

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

Proposed Rule Revisions: Road Setbacks and Accessory Structures

April 27, 2016

The following amendments propose changes to Chapter 10, Land Use Districts and Standards for Areas within the Jurisdiction of the Maine Land Use Planning Commission. This document only includes relevant sections of Chapter 10 and indicates additions in underline and deletions with a ~~strikethrough~~.

10.11 NONCONFORMING USES AND STRUCTURES

...

E. NONCONFORMING LOTS

1. **Expansion of Structures.** Structures on nonconforming lots may not be expanded without a permit, except as provided for in Section 10.27,P.
2. **Creation of Nonconforming Lots.** A lot which has an established use or structure to which dimensional standards apply may not be divided or altered in a manner that makes the lot, or any structure or use, nonconforming or more nonconforming.
3. **Pre-1971, Unimproved, Nonconforming Lots.** An unimproved, nonconforming lot, legally existing as of September 23, 1971, may not be developed unless the lot meets criteria set forth in a or b below or the Commission grants a variance to those standards that make the lot nonconforming.
 - a. If a lot is at least 20,000 square feet in size, has at least 100 feet of shore frontage, and is not a contiguous lot as described in Section 10.11,E,5 below, the Commission may allow for development provided the development would meet the shoreline setback requirements in Section 10.26,D and would meet the other dimensional requirements to the maximum extent possible.
 - b. If a lot is at least 15,000 square feet in size, has at least 100 feet of shore frontage and 75 feet of road frontage, and is not a contiguous lot as described in Section 10.11,E,5 below, the Commission may allow for one storage structure having a height of no more than 16 feet, and a floor area of not more than 160 square feet provided that the lot is located in a subdistrict that allows residential accessory structures, except for the P-AL or P-GP2 subdistricts, and the proposed development would meet the residential shoreline setback requirements in Section 10.26,D and would meet the other dimensional requirements to the maximum extent

possible. This provision may not be used to place such a storage structure on the same lot as a campsite as defined in 12 M.R.S. § 682(15). The structure may not be used for human habitation, may not have internal plumbing or a permanent foundation, and may not be used for a home occupation or for commercial use, but may only be used for non-commercial storage purposes.

4. **Development of Other Nonconforming Lots.** When a lot was lawfully created after September 23, 1971, in conformity with Commission dimensional requirements applicable at the time, the Commission may allow for development provided the development would meet all dimensional requirements to the maximum extent possible except that in no case shall a setback be reduced below that in effect at the time of the creation of the lot.
5. **Contiguous Lots.** Two or more contiguous lots in the same ownership that individually do not meet dimensional requirements shall be combined to the extent necessary to meet the dimensional requirements, except where:
 - a. Such lots are part of a subdivision approved by the Commission, or
 - b. Each lot has a legally existing dwelling unit that conformed to the Commission's rules at the time each lot was developed.

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

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

7. **Residential Accessory Structures.** Notwithstanding the limits on the creation and development of nonconforming lots contained in other provisions of this Section 10.11, a residential accessory structure may be built on an existing or newly created nonconforming accessory lot, provided:

- a. The accessory structure is accessory to a legally existing residential dwelling;
- b. The accessory lot is separated from the residential lot by a roadway. The accessory lot would be contiguous with the residential lot but for the roadway or right of way between them;
- c. The accessory lot and residential lot are in common ownership or are both leased in common, and the bisecting roadway is in separate ownership or not leased in common with the two lots;
- d. The accessory lot is at least 15,000 square feet in size;
- e. The accessory lot's road frontage:
 - (1) Extends along the same segment of road as the residential lot, or
 - (2) Is at least as long as the road frontage of the residential lot, or
 - (3) Meets the requirements of Section 10.26,C for residential dwellings;
- f. The accessory lot and accessory structure satisfy the dimensional requirements for residential uses and dwellings in Section 10.26,B, D, E, and F, as may be affected by Section 10.26,G; and

g. The accessory structure is located in a subdistrict that allows the principal use.

For the purpose of this section the term “residential lot” refers to a lot with a residential dwelling, and the term “accessory lot” refers to a separate nonconforming lot, on which a structure accessory to the residential dwelling is, or is proposed to be, located. Any permit issued by the Commission authorizing construction on an accessory lot must be recorded with the county registry of deeds by the permittee prior to commencing construction. Prior to termination of the common ownership or common lease of the accessory and residential lots, the accessory structure on the accessory lot must be removed. However, if the accessory structure on the accessory lot becomes accessory to a residential dwelling on another residential lot, then the accessory structure may remain, provided that the new residential lot either merges with the accessory lot or conforms with Section 10.11,E,7,b through f. The accessory structure may also be converted into a dwelling if the accessory lot merges with another lot and becomes conforming. In any case, the new owner or lessee of the accessory lot must obtain a change of use permit from the Commission and, if the two lots have not merged, this permit must be recorded with the county registry of deeds.

