

Department of Agriculture, Conservation and Forestry

MAINE LAND USE PLANNING COMMISSION

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Definitions

Chapter 2 of the Commission's Rules

Effective: May 13, 2025

A NOTE ABOUT THIS CHAPTER

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

2.01 PURPOSE AND LEGAL AUTHORITY

This rule establishes definitions that apply to terms as they appear in this chapter, the other chapters of the Commission’s rules, and the Commission’s statute (12 M.R.S., Chapter 206-A).

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

2.02 DEFINITIONS

A

1. Accessory Use or Accessory Structure:

"A use or structure subordinate to a permitted or conditional use or structure and customarily incidental to the permitted or conditional use of the structure." 12 M.R.S. § 682. Accessory structures include but are not limited to garages, decks, porches, accessory solar energy generation facilities, and sheds. For purposes of regulating development in flood prone areas, accessory structures are walled and roofed, detached from the principal structure, and located on the same lot as a principal structure; involve a use that is incidental to the use of the principal structure; and are used only for parking or storage.

2. Adjacent Grade:

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

3. Advanced Exploration:

Any metallic mineral bulk sampling or exploratory activity that exceeds those activities that are exploration activities, but removes 10,000 tons or less of mine waste. Samples taken as part of “exploration” are not considered bulk sampling.

The term is further distinguished as follows:

Tier One Advanced Exploration: Advanced exploration activities provided that bulk sampling does not exceed 2,000 tons of mine waste.

Tier Two Advanced Exploration: Advanced exploration activities exceeding tier one advanced exploration provided that bulk sampling does not exceed 10,000 tons of mine waste.

4. **Affordable Housing:**

Affordable housing is decent, safe, and sanitary dwellings, apartments or other living accommodations that are affordable to lower income households and moderate income households, in accord with the following provisions.

- a. An owner-occupied housing unit is "affordable" to a household if the unit's expected sales price is reasonably anticipated to result in monthly housing costs (including mortgage principal and interest payments, mortgage insurance costs, homeowners' insurance costs, real estate taxes, and basic utility and energy costs) that do not exceed 28 percent to 33 percent of the household's gross monthly income. Determination of mortgage amounts and payments are to be based on down payment rates and interest rates generally available to lower and moderate income households.
- b. A renter-occupied housing unit is "affordable" to a household if the unit's monthly housing costs (including rent and basic utility and energy costs) do not exceed 28 percent to 33 percent of the household's gross monthly income.
- c. A "lower income household" is a household with a gross income less than or equal to 80 percent of the applicable HMFA/County median income. Lower income households include both very low income households and low income households. A "very low income household" is a household with a gross income less than or equal to 50 percent of the applicable HMFA/County median income. A "low income household" is a household with a gross income over 50 percent, but less than or equal to 80 percent, of the applicable HMFA/County median income.
- d. A "moderate income household" is a household with a gross income over 80 percent, but less than or equal to 150 percent, of the applicable HMFA/County median income.
- e. The "applicable HMFA/County median income" is the median family income most recently published by the U.S. Department of Housing and Urban Development (HUD) for the federally-designated Metropolitan Fair Market Rent Area (HMFA) or County (non-HMFA part) in which the housing unit is located. Where appropriate to use of this definition, median family income may be adjusted for family size.
- f. A household's "gross income" includes the income of all household members from all sources.

5. **Affordable Housing Covenant:**

Any agreement among one or more owners, one or more tenants of residential real estate and one or more qualified housing entities, or between one or more owners and one or more qualified housing entities, or between one or more tenants and one or more qualified housing entities, that permits a qualified housing entity to control, either directly or indirectly, the purchase or rental price of residential housing for the primary purpose of providing that the housing remains affordable to lower income and moderate-income households.

6. **Agricultural Management Activities:**

Land clearing if the land topography is not altered, tilling, fertilizing, including spreading and disposal of manure, liming, planting, pesticide application, harvesting or cultivating crops, pasturing of livestock, minor drainage and maintenance of drainage, and other similar or related

activities, but not the construction, creation or maintenance of land management roads, nor the land application of septage, sludge and other residuals and related storage and composting activities.

7. Agricultural Processing Facility:

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

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

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

8. Agricultural Structure:

For purposes of regulating development in flood prone areas, walled and roofed structures that are used exclusively for the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, including aquaculture. Structures that house tools or equipment used in connection with these purposes or uses are also considered to be agricultural structures. Processing and production of agricultural commodities outside of harvesting, storage, raising, or drying are not considered agricultural purposes or uses. Structures used for human habitation or used by the public are not considered agricultural structures.

9. Agritourism:

An activity that:

- a. Draws people to a working farm for one or both of the following:
 - (1) The purchase of farm products, provided that the majority of items for sale are from products that are principally produced on the farm where the business is located; or
 - (2) Educational, recreational, or social events that feature agricultural activities or farm products;
- b. Is clearly secondary to the principal use of the property for agricultural management activities; and
- c. Is operated by the farm owner or lessee.

The term is further distinguished as follows:

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

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

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

10. Alteration:

Dredging; bulldozing; removing or displacing soil, sand, vegetation or other materials; draining or dewatering; filling; or any construction, repair or alteration of any permanent structure. On a case-by-case basis and as determined by the Commission, the term "alteration" may not include:

- a. An activity disturbing very little soil such as installing a fence post or planting shrubs by hand;
- b. The addition of a minor feature to an existing structure such as a bench or handrail; and
- c. The construction, repair or alteration of a small structure with minimal impact such as a nesting box, pasture fence, or staff gauge.

11. Amendments:

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

The term is further distinguished as follows:

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

- a. Expanding existing or approved development which does not increase the total footprint or height of structures, impervious area, or limit of disturbance by more than 20 percent and does not involve a new land use activity for the parcel;
- b. Relocating or reorienting structures, roadways, parking lots, or lot lines for the purpose of reducing nonconformance with the Commission's dimensional requirements;
- c. Permit transfers (in accordance with Chapter 4 of the Commission's rules); and
- d. Modifications to permit conditions which do not result in a substantially different outcome or impact on existing natural resources;

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

12. Applicant:

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

13. Application:

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

14. Aquatic Vegetation:

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

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

B

16. Base Flood:

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

17. Basement:

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

18. Bed and Breakfast:

An owner-occupied, single-family dwelling comprising a single residential building and its accessory structures, in which up to six sleeping rooms are rented for a fee for transient occupancy by guests. Breakfast is the only meal to be served to overnight guests. There must be no kitchen facilities in rented rooms and no separate ownership of rooms.

19. Boathouse:

A structure that extends over or beyond the normal high water mark into which boats are directly maneuvered without leaving the water body. Boathouses are distinct from boat storage buildings, which require the boat to be removed from the water for entry.

20. Boat Ramp:

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

21. Body of Standing Water:

A body of surface water that has no perceptible flow and is substantially permanent in nature. Such water bodies are commonly referred to either as constructed or natural lakes or ponds, or water impoundments.

22. Breakaway Wall:

A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

23. Building:

“Any structure having a roof or partial roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals or objects regardless of the materials of which it is constructed.” 12 M.R.S. § 682. The Commission finds that a temporary camping tent constructed of fabric or similar materials is not considered a building.

24. Bulk:

The size, volume, and shape of buildings and structures, and the physical relationship of their exterior walls or their location to lot lines, other buildings, structures, and surrounding open space. Bulk does not suggest any architectural style or design. This term is used, for example, to ensure that new adjacent development is compatibly arranged and does not dwarf or overshadow existing development.

25. Bulk Sampling of Mineral Deposits:

The removal of samples of mineral deposits for the purpose of testing to determine the feasibility, method or manner of extraction and/or processing of minerals. Such testing may include metallurgical analyses, milling or grinding tests and/or pilot plant and processing tests. Methods of bulk sampling may include, but not be limited to drilling and boring, the digging of shafts and tunnels, or the digging of pits and trenches.

