

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

CHAPTER 1, ~~GENERAL PROVISIONS~~FEE SCHEDULE

Proposed repeal and replacement of Chapter 1

Date: November 9, 2020 – Provisionally Adopted

[NOTE: This redline document is for background purposes; the agency intends to propose all changes in a repeal and replace form.]

This rulemaking package proposes to revise Chapter 1. Proposed changes are shown in strikeout and underline format with additions in underlined text, deletions as ~~strikethroughs~~, and relocations as double underline and double ~~strikethroughs~~.

Of the substantive revisions, many are self-explanatory. Where necessary, further explanations of some changes have been included in [brackets]. These explanatory notes will not be included in the final rule. A generalized summary of the revisions is provided on the next page.

Generalized Summary of Proposed Revisions by Topic

Reorganization: The whole chapter is proposed to be reorganized to improve the opportunity for consistency, brevity, and clarity.

Clarification: Clarify the agency's ability to charge processing fees related to the hard costs associated with site law certifications, including in some cases hiring temporary staff to replace staff time devoted to one project;

Additions: Revise this rule to add a number of provisions:

- Add ability to recoup costs related to the review of requests for certifications;

Updates: Revise assorted fees to reflect or otherwise respond to:

- other Commission rulemaking to incentivize certain activities – *such as recreational lodging, certain subdivision designs, and residential development on Commission approved subdivision lots;*
- the relevant workload or draw upon public resources otherwise related to application reviews – *such as charging for expenses incurred in reviewing applications and requests for certification;*
- agency policies – *such as instances where application fees may be returned;*
- availability of digital materials and processes; and
- fees regarding footprint as they relate to solar energy development

Clerical Edits:

- Revise visual characteristics to contribute to improved function of the rule – *such as formatting and spacing;*
- Correct or otherwise unify the format and phrasing of citations and references – *such as proper citation to Maine statutes (M.R.S.);*
- Refer to authorizing or supporting law to aid the reader in identifying and understanding applicable requirements and rights without reiterating statute;

Department of Agriculture, Conservation and Forestry
MAINE LAND USE PLANNING COMMISSION
22 State House Station, Augusta, Maine 04330. Tel. (207) 287-2631

Fee ScheduleGeneral Provisions

Chapter 1 of the Commission's Rules

Effective Date: August 27, 1990

Amended Effective: ~~July 23, 2007~~ [Not yet applicable / available]

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Chapter 1 — General Provisions

Summary: ~~This rule establishes a fee schedule for applications and petitions processed by the Maine Land Use Planning Commission and prescribes fees for general administrative services including reproduction of documents and distribution of maps and publications.~~

1.01 PURPOSE AND LEGAL AUTHORITY

~~This rule establishes a fee schedule for applications and petitions processed by the Maine Land Use Planning Commission and prescribes fees for general administrative services including reproduction of documents and distribution of maps and publications.~~

This rule is authorized ~~by~~ and adopted ~~under~~ pursuant to ~~1 M.R.S. § 408-A and 12 M.R.S.A. sections §§ 684, 685-B(2), and 685-C(3), and 685-F.~~

1.02 — DEFINITIONS

[Revision Note: The LUPC will be initiating rulemaking to combine most agency definitions within one rule. Such separate rulemaking will be targeted to enable the LUPC to consider the separate rulemaking concurrently with its respond to the Maine Legislature’s action or directive regarding this Chapter 1 rulemaking.]

~~For the purposes of this rule, the following terms shall have the following meaning unless the context indicates otherwise:~~

A. — Amendments:

~~An action to modify a permit, petition, or request for certification previously issued by the Commission, except for minor changes. For the purposes of Chapter 1, amendments are divided into two categories:~~

~~— **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:~~

~~— 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;~~

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

D. Commission:

~~“Commission” means tThe Maine Land Use Planning Commission.~~

BE. Development costsCosts:

~~“Development costs” means aAll 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.~~

CF. Director:

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

DG. Minor changesChanges:

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

- ~~(1)1. — updating current transfer of ownership or indicating a new permit holder;~~
- ~~(2)2. — correcting clerical errorstypographical errors or other errors of transcription;~~
- ~~(3)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~~
- ~~(4)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~~
- ~~5. — renewing a permit and extending the deadline for a substantial start or for substantial completion by up to two years.~~

FH. Permits:

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

1.03 — [RESERVED]

1.040302 SCHEDULE OF FEES

A. GENERAL PROVISIONS

[Revision Note: Proposed revisions either clarify phrasing or result in the relocation of provisions to a more appropriate section (e.g., additional fees, or exceptions).]

