Sub-Chapter III
LAND USE STANDARDS

10.24 GENERAL CRITERIA FOR APPROVAL OF PERMIT APPLICATIONS

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

A. CRITERIA FOR APPROVAL OF ALL PERMIT APPLICATIONS

1. "The commission may not approve an application, unless:

   A. Adequate technical and financial provision has been made for complying with the requirements of the State's air and water pollution control and other environmental laws, and those standards and regulations adopted with respect thereto, including without limitation the minimum lot size laws, [12 M.R.S.] Sections 4807 to 4807-G, the site location of development laws, Title 38, sections 481 to 489-E, and the natural resource protection laws, Title 38, sections 480-A to 480-Z, and adequate provision has been made for solid waste and sewage disposal, for controlling of offensive odors and for the securing and maintenance of sufficient healthful water supplies;

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

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

      (1) In making a determination under this paragraph regarding whether an applicant has made adequate provision for fitting the proposal harmoniously into the existing natural environment, the commission may consider the effect of at least 1.5 feet of sea level rise by 2050 and 4 feet of relative sea level rise by 2100 as specified by the Commission by rule adopted pursuant to section 685-A, subsection 3.

      (2) In making a determination under this paragraph regarding development to facilitate withdrawal of groundwater, the Commission shall consider the effects of the proposed withdrawal on waters of the State, as defined by Title 38, Section 361-A, subsection 7; water-related natural resources; and existing uses, including, but not limited to, public or private wells, within the anticipated zone of contribution to the withdrawal. In making findings under this subparagraph, the Commission shall consider both the direct effects of the proposed withdrawal and its effects in combination with existing water withdrawals.

      (3) In making a determination under this paragraph regarding a community-based offshore wind energy project, the commission shall consider the project's effects on scenic character and existing uses related to scenic character in accordance with Title 35-A, section 3452.

      (4) In making a determination under this paragraph regarding a wind energy development, as defined in Title 35-A, section 3451, subsection 11, that is not a grid-scale wind energy

development, that has a generating capacity of 100 kilowatts or greater and that is proposed for location within the expedited permitting area, the commission shall consider the development's or project's effects on scenic character and existing uses relating to scenic character in the manner provided for in Title 35-A, section 3452;

C-1. With respect to a wind energy development that has a generating capacity of 100 kilowatts or greater, the person proposing the development has received certification from the Department of Environmental Protection in the manner provided under Title 35-A, section 3456;

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

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

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

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

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

2. Pursuant to 12 M.R.S. Section 685-B,(4) in making a decision on an application for a community-based offshore wind energy project, the commission may not consider whether the project meets the specific criteria designated in 12 M.R.S. Section 1862, Subsection 2, paragraph A, subparagraph (6), divisions (a) to (d). This limitation is not intended to restrict the commission's review of related potential impacts of the project as determined by the commission.

B. CRITERIA FOR PERMIT APPLICATIONS INVOLVING SPECIAL EXCEPTIONS

The following criteria apply to permit applications for uses allowed by special exception in accordance with Sub-chapter II. The applicant must show by substantial evidence that:

1. there is no alternative site that is suitable to the proposed use and reasonably available to the applicant;

2. the use can be buffered from uses within the area likely to be affected by the proposal with which it is or may be incompatible;

3. such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan;

4. there is sufficient infrastructure to accommodate the additional traffic and activity generated by the use; and that surrounding resources and uses that may be sensitive to such increased traffic and activity are adequately protected;

5. the project will not result in traffic safety or capacity deficiencies in the vicinity of the project site;

6. the proposed use:

    a. will not unreasonably obstruct navigation channels or unreasonably preclude boating support facilities elsewhere in the harbor;

    b. is designed and located, to the extent feasible, so that it does not significantly interfere with the needs of the local fishing industry; and

    c. if not a water-dependent use, will not replace an existing water-dependent use; and will not substantially reduce existing public access to coastal wetlands;

7. either the use is integral to the business, or the use legally existed as of May 9, 2016;

8. the proposed use will not pose an unreasonable risk to a valuable groundwater resource and the P-AR subdistrict in which the use is proposed does not protect a sole source aquifer;

9. upon decommissioning of the facility all structures and materials associated with the development will be removed, and affected prime farmland soils will be replaced or restored to a state such that they could be utilized for active agricultural production; and

10. residential uses will not adversely affect permitted commercial uses within the subdistrict with which it is incompatible.