26. Bunkhouse:

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

C

27. Campground:

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

28. Campsite:

“A camping location containing tents, registered tent trailers, registered pickup campers, registered recreational vehicles, registered trailers or similar devices used for camping. “Campsite” does not include a camping location that has access to a pressurized water system or permanent structures other than outhouses, fireplaces, picnic tables, picnic tables with shelters or lean-tos. A campsite may be designed to contain a maximum of 4 camping sites for transient occupancy by 12 or fewer people per site, or numbers of sites and occupancy rates consistent with a landowner’s recreational policy filed with the commission. The commission may require a campsite permit if it determines that the recreational policy is inconsistent with the commission’s comprehensive land use plan.” 12 M.R.S. § 682(15).

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

29. Campsite, Remote:

Campsites which are not part of commercial campgrounds and which are characterized by their remoteness, limited scale, dispersed nature, and limited usage. More specifically, remote campsites include sites which:

- a. are designed to be accessible and generally are only accessible by water or on foot;
- b. are comprised of not more than four individual camping areas designed for separate camping parties, and are designed for a total of not more than 12 overnight campers;
- c. have permanent structures limited to privies, fireplaces or fire rings, picnic tables, and picnic table shelters not larger than 80 square feet in area consisting of a roof without walls; and
- d. require no other construction or grading and only minimal clearing of trees.

30. Campsite, Residential:

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

31. Capacity Expansions of Utility Facilities:

The addition of new telephone or electric wires or similar equipment to existing electric or telephone transmission and distribution poles for the purpose of increasing the capacity thereof.

32. Checkpoint Building:

A structure on land under forest management which is used primarily for control of access to private roads or trails, provided it does not include more than one residence.

33. Children’s Day Care Facility:

A building, not the residence of the operator, in which a person carries out a regular program, for consideration, for any part of a day providing care for three or more children under 19 years of age.

34. Cluster Development:

A compact form of development that results in buildings being located in a group such that a significant amount of open space is preserved.

35. Coastal Nesting Island:

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

36. Combined Floor Area:

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

37. Combined Septic System:

A disposal system designed to dispose of gray and black wastewater on or under the surface of the earth that includes but is not limited to: septic tanks; disposal fields; or any other fixture, mechanism, or apparatus used for this purpose.

38. Commercial Fishing Activities:

Activities directly related to commercial fishing and those commercial activities commonly associated with or supportive of commercial fishing, such as the manufacture or sale of ice, bait and nets and the sale, manufacture, installation or repair of boats, engines and other equipment commonly used on boats.

39. Commercial Mineral Extraction:

Mineral extraction other than Mineral Extraction for Road Purposes.

40. Commercial Sporting Camp:

A “building or group of buildings devoted primarily to the offering of lodging facilities for a fee to persons primarily in pursuit of primitive recreation or snowmobiling.” 12 M.R.S. § 682(14). In addition, for the purposes of the application of the Commission’s rules, the term “commercial sporting camp” shall be construed according to the following: A facility which functions primarily as a destination for the above activities rather than as a transient development unit or as a base of operations for activities in another location, such as whitewater rafting. A sporting camp is usually located in a remote location and typically consists of, but does not have to include, all of the following: a number of cabins for the housing of guests, including but not limited to housekeeping cabins; a main lodge for serving of meals and socializing for the guests; outbuildings for housing of the owners, guides, and other workers; workshop, woodsheds, laundry, equipment storage, and other utility buildings as needed. Outpost cabins are not a part of commercial sporting camp facilities. Guests of outpost cabins may use the services of the commercial sporting camp whether or not the commercial sporting camp is permitted for expanded access (See Chapter 10, Section 10.27(Q)(1)). A resident, on-site attendant must be available on a full-time basis to meet the needs of guests.

41. Commercial Trailered Ramp, Hand-Carry Launch, or Dock:

A trailered ramp, hand-carry launch, or dock, including an associated parking area and access road, that is privately owned and operated, and open to all members of the public, with or without a fee, but not meeting the definition of a public trailered ramp, hand-carry launch, or dock.

42. Commercial Use:

The use of lands, buildings or structures the intent or result of which is the production of income from the buying or selling of goods or services. Commercial use does not include a home-based business or the rental of a single dwelling unit on a single lot or incidental sales of goods or services as may be allowed by permit or standard within a recreational lodging facility or forest management activities where such activities are otherwise exempt from review.

43. Commission:

The Maine Land Use Planning Commission.

44. Commission Decision:

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

45. Common Open Space:

Any parcel or area of land essentially unimproved and set aside, dedicated, designated, or reserved for the public use, for the common use of owners and occupants of land adjoining or neighboring such open space, or for purposes intended to preserve important natural features of the site.

46. Community Living Facility:

A housing facility for eight or fewer persons with disabilities that is approved, authorized, or certified by the State. A community living facility may include a group home, foster home, or intermediate care facility. Disability has the same meaning as the term “handicap” in the Federal Fair Housing Act, 42 USC §3602 [30-A M.R.S. § 4357-A].

Residents of a community living facility cannot be using or addicted to a “controlled substance” as defined in the Controlled Substances Act, 21 USC § 802(6), or living in the facility as a result of a criminal offense.

47. Community Public Water System:

(Reserved)

48. Community Public Water System Primary Protection Areas:

(Reserved)

49. Compatible Use:

A land use which is capable of existing in harmony with other uses or resources situated in its immediate vicinity because that use does not adversely affect such other uses or resources. In considering whether a use is compatible with other uses, the Commission considers, among other items, project scale; the presence, amount, type, timing, or characteristics of traffic generation, noise or sound, emissions (e.g., fumes, smoke, dust, odors), lighting, glare, other sources of nuisance; unsafe, or unhealthy conditions; and available avoidance or mitigation measures including buffers, separation, and treatment technology.

50. Compensation:

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

51. Conforming:

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

52. Constructed Pond:

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

53. Containment Wall:

A wall surrounding all sides of an aboveground tank to contain any spills or leaks.

54. Conversion of Use:

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

55. Critically Imperiled Natural Community (S1):

An assemblage of plants, animals and their common environment that is extremely rare in Maine or vulnerable to extirpation from the state due to some aspect of its biology. An example of an S1 community that occurs in freshwater wetlands is the Outwash Plain Pondshore community.

56. Cross-Sectional Area:

The cross-sectional area of a stream channel shall be determined by multiplying the stream channel width by the average stream channel depth. The stream channel width is the straight line distance from the normal high water mark of one side of the channel to such mark on the opposite side of the channel. The average stream channel depth shall be the average of the vertical distances from a straight line between the normal high water marks of the stream channel to the bottom of the channel.

D

57. Deer Wintering Areas:

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

58. Development:

Any land use activity or activities directed toward using, reusing or rehabilitating air space, land, water or other natural resources, excluding, however, such specific uses or classes and categories of uses which by the terms of this chapter do not require a permit.

59. Development Costs:

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

60. Development Unit:

A single family dwelling unit or non-residential use containing a total of no more than 8,000 square feet of gross floor space for all principal buildings concerned. Multiple family dwelling units and larger non-residential uses shall be counted as an equivalent multiple number of development units.

61. Dining Amenities:

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

62. Direct Watershed:

That portion of the land area which drains surface water directly to a body of standing water without such water first passing through an upstream body of standing water.

63. Director:

The Director of the Maine Land Use Planning Commission is the principal administrative, operational, and executive employee of the Commission.

64. Disturbed Area:

The area of a parcel that is stripped, graded, grubbed or otherwise results in soil exposure at any time during the site preparation for, or construction of, a project. "Disturbed area" does not include maintenance of an existing impervious area, but does include a new impervious area or expansion of an existing impervious area.

