Sub-Chapter III
LAND USE STANDARDS

10.24 GENERAL CRITERIA FOR APPROVAL OF PERMIT APPLICATIONS

In approving applications submitted to it pursuant to 12 M.R.S.A. §685-A(10) and §685-B, the Commission may impose such reasonable terms and conditions as the Commission may deem appropriate in order to satisfy the criteria of approval and purpose set forth in these statutes, rules and the Comprehensive Land Use Plan.

"The commission shall approve no application, unless:

1. Adequate technical and financial provision has been made for complying with the requirements of the State's air and water pollution control and other environmental laws, and those standards and regulations adopted with respect thereto, including without limitation the minimum lot size laws, [12 M.R.S.A.] sections 4807 to 4807-G, the site location of development laws, 38 M.R.S.A. §481 to §490, and the natural resource protection laws, 38 M.R.S.A.§480-A to §480-Z, and adequate provision has been made for solid waste and sewage disposal, for controlling of offensive odors and for the securing and maintenance of sufficient healthful water supplies; and

2. Adequate provision has been made for loading, parking and circulation of land, air and water traffic, in, on and from the site, and for assurance that the proposal will not cause congestion or unsafe conditions with respect to existing or proposed transportation arteries or methods; and

3. Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to assure there will be no undue adverse effect on existing uses, scenic character, and natural and historic resources in the area likely to be affected by the proposal; and

4. The proposal will not cause unreasonable soil erosion or reduction in the capacity of the land to absorb and hold water and suitable soils are available for a sewage disposal system if sewage is to be disposed on-site; and

5. The proposal is otherwise in conformance with this chapter and the regulations, standards and plans adopted pursuant thereto.

6. In the case of an application for a structure upon any lot in a subdivision, that the subdivision has received the approval of the commission.

The burden is upon the applicant to demonstrate by substantial evidence that the criteria for approval are satisfied, and that the public's health, safety and general welfare will be adequately protected. The commission shall permit the applicant to provide evidence on the economic benefits of the proposal as well as the impact of the proposal on energy resources." 12 M.R.S.A. §685-B(4).

In addition, the applicant must demonstrate "evidence of sufficient right, title or interest in all of the property that is proposed for development or use." 12 M.R.S.A. §685-B(2)(D).

10.25 DEVELOPMENT STANDARDS

This section contains review standards for structures and uses that require issuance of a permit from the Commission, or as otherwise required in Sub-Chapter II. Except as herein provided, development not in conformance with the standards of this section are prohibited.

Nothing in this section shall preclude the Commission from imposing additional reasonable terms and conditions in its permits as the Commission may deem appropriate in order to satisfy the criteria for approval and purposes set forth in the Commission's statutes, rules and the Comprehensive Land Use Plan.

A. REVIEW STANDARDS FOR STRUCTURES ADJACENT TO LAKES

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~~zone boundaries adjacent to lakes.

In applying the standards set forth below, the Commission shall 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.

1. **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).

2. **Water quality**: The proposal will not, alone or in conjunction with other development, have an undue adverse impact on water quality;

3. **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;

4. **Regional diversity**: The proposal will not substantially alter the diversity of lake-related uses afforded within the region in which the activity is proposed;

5. **Natural character**: Adequate provision has been made to maintain the natural character of shoreland;

6. **Lake management goals**: The proposal is consistent with the management intent of the affected lake's classification; and

7. **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.

B. REVIEW STANDARDS FOR SUBDISTRICTS IN PROSPECTIVELY ZONED AREASINTENTIONALLY DELETED

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.**

a. Road frontage requirements. See Section 10.26,C.
b. Building setbacks from roads. See Section 10.26,D.
c. Lot coverage requirements. See Section 10.26,E.
d. Structure height. See Section 10.26,F.

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

a. 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.

b. 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	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.

c. 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.~~

3. **Building Layout in the D-GN, D-GN2, D-GN3, D-RS, and D-RS2 Subdistricts**

a. New commercial, institutional, and multi-family residential development shall be substantially similar in building height, bulk, and roof lines to neighboring development.

b. New commercial, institutional, and multi-family residential development shall be configured to facilitate pedestrian access between adjacent sites and any nearby residential neighborhoods.

c. The street side of commercial structures that are visible from a public road shall contain the principal windows of the structure. The structure shall be designed such that windowless walls do not face a street or road.

d. Where new development is adjacent to existing development in a "Main Street" setting where at least 80% of a street is comprised of buildings other than parking lots, buildings must be configured so that 80% of the street frontage to be developed remains devoted to buildings, and both automobile and pedestrian access are facilitated.

C. TECHNICAL AND FINANCIAL CAPACITY

The standards set forth below must be met for all subdivisions and commercial, industrial, and other non-residential development.

1. The applicant shall retain qualified consultants, contractors and staff to design and construct proposed improvements, structures, and facilities in accordance with approved plans. In determining the applicant's technical ability, the Commission shall consider the size and scope of the proposed development, the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations or previous approvals granted to the applicant.

2. The applicant shall have adequate financial resources to construct the proposed improvements, structures, and facilities and meet the criteria of all state and federal laws and the standards of these rules. In determining the applicant's financial capacity, the Commission shall consider the cost of the proposed subdivision or development, the amount and strength of commitment by the financing entity, and, when appropriate, evidence of sufficient resources available directly from the applicant to finance the subdivision or development.

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.~~
   c. Residential driveways may not enter onto a public roadway, and all access to residential lots shall be trhough shared interior subdivision roads.

   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.

c. Intentionally deleted.

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 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.

e. Parking spaces shall not be placed in the required roadway vegetative buffer. However, a "sight triangle" shall be maintained 25 feet in length on each side of the intersection of the driveway and the roadway right-of-way, with the third side connecting the other two sides. Within each sight triangle, no landscape plants, other than low growing shrubs, shall be planted. These shrubs must be maintained to be no more than 30 inches in height above the driveway elevation.

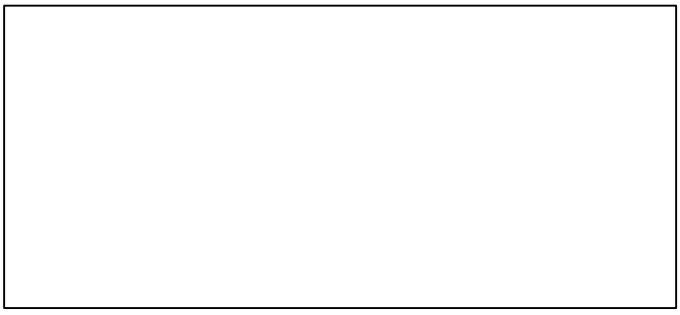

Figure 10.25,D-2. Sight triangle within a vegetative buffer.

f. Except for sight triangles, parking areas for commercial, industrial or other non-residential development shall be visually buffered from the roadway by planting and maintaining a vegetative buffer of trees and shrubs or by locating parking areas to the rear of the principal structure.

g. When parking areas associated with commercial, industrial or other non-residential development are adjacent to residential structures or uses, landscaping and/or

~~10.25,D~~architectural screens shall be used to provide an effective visual buffer and separation between property lines and the edge of the parking area.

h. For parking areas associated with commercial, industrial or other non-residential development that are greater than one acre in size, a landscaping plan shall be developed and implemented that indicates planting locations, type and maintenance. The plan shall include the following:

(1) Parking areas shall have landscaped strips along the perimeter, as well as landscaped islands within the parking area.

(2) Expanses of parking area shall be broken up with landscaped islands that include shade trees and shrubs. Where possible, the area of ground left uncovered around the base of a tree must be at least equal to the diameter of the branch area or crown at maturity. Where not possible, adequate measures, including but not limited to soil enhancement techniques and underground irrigation, shall be used to ensure sufficient space for root growth and vegetative survival.

4. **Subdivision and development roadway design specifications**. The following standards apply to Level B and Level C road projects:

a. Classification of roadways. The Commission shall determine which roadway classification is most appropriate for a particular project. For the purposes of Section 10.25,D,4, the following general criteria shall apply:

(1) **Class 1 Roadway**: Generally appropriate for most projects surrounded by a relatively compact development pattern, for high-intensity commercial or industrial projects surrounded by a relatively sparse development pattern, and for ~~residential subdivisions with 15 or more lots surrounded by a relatively sparse development pattern.~~ residential subdivisions with 15 or more lots surrounded by a relatively sparse development pattern.

(2) **Class 2 Roadway**: Generally appropriate for low-intensity commercial or industrial projects surrounded by a relatively sparse development pattern and for residential subdivisions with fewer than 15 lots surrounded by a relatively sparse development pattern.

(3) **Class 3 Roadway**: Generally appropriate for low-intensity, small-scale commercial projects surrounded by a relatively sparse development pattern or located on an island.

b. In making its determination on the appropriate roadway classification, the Commission shall consider the following factors:

(1) The number of lots served by the roadway or projected level of use;
(2) The nature of roadways accessing the project site;
(3) Location in relation to surrounding patterns of development;

(4) The level of development within the vicinity of the project;
(5) Natural and imposed limits on future development;
(6) The type and intensity of the proposed use; and
(7) Service by utilities or likelihood of service in the future.

c. Where practicable, roadways shall be designed to minimize the use of ditching, fit the natural topography of the land such that cuts and fills are minimized, and protect scenic vistas while preserving the scenic qualities of surrounding lands.

d. Roadways in towns and plantations within the Commission's jurisdiction that are proposed to be dedicated to the town or plantation shall also comply with the town's or plantation's roadway construction and design standards. The applicant shall clearly specify the ownership of all roadways proposed to be dedicated and shall submit a maintenance plan that includes roadway construction and design standards in accordance with the Commission's standards.

e. Roadways shall adhere to the applicable standards of Section 10.27,D and Section 10.27,H and the roadway specifications outlined in Table 10.25,D-1, below, unless the applicant utilizes site-specific best management practices and the Commission determines that proposed alternative roadway specifications will meet the needs of the development and will not cause erosion or safety problems.

	Class 1 Roadway	**Class 2 Roadway**	**Class 3 Roadway**
Minimum roadway surface width	18 ft. or 14 ft. with turnouts every 500 feet, on average.	14 ft. or 8 ft. with turnouts every 500 feet, on average.	8 ft.
Minimum base (coarse gravel)	18 in.	12 in.	As needed.
Minimum wearing surface	3 in. fine gravel or 2.5 in. bituminous concrete.	3 in. fine gravel or 2.5 in. bituminous concrete.	2" fine gravel.
Maximum sustained grade	10%	15%	15%

Table 10.25,D-1. Roadway construction specifications.

f. Roadways that will be co-utilized for forest management purposes shall include turnouts that are large enough to accommodate wood haulers and other large vehicles.

E. SCENIC CHARACTER, NATURAL AND HISTORIC FEATURES

1. Scenic Character

a. The design of proposed development shall take into account the scenic character of the surrounding area. Structures shall be located, designed and landscaped to reasonably minimize their visual impact on the surrounding area, particularly when viewed from existing roadways or shorelines.

b. To the extent practicable, proposed structures and other visually intrusive development shall be placed in locations least likely to block or interrupt scenic views as seen from traveled ways, water bodies, or public property.

c. If a site includes a ridge elevated above surrounding areas, the design of the development shall preserve the natural character of the ridgeline.

2. Natural and Historic Features

a. Natural Features. If any portion of a subdivision or commercial, industrial or other non-residential project site includes critically imperiled (S1) or imperiled (S2) natural communities or plant species, the applicant shall demonstrate that there will be no undue adverse impact on the community and species the site supports and indicate appropriate measures for the preservation of the values that qualify the site for such designation.

b. Historic Features. If any portion of a subdivision or commercial, industrial or other non-residential project site includes an archaeologically sensitive area or a structure listed in the National Register of Historic Places, or is considered by the Maine Historic Preservation Commission or other pertientpertinent authority as likely to contain a significant archaeological site or structure, the applicant shall conduct archaeological surveys or submit information on the structure, as requested by the appropriate authority. If a significant archaeological site or structure is located in the project area, the applicant shall demonstrate that there will be no undue adverse impact to the archaeological site or structure, either by project design, physical or legal protection, or by appropriate archaeological excavation or mitigation.

F. NOISE AND LIGHTING

1. Noise.

a. The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any commercial, industrial and other non-residential development shall be as established by the time period and type of land use ~~subdistrict~~zone listed below. Sound pressure levels shall be measured at all ~~property~~land use zone boundary lines, at a height of at least 4 feet above the ground surface. The levels specified below may be exceeded by 10 dB(A) for a single period, no longer than 15 minutes per day.

~~Subdistrict~~Zone	7:00 AM to 7:00 PM	7:00 PM to 7:00 AM
D-~~CI, D-MT, and D-ES~~CIM	70 dB(A)	65 dB(A)
~~D-GN, and~~ D-GN2M	65 dB(A)	55 dB(A)
~~D-PD~~	~~As determined by the Commission.~~	
All Other ~~Subdistricts~~Zones	55 dB(A)	45 dB(A)

Table 10.25,F-1. Sound pressure level limits.

Notwithstanding the foregoing, with respect to protection zones located entirely within development zones, the permitted noise level within such protection zones shall be the level associated with the sourrounding development zone.

b. The following activities are exempt from the requirements of Section 10.25,F,1,a:

(1) Sounds emanating from construction-related activities conducted between 7:00 A.M. and 7:00 P.M.;
(2) Sounds emanating from safety signals, warning devices, emergency pressure relief valves, and other emergency activities; ~~and~~
(3) Sounds emanating from traffic on roadways or other transportation facilities~~.~~;

(4) Sounds emanating from snowmobiles, ATVs, delivery trucks and vehicles; and

(5) Sounds emanting from event-related activities such as outdoor concerts, fireworks displays, entertainment events, weddings, and simlar functions and events.

2. Lighting standards for exterior light levels, glare reduction, and energy conservation.

a. All residential, commercial and industrial building exterior lighting fixtures will be full cut-off, except for incandescent lights of less than 160 watts, or any other light less than 60 watts. Full cut-off fixtures are those that project no more than 2.5% of light above the horizontal plane of the luminary's lowest part. Figure 10.25,F-1 illustrates a cut-off fixture as defined by the Illuminating Engineering Society of North America (IESNA).

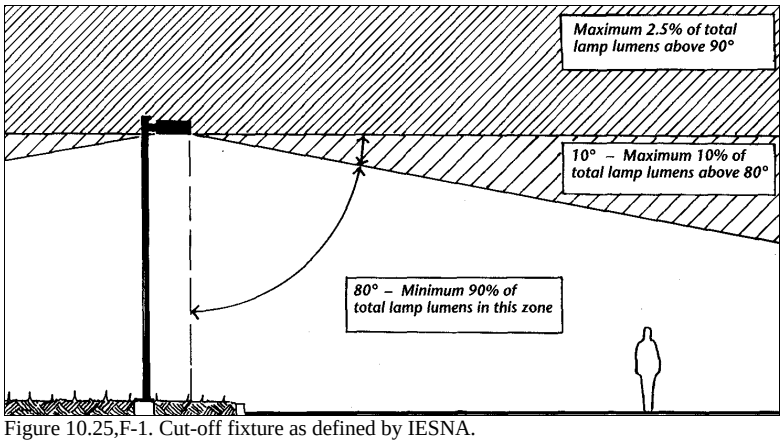

Figure 10.25,F-1. Cut-off fixture as defined by IESNA.

Light fixtures mounted on gasoline station or convenience store canopies shall be recessed so that fixtures are flush with the canopy. Alternatively, canopies may be indirectly lit using light beamed upward and then reflected down from the underside of the canopy. In this case light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy.

b. All exterior lighting shall be designed, located, installed and directed in such a manner as to illuminate only the target area, to the extent practicable. No activity shall produce a strong, dazzling light or reflection of that light beyond lot lines onto neighboring properties, onto any water bodies with a significant or outstanding scenic resource rating, or onto any roadway so as to impair the vision of the driver of any vehicle upon that roadway or to create nuisance conditions.

In addition to all other requirements, exterior lighting on residential lots shall comply with the following standards:

(1) all light features shall be hooded and angled at at least 45 degress toward the ground;

(2) no light source may escape from above the horizontal plane of the fixture, and no light source (e.g. bulbs) may be visible from outside the hood;

(3) flood lights shall be hooded, have motion-detecting activiation features, and may illuminate functional areas only (e.g. garage doors, storage areas, walks, and drives);

(4) no light fixtures may be located above any eave line or parapet wall, or more than 21 feet above the ground; and

(5) no landscaping lighting, continuously illuminated floodlights, continuously illuminated bulbs stronger than 75 watts, or exposed bulbs may be used on any lot.

c. For commercial, industrial and other non-residential development, all non-essential lighting shall be turned off after business hours, leaving only the minimal necessary lighting for site security. The term “non-essential” applies, without limitation, to display, aesthetic and parking lighting.

d. In addition to the lighting standards in Section 10.25,F,2, lighted signs shall also comply with the standards in Section 10.27,J.

e. The following activities are exempt from the lighting standards of Section 10.25,F,2,a through d:

(1) Roadway and airport lighting;
(2) Temporary fair, event, or civic uses;
(3) Emergency lighting, provided it is temporary and is discontinued upon termination of the work;
(4) Lighting that is activated by motion-sensors; ~~and~~
(5) Lighting that was lawfully in place on ~~April 1, 2004.~~the date of adoption of the Conept Plan; and

(6) Construction lighting during construction of structures associated with permitted uses.

G. SOIL SUITABILITY

The standards set forth below must be met for all subdivisions and commercial, industrial and other non-residential development.

1. Soil types shall be determined by a site-specific soil survey, according to the "Guidelines for Maine Certified Soil Scientists for Soil Identification and Mapping" (Maine Association of Professional Soil Scientists, 2004). The soil survey class shall be determined as follows, unless the Commission finds that a lower or higher intensity soil survey class is needed:

   a. For level 1 subdivisions, a Class A high intensity soil survey shall be used to identify soils within the proposed building envelopes, driveway locations and other disturbed areas. A Class B soil survey may be used to identify soils elsewhere within the project area.

   b. ~~For level 2 subdivisions, a Class B high intensity soil survey shall be used to identify soils within the proposed building envelopes, driveway locations and other disturbed areas. A Class C soil survey may be used to identify soils elsewhere within the project area.~~Intentionally deleted.

   c. For new commercial, industrial and other non-residential development, a Class A high intensity soil survey shall be used to identify soils within any proposed disturbed area. A Class C soil survey may be used to identify soils elsewhere within the project area.

   The Commission may waive one or more of the provisions of a Class A or B high intensity soil survey, including but not limited to the contour mapping requirement, where such provision is considered by the Commission unnecessary for its review.

