its own water and sewage services, road maintenance, fire protection, solid waste disposal and police security.

### 3. Allowed Uses

All uses approved in the Development Plan ~~shall~~must be allowed. No other use ~~shall~~must be allowed except where the Commission determines that such additional use is consistent with the Development Plan and with the purpose of the D-PD subdistrict.

#### 4. Ownership

A petition for the creation of a D-PD subdistrict may be filed only by the owner or lessee of all lands to which the petition pertains.

#### 5. Burden of Proof

The burden of proof is upon the petitioner to show by substantial evidence that the proposal satisfies the criteria established for the creation of D-PD subdistrict.

#### 6. Procedure for Review of Planned Development

- a. The Planned Development review procedure ~~shall~~must consist of three stages:
  - (1) Preapplication ~~conference-meeting~~ (see Section 10.21,H,7);
  - (2) Submission of a zoning petition, including the accompanying Development Plan<sup>1</sup> (see Section 10.21,H,8); and
  - (3) Submission of a permit application<sup>2</sup> to either the Commission or the Maine Department of Environmental Protection (DEP) (see Section 10.21,H,9).
- b. Commission review of a zoning petition to establish a D-PD subdistrict for the purpose of metallic mineral mining activity is governed by Chapter 12 of the Commission's rules, and not by Section 10.21,H,8. Pursuant to the Maine Metallic Mineral Mining Act, DEP is responsible for reviewing permit applications filed by persons seeking to conduct metallic mineral mining activity within a D-PD subdistrict. The Commission is responsible for certifying proposed mining activity to DEP. Commission certification of metallic mineral mining activity is governed by Chapter 13 of its rules.

**[REVISION NOTE: The following revisions, now referring to 'meetings' rather than 'conferences', serve to reflect proposed revisions for Chapter 4.]**

#### 7. Preapplication ~~Conference~~Meeting

A preapplication ~~conference-meeting~~ ~~shall~~must be held with the staff of the Commission and representatives from other relevant agencies prior to submission of a zoning petition and related Development Plan. The Commission ~~shall~~must notify DEP of any preapplication ~~meeting~~~~conference~~ and provide DEP the opportunity to attend the ~~meeting~~~~conference~~. At this ~~meeting~~~~conference~~ the procedures, regulations, and policies that will govern the rezoning process and Planned Development review ~~shall~~must be discussed. The ~~meeting~~~~conference~~ ~~shall~~ must provide a forum for an informal discussion on the acceptability of all aspects of the project proposal, prior to a person filing a zoning petition and associated Development Plan with the Commission. The ~~meeting~~~~conference~~ proceedings ~~shall~~must be summarized in writing and made available to the petitioner.

<sup>1</sup> Prior to September 20, 2018, a Preliminary Development Plan was approved through the zoning process. In the existing rule, the term Development Plan replaces Preliminary Development Plan.

<sup>2</sup> Prior to September 20, 2018, a Final Development Plan was approved through the Commission's permitting process, the process that authorized activity within a D-PD subdistrict requiring a Commission permit. In the existing rule, the term Final Development Plan is no longer used in favor of referring to permitting or development permitting.

## 8. Zoning Petition and Associated Development Plan

### a. Petition Components

The zoning petition ~~shall~~must include: Evidence that the proposal is consistent with the Commission's Comprehensive Land Use Plan and the purpose and description of a D-PD subdistrict; evidence that the proposed subdistrict will have no undue adverse impact on existing uses or resources as required by 12 M.R.S. § 685-A(8-A); and the submission of various written and illustrative documents, as described below. Prior to any decision, the staff ~~shall~~must make known its findings and recommendations, in writing, to the Commission and a public hearing ~~shall~~must be held in accordance with Chapter 5 of the Commission's Rules.

The following items must be submitted with any D-PD zoning petition:

#### Written Statements

- (1) A statement of the objectives to be achieved by locating the development in its proposed location distant from existing patterns of development. As it is a general policy of the Commission to encourage new development to locate with or adjacent to existing development, the rationale for promoting development away from such locations must be well documented. The statement should describe why the site is considered the best reasonably available for the proposed use(s). The fact that the applicant owns or leases the property ~~shall~~must not, of itself, be sufficient evidence to satisfy this last requirement.
- (2) The expected development schedule that indicates the periods of time required to complete the project, and an approximate start date for construction.
- (3) Statements demonstrating that the project is realistic, and can be financed and completed. Such statements ~~shall~~must demonstrate that the applicant has the financial resources and support to achieve the proposed development.
- (4) A statement of the compatibility of the proposed development with existing uses and resources, the reasonably foreseeable adverse effects on those existing uses and resources, and measures to be taken by the applicant to minimize such effects.
- (5) A general statement that indicates how the natural resources of the area will be managed and protected so as to reasonably assure that those resources currently designated within protection subdistricts will receive protection that is substantially equivalent to that under the original subdistrict designation.

#### Maps

- (6) A location map showing all existing subdistricts and the proposed D-PD subdistrict boundaries, drawn on a Commission Land Use Guidance Map that indicates the area for which a D-PD subdistrict designation is sought.
- (7) Maps showing the existing and proposed lot lines, noting the names of adjoining lot owners, and any lots in the project area proposed to be placed in common or private ownership.
- (8) Maps showing the soils and slope at the development site, at a mapping intensity sufficient to show that the site has suitable soils to support the development. (Note: For projects in high mountain areas, if geotechnical borings to gather data will be necessary to prepare the final site plans for the development permit, the routes of any proposed access ways should be shown on this map, accompanied by a written description.)

### Development Plan

The Development Plan is a document that identifies the future use of a property proposed for rezoning to a D-PD subdistrict and outlines the nature, location, and design of future development with sufficient specificity to allow the Commission to evaluate the consistency of the proposed zoning with the purpose of the D-PD subdistrict. A Development Plan must include the following:

- (9) A legal description of the ~~proposed district boundary~~ ~~property boundaries proposed for redistricting~~, including a statement of present and proposed ownership.
- (10) Statements establishing which land uses will be allowed in the D-PD subdistrict; whether each allowed use will be allowed without a permit, allowed without a permit subject to standards, allowed with a permit, or allowed by special exception; and where each land use will be allowed within the subdistrict. All existing and proposed land uses must be addressed. Any activities necessary to gather site information or data to be included in a subsequent permit application to either the Commission or DEP must be identified among the land uses included in the Development Plan. If the petitioner proposed that activities other than the gathering of site information and data be allowed in the subdistrict prior to issuance of a permit for the Planned Development, a statement explaining how these activities will be conducted in a manner consistent with the purpose of the subdistrict must be included in the Development Plan.
- (11) A statement of the petitioner's intentions with regard to future selling, leasing or subdividing of all or portions of the project. The statement should describe the type of covenants, restrictions or conditions that are proposed to be imposed upon buyers, lessees or tenants of the property.
- (12) If the proposed D-PD subdistrict would be located on a portion of a larger parcel, a statement of the anticipated future use of the remainder of the parcel outside the D-PD subdistrict.
- (13) A site plan showing existing features within the development site, including the locations of:
  - (a) Buildings, roads, parking areas, and bridges;
  - (b) Above- and below-ground utility lines, and sewage disposal facilities;
  - (c) Drinking water wells serving the site, and any major water withdrawal sources;
  - (d) Recreational areas, open spaces, and conservation areas;
  - (e) Streams, lakes and ponds, wetlands, and other protected natural resources;
  - (f) Stormwater drainage areas and an approximation of the expected phosphorus contribution to the watershed; and
  - (g) The vegetated edge of the cleared areas.
- (14) A site plan showing proposed features, with the approximate locations of:
  - (a) Buildings, roads, parking areas, and bridges;
  - (b) Utility lines, if known, and areas to be used for sewage disposal facilities (Note: If a public sewage disposal system will be used, evidence that the system can support the proposed development must be supplied);
  - (c) New drinking water wells, and other major water withdrawal sources;
  - (d) Recreational areas, open spaces, and conservation areas;

- (e) Streams, lakes and ponds, wetlands, and other protected natural resources;
  - (f) Stormwater drainage areas and an approximation of the expected phosphorus contribution to the watershed; and
  - (g) The vegetated edge of the cleared areas.
- (15) A statement of any steps the petitioner will take to avoid or minimize the effects of the rezoning for the Planned Development on existing uses or resources.
- (16) A statement of any design requirements or other standards that will ensure future development and uses meet the purposes of the subdistrict.

Where the petitioner is proposing a phased Planned Development and maps showing the level of detail required in Section 10.21,H,8,a,(14) are not feasible for all future phases of the development, the petitioner ~~shall~~must submit maps for the first phase of development. For all future phases of development, the petitioner ~~shall~~must submit a narrative describing the intended future use, along with information and sketch plans sufficient for the Commission to determine if the area proposed to be rezoned can support the entire development with regard to: the subdivision rules, if applicable; soil suitability and slope; subsurface waste water disposal; access and traffic circulation; drinking water supply; any other proposed major water withdrawal source; and the 400 foot setback from the proposed D-PD subdistrict boundaries. A narrative describing the anticipated timeline for all phases of the development must accompany the sketch plans.

**b. Hearings and Criteria for the Approval of Zoning Petition and Associated Development Plan**

The Commission ~~shall~~must schedule a public hearing within 45 days after a complete zoning petition is filed, unless the petitioner requests, in writing, that this time be extended.

The public hearing notification and proceedings ~~shall~~must meet the requirements of Chapter 5 of the Commission's Rules and Regulations and the applicable provisions of the Administrative Procedures Act. Within 90 days after the close of the record of the public hearing, the Commission may approve, approve with conditions, or deny the petition in writing. In making this decision, the Commission ~~shall~~must ensure that the proposal:

- (1) Satisfies the statutory rezoning standards in 12 M.R.S. § 685-A(8-A);
- (2) Incorporates, where the land proposed for inclusion in the D-PD subdistrict is in a protection subdistrict, a substantially equivalent level of environmental and resource protection as was afforded under the protection subdistrict;
- (3) Utilizes the best reasonably available site for the proposed use;
- (4) Conserves productive forest ~~and~~/or farm land;
- (5) Incorporates high quality site planning and design in accordance with accepted contemporary planning principles;
- (6) Envisions a project that is reasonably self-sufficient in terms of necessary public services; and
- (7) Provides for safe and efficient traffic circulation.

**c. Approval or Denial of Zoning Petition and Associated Development Plan**

- (1) If, after weighing all the evidence, the Commission approves the zoning petition and associated Development Plan, the D-PD subdistrict ~~shall~~must be designated on the official district map and recorded in accordance with the provisions of Section 10.04. The approval may contain such reasonable conditions as the Commission deems



appropriate and will specify the conditions for approval of subsequent Commission permits or certifications. The terms of the approval will be in writing and **shall** be deemed to be incorporated in the D-PD subdistrict and the Development Plan.

- (2) If, after weighing all the evidence, the Commission finds the submission does not meet the criteria established above for its approval, the petition **shall** be denied and the reasons for the denial **shall** be stated in writing.
- (3) Within a maximum of 18 months following a Commission decision to designate an area as a D-PD subdistrict, the petitioner, or another person with title, right, or interest, **shall** file a development permit application with the Commission or a Site Location of Development Law (Site Law) permit application with DEP for development consistent with the approved Development Plan. Upon a showing of good cause, the Commission may, at its discretion, extend the deadline for filing a permit application with the Commission or DEP.
- (4) If, for any reason, no person files a permit application for the Planned Development within the prescribed time, the D-PD subdistrict designation **shall** be deemed to be revoked and the original subdistrict(s) **shall** again apply.

## 9. Permit for Planned Development

Land uses within a D-PD subdistrict that are allowed by permit or by special exception pursuant to an approved Development Plan must be permitted either by the Commission or by DEP. Within a D-PD subdistrict all metallic mineral mining activity is permitted by DEP. For other types of land uses, within D-PD subdistricts created prior to September 1, 2012 and within D-PD subdistricts created September 1, 2012 and later where the development within the subdistrict does not trigger Site Law permitting, the Commission possesses permitting authority. DEP is responsible for permitting development triggering Site Law in D-PD subdistricts created September 1, 2012 or later. The procedures set forth in Section 10.21,H,9, apply to Commission permitting of activities within a D-PD subdistrict.

### a. Application

The development permit application procedure serves to ensure that an applicant's detailed design and construction plans conform with the approved zoning petition and Development Plan.

- (1) An application for a development permit may be for all of the land that is the subject of the Development Plan or for a section thereof. The application, once deemed complete for processing by the staff, **shall** be reviewed and acted upon by the Commission within 90 days.
- (2) The development permit application **shall** include statements, drawings, specifications, covenants and conditions sufficient to fully detail the nature and scope of the proposed development. Without limitation of the foregoing, the submission **shall** include:
  - (a) Drawings that include all the information required on the site plan under the Development Plan [Section 10.21,H,8,a,(14)], plus the dimensions and heights, foundation design, material specifications, and elevations and colors of all buildings and structures. If the plan proposes any subdivision, all boundaries of easements and lots are to be surveyed and plotted.
  - (b) Drawings that illustrate all roads, parking service and traffic circulation areas. The dimensions of curve radii, grades and number of parking spaces are to be specified. Any structures (such as bridges) related to the street system should be shown as scaled engineering plans and sections. Detailed

traffic volume estimates and traffic studies may be required, at the discretion of the Commission.

- (c) If individual sewage disposal system are proposed, an on-site soil report for each proposed lot is required from the applicant. The reports are to be on Maine Department of Health and Human Services form HHE-200 or any amended or replacement version thereof. Where a central sewage collection and/or treatment system or central or public water supply system or fire hydrant system is proposed, reasonably full engineering drawings ~~shall~~must be required to conform with all applicable governmental requirements.
- (d) High intensity soil surveys and drawings that indicate all surface water runoff and storm drainage systems, soil stabilization procedures, and landscape plans for planting, screening, revegetation and erosion control and lighting of outdoor spaces.
- (e) To the extent reasonably available, copies of the restrictions, covenants, conditions, and/or contractual agreements that will be imposed upon persons buying, leasing, using, maintaining, or operating land or facilities within the Planned Development.

**b. Review Process and Criteria for Approval**

- (1) The development permit ~~shall~~must comply with the approved zoning petition and Development Plan and ~~shall~~must conform with applicable state law, including 12 M.R.S. § 685-B(4), and applicable Commission rules, including Chapter 10.
- (2) A public hearing ~~shall~~must not be held on a development permit application provided the proposed activity is in substantial compliance with the Development Plan. The burden ~~shall~~must, nevertheless, be on the applicant to show good cause for any variation between the Development Plan and activity proposed in the development permit application

**c. Approval or Denial of Development Permit Application**

Upon accepting a development permit application as complete for processing, the Commission ~~shall~~must review and, in writing, approve, approve with conditions, or deny the application.

**d. Amendments to Development Permit**

After issuance of the initial development permit authorizing Planned Development within a D-PD subdistrict, the Director of the Commission may issue permit amendments. No change ~~shall~~must be so authorized which may cause any of the following:

- (1) The addition of a land use not previously approved in the Development Plan;
- (2) A material change in the site, scope or nature of the project;
- (3) A material increase in traffic volume;
- (4) A material reduction in open space, landscaping, or parking; or
- (5) A material change giving rise to adverse environmental impact.

All amendments to the Development Plan proposed by the applicant ~~shall~~ requires submission to and the approval of the Commission after consultation with the staff and due consideration of the standards set forth in Section 10.21,H,8,b.

**e. Time for Construction**

If no substantial start has occurred pursuant to the initial development permit by the later of: (a) 24 months after the date of approval by the Commission or (b) expiration of any extension of time for making a substantial start granted by the Commission, the approved permit and previously approved Development Plan ~~shall~~ become null and void and the D-PD subdistrict designation ~~shall~~must be deemed to be revoked and the original subdistrict(s) ~~shall~~must again apply. The deadline for making a substantial start on activity authorized in any permit amendment ~~shall~~must be specified in the amendment or, if not, ~~shall~~must be governed by ~~Section 10.17~~Chapter 4 of the Commission's rules.

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**I. PLANNED RECREATION FACILITY DEVELOPMENT SUBDISTRICT (D-PR)**

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**1. Purpose**

The purpose of the D-PR subdistrict is to allow for large scale, well-planned recreation lodging and facility development (Planned Recreation Facility Development). The Commission's intent is to consider Planned Recreation Facility Development proposals, including those separated from existing developed areas, provided they can be shown to be of high quality and not detrimental to other values established in the Comprehensive Land Use Plan, and provided they depend on a particular natural feature or location that is available at the proposed site. A petition to establish a D-PR subdistrict will be granted when the Commission concludes the location of the site is the best reasonably available for the proposed use and that the goals and policies of the Comprehensive Land Use Plan are served, including a careful consideration of the classification of any waterbodies contained within or located near the proposed development.

The D-PR Subdistrict is intended to encourage creative design and site planning, to promote efficient use of the land, and to accommodate well-designed, natural feature dependent recreation facility development in appropriate locations.

Development within a D-PR subdistrict must be consistent with a Development Plan approved as part of the subdistricting process. A Development Plan identifies land uses allowed within the subdistrict, specifying which uses require a development permit, and outlines the nature, location, and design of the Planned Recreation Development for which the subdistrict was created.

**2. Description**

D-PR subdistricts include areas potentially separated from existing development patterns for which the Commission has approved a Development Plan. Recreational lodging facilities and recreational uses, and any associated commercial development, or some combination of these uses, may be allowed in the subdistrict. A D-PR Subdistrict must contain a maximum of 40,000 square feet of building floor area. All development, other than access roads, utility lines, trails, and waterfront structures must be at least 400 feet from any property line. (This dimension may be increased or decreased, at the Commission's discretion, provided good cause can be shown.)

Level E Recreational Lodging Facilities in existence as of (May 1, 2013) may also be a basis for rezoning to the D-PR subdistrict, provided that any proposed expansions of or additions to the existing structures and uses can be shown to meet the criteria for approval.

**3. Allowed Uses**

All uses approved in the Development Plan will be allowed. No other use will be allowed except where the Commission determines that such additional use is consistent with the Development Plan and with the purpose of the D-PR subdistrict.

**4. Ownership**

A petition for the creation of a D-PR subdistrict may be filed only by the owner or lessee of all lands to which the petition pertains, or by the staff with the owner or lessee's consent.

## 5. Burden of Proof

The burden of proof is upon the petitioner to show by substantial evidence that the proposal satisfies the criteria established for the creation of D-PR subdistricts.

## 6. Procedure for Review of Planned Recreation Development

The Planned Recreation Facility review procedure must consist of three stages:

- (1) Preapplication meetingconference (see Section 10.21,I,6);
- (2) Submission of a zoning petition, including the accompanying Development Plan (see Section 10.21,I,7); and
- (3) Submission of a permit application to either the Commission or the Maine Department of Environmental Protection (the DEP) (see Section 10.21,I,8).

## 7. Preapplication MeetingConference

A preapplication meetingconference must be held with the staff of the Commission and representatives from other relevant agencies prior to submission of a zoning petition and related Development Plan. The Commission must notify the DEP of any preapplication meetingconference and provide the DEP the opportunity to attend the meetingconference. At this meetingconference the procedures, regulations, and policies that will govern the rezoning process and Planned Recreation Facility Development review must be discussed. The meetingconference must provide a forum for an informal discussion on the acceptability of all aspects of the project proposal, prior to a person filing a zoning petition and associated Development Plan with the Commission. The meetingconference proceedings must be summarized in writing and made available to the petitioner.

## 8. Zoning Petition and Associated Development Plan

### a. Petition Components

The zoning petition must include: Evidence that the proposal is consistent with the Commission's Comprehensive Land Use Plan and the purpose and description of the D-PR subdistrict; evidence that the proposed subdistrict will have no undue adverse impact on existing uses or resources as required by 12 M.R.S. § 685-A(8-A); and the submission of various written and illustrative documents, as described below. Prior to any decision, the staff must make known its findings and recommendations, in writing, to the Commission.

The following items are required to be submitted with any Development Plan petition. The staff, at its discretion, may waive portions of the petition requirements for existing Recreational Lodging Facilities that are proposing expansions that increase floor area by not more than 25%:

The following items must be submitted with any D-PR zoning petition:

### Written Statements

- (1) A statement of the objectives to be achieved by locating the development in its proposed location distant from existing patterns of development. As it is a general policy of the Commission to encourage new development to locate with or adjacent to existing development, the rationale for promoting development away from such locations must be well documented. The statement should describe why the site is considered the best reasonably available for the proposed use(s). The fact that the applicant owns or leases the property must not, of itself, be sufficient evidence to satisfy this last requirement.
- (2) The expected development schedule that indicates the periods of time required to complete the project, and an approximate start date for construction.
- (3) Statements demonstrating that the project is realistic, and can be financed and completed. Such statements must demonstrate that the applicant has the financial resources and support to achieve the proposed development.
- (4) A statement of the compatibility of the proposed development with existing uses and resources, the reasonably foreseeable adverse effects on those existing uses and resources, and measures to be taken by the applicant to minimize such effects.
- (5) A general statement that indicates how the natural resources of the area will be managed and protected so as to reasonably assure that those resources currently designated within protection subdistricts will receive protection that is substantially equivalent to that under the original subdistrict designation.

### Maps

- (6) A location map showing all existing subdistricts and the proposed D-PR subdistrict boundaries, drawn on a Commission Land Use Guidance Map that indicates the area for which a D-PR subdistrict designation is sought.
- (7) Maps showing the existing and proposed lot lines, noting the names of adjoining lot owners, and any lots in the project area proposed to be placed in common or private ownership.
- (8) Maps showing the soils and slope at the development site, at a mapping intensity sufficient to show that the site has suitable soils to support the development.

### Development Plan

The Development Plan is a document that identifies the future use of a property proposed for rezoning to a D-PR subdistrict and outlines the nature, location, and design of future development with sufficient specificity to allow the Commission to evaluate the consistency of the proposed zoning with the purpose of the D-PR subdistrict. A Development Plan must include the following:

- (9) A legal description of the ~~proposed district boundary~~ ~~property boundaries~~ ~~proposed for redistricting~~, including a statement of present and proposed ownership.
- (10) Statements establishing which land uses will be allowed in the D-PR subdistrict; whether each allowed use will be allowed without a permit, allowed without a permit subject to standards, allowed with a permit, or allowed by special exception; and where each land use will be allowed within the subdistrict. All existing and proposed land uses must be addressed. Any activities necessary to gather site information or data to be included in a subsequent permit application to either the Commission or the DEP must be identified among the land uses included in the Development Plan. If the

petitioner proposed that activities other than the gathering of site information and data be allowed in the subdistrict prior to issuance of a permit for the Planned Recreation Development, a statement explaining how these activities will be conducted in a manner consistent with the purpose of the subdistrict must be included in the Development Plan.

- (11) A statement of the petitioner's intentions with regard to future selling, leasing or subdividing of all or portions of the project. The statement should describe the type of covenants, restrictions or conditions that are proposed to be imposed upon buyers, lessees or tenants of the property.
- (12) If the proposed D-PR subdistrict would be located on a portion of a larger parcel, a statement of the anticipated future use of the remainder of the parcel outside the D-PR subdistrict.
- (13) A site plan showing existing features within the development site, including the locations of:
  - (a) Buildings, roads, parking areas, and bridges;
  - (b) Above- and below-ground utility lines, and sewage disposal facilities;
  - (c) Drinking water wells serving the site, and any major water withdrawal sources;
  - (d) Recreational areas, open spaces, and conservation areas;
  - (e) Streams, lakes and ponds, wetlands, and other protected natural resources;
  - (f) Stormwater drainage areas and an approximation of the expected phosphorus contribution to the watershed; and
  - (g) The vegetated edge of the cleared areas.
- (14) A site plan showing proposed features, with the approximate locations of:
  - (a) Buildings, roads, parking areas, and bridges;
  - (b) Utility lines, if known, and areas to be used for sewage disposal facilities (Note: If a public sewage disposal system will be used, evidence that the system can support the proposed development must be supplied);
  - (c) New drinking water wells, and other major water withdrawal sources;
  - (d) Recreational areas, open spaces, and conservation areas;
  - (e) Streams, lakes and ponds, wetlands, and other protected natural resources;
  - (f) Stormwater drainage areas and an approximation of the expected phosphorus contribution to the watershed; and
  - (g) The vegetated edge of the cleared areas.
- (15) A statement of any steps the petitioner will take to avoid or minimize the effects of the rezoning for the Planned Recreation Development on existing uses or resources.
- (16) A statement of any design requirements or other standards that will ensure future development and uses meet the purposes of the subdistrict.

Where the petitioner is proposing a phased Planned Recreation Development and maps showing the level of detail required in Section 10.21,I,8,a,(14) are not feasible for all future phases of the development, the petitioner must submit maps for the first phase of development. For all future phases of development, the petitioner must submit a narrative describing the intended future use, along with information and sketch plans sufficient for the Commission to determine if the area proposed to be rezoned can support the entire development with regard to: the subdivision rules, if applicable; soil suitability and slope;

subsurface waste water disposal; access and traffic circulation; drinking water supply; any other proposed major water withdrawal source; and the 400 foot setback from the proposed D-PR subdistrict boundaries. A narrative describing the anticipated timeline for all phases of the development must accompany the sketch plans.

**b. Criteria for the Approval of a Zoning Petition and Associated Development Plan**

After following the procedures for petitions for Subdistrict changes, consistent with Chapter 4 and 5 of the Commission's rules, the Commission may approve, approve with conditions, or deny the application in writing. In making this decision, the Commission must ensure that the proposal:

- (1) Satisfies the statutory rezoning standards in 12 M.R.S. § 685-A(8-A);
- (2) Incorporates, where the land proposed for inclusion in the D-PR subdistrict is in a protection subdistrict, a substantially equivalent level of environmental and resource protection as was afforded under the protection subdistrict;
- (3) Utilizes the best reasonably available site for the proposed use;
- (4) Conserves productive forest ~~and~~/or farm land;
- (5) Incorporates high quality site planning and design in accordance with accepted contemporary planning principles;
- (6) Envisions a project that is reasonably self-sufficient in terms of necessary public services; and
- (7) Provides for safe and efficient traffic circulation.

**c. Performance-based Standards**

The applicant may propose that certain of the Commission's land use standards, as described in Chapter 10 of the Commission's rules, be replaced with alternative standards that measure the performance of a particular design or technology in achieving the relevant goals. The applicant may propose such a substitution for all or portions of the project area. In making such a proposal, the applicant must consult with Commission staff regarding the purpose of the particular standard and must demonstrate that the alternative standard will provide substantially equivalent or increased effectiveness.

**d. Approval or Denial of Zoning Petition and Associated Development Plan**

- (1) If, after weighing all the evidence, the Commission approves the zoning petition and associated Development Plan, the D-PR subdistrict must be designated on the official district map and recorded in accordance with the provisions of Section 10.04. The approval may contain such reasonable conditions as the Commission deems appropriate and will specify the conditions for approval of subsequent Commission permits or certifications. The terms of the approval will be in writing and must be deemed to be incorporated in the D-PR subdistrict and the Development Plan.
- (2) If, after weighing all the evidence, the Commission finds the submission does not meet the criteria established above for its approval, the petition must be denied and the reasons for the denial must be stated in writing.
- (3) Within a maximum of 18 months following a Commission decision to designate an area as a D-PR subdistrict, the petitioner, or another person with title, right, or interest, must file a development permit application with the Commission or a Site Location of Development Law (Site Law) permit application with the DEP for development consistent with the approved Development Plan. Upon a showing of good cause, the Commission may, at its discretion, extend the deadline for filing a permit application



with the Commission or the DEP, and may exempt from the filing deadline those plan areas where the area designated as a D-PR subdistrict is already developed.

- (4) If no person files a permit application for the planned recreation development within the prescribed time, the Commission will deem the D-PR subdistrict designation to be revoked and the original subdistrict(s) will again apply.

## 9. Permit for Planned Recreation Development

Land uses within a D-PR subdistrict that are allowed by permit or by special exception pursuant to an approved Development Plan must be permitted either by the Commission or by the DEP. For land uses within D-PR subdistricts created prior to September 1, 2012 and within D-PR subdistricts created September 1, 2012 and later where the development within the subdistrict does not trigger Site Law permitting, the Commission possesses permitting authority. The DEP is responsible for permitting development triggering Site Law in D-PR subdistricts created September 1, 2012 or later. The procedures set forth in Section 10.21,I,8, apply to Commission permitting of activities within a D-PR subdistrict.

### a. Application

The development permit application procedure serves to ensure that an applicant's detailed design and construction plans conform with the approved zoning petition and Development Plan.