10.25 DEVELOPMENT STANDARDS

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

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

A. REVIEW STANDARDS FOR AREAS ADJACENT TO LAKES

For the purposes of this section, "areas adjacent to lakes" means areas within 250 feet of bodies of standing water greater than 10 acres in size, except i) where a water body related subdistrict extends to 500 feet, one-quarter mile, or one-half mile (e.g., the P-AL, P-GP2, and water body related P-RR subdistricts), or ii) where provisions regarding lake management classification dictate otherwise (e.g., MC1, MC3, and MC6 lakes).

1. General Land Use Standards

The standards set forth below must be met for all subdivisions and commercial, industrial, and other non-residential structures and uses proposed on land adjacent to lakes. These standards must also be considered in applying the criteria for adoption or amendment of land use district boundaries, as provided in Section 10.08, to proposed changes in subdistrict boundaries adjacent to lakes.

In applying the standards set forth below, the Commission must consider all relevant information available including the Maine Wildlands Lake Assessment Findings (Appendix C of this chapter), and relevant provisions of the Comprehensive Land Use Plan.

a. **Natural and cultural resource values.** The proposal will not adversely affect natural and cultural resource values identified as significant or outstanding in the Wildland Lakes Assessment (Appendix C of this chapter).

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

c. **Traditional uses.** The proposal will not have an undue adverse impact on traditional uses, including without limitation, non-intensive public recreation, sporting camp operations, timber harvesting, and agriculture;

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

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

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

g. Landowner equity. Where future development on a lake may be limited for water quality or other reasons, proposed development on each landownership does not exceed its proportionate share of total allowable development.

2. Lake Management Classification Standards.

Unless otherwise provided, the following standards apply to changes to subdistrict designations, development, and uses based on the lake management classifications as indicated on the Commission's *Land Use Guidance Maps*.

a. Management Class 1 Lakes.

(1) Areas within one-quarter mile of the normal high water mark of these lakes are not eligible to be rezoned to D-RB or D-RF subdistricts.

b. Management Class 2 Lakes.

(1) Applications proposing single family dwellings within 500 feet of the normal high water mark of these lakes within the D-ES, D-GN, D-GN2, D-GN3, D-RB, D-RS, D-RS2, or D-RS3 subdistricts must not result in an average density per landownership of more than one dwelling unit per shore mile.

(2) Applications proposing one or more development units within 500 feet of the normal high water mark of these lakes within the D-RF subdistrict must not result in more than one dwelling unit per shore mile.

c. Management Class 3 Lakes. (Lakes potentially suitable for development)

(1) P-GP2 subdistricts within 500 feet of the normal high water mark, measured as a horizontal distance, of Aziscohos Lake within Lincoln Plantation, Oxford County; or Lower Richardson Lake, Township C, Oxford County, the following apply:

(a) Allowed Densities

Parcels within the P-GP2 subdistrict that are in existence as of January 1, 2001 and that have more than 200 feet but less than 400 feet of shore frontage must be allowed one dwelling unit provided that other applicable requirements are met.

All parcels within the P-GP2 subdistrict that have more than 400 feet of shore frontage may be further developed subject to the following requirements:

(i) Maximum density of building units. Overall density within each lot must be no greater than 1 dwelling unit, principal building, or rental cabin for every 400 feet of shoreline up to a maximum density of 13 units per mile of shoreline.

If physical constraints restrict the development potential of more than 50% of the shore frontage of a parcel, the maximum allowable number of building units per mile of shoreline are reduced to one per 200 feet of shoreline that is not constrained. Constraints include slopes greater than 15%; wetlands; wildlife habitat such as deer wintering areas, eagle or loon nesting areas; habitat for rare or endangered plant and animals;

unique natural communities and natural areas; and historic and archeological resources.

(ii) Building units and density. For the purpose of determining density the following structures count as individual building units:

(aa) single family seasonal dwelling units;

(bb) rental cabins associated with campgrounds, sporting camps, or other commercial recreational facilities;

(cc) sporting camp lodges or other commercial recreational base lodge facilities containing three or fewer rental rooms; and

(dd) campgrounds.

Individual campsites, public and private trailered ramps, permanent docking facilities and water-access ways, and non-commercial structures for scientific, educational and/or nature observation purposes do not count as building units for the purposes of calculating allowable densities. Each set of up to three additional rental rooms, at sporting camp lodges or other commercial recreational base lodge facilities with more than three rental rooms, count as an additional unit.

(iii) Phosphorous control. All development must be designed in accordance with the Maine Department of Environmental Protection's "Maine Stormwater Best Management Practices Manual, Volume II, Phosphorous Control in Lake Watersheds: A Technical Guide to Evaluating New Development." Development density must conform to the requirements of this manual.