65. Docking Structure:

A structure placed in or near water primarily for the purpose of securing or loading or unloading boats and float planes, including but not limited to docks, wharfs, piers, and associated anchoring devices, but excluding boathouses and floatplane hangars. The term is further distinguished as follows:

Permanent Docking Structure:

A docking structure in place for longer than seven months in any calendar year or which is so large or otherwise designed as to make it impracticable to be removed on an annual basis without alteration of the shoreline, and associated on-shore structures used to secure a permanent dock or mooring.

Temporary Docking Structure:

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

66. Driveways:

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

67. Dwelling Unit:

A structure or any part thereof that is intended for use or is used for human habitation, consisting of a room or group of rooms designed and equipped for use primarily as living quarters, including any minor home occupations, for one family. Accessory structures intended for human habitation that have plumbing are considered separate dwelling units. Dwelling units do not include buildings or parts of buildings used as a hotel, motel, commercial sporting camp, outpost cabin, or other similar facility which is rented or leased on a relatively short term basis. Staff housing in such facilities is not considered to be a dwelling unit. However, the term shall include accommodations utilized by guests for transient occupancy that qualifies as a home occupation.

E

68. Elevated Building:

A building, without a basement,

- a. built, in the case of a building in FEMA zones A or AE, to have the top of the elevated floor, or in the case of a building in Zone VE, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A or AE, elevated building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Chapter 10, Section 10.25(T)(2)(n). In the case of Zone VE, elevated building also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Chapter 10, Section 10.25(T)(2)(r)(2)(b)(iii).

69. Emergent Marsh Vegetation:

Plants that are erect, rooted and herbaceous; grow in saturated to permanently flooded areas; and do not tolerate prolonged inundation of the entire plant (e.g., cattails, bur-reed, tussock sedge, rice cut grass, phragmites, pickerel weed, arrowhead and bulrush).

70. Excursion Service:

A water-borne transport service established to ferry tourists and other persons non-resident to the place of destination. This term shall also include sight-seeing and other recreational cruises such as "whale-watchers" where there may be no specific point of destination.

71. Expansion of a Structure:

The increase in the floor area of a structure, including attached decks and porches, or the increase in the height of a structure.

F

72. Family:

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

73. Farm Product:

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

74. FEMA:

Federal Emergency Management Agency.

75. Fishery Management Practice:

Activities engaged in for the exclusive purpose of management of freshwater and anadromous fish populations by manipulation of their environment for the benefit of one or more species. Such practices may include but not be limited to the construction of traps and weirs, barrier dams, stream improvement devices, fishways, and pond or stream reclamation, provided that any such activities are specifically controlled and designed for the purpose of managing such species and are conducted or authorized by appropriate state or federal fishery management agencies in compliance with the water quality standards contained in 38 M.R.S. § 465.

76. Flood or Flooding:

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) the overflow of inland or tidal waters.
 - (2) the unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in sub-part a,(1) of this definition.

77. Flood, Area of Special Flood Hazard:

The land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in a Flood Insurance Study, where available, and/or as delineated on the Flood Insurance Rate Map, Flood Hazard Boundary Map, or Commission's Land Use Guidance Map.

78. Flood Boundary and Floodway Map (FBFM):

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

79. Flood Elevation Study:

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

80. Flood Hazard Boundary Map (FHBM):

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

81. Flood Insurance Rate Map (FIRM):

An official map of a township, plantation or town, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

82. Flood Insurance Study (FIS): See Flood Elevation Study.**83. Flood, Zones A, AE, VE:**

The areas identified by FEMA as areas of special flood hazard on Flood Insurance Rate Maps or Flood Hazard Boundary Maps. The Commission adopts the FEMA maps and incorporates them by reference into the P-FP subdistrict. The adopted maps are referenced on the applicable Official Land Use Guidance Maps.

84. Floodplain or Flood Prone Area:

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

85. Floodproofing:

Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

86. Floodway Encroachment Lines:

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

87. Floodway, Regulatory:

The channel of a river or other flowing water and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. When not designated on the township's, plantation's, or town's Flood Insurance Rate Map, Flood Boundary and Floodway Map, or Flood Hazard Boundary Map, it is considered to be the channel of a river or other flowing water and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

88. Floor Area:

The sum of the horizontal areas of the floor(s) of a structure, excluding basements, measured by their exterior dimensions. Floor area shall include, but not be limited to, all stories and lofts, decks, garages, porches and greenhouses.

89. Flowing Water:

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

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

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

The term is further distinguished as follows:

Major Flowing Water:

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

Minor Flowing Water:

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

90. Footprint:

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

91. Forest:

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

92. Forest Management Activities:

Forest management activities include timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands, and other similar or associated activities, but not the construction, creation, or maintenance of land management roads, nor the land application of septage, sludge and other residuals and related storage and composting activities.

93. Forest Product:

Any raw material yielded by a forest.

94. Functionally Dependent Use:

For purposes of regulating development in flood prone areas, a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

G

- 95. Gatehouse:** See Checkpoint Building.
- 96. General Management Subdivision:** See Subdivision, General Management.
- 97. Gravel Extraction:**
Any extraction of a deposit of sand, fill or gravel.
- 98. Gravel Pit:**
A mining operation undertaken primarily to extract and remove sand, fill or gravel.

H

99. Hand-Carry Launch:

A shoreland alteration, including, but not limited to, a landing area (that portion of the launch at or below the normal high water mark), a launch area (that portion of the launch immediately adjacent to and above the normal high water mark) any associated parking area, access pathway and/or road, and other similar related facilities to allow an item, including but not limited to a boat, personal watercraft, or dock float, to be moved by hand, to or from the surface of a water body. Unless otherwise specified by permit condition, boat trailers or dollies designed to be moved by hand may be used at such facilities provided no special site design is required to accommodate such devices.

100. Height of Structure:

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

101. High Mountain Area:

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

102. High-density Subdivision: See Subdivision Density.**103. Hillside:**

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

104. Historic Structure:

Any structure that is:

- a. listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) by an approved state program as determined by the Secretary of the Interior, or
 - (2) directly by the Secretary of the Interior in states without approved programs.

105. Home Adult Day Services Program:

A group program of care, therapeutic activities and supervision maintained or carried out on a regular basis by a person or persons in a private dwelling, for consideration, for at least two hours a day, for three to 12 adults 19 years of age or older, who are not related to, or under the guardianship of the provider.

106. Home Child Day Care Provider:

A person who receives consideration to provide childcare in his or her residence on a regular basis, for three to 12 children under 13 years old, who are not related to, or under the guardianship of the provider.

107. Home-based Business:

A business, profession, occupation, or trade undertaken for gain or profit which: a) is clearly incidental and secondary to the use of the dwelling unit for residential purposes; b) is wholly carried on within a dwelling unit or other structure accessory to a dwelling unit; c) is carried on by a resident of the dwelling unit; and d) utilizes no more than 50 percent of all floor area of the dwelling unit or of the total combined floor area of the dwelling unit and accessory structure(s) in which the occupation is carried out. The term is further distinguished by Chapter 10, Section 10.27(N).

108. Imperiled Natural Community (S2):

An assemblage of plants, animals and their common environment that is rare in Maine or vulnerable to further decline. Examples of S2 communities that occur in freshwater wetlands are Atlantic White Cedar Swamp, Alpine Bog-Meadow, Circumneutral Fen, Maritime Slope Bog, and Coastal Plain Pocket Swamp.

109. Impervious Area:

The area of a parcel that consists of buildings and associated constructed facilities or areas that will be covered with a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common impervious areas include, but are not limited to, rooftops, walkways, decks, porches, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and macadam or other surfaces which similarly impede the natural infiltration of stormwater. A constructed pond, water impoundment, or natural water body is not considered an impervious area.

110. Incidental:

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

111. Interested Person:

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

112. Intervenor:

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

L

113. Land Management Road:

A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing material constructed for, or created by, the repeated passage of motorized vehicles and used primarily for agricultural or forest management activities, including associated log yards but not including skid trails, skid roads, and winter haul roads.