- (1) An application for a development permit may be for all of the land that is the subject of the Development Plan or for a section thereof. The application, once deemed complete for processing by the staff, must be reviewed and acted upon by the Commission within 90 days.
- (2) The development permit application must include statements, drawings, specifications, covenants and conditions sufficient to fully detail the nature and scope of the proposed development. Without limitation of the foregoing, the submission must include:
  - (a) Drawings that include all the information required on the site plan under the Development Plan [Section 10.21,I,78,a,(14)] plus the dimensions and heights, foundation design, material specifications, and elevations and colors of all buildings and structures. If the plan proposes any subdivision, all boundaries of easements and lots are to be surveyed and plotted.
  - (b) Drawings that illustrate all roads, parking service and traffic circulation areas. The dimensions of curve radii, grades and number of parking spaces are to be specified. Any structures (such as bridges) related to the street system should be shown as scaled engineering plans and sections. Detailed traffic volume estimates and traffic studies may be required, at the discretion of the Commission.
  - (c) If individual sewage disposal systems are proposed, an on-site soil report for each proposed lot is required from the applicant. The reports are to be on Maine Department of Health and Human Services form HHE-200 or any amended or replacement version thereof. Where a central sewage collection and/or treatment system or central or public water supply system or fire hydrant system is proposed, reasonably full engineering drawings must be required to conform with all applicable governmental requirements.
  - (d) High intensity soil surveys and drawings that indicate all surface water runoff and storm drainage systems, soil stabilization procedures, and landscape plans for planting, screening, revegetation and erosion control and lighting of outdoor spaces.

- (e) To the extent reasonably available, copies of the restrictions, covenants, conditions, ~~and~~ or contractual agreements that will be imposed upon persons buying, leasing, using, maintaining, or operating land or facilities within the Planned Recreation Development.

**b. Review Process and Criteria for Approval**

- (1) The development permit must comply with the approved zoning petition and Development Plan and must conform with applicable state law, including 12 M.R.S. § 685-B(4), and applicable Commission rules, including Chapter 10.
- (2) A public hearing is not required on a development permit application provided the proposed activity is in substantial compliance with the Development Plan. The burden must, nevertheless, be on the applicant to show good cause for any variation between the Development Plan and activity proposed in the development permit application.

**c. Approval or Denial of Development Permit Application**

Upon accepting a development permit application as complete for processing, the Commission must review and, in writing, approve, approve with conditions, or deny the application.

**d. Amendments to Development Permit**

After issuance of the initial development permit authorizing Planned Recreation Development within a D-PR subdistrict, the Director of the Commission may issue permit amendments. No change will be so authorized which will cause any of the following:

- (1) The addition of a land use not previously approved in the Development Plan;
- (2) A material change in the site, scope, or nature of the project;
- (3) A material increase in traffic volume;
- (4) A material reduction in open space, landscaping, or parking; or
- (5) A material change giving rise to adverse environmental impact.

All amendments to the Development Plan proposed by the applicant ~~must~~ requires submission to and the approval of the Commission after consultation with the staff and due consideration of the standards set forth in Section 10.21,I,8,b.

**e. Time for Construction**

If no substantial start has occurred pursuant to the initial development permit by the later of: (a) 24 months after the date of approval by the Commission or (b) expiration of any extension of time for making a substantial start granted by the Commission, the approved permit and previously approved Development Plan ~~must~~ become null and void and the D-PR subdistrict designation must be deemed to be revoked and the original subdistrict(s) must again apply. The deadline for making a substantial start on development authorized in any permit amendment must be specified in the amendment or, if not, must be governed by ~~Section 10.17~~ Chapter 4 of the Commission's rules.

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

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(Applies only to certain locations within Aroostook County and Washington County)

### 1. Purpose

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

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

### 2. Description

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

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

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

The D-RB subdistrict ~~shall~~must include areas that contain small commercial, light manufacturing, and institutional facilities and businesses that meet the purpose and other provisions of the subdistrict. The D-RB subdistrict ~~shall~~must also include areas which the Commission determines meet the criteria for redistricting to this subdistrict, pursuant to Section 10.08 hereof, are proposed for development which is consistent with the purposes of this subdistrict, and are suitable for the development activities proposed when measured against the standards of 12 M.R.S. § 685-B(4) and the Commission's Rules and Regulations relating thereto.

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

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

**b. Eligible Locations**

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

(a) Aroostook County

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

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

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

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

(b) Washington County

Baring Plt., Brookton Twp., Cathance Twp., Edmunds Twp., Marion Twp., and Trescott, Twp.

Except as provided in Section 10.21,J,2,b,(2) below, the D-RB subdistrict must be fully located within one half mile of the following public roads, measured from the traveled portion of the road, in eligible townships, plantations and towns: Routes 1, 86, 189, and 191.

To be eligible, the parcel or at least one parcel in a contiguous group of parcels proposed for re-zoning to a D-RB subdistrict in Washington County must have frontage on at least one of the public roads listed in Section 10.21,J,2,b,(1),(b) above.

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

### 3. Land Uses

#### a. Uses Allowed Without a Permit

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

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Land application of septage, sludge and other residuals, and related storage and composting activities in compliance with regulations promulgated by the Maine Department of Environmental Protection under 38 M.R.S. § 13: Maine Hazardous Waste, Septage and Solid Waste Management Act;
- (5) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (6) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (7) Surveying and other resource analysis;
- (8) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (9) Wildlife and fishery management practices.

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

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

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two-year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural activities: Agricultural management activities, including cranberry cultivation; the construction, alteration or maintenance of farm or livestock ponds which are not fed or drained by a flowing water; and the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for agricultural management activities;
- (3) Campsites;
- (4) Checkpoint buildings;
- (5) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those described in Section 10.21,J,3,b,(2) above, less than 1 acre in size which are not fed or drained by flowing waters, in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (6) Driveways associated with residential uses;
- (7) Filling and grading;
- (8) Forest management activities, except for timber harvesting, involving the operation of machinery and the erection of buildings including buildings to store equipment and

- materials for maintaining roads and other structures used primarily for forest management activities;
- (9) Hand-carry launches: Commercial and public hand-carry launches;
  - (10) Home-based businesses: Minor home-based businesses;
  - (11) Mineral exploration activities: Level A and B mineral exploration activities, including associated access ways;
  - (12) Natural resource extraction: Mineral extraction operations, less than 5 acres in size;
  - (13) Road projects: Level A and B road projects;
  - (14) Service drops;
  - (15) Signs;
  - (16) Trailered ramps: Public trailered ramps;
  - (17) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
  - (18) Water crossings of minor flowing waters.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-RB subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 and Management Class 5 lakes, subject to the applicable requirements of Section ~~10.25,A,2,10.21,J,3,g, h and i below~~:

- (1) Campsites, Residential;
- (2) Commercial and industrial:
  - (a) Aroostook County: Rural Businesses in conformance with the requirements of Section 10.27,R:
    - i. Category 1; and
    - ii. Category 2, within one quarter mile of a public road in Category 2 & 3 townships, plantations and towns, or in accordance with Section 10.21,J,2,b(2);
  - (b) Washington County: Rural Businesses in conformance with the requirements of Section 10.27,R:
    - i. Category 1; and
    - ii. Category 2, within one quarter mile of a public road listed in Section 10.21,J,2,b,(1),(b), or in accordance with Section 10.21,J,2,b,(2);
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those described in Section 10.21,J,3,b, above, which are 1 acre or more in size, or such ponds less than 1 acre which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Draining, dredging, and alteration of the water table or water level for other than mineral extraction;
- (5) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (6) Family burying grounds of not more than ~~1/4-one-quarter~~ acre, in accordance with 13 M.R.S. §1142;
- (7) Filling and grading which is not in conformance with the standards of Section 10.27,F;

- (8) Hand-carry launches: Private hand-carry launches and hand-carry launches addressed in Section 10.21,J,3,b which are not in conformance with the standards of Section 10.27,L;
- (9) Home-based businesses: Major home-based businesses, except in the townships or plantations listed in Section 10.21,J,3,d;
- (10) Maple sugar processing operations;
- (11) Metallic mineral mining activities: Tier one advanced exploration;
- (12) Mineral exploration activities: Level A and B mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C;
- (13) Natural resource extraction: Mineral extraction operations:
  - (a) affecting an area less than 5 acres in size and which are not in conformance with the standards of Section 10.27,C;
  - (b) affecting an area between 5 and 30 acres provided the unreclaimed area is less than 15 acres; and
  - (c) structures essential to the extraction activity having a total gross floor area of no more than 2,000 square feet;
- (14) Peat extraction affecting an area less than 30 acres in size;
- (15) Portable mineral processing equipment;
- (16) Recreational lodging facilities:
  - (a) Level A;
  - (b) Level B;
  - (c) Level C; and
  - (d) Level D (inside the geographic allowance area);
- (17) Road projects: Level C road projects;
- (18) Sawmills and chipping mills on sites of less than 5 acres;
- (19) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (20) Signs which are not in conformance with the standards of Section 10.27,J;
- (21) Solid waste disposal facilities affecting an area less than 2 acres in size;
- (22) Structures: Non-commercial structures utilized for educational, scientific, or nature observation purposes; structures devoted to composting of sludge, septage or other residuals affecting an area less than 5 acres in size; and structures devoted to the storage of sand or salt;
- (23) Subdivisions: Commercial and industrial subdivisions for rural businesses within Bancroft Twp., Benedicta Twp., Cary Plt., Connor Twp., Cross Lake Twp., Cyr Plt., E Twp., Garfield Plt., Hamlin, Hammond, Macwahoc Plt., Madawaska Lake Twp., Molunkus Twp., Moro Plt., Nashville Plt., Oxbow Plt., Reed Plt., Silver Ridge Twp., St. John Plt., T15 R6 WELS, T17 R4 WELS, and Winterville Plt.;
- (24) Timber harvesting;
- (25) Trailered ramps: Commercial trailered ramps and trailered ramps addressed in Section 10.21,J,3,b which are not in conformance with the standards of Section 10.27,L;
- (26) Utility facilities, excluding service drops; and wire and ~~pipe line~~ pipeline extensions which do not meet the definition of service drops;
- (27) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (28) Water impoundments;
- (29) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A);

and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;

- (30) Other structures, uses, or services that are essential to the uses listed in Section 10.21,J,3,a through c; and
- (31) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within ~~the~~ D-RB subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), ~~the criteria of Section 10.24,B,3,~~ and subject to the applicable requirements set forth in Sub-Chapter III, ~~provided that the applicant shows by substantial evidence that such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (1) Subdivisions: Maple Sugar Processing Subdivisions;

~~The following uses, and related accessory structures, may be allowed within D-RB subdistricts as special exceptions within the D-RB subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Sections 10.24,B,2 through 4, and subject to the applicable requirements set forth in Sub-Chapter III: The following uses may be allowed as special exceptions, either singly or in combination, provided the applicant shows by substantial evidence, that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan; (c) that there is sufficient infrastructure to accommodate the additional traffic and activity generated by the facility; and (d) that surrounding resources and uses that may be sensitive to such increased traffic and activity are adequately protected:~~

- (2) Commercial and industrial:
  - (a) Aroostook County: Rural Businesses in conformance with the requirements of Section 10.27,R:
    - (i) Category 3, within one half mile of a public road in Category 2 & 3 townships, plantations and towns, or in accordance with Section 10.21,J,2,b(2);
  - (b) Washington County: Rural Businesses in conformance with the requirements of Section 10.27,R:
    - (i) Category 3, within one quarter mile of a public road listed in Section 10.21,J,2,b,(1),(b), or in accordance with Section 10.21,J,2,b,(2);
- (3) Recreational lodging facilities:
  - (a) Level C (occupancy may exceed the standard in Section 10.27,Q,1, Table A up to the Expanded Access occupancy limit, provided that the majority of occupancy is accommodated at campsites);
  - (b) Level C – Expanded Access (inside the geographic allowance area); and
  - (c) Level D – Expanded Access (inside the geographic allowance area).

The following uses, and related accessory structures, may be allowed within D-RB subdistricts as special exceptions within the D-RB subdistrict upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Sections 10.24,B,1



~~through 4, and subject to the applicable requirements set forth in Sub-Chapter III; provided the applicant also shows by substantial evidence that there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant;~~

- (4) Docking structures: New or expanded permanent docking structures;
- (5) Trailered ramps: Private trailered ramps; and
- (6) Water-access ways, in accordance with Section 10.27,L.1.

The following uses, and related accessory structures, may be allowed as special exceptions within D-RB subdistrict upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Sections 10.24,B,2 through 5, and subject to the applicable requirements set forth in Sub-Chapter III;~~provided the applicant shows by substantial evidence, in addition to (a), (b), (c) and (d) above, and the provisions of Section 10.25,D,2, that (e) the project will not result in traffic safety or capacity deficiencies in the vicinity of the project site.~~

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

The following uses, and related accessory structures, may be allowed as special exceptions within D-RB subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Sections 10.24,B,1 through 5, and 7, and subject to the applicable requirements set forth in Sub-Chapter III;~~provided the applicant shows by substantial evidence that either: (a) the use is integral to the business; or (b) the use predates May 9, 2016.~~

- (8) Residential: Single family dwellings.

**e. Prohibited Uses**

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

**~~f. Water Quality Limiting Lakes~~**

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

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

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

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

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

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

~~limited to, the following information regarding the applicant's landownership on the lake:~~

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

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

- ~~**i. — Management Class 1 and 6 Lakes** (Least Accessible, Undeveloped High Value Lakes and Remote Ponds) as shown on the Commission's Land Use Guidance Maps. Areas around these lakes are not eligible for the D-RB subdistrict (see Section 10.21,J,2).~~

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**K. RESOURCE-DEPENDENT DEVELOPMENT SUBDISTRICT (D-RD)**

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**1. Purpose**

The purpose of the D-RD subdistrict is to allow for resource-dependent development in locations near natural resources that would not be suitable for other types of commercial development. Resource-dependent development may be located near raw materials to facilitate extraction, processing, or refinement to reduce bulk before transportation, or near recreational resources, provided development does not result in undue adverse impacts to existing uses or resources. The D-RD subdistrict is designed to allow for the location of recreation supply facilities, recreation day use facilities, grid-scale solar energy facilities; natural resource extraction, or natural resource processing facilities in areas that are distant from other development, but where the location of such a land use (i) will not unreasonably interfere with existing uses, such as forestry and agricultural activities, or with fish and wildlife habitat or other recreation opportunities, and (ii) will not substantially increase the demand for public services.

**2. Description**

The D-RD Subdistrict must include:

- a.** Areas the Commission determines meet the applicable criteria for redistricting to this subdistrict in Section 10.08, are generally suitable for the development activities proposed, and are proposed for one of the following land uses meeting the associated locational requirements:
  - (1) Natural resource extraction or natural resource processing, except that no area will be designated a D-RD subdistrict for either of these uses, other than gravel extraction, if the area is less than one-half mile from: (i) the normal high-water mark of any major water body or (ii) four or more dwellings within a 500-foot radius.
  - (2) Recreation day use facilities near a topographic feature or natural resource that is generally not found throughout the Commission's service area, and on which the facility depends, or within one-quarter mile of a publicly accessible water access point for a Management Class 4, 5, or 7 lake, and not within one-quarter mile of a Management Class 1 or Management Class 2 lake, and not within one-half mile of a Management Class 6 lake.
  - (3) Recreation supply facilities within one-quarter mile of trailheads serving permanent trails that support motorized vehicle, nonmotorized vehicle, or equestrian use; or within one-quarter mile of publicly accessible points of access to a body of standing water greater than ten acres in size, and not within one-quarter mile of Management Class 1, or Management Class 2 lakes, and not within one-half mile of Management Class 6 lakes.
  - (4) Grid-scale solar energy facilities in an area:
    - (i) accessible from a public road by a legal right of access satisfying Section 10.08-A,E;
    - (ii) located a reasonable distance from emergency service providers to allow for adequate response in the event of an emergency; and

- (iii) within one mile of the proposed point of interconnection with the existing transmission grid if no other area suitable for the facility and closer to a point of interconnection is reasonably available to the petitioner seeking to establish a D-RD subdistrict, unless the petitioner demonstrates that redistricting an area no more than three miles from the point of interconnection would result in a project location that is compatible with current land uses and does not expand the pattern of development beyond already developed areas.

- b. Reversion of Subdistrict.** Once a D-RD subdistrict is no longer used for the land use for which it was created, the subdistrict ~~shall~~**must** automatically revert to the prior subdistrict(s), unless otherwise rezoned in conformance with 12 M.R.S. §685-A(8-A) and the Commission's rules.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses are allowed without a permit from the Commission within D-RD subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Land application of septage, sludge and other residuals, and related storage and composting activities in compliance with regulations promulgated by the Maine Department of Environmental Protection under 38 M.R.S. §13: Maine Hazardous Waste, Septage and Solid Waste Management Act;
- (5) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (6) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (7) Surveying and other resource analysis;
- (8) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (9) Wildlife and fishery management practices.

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

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

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two-year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural activities: Agricultural management activities;
- (3) Campsites;
- (4) Checkpoint buildings;

- (5) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those described in Section 10.21,K,3,b above, less than 1 acre in size that are not fed or drained by flowing waters, in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (6) Driveways associated with residential uses;
- (7) Filling and grading;
- (8) Forest management activities, except for timber harvesting, involving the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for forest management activities;
- (9) Hand-carry launches: Commercial and public hand-carry launches;
- (10) Land management roads;
- (11) Mineral exploration activities: Level A and Level B mineral exploration activities, excluding associated access ways;
- (12) Natural resource extraction: Mineral extraction operations, less than 5 acres in size;
- (13) Road projects: Level A and B road projects;
- (14) Service drops;
- (15) Signs;
- (16) Timber harvesting;
- (17) Trailered ramps: Public trailered ramps;
- (18) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (19) Water crossings of minor flowing waters.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-RD subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, subject to the applicable requirements set forth in Sub-Chapter III, and, if within 250 feet of Management Class 4 lakes, subject to the applicable requirements of Section [10.25,A,210.21,K,3,g](#):

- (1) Agricultural activities: Agricultural management activities that are not in conformance with the standards of Section 10.27,A;
- (2) Campsites, Residential;
- (3) Commercial and industrial:
  - (a) Natural resource processing facilities that may involve structural development, in conformance with the requirements of Section 10.27,S;
  - (b) Recreation day use facilities that may involve structural development; and
  - (c) Recreation supply facilities that may involve structural development;
- (4) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those described in Section 10.21,K,3,b, above, that are 1 acre or more in size, or such ponds less than 1 acre that are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (5) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (6) Filling and grading that is not in conformance with the standards of Section 10.27,F;
- (7) Hand-carry launches: Private hand-carry launches and hand-carry launches addressed in Section 10.21,K,3,b that are not in conformance with the standards of Section 10.27,L;

- (8) Land management roads which are not in conformance with the standards of Section 10.21,K,3,b;
- (9) Maple sugar processing operations;
- (10) Metallic mineral mining activities: Tier one advanced exploration;
- (11) Mineral exploration activities: Access ways for Level A and Level B mineral exploration activities, and Level A and Level B mineral exploration activities that are not in conformance with the standards of Section 10.27,C;
- (12) Natural resource extraction, other than those described in Section 10.21,K,3,b;
- (13) Portable mineral processing;
- (14) Road projects: Level C road projects;
- (15) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (16) Signs that are not in conformance with the standards of Section 10.27,J;
- (17) Solar energy generation facility: grid-scale solar energy generation facility not located on soils recognized by the U.S. Department of Agriculture as prime farmland soils;
- (18) Structures: Non-commercial structures utilized for educational, scientific, or nature observation purposes; structures devoted to composting of sludge, septage or other residuals affecting an area less than 5 acres in size; and structures devoted to the storage of sand or salt;
- (19) Subdivisions:
  - (a) Commercial and industrial subdivisions for uses allowed in this subdistrict; and
  - (b) Maple sugar processing subdivisions;
- (20) Timber harvesting which is not in conformance with the standards of Section 10.21,K,3,b;
- (21) Trailered ramps: Commercial trailered ramps and trailered ramps addressed in Section 10.21,K,3,b that are not in conformance with the standards of Section 10.27,L;
- (22) Utility facilities, excluding service drops; and wire and ~~pipe line~~pipeline extensions that do not meet the definition of service drops;
- (23) Water crossings of minor flowing waters that are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (24) Water impoundments;
- (25) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. §682(19); offshore wind power projects, as defined in 38 M.R.S. §480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (26) Other structures, uses, or services that are essential to the uses listed in Section 10.21,K,3,a through c; and
- (27) Other structures, uses, or services that the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within D-RD subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Section 10.24,B,9, and subject to the applicable requirements set forth in Sub-Chapter III:~~and subject to the applicable requirements set forth~~

~~in Sub Chapter III, provided that the applicant shows by substantial evidence that (a) upon decommissioning of the facility all structures and materials associated with the development will be removed, and affected soils will be replaced or restored to a state such that they could be utilized for active agricultural production; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (1) Solar energy generation facility: grid-scale solar energy generation facility located on soils recognized by the U.S. Department of Agriculture as prime agricultural soils.

**e. Prohibited Uses**

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

**~~f. Water Quality Limiting Lakes~~**

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

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

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

- ~~(1) With respect to recreation day use or recreation supply facilities, require the applicant to indicate future plans for other undeveloped shorelands on the lake that are owned by the applicant. Such indication of future plans shall address, at a minimum, the next 10 years, and shall include, but not be limited to, the following information regarding the applicant's landownership on the lake:
 
  - ~~(a) area and shoreline length;~~
  - ~~(b) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and~~
  - ~~(c) development proposed or anticipated, if any.~~~~

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

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## L. RECREATION FACILITY DEVELOPMENT SUBDISTRICT (D-RF)

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### 1. Purpose

The purpose of the D-RF subdistrict is to allow for development of moderate intensity recreation facilities in locations that would not be suitable for other types of commercial development. Moderate intensity recreation facilities often rely on, and are compatible with, settings which are distant from existing patterns of development, but are relatively accessible to visitors. Such development may be appropriate in locations that provide access to recreational opportunities that are not overly sensitive to increased public use but are not present in developed areas. The D-RF Subdistrict is designed to allow for the location of moderate intensity recreation facilities in areas that are distant from other development, but where the location of such a facility would not unreasonably interfere with existing uses such as forestry and agriculture activities, fish and wildlife habitat or other recreation opportunities; and will not substantially increase the demand for public services in areas that are distant from existing patterns of development.

### 2. Description

The D-RF subdistrict ~~shall~~must include:

Areas that contain existing recreation facilities that meet the purpose and other provisions of the Subdistrict; and

Areas which are proposed for development activities which are consistent with the purposes of this subdistrict; meet the criteria for redistricting to this subdistrict, pursuant to Section 10.08 hereof; and are suitable for the development activities proposed when measured against the standards of 12 M.R.S. § 685-B(4) and the Commission's Rules and Regulations relating thereto.

Areas within ~~¼-one-quarter~~ mile of Management Class 1 lakes or within ~~½-one-half~~ mile of Management Class 6 lakes ~~shall~~must not be included as within the D-RF Subdistrict.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses are allowed without a permit from the Commission within D-RF subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.



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

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

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two-year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural activities: Agricultural management activities;
- (3) Campsites;
- (4) Constructed ponds: Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (5) Filling and grading;
- (6) Hand-carry launches: Commercial and public hand-carry launches except on Management Class 1 and 2 lakes;
- (7) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (8) Road projects: Level A road projects;
- (9) Service drops;
- (10) Signs;
- (11) Trailered ramps: Public trailered ramps except on Management Class 1 and 2 lakes;
- (12) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water;
- (13) Water crossings of minor flowing waters; and
- (14) Water-dependent structures for recreational lodging facilities in conformance with Section 10.27,Q,7.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-RF subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 lakes, subject to the applicable requirements of Section [10.25.A,210.21,L,3,g and h below](#):

- (1) Agricultural activities: Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,L,2,a;
- (3) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;
- (4) Driveways associated with non-residential uses;
- (5) Filling and grading which is not in conformance with the standards of Section 10.27,F;

- (6) Hand-carry launches: Private hand-carry launches and hand-carry launches addressed in Section 10.21,L,3,b which are not in conformance with the standards of Section 10.27,L;
- (7) Land management roads;
- (8) Mineral exploration activities: Access ways for Level A mineral exploration activities, Level A mineral exploration activities which are not in conformance with the standards for such activities in Section 10.27,C;
- (9) Recreational lodging facilities:
  - (a) Level A;
  - (b) Level B;
  - (c) Level C; and
  - (d) Level D;
- (10) Road projects: Level B and C road projects, except for water crossings as provided for in Section 10.21,L,3,b;
- (11) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (12) Signs which are not in conformance with the standards of Section 10.27,J;
- (13) Subdivisions: Commercial and industrial subdivisions for uses allowed in this subdistrict;
- (14) Timber harvesting;
- (15) Trailered ramps addressed in Section 10.21,L,3,b which are not in conformance with the standards of Section 10.27,L;
- (16) Utility facilities compatible with recreational uses, other than service drops, and wire and ~~pipe line~~pipeline extensions which do not meet the definition of service drops;
- (17) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (18) Water impoundments;
- (19) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (20) Other structures, uses or services that are essential to the uses listed in Section 10.21,L,3,a through c; and
- (21) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within D-RF subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Sections 10.24,B,2 through 4, and subject to the applicable requirements set forth in Sub-Chapter III; ~~either singly or in combination, provided the applicant shows by substantial evidence, that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan; (c) that there is sufficient infrastructure to accommodate the additional traffic and activity generated by the facility; and (d) that~~

~~surrounding resources and uses that may be sensitive to such increased traffic and activity are adequately protected:~~

- (1) Commercial: Recreation supply facilities that are not within one-quarter mile of Management Class 1, or Management Class 2 lakes, and not within one-half mile of Management Class 6 lakes;
- (2) Recreational lodging facilities:
  - (a) Level C – Expanded Access; and
  - (b) Level D – Expanded Access;

The following uses, and related accessory structures, may be allowed within D-RF subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Sections 10.24,B,1 through 4, and subject to the applicable requirements set forth in Sub-Chapter III;~~provided the applicant in addition to (a) through (d) above, shows by substantial evidence that there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant:~~

- (3) Docking structures: New or expanded permanent docking structures;
- (4) Hand-carry launches: Commercial and public hand-carry launches on Management Class 1 and 2 lakes;
- (5) Marinas;
- (6) Trailered ramps: Commercial and private trailered ramps and public trailered ramps on Management Class 1 and 2 lakes; and
- (7) Water-access ways, in accordance with Section 10.27,L,1.

**e. Prohibited Uses**

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

**~~f. Water Quality Limiting Lakes~~**

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

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

~~With respect to proposals for development units within 500 feet of the normal high water mark of Management Class 2 Lakes, the Commission will require an average density per landownership of no more than one development unit per shore mile as provided for in Section 10.23,A,3.~~

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

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

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

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

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

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

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**M. RESIDENTIAL DEVELOPMENT SUBDISTRICT (D-RS)**

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**1. Purpose**

The purpose of the D-RS subdistrict is to set aside certain areas for residential and other appropriate uses so as to provide for residential activities apart from areas of commercial development. The intention is to encourage the concentration of residential type development in locations where public services may be provided efficiently or where residential development can be integrated with a recreational resource that is suitable for additional use associated with proximate residential development.

**2. Description**

The D-RS subdistrict ~~shall~~must include:

- a.** Areas with the following existing patterns of intensive residential development:
- (1) Areas where four or more single family dwelling units exist within a 500 foot radius; or
  - (2) Recorded and legally existing single family residential subdivisions, including mobile home parks, having 4 or more lots; or
  - (3) Areas surrounding those described in Section 10.21,M,2,a,(1) or (2) above which contain neighborhood or associated uses that primarily serve such residences. Such areas may include, without limitation, residential accessory buildings, neighborhood parks and public open spaces, schools, day nurseries, places of worship, cemeteries, but ~~shall~~must not include industrial uses.

The designated D-RS subdistrict boundaries ~~shall~~must include all single family dwelling units and accessory buildings and uses, paved areas and areas directly related to, and necessary for, the conduct of those activities associated with the above described single family dwelling units, as well as other intervening areas between such buildings, paved surfaces and areas. Furthermore, in the case of recorded and legally existing single family residential subdivisions, the D-RS subdistrict boundaries ~~shall~~must encompass the entire subdivision.