(iv) Extent of shoreline to be conserved. Within subdivisions, at least 50 percent of a landowner's ownership on a shoreline must be conserved to a depth of 500 feet or the depth of the lot, whichever is less, and set aside as open space according to the provisions of Section 10.25,S. The area to be conserved must be located so that it will create large and contiguous blocks of open space and/or to conserve sensitive resources and areas used traditionally by the public. This conservation of shoreline does not affect the amount of development allowed under the maximum density provision above.

(v) Build-out rate. No more than 20 individual units may be constructed in any ten-year period per lot of record as of the date of adoption of these rules, except that credit for unbuilt units may be carried over to the following time period where a maximum of 40 building units in any 10-year period may be developed.

(vi) Required buffer. No structural development will be allowed within a ¼ mile radius of any commercial sporting camp, campground, or group of rental cabins associated with a commercial sporting camp or campground. Individual campsites are excluded from this buffering requirement.

The buffer must extend from the edge of the principal building, dwelling unit, rental unit, or campsite that is closest to any adjacent use.

d. Management Class 4 Lakes.

(1) Proposals within 250 feet of the normal high water mark of these lakes involving any of the following situations must indicate future plans for other undeveloped shorelands adjacent to the lake of the same ownership:

(a) subdivisions and commercial, industrial, or other non-residential structures or uses within the D-CI, D-ES, D-GN, D-GN2, D-RB, D-RS, D-RS2, or D-RS3 subdistricts;

(b) any nonresidential structure or use within the D-GN3 subdistrict;

(c) any recreation day use facility or recreation supply facility in the D-RD subdistrict; and

(d) subdivisions and recreation facilities, recreational lodging facilities, and other non-residential structures or uses within the D-RF subdistrict;

(2) The future plans will be considered part of the proposal and any changes will be subject to approval of an application to amend the original proposal. An applicant's proposed future plans must address, at a minimum, the next 10 years, and must include, but not be limited to, the following information regarding the applicant's land ownership on the lake:

(a) ownership area and shoreline length;

(b) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and

(c) proposed or anticipated development, if any.

e. Management Class 5 Lakes.

(1) Subdivisions within 250 feet of the normal high water mark of these lakes within the D-ES, D-GN2, D-RS2, or D-RS3 subdistricts, must be designed in accordance with Section 10.25,Q,4,b.

f. Management Class 6 Lakes.

(1) Areas within one-half mile of the normal high water mark of these lakes are not eligible to be rezoned to D-RB or D-RF subdistricts.

3. Water Quality Limiting Lakes Standards.

The methodology used to identify water quality limiting lakes is shown in Appendix A of this chapter.

Water quality limiting lakes include those bodies of standing water 10 acres or greater in size where the Commission determines that the maximum number of allowable dwelling units would give rise to a significant risk of increasing the phosphorus concentration of the water by 5 parts per billion or more. Such Commission determination must be based on available information and according to minimum shoreline frontage requirements.

With respect to future development near a water quality limiting lake, the Commission may impose more protective standards and dimensional requirements to reasonably assure that the maximum allowable change in phosphorus concentration for the waterbody is not exceeded.

B. REVIEW STANDARDS FOR SUBDISTRICTS IN PROSPECTIVELY ZONED AREAS

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

1. Dimensional Standards.

a. Road frontage requirements: See Section 10.26,C.

b. Building setbacks from roads: See Section 10.26,D.

c. Lot coverage requirements: See Section 10.26,E.

d. Structure height: See Section 10.26,F.

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

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

b. Minimum widths for the vegetated buffer are as follows:

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

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

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

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

(1) Property line buffer from adjacent development that is of a similar type, use, and intensity where adjacent landowners provide written agreement that a property line buffer is not needed;

(2) Existing development where extensive clearing already exists at the time of adoption of these rules January 1, 2001;

(3) New development where the establishment of buffers would eliminate or interfere with existing scenic views;

(4) In a "Main Street" setting, that is defined as an area where 80% of a street is developed with buildings, where side and rear property line buffers would interfere with pedestrian circulation or access; and

(5) Buffer for a D-ES and D-CI subdistrict boundary where adjacent uses are compatible.

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

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

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

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

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

C. TECHNICAL AND FINANCIAL CAPACITY

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

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

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

D. VEHICULAR CIRCULATION, ACCESS, AND PARKING

1. General Circulation. Provision must be made for vehicular access to and within the project premises in such a manner as to avoid traffic congestion and safeguard against hazards to traffic and pedestrians along existing roadways and within the project area. Development must be located and designed so that the roadways and intersections in the vicinity of the development will be able to safely and efficiently handle the traffic attributable to the development in its fully operational stage.

