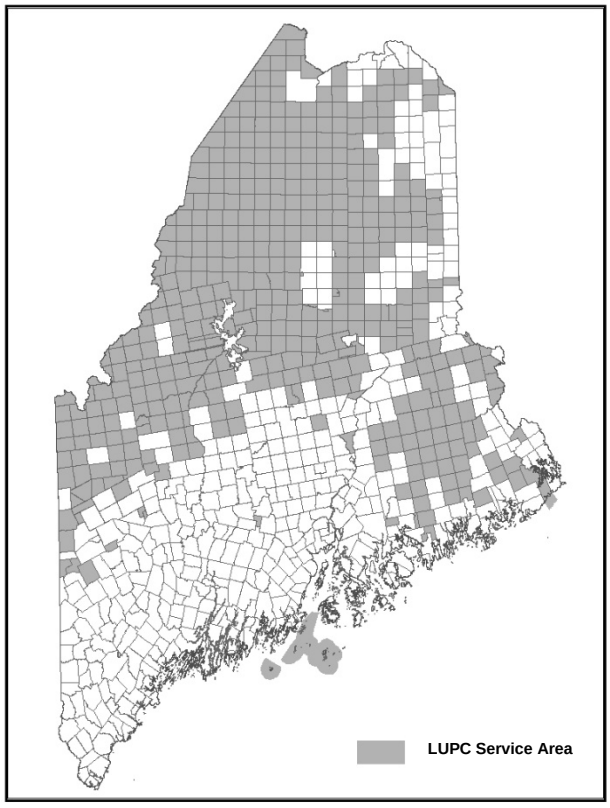
MAINE LAND USE PLANNING COMMISSION
Maine Department of Agriculture, Conservation and Forestry

LAND USE DISTRICTS AND STANDARDS

FOR AREAS SERVED BY THE MAINE LAND USE PLANNING COMMISSION



CHAPTER 10

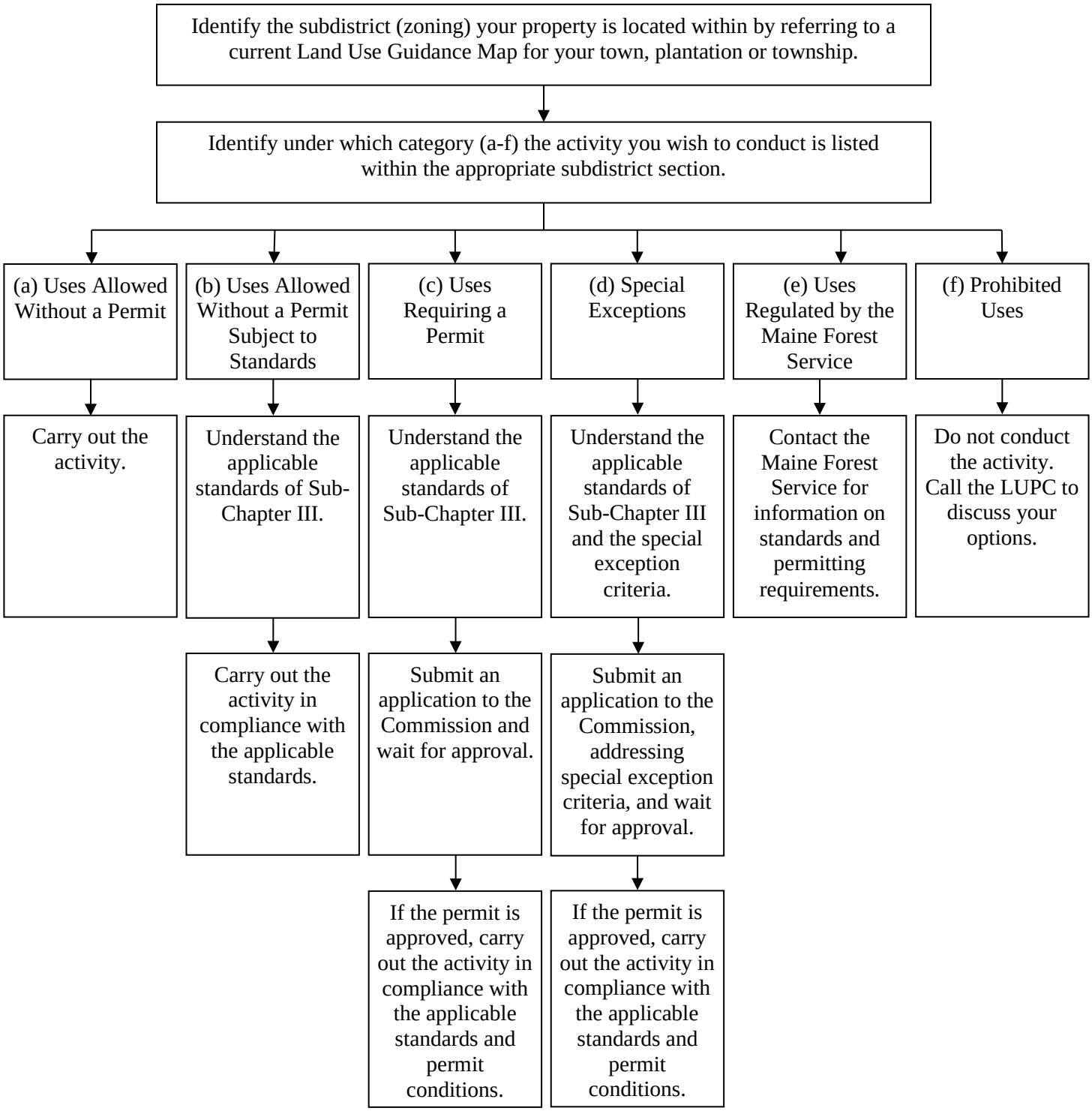
OF THE COMMISSION'S RULES AND STANDARDS

Initially Adopted January 12, 1977
Latest Revisions November 24, 2026

Note: In response to P.L. 2011, ch.599 (enacting LD 1739), in management and protection districts (except for development areas in Resource Plan Protection Subdistricts (P-RP)), the Commission no longer is responsible for regulating timber harvesting, land management roads, water crossings associated with land management roads, and gravel pits less than five acres in size. The regulation of these activities has been transferred to the Maine Forest Service.

A GUIDE TO USING AND UNDERSTANDING THIS DOCUMENT

USING CHAPTER 10



UNDERSTANDING CHAPTER 10

Sub-Chapter I General Provisions

The General Provisions provide information on some of the Commission's rules of practice. For the typical applicant, the most useful sections of this chapter include Section 10.11 Nonconforming Uses and Structures. Other sections in this Sub-Chapter include: Interpretation of Land Use Standards, Exemptions, Variances, Penalties for Violations, and Appeals.

Sub-Chapter II Land Use Subdistricts

The Commission has established zoning subdistricts to protect important resources and prevent conflicts between incompatible uses. These subdistricts are grouped into three categories: Management, protection, and development subdistricts. Sub-chapter II describes these Land Use Subdistricts and identifies the specific activities that are allowed within each one. Applicants should first identify within which subdistricts their proposed activity is located by referring to a Land Use Guidance Map of the appropriate town, plantation or township. These maps may be obtained from any of the Commission's offices. After the correct subdistricts have been identified, the applicant should determine which of the six categories their proposed activity is listed under in the subdistrict description.

If a proposed activity is located under category:

a. **Uses Allowed Without a Permit,** the activity may be conducted without any further interaction with the Commission.

b. **Uses Allowed Without a Permit Subject to Standards,** the applicant must understand and comply with all relevant standards.

c. **Uses Requiring a Permit,** the applicant must submit a permit application to the Commission. If the Commission approves the application, the applicant must comply with all conditions and standards identified in the permit.

d. **Special Exceptions,** the applicant must submit a permit application to the Commission that also addresses the additional special exception criteria. The Commission will determine if the activity is allowed by special exception. If the Commission approves the application, the applicant must comply with all conditions and standards identified in the permit.

e. **Uses Regulated by the Maine Forest Service,** the applicant must consult the rules of the Maine Forest Service regarding any standards or permitting requirements that may apply.

f. **Prohibited Uses,** the activity is not allowed in the subdistrict.