2. Determination of soil suitability shall be based on the Natural Resources Conservation Service's soils potential ratings for low density development. Soils with a low or very low development potential rating shall not be developed unless the Commission determines that adequate corrective measures will be used to overcome those limitations that resulted in a low or very low rating.

3. At least two test pits shall be dug within the boundaries of each subdivision lot proposed to be served by a combined septic system. At least one test pit shall be dug within the boundaries of each lot proposed to be served by a primitive septic system. The location of such test pits shall be shown on the subdivision plat.

H. SOLID WASTE DISPOSAL

The standards set forth below must be met for all subdivisions and commercial, industrial and other non-residential development.

1. Provision shall be made for the regular collection and disposal of site-generated solid wastes at a state-approved landfill or transfer station.

2. Provision shall be made for the legal disposal of all construction debris, stumps, brush, wood wastes, asphalt and pavement products.

I. SUBSURFACE WASTE WATER DISPOSAL

1. No permit will be issued for a project with subsurface waste water disposal unless an acceptable plan to construct the absorption area is prepared. Where waste water is to be disposed on-site by a subsurface waste water system, the system shall be designed by a licensed site evaluator or a Maine Licensed Professional Engineer, in accordance with the Subsurface Waste Water Disposal Rules.

2. The Commission will not require a permit for conversion from primitive to combined sewage disposal systems provided a subsurface waste water disposal permit is obtained from the local plumbing inspector or the Department of Human Services, Division of Health Engineering, and provided there are no limitations on combined sewage disposal systems established by prior permit conditions. Otherwise, a permit from the Commission is required.

3. Where waste water is to be collected and treated off-site by a municipal or quasi-municipal sewage treatment facility, or on or off-site by a large, private sewage treatment facility, the applicant shall demonstrate that there is adequate capacity in the collection and treatment systems to ensure satisfactory treatment, the facility is fully licensed by the Maine Department of Environmental Protection, and the facility agrees to accept these wastes.

4. When private central or clustered waste water disposal systems are proposed, adequate provision shall be made for ongoing maintenance and repair of the system and for reserving an area adequate for a future replacement system, in accordance with the Maine Subsurface Waste Water Disposal Rules.

J. WATER SUPPLY

1. Individual wells shall be sited and constructed to prevent infiltration of surface water and contamination from subsurface waste water disposal systems and other known sources of potential contamination.

2. Site design shall allow for placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal in compliance with the Maine Subsurface Waste Water Disposal Rules.

3. Proposed activities involving sources of potential contamination, including junkyards, automobile graveyards, gas stations, and bulk storage of petroleum products, must be located at least 300 feet from existing private and public water supplies.

4. For subdivisions and commercial, industrial and other non-residential development, the applicant shall demonstrate that there is sufficient healthful water supply to serve the needs of the project.

5. When a project is to be served by a public water system, the location and protection of the source, the design, construction and operation of the system shall conform to the standards of the Maine Department of Human Services Rules Relating to Drinking Water (10-144A C.M.R. 231).

K. SURFACE WATER QUALITY

1. A development, or reasonably foreseeable consequences of a development, shall not directly discharge any water pollutants to a surface water body which cause the surface water body to fail to meet its state classification (38 M.R.S.A. §464 et seq.); which impart toxicity and cause a surface water body to be unsuitable for the existing and designated uses of the water body; or which otherwise would result in a violation of state or federal water quality laws.

2. Appropriate best management practices of point and nonpoint sources of water pollutants shall be utilized, unless the Commission determines that alternative specifications will meet the needs of the activity and will cause no undue adverse impact to the surface water quality of the affected surface water body.

L. PHOSPHORUS CONTROL

1. The standards set forth below must be met for:

a. Subdivisions located within the direct watershed of a body of standing water 10 acres or greater in size; and

b. Commercial, industrial or other non-residential development that creates a disturbed area of one acre or more within the direct watershed of a body of standing water 10 acres or greater in size.

2. General Standards.

a. Provision shall be made to limit the export of phosphorus from the site following completion of the development or subdivision so that the project will not exceed the allowable per-acre phosphorus allocation for the water body, determined by the Commission according to "Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development" (Maine Department of Environmental Protection, 1992), and hereafter cited as the Phosphorus Control Guide.

b. The phosphorus impact of a proposed subdivision or development on a water body shall be calculated using the Standard Method for Calculating Phosphorus Export, according to the procedures in the Phosphorus Control Guide.

3. Design and Maintenance Standards.

a. Phosphorus control measures and their maintenance shall meet the design criteria contained in the Phosphorus Control Guide.

b. High maintenance structural measures, such as wet ponds and runoff infiltration systems, shall not be used unless:

(1) Other measures, such as increasing the width of vegetated buffers, greater limits on clearing, reducing road lengths, and clustering of lots to achieve less disturbed area are clearly demonstrated to be insufficient to allow the proposed subdivision to meet the standards of this section; and

(2) The Commission finds that the applicant has the technical and financial capabilities to properly design, construct, and provide for the long-term inspection and maintenance of the facility in accordance with the procedures in the Phosphorus Control Guide.

M. EROSION AND SEDIMENTATION CONTROL

The standards set forth below must be met for all development that involves filling, grading, excavation or other similar activities which result in unstabilized soil conditions.

1. General Standards.

a. Soil disturbance shall be kept to a practicable minimum. Development shall be accomplished in such a manner that the smallest area of soil is exposed for the shortest amount of time possible. Operations that result in soil disturbance shall be avoided or minimized in sensitive areas such as slopes exceeding 15% and areas that drain directly into water bodies, drainage systems, water crossings, or wetlands. If soil disturbance is unavoidable, it shall occur only if best management practices or other soil stabilization practices equally effective in overcoming the limitations of the site are implemented.

b. Whenever sedimentation is caused by stripping of vegetation, regrading, or other construction-related activities, sediment shall be removed from runoff water before it leaves the site so that sediment does not enter water bodies, drainage systems, water crossings, wetlands, or adjacent properties.

c. Soil disturbance shall be avoided or minimized when the ground is frozen or saturated. If soil disturbance during such times is unavoidable, additional measures shall be implemented to effectively stabilize disturbed areas, in accordance with an approved erosion and sedimentation control plan.

2. Design Standards.

a. Permanent and temporary erosion and sedimentation control measures shall meet the standards and specifications of the “Maine Erosion and Sediment Control BMP Manual” (Department of Environmental Protection, March 2003) or other equally effective practices. Areas of disturbed soil shall be stabilized according to the “Guidelines for Vegetative Stabilization” (Appendix B of this chapter) or by alternative measures that are equally effective in stabilizing disturbed areas.

b. Clearing and construction activities, except those necessary to establish sedimentation control devices, shall not begin until all sedimentation control devices have been installed and stabilized.

c. Existing catch basins and culverts on or adjacent to the site shall be protected from sediment by the use of hay bale check dams, silt fences or other effective sedimentation control measures.

d. If streams will be crossed, special measures shall be undertaken to protect the stream, as set forth in Section 10.27,D.

e. Topsoil shall not be removed from the site except for that necessary for the construction of roads, parking areas, building excavations and other construction-related activities. Topsoil shall be stockpiled at least 100 feet from any water body.

f. Effective, temporary stabilization of all disturbed and stockpiled soil shall be completed at the end of each workday.

g. Permanent soil stabilization shall be completed within one week of inactivity or completion of construction.

h. All temporary sedimentation and erosion control measures shall be removed after construction activity has ceased and a cover of healthy vegetation has established itself or other appropriate permanent control measures have been implemented.

3. Erosion and Sedimentation Control Plan.

a. For development that occurs when the ground is frozen or saturated or that creates a disturbed area of one acre or more, the applicant must submit an erosion and sedimentation control plan for Commission approval in accordance with the requirements of Section 10.25,M,3,b,(2).

b. A Commission approved erosion and sedimentation control plan in conformance with these standards shall be implemented throughout the course of the project, including site preparation, construction, cleanup, and final site stabilization. The erosion and sedimentation control plan shall include the following:

(1) For activities that create a disturbed area of less than one acre:

(a) A drawing illustrating general land cover, general slope and other important natural features such as drainage ditches and water bodies.
(b) A sequence of construction of the development site, including clearing, grading, construction, and landscaping.
(c) A general description of all temporary and permanent control measures.
(d) Provisions for the continued maintenance of all control devices or measures.

(2) For activities that create a disturbed area of one acre or more:

(a) A site plan identifying vegetation type and location, slopes, and other natural features such as streams, gullies, berms, and drainage ditches. Depending on the type of disturbance and the size and location of the disturbed area, the Commission may require a high intensity soil survey covering all or portions of the disturbed area.

(b) A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.

(c) A detailed description of all temporary and permanent erosion and sedimentation control measures, including, without limitation, seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.

(d) Provisions for the continued maintenance and inspection of erosion and sedimentation control devices or measures, including estimates of the cost of maintenance and plans for meeting those expenses, and inspection schedules.

4. Inspection.

a. For subdivisions and commercial, industrial or other non-residential development that occurs when the ground is frozen or saturated or that creates a disturbed area of one acre or more, provision shall be made for the inspection of project facilities, in accordance with Section 10.25,M,4,a,(1) or (2) below:

(1) The applicant shall hire a contractor certified in erosion control practices by the Maine Department of Environmental Protection to install all control measures and conduct follow-up inspections; or

(2) the applicant shall hire a Maine Registered Professional Engineer to conduct follow-up inspections.

b. The purpose of such inspections shall be to determine the effectiveness of the erosion and sedimentation control plan and the need for additional control measures.

c. Inspections shall be conducted in accordance with a Commission approved erosion and sedimentation control plan and the following requirements.

(1) Inspections shall be conducted at least once a week and after each rainfall event accumulating more than ½ inch of precipitation, until all permanent control measures have been effectively implemented. Inspections shall also be conducted (a) at the start of construction or land-disturbing activity, (b) during the installation of sedimentation and erosion control measures, and (c) at the completion of final grading or close of the construction season.

(2) All inspections shall be documented in writing and made available to the Commission upon request. Such documentation shall be retained by the applicant

for at least six months after all permanent control measures have been effectively implemented.

d. Notwithstanding Section 10.25,M,4,a, development may be exempt from inspection if the Commission finds that an alternative, equally effective method will be used to determine the overall effectiveness of the erosion and sedimentation control measures.

N. GROUNDWATER QUALITY

The standards set forth below must be met for all subdivisions and commercial, industrial and other non-residential development.

1. The development shall not pose an unreasonable risk that a discharge of pollutants to a groundwater aquifer will occur.

2. The project shall not result in the groundwater quality becoming inferior to the physical, biological, chemical, and radiological levels for raw and untreated drinking water supply sources specified in the Maine State Drinking Water Regulations, pursuant to 22 M.R.S.A. §601. If the pre-development groundwater quality is inferior to the Maine State Drinking Water Regulations, the development shall not degrade the water quality any further.

O. AIR QUALITY

Commercial, industrial and other non-residential development (including but not limited to solid waste disposal facilities, crematories, wood products manufacturing, pulp and paper mills, rock crushing operations, and asphalt batch plants) must comply with all State and Federal air quality laws and standards.

P. WETLAND ALTERATIONS

The following requirements apply to wetland alterations for Uses Requiring a Permit and Special Exceptions in Section 10.23,N,3. Except as hereinafter provided, wetland alterations not in conformance with the standards of this section are prohibited.

1. Procedural Requirements

a. Transition.

P-~~WL subdistricts~~WLM zones identified on the Commission's Land Use Guidance Maps that were adopted prior to the adoption of this section will be regulated according to standards applying to wetlands of special significance (P-WL1~~ subdistrict~~M zone), as defined herein, until the Commission adopts amended Land Use Guidance Maps pursuant to this section, unless the applicant demonstrates, through delineation or other means acceptable to the Commission, that the P-~~WL~~WLM is not a wetland of special significance.

b. Area of Project Alteration.

~~(1) If a proposed activity requires a permit and will alter 15,000 or more square feet of wetland area, or 1 acre or more of overall land area, the applicant must~~

~~10.25,P~~

(1) If a proposed activity requires a permit and will alter 15,000 or more square feet of wetland area, or 1 acre or more of overall land area, the applicant must delineate on the ground and in a site plan all wetlands within the general project area using methods described in the "Corps of Engineers Wetlands Delineation Manual" (1987).

(2) If a proposed activity requires a permit and will alter 500 or more square feet of a P-WL1M wetland or 20,000 or more square feet of a P-WL2M or P-WL3M wetland, the Commission may require, as a condition of approval, mitigation, including compensation, as provided in the Commission's General Land Use Standards in Section 10.25,P,2.

(3) In determining the area of wetland alteration or overall land alteration, all components of a proposed activity, including all phases of a multiphased project, are treated together as constituting one single and complete project.

c. Level of Permit Review.

The level of permit review required depends upon the size of the proposed wetland alteration and the P-~~WL subdistrict~~WLM zone involved. If any part of the overall project requires a higher level of review, then the whole overall project will be reviewed under that higher tier, unless otherwise authorized by the Commission:

(1) Tier 1 reviews are for projects altering 4,300 up to 15,000 square feet of P-WL2M or P-WL3M wetlands.

(2) Tier 2 reviews are for projects altering 15,000 up to 43,560 square feet (one acre) of P-WL2M or P-WL3M wetlands not containing critically imperiled (S1) or imperiled (S2) natural communities.

(3) Tier 3 reviews are for projects altering any area of P-WL1M wetlands, 15,000 up to 43,560 square feet (one acre) of P-WL2M or P-WL3M wetlands containing critically imperiled (S1) or imperiled (S2) natural communities, or one acre or more of P-WL2M or P-WL3M wetlands.

Alterations of P-WL1M wetlands may be eligible for Tier 1 or 2 review if the Commission determines, at the applicant's request, that the activity will have no undue adverse impact on the freshwater wetlands or other protected natural resources present. In making this determination, consideration shall include but not be limited to, such factors as the size of the alteration, functions of the impacted area, existing development or character of the area in and around the alteration site, elevation differences and hydrological connection to surface water or other protected natural resources.

(4) When wetland delineation is required, the level of permit review required will be determined by the type of wetland indicated through delineation.

2. General Land Use Standards

a. Avoidance.

(1) Projects requiring Tier 1 review must avoid alteration of wetland areas on the property to the extent feasible considering natural features, cost, existing technology and logistics based on the overall purpose of the project.

(2) Projects requiring Tier 2 or Tier 3 review must not cause a loss in wetland area, functions and values if there is a practicable alternative to the project that would be less damaging to the environment. Each Tier 2 and Tier 3 application must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist.

b. Minimal Alteration. Projects requiring Tier 1, Tier 2 or Tier 3 review must limit the amount of wetland to be altered to the minimum amount necessary to complete the project.

c. Water Quality. Projects requiring Tier 1, Tier 2 or Tier 3 review must comply with applicable water quality standards; i.e., the activity will not violate any state water quality law, including those governing the classification of the State's waters. Projects that would alter wetland hydrology and could also alter stream flows or other adjacent surface waters must comply with the water quality classification standards contained in 38 M.R.S.A. §465.

d. Erosion Control. Projects requiring Tier 1 or Tier 2 review must use erosion control measures to prevent sedimentation of surface waters. A 25-foot buffer strip must be maintained between the activity and any surface waters.

e. Compensation. Compensation is the off-setting of a lost wetland function with a function of equal or greater value. The goal of compensation is to achieve no net loss of wetland functions and values.

(1) For projects requiring Tier 2 or Tier 3 review, the Commission may require compensation when it determines that a wetland alteration will cause a wetland function or functions to be lost or degraded as identified by an assessment of wetland functions and values in accordance with application requirements or by the Commission's evaluation of the project.

(2) The Commission may waive the requirement for a functional assessment, compensation, or both. The Commission may waive the requirement for a functional assessment if it already possesses the information necessary to determine the functions of the area proposed to be altered. The Commission may waive the requirement for compensation if it determines that any impact to wetland functions and values from the activity will be insignificant.

f. No Unreasonable Impact. The following standards apply only to applications requiring Tier 3 review:

(1) Even if a project has no practicable alternative and the applicant has minimized the proposed alteration as much as possible, the application will be denied if the activity will have an unreasonable impact on the wetland. A project will be determined to have an "unreasonable impact" if the Commission makes one or more of the following findings:

(a) Existing uses. The activity will unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses.

(b) Soil erosion. The activity will cause unreasonable erosion of soil or sediment or unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

(c) Harm to habitats; fisheries.
The activity will unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic habitat, travel corridor, freshwater or marine fisheries or other aquatic life.

In determining whether there is unreasonable harm to significant wildlife

habitat, the Commission may consider proposed mitigation if that mitigation does not diminish the overall value of significant wildlife ~~10.25,P~~habitat and species utilization of the habitat in the vicinity of the proposed activity and if there is no specific biological or physical feature unique to the habitat that would be adversely affected by the proposed activity.

(d) Interference with natural water flow. The activity will unreasonably interfere with the natural flow of any surface or subsurface water.

(e) Flooding. The activity will unreasonably cause or increase the flooding of the alteration area or adjacent properties.

(f) Sand supply. If the activity is on or adjacent to a sand dune, it will unreasonably interfere with the natural supply or movement of sand within or to the sand dune system or unreasonably increase the erosion hazard to the sand dune system.

(g) Outstanding river segments. If the proposed activity is a crossing of any outstanding river segment as identified in Section 10.23,I, the applicant cannot demonstrate that no reasonable alternative exists which would have less adverse effect upon the natural and recreational features of the river segment.

(h) Dredging. If the proposed activity involves dredging, dredge spoils disposal or transporting dredge spoils by water, the applicant cannot demonstrate that the transportation route minimizes adverse impacts on the fishing industry and that the disposal site is geologically suitable.

(i) In determining if an activity will have an unreasonable impact, the Commission shall consider:

(i) The area of wetland that will be affected by the alteration and the degree to which the wetland is altered, including wetland beyond the physical boundaries of the project;
(ii) The functions and values provided by the wetland;
(iii) Any proposed compensation and the level of uncertainty regarding it; and
(iv) Cumulative effects of frequent minor alterations on the wetland.

(2) Activities may not occur in, on or over any wetland of special significance containing threatened or endangered species unless the applicant demonstrates that:

(a) The wetland alteration will not disturb the threatened or endangered species; and

(b) The overall project will not affect the continued use or habitation of the site by the species.

(3) When considering whether a single activity is reasonable in relation to the direct and cumulative impacts on the resource, the Commission shall consider factors such as the degree of harm or benefit to the resource; the frequency of similar impacts; the duration of the activity and ability of the resource to recover; the proximity of the activity to protected or highly developed areas; traditional uses; the ability of the activity to perform as intended; public health or safety concerns

addressed by the activity; and the type and degree of benefit from the activity (public, commercial or personal).