1. ~~Fees that are based on acres, square feet, or linear feet are calculated using the square feet or linear feet of all new, reconstructed, replaced, expanded, or changes in use to nonconforming structures, disturbed areas, or other development, including utility lines. Legally existing development is not counted in the fee calculation. Square foot and linear foot calculations apply to new, reconstructed, replaced, expanded, additions, or changes of use to structures, disturbances, or utility lines. Legally existing or previously approved structures, disturbances, or utility lines unless otherwise specified are not counted in the fee calculation.~~ For utility lines, roads, land management roads, and ~~mineral or peat~~natural resource extraction, only the portions of the project or the additional length, ~~or acreage, or withdrawal~~ that triggers permit review ~~will bear~~ subject to ~~these application~~ fees.
2. ~~Areas within building permits, development permits or D-PD boundary changes that disturb shoreland areas adjacent to (for the purpose of this rule and fee structure “adjacent to” means within 25 feet) or below the normal high water mark of any surface water body, including but not limited to lakes, ponds, streams, brooks, and rivers, or that impact any identified wetland areas will be assessed the square foot rate fee of \$0.40 per square foot.~~
3. ~~Except as may be provided by Section 1.02(B), application fees for major amendments to permits shall bear~~ assessed using the same method as the application fees for an initial permit applications.
4. ~~After the Fact Fees, or fees for activities already begun prior to receiving permit approval, shall be three (3) times the listed fee.~~
- 5.1. ~~No Fee will be charged for Processing Notifications.~~
- 6.1. ~~No fee shall be assessed to a governmental agency seeking to amend district boundaries.~~
- 7.2. ~~No fee shall be assessed for district boundary changes to or from an interim protection subdistrict or resulting from correction of an error as to the boundary of a district.~~
3. No application for a permit, special exception, zoning petition, certificate of compliance, advisory ruling, certification, or variance, or service will ~~shall~~ be processed until the fees have been paid in full in accordance with this rule.

4. All fees are non-refundable, except any fees assessed in accordance with Section 1.02(E)(2)(c), and Section 1.02(E)(3) that exceed actual processing costs.

B. PERMIT FEES ESTABLISHED FEES FOR APPLICATIONS, ADVISORY RULINGS, CERTIFICATIONS, AND CERTIFICATES OF COMPLIANCE

Except as provided in Sections 1.02(C) through (E), the following fees are required will be assessed for processing applications, zoning petitions, and requests for advisory rulings, certifications, and certificates of compliance. ~~These fees are only for~~ Unless otherwise indicated, the fees listed below will be assessed only for activities and/or projects, or portions of the activity and/or project that requires approval from the Commission an application and permit decision.

The application fee is the sum of the applicable provisions of Sections 1 through 4 below.

$$\begin{aligned}
 & \text{Base Fee} \\
 & + \text{Activity Specific Fee} \\
 & + \text{Fees for Uses Allowed by Special Exception (if applicable)} \\
 & \underline{\hspace{10em} + \text{After-the-Fact Fee (if applicable)} \hspace{1em}} \\
 & = \text{Application Fee}
 \end{aligned}$$

1. Base Fee and Maximum Fee.

Applications proposing more than one land use will be assessed the highest applicable base fee listed below, except that shoreland alterations must always be assessed a separate base fee.

a. Advisory ruling requests <u>– not involving subdivision interpretations¹</u>	\$100.00	Base fee
b. <u>Advisory ruling requests – subdivision interpretations¹</u>	\$150.00	<u>Base fee for requests involving up to five transactions</u>
	\$300.00	<u>Base fee for requests involving more than five but not more than 15 transactions</u>
	\$500.00	<u>Base fee for requests involving 16 or more transactions</u>
<u>b.c.</u> Certificates of compliance	\$50.00	Base fee
<u>e.d.</u> <u>Subdivision permit certificates of compliance</u>	\$50.00	per lot

1. These items likely do not include Activity Specific Fees as listed in Section 1.02(B)(2); all other land uses will likely include a related Activity Specific Fee. The Commission’s determination of whether an Activity Specific Fee is required will be based on the facts of each application.