Sub-Chapter III Land Use Standards

The Commission has established standards with which certain activities must comply. The standards are organized into four sections:

Section 10.24 General Criteria for Approval are statutory criteria that must be met for the Commission to approve any applications. These criteria include adequate provision for loading, parking and circulation of traffic and adequate provision for harmonious fit, among others.

Section 10.25 Development Standards are specific performance and design standards for permits associated with subdivisions, residential development, and commercial, industrial or other non-residential development. Standards in this category include vehicular circulation and parking, noise and lighting, phosphorus control, wetland alterations, and others.

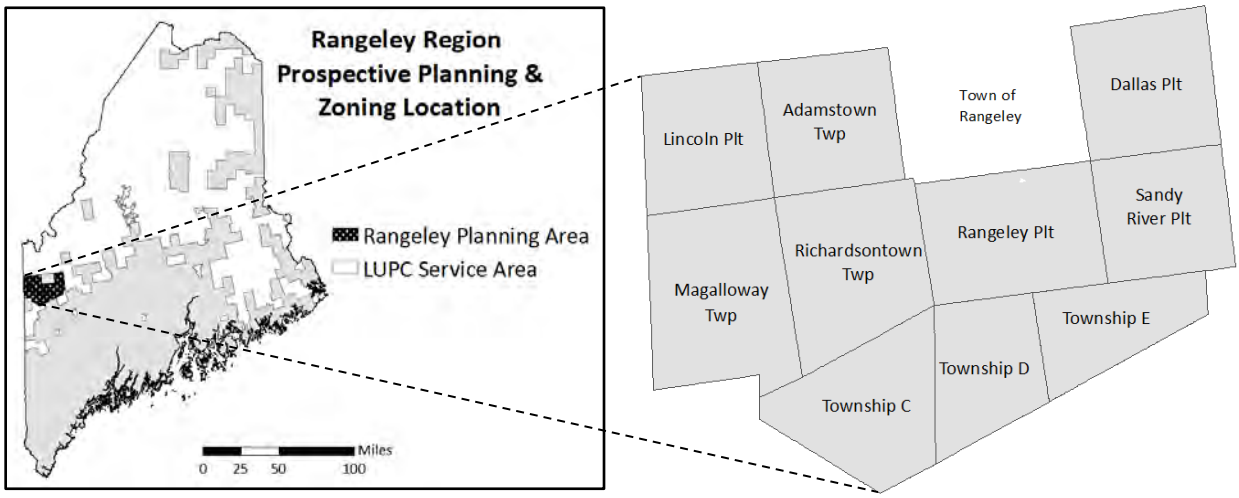
Section 10.26 Dimensional Requirements are minimum standards for lot size, shoreline frontage, road frontage, and setbacks, and also include maximum lot coverage and building height standards.

Section 10.27 Activity-Specific Standards are minimum design specifications for particular activities. The Commission has standards for Agricultural Management, Vegetation Clearing, Roads and Water Crossings, Filling and Grading, and other activities.

A NOTE ABOUT PROSPECTIVELY ZONED AREAS

The gray highlighted text in these rules applies only to prospectively zoned areas as listed below:

Adamstown Twp.
Dallas Plt.
Lincoln Plt.
Magalloway Twp.
Rangeley Plt.
Richardsontown Twp.
Sandy River Plt.
Township C
Township D
Township E



CHAPTER 10 – LAND USE DISTRICTS AND STANDARDS
TABLE OF CONTENTS

Preface vii

SUB-CHAPTER I. GENERAL PROVISIONS 1

10.01 Purpose 3
10.02 (Reserved) 4
10.03 Major District Classifications 5
10.04 Official Land Use Guidance Maps 6
10.05 Interpretation of District Boundaries 7
10.06 Interpretation of Land Use Standards 8
10.07 Exemptions 10
10.08 Criteria for Adoption or Amendment of Land Use District Boundaries 11
10.08-A Locational Factors for Adoption or Amendment of Land Use District Boundaries 14
10.09 Criteria for Amendment of Land Use Standards 18
10.10 Variances 19
10.11 Nonconforming Uses and Structures 22
10.12 Severability 30
10.13 Effective Date 30
10.14 Penalties for Violations 30
10.15 Appeals 30
10.16 Materials Incorporated by Reference 31
10.17-10.20 (Reserved) 31

SUB-CHAPTER II. LAND USE SUBDISTRICTS 33

10.21 Development Subdistricts 35
A. (D-CI) Commercial and Industrial Development Subdistrict 35
B. (D-ES) Extended Settlement Development Subdistrict 39
C. (D-GN) General Development Subdistrict 43
D. (D-GN2) Community Center Development Subdistrict 49
E. (D-GN3) Rural Settlement Development Subdistrict 53
F. (D-LD) Low-density Development Subdistrict 58
G. (D-MT) Maritime Development Subdistrict 61
H. (D-PD) Planned Development Subdistrict 65
I. (D-PR) Planned Recreation Facility Development Subdistrict 72
J. (D-RB) Rural Business Development Subdistrict 79
K. (D-RD) Resource-Dependent Development Subdistrict 86
L. (D-RF) Recreation Facility Development Subdistrict 91
M. (D-RS) Residential Development Subdistrict 95
N. (D-RS2) Community Residential Development Subdistrict 99
O. (D-RS3) Residential Recreation Development Subdistrict 103

10.22 Management Subdistricts 106
A. (M-GN) General Management Subdistrict 106
B. (M-HP) Highly Productive Management Subdistrict 112
C. (M-NC) Natural Character Management Subdistrict 115

10.23 Protection Subdistricts 118
A. (P-AL) Accessible Lake Protection Subdistrict 118
B. (P-AR) Aquifer Protection Subdistrict 122
C. (P-FP) Flood Prone Protection Subdistrict 126
D. (P-FW) Fish and Wildlife Protection Subdistrict 129
E. (P-GP) Great Pond Protection Subdistrict 136
F. (P-GP2) Semi-Remote Lake Protection Subdistrict 140
G. (P-MA) Mountain Area Protection Subdistrict 145
H. (P-RP) Resource Plan Protection Subdistrict 148
I. (P-RR) Recreation Protection Subdistrict 151
J. (P-RT) Special River Transition Protection Subdistrict 155
K. (P-SG) Soil and Geology Protection Subdistrict 159
L. (P-SL) Shoreland Protection Subdistrict 162
M. (P-UA) Unusual Area Protection Subdistrict 166
N. (P-WL) Wetland Protection Subdistrict 169

SUB-CHAPTER III. LAND USE STANDARDS 176

10.24 General Criteria for Approval of Permit Applications 178
A. Criteria for Approval of All Permit Applications 178
B. Criteria for Permit Applications Involving Special Exceptions 180

10.25 Development Standards 181
A. Review Standards for Areas Adjacent to Lakes 181
B. Review Standards for Subdistricts in Prospectively Zoned Areas 186
C. Technical and Financial Capacity 188
D. Vehicular Circulation, Access and Parking 189
E. Natural Character and Cultural Resources 195
F. Noise and Lighting 198
G. Soil Suitability 201
H. Solid Waste Disposal 203
I. Wastewater Disposal 204
J. Water Supply 205
K. Surface Water Quality 206
L. Phosphorus Control 207
M. Erosion and Sedimentation Control 209
N. Groundwater Quality 212
O. Air Quality 213
P. Protected Natural Resources 214
Q. Subdivision and Lot Creation 224
R. Reserved 242
S. Common Open Space 243
T. Activities in Flood Prone Areas 245
U. Affordable Housing 254

10.26 Dimensional Requirements 256
A. Minimum Lot Size 256
B. Minimum Shoreline Frontage 257
C. Minimum Road Frontage 258
D. Minimum Setbacks 259
E. Maximum Lot Coverage 262
F. Maximum Structure Height 263
G. Exceptions to Dimensional Requirements 264