114. Land Use Subdistrict:

The area located within the boundaries of air, land or water delineated vertically or horizontally by the Commission to provide for distinct categories of uses or resources.

115. Lean-To:

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

116. Light Fixture, Fully Shielded:

Fully shielded light fixtures are constructed such that a light-blocking shield covers the top and sides of the lowest direct light-emitting part (bulb, tube, or lamp) and all light is projected below the horizontal plane.

117. Locally Established Datum:

For purposes of regulating development in flood prone areas, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum, North American Vertical Datum, or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

118. Lot Coverage:

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

119. Low-density Subdivision: See Subdivision Density.**120. Lowest Floor:**

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Chapter 10, Section 10.25(T)(2)(n).

M

121. **Maintenance:**

Activities required to assure continuation of a wetland or the accomplishment of project goals after a restoration or creation project has been technically completed, including, but not limited to, water level manipulations and control of non-native plant species.

122. **Major Water Bodies:**

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

123. **Management Class 1 Lake:**

Lake, also referred to as a "Least Accessible, Undeveloped, High Value Lake", which meets the following criteria:

- a. Relatively undeveloped: As of November 17, 1988, having less than one development unit per shore mile within 250 feet of the normal high water mark, taken as an average over the entire lake shore. The shoreline is measured by following the shoreline of the lake, including all the shoreline irregularities, on the Commission's Land Use Guidance Map.
- b. Relatively inaccessible: As of November 17, 1988, having no road passable during summer months with a two-wheel drive vehicle within 1/4 mile of the normal high water mark of the lake.
- c. High resource value(s): Found to have one or more outstanding resource values according to the Commission's Wildlands Lake Assessment as shown in Chapter 10, Appendix C.

Such lakes are designated as MC1 on the Commission's Land Use Guidance Maps. All lakes included in the Wildlands Lake Assessment are listed in Chapter 10, Appendix C with their Management Class noted.

124. **Management Class 2 Lake:**

Lake, also referred to as an "Accessible, Undeveloped, High Value Lake", which meets the following criteria:

- a. Relatively Undeveloped: As of November 17, 1988, having less than one development unit per shore mile within 250 feet of the normal high water mark, taken as an average over the entire lake shore. The shoreline is measured by following the shoreline of the lake, including all the shoreline irregularities, on the Commission's Land Use Guidance Map.
- b. Relatively Accessible: As of November 17, 1988, having a road passable during the summer months with a two-wheel drive motor vehicle within 1/4 mile of the normal high water mark of the lake.
- c. High Resource Value: Having at least two of the following outstanding resource values according to the Commission's Wildlands Lake Assessment:
 - (1) An outstanding rating for fisheries
 - (2) An outstanding rating for scenic value
 - (3) An outstanding rating for shore character
 - (4) An outstanding rating for wildlife when the rating was due to exceptional concentration and/or diversity of wildlife species.

Such lakes are designated as MC2 on the Commission's Land Use Guidance Maps. All lakes included within the Wildlands Lake Assessment are listed in Chapter 10, Appendix C with their Management Class noted.

125. Management Class 3 Lake:

Lake, also referred to as "Potentially Suitable for Development" which through a consideration of existing water quality, potential water quality impacts, location, access, conflicting uses, available shoreline, water level fluctuation, regional considerations, and special planning needs is found by the Commission to be a potentially suitable location for shoreland development. Such lakes are more specifically defined in the Commission's Comprehensive Land Use Plan.

Such lakes are designated as MC3 on the Commission's Land Use Guidance Maps encompassing such lakes. All lakes included within the Wildlands Lake Assessment are listed in Chapter 10, Appendix C with their Management Class noted.

126. Management Class 4 Lake:

Lake, also referred to as a "High Value, Developed Lake", which meets the following criteria:

- a. Two or more "outstanding" resource values as identified in the Maine Wildlands Lake Assessment;
- b. Relatively accessible: As of November 17, 1988, accessible to within 1/4 mile of the normal high water mark of the lake by two-wheel drive motor vehicle during summer months;
- c. Relatively developed: As of November 17, 1988, having an average of more than one development unit per mile of shore within 250 feet of the normal high water mark of the lake. The shoreline is measured by following the shoreline of the lake, including all the shoreline irregularities, on the Commission's Land Use Guidance Map; and
- d. Not meeting the criteria for Management Class 3 Lakes.

Such lakes are designated as MC4 on the Commission's Land Use Guidance Maps. All lakes included within the Wildlands Lake Assessment are listed in Chapter 10, Appendix C with their Management Class noted.

127. Management Class 5 Lake:

Lake, also referred to as a "Heavily Developed Lake", which meets the following criteria:

- a. As of November 17, 1988, having more than one development unit per 10 acres of lake surface area; or
- b. As of November 17, 1988, having more than one development unit per 400 feet of shore frontage, taken as an average around the entire lake shore. The shoreline is measured by following the shoreline of the lake, including all the shoreline irregularities, on the Commission's Land Use Guidance Map.

Such lakes are designated as MC5 on the Land Use Guidance Maps. All lakes included within the Wildlands Lake Assessment are listed in Chapter 10, Appendix C with their Management Class noted.

128. Management Class 6 Lake:

Lake, also referred to as a "Remote Pond", which meets the following criteria:

- a. Having no existing road access by two-wheel drive motor vehicles during summer months within 1/2 mile of the normal high water mark of the water body;
- b. Having existing buildings within 1/2 mile of the normal high water mark of the water body limited to no more than one non-commercial remote camp and its accessory structures; and
- c. Supporting cold water game fisheries.

Such lakes are designated as MC6 on the Commission's Land Use Guidance Maps. All lakes included within the Wildlands Lake Assessment are listed in Chapter 10, Appendix C with their Management Class noted.

129. Management Class 7 Lake:

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

130. Manufactured Home:

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For purposes of regulating development in flood prone areas, the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 120 consecutive days.

131. Manufactured Home Park or Subdivision:

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

132. Maple Sugar Processing Operations:

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

133. Maple Sugar Processing Subdivision: See Subdivision, Maple Sugar Processing.**134. Mean Lower Low Water Level:**

By a 1980 international convention, a standard for all nautical charts, as providing the lowest low water levels likely to be encountered in navigation.

135. Mean Sea Level:

For purposes of regulating development in flood prone areas, the National Geodetic Vertical Datum of 1929, North American Vertical Datum of 1988, or other datum, to which base flood elevations shown on a Flood Insurance Rate Map are referenced.

136. Metallic Mineral Mining Activity:

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

137. Mineral Deposit:

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

138. Mineral Exploration Activities, Level A:

Mineral exploration activities conducted for the purposes of determining the location, extent, and composition of mineral deposits, provided that such activities are limited to test boring, test drilling, hand sampling, the digging of test pits, trenching or outcrop stripping for the removal of overburden having a maximum surface opening of 100 square feet per test pit or trench, or other test sampling methods determined by the Commission which cause minimum disturbance to soil and vegetative cover.

Access ways for Level A mineral exploration activities shall include only access ways the creation of which involves little or no recontouring of the land or ditching, and does not include the addition of gravel or other surfacing materials. Clearing of the vegetative cover shall be limited to the minimum necessary to allow for the movement of equipment and shall not exceed 1 acre of total disturbed area.

139. Mineral Exploration Activities, Level B:

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

Access ways for Level B mineral exploration activities shall include only access ways the creation of which involves little or no recontouring of the land or ditching, and does not include the addition of gravel or other surfacing materials. Clearing of the vegetative cover shall be limited to the minimum necessary to allow for the movement of equipment.

140. Mineral Extraction:

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

141. Mineral Extraction for Road Purposes:

Mineral extraction where at least 75 percent by volume of the minerals extracted over any three year period are used for the purposes of construction or maintenance of land management or other roads.