Q. SUBDIVISION AND LOT CREATION

This section governs the division of lots and the creation of subdivisions. Notwithstanding anything in these regulations or other statutory or regulatory provisions, no new residential dwelling unit may be constructed except on an approved subdivision lot.

1. Counting Parcels, Lots, or Dwelling Units Under the Definition of Subdivision.

a. **Lots Created by Dividing a Parcel**. When a parcel is divided, the land retained by the person dividing land is always counted in determining the number of lots created unless the lot retained qualifies for any of the exemptions listed in Section 10.25,Q,1,g below. This figure illustrates two examples:

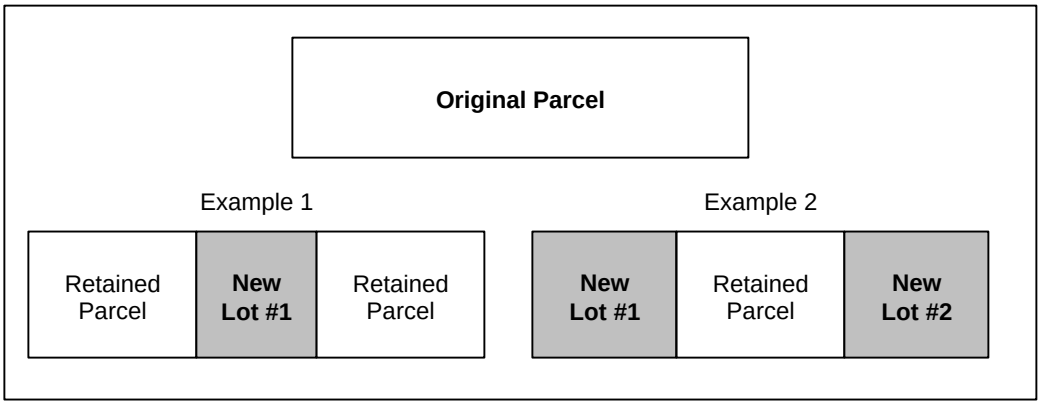

Figure 10.25,Q-1. Two examples where two new lot lines were drawn, each resulting in the creation of three parcels.

b. **Subdivision Created by the Placement of Dwelling Units**. The placement of three or more dwelling units on a single lot within a five-year period creates a subdivision. The division of one lot into two parcels coupled with the placement of one or two dwelling units on either or both lots does not create a subdivision.

c. **Parcels Originally Part of a Subdivision**. A lot or parcel which, when sold, leased or developed, was not part of a subdivision but subsequently became part of a subdivision by reason of another division by another landowner is counted as a lot under the subdivision definition. The Commission, however, will not require a subdivision permit be obtained for such lot, unless the intent of such transfer or development is to avoid the objectives of 12 M.R.S.A. §206-A.

d. **Remote Rental Cabins**. In order to foster primitive recreational opportunities on large tracts of land, up to eight remote rental cabins within a single contiguous ownership larger than 5,000 acres within a township shall be allowed without subdivision review. Placement of more than eight remote rental cabins within such an ownership requires subdivision review by the Commission.

e. **Renewal of Leases**. For the purpose of counting lots under the Commission's definition of subdivision, the renewal of a lease within a Commission approved subdivision shall not be counted as the creation of a lot. For the renewal of leases in other than Commission approved subdivisions, a lease that is renewed within two (2) years of its expiration shall not be counted as the creation of a lot. Renewal of leases in other circumstances shall be counted as the creation of a lot.

f. **Existing parcels**. For the purposes of the definition of subdivision in 12 M.R.S.A. §682(2) and in these rules, an "existing parcel" shall include the contiguous area within one township, plantation, or town owned or leased by one person or group of persons in common ownership.

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g. **Exempt lots**. The following divisions are exempt when counting lots for purposes of subdivision, unless the intent of such transfer is to avoid the objectives of 12 M.R.S.A. §206-A:

(1) Transfer of Lots for Forest Management, Agricultural Management or Conservation of Natural Resources.

A lot or parcel is not considered a subdivision lot if the following conditions are met:

(a) The lot is transferred and managed solely for forest management, agricultural management or conservation of natural resources;
(b) The lot is at least 40 acres in size;
(c) If the lot is less than 1,000 acres in size, no portion of the lot is located within 1,320 feet of the normal high water mark of any great pond or river or within 250 feet of the upland edge of a coastal or freshwater wetland as these terms are defined in 38 M.R.S.A. §436-A;
(d) The original parcel from which the lot was divided is divided into an aggregate of no more than 10 lots within any 5-year period; and
(e) When 3 to 10 lots each containing at least 40 acres in size are created within any 5-year period, a plan is recorded in accordance with 12 M.R.S.A §685-B(6-A). Any subsequent division of a lot created from the original parcel within 10 years of the recording of the plan in the registry of deeds or any structural development unrelated to forest management, agricultural management or conservation creates a subdivision and may not occur without prior commission approval. 12 M.R.S.A §682-B(4).

(2) Retained Lots.

A lot is not counted as a lot for the purposes of subdivision if it is retained by the person dividing the land, and for a period of at least 5 years:

(a) is retained and not sold, platted, leased, conveyed or further divided; and
(b) is used solely for forest or agricultural management activities, or natural resource conservation purposes.

(3) Transfers to an Abutter and Contiguous Lots.

A lot transferred to an abutting owner of land is not counted as a lot for the purposes of subdivision. Where a lot is transferred to an abutter, or two or more contiguous lots are held by one person, the contiguous lots are considered merged for regulatory purposes except for:

(a) lots that are part of a subdivision approved by the Commission;
(b) a land division certified by the Commission as qualifying under 12 M.R.S.A. §682-B; or
(c) as provided in Section 10.11;

(4) Divisions by Inheritance, Court Order, or Gifts.

Divisions of land accomplished solely by inheritance, or by court order, to a

person related to the donor by blood, marriage, or adoption are not counted as lots for the purposes of this subsection.

A division of land accomplished by bona fide gift, without any consideration paid or received, to a spouse, parent, grandparent, child, grandchild or sibling of ~~he~~the donor of the lot or parcel does not create a subdivision lot if the donor has ~~10.25,Q~~owned the lot or parcel for a continuous period of 5 years immediately preceding The division by gift and the lot or parcel is not further divided or transferred within 5 years from the date of division. 12 M.R.S.A. §682-B(1)

(5) Conservation Lots.

A lot or parcel transferred to a nonprofit, tax-exempt nature conservation organization qualifying under the United States Internal Revenue Code, Section 501(c)(3) is not considered a subdivision lot if the following conditions are met:

(a) For a period of at least 20 years following the transfer, the lot or parcel must be limited by deed restriction or conservation easement for the protection of wildlife habitat or ecologically sensitive areas or for public outdoor recreation; and

(b) The lot or parcel is not further divided or transferred except to another qualifying nonprofit, tax-exempt nature conservation organization or governmental entity. 12 M.R.S.A. §682-B(3)

(6) Transfer to Governmental Entity.

A lot or parcel transferred to a municipality or county of the State, the State or an agency of the State is not considered a subdivision lot if the following conditions are met:

(a) The lot or parcel is held by the governmental entity for the conservation and protection of natural resources, public outdoor recreation or other bona fide public purposes and is not further sold or divided for a period of 20 years following the date of transfer; and

(b) At the time of transfer the transferee provides written notice to the commission of transfer of the lot or parcel, including certification that the lot or parcel qualifies for exemption under this subsection. 12 M.R.S.A §682-B(2)

(7) Large Lots Managed for Forest or Agricultural Management Activities or Conservation.

A lot transferred or retained following transfer containing at least 5,000 acres is not counted as a lot for the purposes of this subsection, provided the lot is managed solely for the purposes of forest or agricultural management activities or conservation and the lot is not further divided for a period of at least 5 years. Nothing in this paragraph, however, shall be construed to prohibit public outdoor recreation on the lot.

(8) Unauthorized Subdivision Lots in Existence For at Least 20 Years.

A lot or parcel that when sold or leased created a subdivision requiring a permit under this chapter is not considered a subdivision lot and is exempt from the permit requirement if the permit has not been obtained and the subdivision has been in existence for 20 or more years. A lot or parcel is considered a subdivision lot and is not exempt under this subsection if:

(a) Approval of the subdivision under 12 M.R.S.A §685-B was denied by the Commission and record of the Commission's decision was recorded in the appropriate registry of deeds;

(b) A building permit for the lot or parcel was denied by the Commission under 12 M.R.S.A. §685-B and record of the Commission's decision was recorded in the appropriate registry of deeds;

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(c) The Commission has filed a notice of violation of 12 M.R.S.A. §685-B with respect to the subdivision in the appropriate registry of deeds; or

(d) The lot or parcel has been the subject of an enforcement action or order and record of that action or order was recorded in the appropriate registry of deeds. 12 M.R.S.A §682-B(5)

2. ~~Level 2 Subdivision Identification Criteria.~~ ~~Any subdivision that meets all of the criteria below is considered a level 2 subdivision. A level 2 subdivision:~~**Intentionally deleted.**

~~a. is a division within any 5-year period of an existing parcel of land within a single contiguous ownership into (a) 5 or fewer lots or 5 or fewer dwelling units or (b) 6 to 15 lots or 6 to 15 dwelling units that meet the requirements of cluster development, Section 10.25,R;~~

~~b. occupies an aggregate land area of (a) 20 acres or less or (b) 30 acres or less within a subdivision that meets the requirements of cluster development, Section 10.25,R;~~

~~c. is located within 1,000 feet of a public roadway;~~

~~d. is located no more than one mile by road from existing compatible development;~~

~~e. is located wholly on land within an M-GN subdistrict or within a development subdistrict where level 2 subdivisions are allowed, except that up to 10 percent of the aggregate land area may be designated or identified as a stream channel or wetland at the time of the filing of a subdivision application; and~~

~~f. is located wholly in a township, plantation or town within the jurisdiction of the Commission listed in Table 10.25,Q-1, below.~~

~~For purposes of Section 10.25,Q,2, "aggregate land area" includes lots or parcels to be offered and all roads and other infrastructure associated with the subdivision, but excludes open space.~~

~~Aroostook~~	~~Connor Twp~~
	~~Cyr Plt~~
	~~Garfield Plt~~
	~~Hamlin, Town of~~
	~~Nashville Plt~~
	~~Saint John Plt~~
	~~Sinclair Twp~~
	~~T11 R4 WELS~~
	~~T17 R3 WELS~~
	~~T17 R5 WELS~~
~~Franklin~~	~~Coplin Plt~~
	~~Freeman Twp~~
	~~Lang Twp~~
	~~Salem Twp~~
	~~Wyman Twp~~
~~Hancock~~	~~T32 MD~~
~~Oxford~~	~~Albany Twp~~
	~~Lower Cupsuptic Twp~~
	~~Mason Twp~~
~~Penobscot~~	~~Argyle Twp~~
	~~Greenfield Twp~~
	~~Grindstone Twp~~
	~~Mattamiscontis Twp~~
	~~T3 Indian Purchase Twp~~
	~~T4 Indian Purchase Twp~~
	~~TA R7 WELS~~
~~Piscataquis~~	~~Beaver Cove, Town of~~
	~~Elliottsville Twp~~
	~~Harfords Point Twp~~
	~~Lily Bay Twp~~
	~~Moosehead Junction Twp~~
	~~T1 R9 WELS~~
~~Somerset~~	~~Dennistown Plt~~
	~~Lexington Twp~~
	~~Long Pond Twp~~
	~~Parlin Pond Twp~~
	~~Rockwood Strip T1 R1 NBKP~~
	~~Spring Lake Twp~~

Milton Twp		Tomhegan Twp
	Washington	Edmunds Twp
		Trescott Twp

Table 10.25,Q-1. Towns, plantations and townships where Level 2 subdivisions are permitted.

Figure 10.25,Q-2. Towns, plantations and townships where Level 2 subdivisions are permitted.

3. Layout and Design for all Subdivisions.

a. Subdivisions shall be designed to harmoniously fit into the natural environment and shall cause no undue adverse impact on existing surrounding uses. When determining "harmonious fit", the Commission shall consider the existing character of the surrounding area, potential for conflict with surrounding uses, proposed driveway and roadway locations, and proposed lot sizes, among other factors.

b. Subdivisions shall be designed to avoid the linear placement of lots and driveways along public roadways or shorelines, such that no more than 8 lots or 1320 feet of frontage (whichever is the lesser distance along the public roadway or shoreline) exists between undeveloped areas.

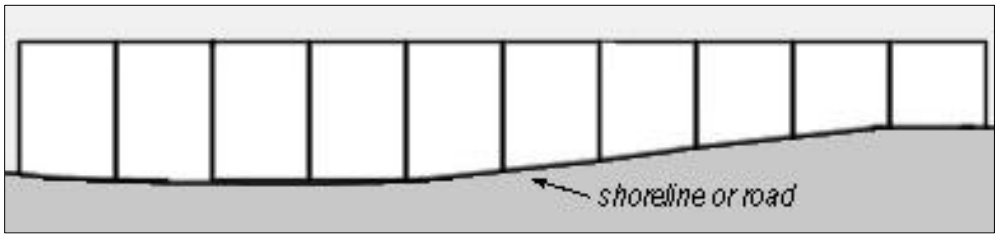
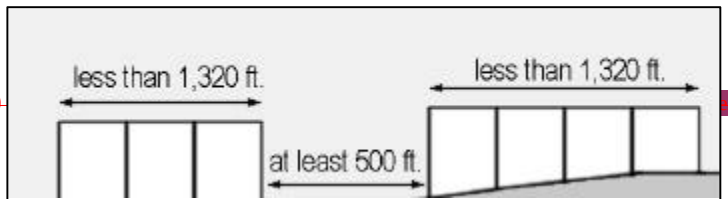


Figure 10.25,Q-3. Linear placement of lots along roadways or shorelines.

To the extent practicable, subdivision lots shall be placed so as to create a distinct community center or ~~expand an existing neighborhood, as long as the expansion is no further than 1,320 feet from the center of the existing neighborhood.~~

~~Figure 10.25,Q-4. Placement of subdivision lots within 1,320 feet of an existing neighborhood center.~~multiple community centers that offer community open space or recreation areas or other common facilities, and/or other amenities appropriate to the size and scale of the subdivision(s) and to the size of adjacent lots. Examples of "community centers" include, without limitation, focal points for common activities, interest, recreation, and/or open space that provide a sense of place within a subdivision or development, or portion thereof, such as common docking facilities, community clubhouses, community meeting and gathering places, neighborhood centers, recreation fields, recreation facilities, parks, trail systems, open areas, and similar spaces and facilities.

Where ~~such~~non-linear development and/or development with community centers is not practicable because of site conditions such as soils, slopes, geology, or geographic constraints, lots shall be configured in such a manner so that groups of lots are separated by an average of at least 500 feet of undeveloped land between groupings of lots (subject to the limitations of Section 10.25,Q,3,b, above), and the lots within a group do not extend more than 1,320 feet along any roadway or shoreline.



Average of

Figure 10.25,Q-5. Grouping of subdivision lots along a roadway or shoreline.

c. To the extent practicable, subdivisionsSubdivisions shall be designed to reduce the number ofprohibit driveway access points onto public roadways through the utilization of shared driveways and interior subdivision roads. Notwithstanding Section 10.26,C, the Commission may reduce the minimum road frontage for individual lots within subdivisions with shared driveways on interior subdivision roads by up to 50 percent, as long as the Commission finds that reducing road frontage will not adversely affect resources or existing uses or that reducing road frontage will prevent the loss of important natural features.

c. Building envelopes shall be marked and identified on the subdivision plat for each proposed lot in accordance with the following requirements:

(1) Building envelopes shall identify all areas within each subdivision lot where structural development may occur;

(2) Building envelopes shall be arranged to conform with the minimum water body, road and property line setback and maximum lot coverage requirements, as provided in Section 10.26; and

(3) Where practicable, building envelopes shall be arranged so as to avoid the placement of structures and driveways along ridge lines, on agricultural land, wetlands, slopes greater than 15%, or any other important topographic and natural features.

d. Subdivisions proposed with mixed residential, commercial, or civic uses shall also meet the following requirements:

(1) Commercial uses must fit the size, scale and intensity of the surrounding residential uses; and

(2) A combination of residential, commercial, or civic uses on a single lot is allowed only if the most restrictive dimensional requirements, as provided in Section 10.26, are met and provided that the commercial or civic uses are otherwise compatible with residential uses.

e. All subdivision and lot boundary corners and angle points shall be marked by suitable, permanent monumentation as required by the Maine Board of Registered Land Surveyors.

f. Shorefront subdivisions with proposed permanent docks, trailered ramps, hand-carry launches or water-access ways shall comply with the requirements of Section 10.27,L,2.

4. Spaghetti-lots.

a. A person may not divide any parcel of land in such a way as to create a spaghetti-lot. This prohibition does not apply to utility or transportation rights-of-ways, government purchases, or a parcel of land that the Commission determines has significant public benefit and cannot be configured in any other way in order to provide that benefit. 12 M.R.S.A. §682-A

5. Subdivision Redistricting Considerations.

Subdivisions are allowed only in appropriate subdistrictszones, as designated in Sub-Chapter II. However, the Commission may approve subdivisions which include land area designated as open space within subdistrictszones where subdivision is otherwise prohibited, provided the designated land area meets the requirements of Section 10.25,S.

6. Subdivision Filing with Registry of Deeds and Sale of Lots.

a. Filing requirements.

Following the approval of any subdivision by the Commission, the applicant must file the subdivision plat signed by the Commission's Director with the County Registry of Deeds where the real estate is located.

A registrar of deeds shall not record a copy of conditions or any plat or plan purporting to subdivide real estate located within the unorganized and deorganized lands of the State, unless the Commission's approval is evidenced thereon. 12 M.R.S.A §685-B(6)

b. Certificates of Compliance.