10.27 Activity-Specific Standards 267
A. Agricultural Activities 267
B. Vegetation Clearing 269
C. Mineral Exploration and Extraction 273
D. Roads and Water Crossings 275
E. Timber Harvesting 283
F. Filling and Grading 286
G. Motorized Recreational Gold Prospecting 287
H. Driveways Associated with Residential Structures and Uses 294
I. Pesticide Application 296
J. Signs 297
K. Water Impoundments 301
L. Trailered Ramps, Hand-carry Launches, and Water-access Ways 302
M. Service Drops 306
N. Home-based Businesses 307
O. Permanent Docking Structures 310
P. Accessory Structures 314
Q. Recreational Lodging Facilities 316
R. Rural Businesses 321
S. Commercial Business 326
T. Short-term Rentals 332
U. Solar Energy Generation Facilities and Battery Energy Storage System Facilities 333
V. Decommissioning 334

APPENDICES 337

A Sample Determination to Identify Water Quality Limiting Lakes 339
B Guidelines for Vegetative Stabilization 341
C Alphabetical List of Lakes Showing Wildlands Lake Assessment Findings 343
D Alphabetical List of Lakes on Which the Use of Personal Watercraft is Prohibited 378
E (Reserved) 383
F Expedited Wind Energy Development Area 384
G Designated Areas of Cultural or Special Significance 389

PREFACE

This document contains Chapter 10 of the Rules and Regulations promulgated by the Maine Land Use Planning Commission pursuant to the Statute which created the Commission. A full understanding of the Commission's powers, duties, policies and rules and regulations can be achieved by referring to all the documents of the Commission.

The LUPC Statute is entitled:

12 M.R.S. CHAPTER 206-A LAND USE REGULATION.

The Statute requires that the Commission operate under a Comprehensive Land Use Plan entitled:

COMPREHENSIVE LAND USE PLAN
FOR THE PLANTATIONS AND UNORGANIZED TOWNSHIPS OF THE STATE OF MAINE
Originally adopted in 1976, revised in 1983, 1990, 1997, 2001, and 2010.

The Statute also authorizes the Commission to adopt rules. These are known as the Commission's Rules and Regulations and consist of seventeen chapters. This document is:

CHAPTER 10 OF THE RULES AND REGULATIONS.

This chapter is designed to interpret, apply and enforce the Commission's Statute and Comprehensive Land Use Plan.

Sub-Chapter I
GENERAL PROVISIONS

10.01 PURPOSE

The purpose of the Land Use Districts and Standards shall be to further the purposes of the Use Regulation Law as stated in 12 M.R.S. §681 and to fulfill the requirements of 12 M.R.S. § 685-A(3) which states that:

"The Commission, acting on principles of sound land use planning and development, shall prepare land use standards prescribing standards for the use of air, lands and waters.

In addition to the purposes set forth in § 681 the land use standards shall:

A. Encourage the most desirable and appropriate use of air, land and water resources consistent with the comprehensive land use plan;

B. Protect public health by reduction of noise, air pollution, water pollution and other environmental intrusions;

C. Protect and preserve significant natural, scenic and historic features where appropriate, beneficial and consistent with the comprehensive plan;

D. Advise and assist the Department of Transportation and other concerned agencies in transportation planning and operation;

D-1. Provide for safe and appropriate loading, parking and circulation of land, air and water traffic;

E. Encourage minimal adverse impact of one use upon the use of surrounding areas by setting standards of performance describing desirable and acceptable levels of operations in connection with any use and its relation to surrounding areas, including provisions for the eventual amelioration of existing adverse impact;

F. Reflect a consideration of the availability and capability of the natural resources base, including soils, topography or sufficient healthful water supplies; and

G. Regulate, as necessary, motor vehicles as defined in Title 29-A, section 101, subsection 42, on icebound inland lakes that are completely encompassed by unorganized territories during the hours from sunset to sunrise of the following day."

10.02 (RESERVED)

10.03 MAJOR DISTRICT CLASSIFICATIONS

Pursuant to the provisions of 12 M.R.S. § 685-A(1), the Commission will classify areas within its jurisdiction into one of the following three major districts:

A. **Protection districts:** Areas where development would jeopardize significant natural, recreational and historic resources, including, but not limited to, flood plains, precipitous slopes, wildlife habitat and other areas critical to the ecology of the region or State;

B. **Management districts:** Areas that are appropriate for commercial forest product or agricultural uses or for the extraction of nonmetallic minerals and for which plans for additional development are not presently formulated nor development anticipated; and

C. **Development districts:** Areas discernible as having patterns of intensive residential, recreational, commercial or industrial use or commercial removal of metallic minerals, and areas appropriate for designation as development districts when measured against the purpose, intent and provisions of this chapter." 12 M.R.S. § 685-A(1).

Pursuant to the Commission's Comprehensive Land Use Plan, the above major districts are divided into various subdistricts. The definition, purpose, and activities regulated within each of the subdistricts are provided in Sub-Chapter II.

10.04 OFFICIAL LAND USE GUIDANCE MAPS

The initial boundaries of the various subdistricts shall be shown on the Official Land Use Guidance Maps filed in the office of the Commission, which maps, and all amendments thereto, are incorporated by reference in these regulations.

The maps shall be the official record of the zoned status of all areas within the Commission's jurisdiction.

Official Land Use Guidance Maps shall be identified as follows:

"This Land Use Guidance Map was adopted by the Maine Land Use Planning Commission on

_____, and became effective on _____.

This map is certified to be a true and correct copy of the Official Land Use Guidance Map of the Maine Land Use Planning Commission.

By: _____"

Director, Maine Land Use Planning Commission

Copies of such maps, and all amendments thereto, certified by a member of the Commission or the Director thereof shall be filed with the State Tax Assessor and with the several Registers of Deeds in the counties wherein the lands depicted on such maps are located.

10.05 INTERPRETATION OF DISTRICT BOUNDARIES

Whenever uncertainty exists as to the boundaries of subdistricts as shown on the Official Land Use Guidance Map, the provisions of 12 M.R.S. § 685-A(2) shall apply.

In addition, in cases where 2 or more major districts (protection, management or development) apparently apply to a single land area, the Commission will designate the land area for inclusion in that major district which best achieves the legislative purpose and intent as set forth in 12 M.R.S. § 681 and § 685-A(1).

Except as otherwise provided, a subdistrict designation appearing on the official Land Use Guidance Maps applies throughout the whole area bounded by such subdistrict boundary lines.

10.06 INTERPRETATION OF LAND USE STANDARDS

The following apply to all uses in all subdistricts except as otherwise provided:

A. The description of permitted uses herein does not authorize any person to unlawfully trespass, infringe upon or injure the property of another, and does not relieve any person of the necessity of complying with other applicable laws and regulations.

B. Unless otherwise specified herein, accessory uses and structures which are permitted in a subdistrict must conform to the requirements for the principal use or structure to which they relate.

C. Whenever a provision of this Chapter conflicts with or is inconsistent with another provision of this Chapter or of any other lawfully adopted rules, regulations, standards, ordinances, deed restrictions or covenants, the more protective of existing natural, recreational and historic resources shall control.

D. Where two or more protection subdistricts apply to a single land area, the combination of the more protective standards for each subdistrict shall apply. Where another protection subdistrict applies to the same land area as a P-FW subdistrict, any activities within such area which are not in conformance with the applicable standards of Section 10.27 shall require a permit.

E. Wherever an M-NC subdistrict surrounds another management or protection subdistrict, no commercial, industrial, or residential development shall be allowed in such management or protection subdistricts except as allowed in such M-NC subdistrict.

F. Notwithstanding any other provisions contained in this chapter, a "land use standard may not deprive an owner or lessee or subsequent owner or lessee of any interest in real estate of the use to which it is lawfully devoted at the time of adoption of that standard." 12 M.R.S. § 685-A(5)

G. Subdivisions are prohibited unless allowed with a permit pursuant to the standards set forth for the subdistrict involved, except as provided in Section 10.25,Q,3,d,(6).