142. Mineral Processing Equipment:

Equipment used to process minerals following extraction including, but not limited to, rock crushers and batch plants. The term does not include equipment used to remove, sort or transport minerals, such as front end loaders, screens or trucks.

143. Mineral Soil:

Soil material in which inorganic (mineral) constituents predominate.

144. Minor Change:

An action to modify a permit previously issued by the Commission where the revision is a result of:

- a. updating current ownership or indicating a new permit holder;
- b. correcting clerical errors;
- c. clarifying the Commission's decision, which clarification is consistent with the intent of the Commission's decision and does not materially change any findings of fact or conclusions of law;
- d. correcting the dimensions of structures, approving minor variations to the dimensions of structures previously approved, or approving expansions or changes affecting less than 10 percent of a structure or project; or
- e. renewing a permit and extending the deadline for a substantial start or for substantial completion by up to two years.

145. Mitigation:

Actions taken to off-set potential adverse environmental impact. Such actions include the following:

- a. Avoiding an impact altogether by not taking a certain action or parts of an action;
- b. Minimizing an impact by limiting the magnitude or duration of an activity, or by controlling the timing of an activity;
- c. Rectifying an impact by repairing, rehabilitating, or restoring the affected environment;
- d. Reducing or eliminating an impact over time through preservation and maintenance operations during the life of the project; and
- e. Compensating for an impact by replacing affected resources or environments.

146. Moderate-density Subdivision: See Subdivision Density.**147. Mooring:**

A structure for securing a vessel or aircraft that consists of a line and buoy that is fixed to the bottom of a water body, or attached to a weight that rests on the bottom of a water body.

148. Motorized Recreational Gold Prospecting:

"Motorized recreational gold prospecting" means the operation of small-scale, motorized equipment for the removal, separation, refinement, and redeposition of sediments and other substrates occurring below the normal high water mark of a stream, for the noncommercial, recreational discovery and collecting of gold specimens. "Motorized recreational gold prospecting" includes, but is not limited to, the operation of a motorized suction dredge, sluice, pump, rocker box, or winch, individually or together.

149. Multi-Family Dwelling:

A building containing three or more dwelling units.

N

150. National Geodetic Vertical Datum (NGVD):

The national vertical datum, whose standard was established in 1929, which is used by the NFIP. NGVD was based upon mean sea level in 1929 and also has been called “1929 Mean Sea Level”.

151. Natural Resource Extraction:

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

152. Natural Resource Processing Facility:

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

153. Net Developable Land:

The area of a parcel, as determined by the Commission, that is suitable for development. The area must be calculated by subtracting the following from the total acreage of the parcel:

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

154. Net Developable Shorefront Area:

Land, as determined by the Commission, that is within 250 feet from the shoreline and is suitable for development. The area must be calculated by subtracting the following from the total acreage of the shorefront area:

- a. Portions of the shorefront that do not meet the minimum shoreline setback requirements of Chapter 10, Section 10.26(D);
- b. Portions of the shorefront area that have a low or very low soil potential rating; and
- c. Portions of the shorefront area that contain or are part of a land area that contains at least 40,000 contiguous square feet of which 20 percent or more is comprised of sensitive areas including, but not limited to, slopes exceeding 20 percent, non-tidal water bodies or wetlands.

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

155. Nonconforming Lot:

A preexisting lot which, upon the effective date of adoption or amendment of these rules, does not meet the area, frontage or other dimensional requirements for a legally existing or proposed use.

156. Nonconforming Structure:

"A structure, lawfully existing at the time of adoption of district regulations or subsequent amendment made thereto, that does not conform to the district regulations." 12 M.R.S. § 682 More specifically, a nonconforming structure is legally existing, but does not meet one of the following dimensional requirements: setback, lot coverage, or height requirements.

157. Nonconforming Use:

"A use of air, land, water or natural resources or a parcel of land, lawfully existing at the time of adoption of district regulations or subsequent amendments made thereto, that does not conform to the district regulations." 12 M.R.S. § 682. More specifically, a nonconforming use is a legally existing use of buildings, structures, premises, lands, or parts thereof which would not be allowed to be established under current regulations in the subdistrict in which it is situated.

158. Non-Tidal Water Bodies:

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

159. Normal High Water Mark of Coastal Wetlands:

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

160. Normal High Water Mark of Non-Tidal Water Bodies:

That line on the shores and banks of non-tidal water bodies that is apparent from visible markings, changes in the character of soils due to prolonged action of the water or from changes in vegetation and that distinguishes between predominantly aquatic and predominantly terrestrial land. In places where the shore or bank is of such character that the normal high water mark cannot be easily determined (as in the case of rock slides, ledges, rapidly eroding or slumping banks) the normal high water mark shall be estimated from places where it can be determined by the above method.

161. Normal Maintenance and Repair:

Unless otherwise provided, work necessary to maintain an improvement, structure, or docking structure in its original or previously improved state or condition, as long as there is no expansion of a nonconforming structure and less than 50 percent of a structure is replaced. This includes general upkeep, such as painting, fixing portions of the structure that are in disrepair, or the replacement of sill logs, roofing materials, siding, or windows. In-kind and in-place replacement of decking or exterior stairs is considered to be normal maintenance and repair. Normal maintenance and repair shall not include reconstruction, or change in design, change in structure, change in use, change in location, a change in size or capacity, or any land use activity that is a shoreline alteration. Activities involving a permanent docking structure constitute normal maintenance and repair only when less than 50 percent of those portions of the permanent docking structure that are above the level of the water during normal high water are maintained or repaired.

162. North American Vertical Datum (NAVD):

The national datum, established in 1988, which is the new vertical datum used by the NFIP for all new FIRMs.

O

163. 100-year Flood: See Base Flood.

164. Outpost Cabin:

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

P

165. Parking Area:

A place, whether or not paved, designed primarily for parking motor vehicles. "Parking area" includes parking lots, parking spaces, parking lanes, and circulation aisles and corridors.

166. Peatland:

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

167. Permanent Foundation:

A supporting substructure that either extends below the frost line or is designed to permanently withstand freeze-thaw conditions. Permanent foundations include full foundations, basements, slabs and frost walls. For the purposes of this definition "sono tubes" or posts installed with augers are not considered permanent foundations.

168. Permanent Trail:

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

169. Permits:

Any approval, license, certification, or other authorization issued by the Commission, including amendments thereto.

170. Persistence:

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

171. Person:

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

172. Personal Watercraft:

"Any motorized watercraft that is 14 feet or less in hull length as manufactured, has as its primary source of propulsion an inboard motor powering a jet pump and is capable of carrying one or more persons in a sitting, standing or kneeling position. 'Personal watercraft' includes, but is not limited to, a jet ski, wet bike, surf jet and miniature speedboat. 'Personal watercraft' also includes motorized watercraft whose operation is controlled by a water skier. 'Personal watercraft' does not include a motorized watercraft that does not have a horsepower rating greater than 15 horsepower and does not generate an unreasonable amount of noise." 12 M.R.S. § 13001(23).

173. Pesticide:

A chemical agent or substance employed to kill or suppress pests (such as insects, weeds, fungi, rodents, nematodes or other organisms) or intended for use as a plant regulator, defoliant or desiccant.

174. Piped Water:

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

175. Plat:

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

176. Portable Mineral Processing Equipment:

Mineral processing equipment that is not fixed to a location on the ground but rather is designed to be readily moved from one mineral extraction operation to another.

177. Practicable:

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

178. Primary Location:

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

179. Primitive Recreation:

Those types of recreational activities associated with non-motorized travel, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing.

180. Primitive Septic System:

A septic system that uses an alternative toilet, such as a pit privy, compost, chemical, recirculating, incinerating, and vacuum types and a minimal disposal field designed to treat gray waste water that originates from a non-pressurized water supply.

181. Principal Building:

A building which provides shelter for the primary use of a parcel. On a single parcel, all buildings related to forest or agricultural management activities, including dwellings of the owner or lessee and employees, are considered one principal building.