The sale of lots in any subdivision approved by the Commission may not proceed until a certificate of compliance has been issued. A certificate of compliance requires that, among other things, proposed deeds and plats be reviewed and approved by the Commission to ensure that permit conditions have been fulfilled. 12 M.R.S.A. §685-B(8)

7. Recording of Large Lot Land Divisions.

a. When 3 to 10 lots each containing at least 40 acres are created within a 5-year period and are located more than 1,320 feet from the normal high water mark of any great pond or river and more than 250 feet from the upland edge of a coastal or freshwater wetland as those terms are defined in 38 M.R.S.A. §436-A, a plan showing the division of the original parcel must be filed by the person creating the 3rd lot with the Commission within 60 days of the creation of that lot. The plan must state that the lots may be used only for forest management, agricultural management or conservation of natural resources. A "Guide to Certification of Plans for Large Lot Land Divisions" is available from the Commission that details submission requirements.

b. The Commission shall determine whether the plan qualifies under 12 M.R.S.A §682-B, ordinarily within 15 days of receipt of plan.

c. A copy of the certified plan must be filed, within 30 days of certification by the Commission, with the State Tax Assessor and the appropriate registry of deeds in the county in which the land is located. A register of deeds may not record any plan depicting these lots unless the Commission's certification that the division qualifies under 12 M.R.S.A §685-B is evidenced on the plan. 12 M.R.S.A. §685-B(6-A)

Any subsequent division of a lot created from the original parcel within 10 years of the recording of the plan in the registry of deeds is considered a subdivision. 12 M.R.S.A §682-B.

R. CLUSTER DEVELOPMENT

1. Applicability

a. The cluster development standards set forth below must be met for all subdivisions located within 250 feet of the normal high water mark of a Upper Wilson Pond, a Management Class 4 ~~or 5 lake and for all level 2 subdivisions comprised of more than 5 lots or more than 5 dwelling units~~lake.

b. Other subdivisions located on land that could be developed under normal applicable standards may also be clustered if the subdivisions provide for the efficient use of land and the protection of a significant amount of open space, in accordance with the standards of Section 10.25,R and Section 10.25,S.

c. The cluster development standards may be waived for subdivisions located within 250 feet of the normal high water mark of Upper Wilson Pond, a Management Class 4 ~~or 5~~ lake, where the Commission finds that cluster development is clearly inappropriate due to physical site limitations. Such site limitations may include, without limitation, the presence of soils or slope conditions that are unsuitable for high density development or the size and configuration of a parcel that does not lend itself to clustering.

2. Cluster Development Standards.

a. Cluster subdivisions shall provide for a reasonable balance between development and conservation. Specifically, cluster subdivisions shall reserve no more than 50% of net developable land for development and, within shorefront subdivisions, shall reserve no more than 50% of net developable shore frontage for development.

(1) For the purposes of this section, “net developable land” is the area ~~of a~~within a parceland/or land owned by the applicant within 1320 feet of such parcel, which, as determined by the Commission, 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 which includes, without limitation, land that has a low soil potential rating, in accordance with Section 10.25,G, or contains sensitive areas such as slopes exceeding 15%, water bodies or wetlands.

(2) For the purposes of this section, “net developable shorefront” is land within a parcel and/or land owned by the applicant within 1320 feet of such parcel that:

(a) Meets the minimum water body setback requirements of Section 10.26,D;

(b) Does not have a low soil potential rating, in accordance with Section 10.25,G; and

(c) Contains land area at least 40,000 contiguous square feet in size that is not comprised of sensitive areas such as slopes exceeding 15%, water bodies or wetlands.

b. Cluster subdivisions shall be designed to protect developable land as open space through (1) clusters of dwellings on commonly-owned land; (2) creation of individual lots with reduced dimensional requirements, reduced road frontage or, within shorefront subdivisions, reduced shore frontage as permitted under these rules; or (3) a decrease in the number of individual lots that meet dimensional requirements.

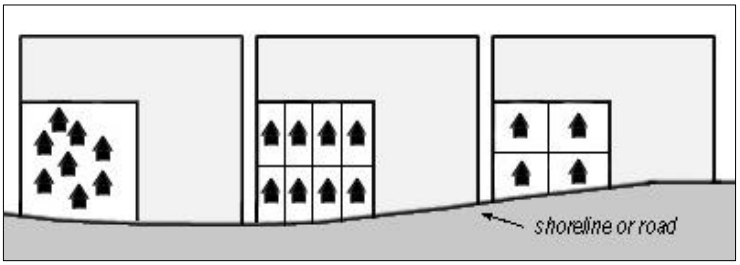


Figure 10.25,R-1. From left to right, (1) clustering on a commonly-owned parcel, (2) clustering on individual parcels with reduced lot size and frontage, and (3) clustering on individual parcels without reduced lot size or frontage.

c. Open space within cluster subdivisions shall be preserved and maintained in accordance with Section 10.25,S.

d. The Commission may reduce dimensional requirements for individual dwellings or lots in a cluster development, provided that, in the aggregate, dimensional requirements are met within the development.

e. Notwithstanding Section 10.25,R,2,d, the Commission may waive the provision that dimensional requirements for individual dwellings or lots in a cluster development be met, in the aggregate, where the following conditions are satisfied:

(1) Dimensional requirements, in the aggregate, are not waived by more than 50%;
(2) site conditions are suitable for more concentrated development on some portions of a site and such concentrated development will not adversely affect resources; and
(3) the specific benefits afforded by the cluster approach will prevent the loss of or enhance the conservation of important natural features.

f. No individual lot or dwelling unit for which road frontage has been reduced shall have direct vehicular access onto an existing roadway, unless the individual lot or dwelling unit uses a shared driveway.

~~10.25,S~~

S. OPEN SPACE

The standards set forth below must be met for all cluster subdivisions and other land area designated as open space.

1. **Preservation and Maintenance of Open Space**. Open space may be owned, preserved and maintained as required by this section, by any of the following mechanisms or combinations thereof, listed in order of preference, upon approval by the Commission:

    a. Conveyance of open space to a qualified holder, as defined under Section 10.25,S,2.

    b. Dedication of development rights of open space to a qualified holder, as defined under Section 10.25,S,2 with ownership and maintenance remaining with the property owner or a lot owners association.

    c. Common ownership of open space by a lot owners association which prevents future structural development and subsequent subdivision of open space and assumes full responsibility for its maintenance.

    d. Any other mechanism that fully provides for the permanent protection or conservation of open space and that is acceptable to the Commission.

2. **Qualified Holders**. The following entitites are qualified to own, preserve and maintain open space:

    a. "A governmental body empowered to hold an interest in real property under the laws of this State or the United States; or

    b. A nonprofit corporation or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property; assuring the availability of real property for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining or enhancing air or water quality or preserving the historical, architectural, archaeological or cultural aspects of real property." 33 M.R.S.A. §476, sub-§2

3. Open space may be usable for low-intensity non-commercial recreation or for purposes intended to conserve land and preserve important natural features of the site. Uses within the open space may be limited or controlled by the Commission at the time of approval, as necessary, to protect natural resources and adjacent land uses. Specifically, open space lots are subject to subdivision and other permit conditions prohibiting residential, commercial, industrial or other structures and uses.

4. If any or all of the open space is to be reserved for common ownership by the residents of the subdivision, the bylaws of the proposed lot owners association shall specify responsibilities and methods for maintaining the open space and shall prohibit all residential, commercial, industrial or other structures and uses.

5. Open space shall be dedicated as a separate lot of record with no further subdivision or conversion of use of that lot allowed. Such lot shall be shown on the subdivision plat with a notation thereof to indicate that no further subdivision or conversion of use is allowed.

~~10.25,T~~

T. ACTIVITIES IN FLOOD PRONE AREAS

All development in flood prone areas, including areas of special flood hazard, as identified by P-~~FP subdistricts~~FPM zones or Federal Emergency Management Agency (FEMA) Flood Hazard Boundary or Flood Insurance Rate maps, shall meet the following applicable requirements and standards:

1. Procedural Requirements

a. Where a special flood hazard area is indicated solely by a P-~~FP subdistrict~~FPM zone, the area will be regulated according to standards applicable to the A zone.

b. Determinations of base flood elevations (bfe) in P-~~FP subdistricts~~FPM zones and A zones and flood prone areas shall be made in a consistent manner, according to methods outlined in the document "Dealing with unnumbered A Zones in Floodplain Management," revised 10/92.

c. Base flood elevations for A1-30, AE and VE zones shall be those determined by FEMA in a Flood Insurance Study, where available.

2. Development Standards

a. **Development in flood prone areas**, including areas of special flood hazard, shall:

(1) Be designed or modified and adequately anchored to prevent flotation (excluding floating piers and docks), collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) Use construction materials that are resistant to flood damage;

(3) Use construction methods and practices that will minimize flood damage; and,

(4) Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

b. **Water Supply.** All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

c. **Sanitary Sewage Systems.** All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

d. **On-Site Waste Disposal Systems.** On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

e. **Watercourse Carrying Capacity.** All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

f. **Residential Structures.** Any residential structure or improvement other than normal maintenance and repair shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, and when located within Zone VE, meet the requirements for Coastal Floodplains in Section 10.25,T,2,p.

~~10.25,T~~

g. **Nonresidential Structures.** Any nonresidential structure or improvement other than normal maintenance and repair shall:

(1) Have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or

(2) Together with attendant utility and sanitary facilities:

(a) Be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

(c) Be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 10.25,T. Such certification shall be provided with the application for any permit and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

(3) When located within Zone VE, meet the requirements for Coastal Floodplains in Section 10.25,T,2,p.

h. **Manufactured Homes.** New manufactured homes or improvements other than normal maintenance and repair shall:

(1) Be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;

(2) Be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,

(3) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:

(a) Over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,

(b) Frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

All components of the anchoring system described in (a) and (b) above shall be capable of carrying a force of 4800 pounds.

(4) When located within Zone VE, meet the requirements for Coastal Floodplains in Section 10.25,T,2,p.

~~10.25,T~~

i. **Recreational Vehicles.** Recreational vehicles shall either:

(1) Be on the site for fewer than 90 consecutive days, and be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,

(2) Be permitted in accordance with the elevation and anchoring requirements for manufactured homes in Section 10.25,T,2,h.

(3) When located within Zone VE, be on the site for fewer than 90 consecutive days and be fully licensed and ready for highway use, or meet the requirements for Coastal Floodplains in Section 10.25,T,2,p.

j. **Accessory Structures.** Accessory structures, as defined, located within Zones A1-30, AE, and A, shall be exempt from the required elevation criteria if all other requirements of Section 10.25,T and the following are met. Exempt accessory structures shall:

(1) Be 500 square feet or less and have a value less than $3000;

(2) Have unfinished interiors and not be used for human habitation;

(3) Have hydraulic openings, as specified in Section 10.25,T,2,l,(2), in at least two different walls of the accessory structure;

(4) Be located outside the floodway, as determined by the provisions of Section 10.25,T,2,k,;

(5) When possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,

(6) Have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Area of Special Flood Hazard.

k. **Development in Floodways.**

(1) In Zones A1-30 and AE adjacent to areas of flowing water, encroachments, including fill, construction, and other development shall not be permitted within a regulatory floodway which is designated on the township's, plantation's, or town's "Flood Insurance Rate Map" or "Flood Boundary and Floodway Map," unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) In Zones A1-30, AE, and A adjacent to areas of flowing water, for which no regulatory floodway is designated, encroachments, including fill, construction, and other development shall not be permitted in the floodway as determined in Section 10.25,T,2,k,(3) below unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

~~10.25,T~~

(a) Will not increase the water surface elevation of the base flood more than one foot at any point within the township, plantation, or town; and,

(b) Is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).

(3) In Zones A1-30, AE, and A adjacent to areas of flowing water for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the 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.

l. **Enclosed Areas Below the Lowest Floor.** Any structure or improvement other than normal maintenance and repair in Zones A1-30, AE, and A that meets the development standards of Section 10.25,T, including the elevation requirements, and is elevated on posts, columns, piers, piles, stilts, or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

(1) Enclosed areas are not basements as defined in Section l0.02;

(2) Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:

(a) Be engineered and certified by a registered professional engineer or architect; or,

(b) Meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

(ii) The bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,

(iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

(3) The enclosed area shall not be used for human habitation; and,

(4) The enclosed areas are usable solely for building access, parking of vehicles, or storage.

m. **Bridges.** Any bridge or bridge improvement other than normal maintenance and repair shall be designed such that:

(1) When possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and

~~10.25,T~~

(2) A registered professional engineer shall certify that:

(a) The structural design and methods of construction shall meet the elevation requirements of Section 10.25,T,2,m,(1) above and the floodway standards of Section 10.25,T,2,k; and

(b) The foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

n. **Containment Walls.** Any containment wall or improvement other than normal maintenance and repair shall:

(1) Have the containment wall elevated to at least one foot above the base flood elevation;

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

(3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 10.25,T. Such certification shall be provided with the application for a permit.

o. **Commercial Wharves, Piers and Docks.** A registered professional engineer shall develop or review the structural design, specifications, and plans for the construction or improvement other than normal maintenance and repair of commercial wharves, piers, and docks.

p. **Intentionally deleted.**

~~p. **Coastal Floodplains**~~

U. AFFORDABLE HOUSING

~~(1) All development shall be located landward of the reach of mean high tide except for wharves, piers and docks or as provided in Section 10.25,T,2,p,(6) below.~~

The following requirements and standards apply to affordable housing in all zones where dwelling units are allowed.

~~(2) Any structure or improvement other than normal maintenance and repair located within Zone VE shall:~~

1. **Dimensional Requirements.** The Commission may reduce dimensional requirements for dwelling units in order to accommodate proposals to provide affordable housing opportunities. The minimum lot size may be reduced to 20,000 square feet per dwelling unit or less than 20,000 square feet per dwelling unit in accordance with 12 M.R.S.A. §4807, and other dimensional requirements may be modified to the minimum extent necessary to accommodate the proposed units where the applicant demonstrates there will be no undue adverse effect on existing uses and resources in the area likely to be affected by the proposal.

~~(a) Be elevated on posts or columns such that:~~

2. **Income Restrictions.** Affordable housing lots or dwelling units allowed under this section shall be sold or rented to lower or moderate income buyers or renters. The Commission may waive the limit on percentage of household income spent on housing in those housing markets where, in its judgment, after consultation with the Maine State Housing Authority, elevated local housing costs limit affordable housing opportunities.

~~(i) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;~~

~~(ii) The pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,~~

~~(iii) Water loading values used shall be those associated with the base flood. Wind loading values used shall be those contained in the FEMA *Coastal Construction Manual*, June 2000.~~

3. **Maintenance of Long-term Affordability.** Affordable housing covenants shall run with the land and comply with the provisions of 33 M.R.S.A. §122 regarding creation, conveyance, acceptance and duration. Affordable housing covenants for sale and rental properties shall be recorded in the County Registry of Deeds, either concurrently with the recording of the subdivision plat or upon the conveyance of the residential lots or units.

~~(b) Have the space below the lowest floor:~~

Affordable housing lots or dwelling units allowed under this section shall be maintained as affordable housing by any of the following mechanisms or combinations thereof:

~~(i) Free of obstructions; or,~~

(a) **Sales.** Restricting in perpetuity title to the lots and to the dwelling units by an affordable housing covenant attached to the deed requiring that if the owner sells the lot or dwelling unit that the sale price must remain affordable to lower or moderate income households and be in accord with the method for limiting the sale price as specified in the covenant;

~~10.25,T~~

(b) **Rentals.** Limiting annual rent increases for lower or moderate income households to changes in the rental market, such as, but not limited to, changes in the area fair market rents published by HUD for the HMFA/County, and providing that no rent increase may take effect until approved by a qualified housing entity, as defined in Section 10.25,U,4; or

~~(ii) Constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,~~

~~(iii) Constructed with non-supporting breakaway walls which have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.~~

(c) **Other mechanisms.** Providing for and maintaining affordable housing through affordability mechanisms as provided for in 33 M.R.S.A. §124 or any other mechanisms substantially equivalent to (a) and (b) above and acceptable to the Commission.

~~(c) Require a registered professional engineer or architect to:~~

4. **Qualified Housing Entities.** A qualified housing entity acceptable to the Commission must oversee initial sales or rentals of affordable housing lots or dwelling units allowed under this section in order to ensure that housing lots or dwelling units remain affordable and that buyers or renters qualify as lower or moderate income households. Such oversight must also apply to subsequent sales or rentals and must continue for the term of the housing's required affordability as required by subsection 10.25, U, 3.

~~(i) Develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual*, (FEMA-55/June 2000); and~~

(a) The following housing entities, upon approval by the Commission, are qualified to hold and/or maintain affordable housing lots or units allowed under this section: A governmental entity empowered to hold an interest in real property under the laws of this State or the United States or a nonprofit organization whose purposes include providing affordable housing or increasing affordable housing opportunities for lower income or moderate income households.

~~(ii) Certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Section 10.25,T,2,p,(2).~~

(b) The Commission will require a back-up qualified housing entity for an approved nonprofit organization. The back-up qualified housing entity shall have the right to enforce the terms of the covenant and shall have all the rights of the primary qualified housing entity, in the event the primary qualified housing entity ceases to exist or fails to undertake monitoring, enforcement and other holder responsibilities under the covenant.

~~(3) The use of fill for structural support in Zone VE is prohibited.~~

(c) Transfer of the rights of the qualified housing entity or back-up qualified housing entity requires Commission approval.

~~(4) Human alteration of sand dunes within Zone VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.~~

5. **Affordable Housing Agreement.** The applicant shall submit for Commission review and approval an agreement between the Commission and the qualified housing entity which must include at least the following:

~~(5) Enclosed areas below the lowest floor may be used solely for parking vehicles, building access, and storage.~~

~~(6) Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement only if permitted as a special~~

~~exception, and if all the following requirements and those of Section 10.25,T,2,a,k, and l are met:~~

(a) Identification of the qualified housing entity and of the back-up qualified housing entity acceptable to the Commission that will be overseeing the affordable housing lots and dwelling units and be responsible for implementing and enforcing the affordable housing covenant(s);

~~(a) The special exception shall be limited to low-value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.~~

(b) The agreement between the qualified housing entity and the back-up entity;

~~(b) The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.~~

(c) An effective method to maintain long-term affordability to lower or moderate income buyers or renters according to the requirements of 10.25,U,3;

~~(c) The structure will not adversely increase wave or debris impact forces affecting nearby buildings.~~

(d) A process for screening and selecting lower or moderate income households allowed to buy or rent lots or dwelling units;

~~(d) The structure shall have unfinished interiors and shall not be used for human habitation.~~

(e) A right of first refusal giving the qualified housing entity the right to purchase the affordable lots or units at the sale price limitation contained in the affordable housing covenant if no qualified lower or moderate income buyers apply at the affordable price within a specified time period;

~~(e) Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.~~

(f) An option to return affordable lots or units, whether for sale or rent, to market rates only if there are no qualified lower or moderate income household buyers or renters within a specified time period of the property being on the market and a method to return profits in excess of the sale price limitation contained in the affordable housing covenant to the qualified housing entity for purposes of providing affordable housing if the lots or units are returned to market rates;

~~(f) All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.~~

(g) When an applicant requests that the Commission waive the limit on the percent of household income spent on housing, documentation of housing market conditions that establish the need for the waiver; and

~~10.26,A – B~~

(h) A requirement for the submission of annual reports by the qualified housing entity to the Commission documenting that the terms of the agreement are being met regarding items 5(a)–(f) above, as applicable.