H. "Except for projects that are located in a planned subdistrict that was approved or accepted by the commission for processing prior to September 1, 2012, a permit is not required for those aspects of a project approved by the Department of Environmental Protection under Title 38 if the commission determines that the project is an allowed use within the subdistrict or subdistricts for which it is proposed. Notice of intent to develop and a map indicating the location of the proposed development must be filed with the commission prior to or concurrently with submission of a development application to the Department of Environmental Protection." 12 M.R.S. § 685-B(1-A)(G)

I. If a proposed activity other than timber harvesting requires a permit and will alter 15,000 or more square feet of a mapped wetland (P-WL1, P-WL2, or P-WL3 subdistrict), or 1 acre or more of overall land area, the applicant must delineate on the ground and in a site plan all wetlands within the general project area using methods described in the "Corps of Engineers Wetlands Delineation Manual" U.S. Army Corps of Engineers. (1987) and the "Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region." U.S. Army Corps of Engineers. (Version 2.0, January 2012).

J. The size of a mineral extraction operation is determined by adding the reclaimed and unreclaimed acreages. While a single mineral extraction operation may be located in multiple subdistricts,

mineral extraction operations 30 contiguous acres or greater in size must be located in a D-RD subdistrict.

10.07 EXEMPTIONS

Notwithstanding any other provisions contained in this chapter, and provided that unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures:

A. Normal maintenance and repair, or renovations of any lawfully existing structure or use do not require a permit from the Commission, except that normal maintenance and repair or renovations in areas of special flood hazard shall be regulated in conformance with the requirements of Section 10.23,C and must meet applicable development standards in Section 10.25,T, Activities in Flood Prone Areas, and all other applicable statutory and regulatory requirements.

B. Utility relocations within the right-of-way of any roadway made necessary by road construction activity do not require a permit from the Commission.

C. "Real estate used or to be used by a public utility, as defined in Title 35-A, section 102, subsection 13, or a person who is issued a certificate by the Public Utilities Commission under Title 35-A, section 122 may be wholly or partially exempted from regulation to the extent that the Commission may not prohibit such use but may impose terms and conditions for use consistent with the purpose of this chapter, when, upon timely petition, notice and public hearing, the Public Utilities Commission determines that such exemption is necessary or desirable for the public welfare or convenience." 12 M.R.S. § 685-A(11).

D. Capacity expansions of utility facilities do not require a permit from the Commission.

E. Archaeological excavation adjacent to a body of standing water, flowing water, freshwater wetland, coastal wetland, or sand dune system does not require a permit from the Commission as long as the excavation is conducted by an archaeologist listed on the Maine Historic Preservation Commission level 1 or level 2 approved list.

F. Public utility facilities located within a public right-of-way do not require a permit from the Commission. 35-A M.R.S. § 2503(20).

Other activities may be exempt from Commission review and approval, including but not limited to those listed in 12 M.R.S. §§ 685-A(5) and (12); and 685-B(1-A).

10.08 CRITERIA FOR ADOPTION OR AMENDMENT OF LAND USE DISTRICT BOUNDARIES

A. GENERAL CRITERIA

Pursuant to 12 M.R.S. §685-A(8-A), a land use district boundary may not be adopted or amended unless there is substantial evidence that:

1. The proposed land use district is consistent with the standards for district boundaries in effect at the time, the comprehensive land use plan and the purpose, intent and provisions of 12 M.R.S., chapter 206-A; and

2. The proposed land use district has no undue adverse impact on existing uses or resources or a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area.

B. LOCATION OF DEVELOPMENT

1. **Applicability.** Section 10.08,B, applies to the adoption and amendment of Commercial and Industrial Development (D-CI), General Development (D-GN), Low-density Development (D-LD), and Residential Development (D-RS) subdistricts, except as provided in Section 10.08,B,3. Criteria specific to the location of all other development subdistricts are contained in the individual subdistrict listings in Sub-Chapter II.

The creation of development areas or subdistricts within a concept plan that replicate the D-CI, D-GN, D-LD, or D-RS subdistricts must be sited in accordance with the provisions of Section 10.08,B. Those not so sited require a waiver of the location of development criteria.

2. **Location of Development Criteria.** To satisfy the general criteria contained in 12 M.R.S. §685-A(8-A) and restated in Section 10.08,A, a petitioner proposing the adoption or amendment of a development subdistrict must demonstrate, among other things, that the proposed subdistrict is consistent with the Comprehensive Land Use Plan (CLUP). The CLUP addresses the location of development through multiple goals and policies that in aggregate are embodied in the adjacency principle. To demonstrate the adoption or amendment of a development subdistrict is consistent with the portions of the CLUP that address the location of development, the Commission must find:

a. **Emergency Services.** The county, a nearby municipality, or other service provider is willing to and will be able to provide fire and ambulance services, for the land uses allowed in the proposed subdistrict. For the purposes of this criterion, Lifeflight is not considered an ambulance service. The Commission may waive this requirement for areas proposed as D-RS subdistrict that are either outside the primary and secondary locations, or are within the primary location but located on a Management Class 3 lake more than one mile from a public road, provided the petitioner demonstrates notice of the absence of emergency

services will be provided to all subsequent owners of property within the area proposed for rezoning.

b. **Compatibility**. The land uses allowed in the proposed subdistrict shall be compatible with other uses and resources, and reduce or minimize land use conflicts.

c. **Character.** The land uses allowed in the proposed subdistrict shall not unreasonably alter the character of the area.

d. **Area for Development.** Proposed D-CI and D-GN subdistricts shall be located in a primary location, and proposed D-RS and D-LD subdistricts shall be located in a primary or secondary location, unless the proposed subdistrict is a D-CI subdistrict intended to accommodate a land use that requires access to three-phase power as provided in Section 10.08-A,D,3, or a D-RS subdistrict intended to accommodate a recreation-based subdivision as provided in Section 10.08-A,D,2.

e. **Access to Development.** The land within the proposed subdistrict shall be accessible from a public road by a legal right of access in accordance with Section 10.08-A,E. This criterion does not apply to proposed D-RS subdistricts intended to accommodate the creation of residential lots to be leased on an annual basis for fair market value consideration, and where both the lessor and lessee have the legal right to not renew the lease, subject to applicable statutory notice requirements, regardless of cause.

3. Exceptions.

Notwithstanding Section 10.08,B,1, D-CI, D-GN, D-LD, and D-RS subdistricts may be designated without regard to the location of development criteria of Section 10.08,B in the following instances:

a. **Expansion of Commercial Facilities in Pre-existing Development Subdistricts.** Section 10.08,B does not apply to expansion of D-CI, or D-GN subdistricts existing as of June 17, 2019, provided that a legally existing development was in regular active use in the subdistrict within a two-year period immediately preceding the filing date for the re-zoning petition for expansion. This exception does not exempt expansion of pre-existing development subdistricts from the General Criteria of Section 10.08,A, which would apply to any petition for expansion of these subdistricts.

b. In response to regional planning efforts, such as prospective zoning or community guided planning and zoning, that address the location of development through a comprehensive process;

c. In response to the deorganization of minor civil divisions;

d. The correction of land use district boundaries; and

e. The designation of land use district boundaries, at the termination of a concept plan, for legally existing development authorized by the concept plan.

C. AREAS ADJACENT TO LAKES

The review standards listed in Section 10.25,A must be considered in applying the above criteria to proposed changes in subdistrict boundaries adjacent to lakes.

D. PROSPECTIVELY ZONED AREAS

1. Approval Criteria:

For areas that have been prospectively zoned by the Commission, a petition for adoption or amendment of a development district boundary must not be approved unless the petitioner demonstrates the proposal meets the requirements of Section 10.08,A,1 and 2, as well as that:

a. the requested change is needed due to circumstances that did not exist or were not anticipated during the prospective zoning process;

b. the new development subdistrict is either contiguous to existing development subdistricts or within areas that are suitable as new growth centers; and

c. the change will better achieve the goals and policies of the Comprehensive Land Use Plan, including any associated prospective zoning plans.