2. Access Management. Access onto any roadway must comply with all applicable Maine Department of Transportation safety standards. For subdivisions and commercial, industrial and other non-residential development, the following standards also apply:

a. The number and width of entrances and exits onto any roadway must be limited to that necessary for safe entering and exiting.

b. Access must be designed such that vehicles may exit the premises without backing onto any public roadway or shoulder.

c. Shared road access must be implemented wherever practicable.

d. Access between the roadway and the property must intersect the roadway at an angle as near to 90 degrees as site conditions allow, but in no case less than 60 degrees.

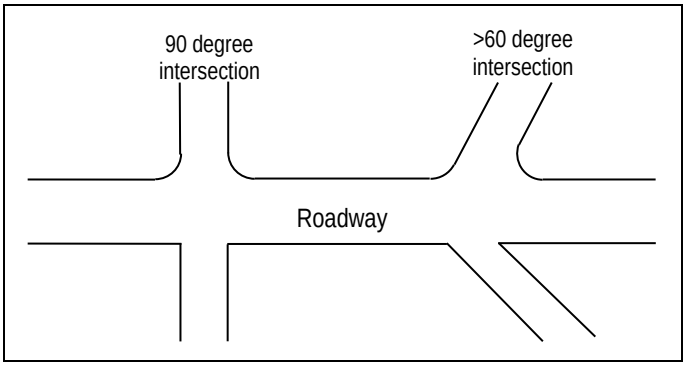

Figure 10.25,D-1. Intersection angle.

e. The Commission may require a traffic impact study of roadways and intersections in the vicinity of the proposed project site if the proposed development has the potential of generating significant amounts of traffic or if traffic safety or capacity deficiencies exist in the vicinity of the project site.

3. Parking Layout and Design. The following standards apply to all subdivisions and commercial, industrial and other non-residential development, except for parking areas associated with trailered ramps and hand-carry launches which are regulated under the provisions of Section 10.27,L:

a. Sufficient parking must be provided to meet the parking needs of the development. The minimum number of parking spaces required are:

(1) One parking space plus one additional parking space per 300 square feet of floor area for retail stores and services;

(2) One parking space plus one additional parking space per four seats for eating and drinking establishments;

(3) One parking space per dwelling unit or rental unit for multi-family dwellings and lodging establishments, excepting recreational lodging facilities;

(4) Adequate capacity for all other activities not listed above based on parking generation rates determined in accordance with standard engineering practices; and

(5) The minimum number of accessible parking spaces must meet the "2010 Americans with Disabilities Act (ADA) Standards for Accessible Design." U.S. Department of Justice. (September 15, 2010).

b. In cases where the applicant demonstrates that a particular structure can be occupied, or a use can be carried out with a different number of parking spaces than required, the Commission may reduce or increase the number of required parking spaces upon finding that the proposed number of parking spaces will meet the parking needs of the development and will not cause congestion or safety problems.

c. Parking areas and access roads must be designed such that runoff water is discharged to a vegetated buffer as sheet flow or alternatively collected and allowed to discharge to a concentrated flow channel, wetland or water body at a rate similar to pre-construction conditions. If runoff water is discharged to a concentrated flow channel, wetland or water body, a sediment basin must be constructed to collect sediment before the runoff water is discharged.

d. **On-street parking.** In areas where on-street parking already exists, new development must have on-street parking where practicable and if there are sufficient spaces available in the immediate vicinity. Otherwise, parallel or diagonal on-street parking is permitted where the Commission finds that it will adequately meet the parking needs of the development and will not cause congestion or safety problems. Perpendicular on-street parking is prohibited. When an approaching vehicle is within 200 feet of a parking space, it must have a clear view for 300 feet beyond the parking space.

e. **Off-street Parking for Commercial, Industrial and Other Non-residential Development.**

(1) Where practicable, off-street parking must be located to the side or rear of the principal structure.

(2) The minimum dimensions for individual parking spaces are 10 feet by 20 feet, except that the minimum dimensions for individual accessible parking spaces must meet the "2010 Americans with Disabilities Act (ADA) Standards for Accessible Design." U.S. Department of Justice. (September 15, 2010). The Commission may reduce the minimum dimensions for standard individual parking spaces provided that the proposed dimensions will meet the parking needs of the development and will not cause congestion or safety problems.

(3) Off-street parking areas must have a minimum travel lane width of 20 feet.

(4) Notwithstanding the dimensional requirements of Section 10.26, the Commission may reduce the minimum road setback requirement by up to 50 percent or to no less than 20 feet, whichever is greater, for development utilizing on-street parking in accordance with Section 10.25,D,3,c or for development whose parking area is located

to the rear of the principal structure, except where the Commission finds that such parking will cause an undue adverse impact to the natural resources or community character of the area.