182. Principal Use:

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

183. Private Trailered Ramp, Hand-Carry Launch, or Dock:

A trailered ramp, hand-carry launch, or dock that is privately owned and operated, and not open to all members of the public.

184. Property Line:

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

185. Protected Natural Resource:

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

186. Public Drinking Water Source:

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

187. Public Road or Roadway:

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

188. Public Trailered Ramp, Hand-Carry Launch, or Dock:

A trailered ramp, hand-carry launch, or dock, including associated facilities, that is owned, leased, or operated by a public entity and made available with or without a fee. Such entities include owners of federally licensed hydropower projects within the resource affected by the hydropower project for use by all members of the public.

R

189. Reclamation:

The rehabilitation of the area of land affected by mineral extraction, including but not limited to, the stabilization of slopes and the creation of safety benches, the planting of vegetation including grasses, crops, shrubs, and/or trees, and the enhancement of wildlife and aquatic habitat and aquatic resources.

190. Reconstruction:

Unless otherwise provided, the addition of a permanent foundation or the rebuilding of a structure after more than 50 percent by area of its structural components, including walls, roof, or foundation, has been destroyed, damaged, demolished or removed. Leaving one or two walls or the floor of a structure in place, while rebuilding the remaining structure, is considered reconstruction, not normal maintenance and repair or renovation.

191. Recreation Activity, Features, or Services:

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

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

192. Recreation Day Use Facility:

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

193. Recreation Supply Facility:

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

194. Recreational Lodging Facilities:

Site improvements, a building or group of buildings, or any part thereof, used, maintained, advertised or held out to the public as a place where sleeping accommodations are furnished to the public for commercial purposes. Recreational lodging facilities primarily cater to recreational users who engage in recreation activities that are primarily natural resource-based. The term includes, but is not limited to, commercial sporting camps, youth or group camps, back-country huts, rental cabins, outpost cabins, campgrounds, lodges, hotels, motels, inns, or any combination of these types of uses that exhibit characteristics of a unified approach, method or effect such as unified ownership, management or supervision, or common financing. To be included in a recreational lodging facility, rental units must be served by an on-site attendant while guests are present. Related development that is located more than one half mile, measured in a straight line, from the nearest structure providing guest services, such as dining, gathering places, retail, shower house, dumping station, check-in office, and equipment rental shall be considered a separate facility, unless the owner chooses to consider them as one facility. Caretaker or attendant housing will not be used to establish the one half mile distance unless no other guest services are provided. If no guest services are provided then all development on the regulatory parcel shall be considered part of the same facility and may be part of a facility on an adjoining parcel. The term is further distinguished as follows

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

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

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

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

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

195. Recreational Vehicle:

A vehicle which is:

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

196. Recreation-based Subdivision: See Subdivision, Recreation-based Subdivision.**197. Registry:**

The Registry of Deeds for the county within which a parcel is located.

198. Remote Camp:

A dwelling unit consisting of not more than 750 square feet of gross floor area, that is not served by any public utilities, except radio communications.

199. Remote Rental Cabin:

A building used only as a commercial lodging facility on a transient basis by persons primarily in pursuit of primitive recreation or snowmobiling in an isolated and remote setting. A remote rental cabin cannot be larger than 750 square feet in gross floor area; cannot be served by any public utilities providing electricity, water, sewer, or telephone services; cannot have pressurized water; and cannot have a permanent foundation. Placement of these buildings does not create a lot for subsequent lease or sale.

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

200. Renovation:

Restoring or remodeling a structure. Renovation includes interior modifications, and the installation of new windows, floors, heating systems, or other features, as long as there is no expansion of a nonconforming structure and less than 50 percent of the building's structural components are replaced. The introduction of plumbing to a structure may constitute a change in use that requires a permit.

201. Rental Unit:

A structure or any part thereof that is intended for use or is used for human habitation, consisting of a room or group of rooms designed and equipped for use primarily as living quarters for a single party, and which is rented or leased on a relatively short term basis. This term does not include outpost cabins or remote rental cabins.

202. Residential:

Pertaining to a dwelling unit.

203. Residual:

Solid wastes generated from municipal, commercial or industrial facilities that is suitable for agronomic utilization. These materials may include: food, fiber, vegetable and fish processing wastes; dredge materials; sludges; dewatered septage; and ash from wood or sludge fired boilers.” DEP Rules, Chapter 400, § 1.

204. Ridgeline:

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

205. Road Projects, Level A:

Reconstruction within existing rights-of-way of public or private roads other than land management roads, and of railroads, excepting bridge replacements. Examples of such activities include, without limitation, culvert replacements, resurfacing, ditching, and bridge repair. When there is no existing layout of right-of-way, the right-of-way should be assumed to extend 33 feet on either side of the existing centerline.

206. Road Projects, Level B:

Minor relocations, and reconstructions, involving limited work outside of the existing right-of-way of public roads or private roads other than land management roads and of railroads; bridge reconstruction and minor relocations whether within or outside of existing right-of-way of such roads; "Minor relocations" as used herein may not exceed 300 feet in horizontal displacement of centerline. "Reconstruction" as used herein may involve widening of existing rights-of-way not to exceed 50 feet on either side.

207. Road Projects, Level C:

Construction of new roads, and relocations or reconstruction of existing roads, other than that involved in level A or level B road projects; such roads shall include both public and private roadways excluding land management roads.

208. Roadway:

A public or private road including any land management road.

209. Rural Business:

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

Category 1: Natural resource based businesses that are small scale processing, storage, sale, and distribution of wood, fish and seafood, and agricultural product; or are related to or in support of agriculture, commercial fishing, forestry, natural resource extraction, or commercial outdoor recreation. Examples include but are not limited to sawmills, value added food production, equipment maintenance and repair facilities, guide services, recreational equipment rental and

storage, and motorized and non- motorized recreational centers. Category 1 businesses are specifically designated by Chapter 10, Section 10.27(R)(1)(a).

Category 2: Moderate-scale business facilities for retail businesses, restaurants, food preparation businesses, professional offices, and similar types of businesses. Examples include, but are not limited to, restaurants, art studios, nursing homes, and boarding kennels. Category 2 businesses are specifically designated by Chapter 10, Section 10.27(R)(1)(b).

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

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210. Secondary Location:

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

211. Septage:

Waste, refuse, effluent, sludge, and any other materials from septic tanks, cesspools, or any other similar facilities.” 38 M.R.S. § 1303-C “Septage is defined as a mixture of liquids and solids derived from residential sanitary wastewater, and includes sanitary wastewater from tanks connected to commercial and institutional establishments which have inputs similar to residential wastewater. Septage also includes wastes derived from portable toilets.” DEP Rules, Chapter 420, § 1

212. Service Drop:

Any utility line extension which does not cross or run beneath any portion of a body of standing water provided that:

a. in the case of electric service

- (1) the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
- (2) the total length of the extension within any five-year period is less than 2,000 feet.

b. in the case of telephone service

- (1) the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles; or
- (2) the total length of the extension within any five-year period, requiring the installation of new utility poles or placed underground, is less than 2,000 feet.

213. Setback:

The minimum horizontal distance from the lot line, shoreline, upland edge of a wetland, or road to the nearest part of the structure or other regulated area such as a driveway or parking area.

214. Shoreland Alteration:

Any land use activity, which alters the shoreland area, either at, adjacent to or below the normal high water mark, of any surface water body, including but not limited to:

- a.** dredging or removing materials from below the normal high water;
- b.** construction of or repairing any permanent structure below the normal high water mark.