2. List of plantations and townships that have been prospectively zoned by the Commission:

- Adamstown Township, Oxford County
- Dallas Plantation, Franklin County
- Lincoln Plantation, Oxford County
- Magalloway Township, Oxford County
- Rangeley Plantation, Franklin County
- Richardsontown Township, Oxford County
- Sandy River Plantation, Franklin County
- Township C, Oxford County
- Township D, Franklin County
- Township E, Franklin County

10.08-A LOCATIONAL FACTORS FOR ADOPTION OR AMENDMENT OF LAND USE DISTRICT BOUNDARIES

A. PURPOSE

Locating most new subdistricts for commercial activities and residential subdivisions close to existing development and public services reduces public costs; improves the economic health of existing communities; protects important habitat; and minimizes interference with natural resource based activities such as forestry, agriculture, and recreation. In some cases, land uses that must be conducted near a natural resource or are closely tied to a natural resource should be allowed to locate away from development to ensure a continued natural resource-based economy and a reasonable opportunity for residential development in select locations.

B. RURAL HUBS

The following minor civil divisions are rural hubs: Ashland, Bethel, Bingham, Calais, Caribou, Carrabassett Valley, Dover-Foxcroft, Eastport, Ellsworth, Farmington, Fort Kent, Gouldsboro, Greenville, Guilford, Houlton, Island Falls, Jackman, Jonesport, Kingfield, Lincoln, Lubec, Machias, Madawaska, Medway, Milbridge, Millinocket, Milo, Oakfield, Old Town, Patten, Presque Isle, Princeton, Rangeley, Rockwood Strip T1 R1 NBKP, Rumford, Saint Agatha, Unity, Van Buren, and Waterford.

C. PRIMARY AND SECONDARY LOCATIONS

1. Primary Location. Each of the following areas within the unorganized and deorganized areas of the State, is within a primary location, except as modified pursuant to Section 10.08-A,C,4:

a. Land within seven miles of the boundary of a rural hub that also is within one mile of a public road;

b. Land within a town, plantation, or rural hub within one mile of a public road;

c. Land within a township listed in Section 10.08-A,C,4,a that also is within one mile of a public road; and

d. Land within 700 feet of a Management Class 3 lake where the lake has no existing or potential water quality problems and soils are suitable for development.

2. Secondary Location. The following area within the unorganized and deorganized areas of the State is within a secondary location, except as modified pursuant to Section 10.08-A,C,4:

a. Land within a rural hub, or in a town, township, or plantation bordering a rural hub, that is also within three miles of a public road and outside the primary location;

3. Measuring Distance. Measurements from a rural hub are made in a straight line from the boundary of the minor civil division. Measurements from a public road are made in a straight line from the edge of the traveled surface. Neither straight line measurement is made across major waterbodies, or interstate highways, except as follows. Measurements are made across major waterbodies, or interstate highways when the resulting primary or secondary location on the other side of such features is either directly connected by a public road that crosses the feature, or contiguous with the respective primary or secondary location.

4. Inclusions and Exclusions to Primary and Secondary Locations. New additions to and removals from primary and secondary locations must result from a regional planning process that addresses the location of development through a balanced and comprehensive process, such as prospective zoning or community guided planning and zoning as described in the Comprehensive Land Use Plan and applicable Commission guidance documents.

a. Additional Land Included in Primary Locations.

(1) Land within one mile of a public road within the following townships is within the primary location: Benedicta Twp., Blanchard Twp., E Twp., East Moxie Twp., Greenfield Twp., Kingman Twp., Madrid Twp., Marion Twp., Moxie Gore Twp., Oxbow North Twp., Prentiss Twp., Silver Ridge Twp., T9 R5 WELS, and T9 SD BPP.

b. Land Excluded from Primary and Secondary Locations.

(1) Areas not eligible. Land within the Prospective Zoning Plan for the Rangeley Lakes Region is not eligible for inclusion in the primary or secondary locations.

(2) Areas removed or excluded. The following minor civil divisions are removed or excluded from primary and secondary locations. Land within 700 feet of Management Class 3 lakes is considered separately and included in primary locations pursuant to Section 10.08-A,C,1,d, unless excluded pursuant to Section 10.08-A,C,4,b,(3).

Aroostook County
North Yarmouth Academy Grant Twp.
T1 R5 WELS
T3 R3 WELS
Upper Molunkus Twp.

Franklin County
Mount Abram Twp.
Redington Twp.

Hancock County
T7 SD BPP

Oxford County
Andover West Surplus Twp.

Penobscot County
Argyle Twp.
T1 R6 WELS
T3 R7 WELS
T4 R7 WELS

Piscataquis County
Big Moose Twp.
Bowdoin College Grant West Twp.
Elliotsville Twp.
Lily Bay Twp.

Somerset County
Carrying Place Town Twp.
Dead River Twp.
Johnson Mountain Twp.
Highland Plt.
Lexington Twp.
Long Pond Twp.
Misery Twp.
Misery Gore Twp.
Pierce Pond Twp.
Rockwood Strip T2 R1 NBKP
Sandwich Academy Grant Twp.
Sapling Twp.
Taunton & Raynham Academy Grant
T3 R4 BKP WKR

Table 10.08-A-1. Areas removed or excluded from primary and secondary locations.

(3) Primary locations around MC3 lakes. Land within 700 feet of the following lakes as described below, are excluded from primary locations:

(a) The portions of Brassua Lake (#4120) in Brassua Twp., Rockwood Strip T2 R1 NBKP, and Sandwich Academy Grant Twp.;

(b) Indian Pond (#4090) in Big Moose Twp., Chase Stream Twp., Indian Stream Twp., and Sapling Twp.; and

(c) The portion of Long Pond (#2536) in Long Pond Twp.

D. LOCATION-DEPENDENT ACTIVITIES

Notwithstanding Section 10.08-A,C, certain location dependent activities may be located in accordance with the following:

1. Resource-dependent Commercial Activity. Subdistricts for resource dependent commercial activities may be located in areas described in the D-RD subdistrict description in Section 10.21,K.

2. Recreation-based Residential Activity. D-RS subdistricts for recreation-based subdivisions shall be located within one-half mile of the following:

a. Management Class 4 or 5 lakes;

b. Management Class 7 lakes that have at least five existing dwelling units, at least one existing dwelling unit per 50 acres of surface area, and at least one existing dwelling unit per one-half mile of shoreline; or

c. Trailheads serving permanent trails that support motorized vehicles, non-motorized vehicles, or equestrian use, and have an appropriately-sized parking area and sufficient additional user capacity to serve users from the proposed residential use.

3. Three-phase Power Dependent Activity. D-CI subdistricts for commercial or industrial facilities that require three-phase power for operation may be established in any location that is consistent with the locational criteria of Section 10.08,B,2.

E. LEGAL RIGHT OF ACCESS

When land proposed for rezoning is required to be accessible from a public road by a legal right of access, a petitioner must demonstrate a legally enforceable right to access the land by road or by water.

1. Road Access. A legal right of access by road exists when the land proposed for rezoning:

a. Abuts a public road or is part of a larger parcel in common ownership that abuts a public road; or

b. Benefits from an easement, appurtenant to the land, that provides for vehicular access.

Under either option, if the road over which legal access is provided does not exist, it must be reasonable that the road could be built. Additionally, the access must be sufficient to support the land uses allowed in the proposed subdistrict, including any associated construction, maintenance and use of structures, and decommissioning. An easement providing for vehicular access may contain reasonable provisions to minimize the burden on the underlying fee owner, such as provisions that: allow for closure of the road during spring mud conditions; allow for closure during the winter to avoid snow plowing, provided pedestrian and snowmobile access is allowed; and establish road standards and reasonable maintenance expectations and responsibilities.