d.e. <u>Home Occupation-based businesses permit applications</u>	\$200 100.00 Base fee \$1,500.00 Maximum fee
<u>f. Hydropower</u>	<u>\$200.00 Base fee for micro-hydropower or hydropower development that does not require water quality certification</u> <u>\$500.00 Base fee for all other hydropower development</u>
e.g. <u>Land management road permit applications</u>	\$200.00 Base fee \$1,000.00 Maximum fee
<u>h. Metallic mineral mining certifications</u>	<u>\$200.00 Base fee</u> <u>\$5,000.00 Maximum fee</u>
<u>i. Minor amendments (except for permit transfers)</u>	<u>50% of base fee listed for applicable use</u> Base fee <u>\$250.00</u> Maximum fee
f.j. <u>Non-residential development (except as listed separately in Section 1.02(B)(1)) Development permit applications</u>	\$200.00 Base fee \$5,000.00 Maximum fee
<u>k. Permit transfers¹</u>	<u>\$200.00</u> Base fee

l. <u>Building permit applications Residential development on lots within Commission approved subdivisions</u>	\$50.00 <u>Base fee</u> \$750.00 <u>Maximum fee</u>
g.m. <u>Building permit applications Residential development on lots not within Commission approved subdivisions</u>	\$5075.00 <u>Base fee</u> \$1,000.00 <u>Maximum fee</u>
h.n. <u>Mineral or Peat Resource extraction operations permit applications</u>	\$200.00 <u>Base fee</u> \$5,000.00 <u>Maximum fee</u>
i.o. <u>Roads Permit applications</u>	\$200.00 <u>Base fee</u>
	\$1,000.00 <u>Maximum Fee Level A Projects <u>and Land Management Roads</u></u>
	\$2,500.00 <u>Maximum Fee Level B Projects</u>
	\$5,000.00 <u>Maximum Fee Level C Projects</u>
j.p. <u>Service drop</u>	\$25.00 <u>Base fee</u>
k.q. <u>Shoreland alterations or wetland alterations permit applications</u>	\$100.00 <u>Base fee <u>for expedited review</u></u> ² \$200.00 <u>Base fee for all others</u>
r. <u>Site Law certifications or statutory LUPC certifications</u>	\$200.00 <u>Base fee</u> \$5,000.00 <u>Maximum fee</u>
l.s. <u>Subdivisions permit applications</u>	\$1,000.00 <u>Base fee</u> +\$500.00 <u>per lot created</u>
m.t. <u>Utility facilities <u>and utility lines</u> permit applications (Linear Utility Lines)</u>	\$500.00 <u>Base fee</u> \$5,000.00 <u>Maximum fee</u>

² Often identified as an expedited form or process.

n.u. Utility Facilities permit applications (Utility Towers or Structures)	\$500.00 Base Fee +\$1.00 per foot of tower height +\$0.40 per square foot (footprint) structures \$5,000.00 Maximum Fee
o.v. Water crossings permit application	\$ 250 <u>200</u> .00 Base fee
p.w. All other permit land uses not listed above and amendment applications	\$100.00 Base fee

2. Activity Specific Fees.

As applicable, the following fees will be added to the applicable base fees identified in Section 1.02(B)(1). Unless indicated otherwise, only one activity fee applies to any specific square foot or acre.

- a. Disturbed areas:
 - + \$0.40 Per square foot of disturbed area (~~includes areas~~ within 25 feet of shoreline, and wetland impact areas)
 - + \$1.00 Per 1,000 square feet for all other disturbed areas more than one acre in size

- b. Extraction:
 - + \$100.00 Per acre of ~~disturbed~~ extraction area
 - + \$200.00 Per well or extraction point

- c. Roads
 - Per linear foot of:
 - + \$0.15 ~~land~~ Land management road
 - + \$0.10 Level A Road Projects
 - + \$0.15 Level B Road Projects
 - + \$0.30 Level C Road Projects

- d. Shoreland and wetland alterations:
 - Per square foot of shoreline alteration
 - + \$0.20 allowed by expedited review
 - + \$0.40 in all other instances (includes areas within 25 feet of shoreline, and wetland impact areas)