For purposes of this subsection, permanent structure shall mean any structure, including but not limited to, causeways, wharfs, piers, docks, concrete or similar slabs, bridges, hand-carry launches, trailered ramps, water-access ways, piles, marinas, retaining walls, riprap, buried or submarine utility cables and lines, permanent docking structures, mooring structures, and water lines. A structure which is not fixed in or over the water or below the normal high water mark for more than 7 months in a calendar year shall not be a permanent structure;

- c.** depositing any dredged spoil or fill below the high water mark; and

- d. depositing dredged spoil or fill, or bulldozing, scraping or grading, on land adjacent to a water body in such a manner that the material or soil may fall or be washed into the water body, except that filling and grading or water crossings which do not require a permit as specified in Chapter 10, Section 10.27, or other provisions of these rules shall not constitute shoreland alteration.

Activities which cause additional intrusion of an existing structure into or over the water body, are also considered shoreland alterations.

215. Shoreland with Heavy Development:

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

216. Shoreline:

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

217. Sign:

Any structure, display, logo, device or representation which is designed or used to advertise or call attention to anything, person, business, activity, or place and is visible from any roadway or other right-of-way. It does not include the flag, pennant, or insignia of any nation, state or town.

Visible shall mean capable of being seen without visual aid by a person of normal visual acuity.

The size of a ground, roof, or projecting sign shall be the area of the smallest square, rectangle, triangle, circle, or combination thereof, which encompasses the facing of a sign, including copy, insignia, background and borders; the structural supports of a sign are to be excluded in determining the sign area; where a supporting structure bears more than one sign, all such signs on the structure shall be considered as one sign, and so measured; only one face of a double-faced sign is included as the area of such sign. The area of a wall or window sign shall be the area of a regular geometric form enclosing a single display surface or display device containing elements organized, related, and composed to form a unit; where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

Sign, On Premises:

A sign which is located upon the same lot or parcel of real property where the business, facility, or point of interest being advertised is located.

Sign, Projecting:

A sign which is attached to a wall of a building and extends more than 15 inches from any part of the wall.

Sign, Roof:

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

Sign, Residential Directional:

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

Sign, Wall:

A sign which is attached flat to, painted on or pinned away from the wall of a building and does not project more than 15 inches from such wall.

218. Sign or Device, Traffic Control:

A route marker, guide sign, warning sign, sign directing traffic to or from a bridge, ferry or airport, or sign regulating traffic, which is not used for commercial or advertising purposes.

219. Significant Wildlife Habitat:

The following areas to the extent that they have been identified by the Department of Inland Fisheries and Wildlife: habitat, as determined by the Department of Inland Fisheries and Wildlife, for species appearing on the official state or federal lists of endangered or threatened animal species; deer wintering areas and travel corridors as determined by the Department of Inland Fisheries and Wildlife; high and moderate value water fowl and wading bird habitats, including nesting and feeding areas as determined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as determined by the Atlantic Sea Run Salmon Commission; shorebird nesting, feeding and staging areas and seabird nesting islands as determined by the Department of Inland Fisheries and Wildlife; and significant vernal pools as defined and identified in specific locations by the Department of Inland Fisheries and Wildlife.

220. Slope, Average:

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

221. Slope, Sustained:

A change in elevation where the referenced percent grade or slope is substantially maintained or exceeded throughout the measured area.

222. Sludge:

Non-hazardous solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant, or wet process air pollution control facility or any other such waste having similar characteristics and effect. The term does not include industrial discharges that are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act.” DEP Rules, Chapter 400, § 1

223. Soil Survey:

An inventory of soil resources that is based on a systematic field examination, description and classification of soils in an area. Using the results of the field investigation, a soil map and a written report are prepared which describe and classify the soil resources and interpret the soil suitability for various uses based upon soil limitations.

224. Solar Energy Generation Facility:

- a. Accessory Solar Energy Generation Facility.** A freestanding or standalone solar energy system that is intended to convert solar energy into electric or thermal energy for on-site use, and which has a project area of 750 square feet or less; excluding rooftop installations over existing footprint.
- b. Small-scale Solar Energy Generation Facility.** A solar energy system that is intended to convert solar energy into electric or thermal energy for on-site use, and which has a project area of more than 750 square feet but not more than one acre.

- c. **Mid-scale Solar Energy Generation Facility.** A solar energy system that generates electricity for on-site use or off-site use, and which has a project area of more than one acre but not more than ten acres.
- d. **Large-scale Solar Energy Generation Facility.** A Solar Energy System that generates electricity primarily or solely for commercial sale for off-site use, and has project area of more than ten acres.

Project area includes, but is not limited to, all land area containing new access roads, internal roads, the solar energy generation system (*e.g.*, panels, inverter, battery storage), electrical and communications infrastructure including generator lead lines, structures, parking, security fencing, and vegetation clearing, including shade management areas.

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

226. Sole Source Aquifer:

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

227. Solid waste facility:

Any land area, structure, location, equipment or combination of these, used for the handling of solid waste. These include but are not limited to solid waste transfer stations, landfills, incinerators, processing facilities, composting facilities, storage facilities and agronomic utilization sites, or as may be defined by the Maine Department of Environmental Protection's rules, Chapter 400.

228. Spaghetti-lot:

"A parcel of land with a lot depth to shore-frontage ratio greater than 5 to 1. Shore frontage means land abutting a river, stream, brook, coastal wetland, or great pond as these features are defined in 38 M.R.S. § 480-B." 12 M.R.S. § 682(13)

- 229. **Special Flood Hazard Area:** See Flood, Area of Special Flood Hazard.

- 230. **Sporting camp:** See Commercial Sporting Camp.

231. Structure:

"[A]nything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground, including, but not limited to, buildings, mobile homes, retaining walls, billboards, signs, piers and floats. It does not include a wharf, fish weir or trap that may be licensed under Title 38, chapter 9." 12 M.R.S. § 682. For purposes of regulating development in flood prone areas, a structure is a walled and roofed building or a gas or liquid storage tank that is principally above ground.

232. Subdivision:

Except as provided in 12 M.R.S. § 682-B, "subdivision" means a division of an existing parcel of land into 3 or more parcels or lots within any five-year period, whether this division is accomplished by platting of the land for immediate or future sale, by sale of land or by leasing. The term "subdivision" also includes the division, placement or construction of a structure or structures on a tract or parcel of land resulting in 3 or more dwelling units within a five-year period. 12

M.R.S. § 682(2-A).

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

- 233. Subdivision Density, Low-density Subdivision:** A residential subdivision with a minimum lot size of 11 acres, maximum lot size of 25 acres, and an average lot size of greater than 15 acres.
- 234. Subdivision Density, Moderate-density Subdivision:** A residential subdivision with a minimum lot size of one acre, maximum lot size of 10 acres, and an average lot size between two and four acres.
- 235. Subdivision Density, High-density Subdivision:** A residential subdivision with a minimum lot size of 20,000 square feet, maximum lot size of three acres, and an average lot size of less than two acres.
- 236. Subdivision, General Management:**
A general management subdivision is a residential subdivision that meets the criteria of Chapter 10, Section 10.25(Q).
- 237. Subdivision, Maple Sugar Processing:**
A maple sugar processing subdivision is a subdivision that meets the criteria of Chapter 10, Section 10.25(Q).
- 238. Subdivision, Recreation-based:**
A recreation-based subdivision is a moderate-density, residential subdivision designed to be integrated with a recreational resource, such as a lake or publicly accessible point of access to a permanent trail. Recreation-based subdivisions have sufficient connection to the recreational resource to facilitate its use, and include provisions for safe enforceable right of access to the resource by lot owners or lessees in the subdivision.
- 239. Substantial Completion:**
 - a.** Except as provided in sub-part b of this definition:
 - (1) Approved construction has been completed to the point where normal functioning, use, or occupancy of the development can occur without concern for general health, safety, and welfare of the occupant or the general public; and
 - (2) Completion of and full compliance with all permit conditions of approval, except those requiring ongoing compliance beyond the expiration date of the permit such as annual water quality monitoring or maintenance of structural stormwater and erosion control best management practices.
 - b.** For approved subdivisions, the Commission has issued a certificate of compliance pursuant to Chapter 10, Section 10.25(Q)(5)(c)(1) or (2). In cases where only a portion of the development has been completed and a partial certificate of compliance has been issued for the project as of the expiration date of the permit, substantial completion shall only apply to that portion of the project for which the partial certificate of compliance was issued. Approval for the remainder of the project authorized by the permit shall lapse unless a permit renewal has been issued pursuant to Chapter 4 of the Commission’s rules.