- b.** Areas which the Commission determines both meet the criteria for redistricting to this subdistrict, pursuant to Section 10.08 hereof, are proposed for development which is consistent with the purposes of this subdistrict, and are suitable for the development activities proposed when measured against the standards of 12 M.R.S. §685-B(4) and the Commission's Rules and Regulations relating thereto.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses are allowed without a permit from the Commission within D-RS subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, wildlife study and photography, wild crop harvesting, horseback riding, tent and shelter camping, canoe portaging, cross country skiing and snowshoeing, excluding hunting and trapping;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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

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

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two-year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural activities: Agricultural management activities;
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Driveways associated with residential uses;
- (5) Filling and grading;
- (6) Hand-carry launches: Public hand-carry launches except on Management Class 1 and 2 lakes;
- (7) Home-based businesses: Minor home-based businesses;
- (8) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (9) Road projects: Level A road projects;
- (10) Service drops;
- (11) Signs;
- (12) Trailered ramps: Public trailered ramps except on Management Class 1 and 2 lakes;
- (13) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (14) Water crossings of minor flowing waters.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-RS subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, subject to the applicable requirements set forth in Sub-Chapter III, and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 lakes, subject to the applicable requirements of Section ~~10.25.A,2~~~~10.21,M,3,g~~ and ~~h~~ below:

- (1) Agricultural activities: Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Campsites;
- (3) Campsites, Residential;
- (4) Cemeteries, and family burying grounds in accordance with 13 M.R.S. §1142;
- (5) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (6) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;
- (7) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (8) Filling and grading which is not in conformance with the standards of Section 10.27,F;
- (9) Hand-carry launches: Hand-carry launches addressed in Section 10.21,M,3,b which are not in conformance with the standards of Section 10.27,L;
- (10) Home-based businesses: Major home-based businesses;
- (11) Land management roads;
- (12) Mineral exploration activities: Access ways for Level A mineral exploration activities; Level A mineral exploration activities which are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;
- (13) Public and Institutional: Places of worship, public, private and parochial schools, day nurseries, and public parks and recreation areas;
- (14) Residential: Single and two-family dwellings;
- (15) Road projects: Level B and C road projects, except for water crossings as provided for in Section 10.21,M,3,b;
- (16) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (17) Signs which are not in conformance with the standards of Section 10.27,J;
- (18) Subdivisions, Residential:
  - (a) Moderate-density subdivisions; and
  - (b) High-density subdivisions in primary and secondary locations, or within applicable concept plan areas;
- (19) Timber harvesting;
- (20) Trailered ramps: Trailered ramps addressed in Section 10.21,M,3,b which are not in conformance with the standards of Section 10.27,L;
- (21) Utility facilities compatible with residential uses other than service drops; and wire and ~~pipe line~~~~pipeline~~ extensions which do not meet the definition of service drops;
- (22) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (23) Water impoundments;

- (24) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. §682(19); offshore wind power projects, as defined in 38 M.R.S. §480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (25) Other structures, uses or services that are essential to the uses listed in Section 10.21,M,3,a through c; and
- (26) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within D-RS subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), ~~the criteria of Sections 10.24,B,1, and subject to the applicable requirements set forth in Sub-Chapter III; and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those uses within the vicinity or area likely to be affected by the proposal with which it is or may be incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan;~~

- (1) Docking structures: New or expanded permanent docking structures;
- (2) Hand-carry launches: Public hand-carry launches on Management Class 1 and 2 lakes;
- (3) Marinas;
- (4) Residential: Multi-family dwellings;
- (5) Trailered ramps:
  - (a) Commercial ~~trailer~~ trailered ramps; ~~and~~
  - (b) ~~p~~Private trailered ramps, in accordance with Section 10.27,L,1, and
  - ~~(c)~~ (c) ~~p~~Public trailered ramps on Management Class 1 and 2 lakes; and
- ~~(5)~~(6) Water-access ways, in accordance with Section 10.27,L,1.

**e. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, are prohibited in D-RS subdistricts.

**~~f. Water Quality Limiting Lakes~~**

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

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

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

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



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

- ~~(1) — With respect to subdivisions and commercial and other non-residential structures, require the applicant to indicate future plans for other undeveloped shorelands on the lake that are owned by the applicant. Such indication of future plans shall address, at a minimum, the next 10 years, and shall include, but not be limited to, the following information regarding the applicant's landownership on the lake:~~
- ~~(a) — area and shoreline length;~~
  - ~~(b) — potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and~~
  - ~~(c) — development proposed or anticipated, if any.~~

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

## N. COMMUNITY RESIDENTIAL DEVELOPMENT SUBDISTRICT (D-RS2)

### 1. Purpose

The purpose of the D-RS2 subdistrict is to designate residential areas that can accommodate an appropriate range of low-impact commercial and public uses that are compatible with residential uses. This subdistrict seeks to promote residential living and thriving neighborhoods with a limited range of services.

### 2. Description

The D-RS2 subdistrict ~~shall~~**must** be located adjacent to a D-GN2 subdistrict in order to limit the fiscal and visual impacts of sprawling development. Adjacent is interpreted as within a distance of one road mile. This subdistrict is similar to the D-RS subdistrict but it allows for commercial development such as bed and breakfasts, health care facilities, and golf courses.

This subdistrict will be applied only in communities located in the fringe of the Commission's jurisdiction as defined in the Comprehensive Land Use Plan, and in areas appropriate as centers of growth after a prospective planning process has been undertaken by the Commission.

The Commission ~~shall~~**must**, using Section 10.08 of these rules, designate areas for this subdistrict that are consistent with its purpose and suitable for supporting development when measured against the standards of 12 M.R.S. § 685-B(4) and the Commission's rules and regulations.

### 3. Land Uses

The provisions of the D-RS2 subdistrict will not apply to any applications that have been received and deemed complete for processing by the Commission staff on or before January 1, 2001.

#### a. Uses Allowed Without a Permit

The following uses are allowed without a permit from the Commission within D-RS2 subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, wildlife study and photography, wild crop harvesting, horseback riding, tent and shelter camping, canoe portaging, cross country skiing and snowshoeing, excluding hunting and trapping;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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

The following uses are allowed without a permit from the Commission within D-RS2 subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a ~~two-year~~<sup>two (2) year</sup> period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural activities: Agricultural management activities;
- (3) Constructed ponds: Creation, alteration, or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Driveways associated with residential uses;
- (5) Filling and grading;
- (6) Hand-carry launches: Public hand-carry launches;
- (7) Home-based businesses: Minor home-based businesses;
- (8) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (9) Road projects: Level A road projects;
- (10) Service drops;
- (11) Signs;
- (12) Trailered ramps: Public trailered ramps;
- (13) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (14) Water crossings of minor flowing waters.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-RS2 subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 and Management Class 5 lakes, subject to the applicable requirements of Section ~~10.25,A,2~~<sup>10.21,N,3,g, h and i</sup> below:

- (1) Agricultural activities: Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Bed and breakfast facilities;
- (3) Campsites;
- (4) Campsites, Residential;
- (5) Cemeteries, and family burying grounds in accordance with 13 M.R.S. § 1142;
- (6) Community living facilities;
- (7) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;

- (8) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;
- (9) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (10) Filling and grading which is not in conformance with the standards of Section 10.27,F;
- (11) Hand-carry launches: Hand-carry launches addressed in Section 10.21,N,3,b which are not in conformance with the standards of Section 10.27,L;
- (12) Home-based businesses: Major home-based businesses;
- (13) Land management roads;
- (14) Mineral exploration activities: Access ways for Level A mineral exploration activities; Level A mineral exploration activities which are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;
- (15) Public and Institutional: Places of worship and other religious institutions; public, private and parochial day schools; non-profit children's day care facilities; local parks and local public recreation areas;
- (16) Residential: Single and two-family dwellings;
- (17) Road projects: Level B and C road projects, except for water crossings as provided for in Section 10.21,N,3,b;
- (18) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (19) Signs which are not in conformance with the standards of Section 10.27,J;
- (20) Subdivisions, Residential: High- and moderate-density subdivisions;
- (21) Timber harvesting;
- (22) Trailered ramps: Trailered ramps addressed in Section 10.21,N,3,b which are not in conformance with the standards of Section 10.27,L;
- (23) Utility facilities compatible with residential uses other than service drops; and wire and ~~pipe line~~ pipeline extensions which do not meet the definition of service drops;
- (24) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (25) Water impoundments;
- (26) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682 (19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (27) Other structures, uses or services that are essential to the uses listed in Section 10.21,N,3,a through c; and
- (28) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed uses.

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

The following uses, and related accessory structures, may be allowed within D-RS2 subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), ~~and the criteria of Sections 10.24,B,1 through 3~~, subject to the applicable requirements set forth in Sub-Chapter III, ~~and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 and Management Class 5 lakes, subject to the applicable requirements of Section 10.25,A,2; provided that the~~

~~applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those uses within the vicinity or area likely to be affected by the proposal with which it is or may be incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (1) Docking structures: New or expanded permanent docking structures;
- (2) Golf courses: Private and public golf courses;
- (3) Health care facilities up to 4,000 square feet of gross floor area;
- (4) Marinas;
- (5) Post offices up to 1,250 square feet of gross floor area;
- (6) Residential: Three and four unit multi-family dwellings;
- ~~(7)~~ Trailered ramps:

~~(a)~~ Commercial trailered ramps; and

~~(a)(b)~~ Private trailered ramps, in accordance with Section 10.27,L,1; and

~~(7)(8)~~ Water-access ways, in accordance with Section 10.27,L,1.

#### **e. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, are prohibited in D-RS2 subdistricts.

#### **f. ~~Water Quality Limiting Lakes~~**

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

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

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

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

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

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

~~(a) area and shoreline length;~~

~~(b) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and~~

~~(c) development proposed or anticipated, if any.~~

~~This indication of future plans shall must be considered part of the proposal.~~

~~Therefore, changes in such plans, evidenced by a development proposal not included~~

~~in the description of future plans, will require approval of an application to amend the original proposal in which these future plans were indicated.~~

~~(2) With respect to subdivision proposals, require cluster developments which meet the requirements of Section 10.25,Q,4,b.~~

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

~~With respect to subdivision proposals within 250 feet of Management Class 5 lakes, the Commission will require cluster developments which meet the requirements of Section 10.25,Q,4,b.~~

## O. RESIDENTIAL RECREATION DEVELOPMENT SUBDISTRICT (D-RS3)

### 1. Purpose

The purpose of the D-RS3 subdistrict is to accommodate seasonal and year-round recreational development in high value resource areas without compromising the recreational setting. This subdistrict allows a restricted range of allowed uses in order to ensure attractive residential recreational opportunities.

### 2. Description

The D-RS3 subdistrict ~~shall~~**must** be applied only in high natural resource value areas appropriate for residential or closely related uses in a community and ~~shall~~**must** be applied after a prospective planning process has been undertaken by the Commission. The D-RS3 subdistrict ~~shall~~**must** be located in areas that are inappropriate for intensive mixed development.

The D-RS3 subdistrict area will be located along or near the shorelines of Management Class 3, 4, 5, or 7 lakes or in other high value natural resource areas designated for growth by the Commission or zoned D-RS before January 1, 2001. The D-RS3 subdistrict will not be located in relatively remote or lightly settled areas of the jurisdiction.

Using Section 10.08 of these rules, the Commission ~~shall~~**must** designate areas for this subdistrict that are consistent with its purpose and suitable for supporting development when measured against the standards of 12 M.R.S. § 685-B(4) and the Commission's rules and regulations.

### 3. Land Uses

The provisions of the D-RS3 subdistrict will not apply to any applications that have been received and deemed complete for processing by the Commission staff on or before January 1, 2001.

#### a. Uses Allowed Without a Permit

The following uses are allowed without a permit from the Commission within D-RS3 subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, wildlife study and photography, wild crop harvesting, horseback riding, tent and shelter camping, canoe portaging, cross country skiing and snowshoeing, excluding hunting and trapping;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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

The following uses are allowed without a permit from the Commission within D-RS3 subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a ~~two-year~~<sup>two (2) year</sup> period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural activities: Agricultural management activities;
- (3) Constructed ponds: Creation, alteration, or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Driveways associated with residential uses;
- (5) Filling and grading;
- (6) Hand-carry launches: Public hand-carry launches;
- (7) Home-based businesses: Minor home-based businesses, provided that any tractor truck, semitrailer or heavy equipment allowed with this use is completely buffered from view from adjacent properties, roads, and water bodies, or is completely enclosed in an accessory structure;
- (8) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (9) Road projects: Level A road projects;
- (10) Service drops;
- (11) Signs;
- (12) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (13) Water crossings of minor flowing waters.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-RS3 subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 and Management Class 5 lakes, subject to the applicable requirements of Section ~~10.25,A,2~~<sup>10.21,O,3,g, h and i</sup> below:

- (1) Agricultural activities: Agricultural management activities which are not in conformance with standards of Section 10.27,A;
- (2) Campsites;
- (3) Campsites, Residential;
- (4) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;



- (5) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;
- (6) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (7) Filling and grading which are not in conformance with the standards of Section 10.27,F;
- (8) Hand-carry launches: Hand-carry launches addressed in Section 10.21,O,3,b which are not in conformance with the standards of Section 10.27,L;
- (9) Land management roads;
- (10) Mineral exploration activities: Access ways for Level A mineral exploration activities; Level A mineral exploration activities which are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;
- (11) Public and institutional: Local public parks and local public recreation areas;
- (12) Residential: Single family dwellings;
- (13) Road projects: Level B and C road projects, except for water crossings as provided for in Section 10.21,O,3,b;
- (14) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (15) Signs which are not in conformance with the standards of Section 10.27,J;
- (16) Subdivisions, Residential: High- and moderate-density subdivisions;
- (17) Timber harvesting;
- (18) Utility facilities compatible with residential uses other than service drops; and wire and ~~pipe line~~ pipeline extensions which do not meet the definition of service drops;
- (19) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (20) Water impoundments;
- (21) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. §682(19); offshore wind power projects, as defined in 38 M.R.S. §480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (22) Other structures, uses or services that are essential to the uses listed in Section 10.21,O,3,a through c; and
- (23) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed uses.

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

The following uses, and related accessory structures, may be allowed within D-RS3 subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Sections 10.24,B,1 through 3, and subject to the applicable requirements set forth in Sub-Chapter III, and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 and Management Class 5 lakes, subject to the applicable requirements of Section 10.25,A,2; provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those uses within the vicinity or area likely to be affected by the proposal with which it is or may be incompatible; and (c) such other conditions are met that the

~~Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (1) Docking structures: New or expanded permanent docking structures;
- (2) Trailered ramps: Private trailered ramps, in accordance with Section 10.27,L,1; and
- (3) Water-access ways associated with residential level 1 subdivisions, in accordance with Section 10.27,L,1.

**e. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, are prohibited in D-RS3 subdistricts.

**f. ~~Water Quality Limiting Lakes~~**

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

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

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

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

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

- (1) ~~With respect to subdivisions and commercial and other non residential structures, require the applicant to indicate future plans for other undeveloped shorelands on the lake that are owned by the applicant. Such indication of future plans shall address, at a minimum, the next 10 years, and shall include, but not be limited to, the following information regarding the applicant's landownership on the lake:~~
  - (a) ~~area and shoreline length;~~
  - (b) ~~potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and~~
  - (c) ~~development proposed or anticipated, if any.~~

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

- (2) ~~With respect to subdivision proposals, require cluster developments which meet the requirements of Section 10.25,Q,4,b.~~

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

~~With respect to subdivision proposals within 250 feet of Management Class 5 lakes, the Commission will require cluster developments which meet the requirements of Section 10.25,Q,4,b.~~

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## 10.22 MANAGEMENT SUBDISTRICTS

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

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### A. GENERAL MANAGEMENT SUBDISTRICT (M-GN)

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#### 1. Purpose

The purpose of the M-GN subdistrict is to permit forestry and agricultural management activities to occur with minimal interferences from unrelated development in areas where the Commission finds that the resource protection afforded by protection subdistricts is not required.

#### 2. Description

These are areas which are appropriate for forest or agricultural management activities and that do not require the special protection afforded by the protection subdistricts or the M-NC or M-HP subdistricts. Also included within M-GN subdistricts ~~shall~~must be areas which do not qualify for inclusion in any other subdistrict.

#### 3. Land Uses

##### a. Uses Allowed Without a Permit

The following uses are allowed without a permit from the Commission within M-GN subdistricts:

- (1) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (2) Forest management activities, except for timber harvesting<sup>3</sup>;
- (3) Land application of septage, sludge and other residuals, and related storage and composting activities in compliance with regulations promulgated by the Maine Department of Environmental Protection under 38 M.R.S. § 13: Maine Hazardous Waste, Septage and Solid Waste Management Act;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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<sup>3</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection "e. Uses Regulated by the Maine Forest Service."

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

The following uses are allowed without a permit from the Commission within M-GN subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two-year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural activities:
  - (a) Agricultural management activities, including cranberry cultivation; the construction, alteration or maintenance of farm or livestock ponds which are not fed or drained by a flowing water; and the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for agricultural management activities; and
  - (b) Small-scale agritourism;
- (3) Campsites;
- (4) Checkpoint buildings;
- (5) Commercial: Natural resource processing facilities that do not involve structural development, in conformance with the requirements of Section 10.27,S;
- (6) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those described in Section 10.22,A,3,b,(2) above, less than 1 acre in size which are not fed or drained by flowing waters, in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (7) Driveways associated with residential uses;
- (8) Filling and grading;
- (9) Forest management activities, except for timber harvesting<sup>4</sup>, involving the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for forest management activities;
- (10) Hand-carry launches: Parking areas, roads, signs and similar facilities associated with private and commercial hand-carry launches;
- (11) Home-based businesses: Minor home-based businesses;
- (12) Mineral exploration activities: Level A and B mineral exploration activities, including associated access ways;
- (13) Natural resource extraction: Mineral extraction operations, less than 5 acres in size, except for gravel extraction less than 5 acres in size;
- (14) Road projects: Level A and B road projects;
- (15) Service drops;
- (16) Signs;
- (17) Trailered ramps: Parking areas, roads, signs and similar facilities associated with public trailered ramps; and
- (18) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water.

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<sup>4</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within M-GN subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agricultural activities:
  - (a) Small-scale agricultural processing facilities;
  - (b) Small-scale agritourism not in conformance with the requirements for such activities in Section 10.27,A; and
  - (c) Medium-scale agritourism;
- (2) Campsites, Residential;
- (3) Commercial:
  - (a) Natural resource processing facilities that do not involve structural development, not in conformance with the requirements of Section 10.27,S;
  - (b) Natural resource processing facilities that may involve structural development, in conformance with the requirements of Section 10.27,S; and
  - (c) Recreation supply facilities that do not involve structural development and are not within one-quarter mile of Management Class 1, or Management Class 2 lakes, and not within one-half mile of Management Class 6 lakes;
- (4) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those described in Section 10.22,A,3,b, above, which are 1 acre or more in size, or such ponds less than 1 acre which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (5) Draining, dredging, and alteration of the water table or water level for other than mineral extraction;
- (6) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (7) Family burying grounds of not more than ~~¼~~one-quarter acre, in accordance with 13 M.R.S. § 1142;
- (8) Filling and grading which is not in conformance with the standards of Section 10.27,F;
- (9) Home-based businesses: Major home-based businesses, except in the townships or plantations listed in Section 10.22,A,3,d;
- (10) Maple sugar processing operations;
- (11) Metallic mineral mining activities: Tier one advanced exploration;
- (12) Mineral exploration activities: Level A and B mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C;
- (13) Natural resource extraction: Mineral extraction operations, except for gravel extraction less than 5 acres in size,
  - (a) affecting an area less than 5 acres in size and which are not in conformance with the standards of Section 10.27,C;
  - (b) affecting an area between 5 and 30 acres provided the unreclaimed area is less than 15 acres; and
  - (c) structures essential to the extraction activity having a total gross floor area of no more than 2,000 square feet;
- (14) Peat extraction affecting an area less than 30 acres in size;
- (15) Portable mineral processing equipment;
- (16) Recreational lodging facilities:
  - (a) Level A;
  - (b) Level B;
  - (c) Level C; and

- (d) Level D (inside the geographic allowance area);
- (17) Residential: Single and two-family dwellings;
  - (18) Road projects: Level C road projects;
  - (19) Sawmills and chipping mills on sites of less than 5 acres;
  - (20) Signs which are not in conformance with the standards of Section 10.27,J;
  - (21) Solid waste disposal facilities affecting an area less than 2 acres in size;
  - (22) Structures: Non-commercial structures utilized for educational, scientific, or nature observation purposes; structures devoted to composting of sludge, septage or other residuals affecting an area less than 5 acres in size; and structures devoted to the storage of sand or salt;
  - (23) Subdivisions: General management subdivisions;
  - (24) Trailered ramps: Parking areas, roads, signs and similar facilities associated with commercial and private trailered ramps and such facilities addressed in Section 10.22,A,3,b which are not in conformance with the standards of Section 10.27,L;
  - (25) Truck and equipment storage;
  - (26) Utility facilities, excluding service drops; and wire and ~~pipe line~~pipeline extensions which do not meet the definition of service drops;
  - (27) Water impoundments;
  - (28) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
  - (29) Other structures, uses, or services that are essential to the uses listed in Section 10.22,A,3,a through c; and
  - (30) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within ~~the~~ M-GN subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Section 10.24,B,1, and subject to the applicable requirements set forth in Sub-Chapter III, ~~provided that the applicant shows by substantial evidence that there is no alternative site in a development subdistrict which is both suitable to the proposed use and reasonably available to the applicant:~~

- (1) Home-based businesses: Major home-based businesses in the following plantations:
  - Dallas Plantation,
  - Rangeley Plantation, and
  - Sandy River Plantation.

The following uses, and related accessory structures, may be allowed within M-GN subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Section 10.24,B,1 and 3, and subject to the applicable requirements set forth in Sub-Chapter III; ~~provided the applicant also shows by substantial evidence that such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (2) Subdivisions: Maple sugar processing subdivisions;

The following uses, and related accessory structures, may be allowed within M-GN subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Section 10.24,B,1 through 4, and subject to the applicable requirements set forth in Sub-Chapter III:~~The following uses may be allowed as special exceptions, either singly or in combination, provided the applicant shows by substantial evidence, that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan; (c) that there is sufficient infrastructure to accommodate the additional traffic and activity generated by the facility; and (d) that surrounding resources and uses that may be sensitive to such increased traffic and activity are adequately protected:~~

- (3) Recreational lodging facilities:
  - (a) Level C (occupancy may exceed the standard in Section 10.27,Q,1, Table A up to the Expanded Access occupancy limit, provided that the majority of occupancy is accommodated at campsites);
  - (b) Level C – Expanded Access (inside the geographic allowance area); and
  - (c) Level D – Expanded Access (inside the geographic allowance area);
- (4) Agricultural activities:
  - (a) Large-scale agricultural processing facilities; and
  - (b) Large-scale agritourism.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within M-GN subdistricts but are regulated by the Maine Forest Service.

- (1) Land management roads;
- (2) Natural resource extraction: Gravel extraction less than 5 acres in size; and
- (3) Timber harvesting.

**f. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, ~~shall~~must be prohibited in M-GN subdistricts.



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**B. HIGHLY PRODUCTIVE MANAGEMENT SUBDISTRICT (M-HP)**

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**1. Purpose**

The purpose of the M-HP subdistrict is to ensure the continued availability of products from high yield or high value forest and/or agricultural lands by reserving areas for these uses.

**2. Description**

Areas identified by the Commission, not including those in protection subdistricts or in existing patterns of development, that are identified as prime or unique forest or agricultural land of national, statewide or local importance. In selecting areas for designation in this subdistrict, the Commission ~~shall~~must consider the following:

- a. Prime or unique agricultural lands currently in use for food, fiber, feed, forage, and oil seed crops that are determined in accordance with rules and regulations hereinafter adopted by the Commission as amendments to these standards.
- b. Prime or unique forest lands currently held for commercial production of forest trees that are determined in accordance with the rules and regulations hereinafter adopted by the Commission as amendments to these standards.

**3. Land Uses****a. Uses Allowed Without a Permit**

The following uses ~~shall~~bear allowed without a permit from the Commission within M-HP subdistricts:

- (1) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (2) Forest management activities, except for timber harvesting<sup>5</sup>;
- (3) Land application of septage, sludge and other residuals, and related storage and composting activities in compliance with regulations promulgated by the Maine Department of Environmental Protection under 38 M.R.S. § 13: Maine Hazardous Waste, Septage and Solid Waste Management Act;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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<sup>5</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”

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

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

- (1) Agricultural activities: Agricultural management activities, including cranberry cultivation; the construction, alteration or maintenance of farm or livestock ponds which are not fed or drained by a flowing water; and the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for agricultural management activities;
- (2) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those described in Section 10.22,B,3,b,(1) above, less than 1 acre in size which are not fed or drained by flowing waters, in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (3) Filling and grading;
- (4) Forest management activities, except for timber harvesting<sup>6</sup>, involving the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for forest management activities;
- (5) Mineral exploration activities: Level A and B mineral exploration activities, including associated access ways;
- (6) Road projects: Level A road projects;
- (7) Service drops; and
- (8) Signs.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within M-HP subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Campsites;
- (2) Campsites, Residential;
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those in Section 10.22,B,3,b above, which are 1 acre or more in size, or such ponds less than 1 acre which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Driveways;
- (5) Home-based businesses;
- (6) Metallic mineral mining activities: Tier one advanced exploration;
- (7) Mineral exploration activities: Level A and B mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C;
- (8) Natural resource extraction: Mineral extraction operations for road purposes, except for gravel extraction for road purposes less than 5 acres in size;
- (9) Residential: Single-family dwellings;
- (10) Road projects: Level B road projects;
- (11) Signs which are not in conformance with the standards of Section 10.27,J;

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<sup>6</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”

- (12) Structures: Structures devoted to composting of sludge, septage or other residuals affecting an area less than 5 acres in size;
- (13) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (14) Other structures, uses, or services that are essential for the uses listed in Section 10.22,B,3,a through c; and
- (15) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within M-HP subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,1 through 3, and subject to the applicable requirements set forth in Sub-Chapter III:~~and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant, (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible, and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (1) Draining or altering the water table or water level for other than mineral extraction;
- (2) Filling and grading which is not in conformance with the standards of Section 10.27,F;
- (3) Road projects: Level C road projects;
- (4) Sawmills and chipping mills on sites of less than 2 acres;
- (5) Utility facilities excluding service drops; and
- (6) Water impoundments.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within M-HP subdistricts but are regulated by the Maine Forest Service.

- (1) Land management roads;
- (2) Natural resource extraction: Gravel extraction for road purposes less than 5 acres in size; and
- (3) Timber harvesting.

**f. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, ~~shall~~must be prohibited in M-HP subdistricts.

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## C. NATURAL CHARACTER MANAGEMENT SUBDISTRICT (M-NC)

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### 1. Purpose

The purpose of the M-NC subdistrict is to maintain some of the areas that characterize the natural outdoor flavor and spirit of certain large undeveloped areas of the jurisdiction and to permit only forestry and agricultural practices and primitive recreation. Unrelated development that might interfere with these activities and natural values will not be permitted.

### 2. Description

Areas which the Commission determines:

- a. are appropriate for forest management activities;
- b. ~~shall~~must comprise certain few large areas which are remote and have a natural and wild character; the area is significant because of a variety and concentration of important features which in the aggregate include significant topographic features and distinctive recreation resources characteristic of the "Maine Woods" in their totality; such resources include, but are not limited to, hiking trails, canoe streams, and scenic overviews; such features include, but are not limited to, lakes, remote ponds, mountains and valleys;
- c. comprise at least 10,000 contiguous acres of land and water area; and
- d. support only those land use activities which do not appreciably detract from the natural character of the area.

Any proposal for inclusion of an area within an M-NC subdistrict, unless it is made by the owner or owners of such area, ~~shall~~must be considered by the Commission only when a written statement has been made stating how such area meets the criteria stated above. Such statements ~~shall~~must be available to the public at the time of publication of notice for the public hearing at which such proposal ~~shall~~must be heard.

The M-NC subdistrict may surround different protection, management, and development subdistricts. In delineating boundaries for the M-NC subdistrict, the Commission may consider property ownership or township boundaries, ridge lines, shorelines, watershed boundaries, roadways, or other rights of way or other appropriate natural or man-made features.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses ~~shall~~beare allowed without a permit from the Commission within M-NC subdistricts:

- (1) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (2) Forest management activities, except for timber harvesting<sup>7</sup>;

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<sup>7</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection "e. Uses Regulated by the Maine Forest Service."

- (3) Land application of septage, sludge and other residuals, and related storage and composting activities in compliance with regulations promulgated by the Maine Department of Environmental Protection under 38 M.R.S. § 13: Maine Hazardous Waste, Septage and Solid Waste Management Act;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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

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

- (1) Agricultural activities: Agricultural management activities, including cranberry cultivation; the construction, alteration or maintenance of farm or livestock ponds which are not fed or drained by a flowing water; and the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for agricultural management activities;
- (2) Campsites;
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those described in Section 10.22,C,3,b,(1) above, less than 1 acre in size which are not fed or drained by flowing waters, in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Filling and grading;
- (5) Forest management activities, except for timber harvesting<sup>8</sup>, involving the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for forest management activities;
- (6) Mineral exploration activities: Level A and B mineral exploration activities, including associated access ways;
- (7) Road projects: Level A and B road projects;
- (8) Service drops; and
- (9) Signs.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within M-NC subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those in Section 10.22,C,3,b above, which are 1 acre or more in size, or such ponds less than 1 acre which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;

<sup>8</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”

- (2) Driveways;
- (3) Metallic mineral mining activities: Tier one advanced exploration;
- (4) Mineral exploration activities: Level A and B mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C;
- (5) Natural resource extraction: Mineral extraction operations affecting an area 5 acres or greater in size, for road purposes;
- (6) Recreational lodging facilities: Level A
- (7) Remote Camps;
- (8) Structures: Structures devoted to composting of sludge, septage or other residuals affecting an area less than 5 acres in size;
- (9) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (10) Other structures, uses, or services that are essential for the uses listed in Section 10.22,B,3,a through c; and
- (11) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within M-NC subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), ~~the criteria of Sections 10.24,B,1 through 3, and subject to the applicable requirements set forth in Sub-Chapter III; and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (1) Road projects: Level C road projects;
- (2) Signs which are not in conformance with the standards of Section 10.27,J; and
- (3) Utility facilities.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within M-NC subdistricts but are regulated by the Maine Forest Service.