10.23 PROTECTION SUBDISTRICTS

...

E. GREAT POND PROTECTION SUBDISTRICT (P-GP)

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 shall be 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 harvesting¹;
- (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-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
 - a.b. The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two (2) year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met.

¹ 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.”

[NOTE: Renumber all remaining use listings from this point forward.]

[NOTE: The previous change is illustrated in the P-GP subdistrict, but will also be accomplished in the following subdistricts:

10.21: A (D-CI), B (D-ES), C (D-GN), D (D-GN2), E (D-GN3), I (D-RB), J (D-RF), K (D-RS), L (D-RS2), and M (D-RS3);

10.22: A (M-GN);

10.23: E (P-GP).]

...

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.A. §685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

[NOTE: The previous change is illustrated in the P-GP subdistrict, but will also be accomplished in all the subdistricts that have a “Uses Requiring a Permit” section.]

...

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.A. §685-A(10), 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:

[NOTE: The previous change is illustrated in the P-GP subdistrict, but will also be accomplished in all the subdistricts that have a “Special Exceptions” section.]

10.25 DEVELOPMENT STANDARDS

...

C. REVIEW STANDARDS FOR SUBDISTRICTS IN PROSPECTIVELY ZONED AREAS

These standards apply only in areas that have been prospectively zoned and for all the subdistricts listed. Prospectively zoned areas are identified in Section 10.08 of these rules.

1. Dimensional Standards.

- d. Road frontage requirements: See Section 10.26,C.
- e. Building setbacks from roads: See Section 10.26,D.
- f. Lot coverage requirements: See Section 10.26,E.
- g. Structure height: See Section 10.26,F.

2. Buffering Standards. These standards complement the existing standards for clearing contained in Section 10.27,B.

- d. All principal and accessory buildings in the D-GN, D-GN2, D-GN3, D-RS, D-RS2, D-RS3, D-ES, and D-CI subdistricts shall be visually screened by a vegetative buffer made up of native trees and shrubs, except as provided in Section 10.25,B,2,c below. Wooded buffers shall be comprised of both under- and overstory material that can be either maintained using existing vegetation or established where no such buffer exists.
- e. Minimum widths for the vegetated buffer are as follows:

	Width of Vegetative Buffer (feet)							
	D-GN	D-GN2	D-GN3	D-RS	D-RS2	D-RS3	D-ES	D-CI
Roadway	25	25	25	30 50	50	50	75	75
Side & rear property lines	15	15	15	15	15	15	15	15
Subdistrict boundary	NA	NA	NA	NA	NA	NA	50	50

Table 10.25,B-1. Width of vegetative buffers.

The Commission may require buffer widths exceeding the minimum width, along with other screening as necessary, in order to ensure that unsightly uses such as junkyards and automobile graveyards are completely screened from view.

f. Exceptions to the buffering requirements are allowed under the following circumstances:

- (1) Property line buffer from adjacent development that is of a similar type, use, and intensity where adjacent landowners provide written agreement that a property line buffer is not needed;
- (2) Existing development where extensive clearing already exists at the time of adoption of these rules January 1, 2001;

- (3) New development where the establishment of buffers would eliminate or interfere with existing scenic views;
- (4) In a “Main Street” setting, that is defined as an area where 80% of a street is developed with buildings, where side and rear property line buffers would interfere with pedestrian circulation or access; and
- (5) Buffer for a D-ES and D-CI subdistrict boundary where adjacent uses are compatible.

...