10.26 DIMENSIONAL REQUIREMENTS

The following dimensional requirements apply to all lots on which structural development is proposed unless otherwise provided by Section 10.26,G.

A. ~~MINIMUM~~ LOT SIZE

1. Residential Uses.

a. Minimum lot size: The minimum lot size for residential uses is 40,000 square feet per dwelling unit except where each dwelling unit is to use a common or community sewer and not on-site subsurface waste water disposal, the minimum lot size shall be 20,000 square feet per dwelling unit.

b. Maximum lot size: The maximum lot size for residential subdivision lots (excluding lots for resort accommodations) is 3 acres for lots fronting on, or within 50 feet of, a body of water, and 7 acres for all other residential subdivision lots

2. Commercial, industrial, and other non-residential uses.

The minimum lot size for commercial, industrial, and other non-residential uses involving one or more buildings is 40,000 square feet.

B. MINIMUM SHORELINE FRONTAGE

1. For lots fronting on a flowing water draining more than 2 square miles but less than 50 square miles, a body of standing water less than 10 acres in size, or a tidal water, the minimum shoreline frontage shall be:

   a. 150 feet per dwelling unit for residential uses; and
   b. 200 feet for commercial, industrial, and other non-residential uses involving one or more buildings.

2. For lots fronting on a flowing water draining 50 square miles or more or a body of standing water 10 acres or greater in size, the minimum shoreline frontage shall be:

   a. ~~200~~150 feet per dwelling unit for residential uses; and
   b. 300 feet for commercial, industrial, and other non-residential uses involving one or more buildings.

3. In the case of a lot which borders more than one water body, the shoreline frontage requirement must be met on each water body bordered by the lot.

4. Frontage shall be measured in a straight line between the points of intersection of side lot lines with the normal high water mark of the shoreline.

5. The minimum width of any portion of any lot within 100 feet, horizontal distance, of the normal high water mark of a water body shall be equal to or greater than the applicable minimum shoreline frontage requirement.

6. The shoreline frontage may be waived to no less than 200 feet for public boat launches where the applicant demonstrates there will be no undue adverse impact to surrounding uses.

~~10.26,C-D~~

C. MINIMUM ROAD FRONTAGE

1. Except as provided for in Section 10.26,C,6 below, the minimum road frontage shall be:

   a. 100 feet per dwelling unit for residential uses, and

   b. 200 feet for commercial, industrial, and other non-residential uses involving one or more buildings;

2. 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.

3. Where the lot is located at the end of a road or on a circular turnaround with an outside diameter of less than 25 feet, the road frontage requirements shall not apply.

4. Frontage shall be measured along the traveled portion of the road between the points of intersection of side lot lines with the traveled portion of the road.

5. In the case of a lot which borders more than one road, the road frontage requirement must be met on at least one road bordered by the lot.

6. ~~Flexible Road Frontage Requirements In Prospectively Zoned Areas~~Intentionally deleted.

   ~~a. Except on state or state-aid highways, road frontage requirements for commercial and residential development in the D-GN, D-GN2, D-GN3, D-RS, and D-RS2 may be reduced below those listed above in order to allow the proposed development to conform with the prevailing frontage in its immediate vicinity. The prevailing frontage is the average frontage of those lots within 500 feet on either side of the subject parcel.~~

   ~~b. Reductions in road frontage shall be approved only when they will not cause an increased risk of accidents or impact the posted speed of the road.~~

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 tidal water, and from the upland edge of wetlands designated as P-WL1~~-subdistricts~~M zones;

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~~Route 6/15 (Piscataquis and Somerset Counties) and the Lily Bay Road (Piscataquis County);

~~10.26,D~~

e. ~~20 feet from the traveled portion of all roadways on coastal islands; and~~intentionally deleted; 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, and those structures within a sporting camp complex constructed solely for the housing of guests.

2. The minimum setbacks for multi-family dwellings and commercial, industrial, and other non-residential principal and accessory structures 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 tidal water, and from the upland edge of wetlands designated as P-WL1 ~~subdistricts~~M zones;

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 below~~;

d. ~~20 feet from the traveled portion of all roadways on coastal islands; and~~intentionally deleted; and

e. 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 sporting camp complex, 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 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 shoreline, 50 feet from roads, and 25 feet from property lines. 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~~Intentionally deleted.

~~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.~~

~~10.26,E-F~~

E. MAXIMUM LOT COVERAGE

1. Except as provided in Section 10.26,E,3 below, the maximum lot coverage shall be 30% for all uses involving one or more buildings.

2. "Coverage" shall be calculated by determining the percentage of lot area covered by all structures including paved driveways, sidewalks, parking lots and other impervious surfaces.

~~3. Flexible Lot Coverage Requirements in Prospectively Zoned Areas Outside of the Shoreland Areas~~

~~a. For commercial and institutional development outside the shoreland area in the D-GN, D-GN2, D-GN3, D-RS, and D-RS2 subdistricts that is proposed on lots of 2 acres or less, lot coverage may be increased to 50%. This waiver shall be granted in order to accommodate in-fill development or compact development patterns that promote pedestrian access and social interaction, provided there is no adverse impact on water bodies from surface water runoff.~~

F. MAXIMUM BUILDING HEIGHT

1. Except as provided for in Section 10.26,F,2 and 4 below, the maximum building height shall be:

   a. ~~75~~35 feet for residential uses; and

   b. 100 feet for commercial, industrial, and other non-residential uses involving one or more buildings.

2. Structures within 500 feet of the normal high water mark of a body of standing water 10 acres or greater or tidal water shall be no higher than ~~30~~35 feet. The Commission may apply this provision at greater distances from the normal high water mark of bodies of standing water having significant or outstanding scenic values where there is the likelihood that such structures would have an adverse impact on scenic values. Bodies of standing water having such scenic values are

shown in
Appendix C.

3. Features of buildings which contain no floor area such as chimneys, towers, ventilators and spires may exceed these maximum heights with the Commission's approval.

~~4. Structure Height in Prospectively Zoned Areas~~

~~a. In areas beyond 500 feet of the normal high water mark of a body of standing water 10 acres or greater, structure height in the D-GN, D-GN2, D-GN3, D-RS, D-RS2, D-RS3, D-CI, and D-ES in prospectively zoned areas shall be limited to 35 feet. Structures used for agricultural management, structures with no floor area, or features of buildings which contain no floor area such as chimneys, towers, ventilators, and spires may exceed these maximum heights with the Commission's approval.~~

~~b. Structures within 500 feet of the normal high water mark of a body of standing water 10 acres or greater in size shall conform to the provisions of Section 10.26,F,2 above.~~

~~10.26,G~~

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.~~Intentionally deleted.

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, and 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 tidal waters 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.~~Intentionally deleted.

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. The Commission may apply the dimensional requirements for residential uses to single outpost camps operated by commercial sporting camps, except in cases where such a camp is likely to have a greater impact than a residential use.

10. Notwithstanding the provisions of Section 10.11, structures necessary for disabled persons to gain access to buildings 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.

11. 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).

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. The Commission may reduce the minimum road frontage requirement for individual lots or groups of lots with frontage on a cul-de-sac to no less than 50 feet, provided that the width of each such lot is at least 100 feet when measured at the road set back line.

~~10.27,A~~

10.27 ACTIVITY-SPECIFIC STANDARDS

The documents referenced within this section may be obtained from the Commission's office in Augusta, or any of its regional offices.

A. AGRICULTURAL MANAGEMENT ACTIVITIES

Agricultural management 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~~zone 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 agricultural management activities in all development and protection ~~subdistricts~~zones:

1. All spreading or disposal of manure shall be accomplished in accordance with the manure best management practices, described in the publication, "Strategy for Managing Non-Point Source Pollution from Agricultural Sources and Best Management System Guidelines," developed by the Maine Non-Point Source Agricultural Task Force, 1991.

2. All disposal of waste potatoes shall be accomplished in conformance with the "Maine Guidelines for Field Disposal of Waste Potatoes" published by the University of Maine in September, 1974.

3. Exposed mineral soil created by tilling of soil shall occur no closer to the normal high water mark of any body of standing water, flowing water, or tidal water than is indicated by the following table, provided, however, no portion of such exposed mineral soil on a back face shall be closer than 50 feet:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
0	50
10	90
20	130
30	170
40	210
50	250
60	290
70	330

Table 10.27,A-1. Water body setback requirements for exposed mineral soil created by tilling of soil.

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 subdistrictzone 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,

   b. 75 feet of the normal high water mark of any body of standing water less than 10 acres in size, or any tidal water or flowing water draining less than 50 square miles, and

   c. 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.

2. Within this buffer strip, vegetation shall be maintained as follows:

   a. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath is permitted, provided it does not exceed six (6) feet in width as measured between tree trunks, and, has at least one bend in its path to divert channelized runoff.

   b. Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other natural vegetation is maintained.

      For the purposes of this section a “well-distributed stand of trees” adjacent to a body of standing water 10 acres or greater in size shall be defined as maintaining a rating score of 24 or more in a 25-foot by 50-foot rectangular area as determined by the following rating system.

      Near other water bodies, tributary streams and public roadways a “well-distributed stand of trees” shall be defined as maintaining a rating score of 16 or more per 25-foot by 50-foot (1250 square feet) rectangular area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2.0 to < 4.0	1
4.0 to < 8.0	2
8.0 to < 12.0	4
12.0 +	8

Table 10.27,B-1. Rating system for a well-distributed stand of trees.

The following shall govern in applying this rating system:

(1) The 25-foot x 50-foot rectangular plots shall be established where the landowner or lessee proposes clearing within the required buffer;
(2) Each successive plot shall be adjacent to but not overlap a previous plot;
(3) Any plot not containing the required points shall have no vegetation removed except as otherwise allowed by these rules;
(4) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by these rules; and
(5) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of this section, "other natural vegetation" is defined as retaining existing vegetation under 3 feet in height and other ground cover and retaining at least 5 saplings less than 2 inches in diameter at 4½ feet above ground level for each 25-foot by 50-foot rectangular area. If 5 saplings do not exist, the landowner or lessee may not remove any woody stems less than 2 inches in diameter until 5 saplings have been recruited into the plot. In addition, the soil shall not be disturbed, except to provide for a footpath or other permitted use.

c. In addition to Section 10.27,B,2,b above, no more than 40% of the total basal area of trees 4.0 inches or more in diameter, measured at 4½ feet above ground level, may be removed in any ten (10) year period.

d. Pruning of live tree branches is prohibited, except on the bottom 1/3 of the tree provided that tree vitality will not be adversely affected.

e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings in excess of 250 square feet, these openings shall be established with native tree species.

3. At distances greater than one hundred (100) feet, horizontal distance, from the normal high water mark of a body of standing water greater than 10 acres, no more than 40% of the total basal area of trees four inches or more in diameter, measured at 4½ feet above ground level, may be removed in any ten (10) year period. In no instance shall cleared openings exceed, in the aggregate, 10,000 square feet, including land previously cleared. These provisions apply to areas within 250 feet of all bodies of standing water greater than ten (10) acres, and to the full depth of the P-~~AL~~ALM zone. This requirement does not apply to the development of uses allowed by permit.

4. Cleared openings legally in existence as of ~~June 7, 1990~~the date of adoption of the Concept Plan may be maintained, but shall not be enlarged except as permitted by these regulations; provided, however, that cleared openings within Separation Zones, as defined in Chapter 20 of the Maine Forest Service Rules, shall continue to be governed by such Rules.

In all ~~subdistricts~~zones where natural vegetation is removed within the required vegetative buffer strip of a flowing water, body of standing water, tidal water, or public roadway, it shall be replaced by other vegetation (except where the area cleared is built upon) that is effective in preventing erosion and retaining natural beauty.

C. MINERAL EXPLORATION AND EXTRACTION

Mineral exploration and extraction 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 subdistrictzone 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 for mineral exploration and extraction activities shall apply in all subdistrictszones except as otherwise hereinafter provided:

1. Mineral Exploration: The following requirements shall apply to mineral exploration activities:

   a. All excavations, including test pits and holes, shall be promptly capped, refilled or secured by other equally effective measures so as to reasonably restore disturbed areas and to protect the public health and safety.

   b. Mineral exploration activities or associated access ways where the operation of machinery used in such activities results in the exposure of mineral soil, shall be located such that an unscarified filter strip of at least the width indicated below is retained between the exposed mineral soil and the normal high water mark of a flowing water, body of standing water, tidal water, or wetland identified as a P-WL1 subdistrictM zone:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

Table 10.27,C-1. Unscarified filter strip width requirements for exposed mineral soil created by mineral exploration activities or associated access ways.

   The provisions of Section 10.27,C,1,b apply only on a face sloping toward the water, provided, however, no portion of such exposed mineral soil on a back face shall be closer than 25 feet; the provisions of Section 10.27,C,1,b do not apply where access ways cross such waters.

   c. Except when surface waters are frozen, access ways for mineral exploration activities shall not utilize stream channels bordered by P-SL2 subdistrictsM zones except to cross the same by the shortest possible route; unless culverts or bridges are installed in

accordance with Section 10.27,D,2 and 5, such crossings shall only use channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

d. Access way approaches to stream channels shall be located and designed so as to divert water runoff from the way in order to prevent such runoff from directly entering the stream.

e. In addition to the foregoing minimum requirements, when conducting mineral exploration activities and creating and maintaining associated access ways, provision shall be made to effectively stabilize all area of disturbed soil so as to reasonably avoid soil erosion and sedimentation of surface waters. These measures shall include seeding and mulching if necessary to insure effective stabilization.

2. Mineral Extraction: The following requirements shall apply to mineral extraction activities in all subdistrictszones:

a. A vegetative buffer strip shall be retained between the ground area disturbed by the extraction activity and:

(1) 75 feet of the normal high water mark of any body of standing water less than 10 acres in size, any flowing water draining less than 50 square miles, tidal water, or wetland identified as a P-WL1 subdistrictM zone; and

(2) 100 feet of the normal high water mark of any body of standing water 10 acres or greater in size or flowing water draining 50 square miles or more.

b. No portion of any ground area disturbed by the extraction activity shall be closer than 250 feet from any public roadway, or 250 feet from any property line in the absence of the prior written agreement of the owner of such adjoining property.

c. Within 250 feet of any water body the extraction area shall be protected from soil erosion by ditches, sedimentation basins, dikes, dams, or such other control devices which are effective in preventing sediments from being eroded or deposited into such water body.

Any such control device shall be deemed part of the extraction area for the purposes of Section 10.27,C,2,a, above;

d. A natural vegetative screen of not less than 50 feet in width shall be retained from any facility intended primarily for public use, excluding privately owned roads; and

e. If any mineral extraction operation located within 250 feet of any property line or public roadway or facility intended primarily for public use, excluding privately owned roads, is to be terminated or suspended for a period of one year or more, the site shall be rehabilitated by grading the soil to a slope of 2 horizontal to 1 vertical, or flatter.

~~10.27,D~~

D. ROADS AND WATER CROSSINGS

Roads and water crossings 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~~zone 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 road and water crossing requirements shall apply in P-WL~~1,~~1M, P-WL~~2,~~2M, P-~~SL~~SLM, P-~~FP~~FPM, P-~~GP subdistricts~~GPM zones and all development ~~subdistricts~~zones:

1. The following requirements shall apply to construction and maintenance of roads:

   a. All cut or fill banks and areas of exposed mineral soil outside the roadbed within 75 feet of a flowing water, body of standing water, tidal water, or a wetland shall be revegetated or otherwise stabilized so as to prevent erosion and sedimentation of water bodies or wetlands;

   b. Road banks shall have a slope no steeper than 2 horizontal to 1 vertical;

   c. Drainage ditches shall be provided so as to effectively control water entering and leaving the road area. Such drainage ditches will be properly stabilized so that the potential for unreasonable erosion does not exist;

   d. In order to prevent road surface drainage from directly entering water bodies or wetlands, roads and their associated drainage ditches shall be located, constructed, and maintained so as to provide an unscarified filter strip, of at least the width indicated below, between the exposed mineral soil of the road and the normal high water mark of a surface water body or upland edge of a wetland:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

Table 10.27,D-1. Unscarified filter strip width requirements for exposed mineral soil created by roads and their associated drainage ditches.

This requirement shall not apply to road approaches to water crossings or wetlands.

   e. Drainage ditches for roads approaching a water crossing or wetland shall be designed, constructed, and maintained to empty into an unscarified filter strip, of at least the width indicated in the table set forth in Section 10.27,D,1,d above, between the outflow point of the ditch and the normal high water mark of the water or the upland edge of a wetland. Where such filter strip is impracticable, appropriate techniques shall be used to reasonably avoid sedimentation of the water body or wetland. Such techniques may

~~10.27,D~~include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed so as to reasonably avoid sedimentation of the water body or wetland;

f. Ditch relief (cross drainage) culverts, drainage dips and water turnouts will be installed in a manner effective in getting drainage onto unscarified filter strips before the flow in the road or its drainage ditches gains sufficient volume or head to erode the road or ditch.

(1) Drainage dips may be used in place of ditch relief culverts only where the road grade is 10% or less;

(2) On roads having slopes greater than 10%, ditch relief culverts shall be placed across the road at approximately a 30 degree angle downslope from a line perpendicular to the center line of the road;

(3) Ditch relief culverts, drainage dips and water turnouts shall direct drainage onto unscarified filter strips as required in Section 10.27,D,1,d and e above;

(4) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials; and

(5) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

Road Grade (Percent)	Spacing (Feet)
0-2	500-300
3-5	250-180
6-10	167-140
11-15	136-127
16-20	125-120
21+	100

Table 10.27,D-2. Spacing requirements for drainage dips and associated water turnouts.

2. The following requirements shall apply to water crossings when surface waters are unfrozen:

a. Bridges and culverts shall be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 ½ times the cross-sectional area of the stream channel.

b. Culvert and bridge sizes may be smaller than provided in Section 10.27,D,2,a if techniques are employed such that in the event of culvert or bridge failure, the natural course of water flow is reasonably maintained and sedimentation of the water body is reasonably avoided; such techniques may include, but are not limited to, the effective use of any or all of the following:

(1) removing culverts prior to the onset of frozen ground conditions;
(2) using water bars in conjunction with culverts; or
(3) using road dips in conjunction with culverts.

c. Culverts utilized in water crossings shall:

(1) be installed at or below stream bed elevation;

(2) be seated on firm ground;

(3) have soil compacted at least halfway up the side of the culvert;
(4) be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
(5) have a headwall at the inlet end which is adequately stabilized by rip-rap or other suitable means to reasonably avoid erosion of material around the culvert.