240. Substantial Damage:

For purposes of regulating development in flood prone areas, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

In the case of damage to a bridge, containment wall, wharf, pier, dock, or breakwater, the substantial damage determination is based on the present-day replacement cost in lieu of market value.

241. Substantial Improvement:

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

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

In the case of a bridge, containment wall, wharf, pier, dock, or breakwater, the substantial improvement determination is based on the present-day replacement cost in lieu of market value.

242. Substantial Start:

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

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

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

infrastructure. A substantial start for subdivisions is not made by land preparation, such as clearing, grading, or filling.

243. Subsurface Wastewater Disposal System:

- a.** Any system for the disposal of waste or wastewater on or beneath the surface of the earth including, but not limited to:
 - (1) Septic tanks;
 - (2) Drainage fields;
 - (3) Grandfathered cesspools;
 - (4) Holding tanks; or
 - (5) Any other fixture, mechanism or apparatus used for these purposes; but
- b.** Does not include:
 - (1) Any discharge system licensed under 38 M.R.S. § 414;
 - (2) Any surface wastewater disposal system; or
 - (3) Any municipal or quasi-municipal sewer or wastewater treatment system.” 30-A M.R.S. § 4201(5).

244. Subsurface Wastewater Disposal Rules:

The Maine Subsurface Wastewater Disposal Rules, 144A CMR 241, administered by the Maine Department of Health and Human Services.

245. Sustained Grade: See Slope, Sustained.

T

246. Timber Harvesting:

The cutting and removal of trees from their growing site, and the attendant operation of mobile or portable chipping mills and of cutting and skidding machinery, including the creation and use of skid trails, skid roads, and winter haul roads, but not the construction or creation of land management roads.

247. Trail:

A route or path other than a roadway, and related facilities, developed and used primarily for recreational activities including but not limited to hiking, backpacking, cross-country skiing and snowmobiling, which passes through or occurs in a natural environment. Related facilities may include but not be limited to subsidiary paths, springs, viewpoints, and unusual or exemplary natural features in the immediate proximity of the trail which are commonly used or enjoyed by the users of the trail.

248. Trailered Ramp:

A shoreland alteration, including, but not limited to, an associated parking area, access road, and other similar related facilities to allow a trailer to be backed below the normal high water level of a water body in order to load or unload an item, including but not limited to a boat, personal watercraft, float plane, or dock float.

249. Trailhead:

An outdoor space:

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

250. Transient Occupancy:

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

U

251. Unorganized and Deorganized Areas:

“Unorganized and deorganized areas includes:

- a. all unorganized and deorganized townships;
- b. plantations that have not received commission approval under section 685-A, subsection 4 to implement their own land use controls;
- c. municipalities that have organized since 1971 but have not received commission approval under section 685-A, subsection 4 to implement their own land use controls; and
- d. all other areas of the State that are not part of an organized municipality except Indian reservations.

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

252. Utility Facilities:

Structures normally associated with public utilities, including without limitation: radar, radio, television, or other communication facilities; electric power transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; municipal sewage lines; gas, oil, water, slurry or other similar pipelines or above ground storage tanks.

W

253. Water Bar:

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

254. Water-Access Ways:

A structure consisting of a pair of parallel rails, tracks, or beams extending from above the normal high water mark to below the normal high water mark of a water body, and designed as the conveying surface from which an item, including but not limited to a boat, personal watercraft, float plane, or dock float, with or without a support cradle, is launched into or removed from the water body.

255. Water Crossing:

A roadway or trail crossing of any body of standing or flowing water (including in its frozen state) by means of a bridge, culvert, or other means.

256. Water-Dependent Structures for Recreational Lodging Facilities:

Accessory structures, located within a recreational lodging facility, that require direct access or proximity to a water body or flowing water, and that are solely utilized to store or display water-related recreation or safety equipment. See Chapter 10, Section 10.27(Q)(7).

257. Water-Dependent Uses:

Those uses that require for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal waters and which cannot be located away from these waters. These uses include commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale marketing facilities, waterfront dock and port facilities, boat building facilities, navigation aides, basins and channels, uses dependent upon water-borne transportation that cannot reasonably be located or operated at an inland site and uses which primarily provide general public access to coastal waters.

258. Water Impoundment:

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

259. Wetland, Coastal:

Tidal and subtidal lands, including any of the following: all areas below any identifiable debris line left by tidal action; all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action during the highest astronomical tide for the current National Tidal Datum Epoch as published by the National Oceanic and Atmospheric Administration (NOAA). Coastal wetlands may include portions of coastal sand dunes.

260. Wetland Creation:

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

261. Wetland Enhancement:

An activity increasing the net value of a wetland.

262. Wetland, Floodplain:

Wetlands that are inundated with flood water during a 100-year event based on site specific information including, but not limited to, flooding history, landform, and presence of hydric, alluvial soils, and that under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils.

263. Wetland, Forested:

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

264. Wetland, Freshwater:

Freshwater swamps, marshes, bogs and similar areas that are inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils and not below the normal high water mark of a body of standing water, coastal wetland, or flowing water.

265. Wetland Functions:

The roles wetlands serve which are of value to society or the environment including, but not limited to, flood water storage, flood water conveyance, ground water recharge and discharge, erosion control, wave attenuation, water quality protection, scenic and aesthetic use, food chain support, fisheries, wetland plant habitat, aquatic habitat and wildlife habitat.

266. Wetland Mitigation Banking:

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

267. Wetland, Non-Forested:

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

268. Wetland Preservation:

The maintenance of a wetland area or associated upland areas that contribute to the wetland's functions so that it remains in a natural or undeveloped condition. Preservation measures include, but are not limited to, conservation easements and land trust acquisitions.

269. Wetland Restoration:

An activity returning a wetland from a disturbed or altered condition with lesser acreage or fewer functions to a previous condition with greater acreage or function.

270. Wetland Value:

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

271. Wildlife:

All vertebrate species, except fish.

272. Wildlife Management District (WMD):

A geographic area identified by the Maine Department of Inland Fisheries and Wildlife to facilitate the management of wildlife. For purposes of these regulations, the boundaries of Wildlife Management Districts are as shown in Chapter 10, Section 10.23(D), Figure 10.23,D-1 and the area of a Wildlife Management District is based on land and water acreage within the LUPC service area.

273. Wildlife Management Practices:

Activities engaged in for the exclusive purpose of management of wildlife populations by manipulation of their environment for the benefit of one or more species. Such practices may include, but not be limited to, harvesting or removal of vegetation, controlled burning, planting, controlled hunting and trapping, relocation of wildlife, predator and disease control, and installation of artificial nesting sites, provided that such activities are specifically controlled and designed for the purpose of managing such species. This term does not include impounding water.

274. Winter Haul Road:

A route or travel way that is utilized for forest management activities conducted exclusively during frozen ground conditions. Winter haul roads must have the following characteristics:

- a. they are constructed with no significant soil disturbance;
- b. they do not make use of fill or surfacing material; and
- c. they are substantially revegetated by the end of the following growing season and are maintained in a vegetated condition.

Z

275. Zones A, AE, VE: See Flood, Zones A, AE, VE.

STATUTORY AUTHORITY:

12 M.R.S. §§ 684 and 685-C(5)

EFFECTIVE DATE:

November 1, 2021 – filing 2021-177

AMENDED:

December 30, 2022 – filing 2022-249

August 11, 2023 – filing 2023-117

January 29, 2025 – filing 2025-015

May 13, 2025 – filing 2025-