2. Access by Water. An enforceable right of access by water exists when the land proposed for rezoning reasonably may be accessed by boat from a public or private boat launch or ramp, provided the boat launch or ramp is accessible by road access consistent with Section 10.08-A,E,1 above. Additionally provided, when the subdivision land will be accessed by boat from a private boat launch or ramp, all lot owners will have a legally enforceable right to use and ensure continued maintenance of the boat launch or ramp.

10.09 CRITERIA FOR AMENDMENT OF LAND USE STANDARDS

Adoption or amendment of land use standards may not be approved unless there is substantial evidence that the proposed land use standards would serve the purpose, intent and provisions of 12 M.R.S. Chapter 206-A, and would be consistent with the Comprehensive Land Use Plan.

10.10 VARIANCES

The Commission may grant variances pursuant to 12 M.R.S. § 685-A(10) and adopts this section to interpret and implement the statutory provision.

A. PETITIONS

Any property owner or lessee may petition the Commission for permission to develop the property in a manner otherwise prohibited by the Commission's rules. Variances may be granted only from dimensional requirements, but shall not be granted for the establishment of uses otherwise prohibited by the Commission's rules.

B. GRANTING OF A VARIANCE

The Commission may grant a variance when the Commission finds that the proposed development is in keeping with the general spirit and intent of this chapter, that the public interest is otherwise protected and that strict compliance with the rules and standards adopted by this Commission would cause unusual hardship or extraordinary difficulties because of the following:

1. The access and use needs of a person with a physical disability as defined in 5 M.R.S. § 4553(7-B) who resides in or regularly uses a structure; this provision shall be applicable only under the following circumstances:

a. Where necessary for the use of residential structures;

b. An alternate proposal approvable under either the provisions of Sub-Chapter III or Section 10.11 would not provide a reasonable accommodation to the disability;

c. The variance requested is necessary to afford relief;

d. The hardship is not the result of action taken by the petitioner;

e. The requirements of Section 10.10,B,4 and 5 are met for variances in special flood hazard areas; and

f. The Commission may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives on the property; or

2. Exceptional or unique conditions of topography, access, location, shape, size or other physical features of the site; or

3. Unusual circumstances that were not anticipated by the Commission at the time the rules and standards were adopted.

4. In order to be granted a variance, under either Section 10.10,B,2 or 3 above, a petitioner must demonstrate, by substantial evidence, that:

a. The land in question cannot yield a reasonable return unless a variance is granted, except as provided in Section 10.10,B,5,e for a functionally dependent use involving a dock, pier, wharf, or structure placed thereon;

b. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

c. The granting of a variance will not alter the essential character of the locality; and

d. The hardship is not the result of action taken by the petitioner or a prior owner or lessee.

5. In addition to the provisions of Section 10.10,B above, in flood prone areas, variances:

a. Must not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

b. Must be granted only upon:

(1) A showing of good and sufficient cause; and,

(2) A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, or public expense; create nuisances; or cause fraud or victimization of the public; and,

(3) A showing that the issuance of the variance will not conflict with other state or federal laws.

c. Must only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Commission may impose such conditions to a variance as it deems necessary.

d. May be issued for development for the conduct of a functionally dependent use provided that:

(1) Other criteria of Section 10.10 and Section 10.25,T,2,m are met; and,

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

e. May be issued for Historic Structures upon the determination that the development:

(1) Meets the criteria of Sections 10.10,B,5,a through c above; and,

(2) Will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

f. May be issued for new construction and substantial improvement of agricultural structures being used for the conduct of agricultural uses provided that the development:

(1) Meets the criteria of Sections 10.10,B,5,a through c; and

(2) Meets the criteria of Sections 10.25,T,2,m, and n.

g. May be issued for reconstruction or replacement of a dock, pier, wharf, or structure placed thereon if:

(1) the dock, pier, wharf, or structure placed thereon suffered substantial damage;

(2) the reconstruction or replacement is for the conduct of a functionally dependent use; and

(1) the dock, pier, wharf, or structure placed thereon is proposed to be elevated or otherwise protected from flood damage to the extent practicable.

C. ISSUANCE

The Commission may issue a variance only after making written findings of fact and conclusions indicating that the petition, as modified by such terms and conditions as the Commission deems appropriate, has met the standards of Section 10.10,B. If the Commission denies the requested variance, it must provide the petitioner with written explanation of the reasons for denial.

D. VARIANCES IN SPECIAL FLOOD HAZARD AREAS

Any applicant who meets the criteria of Sections 10.10,B,5,a through f above must be notified by the Commission in writing over the signature of the Director that:

1. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as $25 per $100 of insurance coverage;

2. Such construction below the base flood level increases risks to life and property; and

3. The applicant must agree in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the state against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the state from any claims the applicant may have against the state that are related to the use of land located in a floodplain.

10.11 NONCONFORMING USES AND STRUCTURES

A. PURPOSE AND SCOPE

This section governs structures, uses and lots that were created before the Commission's rules or laws were established, but which do not meet the current rules or laws. This section also governs structures, uses and lots that met the Commission's rules or laws when built or created, but no longer are in conformance due to subsequent revisions to those rules or laws.

In accordance with 12 M.R.S. § 685-A(5), legally existing nonconforming structures, uses and lots will be allowed to continue. Renovations of these structures, and the construction of certain accessory buildings, are allowed without a permit, except for those located in areas of special flood hazard as defined by rule. However, 12 M.R.S. § 685-B(7) authorizes the Commission to regulate or prohibit extensions, enlargement, or movement of nonconforming uses and structures. This section clarifies which activities are allowed with a permit, without a permit, or are prohibited in the modification of a legally existing nonconforming structure, use or lot, including such a structure or use that is legally existing nonconforming pursuant to 12 M.R.S. § 685-B(7-B).

B. GENERAL

1. Criteria for Approval. Permits are required for all expansions, reconstructions, relocations, changes of use, or other development of nonconforming structures, uses and lots, except where specifically provided in Section 10.11. In order to obtain a permit, the applicant must meet the approval criteria in 12 M.R.S. § 685-B(4) and demonstrate that:

a. the project will not adversely affect surrounding uses and resources; and

b. there is no increase in the extent of nonconformance, except as provided in Section 10.11,B,9 or in instances where a road setback is waived by the Commission in order to increase the extent of conformance with a water body setback.

2. Extent of Nonconformance with Respect to Setbacks. Section 10.26,D of these rules establishes minimum setbacks from water bodies, roads and property boundaries. Where legally existing, nonconforming structures do not meet these setbacks, an existing setback line will be established. The existing setback line will run parallel to the water body, road or property boundary at a distance equal to the closest point of the existing structure (including attached decks or porches) to the feature from which the setback is established. This is shown graphically below in Figure 10.11,B-1.

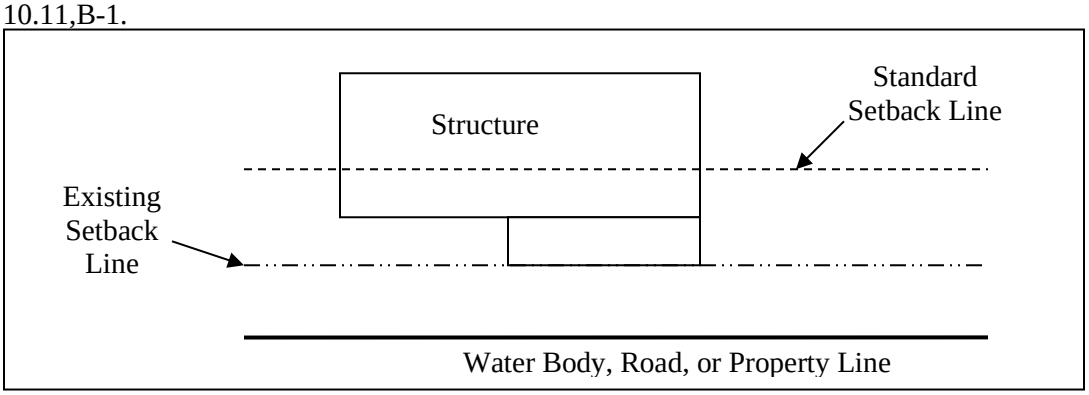


Figure 10.11,B-1. Determination of setback

Subject to the other requirements in Section 10.11, a nonconforming structure may be expanded up to the existing setback line without being considered to be more nonconforming than the original structure. Expansions between the existing setback line and the water body, road or property boundary will be considered to increase nonconformity, and will not be allowed, except as provided in Section 10.11,B,9.