3. The design and construction of land management road systems through wetlands, other than those areas below the normal high water mark of standing or flowing waters, must avoid wetlands unless there are no reasonable alternatives, and must maintain the existing hydrology of wetlands.

To maintain the existing hydrology of wetlands, road drainage designs shall provide cross drainage of the water on the surface and in the top 12 inches of soil in wetlands during both flooded and low water conditions so as to neither create permanent changes in wetland water levels nor alter wetland drainage patterns. This shall be accomplished through the incorporation of culverts or porous layers at appropriate levels in the road fill to pass water at its normal level through the road corridor. Where culverts or other cross-drainage structures are not used, all fills shall consist of free draining granular material.

To accomplish the above, the following requirements apply:

a. Road construction on mineral soils or those with surface organic layers up to 4 feet in thickness:

(1) Fill may be placed directly on the organic surface compressing or displacing the organic material until equilibrium is reached. With this method, culverts or other cross-drainage structures are used instead of porous layers to move surface and subsurface flows through the road fill material.

(a) For road construction on mineral soils or those with surface organic layers less than 16 inches in thickness, culverts or other cross-drainage structures shall be appropriately sized and placed at each end of each wetland crossing and at the lowest elevation on the road centerline with additional culverts at intermediate low points as necessary to provide adequate cross drainage. Culverts or other cross-drainage structures shall be placed at maximum intervals of 300 feet.

(b) For road construction on surface organic layers in excess of 16 inches but less than 4 feet in thickness, cross drainage must be provided by placing culverts at each end of each wetland crossing and at the lowest elevation on the road centerline with additional culverts at intermediate low points as necessary to provide adequate cross drainage. Culverts or other cross-drainage structures shall be placed at maximum 300-foot intervals. Culverts shall be a minimum of 24 inches in diameter, or the functional equivalent, and buried halfway below the soil surface.

(c) Where necessary to maintain existing water flows and levels in wetlands, ditches parallel to the road centerline shall be constructed along the toe of the fill to collect surface and subsurface water, carry it through the culvert(s) and redistribute it on the other side. Unditched breaks shall be left midway between culverts to prevent channelization.

(2) Alternatively, a porous layer may be created to move surface and subsurface flows through the road fill materials. If a porous layer is used, geotextile fabric must be placed above and below fill material to increase the bearing strength of the road and to preserve the bearing strength of fill material by preventing contamination with fine soil particles.

b. Road construction on soils with organic layers in excess of 4 feet in thickness:

(1) Such construction shall only take place under frozen ground conditions.

(2) Geotextile fabric shall be placed directly on the soil surface. Road fill or log corduroy shall then be placed on the geotextile fabric.

(3) Cross drainage shall be provided by either a continuous porous layer or appropriate placement of culverts or other cross-drainage structures and ditching as specified below:

(a) A continuous porous layer or layers shall be constructed by placement of one or more layers of wood corduroy and/or large stone or chunkwood separated from adjacent fill layers by geotextile fabric placed above and below the porous layer(s) such that continuous cross drainage is provided in the top 12 inches of the organic layer; or

(b) Cross drainage culverts or other cross-drainage structures shall be placed at points where they will receive the greatest support. Culverts or other cross-drainage structures shall be a minimum of 24 inches in diameter, or the functional equivalent, and buried halfway below the soil surface. Where necessary to maintain existing water flows and levels in wetlands, ditches parallel to the roadbed on both sides shall be used to collect surface and subsurface water, carry it through the culvert(s) and redistribute it on the other side. Such ditches shall be located three times the depth of the organic layer from the edge of the road fill. Unditched breaks shall be left midway between culverts to prevent channelization.

4. Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

5. Maintenance of the above required water control installations shall continue until the road is discontinued and put to bed by taking the following actions:

a. Water bars shall

(1) be constructed and maintained across the road at intervals established below:

Road Grade (Percent)	Distance Between Water Bars (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

Table 10.27,D-3. Spacing requirements for water bars.

(2) be constructed at approximately 30 degrees downslope from the line perpendicular to the center line of the road;

(3) be constructed so as to reasonably avoid surface water flowing over or under the water bar; and

(4) extend sufficient distance beyond the traveled way so that water does not reenter the road surface.

b. Any bridge or water crossing culvert in such road shall satisfy one of the following requirements:

(1) it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;

(2) it shall be designed to provide an opening with a cross-sectional area at least 3 ½ times the cross-sectional area of the stream channel; or

(3) it shall be dismantled and removed in a fashion so as to reasonably avoid sedimentation of the water body.

6. Provided they are properly applied and used for circumstances for which they are designed, methods including but not limited to the following are acceptable to the Commission as means of calculating the 10 and 25 year frequency water flows and thereby determining crossing sizes as required in Section 10.27,D,2 and 5:

a. The USDA Soil Conservation Service (SCS) Methods; specifically: "Urban Hydrology for Small Watersheds," June 1986 Soil Conservation Service Technical Release #55.

b. The United States Geological Survey (USGS) Methods; specifically: U.S. Geological Survey. 1975. "A Technique for Estimating the Magnitude and Frequency of Floods in Maine." Open- file Report 75-292.

7. Extension, enlargement or resumption of use of presently existing roads, which are not in conformity with the provisions of Section 10.27,D, are subject to the provisions of Section 10.11.

8. Publicly owned roads may be constructed in a fashion that is not in strict conformity with the provisions of this section, provided that other measures are applied that are effective in reasonably avoiding sedimentation of surface waters.

9. Except that Section 10.27,D,10 below always applies, trail crossings of minor flowing waters shall be exempt from the standards of Section 10.27,D, provided such crossings are constructed in a manner that causes no disturbance to the stream bed, and no substantial disturbance to the banks or shoreland areas in the vicinity of the crossing, and provided such crossings do not impede the flow of water or the passage of fish. If properly undertaken, acceptable methods may include but not be limited to the laying of logs from bank to bank, or placement of bed logs and stringers with decking. This exemption shall not extend to the construction of abutments or piers.

Trail crossings not so exempted shall be subject to the water crossing standards of Section 10.27,D, including specifically Sections 10.27,D,2, 4, 5, 6, 10 and 11.

10. In addition to the foregoing minimum requirements, provision shall otherwise be made in the construction and maintenance of roads and water crossings in order to reasonably avoid sedimentation of surface waters.

11. 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,9 above, shall be given to the Commission prior to the commencement of such activities. Such notice shall conform to the requirements of Section 10.16 and shall state the manner in which the water crossing size requirements of this section will be satisfied.

E. TIMBER HARVESTING

Timber harvesting 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~~zone 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 apply to timber harvesting within all development and protection ~~subdistricts~~zones except as otherwise hereinafter provided:

1. Except when surface waters are frozen, skid trails and skid roads shall not utilize stream channels bordered by a P-SL1 ~~subdistrict~~M zone except to cross such channels with a culvert or bridge according to the water crossing requirements of Section 10.27,D,2 and 5;

2. Timber harvesting operations in P-SL1M and P-~~GP subdistricts~~GPM zones shall be conducted in the following manner:

   a. Within 50 feet of the normal high water mark, no clearcutting shall be allowed and harvesting operations shall be conducted in such a manner that a well-distributed stand of trees is retained so as to maintain the aesthetic and recreational value and water quality of the area and to reasonably avoid sedimentation of surface waters.

   b. At distances greater than 50 feet from the normal high water mark, harvesting activities may not create single openings greater than 14,000 square feet in the forest canopy. In such areas single canopy openings of over 10,000 square feet shall be no closer than 100 feet apart.

   c. Harvesting shall not remove, in any ten year period, more than 40 percent of the volume on each acre involved of trees 6 inches in diameter and larger measured at 4½ feet above ground level. Removal of trees less than 6 inches in diameter, measured as above is permitted if otherwise in conformance with these regulations. For the purpose of these standards, volume may be determined as being equivalent to basal area.

   d. No accumulation of slash shall be left within 50 feet of the normal high water mark of surface water protected by the P-SL1M and P-~~GP subdistricts~~GPM zones. In such ~~subdistricts~~zones, at distances greater than 50 feet from the normal high water mark of such waters, all slash larger than 3 inches in diameter shall be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.

3. Except as provided in Section 10.27,E,7, skid trails and other sites, where the operation of machinery used in timber harvesting results in the exposure of mineral soil, shall be located such that an unscarified filter strip of at least the width indicated below is retained between the exposed mineral soil and the normal high water mark of surface water areas:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
0	25
10	45

20	65
30	85

10.27,E

40	105
50	125
60	145
70	165

Table 10.27,E-1. Unscarified filter strip width requirements for exposed mineral soil created by the operation of machinery used in timber harvesting.

The provisions of Section 10.27,E,3 apply only on a face sloping toward the water, provided, however, no portion of such exposed mineral soil on a back face shall be closer than 25 feet; the provisions of Section 10.27,E,3 do not apply where skid roads cross such waters;

4. Timber harvesting operations shall be conducted in such a manner that slash is not left below the normal high water mark of a body of standing water or tidal waters, or below the normal high water mark of stream channels downstream from the point where such channels drain 300 acres or more;

5. Except when surface waters are frozen, skid trails and skid roads shall not utilize stream channels bordered by P-SL2 subdistrictsM zones except to cross the same by the shortest possible route; unless culverts or bridges are installed in accordance with Section 10.27,D,2 and 5, such crossings shall only use channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged. The requirements of Section 10.27,E,5 may be modified according to the provisions of Section 10.27,E,7;

6. Except as provided in Section 10.27,E,7, skid trail and skid road approaches to stream channels shall be located and designed so as to divert water runoff from the trail or road in order to prevent such runoff from directly entering the stream;

7. Timber harvesting operations in P-SL2 subdistrictsM zones along stream channels upstream from the point where they drain 300 acres or less, and in P-WL subdistrictsWLM zones adjacent to such P-SL2 subdistrictsM zones, may be conducted in a manner not in conformity with the requirements of the foregoing Sections 10.27,E,3, 5, and 6 provided that such operations are conducted so as to avoid the occurrence of sedimentation of water in excess of 25 Jackson Turbidity Units as measurable at the point where such stream channel drains 1 square mile or more. Jackson Turbidity Units are a standard measurement of the relative amount of light that will pass through a sample of water compared with the amount of light that will pass through a reference suspension; the Jackson Turbidity Unit measurement for water without turbidity is 0;

8. Harvesting operations in P-SL2 subdistrictsM zones along stream channels downstream from the point where they drain 300 acres or more and along bodies of standing water shall be conducted in such a manner that sufficient vegetation is retained to maintain shading of the surface waters;

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 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

10. In addition to the foregoing minimum requirements, except as provided for in Section 10.27,E,7, provision shall otherwise be made in conducting timber harvesting operations in order to reasonably avoid sedimentation of surface waters.

F. FILLING AND GRADING

The following requirements for filling and grading shall apply in all subdistrictszones except as otherwise provided herein.

Filling and grading 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 subdistrictzone 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.

These standards do not apply to filling or grading activities which constitute forest or agricultural management activities, the construction, reconstruction and maintenance of roads, or the construction of public trailered ramps, hand-carry launches, or driveways. Such activities are separately regulated.

1. Within 250 feet of water bodies and wetlands, the maximum size of a filled or graded area, on any single lot or parcel, shall be 5,000 square feet. This shall include all areas of mineral soil disturbed by the filling or grading activity; and

2. Beyond 250 feet from water bodies, the maximum size of filled or graded areas, as described above, shall be 20,000 square feet, except that there shall be no limit to the size of filled or graded areas in M-GN subdistrictszones which are greater than 250 feet from water bodies and wetlands. In such M-GN subdistrictzone areas, the provisions of Section 10.27,F,4 and 6 shall apply; and

3. Clearing of areas to be filled or graded is subject to the clearing standards of Section 10.27,B; and

4. Imported fill material to be placed within 250 feet of water bodies shall not contain debris, trash, rubbish or hazardous or toxic materials. All fill, regardless of where placed, shall be free of hazardous or toxic materials; and

5. Where filled or graded areas are in the vicinity of water bodies or wetlands such filled or graded areas shall not extend closer to the normal high water mark of a flowing water, a body of standing water, tidal water, or upland edge of wetlands identified as P-WL1 subdistrictM zone than the distance indicated in the following table:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Feet Along Surface of the Ground)
10 or less	100
20	130
30	170
40	210
50	250
60	290
70	330

Table 10.27,F-1. Unscarified filter strip width requirements for exposed mineral soil created by filling and grading.

6. All filled or graded areas shall be promptly stabilized to prevent erosion and sedimentation.

Filled or graded areas, including all areas of disturbed soil, within 250 feet of water bodies and wetlands, shall be stabilized according to the Guidelines for Vegetative Stabilization contained in Appendix B of this chapter.

~~10.27,G~~

G. ~~MOTORIZED RECREATIONAL GOLD PROSPECTING~~INTENTIONALLY DELETED

~~The following motorized recreational gold prospecting requirements shall apply within the normal high water mark of flowing waters, except as otherwise provided herein.~~

~~Motorized recreational gold prospecting 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.~~

~~1. Motorized recreational gold prospecting may only be performed from June 15 to September 15, and only with written permission of the landowner(s).~~

~~2. The activity must not cause an undue adverse effect on natural resources. The area must be kept free of litter, trash, and any other materials that may constitute a hazardous or nuisance condition.~~

~~3. Limitations on Equipment:~~

~~a. Equipment must not have any fuel, oil, or hydraulic leaks, nor cause any other unlicensed discharge.~~
~~b. Power Limit: Motorized equipment must not exceed six horsepower.~~
~~c. Nozzle Diameter: The inside diameter of a suction dredge intake nozzle must not exceed four inches.~~
~~d. Sluice Size: The area of a sluice must not exceed 10 square feet.~~
~~e. Use of a flume to transport water outside of a stream channel is prohibited.~~

~~4. Prohibition of Chemicals: Use of mercury, nitric acid or other chemicals for extraction is prohibited.~~

~~5. Specific Restrictions on Methods of Operation:~~

~~a. No motorized recreational gold prospecting may occur in a manner that:~~

~~(1) disturbs a stream bank, including but not limited to digging into the bank, or dredging or altering water flow within a stream channel in a manner that causes the bank to erode or collapse.~~
~~(2) removes or damages vegetation, or woody debris such as root wads, stumps or logs within a stream channel, on the bank, or on nearby upland, including cutting or abrasion of trees.~~
~~(3) diverts, dams, or otherwise obstructs a stream.~~
~~(4) deposits soil, rocks, or any other foreign material from outside of the channel into a stream.~~
~~(5) deposits stream bottom sediments or rocks onto the bank or upland.~~

b. Upon completion of one or more consecutive days of prospecting, dredge spoils must be smoothed out and dredge holes refilled below the normal high water mark of the stream in order to restore the approximate original contours of the stream bottom and must not deflect the current.

6. Closed Areas: Motorized recreational gold prospecting is prohibited within the following areas.

a. Stream channels narrower than four feet wide.

b. Any area designated as Essential Wildlife Habitat by the Maine Department of Inland Fisheries and Wildlife (MDIFW) unless it is determined by MDIFW that:

(1) there will be no significant harm to the Essential Wildlife Habitat, and
(2) the activity will not violate protection guidelines adopted pursuant to the Maine Endangered Species Act.

c. The Allagash Wilderness Waterway and all water bodies within 800 feet of normal high water mark of the watercourse.

d. Aroostook County
(1) Aroostook River: T9 R5 WELS, T9 R7 WELS, T9 R8 WELS, Oxbow Plt, T10 R6 WELS
(2) St. Croix Stream: St. Croix Twp, T9 R5 WELS
(3) (Big) Machias River: T12 R8 WELS, T11 R8 WELS, T11 R7 WELS, T10 R7 WELS, Garfield Plt
(4) Musquacook Stream: T11 R11 WELS, T12 R11 WELS, T13 R11 WELS, T13 R12 WELS
(5) Allagash River and all water bodies within 800 feet of normal high water mark of the watercourse: T11 R13 WELS, T12 R13 WELS, T13 R12 WELS, T13 R13 WELS, T14 R11 WELS, T14 R12 WELS, T15 R10 WELS, T15 R11 WELS
(6) Chemquasabamticook Stream: T11 R13 WELS, T11 R14 WELS, T11 R15 WELS, T12 R13 WELS
(7) St. John River: T11 R16 WELS, T12 R15 WELS, T12 R16 WELS, T13 R14 WELS, T13 R15 WELS, T14 R13 WELS, T14 R14 WELS, T15 R13 WELS, T16 R12 WELS, T16 R13 WELS, surrounding Hunnewell Island in St. John Plt, Hamlin
(8) Northwest Branch St. John River downstream from outlet of Beaver Pond: T11 R17 WELS, T12 R17 WELS
(9) Big Black River: T14 R14 WELS, T14 R15 WELS, T14 R16 WELS, T15 R13 WELS, T15 R14 WELS
(10) Fish River from Mud Pond to St. Froid Lake: T13 R8 WELS, T14 R8 WELS, T14 R7 WELS, T13 R7 WELS, T14 R6 WELS
(11) Smith Brook: T13 R8 WELS, T14 R8 WELS
(12) Red River: T14 R8 WELS
(13) McLean Brook: T17 R4 WELS
(14) Macwahoc Stream: Macwahoc Plt, North Yarmouth Academy Grant, Upper Molunkus Twp
(15) Molunkus Stream: Macwahoc Plt, North Yarmouth Academy Grant, T1 R5 WELS, Benedicta Twp, Silver Ridge Twp
(16) Mattawamkeag River: Reed Plt
(17) East Branch Mattawamkeag River: Forkstown Twp, T3 R3 WELS, T4 R3 WELS
(18) West Branch Mattawamkeag River: T3 R3 WELS, T4 R3 WELS
(19) Wytopitlock Stream: Reed Plt, Upper Molunkus Twp, T2 R4 WELS, Glenwood Plt, T3 R4 WELS
(20) Goddard Brook: T15 R5 WELS