D. VEHICULAR CIRCULATION, ACCESS AND PARKING

1. **General circulation.** Provision shall be made for vehicular access to and within the project premises in such a manner as to avoid traffic congestion and safeguard against hazards to traffic and pedestrians along existing roadways and within the project area. Development shall be located and designed so that the roadways and intersections in the vicinity of the development will be able to safely and efficiently handle the traffic attributable to the development in its fully operational stage.
2. **Access management.** Access onto any roadway shall comply with all applicable Maine Department of Transportation safety standards. For subdivisions and commercial, industrial and other non-residential development, the following standards also apply:
 - a. The number and width of entrances and exits onto any roadway shall be limited to that necessary for safe entering and exiting.
 - b. Access shall be designed such that vehicles may exit the premises without backing onto any public roadway or shoulder.
 - c. Shared access shall be implemented wherever practicable.
 - d. Access between the roadway and the property shall intersect the roadway at an angle as near to 90 degrees as site conditions allow, but in no case less than 60 degrees, and shall have a curb radius of between 10 feet and 15 feet, with a preferred radius of 10 feet.
 - e. The Commission may require a traffic impact study of roadways and intersections in the vicinity of the proposed project site if the proposed development has the potential of generating significant amounts of traffic or if traffic safety or capacity deficiencies exist in the vicinity of the project site.
3. **Parking layout and design.** The following standards apply to all subdivisions and commercial, industrial and other non-residential development, except for parking areas associated with trailered ramps and hand-carry launches which are regulated under the provisions of Section 10.27,L:
 - a. Sufficient parking shall be provided to meet the parking needs of the development. The minimum number of parking spaces required shall be based on parking generation rates determined in accordance with standard engineering practices. In cases where it is demonstrated that a particular structure can be occupied or use carried out with fewer spaces than required, the Commission may reduce number of required spaces upon finding that the

proposed number of spaces will meet the parking needs of the structure or use and will not cause congestion or safety problems.

- b. Parking areas and access roads shall be designed such that runoff water is discharged to a vegetated buffer as sheet flow or alternatively collected and allowed to discharge to a concentrated flow channel, wetland or water body at a rate similar to pre-construction conditions. If runoff water is discharged to a concentrated flow channel, wetland or water body, a sediment basin shall be constructed to collect sediment before the runoff water is discharged.
- c. **On-street parking.** In areas where on-street parking already exists, new development shall have on-street parking where practicable and if there are sufficient spaces available in the immediate vicinity. Otherwise, parallel or diagonal on-street parking is permitted where the Commission finds that it will adequately meet the parking needs of the development and will not cause congestion or safety problems. Perpendicular on-street parking is prohibited.
- d. Off-street parking for commercial, industrial and other non-residential development.
 - (1) Where practicable, off-street parking shall be located to the side or rear of the principal structure.
 - (2) Notwithstanding the dimensional requirements of Section 10.26, the Commission may reduce the minimum road setback requirement by up to 50 percent or to no less than 20 feet, whichever is greater, for development utilizing on-street parking in accordance with Section 10.25,D,3,c or for development whose parking area is located to the rear of the principal structure, except where the Commission finds that such parking will cause an undue adverse impact to the natural resources or community character of the area.
 - (3) Off-street parking shall not be directly accessible from any public roadway. Ingress and egress to parking areas shall be limited to driveway entrances.
 - (4) Off-street parking areas with more than two parking spaces shall be arranged so that each space can be used without moving another vehicle.

10.26 DIMENSIONAL REQUIREMENTS

...

D. MINIMUM SETBACKS

1. The minimum setbacks for structures, other than those described in Section 10.26,D,2 and except as provided in Section 10.26,G are:
 - a. 75 feet from the nearest shoreline of a flowing water draining less than 50 square miles, a body of standing water less than 10 acres in size, or a coastal wetland, and from the upland edge of wetlands designated as P-WL1 subdistricts;
 - b. 100 feet from the nearest shoreline of a flowing water draining 50 square miles or more and of a body of standing water 10 acres or greater in size;
 - c. 50 feet from the traveled portion of all roadways except as provided for in Section 10.26,D,1,d and e or Section 10.26,D,5 below;
 - d. ~~75 feet from the traveled portion of the following roadways: Routes 1, 2, 2A, 4, 9, 27, 163, 201, 161 from Caribou to Fort Kent, 157 in TA R7 (Penobscot County), and 6 in Orneville Township (Piscataquis County), except as provided for in Section 10.26,D,5;~~ 30 feet from the traveled portion of all roadways within D-RS and D-GN subdistricts;
 - e. 20 feet from the traveled portion of all roadways on coastal islands; and
 - f. 15 feet from side and rear property lines.

These setbacks also apply to all parking areas associated with single-family residential uses, parking areas for trailered ramps or hand-carry launches, those structures within a recreational lodging facility constructed solely for the housing of guests, and residential campsites.