3. Transfer of Ownership. Legally existing, nonconforming structures, uses, and lots may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming lot or structure as before, subject to the provisions of the Commission's rules.

4. Normal Maintenance and Repair. A permit is not required for the normal maintenance and repair of legally existing nonconforming structures, structures associated with nonconforming uses, or structures on nonconforming lots, except that normal maintenance and repair in areas of special flood hazard shall be regulated in conformance with the requirements of Section 10.23,C and must meet applicable development standards in 10.25,T, Activities in Flood Prone Areas.

5. Renovation. A permit is not required for the renovation of legally existing nonconforming structures, structures associated with nonconforming uses, or structures on nonconforming lots, except that renovations in areas of special flood hazard shall be regulated in conformance with the requirements of Section 10.23,C and must meet applicable development standards in 10.25,T, Activities in Flood Prone Areas, and all other applicable statutory and regulatory requirements.

6. Waiver of Road Setbacks. To allow a structure to become either conforming or less nonconforming to the water body setback, the Commission may reduce the road setback to no less than 20 feet in cases of reconstruction or relocation of legally existing structures or construction of new accessory structures on developed, legally existing nonconforming lots.

7. Conformance with Maine Subsurface Waste Water Disposal Rules. All changes to legally existing nonconforming structures, structures for nonconforming uses or structures on nonconforming lots must comply with the Maine State Subsurface Waste Water Disposal Rules (144A CMR 241), including changes that do not require a permit under this rule.

8. Conflicting Requirements. In cases where two or more provisions of Section 10.11 apply to a particular structure, use or lot, the more restrictive provision shall control.

9. Waiver of Property Line Setbacks. The Commission may reduce the property line setback where there is no practical alternative and upon prior written agreement of the adjoining property owner.

C. NONCONFORMING STRUCTURES

1. Expansion. A permit is required for the expansion of a nonconforming structure, except as provided in Section 10.27,P. In addition to meeting permit requirements, expansions must also comply with the following limitations. These limitations do not apply to water dependent uses as defined in Chapter 2 of the Commission's rules.

a. Certain Expansions Prohibited. If any portion of a structure is located within 25 feet, horizontal distance, of the normal high water mark of a water body, expansion of that portion of the structure, which includes an increase in height or an increase in floor area, is prohibited. That portion beyond 25 feet may be expanded provided the size limitations in Section 10.11,C,1,b are met.

b. Size of Structures Near Water Bodies Limited. The maximum size of expansions of nonconforming structures is limited within areas described by either of the categories below:

(1) The area within 100 feet, horizontal distance, of the normal high water mark of bodies of standing water 10 acres or greater in size or flowing waters draining 50 square miles or more.

(2) The area within 75 feet, horizontal distance, of the normal high water mark of coastal wetlands or bodies of standing water less than 10 acres in size (but excluding bodies of standing water less than three acres in size not fed or drained by a flowing water).

Legally existing, principal and accessory structures located within the areas described in Section C,1,b,(1) and (2) above may be expanded subject to the other requirements of Section 10.11, provided that lot coverage limitations and other applicable land use standards are met. The maximum height of all structures within these areas shall be 25 feet, or existing structure height, whichever is greater. The maximum combined footprint for all structures within these areas may not exceed the limits in Table 10.11,C-1.

Closest Distance of Expansion from Water Body	Maximum Combined Footprint* for all Structures not Meeting Water Body Setbacks
Greater than 25 and less than 50 feet.	750 square feet.
Between 50 and 75 feet.	1,000 square feet.
Greater than 75 and less than 100 feet (if applicable setback is more than 75 feet).	1,500 square feet.

Table 10.11,C-1. Limitations on size of structures near water bodies.

* Expansions that increase the height of a structure or increase the floor area of a structure, such as the addition of a loft or second story, require permits but are not included in the calculation of the footprint of the structure.

c. Structures Located in a Designated Area of Cultural or Special Significance. If legally existing, non-conforming structures that would not otherwise be permitted to expand, are located within a Designated Area of Cultural or Special Significance (DACSS) listed in Appendix G, Section 2 of this chapter, then those structures may be expanded provided that:

(1) The proposed expansion is consistent with the purpose of the designation as described in Appendix G, Section 2 of this chapter; and

(2) The proposed expansion is in conformance with Section 10.11,C,1,a and b.

2. Reconstruction or Replacement. A legally existing, nonconforming structure may be reconstructed or replaced with a permit, provided that the permit application is completed and filed within two years of the date of damage, destruction or removal; the structure was in regular active legally existing use within a two-year period immediately preceding the damage, destruction, or removal; and if the reconstruction or replacement involves expansion, the structure meets the requirements of Section 10.11,C,1, except that a legally existing, nonconforming structure located within a DACSS listed in Appendix G, Section 2 of this chapter may be reconstructed or replaced in accordance with Section 10.11,C,2,f; and except that a legally existing nonconforming structure within a commercial sporting camp may be reconstructed in accordance with Section 10.11,C,2,e.

a. Meeting Setbacks to the Maximum Extent Possible. Reconstruction or replacement must comply with current minimum setback requirements to the maximum possible extent. In determining whether the proposed reconstruction or replacement meets the setback to the maximum possible extent, the Commission may consider the following factors:

- size of lot,
- slope of the land,
- potential for soil erosion and phosphorus export to a water body,
- location of other legally existing structures on the property at the time of the damage, destruction or removal,
- location of the septic system and other on-site soils suitable for septic systems at the time of the damage, destruction or removal,
- type and amount of vegetation to be removed to accomplish the relocation, and
- physical condition and type of existing foundation, if any.

b. Reconstruction of Attached Decks. Decks attached to a legally existing, nonconforming structure may be reconstructed in place with a permit, except that replacement of any portion of a deck that extends into or over the normal high water mark is prohibited.

c. Permanent Foundations. The addition of a permanent foundation or the replacement of 50% or more of an existing foundation beneath a legally existing, nonconforming structure constitutes a reconstruction subject to the provisions in Section 10.11,C,2,a.

d. Boathouses. Except in a D-MT subdistrict or in a DACSS listed in Appendix G, Section 2 of this chapter, boathouses shall not be reconstructed or replaced. Normal maintenance and repair or renovation, equaling or exceeding $1,000 in cost, of a boathouse located in a P-FP subdistrict is allowed with a permit. In other subdistricts, normal maintenance and repair, and renovation of a legally existing boathouse is allowed without a permit.

e. Sporting Camps. A legally existing, nonconforming structure within a commercial sporting camp may be reconstructed in place, provided that the reconstruction occurs within 2 years of damage, destruction or removal and the Commission issues a permit [see 12 M.R.S. §685-B(7-A)]. The Commission may, consistent with public health, safety and welfare, waive standards that made the original structure nonconforming. The reconstructed structure must

replicate the original structure and use to the maximum extent possible and it must be in the same location and within the same footprint as the original structure, unless the structure is relocated in accordance with Section 10.11,C,3. Minor modifications to dimensions to the structure, including the combining of multiple structures on one lot may be allowed provided the total square footage of the structure or structures is not increased and conforms with Section 10.11,C,1,b.