~~(21) Unnamed stream connecting Cross Lake and Square Lake: Square Lake Twp~~

(22) Unnamed stream flowing east into Square Lake at Goddard Cove: Square Lake Twp
(23) Unnamed stream flowing northeast into Square Lake one mile northwest of Limestone Pt.: Square Lake Twp

e. Franklin County
(1) Moose River downstream from Number One Brook: Beattie Twp, Lowelltown Twp
(2) Kennebago River and its tributaries: Davis Twp, Stetsontown Twp, Seven Ponds Twp, Chain of Ponds Twp, Massachusetts Gore, Tim Pond Twp
(3) Cupsuptic River tributaries: Seven Ponds Twp
(4) Spencer Stream: Kibby Twp, Skinner Twp
(5) North Branch Dead River: Jim Pond Twp
(6) Sandy River: Sandy River Plt, Township E
(7) West Branch Carrabassett River: Freeman Twp, Salem Twp
(8) Carrabassett River, Main Stem: Mount Abram Twp

f. Hancock County
(1) The following townships in their entirety: T9 SD, T10 SD, T16 MD, T22 MD, T28 MD, T34 MD, T35 MD, T41 MD, T4 ND
(2) Passadumkeag River: T3 ND

g. Kennebec County
(1) Sebasticook River: Unity Twp

h. Oxford County
(1) Cupsuptic River and its tributaries: Lower Cupsuptic Twp, Upper Cupsuptic Twp, Oxbow Twp, Parkertown Twp, Lynchtown Twp
(2) Kennebago River and its tributaries: Lower Cupsuptic Twp, Upper Cupsuptic Twp, Oxbow Twp
(3) Rapid River: Magalloway Twp
(4) Bear River: Grafton Twp

i. Penobscot County
(1) East Branch Penobscot River: Grindstone Twp, Soldiertown Twp, T3 R7 WELS, T4 R7 WELS, T4 R8 WELS, T5 R8 WELS, T6 R8 WELS
(2) Wassataquoik Stream: T4 R8 WELS, T3 R7 WELS, T3 R8 WELS
(3) Seboeis River: T3 R7 WELS, T4 R7 WELS, T5 R7 WELS, T6 R7 WELS, T7 R7 WELS
(4) Sawtelle Brook: T6 R7 WELS
(5) Munsungan Stream: T8 R8 WELS
(6) Millinocket Stream: T8 R8 WELS
(7) Aroostook River: T8 R8 WELS
(8) Ayers Brook: Summit Twp
(9) Madagascal Stream: Grand Falls Twp
(10) Mattagodus Stream: Kingman Twp, Webster Plt, Prentiss Twp, Carroll Plt
(11) Mattawamkeag River: Kingman Twp, Drew Plt
(12) Molunkus Stream: Kingman Twp
(13) Wytopitlock Stream: Drew Plt
(14) Passadumkeag River: Summit Twp, Grand Falls Twp, T3 R1 NBPP, Lakeville
(15) Penobscot River: Argyle Twp, Mattamiscontis Twp, T2 R8 NWP

(16) West Branch Penobscot River: TA R7 WELS, T3 Indian Purchase, T4 Indian Purchase
(17) Millinocket Stream: T3 Indian Purchase, T1 R8 WELS

10.27,G

j. Piscataquis County
(1) East Branch Pleasant River: T5 R9 NWP
(2) West Branch Pleasant River: Shawtown Twp, Beaver Cove, Bowdoin College Grant East, Katahdin Iron Works Twp, Williamsburg Twp
(3) West Branch Penobscot River: T1 R9 WELS, T2 R9 WELS, T2 R10 WELS, T3 R11 WELS
(4) Allagash River and all water bodies within 800 feet of normal high water mark of the watercourse: T10 R12 WELS, T10 R13 WELS
(5) Allagash Stream and all water bodies within 800 feet of normal high water mark of the watercourse: Eagle Lake Twp, T8 R14 WELS
(6) Webster Brook: T6 R11 WELS
(7) Millinocket Stream: T7 R9 WELS
(8) Munsungan Stream: T8 R9 WELS
(9) Chemquasabamticook Stream: T10 R15 WELS
(10) Stream between Lower Portage Pond and Spider Lake: T9 R11 WELS
(11) Stream in wetland on south end of Churchill Lake: T9 R12 WELS
(12) Stream between Webster Lake and Telos Pond and all water bodies within 800 feet of normal high water mark of the watercourse: T6 R11 WELS
(13) Kennebec River: Big Squaw Twp
(14) East Branch Piscataquis River: Blanchard Twp
(15) West Branch Piscataquis River: Blanchard Twp

k. Somerset County
(1) Dead River: Pierce Pond Twp, T3 R4 BKP WKR, Bowtown Twp, West Forks Plt
(2) Spencer Stream and Little Spencer Stream: T3 R4 BKP WKR, T3 R5 BKP WKR, King and Bartlett Twp, T5 R6 BKP WKR
(3) Kennebec River above junction with Dead River: West Forks Plt, Moxie Gore, Chase Stream Twp, Indian Stream Twp, Sapling Twp, Taunton & Raynham Academy Grant Twp
(4) Moxie Stream: Moxie Gore
(5) Parlin Stream: Parlin Pond Twp
(6) Doucie Brook: T9 R17 WELS
(7) Gulliver Brook: Plymouth Twp
(8) Moose River: Holeb Twp, Attean Twp, T5 R7 BKP WKR, Bradstreet Twp
(9) Cold Stream: West Forks Plt, Johnson Mountain Twp
(10) Baker Branch St. John River: T9 R17 WELS, T8 R17 WELS, T7 R17 WELS
(11) Southwest Branch St. John River: T9 R17 WELS, Big Ten Twp
(12) Northwest Branch St. John River: Big Ten Twp
(13) St. John River: Big Ten Twp, R10 T16 WELS, T9 R17 WELS

l. Washington County
(1) The following townships and town in their entirety: T18 MD BPP, T19 MD BPP, T24 MD BPP, T25 MD BPP, T30 MD BPP, T31 MD BPP, T36 MD BPP, T37 MD BPP, T42 MD BPP, T43 MD BPP, T5 ND BPP, No. 14 Twp, No. 21 Twp, T18 ED BPP, T19 ED BPP, T26 ED BPP, T27 ED BPP, Devereaux Twp, Marion Twp Edmunds Twp, Baring
(2) Tomah Stream: Forest Twp, Codyville Plt, Lambert Lake Twp
(3) Baskahegan Stream: Brookton Twp

~~(4) St. Croix River: Fowler Twp, Dyer Twp, Lambert Lake Twp~~

H. DRIVEWAYS ASSOCIATED WITH RESIDENTIAL STRUCTURES AND USES

Driveways 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 subdistrictzone 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.

1. Applicability:

The following requirements apply to the construction of driveways for single family and two family dwelling units in all subdistrictszones where driveways associated with residential uses are allowed without a permit. These standards, along with the standards of Section 10.25,D,4, may be used as guidance in processing an application for driveways to be located in those subdistrictszones where driveways require a permit from the Commission.

a. Other Permits: If a permit has been issued for the development of the lot to be served by the driveway or if the lot is part of a subdivision for which a permit has been issued, conditions of the building permit or subdivision permit regarding construction of driveways supersede provisions of this subsection.

b. Length: If the length of a proposed driveway is greater than 1000 feet, it is regulated as a road and requires a permit from the Commission unless it qualifies as a land management road.

2. Water Body Setback:

a. Minimum Setback: The minimum water body setback for a driveway which accesses an undeveloped lot or a lot having residential structures is:
   (1) 100 feet from the nearest shoreline of a flowing water draining 50 square miles, and a body of standing water greater than 10 acres in size;
   (2) 75 feet from the nearest shoreline of a tidal water; andintentionally deleted; and
   (3) 50 feet from the upland edge of minor flowing waters and mapped P-WL1M wetlands.

b. Exceptions to Water Body and Wetland Setback Requirements:
   (1) The water body and wetland setback requirements do not apply to approaches to water body or wetland crossings.
   (2) A lesser setback may be allowed with a permit in the following instances provided no other reasonable alternative exists and appropriate techniques are used as needed to prevent sedimentation of the water body:
      (a) In the case of legally existing nonconforming structures located in the shoreland area, the driveway may extend to the portion of the principal structure farthest from the normal high water mark of the water body, but in no case closer than 50 feet from the normal high water mark of the water body; or
      (b) To allow access to permitted facilities located nearer to the shoreline due to an operational necessity as described in Section 10.26,G,5.

3. Property Line Setback:

   a. Minimum Setback: The minimum property line setback for a driveway is 15 feet.

   b. Exceptions to Property Line Setback:
      (1) A shared driveway need not meet the minimum setback.
      (2) The minimum setback standard does not apply to authorized approaches to and crossings of property lines or to crossings along easements or rights of way established in deed or lease.
      (3) A lesser setback may be allowed with a permit upon written permission of the abutting landowner.

4. Road Frontage: The lot to be served by the driveway must have a minimum of 100 feet of road frontage, except as otherwise provided in these land use standards.

5. Entry onto Roadways, including State Highways: The entry must not be located on a curve and must be placed so as to allow adequate line of sight for safe entry onto the roadway. If a driveway is to enter directly onto a state or state-aid highway, the person wishing to construct the driveway must first obtain written permission from the Maine Department of Transportation.

6. Crossings of Flowing Waters: If a driveway will cross a flowing water, the crossing must be accomplished in accordance with the standards for installation of water crossings set forth in Section 10.27,D,2.

7. Wetlands Alteration: The driveway must not alter any portion of a mapped P-WL1 subdistrictM zone or more than 4,300 square feet of a mapped P-WL2M or P-WL3 subdistrictM zone without a permit.

8. Maximum Slope: The driveway must not have a sustained slope of more than 8%.

9. Erosion and Sedimentation Control:

   a. The driveway must be located, designed and constructed so that:

      (1) It will not erode or create any undue restriction or disruption of existing surface water drainage ways;
      (2) It will divert runoff to a vegetated buffer strip so as to prevent it from directly entering a water body, mapped P-WL1M wetland, or roadway.

   b. Except for the travel surface of the driveway, all areas of disturbed soil must be promptly reseeded and mulched to prevent soil erosion.

10. Fill Material: Fill material used in the construction of a driveway must not contain demolition debris, trash, rubbish, or hazardous or toxic materials.

I. PESTICIDE APPLICATION

Pesticide application in any of the subdistrictszones will not require a permit from the Commission provided such application is in conformance with applicable State and Federal statutes and regulations.

J. SIGNS

Signs 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~~zone involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed sign, which is not in conformance with the standards of this section, shall be erected and maintained in a manner which produces no undue adverse impact upon the resources and uses in the area.

1. Signs Not Requiring a Permit

The following signs do not require a permit from the Commission, provided such signs are in conformance with the requirements of Section 10.27,J,1 and 2, below. The following limitations may be exceeded only under the provisions of a permit from the Commission:

a. Signs identifying stops or fare zone limits of common carriers;

b. Signs erected and maintained outside the highway right-of-way, by a governmental body, showing places of interest (other than commercial establishments), the place and time of services or meetings of churches and civic organizations. Not more than two such signs may be erected and maintained which are readable by traffic proceeding in any one direction on any one highway in any one township;

c. Residential directional signs, each of which does not exceed 4 square feet in area, along roadways other than limited access highways;

d. Traffic control signs or devices;

e. Signs displayed for the direction, instruction or convenience of the public, including signs which identify rest rooms, freight entrances, posted areas, property boundaries, trails, fire precautions, campsites, or the like, with a total surface area not exceeding 12 square feet This exemption shall not apply to signs visible from any public roadway promoting or advertising commercial enterprises;

f. Signs to be maintained for not more than six weeks announcing an auction, public supper, lawn sale, campaign drive or other like event of a public, civic, philanthropic or religious organization;

g. Memorial signs or tablets;

h. Signs erected by county fairs and expositions for a period not to exceed six weeks;

i. Directional signs visible from a public roadway with a total surface area not to exceed 4 square feet providing directions to places of business offering for sale agricultural products harvested or produced on the premises where the sale is taking place;

j. Signs displayed in building windows, provided that the aggregate area of such signs does not exceed 25% of the area of the window; and

k. Official business directional signs as defined and authorized by 23 M.R.S.A. §21.

l. Sign kiosks near trail intersections that do not exceed 128 square feet of surface area used for the placement of multiple individual signs including those advertising a place of business. No more than one sign kiosk may be located near any trail intersection and individual signs (other than maps) on such kiosks shall not exceed 4 square feet in size. No other signs advertising a place of business shall be located at such intersections. Such kiosks shall not be visible from a public roadway.

m. Signs containing only a symbol or design identifying gas, food or lodging services and the distance and/or direction to such services at trail intersections without a sign kiosk. Such signs are not to exceed 4 square feet in size.

n. Signs identifying a particular place of business offering gas, food, or lodging at the intersection of a local feeder trail leading directly to that place of business. Such signs are not to exceed 4 square feet in size and shall not be visible from a public roadway.

o. On-Premise Signs

Owners or occupants of real property may erect and maintain on-premise signs, except roof signs, advertising the sale or lease thereof or activities being conducted thereon. Such signs shall be subject to the following requirements and the regulations set forth in Section 10.27,J,2 below:

(1) On-premise signs shall not exceed in size the area limitations set forth below:

SubdistrictsZones	Maximum Size for Each Individual Sign (square feet)	Maximum Aggregate Area of all Signs for Facility Being Advertised (square feet)
D-CICIM, D-GN2M,- D-GN2, D-GN3, 3M- GN, M-HP	32	64
D-RS2M, D-RS2, D-RS3, M-NC3M and All Protection SubdistrictsZones	8	16

Table 10.27,J-1. Size limitations for on-premise signs.

(2) On-premise signs shall not be located more than 1,000 feet from the building or other particular site at which the activity advertised is conducted;

(3) Signs advertising the sale or lease of real estate by the owner or his agent shall not have an area of more than 6 square feet, except signs advertising a subdivision which shall be limited in size as provided by Section 10.27,J,1,o,(1);

(4) On-premise signs, other than wall or projecting signs, shall not extend more than 15 feet above ground level, and shall not have a supporting structure which extends more than two feet above such sign;

(5) Projecting signs must be at least 9 feet above pedestrian level and may project no more than 2 feet from the building; and

(6) Signs attached to a wall shall not extend above the top of the wall.

On-premise signs which are not in conformance with the preceding requirements and all roof signs may be allowed only under the provisions of a permit from the Commission.

2. Regulations Applying to All Signs

Notwithstanding any other provisions of this chapter, no sign may be erected or maintained which:

a. Interferes with, imitates or resembles any official traffic control sign, signal or device, or attempts or appears to attempt, to direct the movement of traffic;

b. Prevents the driver of a motor vehicle from having a clear and unobstructed view of official traffic control signs and approaching or merging traffic;

c. Contains, includes, or is illuminated by any flashing, intermittent or moving light, moves or has any animated or moving parts, except that this restriction shall not apply to a traffic control sign;

d. Has any lighting, unless such lighting is shielded so as to effectively prevent beams or rays of light from being directed at any portion of the main traveled way of a roadway, or is of such low intensity or brilliance as not to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with the operation thereof;

e. Is in violation of, or at variance with, any federal law or regulation, including, but not limited to, one containing or providing for conditions to, or affecting the allocation of federal highway or other funds to, or for the benefit of, the State or any political subdivision thereof;

f. Is in violation of, or at variance with, any other applicable State law or regulation;

g. Advertises activities which are illegal under any state or federal law applicable at the location of the sign or of the activities;

h. Is not clean or in good repair; or

i. Is not securely affixed to a substantial structure.

Any sign which is a combination of exempt and/or non-exempt signs shall be regulated by the most protective standards applicable.

3. Criteria for Sign Approval

In approving, conditionally approving, or denying any application for a sign permit, the Commission shall require that the applicant demonstrate that the proposed sign complies with those criteria set forth in 12 M.R.S.A. §685-B(4) as well as the following:

a. that the sign is compatible with the overall design of the building height, color, bulk, materials and other design and occupancy elements;

b. that the color, configuration, height, size, and other design elements of the sign will fit harmoniously into the surrounding natural and man-made environment;

c. that the sign will not constitute a hazard to the flow of traffic; and

d. that the applicant sufficiently demonstrates the need for any non-conformity with the size, height, and other limitations set forth in Section 10.27,J,1.

K. WATER IMPOUNDMENTS

The establishment of impoundment water levels and the maintenance of impoundments shall conform to the provisions of 38 M.R.S.A. Art 3-A §815 et seq., Maine Dam Inspection, Registration and Abandonment Act.

L. TRAILERED RAMPS, HAND-CARRY LAUNCHES, AND WATER-ACCESS WAYS

Except as hereinafter provided, trailered ramps, hand-carry launches, and water-access ways not in conformance with the standards of this section are prohibited.

Except as provided for in Section 10.27,L,4, trailered ramps, hand-carry launches, and water-access ways require a permit from the Commission. Where a permit is required, the proposal must meet the general Criteria for Approval, Section 10.24, and the Criteria for Wetland Alterations, Section 10.25,P, in addition to any applicable requirements set forth in these rules.

1. Private Trailered Ramps, Hand-carry Launches, and Water-access Ways

Wherever private trailered ramps, or hand-carry launches, or water access ways are allowed by special exception, the following apply:

For a proposed private trailered ramp, hand-carry launch or set of water-access ways, the following constitutes “an alternative site reasonably available” to the applicant:

a. an existing public or commercial trailered ramp or set of water-access ways if it has two or more associated parking spaces for motor vehicles with trailers and is located within 15 road miles or 5 miles by water of the applicant’s proposed development,

b. a proposed public or commercial trailered ramp or set of water-access ways located within 15 road miles or 5 miles by water of the applicant’s proposed development, provided such a facility is proposed for construction within 2 years of the date of the application.

2. Facilities Associated with Shorefront Subdivisions

Shorefront subdivisions may be permitted no more than one trailered ramp, hand-carry launch or set of water-access ways, and one permanent dock. Any such facility must comply with Section 10.27,L,5, and Section 10.27,O, and must be accessible to all lots in the subdivision. The location of the facility must be identified on the subdivision plat and right of access must be covenanted in the deeds of all lots in the subdivision.

3. Maintenance of Trailered Ramps and Hand-carry Launches

Maintenance: Every application for a permit, or permit by special exception for a new or replacement trailered ramp or hand-carry launch, or expansion thereof, must contain a description of the procedures the applicant will follow to maintain the facility on an ongoing basis in

compliance with the standards of Section 10.27,L,5, to minimize erosion, sedimentation, and transport of phosphorus into the water body.

4. Notification for Trailered Ramps and Hand-carry Launches

Public trailered ramps and public hand-carry launches are allowed without a permit within the shoreland zone of all water bodies except those identified as Management Class 1, 2, and 6 Lakes.