- e. Structures:** Per square foot (footprint³) structures
- + \$0.15 for residential development on lots within Commission approved subdivisions
 - + \$0.20 for residential development on lots not within Commission approved subdivisions
 - + \$0.40~~30~~ for nonresidential development on lots within Commission approved subdivisions
 - + \$0.40 for nonresidential development on lots not within Commission approved subdivisions
- f. Subdivision lots:** Regarding subdivision proposals
- + \$500.00 Per lot created requiring Commission approval:
 - + \$600.00 for basic and rural layouts
 - + \$300.00 for clustered layouts
 - + \$200.00 for flexdesign layouts
- Regarding Certificates of Compliance
- + \$50.00 Per lot or unit approved by permit
- g. Towers:** Per foot of tower height
- + \$13.00 for towers less than 200 feet tall
 - + \$5.00 for towers more than 200 feet tall
- h. Utility lines & pipelines:** + \$0.10 Per linear foot of utility line, pipe, or other linear development (except roads)
- i. Water crossings:** + \$2.00 Per linear foot of span length or culvert width

³ For the purpose of interpreting the provisions of Section 1.02(B)(2)(e) only, “footprint” of solar panels shall be the square footage of all footings and foundations.

3. Fees for Uses Allowed by Special Exception

An additional fee of \$100.00 applies to all applications or requests for certification seeking approval of a use allowed by special exception.

- a. Notwithstanding Section 1.02(B)(3), where the entire parcel is within the P-FP subdistrict, this additional fee for uses allowed by special exception is not required for: single-family dwellings, including their reconstruction, relocation, or replacement; new construction, reconstruction, or replacement of a permanent foundation; or substantial improvements or accessory structures allowed by special exception within the P-FP subdistrict.

4. After-the-Fact Fees

Notwithstanding other provisions of this chapter, the following fees apply. ~~After the fact fees, or~~ Fees for development already begun prior to receiving permit approval, also known as after-the fact fees, are three times the otherwise applicable fee as established by this chapter, regardless of any maximum fee specified by this chapter.

C. **FEES FOR PETITIONS FOR SUBDISTRICT BOUNDARY CHANGES (ZONING PETITIONS)**

[Revision Note: The revision of the fees listed in this section respond to the relative workload or expenses often incurred by the agency, or otherwise build upon the Commission's efforts to incentivize certain activities.]

Petitions proposing more than one of the following will be assessed the highest applicable base fee, and each applicable per acre fee listed below.

- | | | | |
|----|---|---|--|
| 1. | Change to a protection
<u>sub</u> district
a) Includes Resource Plans
but not Concept Plans | \$250.00 | |
| 2. | Change to a management
<u>sub</u> district | \$500.00 | |
| 3. | Change to a development
<u>sub</u> district | | |
| | a) <u>Change to a D-RB or
other prequalified
development subdistricts
made available as result
of a community-based
planning process⁴.</u> | <u>\$250.00</u>
<u>+ \$8.00</u> | <u>Base fee</u>
<u>per acre of new or changed development</u>
<u>subdistrict</u> |
| | a)b) Change to a D-PD
subdistrict | \$5,000.00
<u>+ \$0.40</u>
<u>+ \$25.00</u> | <u>Fee for Preliminary Plan</u>
<u>Base fee</u>
<u>per square foot (footprint) structures</u>
<u>per acre of new or changed development</u>
<u>subdistrict</u> |
| | c) <u>Change to a D-RF or D-
PR subdistrict</u> | <u>\$500.00</u>
<u>+ \$10.00</u> | <u>Base fee</u>
<u>per acre of new or changed development</u>
<u>subdistrict</u> |
| | d) Change to a
development <u>sub</u> district
(except D-PD <u>as</u> | \$1,000.00
<u>+ \$25.00</u> | <u>Base fee</u>
<u>per acre of new or changed development</u>
<u>subdistrict</u> |

⁴ Prequalified development subdistricts include specific eligible locations within the subdistrict description.

provided in Section
1.02(C)(3)(a) through
(c)

- 4. Concept Plans
 - \$5,000.00 Base fee
 - + \$25.00 per acre of new areas proposed for development,
including infrastructure

~~D.—ADDITIONAL AFTER-THE-FACT FEES~~

~~Notwithstanding other provisions of this chapter, the following fees apply. After the fact fees, or fees for development already begun prior to receiving permit approval, also known as after the fact fees, are three times the otherwise applicable fee as established by this chapter.~~

- ~~**1. Permits by Special Exception** \$100.00 Areas within building permits, development permits or D-PD boundary changes that disturb shoreland areas adjacent to (for the purpose of this rule and fee structure “adjacent to” means within 25 feet) or below the normal high water mark of any surface water body, including but not limited to lakes, ponds, streams, brooks, and rivers, or that impact any identified wetland areas will be assessed the square foot rate fee of \$0.40 per square foot.~~

~~After the Fact Fees, or fees for activities already begun prior to receiving permit approval, shall be three (3) times the listed fee.~~

ED. SPECIAL SERVICE FEES ~~ESTABLISHED~~

[Revision Note: The revision of the fees listed in this section intend to improve user convenience, respond to the prevalence of free digital resources, or clarify fees to be charged for certain new services.]