2. 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,1 and 3 and except as provided in Sections 10.26,G and 10.27,Q are:
 - a. 100 feet from the nearest shoreline of a flowing water draining less than 50 square miles, a body of standing water less than 10 acres in size, or a wetland, and from the upland edge of wetlands designated as P-WL1 subdistricts;
 - b. 150 feet from the nearest shoreline of a flowing water draining 50 square miles or more and a body of standing water 10 acres or greater in size;
 - c. 75 feet from the traveled portion of the nearest roadway except as provided for in Section 10.26,D,2,d and e below;
 - d. 20 feet from the traveled portion of all roadways on coastal islands; and
 - e. 30 feet from the traveled portion of all roadways in D-RS and D-GN subdistricts;

- f. 25 feet from the side and rear property lines.

Except as provided for in Section 10.26,D,1 above, these setbacks also apply to all parking areas associated with multi-family dwellings and commercial, industrial, and other non-residential uses, and all other structures within a recreational lodging facility, including, but not limited to, a main lodge, dining area, workshop and parking area.

- 3. These requirements apply to any privately or publicly owned road that is used for public access, including roads used by the public for which a toll is paid.

4. Campsites.

- a. Campsites shall be set back such that the area designed for camping, including cleared or graded areas, fire rings, tables, and related construction, is at least 75 feet from shorelines, 25 feet from property lines, 30 feet from roads in D-RS and D-GN subdistricts, and 50 feet from roads in all other subdistricts, and 25 feet from property lines. Any structure located at or as part of a campsite shall also be set back 75 feet from the upland edge of wetlands designated as P-WL1 subdistricts. Notwithstanding the above, the area designed for camping must be set back at least 10 feet from roads internal to a campground, 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.
- b. Remote campsites shall be set back at least 50 feet from roads, 25 feet from property lines, and 25 feet from shorelines, except that the Commission may require a greater setback from shorelines for remote campsites where necessary due to site conditions in order to avoid accelerated soil erosion or sedimentation of surface waters.

5. Flexible Building Setbacks in Prospectively Zoned Areas.

- a. For commercial or residential development in the D-GN, D-GN2, D-GN3, D-RS, and D-RS2 subdistricts, building setback distances from roads may be less than specified in Section 10.26,D in order to meet prevailing setbacks on adjacent properties. The prevailing setback is the average setback of those principal and accessory structures on lots within 500 feet on either side of the subject parcel.
- b. In the ~~D-GN~~, D-GN2, D-GN3, D-RS, and D-RS2 subdistricts, road setbacks for commercial buildings may be reduced to 50 feet where all parking areas are to be placed to the side or rear of the structure.
- c. These reduced setbacks will be granted where the existing character of an area will be maintained and provided that the reduction will not adversely impact public safety.

G. EXCEPTIONS TO DIMENSIONAL REQUIREMENTS

1. The Commission may reduce dimensional requirements for individual buildings in a cluster development, in accordance with Section 10.25,R.
2. The dimensional requirements applicable to D-PD subdistricts shall be established by the Commission pursuant to the provisions of Section 10.21,G, provided that the shoreline setback requirements hereof shall not be reduced.
3. Notwithstanding other provisions of these rules, in a proposed subdivision or area that has or is likely to have relatively dense development, the Commission may increase the minimum lot size when the Commission determines that:
 - a. A larger lot size is required to provide sufficient area of suitable soil to accommodate the principal building and accessory structures, and subsurface waste water disposal, including a replacement system; and
 - b. The density of development in the vicinity of the proposed site is likely to cause nitrate or other contaminant levels in ground water to exceed public drinking water standards at any public or private well or at the property boundary. The Commission may require a nitrate study to estimate likely nitrogen levels in ground water as part of a subdivision application.
4. Where development would otherwise have an undue adverse impact on existing uses, scenic character or natural and historic resources in the area likely to be affected by the proposal, the Commission may impose additional or more protective standards with respect to clearing, frontage and setback requirements, waste water disposal, and other aspects of the development to reasonably assure that undue adverse impact is avoided.
5. An exception may be made to the shoreline, road, and/or property line setback requirements for structures where the Commission finds that such structures must be located near to the shoreline, road, or property line due to the nature of their use. Structures which must be located near to the shoreline include structures which require direct access to the water as an operational necessity, such as piers, docks, retaining walls, and structures necessary for commercial fishing activities or water dependent uses within a D-MT subdistrict. This provision shall not apply to boat houses or float plane hangars not included within a D-MT subdistrict.
6. An exception may be made to the minimum extent necessary to the shoreline frontage and lot size requirement on coastal wetlands for structures necessary for commercial fishing activities or water dependent uses within a D-MT subdistrict where such reduction would better serve the purpose of this subdistrict.
7. Where development is proposed in the vicinity of a water quality limiting lake, the Commission may vary the applicable dimensional requirements in accordance with Section 10.23,E,3,f.
8. To the extent consistent with 12 M.R.S.A. §685-B(4), the Commission may reduce the minimum lot size required for a structure whose sole purpose is to house a public utility facility or to function as a public utility, provided that:
 - a. the size, height, and bulk of the facility is of a scale that permits such a reduction without adverse effect on surrounding properties; and