- (1) Land management roads;
- (2) Natural resource extraction: Gravel extraction for road purposes less than 5 acres in size; and
- (3) Timber harvesting.

**f. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, ~~shall~~must be prohibited in M-NC subdistricts.

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## 10.23 PROTECTION SUBDISTRICTS

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

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### A. ACCESSIBLE LAKE PROTECTION SUBDISTRICT (P-AL)

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#### 1. Purpose

The purpose of the P-AL subdistrict is to maintain and protect the existing natural values of the accessible, undeveloped, high value lakes within the Commission's jurisdiction. This is the class of lakes described as Management Class 2 lakes in the Commission's Comprehensive Land Use Plan. It is the intent of this subdistrict to restrict development.

#### 2. Description

Areas surrounding bodies of standing water classified as Management Class 2 Lakes (Accessible, Undeveloped, High Value Lakes).

The protection subdistrict ~~shall~~must extend 500 feet from and around the water body measured from the normal high water mark.

#### 3. Land Uses

##### a. Uses Allowed Without a Permit

The following uses are allowed without a permit from the Commission within P-AL subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety, or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting<sup>9</sup>;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis; and
- (7) Wildlife and fishery management practices.

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<sup>9</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection "e. Uses Regulated by the Maine Forest Service."

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

The following uses are allowed without a permit from the Commission within P-AL subdistricts, subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agricultural activities: Agricultural management activities;
- (2) Constructed ponds: Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (3) Driveways associated with residential uses;
- (4) Home-based businesses: Minor home-based businesses;
- (5) Mineral exploration activities: Level A mineral exploration activities, including associated access ways;
- (6) Road projects: Level A road projects;
- (7) Service drops;
- (8) Signs;
- (9) Trails, provided that any associated vegetation clearing or filling and grading are in conformance with the standards of 10.27,B,1,c and d,2, and 4 and 10.27,F, and provided the trails are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (10) Water crossings of minor flowing waters, except for water crossings of minor flowing waters on/for land management roads.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within P-AL subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agricultural activities: Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Campsites;
- (3) Campsites, Residential;
- (4) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (5) Draining, dredging or alteration of the water table or water level for other than mineral extraction;
- (6) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (7) Filling and grading;
- (8) Home-based businesses: Major home-based businesses, **except in those plantations and townships listed in Section 10.23,A,3,d;**
- (9) Land application of septage, sludge and other residuals, and related storage and composting activities;
- (10) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;



- (11) Residential: Single family dwellings provided that such dwelling units are limited to an average density per landownership of no more than one dwelling unit per shore mile. Parcels existing as of November 17, 1988 that have less than 1 mile of shoreline are allowed one dwelling unit within that shoreline area provided that other applicable standards are met. The shoreline is measured by following the shoreline of the lake, including all the shoreline irregularities, on the Commission's Land Use Guidance Map;
- (12) Road projects: Level B and C road projects, except for water crossings of minor flowing waters as provided for in Section 10.23,A,3,b;
- (13) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (14) Signs which are not in conformance with the standards of Section 10.27,J;
- (15) Structures: Non-commercial structures for scientific, educational and/or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected by this subdistrict;
- (16) Trails which are not in conformance with the standards of Section 10.27,B,1,c and d,2, and 4 and 10.27,F;
- (17) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D, except for water crossings of minor flowing waters on/for land management roads; and water crossings of bodies of standing water and major flowing waters except for water crossings of bodies of standing water and major flowing waters on/for land management roads;
- (18) Water impoundments;
- (19) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (20) Other structures, uses or services that are essential for the exercise of uses listed in Section 10.23,A,3,a through c; and
- (21) Other structures, uses or services which the Commission determines are consistent with the purpose of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the uses or resources they protect, and are of similar type, scale and intensity as other allowed uses.

#### d. Special Exceptions

The following uses, and related accessory structures, may be allowed within P-AL subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), ~~the criteria of Sections 10.24,B,2 and 3, and~~ subject to the applicable requirements set forth in Sub-Chapter III, ~~provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan; and further provided that~~ and there ~~shall~~must be no more than one development unit per shore mile except as provided in Section 10.23,A,3,c, such distance measured by following the shoreline of the lake, including all shoreline irregularities, on the Commission's Land Use Guidance Map:

- (1) Recreational lodging facilities:
  - (a) Level A; and

## (b) Level B.

The following uses, and related accessory structures, may be allowed within P-AL subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,1 through 3, subject to the applicable requirements set forth in Sub-Chapter III, and there must be no more than one development unit per shore mile except as provided in Section 10.23,A,3,c, such distance measured by following the shoreline of the lake, including all shoreline irregularities, on the Commission's Land Use Guidance Map;~~provided the applicant shows, in addition to the criteria listed above, by substantial evidence that there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant:~~

- (2) Docking structures: New or expanded permanent docking structures;
- (3) Hand-carry launches;
- (4) Home-based businesses: Major home-based businesses in the following plantations and townships provided there is no suitable or reasonably available location in a development subdistrict:
  - Dallas Plantation,
  - Rangeley Plantation, and
  - Sandy River Plantation;
- (5) Trailered ramps;
- (6) Utility facilities other than service drops; and
- (7) Water-access ways, in accordance with Section 10.27,L,1.

e. **Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-AL subdistricts but are regulated by the Maine Forest Service.

- (1) Land management roads;
- (2) Natural resource extraction: Gravel extraction for road purposes less than 5 acres in size;
- (3) Timber harvesting; and
- (4) Water crossings of minor flowing waters, major flowing waters, and bodies of standing water on/for land management roads.

f. **Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, ~~shall~~must be prohibited in P-AL subdistricts.

~~g. — Water Quality Limiting Lakes~~~~h. — For information relative to water quality limiting lakes see Section 10.23,E,3,g.~~

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## B. AQUIFER PROTECTION SUBDISTRICT (P-AR)

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### 1. Purpose

The purpose of the P-AR subdistrict is to protect the quantity and quality of ground water supply used or potentially available for human or industrial consumption.

### 2. Description

Areas identified by the Commission as having soil rated as highly permeable and/or surficial geologic units that are highly permeable and are hydrologically connected through highly fractured bedrock units to a ground water supply which is currently, or anticipated to be, used for public, industrial or agricultural purposes, or areas identified by the Commission as aquifer recharge areas based on studies by appropriate qualified persons or agencies where the Commission determines that such areas warrant water quality protection.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses ~~shall be~~are allowed without a permit from the Commission within P-AR subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for fertilizer application and timber harvesting<sup>10</sup>;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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

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

- (1) Agricultural activities: Agricultural management activities, except for fertilizer application;
- (2) Driveways associated with residential uses;
- (3) Filling and grading;
- (4) Hand-carry launches: Commercial, private and public hand-carry launches;
- (5) Home-based businesses: Minor home-based businesses;
- (6) Mineral exploration activities: Level A mineral exploration activities, including associated access ways;

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<sup>10</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”

- (7) Road projects: Level A road projects;
- (8) Service drops; and
- (9) Signs.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within P-AR subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III, and provided that the recharge capability of the area remains the same as it would be under the area's natural state:

- (1) Agriculture management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Campsites, provided that sewage is disposed of in such a manner as not to endanger the water quality of the aquifer;
- (3) Campsites, Residential, provided that sewage is disposed of in such a manner as not to endanger the water quality of the aquifer;
- (4) Constructed ponds: Creation, alteration or maintenance of constructed ponds which are not fed or drained by flowing waters;
- (5) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (6) Fertilizer application for forest or agricultural management activities;
- (7) Hand-carry launches: Hand-carry launches addressed in Section 10.23,B,3,b which are not in conformance with the standards of Section 10.27,L;
- (8) Home-based businesses: Major home-based businesses, **except in those plantations and townships listed in Section 10.23,B,3,d;**
- (9) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C;
- (10) Natural resource extraction: Mineral extraction for road purposes affecting an area less than 30 acres in size, provided the unreclaimed area is less than 15 acres, except for gravel extraction for road purposes less than 5 acres in size;
- (11) Peat extraction affecting an area less than 30 acres in size;
- (12) Recreational lodging facilities: Level A (campground only) and Level B (campground only), at both facility levels provided that sewage is disposed of in such a manner as not to endanger the water quality of the aquifer;
- (13) Residential: Single-family dwellings provided that sewage is disposed of in such a manner as not to endanger the water quality of the aquifer;
- (14) Road projects: Level B road projects;
- (15) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, and hand-carry launches;
- (16) Signs which are not in conformance with the standards of Section 10.27,J;
- (17) Utility facilities, excluding service drops;
- (18) Water crossings, except for water crossings on/for land management roads;
- (19) Water impoundments;
- (20) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;

- (21) Other structures, uses or services that are essential for uses listed in Section 10.23,B,3,a through c; and
- (22) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses which they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within P-AR subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,1 through 3, and subject to the applicable requirements set forth in Sub-Chapter III;~~and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (1) Docking structures: New or expanded permanent docking structures;
- (2) Draining, dredging, or alteration of the water table or water level for purposes other than mineral extraction;
- (3) Filling and grading, that is not in conformance with the standards of Section 10.27,F;
- (4) Home-based businesses: Major home-based businesses in the following plantations and townships provided there is no suitable or reasonably available location in a development subdistrict:
  - Dallas Plantation,
  - Rangeley Plantation, and
  - Sandy River Plantation;
- (5) Mineral exploration activities: Level B mineral exploration activities;
- (6) Road projects: Level C road projects;
- (7) Trailered ramps:
  - (a) Commercial trailered ramps;
  - (b) Private trailered ramps, in accordance with Section 10.27,L,1; and
  - ~~(a)(c) Public trailered ramps; and~~
- (8) Water-access ways, in accordance with Section 10.27,L,1.

The following use, and related accessory structures, may be allowed within P-AR subdistricts as a special exception upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,2, 3, and 8, and subject to the applicable requirements set forth in Sub-Chapter III;~~and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; (b) the use will not pose an unreasonable risk to a valuable groundwater resource; (c) the P-AR subdistrict in which the use is proposed does not protect a sole source aquifer; and (d) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (9) Portable rock crushing equipment provided that:

- (a) The seasonal high water table elevation is at least 5 feet below the surface in the area within 50 feet of the portable rock crusher, as determined by a test pit or monitoring well;
- (b) An impermeable spill containment pad or container sufficient to accommodate the maximum capacity of fluids contained in the motor and fuel tank is installed under the fuel tank, motor, and refueling area;
- (c) The borrow pit is internally drained and appropriate steps are taken to prevent any water produced during mineral washing or processing from contaminating surface water resources;
- (d) No storage of fuel or other hazardous materials occurs in the P-AR subdistrict;
- (e) No washing of equipment occurs in the P-AR subdistrict;
- (f) Operations are conducted in accordance with a Commission approved spill prevention, control and countermeasures plan. A copy of the plan and an adequately stocked oil and hazardous materials spill response kit are kept on site; and
- (g) The portable rock crushing equipment is setback from existing drinking water sources at least:
  - (i) 100 feet from a bedrock private drinking water well;
  - (ii) 200 feet from a point driven or dug private drinking water well;
  - (iii) 300 feet from a public drinking water source serving 500 or fewer people;
  - (iv) 500 feet from a public drinking water source serving between 501 and 1,000 people;
  - (v) 1,000 feet from a public drinking water source serving more than 1,000 people; and
  - (vi) 1,000 feet from a public drinking water source with a valid filtration waiver issued by the EPA in accordance with the Safe Drinking Water Act;

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-AR subdistricts but are regulated by the Maine Forest Service.

- (1) Land management roads;
- (2) Natural resource extraction: Gravel extraction for road purposes less than 5 acres in size;
- (3) Timber harvesting; and
- (4) Water crossings on/for land management roads.

**f. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, ~~shall~~must be prohibited in P-AR subdistricts.

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## C. FLOOD PRONE AREA PROTECTION SUBDISTRICT (P-FP)

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### 1. Purpose

The purpose of the P-FP subdistrict is to regulate in all flood prone areas, including areas of special flood hazard, certain land use activities in order to minimize the human, environmental, and financial costs of floods and flood cleanup programs, by protecting on-site, adjacent, upstream and downstream property from flood damage; and by minimizing danger from malfunctioning water supply and waste disposal systems in flood prone areas; and to comply with the cooperative agreement between the Land Use Planning Commission and the Federal Emergency Management Agency (FEMA) regarding the regulation of land use according to the requirements of 44 CFR Part 60.3 of the National Flood Insurance Program, so that flood insurance can be made available to persons in flood prone areas.

### 2. Description

Areas located within the 100-year frequency floodplain, also known as areas of special flood hazard, as identified by the Commission after consideration of relevant data including, without limitation, areas determined to be flood prone by state or federal agencies, including the Flood Insurance Studies and accompanying Flood Insurance Rate Maps, Flood Boundary and Floodway Maps or Flood Hazard Boundary Maps prepared by the Federal Emergency Management Agency, historical data, and the National Cooperative Soil Survey.

The areas identified by FEMA as areas of special flood hazard (Zones A, AE, A1-30, VE) on Flood Insurance Rate Maps, Flood Boundary and Floodway Maps or Flood Hazard Boundary Maps for townships, plantations, or towns qualify as flood prone areas appropriate for protection within this subdistrict. The Commission adopts the FEMA maps as listed in Appendix E, and a note on the Official Land Use Guidance Map ~~shall~~must refer to maps so adopted. In any case where the boundaries of the P-FP subdistrict on the Commission map differ from the boundaries of the FEMA zones, the FEMA boundaries ~~shall~~must apply. The FEMA zones ~~shall~~must be regulated according to the provisions of the P-FP subdistrict.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses ~~shall be~~are allowed without a permit from the Commission within P-FP subdistricts or FEMA zones A, AE, A1-30, or VE:

- (1) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (2) Forest management activities, except for timber harvesting<sup>11</sup>;
- (3) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (4) Primitive recreational uses, including fishing, hunting, hiking, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (5) Surveying and other resource analysis; and
- (6) Wildlife and fishery management practices.

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<sup>11</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”

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

The following uses ~~shall be~~ allowed without a permit from the Commission within P-FP subdistricts or FEMA zones A, AE, A1-30, or VE subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agricultural activities: Agricultural management activities;
- (2) Home-based businesses: Minor home-based businesses;
- (3) Normal maintenance and repair or renovation less than \$1,000 in cost; and
- (4) Service drops.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within P-FP subdistricts or FEMA zones A, AE, A1-30, or VE upon issuance of a permit from the Commission pursuant to 12 M.R.S., §685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agriculture management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Campsites;
- (3) Campsites, Residential;
- (4) Constructed ponds: Creation, alteration or maintenance of constructed ponds;
- (5) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;
- (6) Driveways;
- (7) Filling and grading;
- (8) Hand-carry launches: Commercial, private and public hand-carry launches;
- (9) Home-based businesses: Major home-based businesses;
- (10) Mineral exploration activities: Level A mineral exploration activities, including associated access ways; and Level B mineral exploration activities;
- (11) Natural resource extraction: Mineral extraction operations affecting an area up to 30 acres in size provided the unreclaimed area is less than 15 acres, for road purposes, except for gravel extraction for road purposes less than 5 acres in size;
- (12) Normal maintenance and repair or renovation equaling or exceeding \$1,000 in cost, or additions and expansions to any legally existing structure or use that do not meet the definition of substantial improvement;
- (13) Recreational lodging facilities having not more than 1,000 square feet of gross floor area:
  - (a) Level A; and
  - (b) Level B;
- (14) Road projects: Level A, B and C road projects;
- (15) Shoreland alterations, including temporary docking structures, on-shore structures used to secure docks and moorings, and reconstruction of permanent docking structures; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, and hand-carry launches;
- (16) Signs;
- (17) Trailered ramps: Commercial and public trailered ramps;
- (18) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies;
- (19) Utility facilities, except for service drops;
- (20) Water crossings, except for water crossings on/for land management roads;
- (21) Water impoundments;



- (22) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (23) Other structures, uses or services that are essential for the exercise of uses listed in Section 10.23,C,3,a through c; and
- (24) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses which they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within P-FP subdistricts or FEMA zones A, AE, A1-30, or VE as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24.B,1 through 3, and subject to the applicable requirements set forth in Sub-Chapter III; ~~and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (1) Commercial and industrial: Commercial and industrial structures of less than 8,000 square feet which rely upon the water resource for their existence, including their reconstruction, relocation, or replacement; new construction, reconstruction or replacement of a permanent foundation; substantial improvement or accessory structures;
- (2) Docking structures: New or expanded permanent docking structures;
- (3) Recreational lodging facilities: Level B except as provided for in Section 10.23,C,3,c, and Level C having not more than 10,000 square feet of gross floor area for all principal buildings; provided that any recreational lodging facility must rely upon the water resource for their existence, including their reconstruction, relocation, or replacement; new construction, reconstruction or replacement of a permanent foundation; substantial improvement or accessory structures;
- (4) Residential: Single family dwellings, including their reconstruction, relocation, or replacement; new construction, reconstruction or replacement of a permanent foundation; substantial improvement or accessory structures;
- (5) Trailered ramps: Private trailered ramps, in accordance with Section 10.27.L,1; and
- (6) Water-access ways, in accordance with Section 10.27.L,1.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-FP subdistricts but are regulated by the Maine Forest Service.

- (1) Land management roads;
- (2) Natural resource extraction: Gravel extraction for road purposes less than 5 acres in size;
- (3) Timber harvesting; and
- (4) Water crossings on/for land management roads.

**f. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, ~~shall~~must be prohibited in P-FP subdistricts and FEMA zones A, AE, A1-30, and VE.

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## D. FISH AND WILDLIFE PROTECTION SUBDISTRICT (P-FW)

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### 1. Purpose

The purpose of the P-FW subdistrict is to conserve important fish and wildlife habitats essential to the citizens of Maine because of their economic, recreational, aesthetic, educational or scientific value.

### 2. Description

This subdistrict ~~shall~~must include wildlife and fishery habitat the Commission determines are in need of special protection pursuant to the following standards:

- a. Significant fish spawning nursery and feeding areas, critical habitat of endangered and threatened fish and wildlife species ascertained by state or federal agencies, and habitat of fish or wildlife species needing special protection by other means, including by a state fish or wildlife conservation plan.
- b. The shelter portions of deer wintering areas when the following conditions are met:
  - (1) The following must be shown for all shelter portions of deer wintering areas proposed for a P-FW subdistrict:
    - (a) Documentation of use as a deer wintering area during a minimum of two years over the most recent 10 year period at the time of designation; for at least one of such years, such documentations ~~shall~~must be based upon ground observation by a wildlife biologist of the Maine Department of Inland Fisheries and Wildlife during or following a period of winter conditions, but no later than May 1 in any year, showing extent of deer use for winter shelter as evidenced by deer tracks, current and past deer browsing, deer pellet depositions, ~~and/or~~ bedding sites, such that a population of at least 20 deer per square mile in the shelter area may be estimated. A P-FW subdistrict may be established for an area with an estimated population of fewer than 20 deer per square mile if, in the Commission's judgment, it is necessary to meet the purpose of the P-FW subdistrict. In this regard, the Commission may be guided by "Planning for Maine's Inland Fish and Wildlife Resources, 1986-1991", of the Maine Department of Inland Fisheries and Wildlife, and associated documents, including the white-tailed deer assessment and strategic plan; and
    - (b) Occurrence of forest stands that are composed of over 50 percent conifer stems and contain a conifer crown closure of over 50 percent with predominant tree heights of over 35 feet; and
  - (2) The Maine Department of Inland Fisheries and Wildlife (MDIFW) has submitted to the Commission a status report containing the following information:
    - (a) Deer population and deer habitat goals for the state and the applicable Wildlife Management District (WMD) – see Map 10.23,D-1;
    - (b) Estimated current population of deer in the state and the applicable WMD;
    - (c) Amount of land designated as P-FW subdistricts in the applicable WMD;

- (d) Existing information on the amount of deer wintering habitat in organized towns within the applicable WMD;
  - (e) Amount and location of land designated as P-FW subdistricts in the subject township and all townships abutting the subject township;
  - (f) A qualitative and, if available, quantitative assessment, based on existing information, of the importance of the area proposed as a P-FW subdistrict to other wildlife species of particular significance, including those identified by state or federal agencies as Endangered, Threatened, Special Concern, Indeterminate Status, or Watch List; and
- (3) The combined area of the shelter portions of deer wintering areas designated as P-FW subdistrict within the applicable WMD must not exceed 3.5% of the area of that WMD; and
- (4) The Maine Department of Inland Fisheries and Wildlife has consulted with the landowner in one of the following ways:
- (a) The Maine Department of Inland Fisheries and Wildlife has offered, in writing, to the landowner whose land is under consideration for designation as a P-FW subdistrict the opportunity to accompany the Department and observe its ground survey of the area proposed for designation, and has met with the landowner following such survey for the purpose of reaching agreement as to the area to be designated as a P-FW subdistrict. In making its offer, the Department may require prior agreement by the landowner to reasonably limit activities that would affect designation of the area while it remains under consideration:
    - (i) If the parties have reached agreement regarding the area to be designated, the terms of such agreement must be submitted to the Commission. Such agreement will not compel the landowner to join in a petition to designate the area as a P-FW subdistrict;
    - (ii) If the parties are unable to reach agreement, the substance of and reasons for the disagreement must be reported in writing to the Commission by the Department and the landowner; or
  - (b) The Maine Department of Inland Fisheries and Wildlife has not offered, in writing, to the landowner whose land is under consideration for designation as a P-FW subdistrict the opportunity to accompany the Department and observe its ground survey of the area proposed for designation, but has met with the landowner following its ground survey for the purpose of reaching agreement as to the area to be designated as a P-FW subdistrict:
    - (i) If the parties have reached agreement regarding the area to be designated, the terms of such agreement must be submitted to the Commission. Such agreement will not compel the landowner to join in a petition to designate the area as a P-FW subdistrict;
    - (ii) If the parties are unable to reach agreement, the substance of and reasons for the disagreement must be reported to the Commission by the Department and the landowner. Notwithstanding that disagreement, if the Commission finds that the area meets the criteria for designation as a P-FW subdistrict and applies the P-FW designation to the area, within two years of the date of that subdistrict designation, the landowner may request reconsideration of the designation if the landowner has obtained new information indicating the area did not meet the criteria set forth in Section 10.23,D,2,b,(1) at the time of designation. The Commission will

give the Department at least 90 days notice of its receipt of a request for reconsideration prior to deciding that request.

- c. Upon request or agreement by the landowner, the configuration of a P-FW subdistrict may be modified in order to provide the subdistrict with boundaries of reasonably regular shape.
- d. The provisions of Section 10.23,D,2,b, as amended on June 20, 1991, ~~shall~~must apply only to proposals to rezone areas to the P-FW subdistrict that are submitted to the Commission after June 20, 1991.
- e. The Commission may change a P-FW subdistrict by reducing its size or by changing it to another subdistrict designation if it finds by substantial evidence that:
  - (1) The area designated as a P-FW subdistrict is no longer substantially used as a wintering area by deer and has not been so used for a period of ten years; and
  - (2) The change is consistent with the Comprehensive Land Use Plan; and
  - (3) The change is more appropriate for the protection and management of the resource within the affected area.

Alternatively, the Commission may approve such a subdistrict change if the owner of the affected land designated as P-FW and the Commissioner of the Maine Department of Inland Fisheries and Wildlife agree that such change is appropriate or the area is not needed to meet the deer management objectives established by the Department.

Notwithstanding the above, where a P-FW subdistrict has been established for the purposes of protecting a deer wintering area, that subdistrict must not be reduced in size as a result of timber harvesting activities which would cause such subdistrict to no longer satisfy the requirements of Section 10.23,D,2,b,(1),(b).

- f. Coastal nesting islands or portions thereof, to be zoned as P-FW will be determined by the following:
  - (1) Documentation of use by significant numbers of island nesting sea birds through an on-site investigation as reported in the U.S. Fish and Wildlife Service, Maine Cooperative Wildlife Research Unit's Maine Sea Bird Inventory. Breeding population estimates ~~shall~~must be based upon counts of individual nesting pairs and/or visual estimate of the total nesting population of a species.
  - (2) An island or portion thereof will be considered essential to the maintenance of sea bird populations when: (a) it provides habitat for one percent or more of Maine's total island breeding population of a particular species, or (b) the sum of such percentages for all species on the island is 1 or greater (the individual percentage is determined by dividing the island breeding population by Maine's total island breeding population for a particular species as determined by the latest information available from the Maine Sea Bird Inventory), or (c) when, in the Commission's judgment, protection of an island or portion thereof is essential to the maintenance of the distribution and abundance of a specific species of sea bird.

The colonial sea bird species considered in the above determination include, but are not limited to: common eider (*Somateria moullissima*), Atlantic puffin (*Fratercula arctica*), razorbilled auk (*Alca torda*), black guillemot (*Cepphys grylle*), snowy egret (*Leucophogx thula*), glossy ibis (*Plegadis falcinellus*), arctic tern (*Sterna paradisaea*), common tern (*Sterna hirundo*), roseate tern (*Sterna dougallii*), herring gull (*Larus argentatus*), great black-backed gull (*Larus marinus*), laughing gull (*Larus arcticilla*), Leach's petrel (*Oceanodroma*

leucorhoa), double-crested cormorant (*Phalacrocorax auritus*), black-crowned night heron (*Nycticorax nycticorax*), and great blue heron (*Ardea herodias*).

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses are allowed without a permit from the Commission within P-FW subdistricts (provided, however, only wildlife and fishery management practices approved by the Maine Department of Inland Fisheries and Wildlife or the U.S. Fish and Wildlife Service ~~shall~~must be permitted without prior approval of the Commission from May 1st to July 15th in P-FW subdistricts established for colonial nesting sea birds):

- (1) Docking structures: Temporary docking structures for non-commercial use in the shelter portion of deer wintering areas;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (4) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (5) Surveying and other resource analysis;
- (6) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (7) Wildlife and fishery management practices.

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

The following uses are allowed without a permit from the Commission within P-FW subdistricts, subject to the applicable requirements set forth in Sub-Chapter III (provided, however, only wildlife and fishery management practices approved by the Maine Department of Inland Fisheries and Wildlife or the U.S. Fish and Wildlife Service ~~shall~~must be permitted without prior approval of the Commission from May 1st to July 15th in P-FW subdistricts established for colonial nesting sea birds):

- (1) Forest management activities, except for timber harvesting<sup>12</sup> and land management roads;
- (2) Home-based businesses: Minor home-based businesses;
- (3) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (4) Road projects: Level A road projects;
- (5) Service drops;
- (6) Signs; and
- (7) Water crossings of minor flowing waters, except for water crossings of minor flowing waters on/for land management roads.

<sup>12</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within P-FW subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agricultural activities: Agricultural management activities;
- (2) Campsites;
- (3) Campsites, Residential;
- (4) Constructed ponds: Creation, alteration or maintenance of constructed ponds which are not fed or drained by flowing waters;
- (5) Filling and grading;
- (6) Home-based businesses: Major home-based businesses, **except in those plantations and townships listed in Section 10.23,D,3,d;**
- (7) Land application of septage, sludge and other residuals, and related storage and composting activities;
- (8) Mineral exploration activities: Access ways for Level A mineral exploration activities; and Level A mineral exploration activities which are not in conformance with the standards of Section 10.27,C;
- (9) Road projects: Level B road projects;
- (10) Shoreland alterations, including temporary docking structures, and on-shore structures used to secure docks and moorings, except as provided for in Section 10.23,D,3,a; but excluding marinas, permanent docking structures, ~~water access~~water-access ways, trailered ramps, and hand-carry launches;
- (11) Signs which are not in conformance with the standards of Section 10.27,J;
- (12) Utility facilities excluding service drops;
- (13) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D, except for water crossings on/for land management roads; water crossings of bodies of standing water and of major flowing waters, except for water crossings of bodies of standing water and of major flowing waters on/for land management roads;
- (14) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (15) Other structures, uses or services that are essential for uses listed in Section 10.23,D,3,a through c; and
- (16) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses which they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within P-FW subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,1 through 3, and subject to the applicable requirements set forth in Sub-Chapter III;~~and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions~~

~~are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (1) Docking structures: Permanent docking structures;
- (2) Driveways;
- (3) Hand-carry launches;
- (4) Home-based businesses: Major home-based businesses in the following plantations and townships provided there is no suitable or reasonably available location in a development subdistrict:
  - Dallas Plantation,
  - Rangeley Plantation, and
  - Sandy River Plantation;
- (5) Mineral exploration activities: Level B mineral exploration activities;
- (6) Residential: Single family dwellings;
- (7) Road projects: Level C road projects;
- (8) Trailered ramps;
- (9) Water-access ways, in accordance with Section 10.27,L,1; and
- (10) Water impoundments.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-FW subdistricts but are regulated by the Maine Forest Service.