Fees will not be assessed to view or download materials available on the Commission's website or other web-based transfer.

The following fees will be assessed to recover expenses incurred by the Commission in providing the services listed:

1. **For reproduction of documents, transcripts, or other records:** \$1.00 for the first page, and \$0.25 ~~cents~~ per page thereafter, except as provided below.
2. **For full-sized subdistrict boundary (zoning) maps:** \$3.00 per map plus applicable postage. ~~An applicant paying the application fee~~ Each applicant may request and receive, at no charge, one copy of each applicable subdistrict boundary map for application purposes ~~without being assessed an additional fee.~~
3. **For publications or rules:** No fee will be assessed for the first ~~copy~~ two copies of any publication or rule. Charges will be made for additional copies as follows:
 - a. Comprehensive Land Use Plan \$10.00 or actual costs, whichever are greater;
 - b. Rules and ~~Standards~~ standards \$5.00 or actual costs, whichever are greater;
 - c. All other publications ~~or rules~~ \$3.00 or actual costs, whichever are greater;
4. **For photographs, slides, electronically recorded or stored information, oversized documents, reduced size subdistrict boundary maps, or other items requiring special handling:** Actual cost of reproduction, handling, and applicable postage.
5. If the Commission records documents at a county registry of deeds on behalf of the permittee or owner, the Commission may assess only the actual cost charged by the applicable county registry of deeds for recording and for any applicable copy required for the Commission's records.

FE. EXCEPTIONS

- 1.** No fee shall be assessed:
 - a. -for minor changes;
 - b. No Fee will be charged for Processing Notifications which may be required by law or by the Commission's rules;
 - c. No fee shall be assessed to a governmental agency seeking to amend subdistrict boundaries; and
 - d. No fee shall be assessed for subdistrict boundary changes to or from an interim protection subdistrict, or resulting from correction of an error as to the boundary of a subdistrict.
- 2.** The Director, at the Director's discretion, may:
 - a. reduce or waive the fees of Section 1.02(C) for special services for an agency of state government and application, or certification fees when the applicant is a governmental agency;
 - ~~2.1. No fee shall be assessed for minor changes.~~
 - a.b. The Director, at the Director's discretion, may reduce or waive an application, petition, certification, or special service fee when the applicant or person requesting the reduction or waiver demonstrates to the satisfaction of the Director that an extreme hardship or inequity/injustice would result from payment of the fee; or
 - c. The Director, at the Director's discretion, may require a petitioner for a district boundary change for the purpose of a subdivision or commercial development to pay the actual costs incurred for a public hearing. Actual costs may include but not be limited to: filing notices in newspapers, postage, court reporters fees, travel, and room rental costs; assess the applicant the actual costs incurred for a public hearing as part of the Commission's review of either, a petition for a subdistrict boundary change for the purpose of a subdivision or commercial development, or a request for certification. Actual costs may include but are not limited to: filing notices in newspapers, postage, transcription fees, travel, and room rental costs.
- ~~3. If the director determines that a particular application by virtue of its size, uniqueness, complexity or other relevant factors is likely to require a disproportionate share of state resources, the director may designate that application as subject to special fees, and may assess a fee of up to 0.25% of the estimated development costs.~~
- ~~3.1. The Director, at the Director's discretion, may require a petitioner for a district boundary change for the purpose of a subdivision or commercial development to pay the actual costs incurred for a public hearing. Actual costs may include but not be limited to: filing notices in newspapers, postage, court reporters fees, travel, and room rental costs.~~
- ~~4.3. In addition to the application, petition, and request for certification fees above, the Director may determine that a particular application, petition, or request for certification, by virtue of its size, uniqueness, complexity or other relevant factors is designate a proposed project as an extraordinary project and assess a processing fee as provided in 12 M.R.S.A. § 685-F, not to exceed 0.25 percent of the estimated development costs.~~

~~G. FEE PAYMENT~~

- ~~1. No application for a permit, special exception, zoning petition, certificate of compliance, advisory ruling or variance shall be processed until the fees have been paid in full in accordance with this rule.~~
- ~~2. All fees are non refundable.~~