

DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

MAINE LAND USE PLANNING COMMISSION

Proposed Chapter 10 Rule Revisions: Accessory Structures

February 14, 2024 – Draft

The following amendments propose changes to Chapter 10, Land Use Districts and Standards for Areas within the Jurisdiction of the Maine Land Use Planning Commission. This document only includes relevant sections of Chapter 10 and indicates additions in underline, deletions with a ~~striketrough~~, and relocated text in double underline and double ~~striketrough~~. Most revisions are self-evident. Where necessary, further explanations of some changes have been included in [brackets]. These explanatory notes would not be included in the final rule.

Rulemaking Overview and Introduction

Background:

- Since 2013, most new residential accessory structures have been allowed without a permit subject to standards within the LUPC service area. Based on data collected since that time, residential accessory structures represent the most prevalent type of development with compliance issues and violations. The Commission aims to avoid or significantly reduce such violations without significantly complicating landowner requirements or overburdening staff.
- Rationale for requiring notice for accessory structures:
 - results in a logged item into GOAT (which would result in an item on the Commission's 'pending applications' list)
 - would be less complicated for landowners to complete than a full permit application
 - would provide landowners with a reminder/clarification of which standards apply
 - is conducive to modifying the dialogue for word-of-mouth conversations between neighbors
 - would eliminate current inconsistencies by also requiring notice for accessory structures referenced in Chapter 10, Section 10.11,C,5; and
 - improve the ability of local tax assessors to rely upon LUPC data to more comprehensively reflect new structural development.

Administration:

If the following revisions are adopted by the Commission, staff will make available to property owners a self-verification form. While the form would require only basic information, it would identify the applicable standards and require the property owner's signature, ensuring their review and acknowledgement of the applicable standards.

10.11 NONCONFORMING USES AND STRUCTURES

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C. NONCONFORMING STRUCTURES

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[Revision Note: The Commission’s rules currently provide an exception for certain accessory structures; however, this leads to inconsistencies and unnecessary complexity. The following revisions would achieve consistency in how accessory structures are regulated, without conflicting with the protections provided by Title 12 §685-A(5). Specifically, Title 12 §685-A(5) exempts certain accessory structures and buildings from the requirements of Title 12 §685-B(1) [i.e., such structures are exempt from permit requirements].

5. **New, Detached Accessory Structures.** New, detached accessory structures associated with pre-1971 residences and operating farms are allowed without a permit subject to the standards of Section 10.27,P if they meet cause lot coverage requirements to be exceeded, and otherwise conform with the Commission's rules, except that new~~subject to the standards of Section 10.27,P if they meet cause lot coverage requirements to be exceeded, and otherwise conform with the Commission's rules, except that new~~New accessory structures in areas of special flood hazard ~~shall be regulated in conformance with~~must also conform to the requirements of Section 10.23,C~~and must meet,~~ the applicable development standards in Section 10.25,T, Activities in Flood Prone Areas, and all other applicable statutory and regulatory requirements. Permits are required for all other new detached accessory structures.

The construction of new, detached accessory structures that do not meet water body setbacks is allowed with a permit only if the structure cannot be physically sited on the lot to meet the water body setback requirement. In this case, the new accessory structure shall meet setbacks to the maximum extent possible, shall not be located closer to the normal high water mark than the principal structure, shall not be located within 25 feet of the normal high water mark, shall not be located closer than 20 feet to the road in conformance with the provisions of Section 10.11,B,6, and shall be of a size and height that, when combined with legally existing principal buildings will not exceed the size and height requirements of Section 10.11,C,1,b.

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10.27 ACTIVITY-SPECIFIC STANDARDS

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[Revision Note: This rulemaking proposes to repeal and replace the standards of Section 10.27,P. For reader convenience, only new text is illustrated by tracked changes below.]

P. ACCESSORY STRUCTURES

Section 10.27,P applies to new or expanded accessory structures allowed without a permit subject to standards. For the purposes of this section, accessory structures include but are not limited to garages, decks, porches, accessory solar energy generation facilities, and sheds, whether attached or detached. Section 10.27,P does not apply to structures identified separately in the use listings in Sub-Chapter II, such as docks or signs.

If all conditions and standards below cannot be met, a permit is required.

All new or expanded accessory structures allowed without a permit subject to standards must meet the following conditions:

1. Written notice required. Notice pursuant to Chapter 4, Section 4.05,C has been completed prior to constructing or placing the accessory structure. Notice must include self-verification by the landowner that the standards listed in Section 10.27,P will be met.
2. The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two-year period is not more than 750 square feet, except that freestanding accessory solar energy generation facilities are limited to not more than 750 square feet in total;
3. The accessory structure(s) ~~will~~must:
 - a. ~~be~~Be located in a subdistrict that allows the principal use;
 - b. Be accessory to a legally existing principal structure or use;
 - c. Meet the definition of accessory structure in Chapter 2 of the Commission's rules;
 - ~~d. — Conform with the General Criteria for Approval in Section 10.24;~~
 - e.d. Meet the development standards in Sections 10.~~25-25~~,B, F, H, and M, as applicable; and the activity specific standards in Section 10.27, as applicable;
 - f.e. Conform with any applicable permit conditions, or deed restrictions recorded for the property;
 - g.f. Meet all of the applicable dimensional requirements in Sections 10.26,D through F;
 - h.g. Have unfinished interiors and not be used for human habitation;
 - i.h. Be consistent with the use of the principal structure and not add a new activity to those currently permitted at the site or facility;

~~j.i.~~ If the accessory structure is a non-residential greenhouse, lighting will be fully shielded between sunset and sunrise and will not illuminate exterior areas or otherwise make the greenhouse appear to glow.

4. The accessory structure(s) ~~will~~must not:

- a. Have ~~no~~ internal plumbing and not be supplied with water other than for a hose bib (exterior hose faucet);
- b. ~~be~~Be used for a home-based business;
- c. ~~be~~Be located in a flood prone area as defined in Chapter 2 of the Commission's rules and described in Section 10.23,C;
- d. ~~use~~Use in construction nor produce any hazardous or toxic materials or substances; and
- e. ~~cause~~Cause the total development on a property to exceed any gross floor area limitation related to the type of use. ~~;~~and

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