- (1) Land management roads;
- (2) Natural resource extraction: Gravel extraction for road purposes less than 5 acres in size;
- (3) Timber harvesting; and
- (4) Water crossings of minor flowing waters, major flowing waters, and bodies of standing water on/for land management roads.

**f. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, ~~shall~~must be prohibited in P-FW subdistricts.



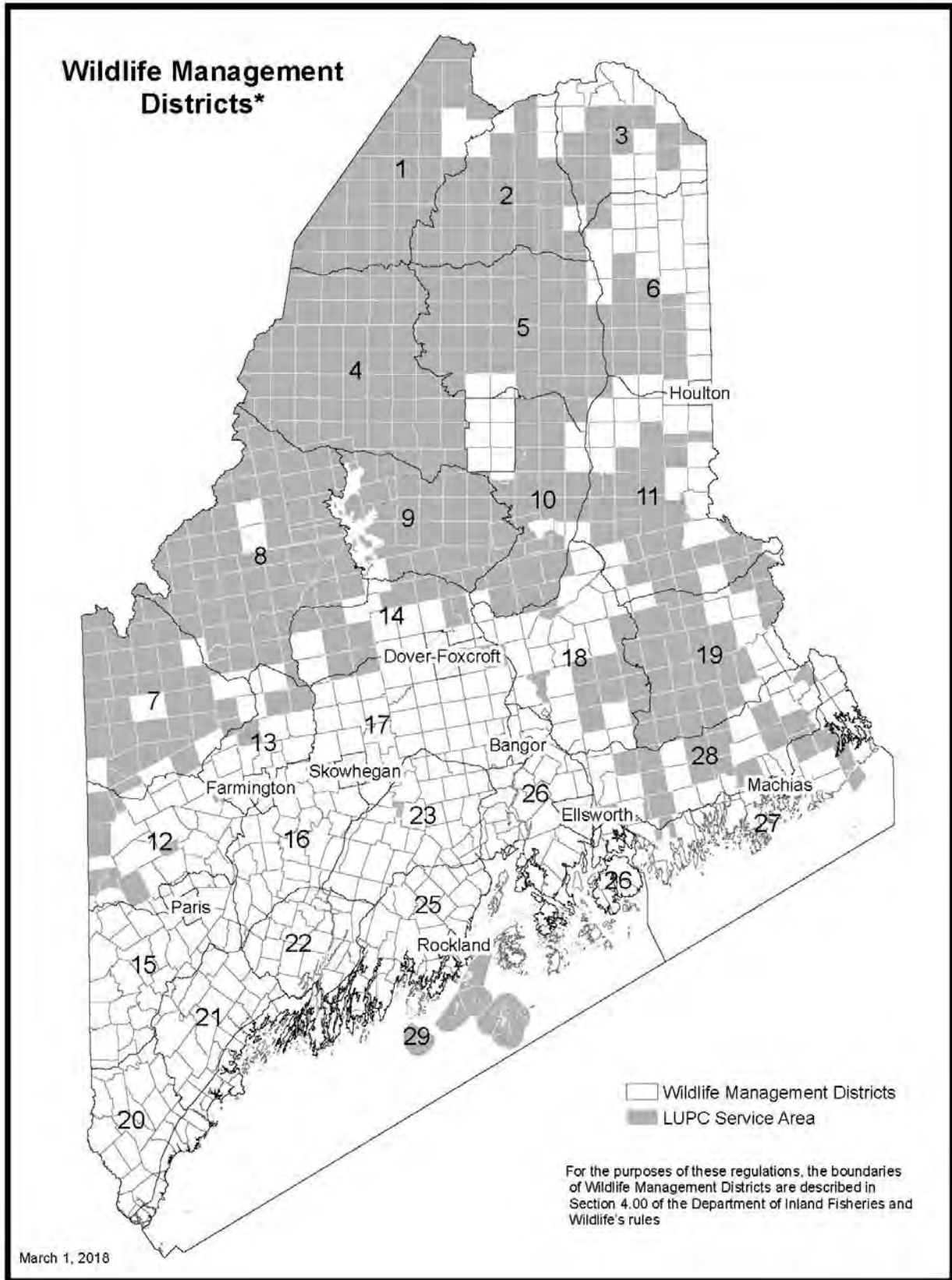


Figure 10.23,D-1 Wildlife Management Districts.

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## **E. GREAT POND PROTECTION SUBDISTRICT (P-GP)**

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### **1. Purpose**

The purpose of the P-GP subdistrict is to regulate residential and recreational development on Great Ponds to protect water quality, recreation potential, fishery habitat, and scenic character.

### **2. Description**

Areas within 250 feet of the normal high water mark, measured as a horizontal distance landward of such high water mark, of those bodies of standing water 10 acres or greater in size.

### **3. Land Uses**

#### **a. Uses Allowed Without a Permit**

The following uses are allowed without a permit from the Commission within P-GP subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting<sup>13</sup>;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis; and
- (7) Wildlife and fishery management practices.

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

The following uses are allowed without a permit from the Commission within P-GP subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two-year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural activities: Agricultural management activities;
- (3) Commercial: Recreation supply facilities that do not involve structural development, are not within one-quarter mile of Management Class 1 or Management Class 2 lakes, and not within one-half mile of Management Class 6 lakes, and that are in conformance with the requirements for such activities in Section 10.27,S;
- (4) Constructed ponds: Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters, provided

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<sup>13</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection "e. Uses Regulated by the Maine Forest Service."

- they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (5) Driveways associated with residential uses;
  - (6) Filling and grading;
  - (7) Hand-carry launches: Commercial and public hand-carry launches;
  - (8) Home-based businesses: Minor home-based businesses;
  - (9) Mineral exploration activities: Level A mineral exploration activities, including associated access ways;
  - (10) Road projects: Level A road projects;
  - (11) Service drops;
  - (12) Signs;
  - (13) Trails, provided that any associated vegetation clearing or filling and grading are in conformance with the standards of Sections 10.27,B,1,c and d,2, and 4 and Section 10.27,F, and provided the trails are constructed and maintained so as to reasonably avoid sedimentation of water bodies;
  - (14) Trailered ramps: Public trailered ramps; and
  - (15) Water crossings of minor flowing waters, except for water crossings of minor flowing waters on/for land management roads.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within P-GP subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agricultural activities: Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Campsites;
- (3) Campsites, Residential;
- (4) Commercial: Recreation supply facilities that do not involve structural development, and are not within one-quarter mile of Management Class 1 or Management Class 2 lakes, and not within one-half mile of Management Class 6 lakes, and that are not in conformance with the requirements for such activities in Section 10.27,S;
- (5) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (6) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;
- (7) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (8) Filling and grading, which is not in conformance with the standards of Section 10.27,F;
- (9) Hand-carry launches: Private hand-carry launches and hand-carry launches addressed in Section 10.23,E,3,b which are not in conformance with the standards of Section 10.27,L;
- (10) Home-based businesses: Major home-based businesses, **except in those plantations and townships listed in Section 10.23,E,3,d;**
- (11) Land application of septage, sludge and other residuals, and related storage and composting activities;
- (12) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;

- (13) Residential: Single family dwellings;
- (14) Road projects: Level B and C road projects, except for water crossings of minor flowing waters as provided for in Section 10.23,E,3,b;
- (15) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (16) Signs which are not in conformance with the standards of Section 10.27,J;
- (17) Structures: Non-commercial structures for scientific, educational and/or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected by this subdistrict;
- (18) Trails which are not in conformance with the standards of Section 10.27,B,1,c and d,2, and 4 and 10.27,F;
- (19) Trailered ramps: Commercial trailered ramps and trailered ramps addressed in Section 10.23,E,3,b which are not in conformance with the standards of Section 10.27,L;
- (20) Utility facilities other than service drops;
- (21) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D, except water crossings of minor flowing waters on/for land management roads; and water crossings of bodies of standing water and of major flowing waters, except water crossings of bodies of standing water and of major flowing waters on/for land management roads;
- (22) Water-dependent structures for recreational lodging facilities in compliance with Section 10.27,Q,7;
- (23) Water impoundments;
- (24) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B,(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (25) Other structures, uses, or services that are essential for uses listed in Section 10.23,E,3,a through c; and
- (26) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses which they protect, and are of similar type, scale and intensity as other allowed uses.

#### d. Special Exceptions

The following uses, and related accessory structures, may be allowed within P-GP subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), ~~the criteria of Sections 10.24,B,2 and 3,~~ and subject to the applicable requirements set forth in Sub-Chapter III; ~~provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses and resources within this subdistrict with which it is incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (1) Commercial:
  - (a) Recreation supply facilities that may involve structural development and are not within one-quarter mile of Management Class 1 or Management Class 2 lakes, and not within one-half mile of Management Class 6 lakes;
  - (b) Retail stores and restaurants in Primary Locations, as described in Section 10.08-A,C, with a gross floor area of no more than 2,000 square feet; and

- (2) Recreational lodging facilities:
  - (a) Level A;
  - (b) Level B; and
  - (c) Level C.

The following uses, and related accessory structures, may be allowed within P-GP subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Sections 10.24,B,1 through 3, and subject to the applicable requirements set forth in Sub-Chapter III;~~provided the applicant also shows by substantial evidence that there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant:~~

- (3) Docking structures: New or expanded permanent docking structures;
- (4) Home-based businesses: Major home-based businesses in the following plantations and townships provided there is no suitable or reasonably available location in a development subdistrict:
  - Dallas Plantation,
  - Rangeley Plantation, and
  - Sandy River Plantation;
- (5) Peat extraction affecting an area less than 5 acres in size;
- (6) Trailered ramps: Private trailered ramps, in accordance with Section 10.27.L.1; and
- (7) Water-access ways, in accordance with Section 10.27.L.1.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-GP subdistricts but are regulated by the Maine Forest Service.

- (1) Land management roads;
- (2) Natural resource extraction: Gravel extraction for road purposes less than 5 acres in size;
- (3) Timber harvesting; and
- (4) Water crossings of minor flowing waters, major flowing waters, and bodies of standing water on/for land management roads.

**f. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, ~~shall~~must be prohibited in P-GP subdistricts.

~~**g. Water Quality Limiting Lakes**~~

~~Water Quality Limiting Lakes shall~~must ~~be those bodies of standing water 10 acres or greater in size where the Commission determines from available information that the maximum number of allowable dwelling units, as determined by minimum shoreline frontage requirements for such water body, would give rise to a significant risk of increasing the phosphorus concentration of the water by 5 parts per billion or more.~~

~~With respect to future development, including subdivisions, near such water bodies, the Commission may impose additional and/or more protective standards with respect to clearing, frontage and setback requirements, sewage disposal, and other aspects of such development so as to reasonably assure that the above stated maximum allowable change in phosphorus concentration for such water bodies is not exceeded.~~

The methodology used to identify water quality limiting lakes is shown in Appendix A of this chapter.

## F. SEMI-REMOTE LAKE PROTECTION SUBDISTRICT (P-GP2)

### 1. Purpose

The purpose of the P-GP2 subdistrict is to accommodate seasonal, recreational uses on lakes valued for their semi-remote character and determined to be suitable for limited development through a prospective planning process. This subdistrict is designed to site appropriate uses at a density and in a pattern of development that conserves the essential character of these lakes, and to accommodate traditional uses such as commercial sporting camps and public access. This subdistrict also provides a greater degree of certainty to both the landowners and the public as to the amount of development and conservation that will occur along certain lake shorelines.

### 2. Description

This subdistrict includes areas within 500 feet of the normal high water mark, measured as a horizontal distance, of those lakes listed below:

- Azischohos Lake within Lincoln Plantation, Oxford County;
- Lower Richardson Lake, Township C, Oxford County.

The depth of this subdistrict may be deeper than 500 feet to allow development design in the project area that better meets the purpose of this subdistrict. Adjustments will only be made that do not increase the acreage of the project area by more than 10 percent or deviate from the uses allowed in this subdistrict.

Lakes classified as Management Class 3 or 7 may be included on this list only after analysis and review by the Commission through a prospective planning process.

Using Section 10.08 of these rules, the Commission ~~shall~~must designate areas for this subdistrict that are consistent with its purpose and suitable for supporting development when measured against the standards of 12 M.R.S. § 685-B(4) and the Commission's rules and regulations.

### 3. Land Uses

The provisions of the P-GP2 subdistrict will not apply to any applications that have been received and deemed complete for processing by the Commission staff on or before January 1, 2001.

Development in this subdistrict will be for seasonal and recreational uses designed to conserve the shoreline character of these lakes and other values such as fisheries and solitude. Except where already in place or in locations near an existing three-phase line, utility facilities and service drops are not an allowed use in order to maintain the existing character and semi-remote experience.

#### a. Uses Allowed Without a Permit

The following uses are allowed without a permit from the Commission within P-GP2 subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;

- (3) Forest management activities, except for timber harvesting<sup>14</sup>;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis; and
- (7) Wildlife and fishery management practices.

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

The following uses are allowed without a permit from the Commission within P-GP2 subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agricultural activities: Agricultural management activities;
- (2) Constructed ponds: Creation, alteration, or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (3) Driveways associated with residential uses;
- (4) Filling and grading;
- (5) Hand-carry launches: Commercial and public hand-carry launches;
- (6) Home-based businesses: Minor home-based businesses;
- (7) Mineral exploration activities: Level A mineral exploration activities, including associated access ways;
- (8) Road projects: Level A road projects;
- (9) Service drops within one half-mile of three phase utility lines in existence as of January 1, 2001;
- (10) Signs;
- (11) Trails, provided that any associated vegetation clearing or filling and grading are in conformance with the standards of 10.27,B,1,c and d,2, and 4 and 10.27,F, and provided the trails are constructed and maintained so as to reasonably avoid sedimentation of water bodies;
- (12) Trailered ramps: Public trailered ramps; and
- (13) Water crossings of minor flowing waters, except for water crossings of minor flowing waters on/for land management roads.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within P-GP2 subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, and subject to the applicable requirements set forth in Section ~~10.25,A,2-10.23,F,3,g below~~ and Sub-Chapter III:

- (1) Agricultural activities: Agricultural management activities within 250 feet of the normal high water mark which are not in conformance with the standards of Section 10.27,A;
- (2) Campsites, ~~and in accordance with Section 10.23,F,3,g and h;~~
- (3) Campsites, Residential;
- (4) Constructed ponds: Creation, alteration, or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such

<sup>14</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”



- ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (5) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;
  - (6) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
  - (7) Filling and grading which is not in conformance with the standards of Section 10.27,F;
  - (8) Hand-carry launches: Private hand-carry launches and hand-carry launches addressed in Section 10.23,F,3,b which are not in conformance with the standards of Section 10.27,L;
  - (9) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;
  - (10) Recreational lodging facilities: Level A; and Level B having not more than 8,000 square feet of gross floor area, and in accordance with Section 10.23,F,3,g and h. Individual cabins may not include permanent foundations, otherwise main lodges may be built with or without permanent foundations;
  - (11) Residential: Single family seasonal dwellings without permanent foundations, and in accordance with Section 10.23,F,3,g and h;
  - (12) Road projects: Level B and C road projects, except for water crossings of minor flowing waters, as provided for in Section 10.23,F,3,b;
  - (13) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
  - (14) Signs which are not in conformance with the standards of Section 10.27,J;
  - (15) Structures: Non-commercial structures for scientific, educational and/or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected by this subdistrict;
  - (16) Subdivisions:
    - (a) Commercial subdivisions for uses allowed in this subdistrict; and
    - (b) Residential subdivisions: Moderate-density subdivisions;
  - (17) Trailered ramps: Commercial trailered ramps and trailered ramps addressed in Section 10.23,F,3,b which are not in conformance with the standards of Section 10.27,L;
  - (18) Trails which are not in conformance with the standards of Section 10.27,B,1,c and d,2, and 4 and 10.27,F;
  - (19) Utility facilities within one half mile of existing three-phase power lines existing as of January 1, 2001;
  - (20) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D, except for water crossings of minor flowing waters on/for land management roads; and water crossings of bodies of standing water and of major flowing waters, except for water crossings of bodies of standing water and of major flowing waters on/for land management roads;
  - (21) Water-dependent structures for recreational lodging facilities in compliance with Section 10.27,Q,7;
  - (22) Water impoundments;
  - (23) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
  - (24) Other structures, uses, or services that are essential for uses listed in Section 10.23,F,3,a through c; and

- (25) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses which they protect, and are of similar type, scale and intensity as other allowed uses.

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

The following uses, and related accessory structures, may be allowed within P-GP2 subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,1 through 3, the criteria of Section 10.25,A,2, and subject to the applicable requirements set forth in Sub-Chapter III;~~and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that: (a) the use can be buffered from those other uses and resources within this subdistrict with which it is incompatible; (b) there is no alternative site that is both suitable to the proposed use and reasonably available to the applicant; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan.~~

- (1) Docking structures: New or expanded permanent docking structures;
- (2) Trailered ramps: Private trailered ramps, in accordance with Section 10.27,L,1; and
- (3) Water-access ways, in accordance with Section 10.27,L,1.

#### **e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-GP2 subdistricts but are regulated by the Maine Forest Service.

- (1) Land management roads;
- (2) Natural resource extraction: Gravel extraction affecting areas less than 2 acres in size, for road purposes;
- (3) Timber harvesting; and
- (4) Water crossings of minor flowing waters, major flowing waters, and bodies of standing water on/for land management roads.

#### **f. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, shall must be prohibited in P-GP2 subdistricts.

#### **g. Allowed Densities**

Parcels within the P-GP2 subdistrict that are in existence as of January 1, 2001 and that have more than 200 feet but less than 400 feet of shore frontage shall must be allowed one dwelling unit provided that other applicable requirements are met.

All parcels within the P-GP2 subdistrict that have more than 400 feet of shore frontage may be further developed subject to the following requirements:

- (1) Maximum density of building units. Overall density within each lot shall must be no greater than 1 dwelling unit, principal building, or rental cabin for every 400 feet of shoreline up to a maximum density of 13 units per mile of shoreline.

If physical constraints restrict the development potential of more than 50% of the shore frontage of a parcel, the maximum allowable number of building units per mile

of shoreline shall be reduced to one per 200 feet of shoreline that is not constrained. Constraints shall include slopes greater than 15%; wetlands; wildlife habitat such as deer wintering areas, eagle or loon nesting areas; habitat for rare or endangered plant and animals; unique natural communities and natural areas; and historic and archeological resources.

- (2) Building units and density. For the purpose of determining density the following structures shall count as individual building units:

- (a) single family seasonal dwelling units;
- (b) rental cabins associated with campgrounds, sporting camps, or other commercial recreational facilities;
- (c) sporting camp lodges or other commercial recreational base lodge facilities containing three or fewer rental rooms; and
- (d) campgrounds.

Individual campsites, public and private trailered ramps, permanent docking facilities and water-access ways, and non-commercial structures for scientific, educational and/or nature observation purposes shall not count as building units for the purposes of calculating allowable densities. Each set of up to three additional rental rooms, at sporting camp lodges or other commercial recreational base lodge facilities with more than three rental rooms, shall count as an additional unit.

- (3) Phosphorous control. All development shall be designed in accordance with the Maine Department of Environmental Protection's "Maine Stormwater Best Management Practices Manual, Volume II, Phosphorous Control in Lake Watersheds: A Technical Guide to Evaluating New Development." Development density shall conform to the requirements of this manual.
- (4) Extent of shoreline to be conserved. Within subdivisions, at least 50 percent of a landowner's ownership on a shoreline shall be conserved to a depth of 500 feet or the depth of the lot, whichever is less, and set aside as open space according to the provisions of Section 10.25,S. The area to be conserved shall be located so that it will create large and contiguous blocks of open space and/or to conserve sensitive resources and areas used traditionally by the public. This conservation of shoreline shall not affect the amount of development allowed under the maximum density provision above.
- (5) Build-out rate. No more than 20 individual units may be constructed in any ten-year period per lot of record as of the date of adoption of these rules, except that credit for unbuilt units may be carried over to the following time period where a maximum of 40 building units in any 10-year period may be developed.
- (6) Required buffer. No structural development shall be allowed within a ~~1/4~~ one-quarter mile radius of any commercial sporting camp, campground, or group of rental cabins associated with a commercial sporting camp or campground. Individual campsites are excluded from this buffering requirement.

The buffer shall extend from the edge of the principal building, dwelling unit, rental unit, or campsite that is closest to any adjacent use.

#### **h. Other Development Considerations**

- (1) Campground, campsite, and rental cabin management. All such facilities offered for rent shall be managed and supervised by an attendant who provides regular and routine oversight.

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## G. MOUNTAIN AREA PROTECTION SUBDISTRICT (P-MA)

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### 1. Purpose

The purpose of the P-MA subdistrict is to regulate certain land use activities in mountain areas in order to preserve the natural equilibrium of vegetation, geology, slope, soil and climate in order to reduce danger to public health and safety posed by unstable mountain areas, to protect water quality, and to preserve mountain areas for their scenic values and recreational opportunities.

### 2. Description

- a.** Areas above 2,700 feet in elevation, except where the Commission determines from substantial evidence presented to it that designation otherwise would not jeopardize significant natural, recreational or historic resources and where such other designation would be consistent with the purpose, intent and provisions of the Comprehensive Land Use Plan and 12 M.R.S. § 206-A.

Evidence submitted for consideration in determining whether areas above 2,700 feet in elevation should not be included in a P-MA subdistrict ~~shall~~must include the following:

- (1) Proof that the area meets the definition of the subdistrict in which it is proposed to be placed;
- (2) A soils map showing soil type or soil group names, and a description of their characteristics, demonstrating that the area possesses the following soil conditions:
  - (a) Depth to bedrock of 20" or more,
  - (b) Well or moderately well drained,
  - (c) Slope of less than 25%,
  - (d) A mature soil profile, and
  - (e) Nutrient content and pH status proper to encourage the establishment of vegetation.
- (3) A topographic map indicating the area to be excluded from the P-MA subdistrict;
- (4) A description of scenic conditions and recreational opportunities which shows that there are no areas of scenic value or recreational opportunity which will be unreasonably impaired by excluding such area from the P-MA subdistrict;
- (5) A description of the land use history of the area; and
- (6) Other information pertinent to the suitability of the area, pursuant to 12 M.R.S. § 685-B(4) for the specific use proposed.

- b.** Mountain areas the Commission identifies below 2,700 feet in elevation when vegetative cover, geology, degree of slope, soil type, and climatic conditions indicate the need to protect such areas in order to achieve the purpose of the P-MA subdistrict.

Evidence submitted for consideration in determining whether areas below 2,700 feet in elevation should be included in a P-MA subdistrict ~~shall~~must include the following:

- (1) A soils map showing soil types or groups and a description of their characteristics demonstrating that the area possesses the following soil conditions:
  - (a) Depth to bedrock of less than 20",
  - (b) Less than moderately well drained,

- (c) Slope of 25% or greater,
  - (d) Soil profile which is not mature, and
  - (e) Nutrient content and pH status not conducive to the establishment of vegetation.
- (2) A topographic map indicating the area to be included in the P-MA subdistrict;
  - (3) A description of scenic conditions and recreational opportunities in the area which demonstrates that the same should be included in the P-MA subdistrict;
  - (4) A description of the land use history of the area; and
  - (5) Other information pertinent to the suitability of the area for inclusion in P-MA subdistrict.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

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

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest and agricultural management activities, except for timber harvesting<sup>15</sup>;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis; and
- (7) Wildlife and fishery management practices.

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

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

- (1) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (2) Road projects: Level A road projects;
- (3) Service drops; and
- (4) Signs.

#### c. Uses Requiring a Permit

The following uses, and related accessory structures, may be allowed within P-MA subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Campsites;
- (2) Constructed ponds: Creation, alteration or maintenance of constructed ponds which are not fed or drained by flowing waters;
- (3) Draining or altering the water table or water level for other than mineral extraction;

<sup>15</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection "e. Uses Regulated by the Maine Forest Service."

- (4) Filling and grading;
- (5) Land application of septage, sludge and other residuals, and related storage and composting activities;
- (6) Mineral exploration activities: Access ways for Level A mineral exploration activities; and Level A mineral exploration activities which are not in conformance with the standards of Section 10.27,C;
- (7) Road projects: Level B road projects;
- (8) Signs which are not in conformance with the standards of Section 10.27,J;
- (9) Trails;
- (10) Water crossings, except for water crossings on/for land management roads;
- (11) Water impoundments;
- (12) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (13) Other structures, uses, or services that are essential for exercise of uses listed in Section 10.23,G,3,a through c; and
- (14) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses which they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within P-MA subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,1 through 3, and subject to the applicable requirements set forth in Sub-Chapter III; and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within this subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Driveways;
- (2) Mineral exploration activities: Level B mineral exploration activities;
- (3) Road projects: Level C road projects;
- (4) Structures: Structures relating to downhill skiing and other mountain related recreation facilities; and
- (5) Utility facilities.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-MA subdistricts but are regulated by the Maine Forest Service.

- (1) Land management roads;
- (2) Timber harvesting; and
- (3) Water crossings on/for land management roads.

**f. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, ~~shall~~must be prohibited in P-MA subdistricts.

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## H. RESOURCE PLAN PROTECTION SUBDISTRICT (P-RP)

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### 1. Purpose

The purpose of the P-RP subdistrict is to provide for the more efficient and effective management of single or multiple protection subdistricts (and in some cases adjoining management subdistricts) than can be realized through the use of other protection subdistricts and their related standards. Resource Plans for such areas that are consistent with the requirements of Section 10.23,H,2 through 9 below may be submitted to the Commission for review, and upon approval, such areas **shall** be designated as P-RP subdistricts.

“Concept plans,” as outlined in the Comprehensive Land Use Plan, are included under the purpose of this subdistrict.

### 2. Description

P-RP subdistricts **shall** be designated in areas where the Commission has approved a Resource Plan that:

- a. Incorporates standards, which, taken as a whole, are at least as protective of the natural environment as those standards which would otherwise be applicable; and
- b. Establishes procedures that reduce the need for repetitious permit applications to the Commission; and
- c. Complies with the criteria established below for their review; and
- d. Has as its primary purpose the protection of those resources in need of protection or, in the case of concept plans, includes in its purpose the protection of those resources in need of protection.

### 3. Permitted Uses

Unless the Commission otherwise provides in approving the Resource Plan, those uses that are specified in the approved Resource Plan **shall** be allowed without a permit. The Commission may approve the creation of a subdivision within the context of a Resource Plan approved by the Commission without the need for rezoning to a development subdistrict provided such subdivision is consistent with the purpose and intent of this subdistrict.

For land within a P-RP Subdistrict, sub-areas identified in the resource or concept plan as development areas will be regulated (in regards to timber harvesting, land management roads, water crossings on/for land management roads, and gravel extraction) by the Land Use Planning Commission as development subdistricts. Areas not so identified will be regulated by the Maine Forest Service according to the underlying protection and/or management subdistrict. Specific standards incorporated into the resource or concept plans will continue to apply until the expiration or revision of the related plan.

### 4. Ownership

Before the Commission **shall** consider an application, the applicant **shall** submit proof that the applicant owns or leases the area for which the Resource Plan is proposed.



## 5. Application Procedures

All P-RP subdistrict applications ~~shall~~must include at least the following information:

- a. A statement of how the proposed Resource Plan conforms with the purpose of this subdistrict and what objectives will be achieved by the proposed redistricting;
- b. A copy of an existing district map on which the area of the proposed P-RP subdistrict is clearly shown;
- c. A description of the management procedures, conservation easements, covenants, agreements or other formalized procedures that the applicant proposes to use to replace the restrictions and regulations that currently apply. The description ~~shall~~must specify how the Resource Plan achieves equal or better protection of resources in the area than the subdistrict(s) which would otherwise apply;
- d. A copy of all those formal procedures and agreements that will ensure the continued protection of the resources; and
- e. A statement that specifies the expiration date (if any) of the proposed Resource Plan, and of the procedures the applicant may wish to use to extend the provisions thereof.

When the Resource Plan application involves structural development, it ~~shall~~must include, in addition to (a) through (e) above:

- f. Forms, plans, and exhibits as are required by the Commission;
- g. Evidence that the proposal will conform with 12 M.R.S. § 685-B; and
- h. A covenant stating that no subdivision of the designated area will take place, except as approved by the Commission as part of an approved concept plan.

## 6. Criteria for Review

The Commission may approve a Resource Plan and any associated redistricting only if it finds that all of the following criteria are satisfied:

- a. The plan conforms with redistricting criteria;
- b. The plan conforms, where applicable, with the Commission's Land Use Districts and Standards;
- c. The plan conforms with the Commission's Comprehensive Land Use Plan;
- d. The plan, taken as a whole, is at least as protective of the natural environment as the subdistricts which it replaces. In the case of concept plans, this means that any development gained through any waiver of the location of development criteria in Section 10.08,B is matched by comparable conservation measures;
- e. The plan has as its primary purpose the protection of those resources in need of protection, or, in the case of concept plans, includes in its purpose the protection of those resources in need of protection;
- f. In the case of concept plans, the plan strikes a reasonable and publicly beneficial balance between appropriate development and long-term conservation of lake resources; and

- g. In the case of concept plans, conservation measures apply in perpetuity, except where it is demonstrated by clear and convincing evidence that other alternative conservation measures fully provide for long-term protection or conservation.