A legally existing, nonconforming outpost cabin shall have the same reconstruction rights of a commercial sporting camp under Section 10.11,C,2, provided the site containing the outpost cabin is limited by permit condition for a period of not less than 10 years, requiring the site to be utilized only as an outpost cabin in conjunction with a commercial sporting camp, and the permit condition is recorded with the County Registry of Deeds where the real estate is located.

f. Structures in a Designated Area of Cultural or Special Significance. A legally existing, non-conforming structure may be reconstructed in place or replaced in place with a permit, provided that:

(1) The structure is located in a DACSS listed in Appendix G, Section 2 at the time of damage, destruction, or removal of the structure; or within 2 years of damage, destruction, or removal of the structure, an area that includes the proposed site for reconstruction of the structure is designated as a DACSS in accordance with Appendix G, Section 1, or a petition for such designation is filed with the Commission;

(2) A permit application is completed and filed within two years of the date of damage, destruction or removal of the structure, or within two years of the date the area that includes the proposed site for reconstruction is designated as a DACSS, whichever is later, except that the Commission may waive this requirement upon finding that unusual circumstances prevented the applicant from filing a permit application within the two-year period provided in this paragraph;

(3) The structure was in regular active use within a two year period immediately preceding the damage, destruction, or removal, except that the Commission may waive this requirement for good cause;

(4) The proposed reconstruction conforms with the purpose of the designation as described in Appendix G, Section 2 of this chapter;

(5) Reconstruction must, to the maximum extent possible, replicate the prior version of the structure that is in keeping with the designation as described in Appendix G, Section 2 of this chapter, is in the same location, and has the same footprint, as the original structure.

Minor modifications to the dimensions of the structure may be allowed provided the total square footage of the structure or structures is not increased and conforms with Section 10.11,C,1,b.

3. Relocation. In order to make it conforming or less nonconforming, a legally existing, nonconforming structure may be relocated within the boundaries of the lot upon the issuance of a permit, provided that the site of relocation conforms to setback requirements to the maximum extent possible as determined by the Commission in accordance with the provisions of Section 10.11,C,2,a. Cleared openings created as part of a relocation shall be stabilized and revegetated. Relocated structures that are altered such that they meet the definition of reconstruction shall meet

the requirements of Section 10.11,C,2. Legally existing, nonconforming structures that are part of a commercial sporting camp or are located in a DACSS listed in Appendix G, Section 2 of this chapter, may be relocated to a site that is less nonconforming.

4. Change of Use of a Nonconforming Structure. The use of a nonconforming structure shall not be changed without permit approval.

5. New, Detached Accessory Structures. New, detached accessory structures associated with pre-1971 residences and operating farms are allowed without a permit subject to the standards of Section 10.27,P. New accessory structures in areas of special flood hazard must also conform to the requirements of Section 10.23,C, the applicable development standards in Section 10.25,T, Activities in Flood Prone Areas, and all other applicable statutory and regulatory requirements. Permits are required for all other new detached accessory structures.

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

6. Enclosure of Decks and Porches. A permit is required for the complete or partial enclosure of decks and porches. Enclosure of decks and porches is not an expansion of floor area. If any portion of the structure is located within 25 feet, horizontal distance, of the normal high water mark of a water body, complete or partial enclosure of that portion of the structure is prohibited.

D. NONCONFORMING USES

1. Expansion of Use. Extension, enlargement or expansion of nonconforming uses requires a permit.

2. Change in Use. A nonconforming use may not be changed to another use without a permit.

3. Resumption of Use. A nonconforming use shall not be resumed if it has been discontinued or abandoned for a period exceeding two years, or if it has been superseded by a conforming use, unless it is in an area designated as a DACSS in Appendix G, Section 2 of this chapter within two years of when the use was discontinued or abandoned. Within a DACSS the Commission may waive this requirement for good cause.

E. NONCONFORMING LOTS

1. Expansion of Structures. Structures on nonconforming lots may not be expanded without a permit, except as provided for in Section 10.27,P.

2. Creation of Nonconforming Lots. A lot which has an established use or structure to which dimensional standards apply may not be divided or altered in a manner that makes the lot, or any structure or use, nonconforming or more nonconforming.

3. Pre-1971, Unimproved, Nonconforming Lots. An unimproved, nonconforming lot, legally existing as of September 23, 1971, may not be developed unless the lot meets criteria set forth in a or b below or the Commission grants a variance to those standards that make the lot nonconforming.

a. If a lot is at least 20,000 square feet in size, has at least 100 feet of shore frontage, and is not a contiguous lot as described in Section 10.11,E,5 below, the Commission may allow for development provided the development would meet the shoreline setback requirements in Section 10.26,D and would meet the other dimensional requirements to the maximum extent possible.

b. If a lot is at least 15,000 square feet in size, has at least 100 feet of shore frontage and 75 feet of road frontage, and is not a contiguous lot as described in Section 10.11,E,5 below, the Commission may allow for one storage structure having a height of no more than 16 feet, and a floor area of not more than 160 square feet provided that the lot is located in a subdistrict that allows residential accessory structures, except for the P-AL or P-GP2 subdistricts, and the proposed development would meet the residential shoreline setback requirements in Section 10.26,D and would meet the other dimensional requirements to the maximum extent possible. This provision may not be used to place such a storage structure on the same lot as a campsite as defined in 12 M.R.S. § 682(15). The structure may not be used for human habitation, may not have internal plumbing or a permanent foundation, and may not be used for a home occupation or for commercial use, but may only be used for non-commercial storage purposes.

4. Development of Other Nonconforming Lots. When a lot was lawfully created after September 23, 1971, in conformity with Commission dimensional requirements applicable at the time, the Commission may allow for development provided the development would meet all dimensional requirements to the maximum extent possible except that in no case shall a setback be reduced below that in effect at the time of the creation of the lot.

5. Contiguous Lots. Two or more contiguous lots in the same ownership that individually do not meet dimensional requirements shall be combined to the extent necessary to meet the dimensional requirements, except where:

a. Such lots are part of a subdivision approved by the Commission, or

b. Each lot has a legally existing dwelling unit that conformed to the Commission's rules at the time each lot was developed.

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

6. Expansion of Septic Systems. The conversion from primitive to combined septic systems on legally created and developed lots is allowed without a permit provided authorization is obtained

from the local plumbing inspector or from the Maine Department of Health and Human Services, Division of Health Engineering and provided there are no limitations on combined septic systems established by prior permit conditions.

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

a. The accessory structure is accessory to a legally existing residential dwelling;

b. The accessory lot is separated from the residential lot by a roadway. The accessory lot would be contiguous with the residential lot but for the roadway or right-of-way between them;

c. The accessory lot and residential lot are in common ownership or are both leased in common, and the bisecting roadway is in separate ownership or not leased in common with the two lots;

d. The accessory lot is at least 15,000 square feet in size;

e. The accessory lot's road frontage:

(1) Extends along the same segment of road as the residential lot,

(2) Is at least as long as the road frontage of the residential lot, or

(3) Meets the requirements of Section 10.26,C for residential dwellings;

f. The accessory lot and accessory structure satisfy the dimensional requirements for residential uses and dwellings in Section 10.26,B, D, E, and F, as may be affected by Section 10.26,G; and

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

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

10.12 SEVERABILITY

The provisions of this chapter are severable. If a section, sentence, clause or phrase of this chapter is adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this chapter.

10.13 EFFECTIVE DATE

The effective date of this chapter shall be, as to each particular area within the Commission's jurisdiction, the effective date of the zoning map for such particular area adopted pursuant to this chapter, except as otherwise provided by 12 M.R.S. § 685-A(7-A).

10.14 PENALTIES FOR VIOLATIONS

A person violating a provision of this chapter is subject to the provisions of 12 M.R.S. § 685-C(8).

10.15 APPEALS

The appeal of a decision of the Commission or Commission’s staff must be taken in accordance with Chapter 4 of these rules and applicable statutes.

10.16 MATERIALS INCORPORATED BY REFERENCE

Copies of each document incorporated by reference in this rule are available on the Commission's webpage (www.maine.gov/DACF/lupc/index.shtml). Alternatively, a paper copy may be available at cost by contacting the Maine Land Use Planning Commission's office.

10.17 (RESERVED)

10.18 (RESERVED)

10.19 (RESERVED)

10.20 (RESERVED)