- b. the facility is sited and buffered to fit harmoniously into the surrounding environment.
9. Notwithstanding the provisions of Section 10.11, structures necessary for disabled persons to gain access to buildings or facilities may be greater than the allowable size or located less than the standard setback distance from a shoreline, road and property line to the minimum extent necessary when the following criteria are met:
- a. A person with a disability as defined in 5 M.R.S.A. §4553 resides in or regularly uses the dwelling or facility;
 - b. The encroachment into the standard setback distance or exceeding of the allowable size applies only to the installation of equipment or construction of structures necessary for access to or egress from the dwelling or facility by the person with the disability;
 - c. The access structure is necessary to create an accessible route;
 - d. The access structure cannot reasonably or feasibly be created without exceeding the allowable size or encroachment into the standard setback distance; and
 - e. The design of the access structure minimizes the need for exceeding the allowable size or encroachment into the standard setback distance.
10. The Commission may reduce the minimum road setback requirement ~~for subdivisions and commercial, industrial and other non-residential structures and uses, in accordance with Section 10.25,D,3,d,(2);~~ in the following cases:
- a. For subdivisions and commercial, industrial and other non-residential structures and uses, in accordance with Section 10.25,D,3,d,(2), by up to 50 percent or to no less than 20 feet, whichever is larger.
 - b. For commercial, industrial and other non-residential structures and uses, to no less than 20 feet provided the following criteria are met:
 - (1) The road is internal to the development and not a throughway;
 - (2) It is impracticable to extend the road in the future to create a longer road or a throughway (based on geography, surrounding development or other characteristics);
 - (3) The road will be used primarily by clients or customers of the facility(ies); and
 - (4) The reduction in road setback will not cause an undue adverse impact to the natural resources, community character, or scenic quality of the area.
11. The Commission may reduce the minimum water body setback requirement for a residential driveway in accordance with Section 10.27,H,2,b,(2).
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,c.
13. The Commission may reduce the property line setback where there is no practical alternative and upon prior written agreement of the adjoining property owner.
14. The Commission may reduce dimensional requirements for the purpose of providing affordable housing opportunities, in accordance with Section 10.25,U.

- 15.** Notwithstanding any other provision of these rules, the Commission may increase the maximum lot coverage above the limits set in Section 10.26,E for any lot in a D-CI subdistrict upon a finding that the increase in the maximum lot coverage will not have an undue adverse impact on existing uses or natural resources.
- 16.** Notwithstanding any other provision of these rules, the Commission may increase the maximum lot coverage above the limits in Section 10.26,E for any lot in a D-MT subdistrict, used for a non-residential use, upon a finding that the increase in the maximum lot coverage will not have an undue adverse impact on existing uses or natural resources.
- 17.** The Commission may apply the dimensional requirements and standards for recreational lodging facilities in accordance with Section 10.27,Q.
- 18.** For lots improved with public recreational facilities the minimum lot size is 20,000 square feet, the minimum shoreline frontage is 100 feet, and the minimum road frontage is 100 feet, provided:
 - a.** the abutting land is subject, in perpetuity, to legally binding provisions that prohibit incompatible land uses in locations that would be adversely affected by the public recreational facility, and
 - b.** the public recreational facility is otherwise sufficiently sized to fulfill the use for which it is designed.

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

10.27 ACTIVITY SPECIFIC STANDARDS

...

B. VEGETATION CLEARING

Vegetation clearing activities not in conformance with the standards of this section may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of this section, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

The following requirements shall apply to vegetation clearing activities for any purpose other than road construction, road reconstruction and maintenance, wildlife or fishery management, forest management, agricultural management, public trailered ramps or hand-carry launches:

1. A vegetative buffer strip shall be retained within:
 - a. 50 feet of the right-of-way or similar boundary of any public roadway except as provided for in Section 10.27,B,1,b below,
 - b. 30 feet of the right-of-way or similar boundary of any public roadway in D-RS and D-GN subdistricts;
 - c. 75 feet of the normal high water mark of any body of standing water less than 10 acres in size, or any coastal wetland or flowing water draining less than 50 square miles, and
 - d. 100 feet of the normal high water mark of a body of standing water 10 acres or greater in size or flowing water draining 50 square miles or more.

...