## 7. Approval or Denial of Resource Plan

The Commission, after staff review and recommendation, ~~shall~~must approve or deny the redistricting application. If the Resource Plan proposal contemplates structural development, except as provided in Section 10.23,H,3, the Commission may simultaneously with its approval of the P-RP subdistrict, grant, grant with conditions, or deny, applications for such permits as are required for structural development.

Upon approval of the Resource Plan, a P-RP subdistrict ~~shall~~must be designated on the official Land Use Guidance Map and recorded in accordance with the provisions of Section 10.04.

## 8. Duration of Plan

The provisions of an approved and recorded Resource Plan ~~shall~~must apply for the duration of the approved time period, except that any conservation measures taken to strike a reasonable and publicly beneficial balance in a lake concept plan ~~shall~~must continue to apply to the extent that they are covered by legal contract, deeded covenants, permit requirements, or other legal instruments. The Resource Plan ~~shall~~must be for a minimum of 10 years and may be extended upon approval of the Commission and the applicant. The Resource Plan ~~shall~~must become invalidated if the provisions therein are not complied with.

At the termination of a plan, the Commission will, in conformity with its comprehensive plan, statutes, and standards, designate appropriate zoning which is reasonably consistent with zoning in accordance with Section 10.08,A

In the event that a plan is terminated, all transactions initiated as a component of the plan, including without limitation, the granting of conservation easements or restrictive covenants on subdivided lands will continue to apply to the extent that they are covered by legal contract, deeded covenants, permit or other legal requirements.

## 9. Amendments

Proposed amendments to the Resource Plan ~~shall~~must be made in writing to the Commission. An amendment ~~shall~~must be granted provided it meets the criteria for review listed in Section 10.23,H,6 above. An increase in the size of a P-RP subdistrict may be allowed by amendment, upon approval of the Commission, provided that the Resource Plan is amended to include such expanded area.

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## I. RECREATION PROTECTION SUBDISTRICT (P-RR)

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### 1. Purpose

The purpose of the P-RR subdistrict is to provide protection from development and intensive recreational uses to those areas that currently support, or have opportunities for, unusually significant primitive recreation activities. By so doing, the natural environment that is essential to the primitive recreational experience will be conserved.

### 2. Description

P-RR: Trails, and areas surrounding bodies of standing and flowing water and other areas which the Commission identifies as providing or supporting unusually significant opportunities for primitive recreational experiences.

Bodies of standing water so classified include, but are not limited to, those found to meet the definition of Management Class 1 or Management Class 6 Lakes.

In the case of Management Class 1 Lakes, the Protection District ~~shall~~must extend 1/4 mile out from and around the water body; in the case of Management Class 6 Lakes, the Protection District ~~shall~~must extend 1/2 mile out from and around the water body; and in the case of trails and flowing water, the Protection District ~~shall~~must extend 250 feet on each side of the trail or flowing water, measured from the center of the trail or the normal high water mark of the water, provided that such distance may be decreased where a lesser distance will satisfy the purpose of this subdistrict. The extent, as delineated above, of any P-RR subdistrict may be increased upon land owner agreement.

The river segments within the Commission's jurisdiction identified as meriting special protection in the Governor's Executive Order on Maine Rivers Policy, issued July 6, 1982, based upon the 1982 Maine Rivers Study of the Department of Conservation, ~~shall~~must qualify as flowing water appropriate for protection within this subdistrict.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses are allowed without a permit from the Commission within P-RR subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety, or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Motorized vehicular traffic and snowmobiling with the following exceptions:
  - (a) in the instance of trails designated as P-RR, such traffic and snowmobiling is allowed only on those portions of such trails which are located within the right-of-way of a roadway or utility line; and
  - (b) within any P-RR subdistrict surrounding a body of standing water, such traffic is allowed only in connection with forest or agricultural management activities or in connection with access to and use of existing remote camps; but snowmobiling ~~shall~~must be allowed in such subdistrict;
- (4) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;

- (5) Surveying and other resource analysis; and
- (6) Wildlife and fishery management practices.

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

The following uses are allowed without a permit from the Commission within P-RR subdistricts, subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Forest and agricultural management activities, except for timber harvesting<sup>16</sup>;
- (2) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, provided that such access ways located in P-RR subdistricts established to protect bodies of standing water ~~shall~~must be discontinued, gated, obstructed or otherwise made impassable to two wheel drive vehicles upon completion of the mineral exploration activity, further provided that, when approval for such is legally required, the Maine Forest Service approves the discontinuance of such access ways, which approval the operator ~~shall~~must request;
- (3) Road projects: Level A road projects;
- (4) Service drops;
- (5) Signs;
- (6) Trails, provided that any associated vegetation clearing or filling and grading are in conformance with the standards of 10.27,B,1,c and d,2, and 4 and 10.27,F, and provided the trails are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (7) Water crossings of minor flowing waters, except as provided in Section 10.23,I,3,c below, except water crossings of minor flowing waters on/for land management roads.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within P-RR subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Campsites;
- (2) Constructed ponds: Creation, alteration or maintenance of constructed ponds which are not fed or drained by flowing waters;
- (3) Land application of septage, sludge and other residuals, and related storage and composting activities;
- (4) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with Section 10.23,I,3,b or Section 10.27,C;
- (5) Road projects: Level B road projects;
- (6) Shoreland alterations, including permanent on-shore structures used to secure docks and moorings, but excluding marinas, permanent docking structures, water-access ways, trailered ramps, and hand-carry launches;
- (7) Signs which are not in conformance with the standards of Section 10.27,J;
- (8) Trails which are not in conformance with the standards of Section 10.27,B,1,c and d,2, and 4 and 10.27,F;
- (9) Water crossings of major flowing waters, except for water crossings of major flowing waters on/for land management roads; water crossings of all flowing waters surrounded by a P-RR subdistrict established to protect such waters, except for water

<sup>16</sup>Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”

crossings of all flowing waters surrounded by a P-RR subdistrict established to protect such waters on/for land management roads;

- (10) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (11) Other structures, uses or services that are essential for the exercise of uses listed in Section 10.23,I,3,a through c; and
- (12) Other structures, uses or services which the Commission determines are consistent with the purpose of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the uses or resources they protect, and are of similar type, scale and intensity as other allowed uses.

#### d. Special Exceptions

The following uses, and related accessory structures, may be allowed within P-RR subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,1 through 3, and subject to the applicable requirements set forth in Sub-Chapter III:~~and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (1) Docking structures: Permanent docking structures;
- (2) Filling and grading;
- (3) Hand-carry launches;
- (4) Mineral exploration activities: Level B mineral exploration activities;
- (5) Natural resource extraction: Mineral extraction for road purposes, except for gravel extraction less than 5 acres in size and except as provided in Sections 10.23,I,3,b and c above;
- (6) Road projects: Level C road projects;
- (7) Trailered ramps: Public trailered ramps on rivers and streams zoned P-RR to protect flowing waters;
- (8) Utility facilities other than service drops; and
- (9) Water-access ways, in accordance with Section 10.27,L,1.

#### e. Uses Regulated by the Maine Forest Service

Pursuant to Statute, the following uses are not regulated by the Commission within P-RR subdistricts but are regulated by the Maine Forest Service. Instances where a permit for the activity issued by the Maine Forest Service also requires review and approval by the Commission are noted.

- (1) Land management roads (Permits for land management roads in P-RR subdistricts ~~shall~~must require review and approval by the Commission);
- (2) Natural resource extraction: Gravel extraction for road purposes less than 5 acres in size (Permits for gravel pits less than 5 acres in size in P-RR subdistricts ~~shall~~must require review and approval by the Commission);
- (3) Skid trails, skid roads, and winter haul roads in P-RR subdistricts established to protect a trail or flowing water;

- (4) Timber harvesting (Permits for timber harvesting in P-RR subdistricts established to protect a trail or flowing water ~~shall~~must require review and approval by the Commission); and
- (5) Water crossings of minor flowing waters, major flowing waters, and of all flowing waters surrounded by a P-RR subdistrict established to protect such waters on/for land management roads (Permits for water crossings on/for land management roads in P-RR subdistricts ~~shall~~must require review and approval by the Commission).

In instances where review and approval by the Commission are required, the Commission will consider all applicable requirements set forth in Sub-Chapter III, except for any criteria that are duplicative of criteria considered by another state agency, and the Commission will consider whether the activity will adversely affect the resources protected by the P-RR subdistrict.

In the case of land management roads in P-RR subdistricts around bodies of standing water, the Commission ~~shall~~must also consider whether there is any reasonable alternative route for the road and whether reasonable and adequate provisions will be made by the applicant to make the road impassable to two wheel drive vehicles following termination of the road's use.

In the case of gravel extraction for road purposes in P-RR subdistricts other than those established to protect flowing waters, the Commission ~~shall~~must require the applicant to show by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan.

**f. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, ~~shall~~must be prohibited in P-RR subdistricts.

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## **J. SPECIAL RIVER TRANSITION PROTECTION SUBDISTRICT (P-RT)**

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### **1. Purpose**

The purpose of the P-RT subdistrict is to protect the special resource values of the flowing waters and shorelands of Maine's outstanding river segments as defined in 12 M.R.S. § 403, while allowing for responsible land management and compatible development in those communities situated as transition areas between unorganized townships and municipalities outside of the Commission's jurisdiction. Such areas are subject to different pressures and uses than those in less developed areas of the jurisdiction.

### **2. Description**

Areas within 250 feet of special rivers as identified in The Maine Rivers Act, 12 M.R.S. § 403, that are transition areas because they (a) are on the downstream ends of these rivers within the Commission's jurisdiction, and thus are situated between municipalities outside the Commission's jurisdiction and less developed upstream areas, and (b) have established communities and substantial development either on or proximate to the shoreline.

### **3. Land Uses**

#### **a. Uses Allowed Without a Permit**

The following uses are allowed without a permit from the Commission within P-RT subdistricts:

- (1) Emergency operations conducted for the public health, safety, or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (2) Motorized vehicular traffic and snowmobiling;
- (3) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (4) Surveying and other resource analysis; and
- (5) Wildlife and fishery management practices.

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

The following uses are allowed without a permit from the Commission within P-RT subdistricts, subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Driveways associated with residential uses;
- (2) Forest and agricultural management activities, except for timber harvesting<sup>17</sup>;
- (3) Home-based businesses: Minor home-based businesses;
- (4) Mineral exploration activities: Level A mineral exploration activities, including associated access ways;
- (5) Road projects: Level A road projects;
- (6) Service drops;
- (7) Signs; and

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<sup>17</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection "e. Uses Regulated by the Maine Forest Service."

- (8) Trails, provided that any associated vegetation clearing or filling and grading are in conformance with the standards of 10.27,B,1,c and d,2, and 4 and 10.27,F, and provided the trails are constructed and maintained so as to reasonably avoid sedimentation of water bodies.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within P-RT subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Campsites;
- (2) Campsites, Residential, provided the setback from the normal high water mark is a minimum of 125 feet;
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds which are not fed or drained by a flowing water;
- (4) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (5) Filling and grading;
- (6) Home-based businesses: Major home-based businesses, **except in those plantations and townships listed in Section 10.23,J,3,d;**
- (7) Land application of septage, sludge and other residuals, and related storage and composting activities;
- (8) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C;
- (9) Residential: Single family dwellings, provided the setback from the normal high water mark is a minimum of 125 feet;
- (10) Road projects: Level B road projects provided that such roads are set back as far as practicable from the normal high water mark and screened from the river by existing vegetation;
- (11) Shoreland alterations, including temporary docking structures and on-shore structures used to secure docks and moorings for non-commercial use; but excluding marinas, permanent docking structures, water-access ways, trailered ramps, and hand-carry launches;
- (12) Signs which are not in conformance with the standards of Section 10.27,J;
- (13) Trails which are not in conformance with the standards of Section 10.27,B,1,c and d,2, and 4 and 10.27,F;
- (14) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (15) Other structures, uses or services that are essential for the exercise of uses listed in Sections 10.23,J,3,a through c; and
- (16) Other structures, uses or services which the Commission determines are consistent with the purpose of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the uses or resources they protect, and are of similar type, scale and intensity as other allowed uses.



#### d. Special Exceptions

The following uses, and related accessory structures, may be allowed within P-RT subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,1 through 3, and subject to the applicable requirements set forth in Sub-Chapter III:~~and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (1) Docking structures: Permanent docking structures on rivers and streams zoned P-RT;
- (2) Hand-carry launches on rivers and streams zoned P-RT;
- (3) Home-based businesses: Major home-based businesses in the following plantations and townships provided there is no suitable or reasonably available location in a development subdistrict:
  - Dallas Plantation,
  - Rangeley Plantation, and
  - Sandy River Plantation;
- (4) Mineral exploration activities: Level B mineral exploration activities;
- (5) Road projects: Level C road projects, provided that:
  - (a) no reasonable alternative route outside of the P-RT subdistrict exists and that;
  - (b) such roads are set back as far as practicable from the normal high water mark; and
  - (c) they are screened from the river by existing vegetation;
- (6) Trailered ramps: Public trailered ramps on rivers and streams zoned P-RT;
- (7) Utility facilities other than service drops; and
- (8) Water-access ways on rivers and streams zoned P-RT, in accordance with Section 10.27,L,1.

#### e. Uses Regulated by the Maine Forest Service

Pursuant to Statute, the following uses are not regulated by the Commission within P-RT subdistricts but are regulated by the Maine Forest Service. Instances where a permit for the activity issued by the Maine Forest Service also requires review and approval by the Commission are noted.

- (1) Land management roads (Permits for land management roads in P-RT subdistricts ~~shall~~must require review and approval by the Commission);
- (2) Natural resource extraction: Gravel extraction for road purposes less than 5 acres in size (Permits for gravel pits less than 5 acres in size in P-RT subdistricts ~~shall~~must require review and approval by the Commission);
- (3) Skid trails, skid roads, and winter haul roads;
- (4) Timber harvesting (Permits for timber harvesting in P-RT subdistricts ~~shall~~must require review and approval by the Commission); and
- (5) Water crossings for skid trails, skid roads and winter haul roads of minor flowing waters and water crossings of major flowing waters (Permits for water crossings in P-RT subdistricts ~~shall~~must require review and approval by the Commission).

In instances where review and approval by the Commission are required, the Commission will consider all applicable requirements set forth in Sub-Chapter III, except for any criteria that are duplicative of criteria considered by another state agency, and the Commission will consider whether the activity will adversely affect the resources protected by the P-RT subdistrict.

In the case of land management roads in P-RT subdistricts, the Commission ~~shall~~must also consider whether: no reasonable alternative route outside of the P-RT subdistrict exists; they are set back as far as practicable from the normal high water mark; they follow the shortest practicable route in traversing the subdistrict; they are screened from the river by existing vegetation; and they are built in compliance with the road standards for P-SL1 subdistricts.

In the case of gravel extraction, the Commission ~~shall~~must also consider whether the developer has demonstrated that no reasonable alternative mining sites exist outside of the P-RT subdistrict. When new sites must be located within the P-RT subdistrict, the Commission ~~shall~~must require that they ~~shall~~ be set back as far as practicable from the normal high water mark and no less than 75 feet and ~~shall~~ be screened from the river by existing vegetation.

**f. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, ~~shall~~must be prohibited in P-RT subdistricts.

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## K. SOILS AND GEOLOGY PROTECTION SUBDISTRICTS (P-SG)

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### 1. Purpose

The purpose of the P-SG subdistrict is to protect areas that have precipitous slopes or unstable characteristics from uses or development that can cause accelerated erosion, water sedimentation, mass movement, or structural damage, all of which could cause public danger or threaten public health.

### 2. Description

Areas, 10 acres or more in size, identified by the Commission as having average slopes greater than 60 percent, or areas, 10 acres or more in size, identified by the Commission as having unstable soil which, due to a combination of slope, vegetation, soil type and underlying geology, are subject to accelerated erosion or mass movement.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses ~~shall be~~are allowed without a permit from the Commission within P-SG subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting<sup>18</sup>;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis; and
- (7) Wildlife and fishery management practices.

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

The following uses ~~shall be~~are allowed without a permit from the Commission within P-SG subdistricts, subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agricultural activities: Agricultural management activities;
- (2) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (3) Road projects: Level A road projects;
- (4) Service drops; and
- (5) Signs.

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<sup>18</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within P-SG subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agricultural activities: Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Constructed ponds: Creation, alteration or maintenance of constructed ponds which are not fed or drained by flowing waters;
- (3) Draining, dredging, or alteration of the water table or level for other than mineral extraction;
- (4) Filling and grading;
- (5) Metallic mineral mining activities: Tier one advanced exploration;
- (6) Mineral exploration activities: Access ways for Level A mineral exploration activities, Level A mineral exploration activities which are not in conformance with the standards of Section 10.27,C, and Level B mineral exploration activities;
- (7) Natural resource extraction: Mineral extraction for road purposes not to exceed 30 acres in size provided the unreclaimed area is less than 15 acres, except for gravel extraction for road purposes less than 5 acres in size;
- (8) Road projects: Level B and C road projects;
- (9) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, and boat ramps and ways;
- (10) Signs which are not in conformance with the standards of Section 10.27,J;
- (11) Trails;
- (12) Utility facilities, except service drops;
- (13) Water crossings, except for water crossings on/for land management roads;
- (14) Water impoundments;
- (15) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (16) Other structures, uses, or services that are essential for the exercise of uses listed in Section 10.23,K,3,a through c; and
- (17) Other structures, uses or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses which they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within P-SG subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,1 and 3, and subject to the applicable requirements set forth in Sub-Chapter III; ~~provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (1) Driveways.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-SG subdistricts but are regulated by the Maine Forest Service.

- (1) Land management roads;
- (2) Natural resource extraction: Gravel extraction for road purposes less than 5 acres in size;
- (3) Timber harvesting; and
- (4) Water crossings on/for land management roads.

**f. Prohibited Uses**

All uses not expressly allowed, with or without a permit, or by special exception, ~~shall~~must be prohibited in P-SG subdistricts.

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## L. SHORELAND PROTECTION SUBDISTRICT (P-SL)

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### 1. Purpose

The purpose of the P-SL subdistrict is to regulate certain land use activities in certain shoreland areas in order to maintain water quality, plant, fish and wildlife habitat and in order to protect and enhance scenic and recreational opportunities.

### 2. Description

**P-SL1:** Areas within 250 feet of the normal high water mark, measured as horizontal distance landward of such high water mark, of (a) coastal wetlands, and (b) flowing waters downstream from the point where such waters drain 50 square miles or more.

**P-SL2:** Areas within 75 feet, measured as a horizontal distance landward, of (a) the normal high water mark of flowing waters upstream from the point where such channels drain 50 square miles; (b) the upland edge of those freshwater wetlands identified in Section 10.23,N,2,a,(1),(c) and (2), and (3); and (c) the normal high water mark of bodies of standing water less than 10 acres in size, but excluding bodies of standing water which are less than three acres in size and which are not fed or drained by a flowing water.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses are allowed without a permit from the Commission within P-SL subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting<sup>19</sup>;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis; and
- (7) Wildlife and fishery management practices.

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

The following uses are allowed without a permit from the Commission within P-SL subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agricultural activities: Agricultural management activities;
- (2) Commercial: Recreation supply facilities that do not involve structural development, and are not within one-quarter mile of Management Class 1 or Management Class 2 lakes, and not within one-half mile of Management Class 6 lakes, and that are in conformance with the requirements for such activities in Section 10.27,S;

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<sup>19</sup>Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”

- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Driveways associated with residential uses;
- (5) Filling and grading;
- (6) Hand-carry launches: Commercial and public hand-carry launches;
- (7) Home-based businesses: Minor home-based businesses;
- (8) Mineral exploration activities: Level A mineral exploration activities, including associated access ways;
- (9) Road projects: Level A road projects;
- (10) Service drops;
- (11) Signs;
- (12) Trailered ramps: Public trailered ramps;
- (13) Trails, provided that any associated vegetation clearing or filling and grading are in conformance with the standards of 10.27,B,1,c and d,2, and 4 and 10.27,F, and provided the trails are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (14) Water crossings of minor flowing waters, except for water crossings of minor flowing waters on/for land management roads.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within P-SL subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agricultural activities: Agricultural management activities which are not in conformance with the standards of Section 10.27,A and cranberry cultivation;
- (2) Campsites;
- (3) Campsites, Residential;
- (4) Commercial: Recreation supply facilities that do not involve structural development, and are not within one-quarter mile of Management Class 1 or Management Class 2 lakes, and not within one-half mile of Management Class 6 lakes, and that are not in conformance with the requirements for such activities in Section 10.27,S;
- (5) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (6) Draining, dredging, or alteration of water table or water level for other than mineral extraction;
- (7) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (8) Filling and grading which is not in conformance with the standards in Section 10.27,F;
- (9) Hand-carry launches: Private hand-carry launches and hand-carry launches addressed in Section 10.23,L,3,b which are not in conformance with the standards of Section 10.27,L;
- (10) Home-based businesses: Major home-based businesses, **except in those plantations and townships listed in Section 10.23,L,3,d;**
- (11) Land application of septage, sludge and other residuals, and related storage and composting activities;

- (12) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;
- (13) Peat extraction affecting an area less than 5 acres in size;
- (14) Recreational lodging facilities: Level A;
- (15) Residential: Single family dwellings;
- (16) Road projects: Level B and C road projects, other than crossings of minor flowing waters as provided for in Section 10.23,L,3,b;
- (17) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (18) Signs which are not in conformance with the standards of Section 10.27,J;
- (19) Structures: Non-commercial structures for scientific, educational or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected by this subdistrict;
- (20) Trailered ramps: Commercial trailered ramps and trailered ramps addressed in Section 10.23,L,3,b which are not in conformance with the standards of Section 10.27,L;
- (21) Trails which are not in conformance with the standards of Section 10.27,B,1,c and d,2, and 4 and 10.27,F;
- (22) Utility facilities, excluding service drops;
- (23) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D, except for water crossings of minor flowing waters on/for land management roads; water crossings of coastal wetlands, bodies of standing water, and of major flowing waters, except water crossings of coastal wetlands, bodies of standing water and of major flowing waters on/for land management roads;
- (24) Water-dependent structures for recreational lodging facilities in compliance with Section 10.27,Q,7;
- (25) Water impoundments;
- (26) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (27) Other structures, uses or services that are essential for the exercise of uses listed in Section 10.23,L,3,a through c; and
- (28) Other structures, uses or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses which they protect, and are of similar type, scale and intensity as other allowed uses.



**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within P-SL subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Sections 10.24,B,2 and 3, and subject to the applicable requirements set forth in Sub-Chapter III; ~~provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible, and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (1) Commercial and industrial:
  - (a) Commercial and industrial structures of less than 8,000 square feet which rely on the water resource for their existence; and
  - (b) Recreation supply facilities that may involve structural development and are not within one-quarter mile of Management Class 1 or Management Class 2 lakes, and not within one-half mile of Management Class 6 lakes;
- (2) Recreational lodging facilities:
  - (a) Level B; and
  - (b) Level C.

The following uses, and related accessory structures, may be allowed within P-SL subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Sections 10.24,B,1 through 3, and subject to the applicable requirements set forth in Sub-Chapter III; ~~provided the applicant also shows by substantial evidence that there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant:~~

- (3) Docking structures: New or expanded permanent docking structures;
- (4) Home-based businesses: Major home-based businesses in the following plantations and townships provided there is no suitable or reasonably available location in a development subdistrict:
  - Dallas Plantation,
  - Rangeley Plantation, and
  - Sandy River Plantation;
- (5) Trailered ramps: Private trailered ramps, in accordance with Section 10.27,L,1; and
- (6) Water-access ways, in accordance with Section 10.27,L,1.

**e. Use Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-SL subdistricts but are regulated by the Maine Forest Service.

- (1) Gravel extraction for road purposes less than 5 acres in size;
- (2) Land management roads;
- (3) Timber harvesting; and
- (4) Water crossings of minor flowing waters, major flowing waters, bodies of standing water, and coastal wetlands on/for land management roads.

**f. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, shall must be prohibited in P-SL subdistricts.

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## M. UNUSUAL AREA PROTECTION SUBDISTRICT (P-UA)

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### 1. Purpose

The purpose of the P-UA subdistrict is to protect areas of significant natural, recreational, historic, scenic, scientific or aesthetic value which are susceptible to significant degradation by man's activities, and for which protection cannot adequately be accomplished by inclusion in any of the other subdistricts.

### 2. Description

Areas identified by the Commission as important in preserving the historic, scenic, scientific, recreational, aesthetic or water resources of the region or State and which have special land management requirements which cannot adequately be accomplished within another subdistrict, provided that the area is essential to the values sought to be preserved and is no larger than reasonable to protect such values. P-UA subdistricts ~~shall~~must include, but are not limited to, historic or archeological sites or structures, scientific phenomena, natural areas, or important water supply sources. Federal and State Parks and lands, except for public reserved lots, that are not included in P-RP subdistricts may be placed in this subdistrict.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses ~~shall be~~are allowed without a permit from the Commission within P-UA subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except timber harvesting<sup>20</sup>;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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

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

- (1) Agricultural activities: Agricultural management activities on Federal or State owned land;
- (2) Campsites owned or operated by Federal or State agencies;
- (3) Hand-carry launches: Public hand-carry launches;

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<sup>20</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection "e. Uses Regulated by the Maine Forest Service."

- (4) Home-based businesses: Minor home-based businesses;
- (5) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (6) Road projects: Level A road projects;
- (7) Service drops;
- (8) Signs; and
- (9) Trailered ramps: public trailered ramps.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within P-UA subdistricts upon issuance of a permit from the Commission subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agricultural activities: Agricultural management activities, except as provided for in Section 10.23,M,3,b;
- (2) Campsites except as provided for in Section 10.23,M,3,b;
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds which are not fed or drained by flowing waters;
- (4) Driveways;
- (5) Hand-carry launches: Commercial and private hand-carry launches, and hand-carry launches addressed in Section 10.23,M,3,b which are not in conformance with the standards of Section 10.27,L;
- (6) Land application of septage, sludge and other residuals, and related storage and composting activities;
- (7) Mineral exploration activities: Access ways for Level A mineral exploration activities; and Level A mineral exploration activities which are not in conformance with the standards of Section 10.27,C;
- (8) Recreational lodging facilities owned or operated by Federal or State agencies:
  - (a) Level A (campground only);
  - (b) Level B (campground only); and
  - (c) Level C (campground only);
- (9) Road projects: Level B road projects;
- (10) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, and hand-carry launches;
- (11) Trailered ramps: Trailered ramps addressed in Section 10.23,M,3,b which are not in conformance with the standards of Section 10.27,L;
- (12) Water crossings, except for water crossings on/for land management roads;
- (13) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S. § 480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (14) Other structures, uses or services that are essential for the uses listed in Section 10.23,M,3,a through c; and
- (15) Other structures, uses or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses which they protect, and are of similar type, scale and intensity as other allowed uses.

The following uses, and related accessory structures, ~~are may be~~ allowed within P-UA subdistricts upon issuance of a permit from the Commission according to 12 M.R.S. § 685-B and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant can show by substantial evidence that the use is compatible with and will not detract from the values of the resources protected by the P-UA subdistricts:

- (16) Campsites, Residential;
- (17) Commercial: Retail stores and restaurants with a gross floor area of no more than 1,000 square feet;
- (18) Filling and grading;
- (19) Home-based businesses: Major home-based businesses, except in those plantations and townships listed in Section 10.23,M,3,d;
- (20) Recreational lodging facilities: Level A, except as provided for in Section 10.23,M,3,c;
- (21) Residential: Single family dwellings;
- (22) Road projects: Level C road projects;
- (23) Signs which are not in conformance with the standards of Section 10.27,J; and
- (24) Water impoundments.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within P-UA subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,1 through 3, and subject to the applicable requirements set forth in Sub-Chapter III;~~and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (1) Docking structures: New or expanded permanent docking structures;
- (2) Home-based businesses: Major home-based businesses in the following plantations and townships provided there is no suitable or reasonably available location in a development subdistrict:
  - Dallas Plantation,
  - Rangeley Plantation, and
  - Sandy River Plantation;
- (3) Mineral exploration activities: Level B mineral exploration activities;
- (4) Peat extraction affecting an area less than 5 acres in size;
- (5) Trailered ramps:
  - (a) Commercial trailered ramps; and
  - ~~(a)(b) p~~Private trailered ramps, in accordance with Section 10.27,L,1;
- (6) Utility facilities excluding service drops; and
- (7) Water-access ways, in accordance with Section 10.27,L,1.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-UA subdistricts but are regulated by the Maine Forest Service. Instances where a permit for the activity issued by the Maine Forest Service also requires review and approval by the Commission are noted.

- (1) Land management roads (Permits for land management roads in P-UA subdistricts ~~shall~~must require review and approval by the Commission);
- (2) Natural resource extraction: Gravel extraction for road purposes less than 5 acres in size (Permits for gravel pits in P-UA subdistricts ~~shall~~must require review and approval by the Commission);
- (3) Timber harvesting (Permits for timber harvesting in P-UA subdistricts ~~shall~~must require review and approval by the Commission); and
- (4) Water crossings on/for land management roads (Permits for water crossings on/for land management roads in P-UA subdistricts ~~shall~~must require review and approval by the Commission).