The following notification provision applies to construction of new or replacement trailered ramps and hand-carry launches where such projects are allowed without a permit. If a proposed project fails to meet any notification requirement or other applicable rule, the project requires a permit.

a. Every notification must be on a form provided by the Commission.

b. At least 30 days before filing the notification with the Commission, the applicant shall inform the Commission of the intent to file, mail notice to the local board of selectmen/assessors, if applicable, and to all landowners/lessees within 1000 feet of the proposed project according to the records of Maine Revenue Services or the applicable plantation/municipality. At the time of notice, a draft notification form must be available for inspection. The notice must state how to obtain a copy of the draft notification, the anticipated date for filing of the notification with the Commission, and a statement that public comments on the notification may be submitted to the Commission. Unless this deadline is extended by the Commission, any such comments must be submitted to the Commission by the anticipated date of the filing of the notification with the Commission.

c. The applicant may proceed with the proposed project 14 days after filing the notification with the Commission unless within this time period the Commission staff informs the applicant in writing that issues have been identified by Commission staff or other persons regarding the adequacy with which Section 10.27,L,4 and 5 are met or that there may be an undue adverse impact on existing uses or resources in the project area. If these issues cannot be resolved, the Commission will determine if there is sufficient public interest in the project to warrant consideration of a public hearing on the notification. If a hearing is held, the Commission may consider compliance with the applicable requirements of Section 10.27,L,4 and 5 and impacts on existing uses or resources in the project area. Within 60 days after the close of any public hearing, the Commission shall inform the applicant in writing of its determination. If the Commission determines that the requirements of Section 10.27,L,4 and 5 are met and that the project will not have an undue adverse impact on existing uses or resources in the project area, the notification will be accepted. If the notification is not accepted, the project will require a permit to proceed.

d. Expiration: A notification expires 2 years from the date of acceptance by the Commission.

5. Design and Construction Standards for Trailered Ramps and Hand-carry Launches

Unless otherwise indicated, the following standards apply to trailered ramps and hand-carry launches that are subject to the notification provisions in Section 10.27,L,4, and to all commercial or private trailered ramps and hand-carry launches.

a. Erosion Prevention and Control During Construction: Eroded soil or fill material from disturbed areas must be prevented from entering a water body. Properly installed erosion control measures, such as staked hay bales and silt fence, must be in place before the project begins. These erosion control measures must remain in place, functioning as intended, until the project area is permanently stabilized. Erosion and sedimentation control measures must comply with "Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices," Cumberland County Soil and Water Conservation District and Maine Department of Environmental Protection, March 1991.

b. Avoidance of Water Bodies: No portion of a ramp or related facilities may be located in, on, or over wetlands, other than the water body being accessed, identified as P-WL1M on the Commission's zoning map for the project area. Parking areas, access roads, and paths must not be located in a stream, wetland designated as P-WL~~1,~~1M, or other water body, except that an access roadway may cross a stream if requirements of Section 10.27,D, pertaining to water crossings, are met.

c. Maintenance of Vegetated Buffer: Trailered ramps, hand-carry launches, and associated facilities must be designed to minimize disturbance to the water body's vegetated buffer. A vegetated buffer zone at least 25 feet wide for public facilities (100 feet for private facilities) must be maintained or established between any parking area and the water body. In the case of private trailered ramps, if the lot does not have a well established vegetated buffer consisting of trees, shrubs and woody or herbaceous ground cover within 100 feet of the normal high water mark of the water body, the applicant must propose to enhance the existing shoreland buffer to compensate for the loss of vegetated buffer due to construction of the ramp.

d. Runoff Diversion: Parking areas, access roads, and paths must divert runoff away from the ramp or launch to an area where it will infiltrate into the ground or pass through a sedimentation basin before reaching the water body. For private facilities, the total land area above the normal high water mark that drains directly into the water body along the approach or from cut slopes must be no greater than 200% of the area of the ramp or launch lane above the normal high water mark.

e. Trailered Ramps

(1) A public trailered ramp having a slope in excess of 8% must be hard-surfaced except where the agency responsible for maintaining the facility anticipates a level of use that does not justify the expense of a hard surface facility. Should the level of use increase such that erosion problems become evident, the responsible agency shall insure that appropriate measures are taken to repair such erosion and avoid any further erosion.

(2) Private trailered ramps shall not be hard surfaced. Private sites shall be limited to those areas where the portion of the ramp below the normal high water mark is composed of natural sand, gravel or cobble bottoms.

(3) The portion of the ramp used by the towing vehicle may not have a slope that exceeds 15% within 100 feet of the normal high water mark. The portion of the ramp used by the trailer only may not have a slope that exceeds 20%;

(4) The width of the ramp lane must not exceed 20 feet for public or commercial trailered ramps, or 10 feet for private trailered ramps;

(5) The uppermost 6 inches of the base must consist of crushed rock or screened gravel having 5% or less material passing a 200 mesh sieve;

(6) Cut or filled slopes at or below the normal high water mark must be protected with riprap; cut or filled slopes above the normal high water mark must be protected by vegetation or riprap so they do not erode; and

(7) The total area disturbed in the construction of private facilities shall not exceed 1000 square feet within 50 feet of the normal high water mark.

f. Associated Docking Systems: For a public or commercial trailered ramp, an additional area up to 8 feet wide may be constructed using bituminous pavement, precast concrete planks, panels or slabs to support docking systems.

g. Hand-carry Launch: A hand-carry launch must meet the following specifications:

(1) The hand-carry launch area and access pathway must not be hard surfaced and must be constructed of gravel, rock, vegetation, or other natural erosion resistant materials;

(2) The sloped portion of the launch above the normal high water mark must have a slope no greater than 18%;

(3) The access path must have a maximum width of 6 feet and must have at least one bend to divert channelized runoff; and

(4) A landing area that is cleared of obstructions must be no wider than 20 feet and must extend no more than 20 horizontal feet below normal high water mark.

(5) Filled or cut slopes at or below the normal high water mark must be protected with riprap.

Within those ~~subdistricts~~zones where hand-carry launches are allowed without a permit, the standards for hand-carry launches may be exceeded upon issuance of a permit.

h. Geoweb: Geoweb cellular confinement system must not be used below or within two vertical feet above the normal high water mark of the water body.

i. Concrete: Uncured concrete must not be placed directly into the water. Concrete must be pre-cast and cured at least three weeks before placing it in the water or, where necessary, must be placed in forms and must cure at least one week before the forms are removed.

j. Washing: No washing of tools, forms, or similar material may occur in or adjacent to the water body or wetland.

k. Lumber: The use of untreated lumber is preferred. Pressure-treated wood approved by the U.S. Environmental Protection Agency for dock construction may be used. Chromated copper arsenate (CCA) treated wood must not be used in freshwater environments. Creosote or pentachlorophenol (PCP) treated wood must not be used.

l. Machinery in Water: Machinery may enter the water traveling or operating only on newly placed material or temporary mats and only when necessary to excavate or place material below the water level.

~~10.27,L—N~~

m. Debris: Any debris generated during the work must be prevented from washing into the water and must be removed from the wetland or water body. Disposal of debris must be in conformance with the Solid Waste Law, 38 M.R.S.A. §1301 et seq.

n. Dimensional requirements: The shoreline frontage requirement for public boat launches may be waived to no less than 200 feet provided the applicant demonstrates there will be no undue adverse impact to existing uses in the project area.

M. SERVICE DROPS

Service drops not in conformance with the standards of this section are prohibited. A permit is not required for a service drop provided one of the following conditions is met:

1. The Commission has issued a permit for the structure or development to be served; or

2. The Commission has confirmed, in writing, that the structure or development to be served is exempt from the Commission's permitting requirements.

N. HOME OCCUPATIONS

Except as hereinafter provided, home occupations not in conformance with the standards of this section are prohibited.

1. Minor Home Occupation

a. Purpose. The intent of this section is to allow minor home occupations under the conditions stated herein in certain ~~subdistricts~~zones without requiring a permit.

b. Size. A 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 occupation, but is not subject to the limitations on percent and floor area of the structure utilized.

c. Employees. No employees outside the resident family may regularly work on the premises.

d. Exterior effects. There must be no exterior display, no exterior storage of materials, and no other exterior indications of a minor home occupation with the following exceptions:

(1) outdoor activity areas are allowed for home child day care providers and home adult day services programs,

(2) signs are allowed in conformance with Section 10.27,J except in D-RS~~, D-RS~~2M and D-RS3~~ subdistricts~~M zones where one unlighted sign no greater than two square feet in area is allowed for the home occupation, and

(3) vehicles and equipment as allowed below in Section 10.27,N,1,h.

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e. Nuisances. A minor home occupation must not generate any noise, vibration, smoke, fumes, dust, odors, heat, light, glare, electrical interference, or other effects such that levels common to a residential area are exceeded beyond the property lines or beyond the walls of the dwelling unit, if the unit is part of a multifamily dwelling.

f. Traffic. A minor home occupation must not attract clients, customers, or students to the premises for sales or services on a regular basis, except for home child day care providers or home adult day services programs. The level of vehicular traffic generated by a home occupation must not significantly exceed that generated by a residence.

g. Parking. A minor home occupation must not result in more than occasional, short-term parking, except for home child day care or adult day services providers.

h. Vehicles and equipment. A minor home occupation must not involve the regular on-premise use or storage of more than one tractor truck and semitrailer and one piece of heavy equipment such as construction equipment.

i. Hazardous wastes. A minor home occupation must not generate hazardous wastes in amounts that exceed normal residential household quantities.

2. Major Home Occupations

a. Purpose. The intent of this section is to allow major home occupations in certain ~~subdistricts~~zones through the issuance of permits.

b. Size. 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 occupation, 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 occupations may exceed the size limitations of such home occupations if the following conditions are met:

(1) The structure is a legally existing accessory structure constructed before October 31, 2000, and

(2) The structure will not be expanded in size.

c. Employees. No more than two people outside the resident family may work simultaneously on the premises in connection with all home occupations on the premises.

d. Exterior effects. There must be no exterior display, no exterior storage of materials, and no other exterior indications of a major home occupation with the following exceptions:

(1) outdoor activity areas are allowed for home child day care providers and home adult day services programs,

(2) signs are allowed in conformance with Section 10.27,J except in D-RS~~, D-RS~~2M and D-RS3~~ subdistricts~~M zones where one unlighted sign no greater than four square feet in area is allowed for the home occupation, and

(3) vehicles and equipment as defined below in Section 10.27,N,1,h.

e. Nuisances. A major home occupation must not generate any noise, vibration, smoke, fumes, dust, odors, heat, light, glare, electrical interference, or other effects such that levels common to a residential area are exceeded beyond the property lines or beyond the walls of the dwelling unit, if the unit is part of a multifamily dwelling.

f. Traffic. The level of vehicular traffic generated by a home occupation must not significantly exceed that generated by a residence, except for home child day care providers or home adult day services programs.

g. Parking. Adequate off-street parking must be provided for the vehicles of employees and other visitors of the home occupation during peak operating hours, not to exceed six spaces, and must be effectively screened from the view of adjacent properties, access roads, and water bodies other than waters draining less than 50 square miles.

h. Vehicles and equipment. A major home occupation must not involve the regular on-premise use or storage of more than an aggregate of four tractor trucks and semitrailers and/or pieces of heavy equipment such as construction equipment.

i. Hazardous wastes. A major home occupation must not generate or store quantities of hazardous wastes that exceed the amounts set for “Small Quantity Generators” by the Maine Department of Environmental Protection (DEP) and must meet the requirements of DEP rules, Chapter 850 DEP Rules, Section 3(A)(5)(d)(vii), if applicable.

O. ~~PERMANENT DOCKING STRUCTURES~~INTENTIONALLY DELETED

~~To be granted a permit, permanent docking structure proposals must meet the general Criteria for Approval, Section 10.24, and the Criteria for Wetland Alterations, Section 10.25,P, in addition to any applicable requirements set forth in this Section. Except as hereinafter provided, permanent docking structures not in conformance with the standards of this Section are prohibited.~~

~~Permanent docking structures proposed in a (P-FP) Flood Prone Protection Subdistrict, or in an area identified on a Federal Emergency Management Agency (FEMA) Flood Hazard Boundary or Flood Insurance Rate Map, must also meet the applicable provisions of Section 10.25,T.~~

~~1. Reconstruction of Permanent Docking Structures~~

~~a. A permit for reconstruction shall not be issued unless the permanent docking structure is legally existing. For docks larger than the size limitations for new or expanded docks in Section 10.27,O,2,b, the size of the reconstructed dock must be no more than 90 percent~~

of the size of the original structure. The dock shall be reconstructed in the same location, except as provided for in Section 10.27,O,1,d. The reconstructed structure must not extend farther into the waterbody than the existing structure. Reconstruction of a permanent docking structure shall not include reconstruction of any other structure, such as a shed or boathouse, which is attached to the docking structure, except as provided for in a (D-MT) Maritime Development Subdistrict. Reconstructed docks must meet the construction standards in Section 10.27,O,4.

b. An application to obtain a permit to reconstruct a permanent docking structure must be completed and filed within two years of the date of damage, destruction, or removal; and a permit shall not be issued unless the docking structure was functional within a two year period immediately preceding the damage, destruction, or removal.

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c. Reconstruction may not take place within significant wildlife habitat, as defined in Section 10.02 of the Commission's Land Use Districts and Standards, or impact rare plants and natural communities, as identified by the Maine Natural Areas Program. Reconstruction may not take place within 250 feet of essential wildlife habitat, as defined in 12 MRSA, Chapter 713, Subchapter V, Sections 7754 and 7755-A unless the applicant has obtained approval from the Maine Department of Inland Fisheries and Wildlife

d. The reconstructed docking structure must be in the same location on the shoreline as the existing structure, except that when possible, reconstructed structures not meeting the minimum property line setback must be relocated to meet the property line setback.

e. The reconstructed docking structure must not interfere with, or reduce the opportunity for, existing navigation and recreational uses of the site.

f. The reconstructed docking structure and activities associated with reconstruction must not alter the hydrology of the waterbody, permanently interfere with natural flow, or cause impoundment of the waterbody in excess of the existing structure. Fish passage must not be blocked.

g. Activities associated with reconstruction of docking structures located in flowing waters must take place between July 15 and October 1. In standing waters, activities must be conducted during a period of low water, and for flowed lakes when the lake bottom is exposed.

2. New or Expanded Permanent Docking Structures

a. Special Exception Criteria for Permanent Docking Structures on Tidal and Non-Tidal Waters

(1) New or expanded permanent docking structures may be approved only where the applicant has demonstrated by substantial evidence that:

(a) The siting, location and size of such structure will not interfere with navigation; and

(b) In the case of a permanent docking structure to serve private, non-commercial activities, it is infeasible to utilize a temporary docking structure due to unusual or extraordinary physical conditions of the site, including, but not limited to, conditions that will not allow anchoring of a temporary structure or wind and wave action sufficient to preclude the

use of a temporary structure. The burden of proof is on the applicant to demonstrate the necessary site conditions; or

(c) In the case of a permanent docking structure to serve public or institutional activities, a permanent docking structure is necessary for public safety and convenience; or

(d) In the case of a permanent docking structure to serve commercial or industrial activities, a permanent docking structure is reasonably necessary, and a temporary docking structure is not feasible or adequate to provide for public safety and convenience.

10.27,O

(2) The special exception criteria of "no alternative site" shall be judged according to the following:

(a) Proximity to a public or commercial dock:

For private, non-commercial docks on the mainland, the following shall constitute "an alternative site reasonably available to the applicant":

(i) An existing public or commercial dock located within 15 road miles or 5 miles by water of the applicant's proposed development; or

(ii) A proposed public or commercial dock located within 15 road miles or 5 miles by water of the applicant's proposed development, provided such a facility is proposed for construction within 2 years of the date of the application.

For private, non-commercial docks located on an island, the following shall constitute "an alternative site reasonably available to the applicant":

(iii) An existing public or commercial dock located on the island where the applicant's dock would be located; or

(iv) A proposed public or commercial dock located on the island where the applicant's dock would be located, provided such a facility is proposed for construction within 2 years of the date of the application;

(b) Proximity to other means of access: For private, non-commercial docks, an existing sandy beach area where a small boat may be landed and pulled ashore shall constitute "an alternative site reasonably available to the applicant"; and

(c) Proximity to less ecologically sensitive areas: An alternative site that would result in the least environmental impact while still providing access shall constitute "an alternative site reasonably available to the applicant". Ecologically sensitive areas include, but are not limited to, areas defined as Significant Wildlife Habitat in Section 10.02; eel grass

beds; salt marsh or emergent marsh vegetation; or other high value fisheries and wildlife habitat.

a. Maximum Dimensions

The new or expanded permanent docking structure must be no longer or wider than is necessary for the use intended, and meet the following:

(1) Tidal Waters

(a) Maximum length: A dock must not be constructed within a marked navigable channel, and

(i) a private, non-commercial dock must extend no farther than 100 feet beyond the mean lower low water level, or no farther than is necessary to achieve a draft of 5 feet of water at mean lower low water, whichever is less; or

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(ii) a public or commercial dock must extend no farther than 100 feet beyond the mean lower low water level, or no farther than is necessary to achieve a draft of 8 feet of water at mean lower low water, whichever is less; and

(b) Maximum width: A private, non-commercial dock must be no wider than 8 feet.

(2) Non-Tidal Waters

(a) Maximum length:

(i) a private, non-commercial dock must extend no farther than 50 feetbeyond the normal high water mark; or

(ii) a public or commercial dock must extend no farther than 75 feet beyond the normal high water mark; and

(b) Maximum width: A private, non-commercial dock must be no wider than 8 feet.

3. **Normal Maintenance and Repair**

a. In accordance with Section 10.02, normal maintenance and repair of permanent docking structures does not require a permit.

b. Except as provided for in a (D-MT) Maritime Development Subdistrict, boathouses and floatplane hangers may be maintained in accordance with the provisions for normal maintenance and repair in Section 10.02, but may not be reconstructed.

4. **Construction Standards**

a. New or expanded docking structures must be constructed using methods, such as pilings, that allow for free flowing water and fish passage beneath the dock. Reconstructed docking structures must be pile-supported where feasible. Construction methods, such as rock filled cribs, that place fill below the normal high water mark of tidal or non-tidal

waters may only be allowed where the applicant demonstrates by a preponderance of evidence that non-fill construction techniques are not practicable;

b. When located over eel grass beds, or salt or emergent marsh vegetation that is ten feet or greater in width, the deck height above the substrate must be at least equal to the dock's width;

c. The use of untreated lumber is preferred, although pressure-treated wood approved by the U.S. Environmental Protection Agency for dock construction may be used. Chromated copper arsenate (CCA) treated wood must not be used in freshwater environments. Creosote or pentachlorophenol (PCP) treated wood must not be used.

d. Uncured concrete must not be placed directly in the water. Concrete must be pre-cast and cured at least three weeks before placing it in the water or, where necessary, must be placed in forms and must cure at least one week before the forms are removed; and

e. Except within (D-MT) Maritime Development Subdistricts, new or expanded permanent docks must not include or accommodate non-water dependent structures, including but not limited to, gazebos, screen houses, or other enclosed or semi-enclosed structures.