In instances where review and approval by the Commission are required, the Commission will consider all applicable requirements set forth in Sub-Chapter III, except for any criteria that are duplicative of criteria considered by another state agency, and the Commission will consider whether the activity will adversely affect the resources protected by the P-UA subdistrict.

**f. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception ~~shall~~must be prohibited in a P-UA subdistrict.

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## N. WETLAND PROTECTION SUBDISTRICT (P-WL)

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### 1. Purpose

The purpose of the P-WL subdistrict is to conserve coastal and freshwater wetlands in essentially their natural state because of the indispensable biologic, hydrologic and environmental functions which they perform.

Preserving wetlands will promote the public health and safety of persons and protect property against the hazards of flooding and drought by holding back water during floods and retaining water during dry periods. Wetlands also maintain water quality for drinking, store nutrients from upland run-off in plant tissue, serve as settling basins for silt and sediment from upland erosion, stabilize water supply by maintaining the groundwater table and groundwater recharge and discharge areas, and provide plant, fish and wildlife habitat. Wetlands function as integral and irreplaceable parts of a larger natural system, influencing our climate, economy, environment, and natural heritage.

Insofar as this protection subdistrict also includes the area enclosed by the normal high water mark of surface water bodies within the Commission's jurisdiction, the purpose of this subdistrict ~~shall~~must also be to help insure compatible surface water uses on those water bodies where there is the potential for conflict with other uses and values of such water bodies.

### 2. Description

- a. Except as allowed in Section 10.23,N,2,d, water bodies and areas meeting the definition of coastal or freshwater wetlands ~~shall~~must be included in P-WL subdistricts as described below:

(1) **P-WL1:** Wetlands of special significance:

- (a) Areas enclosed by the normal high water mark of flowing waters and bodies of standing water, except for constructed ponds less than 10 acres in size which are not fed or drained by flowing waters;
- (b) Coastal wetlands, together with areas below the normal high water mark extending seaward to the limits of the State's jurisdiction; or
- (c) Freshwater wetlands, as follows:
  - (i) Within ~~250'~~250 feet of the normal high water mark of a coastal wetland or any body of standing water greater than 10 acres;
  - (ii) Containing at least 20,000 square feet in total of the following: aquatic vegetation, emergent marsh vegetation, or open water, unless the wetlands are the result of constructed ponds less than 10 acres in size which are not fed or drained by flowing waters;
  - (iii) That are inundated with floodwater during a 100 year flood event;
  - (iv) Containing significant wildlife habitat;
  - (v) Consisting of, or containing, peatlands, except that the Commission may determine that a previously mined peatland, or portion thereof, is not a wetland of special significance;
  - (vi) Within 25 feet of the normal high water mark of a flowing water; or
  - (vii) Containing a natural community that is critically imperiled (S1) or imperiled (S2).

- (2) **P-WL2:**
    - (a) Scrub shrub and other nonforested freshwater wetlands, excluding those covered under P-WL1; and
    - (b) Constructed ponds less than 10 acres in size which are not fed or drained by flowing waters.
  - (3) **P-WL3:** Forested freshwater wetlands, excluding those covered under P-WL1 and P-WL2.
- b.** Areas meriting protection as P-WL1, P-WL2, or P-WL3 subdistricts will be identified by the Commission after consideration of relevant data including, without limitation:
    - (1) Identification of freshwater and coastal wetlands 15,000 square feet or larger by the National Wetlands Inventory; and
    - (2) When on-site delineation is required, identification of freshwater and coastal wetlands of any size by methods described in the "Corps of Engineers Wetlands Delineation Manual," U.S. Army Corps of Engineers (1987) and the "Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region," U.S. Army Corps of Engineers (Version 2.0, January 2012).
  - c.** P-WL subdistricts described in Section 10.23,N,2,a above and identified on the Commission Land Use Guidance Maps may contain inclusions of upland areas or other wetland types smaller than 15,000 square feet that do not conform to the description of P-WL subdistricts in Section 10.23,N,2,a. Such inclusions will be regulated in accordance with the mapped P-WL subdistrict in which they are located.
  - d.** Areas that qualify for inclusion in a P-WL subdistrict pursuant to Section 10.23,N,2,a may remain in an existing development subdistrict or be included in a new development subdistrict. A person engaging in a land use activity requiring a permit within a portion of a development subdistrict that otherwise could be zoned P-WL must comply with all applicable land use standards, including the standards of Section 10.25,P, Protected Natural Resources.
- 3. Land Uses**
- a. Uses Allowed Without a Permit**
- The following uses are allowed without a permit from the Commission within P-WL subdistricts:
- (1) Boating, with the exception of the use of personal watercraft on bodies of standing water listed in Appendix D of these rules;
  - (2) Docking structures: Temporary docking structures, and moorings for non-commercial use;
  - (3) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
  - (4) Fish weirs and traps;
  - (5) Forest management activities, except for timber harvesting<sup>21</sup>;
  - (6) Motorized vehicular traffic on roads and trails, and snowmobiling;

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<sup>21</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection "e. Uses Regulated by the Maine Forest Service."

- (7) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (8) Sea or ski plane use;
- (9) Surveying and other resource analysis; and
- (10) Wildlife and fishery management practices.

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

The following uses are allowed without a permit from the Commission within P-WL subdistricts, subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agricultural activities: Agricultural management activities, excluding cranberry cultivation;
- (2) Constructed ponds: Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size within P-WL2 or P-WL3 subdistricts which are not fed or drained by flowing waters, provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (3) Draining, dredging or otherwise altering less than 4,300 square feet of a P-WL2 or P-WL3 subdistrict;
- (4) Driveways associated with residential uses within P-WL2 and P-WL3 subdistricts;
- (5) Filling and grading or otherwise altering less than 4,300 square feet of a P-WL2 or P-WL3 subdistrict;
- (6) Hand-carry launches: Commercial, private and public hand-carry launches within a P-WL2 or P-WL3 subdistrict or below the normal high water mark of flowing waters or bodies of standing water;
- (7) Mineral exploration activities: Mineral exploration to discover or verify the existence of mineral deposits, including the removal of specimens or trace quantities, provided such exploration is accomplished by methods of hand sampling, including panning, hand test boring and digging and other non-mechanized methods which create minimal disturbance and take reasonable measures to restore the disturbed area to its original condition;
- (8) Motorized recreational gold prospecting within the normal high water mark of flowing waters;
- (9) Road projects: Level A road projects;
- (10) Service drops for telephone or electrical service, including associated vegetative clearing, provided:
  - (a) the line extension does not cross or run beneath a coastal wetland, or flowing water;
  - (b) the placement of wires or installation of utility poles is located entirely upon the premises of the customer requesting service, upon an established utility line easement, upon a roadway right-of-way or, in the case of telephone service, on existing utility poles; and
  - (c) the total length of the extension is less than 2,000 feet;
- (11) Signs;
- (12) Trailered ramps: Public trailered ramps within a P-WL2 or P-WL3 subdistrict or extending below the normal high water mark of flowing waters or bodies of standing water;
- (13) Trails, provided that any associated vegetation clearing or filling and grading are in conformance with the standards of 10.27,B,1,c and d,2, and 4 and 10.27,F, and provided the trails are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and



- (14) Water crossings of minor flowing waters, except water crossings of minor flowing waters on/for land management roads.

**c. Uses Requiring a Permit**

Except as provided for in Section 10.23,N,3,b,(3) and (5), the following uses, and related accessory structures, may be allowed within P-WL subdistricts upon issuance of a permit from the Commission according to 12 M.R.S. § 685-B and subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Constructed ponds: Creation, alteration or maintenance of constructed ponds which are not fed or drained by flowing waters
  - (a) of less than 4,300 square feet in size within a P-WL2 or P-WL3 subdistrict which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
  - (b) 4,300 square feet in size or greater within a P-WL2 or P-WL3 subdistrict; and
  - (c) within a P-WL1 subdistrict;
- (2) Cranberry cultivation;
- (3) Docking structures: Temporary docking structures and moorings associated with commercial marinas and recreational lodging facilities, and moorings established for rent or lease on a commercial basis in areas not regulated by a harbor master;
- (4) Dredging, other than for riprap associated with water crossings and except as provided for in Section 10.23,N,3,b;
- (5) Driveways associated with non-residential uses within P-WL2 and P-WL3 subdistricts; driveways associated with residential uses within P-WL2 and P-WL3 subdistricts which are not in conformance with the standards of Section 10.27,H; driveways within P-WL1 subdistricts;
- (6) Filling and grading except as provided for in Section 10.23,N,3,b;
- (7) Hand-carry launches addressed in Section 10.23,N,3,b which are not in conformance with the standards of Section 10.27,L;
- (8) Motorized recreational gold prospecting which is not in conformance with the standards of section 10.27, G;
- (9) Peat extraction affecting an area less than 30 acres in size;
- (10) Road projects: Level B road projects, other than crossings of minor flowing waters as provided for in Section 10.23,N,3,b;
- (11) Shoreland alterations, including reconstruction of permanent docking structures; but excluding marinas, new or expanded permanent docking structures, ~~water access~~water-access ways, trailered ramps, hand-carry launches, water crossings of minor flowing waters, and motorized recreational gold prospecting;
- (12) Signs which are not in conformance with the standards of Section 10.27,J;
- (13) Trailered ramps: Public trailered ramps addressed in Section 10.23,N,3,b which are not in conformance with the standards of Section 10.27,L;
- (14) Trails which are not in conformance with the standards of Section 10.27,B,1,c and d,2, and 4 and 10.27,F;
- (15) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D, except water crossings of minor flowing waters on/for land management roads; and water crossings of coastal wetlands, bodies of standing water, and of major flowing waters, except water crossings of coastal wetlands, bodies of standing water, and of major flowing waters on/for land management roads;
- (16) Water impoundments;

- (17) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S. § 682(19); offshore wind power projects, as defined in 38 M.R.S.A §480-B(6A); and wind energy development in accordance with 35-A M.R.S., Chapter 34-A in areas identified in Appendix F herein;
- (18) Other structures, uses or services that are essential to the uses listed in Section 10.23,N,3,a through c; and
- (19) Other structures, uses or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses which they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

Except as provided for in Section 10.23,N,3,b,(3) and (5), the following uses, and related accessory structures, may be allowed within P-WL subdistricts as special exceptions upon issuance of a permit from the Commission according to 12 M.R.S. § 685-A(10), ~~the criteria of Sections 10.24,B,1 through 3, and subject to the applicable requirements set forth in Sub-Chapter III: and subject to the applicable requirements set forth in Sub-Chapter III provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses or resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:~~

- (1) Docking structures: New or expanded permanent docking structures;
- (2) Draining or altering of the water table or water level for other than mineral extraction;
- (3) Hand-carry launches, except as provided for in Sections 10.23,N,3,b and c;
- (4) Lobster sheds and fish sheds, as provided for in Section 10.25,T,2,p,(6);
- (5) Marinas;
- (6) Mineral exploration activities: Level A mineral exploration activities, except as provided for in Section 10.23,N,3,b,(7), and Level B mineral exploration activities;
- (7) Road projects: Level C road projects;
- (8) Trailered ramps: Trailered ramps except as provided in Section 10.23,N,3,b and c;
- (9) Utility facilities, including service drops except as provided for in Section 10.23,N,3,b; and
- (10) Water-access ways, in accordance with Section 10.27,L,1.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-WL subdistricts but are regulated by the Maine Forest Service.

- (1) Land management roads;
- (2) Timber harvesting; and
- (3) Water crossings of minor flowing waters, major flowing waters, bodies of standing water and coastal wetlands on/for land management roads.

**f. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, ~~shall~~must be prohibited in P-WL subdistricts.

**[REVISION NOTE:** This rulemaking proposes to combine all special exception requirements into one section of Chapter 10 (a new Section 10.24(B)) to streamline and simplify the rule, and improve consistency and functionality. The companion parts to this reorganization are illustrated above in Sub-Chapter II (Sections 10.21 through 10.23). Officially, the following section will be entirely new, however, redlined edits only reflect changes to existing phrasings.]

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## 10.24 GENERAL CRITERIA FOR APPROVAL OF PERMIT APPLICATIONS

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### B. CRITERIA FOR PERMIT APPLICATIONS INVOLVING SPECIAL EXCEPTIONS

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The following ~~standards-criteria~~ apply to permit applications for uses allowed by special exception. ~~As applicable~~ in accordance with Sub-chapter II, ~~the~~ The applicant must show by substantial evidence that:

1. there is no alternative site ~~which that~~ is ~~both~~ suitable to the proposed use and reasonably available to the applicant;
2. the use can be buffered from ~~those~~ uses within the ~~vicinity or~~ area likely to be affected by the proposal with which it is or may be incompatible;
3. such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan;
4. there is sufficient infrastructure to accommodate the additional traffic and activity generated by the ~~facility~~use; and that surrounding resources and uses that may be sensitive to such increased traffic and activity are adequately protected;
5. ~~that~~ the project will not result in traffic safety or capacity deficiencies in the vicinity of the project site;
6. the proposed use:
  - a. will not unreasonably obstruct navigation channels or unreasonably preclude boating support facilities elsewhere in the harbor; ~~and~~
  - b. is designed and located, to the extent feasible, so that it does not significantly interfere with the needs of the local fishing industry; and
  - c. if not a water-dependent use: ~~(i)~~ will not replace an existing water-dependent use; and ~~(ii)~~ will not substantially reduce existing public access to coastal wetlands;
7. either the use is integral to the business, or the use ~~predates- legally existed as of~~ May 9, 2016;
8. the proposed use will not pose an unreasonable risk to a valuable groundwater resource and the P-AR subdistrict in which the use is proposed does not protect a sole source aquifer; ~~and~~

9. upon decommissioning of the facility all structures and materials associated with the development will be removed, and affected prime farmland soils will be replaced or restored to a state such that they could be utilized for active agricultural production; and

~~9-10.~~ residential uses will not adversely affect permitting commercial uses within the subdistrict with which it is incompatible.

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## 10.25 DEVELOPMENT STANDARDS

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**[REVISION NOTE: This rulemaking proposes to combine all lake related criteria into one Section 10.25,A to streamline and simplify the rule, and improve consistency and functionality. The companion parts to this reorganization are illustrated above in Sub-Chapter II (Sections 10.21 through 10.23). Officially, the following section will be repealed and replaced, however, redlined edits only illustrate changes to existing phrasings.]**

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### A. REVIEW STANDARDS FOR ~~STRUCTURES AREAS~~ ADJACENT TO LAKES

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**1.** The standards set forth below must be met for all subdivisions and commercial, industrial, and other non-residential structures and uses proposed on land adjacent to lakes. These standards must also be considered in applying the criteria for adoption or amendment of land use district boundaries, as provided in Section 10.08, to proposed changes in subdistrict boundaries adjacent to lakes.

**2. General Land Use Standards.**

In applying the standards set forth below, the Commission ~~shall~~ must consider all relevant information available including the Maine Wildlands Lake Assessment Findings (Appendix C of this chapter), and relevant provisions of the Comprehensive Land Use Plan.

- 1a. Natural and cultural resource values.** The proposal will not adversely affect natural and cultural resource values identified as significant or outstanding in the Wildland Lakes Assessment (Appendix C of this chapter);
- 2b. Water quality.** The proposal will not, alone or in conjunction with other development, have an undue adverse impact on water quality;
- 3c. Traditional uses.** The proposal will not have an undue adverse impact on traditional uses, including without limitation, non-intensive public recreation, sporting camp operations, timber harvesting, and agriculture;
- 4d. Regional diversity.** The proposal will not substantially alter the diversity of lake-related uses afforded within the region in which the activity is proposed;

- 5e. Natural character.** Adequate provision has been made to maintain the natural character of shoreland;
- 6f. Lake management goals.** The proposal is consistent with the management intent of the affected lake’s classification; and
- 7g. Landowner equity.** Where future development on a lake may be limited for water quality or other reasons, proposed development on each landownership does not exceed its proportionate share of total allowable development.

**3. Specific Provisions-Lake Management Classification Standards.**

~~Except as~~Unless otherwise provided ~~otherwise~~, the following standards shall apply to ~~all changes to subdistrict designations,~~ development, and uses ~~within the stated areas based on the lake management classifications as indicated on the Commission’s Land Use Guidance Maps.~~

- a. Management Class 1 Lakes and 6 Lakes.** ~~(High Value, Least Accessible, Undeveloped Lakes) and Remote Ponds) as shown on the Commission’s Land Use Guidance Maps.~~
  - (1) Areas around within one-quarter mile of the normal high water mark of these lakes are not eligible to be rezoned to D-RB or D-RF subdistricts. ~~(see Section 10.21,J,2 and Section 10.21,L,2).~~
- b. Management Class 2 Lakes.** ~~(Accessible, Undeveloped, High Value Lakes) as shown on the Commission’s Land Use Guidance Maps.~~ With respect to single family dwelling proposals within 500 feet of the normal high water mark of Management Class 2 Lakes, the Commission will require an average density per landownership of no more than one dwelling unit per shore mile.
  - (1) Applications proposing single family dwellings within 500 feet of the normal high water mark of these lakes within the D-ES, D-GN, D-GN2, D-GN3, D-RB, D-RS, D-RS2, or D-RS3 subdistricts must not result in an average density per landownership of more than one dwelling unit per shore mile.
  - (2) Applications proposing one or more development units within 500 feet of the normal high water mark of these lakes within the D-RF subdistrict must not result in more than one dwelling unit per shore mile.
- c. Management Class 3 Lakes. (Lakes potentially suitable for development)**
  - (1) P-GP2 subdistricts within 500 feet of the normal high water mark, measured as a horizontal distance, of ~~those lakes listed below:~~  
Aziscohos Lake within Lincoln Plantation, Oxford County; ~~or~~  
Lower Richardson Lake, Township C, Oxford County, ~~the following shall apply:-~~

**(a) Allowed Densities**

Parcels within the P-GP2 subdistrict that are in existence as of January 1, 2001 and that have more than 200 feet but less than 400 feet of shore frontage shall be allowed one dwelling unit provided that other applicable requirements are met.

All parcels within the P-GP2 subdistrict that have more than 400 feet of shore frontage may be further developed subject to the following requirements:

(i) Maximum density of building units. Overall density within each lot shall be no greater than 1 dwelling unit, principal building, or rental cabin for every 400 feet of shoreline up to a maximum density of 13 units per mile of shoreline.

If physical constraints restrict the development potential of more than 50% of the shore frontage of a parcel, the maximum allowable number of building units per mile of shoreline shall be reduced to one per 200 feet of shoreline that is not constrained. Constraints shall include slopes greater than 15%; wetlands; wildlife habitat such as deer wintering areas, eagle or loon nesting areas; habitat for rare or endangered plant and animals; unique natural communities and natural areas; and historic and archeological resources.

(ii) Building units and density. For the purpose of determining density the following structures shall count as individual building units:

- (i) single family seasonal dwelling units;
- (ii) rental cabins associated with campgrounds, sporting camps, or other commercial recreational facilities;
- (iii) sporting camp lodges or other commercial recreational base lodge facilities containing three or fewer rental rooms; and
- (iv) campgrounds.

Individual campsites, public and private trailered ramps, permanent docking facilities and water-access ways, and non-commercial structures for scientific, educational and/or nature observation purposes shall not count as building units for the purposes of calculating allowable densities. Each set of up to three additional rental rooms, at sporting camp lodges or other commercial recreational base lodge facilities with more than three rental rooms, shall count as an additional unit.

(iii) Phosphorous control. All development shall be designed in accordance with the Maine Department of Environmental Protection's "Maine Stormwater Best Management Practices Manual, Volume II, Phosphorous Control in Lake Watersheds: A Technical Guide to Evaluating New Development." Development density shall conform to the requirements of this manual.

(iv) Extent of shoreline to be conserved. Within subdivisions, at least 50 percent of a landowner's ownership on a shoreline shall be conserved to a depth of 500 feet or the depth of the lot, whichever is less, and set aside as open space according to the provisions of Section 10.25,S. The area to be conserved shall be located so that it will create large and contiguous blocks of open space and/or to conserve sensitive resources and areas used traditionally by the public. This conservation of shoreline shall not affect the amount of development allowed under the maximum density provision above.

(v) Build-out rate. No more than 20 individual units may be constructed in any ten-year period per lot of record as of the date of adoption of these rules, except that credit for unbuilt units may be carried over to the

following time period where a maximum of 40 building units in any 10-year period may be developed.

- (vi) Required buffer. No structural development shall be allowed within a ¼ mile radius of any commercial sporting camp, campground, or group of rental cabins associated with a commercial sporting camp or campground. Individual campsites are excluded from this buffering requirement.

The buffer shall extend from the edge of the principal building, dwelling unit, rental unit, or campsite that is closest to any adjacent use.

**[REVISION NOTE: Chapter 10 currently states the following:**

- subdivisions or commercial or industrial structures in D-CI or D-GN;
- subdivisions or commercial, industrial, or other non-residential structures within the D-RB;
- subdivisions or other nonresidential uses within the D-ES or D-GN2; and
- subdivisions or commercial or other non-residential structures within the D-RS, D-RS2, or D-RS3

**However, the edits in d(1)(a) below propose to unify the applicable types of development into one list as shown.]**

**d. Management Class 4 Lakes. ~~as shown on the Commission's Land Use Guidance Maps.~~**

- (1) ~~Within Proposals within~~ 250 feet of the normal high water mark of **Management Class 4 lakes** ~~these lakes involving any of the following situations must indicate future plans for other undeveloped shorelands adjacent to the lake of the same ownership, the Commission will:~~

- (a) ~~subdivisions and commercial, industrial, or other non-residential structures or uses within the D-CI, D-ES, D-GN, D-GN2, D-RB, D-RS, D-RS2, or D-RS3 subdistricts;~~
- (b) ~~any nonresidential structure or use within the D-GN3 subdistrict;~~
- (c) ~~any recreation day use facility or recreation supply facility in the D-RD subdistrict; and~~
- (d) ~~subdivisions and recreation facilities, recreational lodging facilities, and other non-residential structures or uses within the D-RF subdistrict;~~

~~With respect to proposed subdivisions and commercial and industrial structures, require the applicant to indicate future plans for other undeveloped shorelands on the lake that are owned by the applicant. The future plans will be considered part of the proposal and any changes will be subject to approval of an application to amend the original proposal. An applicant's proposed f~~Such indication of future plans shall must address, at a minimum, the next 10 years, and ~~shall must~~ include, but not be limited to, the following information regarding the applicant's land ownership on the lake:

- i) ownership area and shoreline length;
- ii) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and
- iii) development proposed or anticipated development, if any.

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

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

~~(1) With respect to sSubdivisions proposals within 250 feet of the normal high water mark of these lakes within the D-ES, D-GN2, D-RS2, or D-RS3 subdistricts, Management Class 5 lakes, the Commission will require cluster developments which meet the requirements of must be designed in accordance with Section 10.25,Q,4,b.~~

~~f. **Management Class 1 and 6 Lakes.** (Least Accessible, Undeveloped High Value Lakes and Remote Ponds) as shown on the Commission's Land Use Guidance Maps.~~

~~(1) Areas around within one-half mile of the normal high water mark of these lakes are not eligible to be rezoned to D-RB or D-RF subdistricts.(see Section 10.21,J,2 and Section 10.21,L,2).~~

**4. Water Quality Limiting Lakes Standards.**

The methodology used to identify water quality limiting lakes is shown in Appendix A of this chapter.

Water ~~q~~Quality ~~l~~Limiting ~~L~~Lakes ~~shall be~~include those bodies of standing water 10 acres or greater in size where the Commission determines ~~from available information~~ that the maximum number of allowable dwelling units, ~~as determined by minimum shoreline frontage requirements for such water body,~~ would give rise to a significant risk of increasing the phosphorus concentration of the water by 5 parts per billion or more. Such Commission determination must be based on available information and according to minimum shoreline frontage requirements.

With respect to future development, ~~including subdivisions,~~ near a such water quality limiting lakewater bodies, the Commission may impose ~~additional and/or~~ more protective standards and dimensional requirements ~~with respect to clearing, frontage and setback requirements, sewage disposal, and other aspects of such development so as to~~ reasonably assure that the ~~above stated~~ maximum allowable change in phosphorus concentration for the such water-body~~ies~~ is not exceeded.

~~The methodology used to identify water quality limiting lakes is shown in Appendix A of this chapter.~~

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**Q. SUBDIVISION AND LOT CREATION**

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**5. Procedural Requirements.**

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**c. Conveyance of Lots or Dwelling Units.**

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**(2) Partial Certificates of Compliance.**

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For information relative to permit expiration for partial certificates of compliance see [the definition for substantial completion in Chapter 2, Section 10.17,C,2.](#)

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## **10.26 DIMENSIONAL REQUIREMENTS**

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### **D. MINIMUM SETBACKS**

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**[REVISION NOTE: The revisions proposed for Section 10.26,D,3 and 4 serve to resolve currently conflicting statements regarding setback requirements for campsites within recreational lodging facilities.]**

**3. Multi-family Dwellings, and Commercial, Industrial, and Other Non-Residential Uses.**

The minimum setbacks for multi-family dwellings and commercial, industrial, and other non-residential principal and accessory structures, other than those described in Section 10.26,D,2, 4, and 5 and except as provided in Sections 10.26,G and 10.27,Q are:

**a. Shoreline setbacks:**

- (1) 150 feet from each flowing water draining 50 square miles or more and a body of standing water 10 acres or greater in size;
- (2) 100 feet from each flowing water draining less than 50 square miles; body of standing water less than 10 acres in size except constructed ponds; coastal wetland, and non-forested wetlands located in P-WL1 subdistricts; and

**b. Roadway setbacks:**

- (1) 75 feet from all roadways except as provided for in Section 10.26,D,3,b,(2) and (3) below;
- (2) 30 feet from all roadways in D-RS and D-GN subdistricts, including cases where the P-FP overlaps these subdistricts; and
- (3) 20 feet from all roadways on coastal islands;

- c. 25 feet from the side and rear property lines, except as provided for in Section 10.27,S,4,a for outdoor cultivation of marijuana.

Except as provided for in Section 10.26,D,2 above, these setbacks also apply to all parking areas associated with multi-family dwellings and commercial, industrial, and other non-residential uses, and drive-to campsites and all other structures within a recreational lodging facility, including, but not limited to, a main lodge, dining area, workshop and parking area.

#### 4. Campsites.

The provisions of Section 10.26,D,4 apply to all stand-alone campsites and their related camping sites, and camping locations designed and used as only accessible by foot within recreational lodging facilities. Notwithstanding Section 10.26,D,3, the minimum setbacks for the areas designed for camping, including cleared or graded areas, fire rings, tables, and related construction, are:

a. Shoreline setbacks:

- (1) 75 feet from all flowing water; bodies of standing water except constructed ponds; coastal wetlands; and non-forested wetlands located in P-WL1 subdistricts;

b. Roadway setbacks:

- (1) 50 feet from all roadways except as provided for in Section 10.26,D,4,b,(2) and (3) below;
- (2) 30 feet from roads in D-RS and D-GN subdistricts; and
- (3) Notwithstanding the above, the area designed for camping must be set back at least 10 feet from roads internal to a campground or a recreational lodging facility, and campsite parking areas may be located adjacent to such roads, except that the Commission may require a greater setback where necessary due to site conditions in order to protect public safety.

c. 25 feet from property lines.

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8. A remote rental cabin cannot be located within ~~1,000 feet of any public road, and at least or within 1,000 feet of~~ from any other type of residential or commercial development.

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## G. EXCEPTIONS TO DIMENSIONAL REQUIREMENTS

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7. Where development is ~~proposed in the vicinity of adjacent to~~ a water quality limiting lake, the Commission may vary the applicable dimensional requirements in accordance with Section ~~10.23,E,3,g10.25,A,3.~~

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12. ~~The Commission may reduce the minimum road frontage requirement for individual lots within subdivisions with shared driveways in accordance with Section 10.25,Q,3,e.~~

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## 10.27 ACTIVITY-SPECIFIC STANDARDS

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## D. ROADS AND WATER CROSSINGS

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*[REVISION NOTE: Temporary crossings may be necessary or appropriate for a variety of purposes and situations (e.g., regarding a public road or a footbridge). The revision proposed for Section 10.27,D,2 serves to confirm broader applicability.]*

2. **Water Crossings of Flowing Waters.** Except as provided in Section 10.27,D,2,d,(17) for trail crossings, the following standards apply to crossings of flowing waters:
  - a. **All Crossings.** All crossings must be installed, and, in the case of temporary crossings, removed during low-flow conditions between July 15 and September 30 in any calendar year, unless the notice submitted pursuant to Section 10.27,D,5 includes written approval from the Maine Department of Inland Fisheries and Wildlife for an alternative time period.
  - b. **Temporary Crossings.** Temporary crossings may be used for ~~equipment~~-access across flowing waters. Temporary crossings must:

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*[REVISION NOTE: The revisions proposed for Section 10.27,D,5 reflect related revisions to Chapter 4.]*

5. **Written Notice Required.** Written notice of all road and water crossing construction activities, except level A road projects and exempt trail crossings as provided in Section 10.27,D,2,d,(17) above, must be given to the Commission prior to the commencement of such activities. Such notice must conform to the requirements of Chapter 4, Section 4.05(C)~~Section 10.16~~ and must state the manner in which the water crossing size requirements of Section 10.27,D will be satisfied.

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**E. TIMBER HARVESTING**

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9. Written notice of all timber harvesting operations shall be given to the Commission prior to the commencement of such activity. Such notice shall conform to the requirements of Chapter 4, Section 4.05(C)~~Section 10.16~~ and shall state whether or not such operations will be conducted according to the provisions of Section 10.27,E,7; and
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**F. FILLING AND GRADING**

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**[REVISION NOTE: Chapter 2 includes the addition of a definition for sustained slope. Because the proposed definition replicates the sentence below, this sentence is proposed to be deleted.]**

5. Within 250 feet of P-WL1 subdistricts, the sustained slope between the normal high water mark or the upland edge of the resource and the soil disturbance ~~shall~~**must** be no greater than 20%. ~~For the purposes of this standard, sustained slope means a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.~~ The provisions of this paragraph apply only to a face sloping toward the water body or wetland.
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**N. HOME-BASED BUSINESSES**

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Except as hereinafter provided, home-based businesses not in conformance with the standards of Section 10.27,N are prohibited.

**[REVISION NOTE: The following revisions proposed for Section 10.27,N serve to relocate provisions currently contained within the definition of home-based businesses as they represent a standard.]**

**1. Minor Home-based Businesses.**

- a. Purpose.** The intent of Section 10.27,N,1 is to allow minor home-based businesses under the conditions stated herein in certain subdistricts without requiring a permit.

**b. Size.**

(1) A minor home-based business must not utilize not more than 50 percent of all floor area of all principal and accessory structures up to a limit of 1,500 square feet.

~~(2)~~(2) Notwithstanding Section 10.27,N,1,b,(1), aA home child day care provider or home adult day services program without outside staff and caring for no more than six

children or adults is considered a minor home-based business, but is not subject to the limitations on percent and floor area of the structure utilized.

**b.c. Employees.** No employees outside the resident family may regularly work on the premises.

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## 2. Major Home-based Businesses.

**a. Purpose.** The intent of Section 10.27,N,2 is to allow major home-based businesses in certain subdistricts through the issuance of permits.

**b. Size.**

(1) A major home-based business must not utilize more than 50 percent of all floor area of all principal and accessory buildings up to a limit of 2,500 square feet.

~~(1)~~(2) Notwithstanding Section 10.27,N,2,b,(1), a home child day care provider or home adult day services program with outside staff and caring for up to 12 children or adults is considered a major home-based business, but is not subject to the limitation on the percent and floor area of the structure utilized. Adaptive rehabilitation and reuse of existing accessory structures for major home-based businesses may exceed the size limitations of such home-based businesses if the following conditions are met:

- (a) The structure is a legally existing accessory structure constructed before October 31, 2000, and
- (b) The structure will not be expanded in size.

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## O. PERMANENT DOCKING STRUCTURES

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### 3. Normal Maintenance and Repair.

**a.** ~~In accordance with Section 10.02, n~~Normal maintenance and repair of permanent docking structures above the normal high water mark does not require a permit.

**b.** Boathouses and floatplane hangars. Except as provided for in a (D-MT) Maritime Development Subdistrict and in a DACSS listed in Appendix G, Section 2 of this chapter, boathouses and floatplane ~~hangers-hangars~~ may be maintained ~~in accordance with the provisions for~~(see the definition of normal maintenance and repair) ~~in Section 10.02~~, but may not be reconstructed.

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## S. COMMERCIAL BUSINESSES

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### 3. Recreation Supply ~~Businesses~~Facilities.

#### a. Standards for All Recreation Supply Facilities.

- (1) Resource Dependency. Facilities must supply equipment or services primarily for use by people pursuing recreational activities on recreational resources such as trails that support motorized vehicle, non-motorized vehicle, or equestrian use, or on bodies of standing water greater than ten acres in size.
- (2) Proximity to Resource. Facilities must be located within one-quarter mile of trailheads serving permanent trails that support motorized vehicle, nonmotorized vehicle, or equestrian use; or within one-quarter mile of publicly accessible points of access to a body of standing water greater than ten acres in size, and not within one-quarter mile of Management Class 1, or Management Class 2 lakes, and not within one-half mile of Management Class 6 lakes.
- (3) Sanitation.
  - (a) All recreation supply ~~businesses~~facilities must provide adequate trash and recycling receptacles for use by customers, and must provide for regular collection and disposal of site-generated solid wastes at a State-approved landfill or transfer station.
  - (b) Recreation supply ~~businesses~~facilities that sell food must meet all requirements of the Maine Food Code, and must be licensed by the Maine Department of Health and Human Services or the Maine Department of Agriculture, Conservation, and Forestry.

#### b. Standards for Recreation Supply ~~Businesses~~Facilities without Structural Development.

In addition to the standards listed in Section 10.27,S,3,a recreation supply ~~businesses~~facilities that do not have structures must comply with the following:

- (1) Compatibility with Recreational Lodging Facilities. Temporary or mobile recreation supply ~~businesses~~facilities that supply food or gear to recreational users must not locate within one-half mile of a recreational lodging facility, as defined in ~~Section 10.02~~Chapter 2 of the Commission's rules, which already serves food or already rents or sells gear to the public, except upon prior written agreement of the recreational lodging facility owner.
- (2) Scale.
  - (a) A business must be mobile, and must not include structures as defined in ~~Section 10.02~~Chapter 2 of the Commission's rules. The facility and all appurtenant components must not be in the same location for more than 120 days in a calendar year. Mobile means that a vehicle or trailer must be ready for highway use, and must be fully licensed unless intended to travel exclusively on private roads.

- (b) Mobile or temporary recreation supply **businesses-facilities** must be self-contained, and all temporary fixtures or signs related to the facility must be stored inside the facility when closed.
- (c) The site must not have more than one acre of disturbed area as a result of the development.
- (3) Dimensional Requirements. Pursuant to Section 10.26, all components of a recreation supply **business-facilities** must meet dimensional requirements for parking areas, structures, and lots applicable to commercial activities. For the purposes of this section, structures include temporary toilets.
- (4) Noise and Lighting.
  - (a) Noise. Facilities must meet the standards for noise included in Section 10.25,F,1.
  - (b) Lighting. All exterior lighting must be full cut-off and designed, located, installed and directed in such a manner as to illuminate only the target area, to the extent practicable. Activities must not produce a strong, dazzling light or reflection of that light beyond lot lines onto neighboring properties, or onto any roadway so as to impair the vision of the driver of any vehicles upon that roadway or to create nuisance conditions. Additionally, all non-essential lighting must be turned off after business hours, leaving the minimum necessary for site security.
- (5) Parking.
  - (a) The business must provide for adequate parking to prevent nuisance or unsafe conditions. The design of on-street or off-street parking areas for use of customers and employees must be sufficient for the proposed use, and must not remove parking capacity needed for public use of trailheads or water access points, and must otherwise meet the design requirements described in Section 10.25,D,3.

**c. Recreation Supply **Businesses-Facilities** with Structural Development.** In addition to the standards listed in Section 10.27,S,3,a, recreation supply **businesses-facilities** that have structures must comply with the following:

- (1) Scale. Recreation Supply Businesses with structures, as defined in **Section ~~10.02~~Chapter 2 of the Commission's rules**, must not have more than 2,500 square feet of gross floor area.
- (2) Exterior storage. Recreation supply **businesses-facilities** with structures must have no more than 200 square feet of area used for exterior storage.

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## APPENDIX A      SAMPLE DETERMINATIONS TO IDENTIFY WATER QUALITY LIMITING LAKES

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**Purpose.** The purpose of the following is to determine those lakes where a density of one dwelling unit per 150\* feet of shoreline of the lake would increase the phosphorus concentration of the lake water by 5 parts per billion or more.

...

\* Since the minimum shore lot frontage on ~~Great Ponds~~ major water bodies is 150 feet measured as a straight line between the points of intersection of side lot lines with the normal high water mark of the shoreline, and due to the irregularity of shoreline, the actual average shoreline measure along the normal high water mark for such lot is estimated to be 150 feet.

...

**[REVISION NOTES:**

- Effective November 5, 2019, in accordance with Private & Special Law 2019 Chapter 10, Township 17 Range 3 WELS was renamed Van Buren Cove Township.
- Effective August 27, 2020, Kingsbury Plantation assumed land use regulatory authority; the plantation is no longer part of the Unorganized and Deorganized Territories or the Commission's service area.

*Revisions illustrated below for Appendix C and Appendix F respond to these two changes to the Unorganized and Deorganized Territories and the Commission's service area.]*

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## APPENDIX C      ALPHABETICAL LIST OF LAKES SHOWING WILDLANDS LAKE ASSESSMENT FINDINGS

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ALPHABETICAL LIST OF LAKES SHOWING  
WILDLANDS LAKE ASSESSMENT FINDINGS

PRINCIPAL LAKE NAME	LAKE #	TOWN NAME	IF&W REG	SIZE (AC)	RESOURCE RATINGS							RESOURCE CLASS	LAND USE		MGNT CLASS	
					FSH	WLD	SC	SH	BOT	CLT	PHY		ACCESS	DEV		
LONG L	1682	<del>T17-R03-WELS</del> <u>Van Buren Cove</u> <u>TWP</u>	G	6000	S							S	2	AC	DEV	



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## APPENDIX F EXPEDITED PERMITTING AREA FOR WIND ENERGY DEVELOPMENT

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The following areas, not including areas below the high water mark of coastal wetlands, comprise the expedited permitting area for wind energy development to accomplish the purposes of “An Act to Implement Recommendations of the Governor’s Task Force on Wind Power Development”, P.L. 2007, ch. 661, and “An Act To Improve Regulatory Consistency within the Jurisdiction of the Maine Land Use Planning Commission,” P.L. 2015, ch. 265. The Commission may add and remove areas within its jurisdiction to and from the expedited permitting area for wind energy development in accordance with Title 35-A, Section 3453 and Section 3453-A.

**1. Entire townships and plantations.** The following entire townships and plantations:

...

~~T17 R 3 WELS~~ Van Buren Cove Twp.

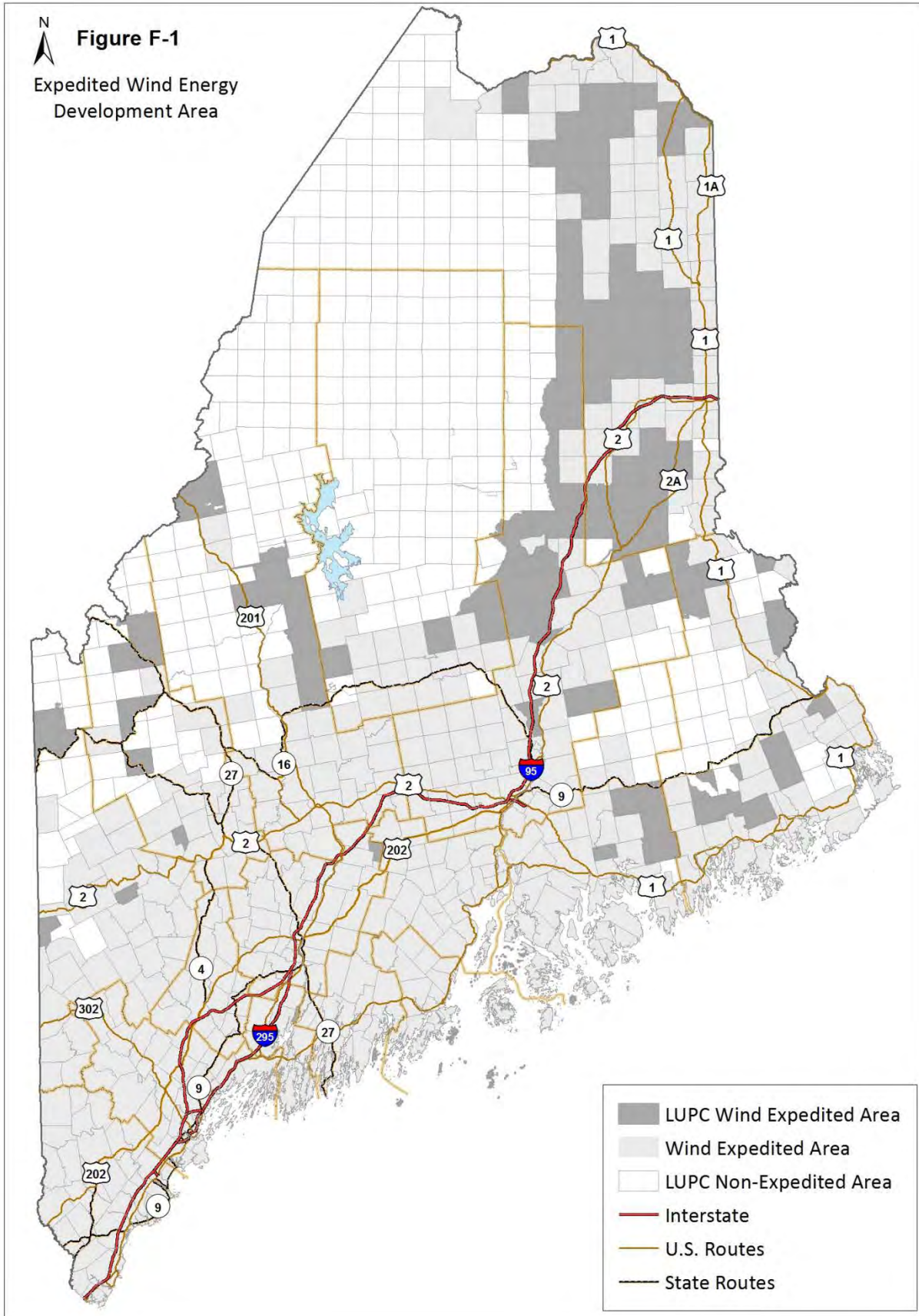
...

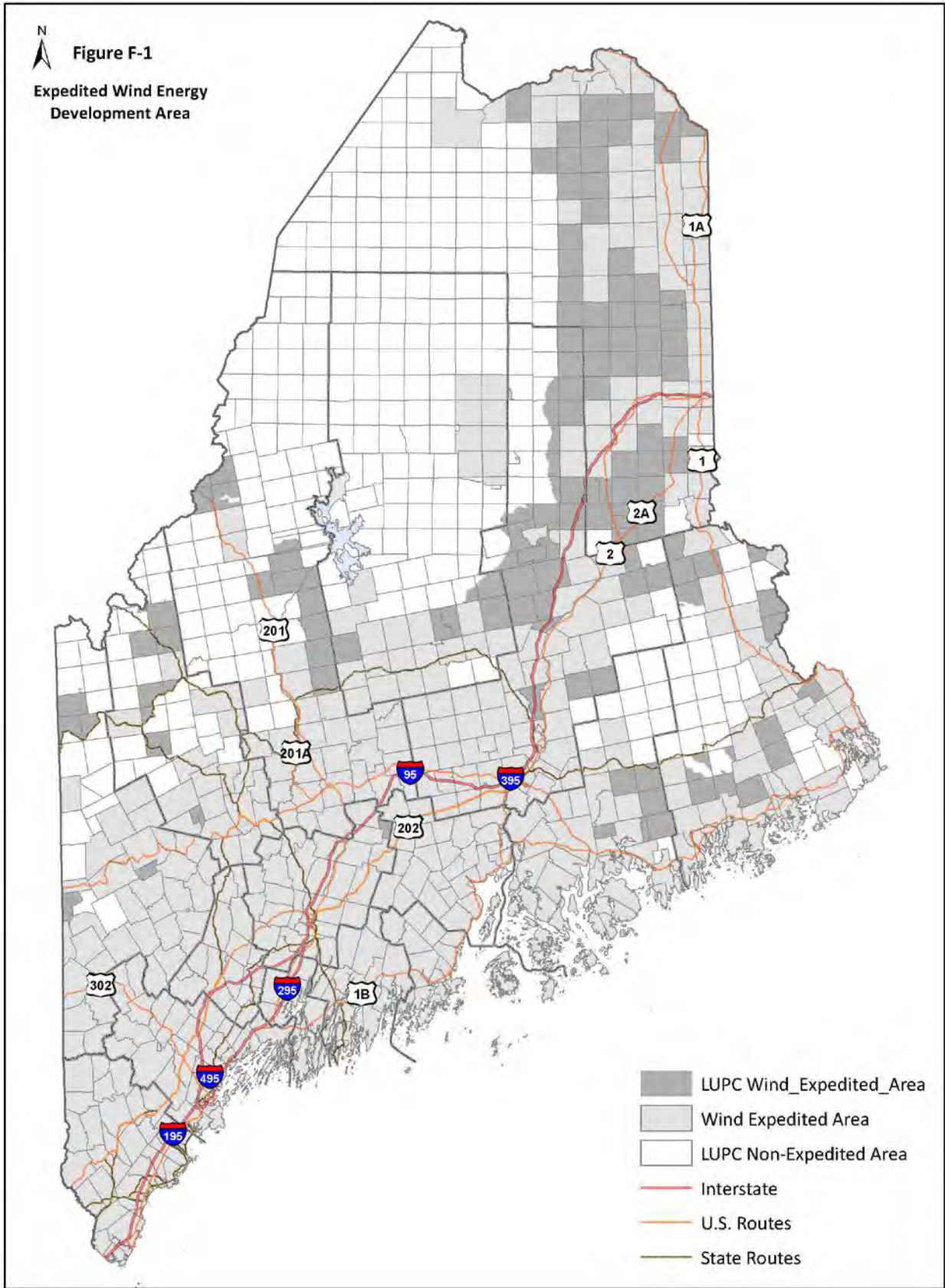
**2. Portions of townships and plantations.** The following portions of townships and plantations:

...

~~that portion of Kingsbury Plt., 21110 within the project boundary of the Bingham Wind Project (Maine Department of Environmental Protection Order L-25973-24-A-N and L-25973-TGB-N), specifically: (a) the area identified as Ridgetop Area V and Ridgetop Area VI, as described in documents recorded in the Piscataquis County Registry of Deeds in Book 2373 Page 103 and Page 81, respectively; (b) the area containing the generator lead corridor, consisting of the generator lead easement area, as described in documents recorded in the Piscataquis County Registry of Deeds in Book 2229 Page 162 as affected by Book 2364 Page 284, in Book 2229 Page 182 as affected by Book 2364 Page 292, and in Book 2372 Page 264; and (c) the area in which access roads have or may be constructed as described in documents recorded in the Piscataquis County Registry of Deeds in Book 2229 Page 182 as affected by Book 2364 Page 292, in Book 2229 Page 162 as affected by Book 2373 Page 98, and in Book 2373 Page 213, but excluding existing land management roads over which access to the project is provided, and maintenance and improvement rights are granted, in the referenced recorded documents;~~

...





Department of Agriculture, Conservation and Forestry  
**MAINE LAND USE PLANNING COMMISSION**  
22 State House Station, Augusta, Maine 04330. Tel. (207) 287-2631

## **Rules Relating to Large Lot Land Divisions**

### **Chapter 16 of the Commission's Rules**

*March 10, 2021 DRAFT*

~~(APA Office Note dated November 6, 2013: due to a legislatively mandated reorganization, the Land Use Regulation Commission was renamed as Land Use Planning Commission, with its umbrella unit number changed from 04-061 to 01-672.)~~

Effective Date: September 22, 1990

Amended Effective: ~~October 17, 2000~~

Generalized summary of proposed Chapter 16 revisions by topic

Definitions: Consistent with proposed revisions for Chapters 1, 10, and 2, relocate most LUPC definitions within a new rule, Chapter 2.

Clerical Edits:

- Revise visual characteristics to contribute to improved function of the rule – *such as formatting, spacing, and an alternating alpha numeric outline structure (e.g., 16.01(A)(1)(a));*
- Correct citations and references – *such as proper citation to Maine statutes (M.R.S.) and correct citations to sections of Chapter 10; and*
- Revise the usage of “shall” to more appropriate terminology or phrases.

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**Chapter 16: ~~RULES RELATING TO LARGE LOT LAND DIVISIONS~~**

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**16.01 LEGAL AUTHORITY**

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This rule is authorized and adopted under 12 M.R.S. §685-A.

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**16.02 PREAMBLE**

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This rule was adopted to provide appropriate transitional standards for a limited number of subdivisions that were affected by the elimination of exemptions for certain large lot divisions from the Commission's regulatory standards and procedures.

Public Law 1989, Chapter 584 amended the definition of subdivision in the Land Use Regulation law. As a result of this amendment to the law, some lot divisions which had been exempt under the previous definition became legally recognized as subdivisions, subject to regulatory review by the Commission. Chapter 16 was established to provide a streamlined review process for subdivisions that were in various stages of planning and implementation when Chapter 584 was enacted.

This rule originally established a two-year time frame, expiring July 1, 1992, for submission of applications for review under its provisions. This deadline was subsequently extended to July 1, 1993 by Private and Special Law 1991, chapter 92. During the time period established for review of applications under this rule, seven large-lot subdivisions comprising approximately 500 lots were approved under Chapter 16.

Since the deadline for consideration under Chapter 16 has expired, the rule's function is now limited to maintaining the standards that were applied to subdivisions reviewed under the rule.

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**16.03 (RESERVED) DEFINITIONS**

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~~For the purpose of this rule, terms not defined in this section shall have the meaning given them in 12 M.R.S.A. §682 and Chapter 10 of the Commission's Land Use Districts and Standards. In addition, the following terms shall have the following meaning unless the context indicates otherwise.~~

~~A. **Commission.** "Commission" means the Maine Land Use Planning Commission.~~

~~B. **Plat.** "Plat" means a map or site plan of a subdivision showing the location and boundaries of individual parcels of land divided into lots and customarily drawn to a scale.~~

~~C. **Registry.** "Registry" means the Registry of Deeds for the county within which a parcel is located.~~

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## 16.04 APPLICABILITY

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This rule ~~shall apply~~ applies only to parcels of real estate where all of the following conditions have been met:

A. On or before July 12, 1989:

- (1) A division of land was platted and recorded as permitted by the law in effect prior to the enactment of ~~P.L. Public Law~~ 1989, ~~e-chapter~~ 584\*;
- (2) The plat of such land division was properly filed with the Registry and with the State Tax Assessor, or if the land is located in a plantation, with the tax assessor of the plantation;
- (3) As platted and filed in the Registry, the division is comprised of lots where each lot to be sold or developed occupies at least 40 but not more than 100 acres;
- (4) As platted and filed in the Registry, the division does not contain any spaghetti lots as that term is defined by 12 M.R.S. ~~A.~~ § 682(13); and
- (5) The person creating the division undertook one or more of the following pre-development or development activities:
  - (a) Caused to be performed and recorded by a Maine registered land surveyor a valid and reasonably accurate land survey of each lot within the division;
  - (b) Sought and obtained a road construction permit from the Commission for construction of a road to serve the subdivision. Filing of a notification with the Commission for construction of a land management road is not sufficient to meet this condition;
  - (c) Sold or placed under contract for sale three or more lots within the division as that division is platted and filed in the Registry;
  - (d) Caused to be performed and recorded a medium intensity soils survey of the parcel or a soils suitability test for eighty percent (~~80%~~) or more of the lots in the division by either a licensed Site Evaluator or a Maine registered soil scientist; or
  - (e) Established a lot owners association for the maintenance of roads within the division, including the adoption of association bylaws; and

B. Either the parcel from which the division was made contains no shoreland area as that term is defined by 38 M.R.S. ~~A.~~ §435, or the division was platted and filed in the Registry and with the State Tax Assessor on or before April 19, 1988; and

C. The person creating the subdivision files a complete application for a permit under this rule prior to July 1, 1992.

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\* The law in effect prior to enactment of ~~P.L. Public Law~~ 1989, ~~e-chapter~~ 584 is set forth at ~~P.L. Public Law~~ 1987, ~~e-chapter~~ 810.

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**16.05 SUBDIVISIONS NOT MEETING APPLICABILITY REQUIREMENTS OR NOT MEETING GENERAL STANDARDS**

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- A. Subdivision activities (including without limitation sales or conveyances of lots within a previously platted and recorded division, and which occur for the first time after the effective date of P.L. Public Law 1989, e-chapter 584) that do not meet the applicability requirements set forth in Section 16.04 of this rule ~~shall~~ require Commission subdivision approval and appropriate zoning pursuant to 12 M.R.S. ~~A.~~ § 685-B and Chapter 10.
- B. This rule ~~shall-must~~ not be construed to prohibit or govern the sale or other conveyance or the development of a lot that does not meet the requirements of this rule where subdivision approval by the Commission has otherwise been obtained under 12 M.R.S. ~~A.~~ § 685-B and Chapter 10 of the Commission's Standards.
- C. The sale or lease of lots containing 40 or more acres for which a plan of those lots was filed with the Registry and the State Tax Assessor, or if the land is located in a plantation, with the tax assessor of the plantation, on or before April 19, 1988 and for which subdivision approval was not required under law in effect on April 19, 1988 ~~shall does~~ not require subdivision approval by the Commission. See P.L. Public Law 1987, e-chapter 864, see-section 11.

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**16.06 GENERAL STANDARDS FOR ISSUANCE OF PERMIT BY RULE FOR SUBDIVISIONS ELIGIBLE UNDER SECTION 16.04 ~~OF THE RULE~~**

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- A. A permit by rule ~~shall-may~~ be granted only for a subdivision, including qualifying lots therein, as configured on the plat filed in the registry of deeds Registry on or before July 12, 1989 showing that division.
- B. Permanent access to each lot of a subdivision must be secured by a perpetual easement on a privately owned road to a public road or by direct access to a public road. Each lot must have at least 200 feet of frontage along the traveled portion of an access road, provided, however, that this minimum frontage requirement ~~shall does~~ not apply to lots located on a cul-de-sac or at the terminus of a road. If not shown on the plat, such road must be identified on a separate road plan filed in the Registry registry of deeds.
- C. Roads within the subdivision must have a travel surface of at least 15 feet.
- D. Dwelling units and accessory structures occupying more than 250 square feet and placed upon any lot within a subdivision that is sold after July 1, 1990 must be located no closer than 70 feet from the travel surface of any road except that detached garages may be no closer than 40 feet.
- E. Provision for the maintenance of roads within the subdivision must be made through the creation and operation of a lot owners association or other equivalent binding arrangement.



- F. Each lot must have sufficient soils for installation of a sewage disposal system in compliance with the requirements of the Maine State Plumbing Code.
- G. No lot within a subdivision that is sold after July 1, 1990 may be further divided such that the area of any lot is less than 40 acres, except that a transfer of an interest in land to an abutting owner of land is permitted.
- H. Except as otherwise provided in this rule, development or construction on any lot and construction of roads within a subdivision must comply with the requirements of Chapter 10, Sections ~~17.A and 17.B~~10.25 and 10.27 as well as all other applicable regulatory requirements.
- I. Except as otherwise provided in this rule, uses of lots within a subdivision are permitted to the extent and in the manner allowed within ~~Subdistricts~~subdistrict(s) within which they are located.
- J. Notwithstanding Sections 10.06(~~FG~~), ~~10.15A~~10.21(A)(3)(C) and ~~10.16~~10.23(L) of Chapter 10, only for the purposes of subdivisions qualifying under this rule a residential subdivision is a permitted use within (M-GN) General Management Subdistricts and (P-SL) Shoreland Protection Subdistricts.
- K. Within a subdivision lot that is sold after July 1, 1990, no more than one residential dwelling unit, with the dwelling unit occupying not more than 4,000 square feet of gross floor area and accessory structures and buildings may be placed on each lot.
- L. For every 500 acres of land in a subdivision, at least 40 acres must remain permanently undeveloped by imposition of appropriate restrictions, pursuant to a conservation easement or conveyance to a lot owners association, for use as open space or wildlife habitat. However, if the area of all lots to be sold or developed after July 1, 1990, in any subdivision, or contiguous subdivisions owned or controlled by the same entity, comprises more than 3,000 acres, regardless of how platted, at least 80 acres must remain undeveloped in the above described fashion for every 500 acres of land in the subdivision or subdivisions.
- M. The Standards set forth in Sections 16.06, ~~D, E, G, I, K, and L~~(D), (E), (G), (I), (K) and (L) of this rule ~~shall~~must be stated as deed covenants on sales or conveyances of lots sold after July 1, 1990.

Authority: 12 M.R.S.~~A.~~ Section 681 et seq.

Effective Date: September 22, 1990

Amended Effective:

October 17, 2000<sup>22</sup>

May 23, 1997 – corrections and other formatting related to 1996 digital conversion)

May 4, 1996 – digital conversion

<sup>22</sup> Rule refiled November 6, 2013 to reflect a legislatively-mandated reorganization; the Land Use Regulation Commission was renamed as Land Use Planning Commission, with its umbrella-unit number changed from 04-061 to 01-672. No other changes were made.