(5) Off-street parking must not be directly accessible from any public roadway. Ingress and egress to parking areas must be limited to driveway entrances.

(6) Off-street parking areas with more than two parking spaces must be arranged so that each space can be used without moving another vehicle.

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

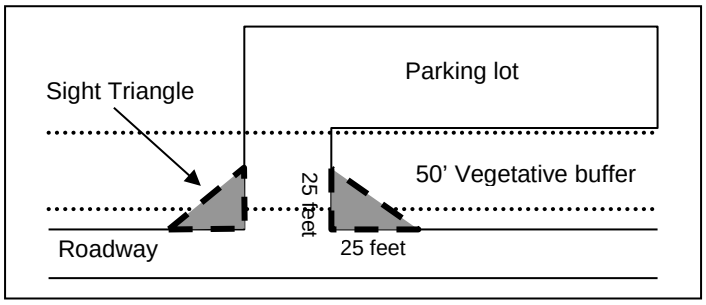

Figure 10.25,D-2. Sight triangle within a vegetative buffer.

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

h. When parking areas associated with commercial, industrial or other non-residential development are adjacent to residential structures or uses, landscaping and/or architectural screens must be used to provide an effective visual buffer and separation between property lines and the edge of the parking area.

i. When commercial, industrial or other non-residential development include any one parking area greater than one acre in size, a landscaping plan must be developed and implemented that indicates planting locations, type and maintenance. The plan must include the following:

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

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

4. Subdivision and Development Roadway Design Specifications. The following standards apply to Level B and Level C road projects:

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

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

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

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

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

(1) The number of lots served by the roadway or projected level of use;

(2) The nature of roadways accessing the project site;

(3) Location in relation to surrounding patterns of development;

(4) The level of development within the vicinity of the project;

(5) Natural and imposed limits on future development;

(6) The type and intensity of the proposed use; and

(7) Service by utilities or likelihood of service in the future.

c. Roadway Design.

(1) To the fullest extent practicable, roadways must be designed to first fit the natural topography of the land such that cuts and fills are minimized, and then to minimize the overall length, minimize the use of ditching, and protect scenic vistas while preserving the scenic qualities of surrounding lands.

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

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

Maximum sustained grade for Class 1 roadways may be increased by up to five percent over that specified in Table 10.25,D-1 below, if no other option is practicable, provided that the roadway portion exceeding the maximum sustained grade standard is no longer than 300 feet in length and is greater than 150 feet from the next down-hill road intersection, and the Commission determines that the proposed alternative grade will not cause unreasonable drainage, erosion or public safety impacts.

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

Table 10.25,D-1. Roadway construction specifications.

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

d. Additional Subdivision Road Standards.

(1) Emergency Egress. All subdivisions that include a new interior road exceeding one-quarter mile in length must include provisions for all lot owners to have at least two ways of emergency egress from the development. Emergency egress may include: (i) egress by water for subdivisions on water bodies, provided there is a legally enforceable right of egress off the water body such as a public boat ramp or dock, and (ii) may include existing motorized trails maintained for public access, provided all lot owners have a legally enforceable right to access the trail.

(2) New Entrances. Subdivision access must be limited to no more than two new entrances onto an existing roadway within any one-half mile section of the existing road. Also, where practicable for the proposed development site, subdivision roads must be designed such that new entrances onto existing roads are located directly across from existing entrances on the roadway, allowing for safe cross movement of traffic at the intersection.

(3) Future Connectivity.

(a) Whenever there is remaining land on a parcel proposed for subdivision that is not included in the subdivision layout and design, the subdivision design must include provisions for future access to the remaining land to accommodate and minimize conflicts between proposed and future uses such as timber harvests, further lot development, or recreation.

(b) Right-of-way widths for internal subdivision roads must include sufficient room for future expansion unless demonstrated that future expansion is not technically feasible. Rights-of-ways must be at least 50 feet in width.

(4) Road and Infrastructure Maintenance.

(a) Subdivision designs must include a plan for long-term maintenance of the subdivision access roads and common infrastructure, including but not limited to maintenance of drainage structures, water crossings, and road grading or resurfacing. The plan must include a list of inspection and maintenance tasks, recommended task frequency, and a responsible party.

(b) If an association is proposed for maintenance of roads and common infrastructure, documents necessary for establishing the association must be created. The documents must require lot owner or lessee membership, lot owner or lot lessee rights and privileges, association responsibilities and authority, operating procedures, proper capitalization to cover operating costs, and the subdivision developer's responsibilities until development sufficient to support the association has taken place. Responsibilities of the association must include the maintenance of common property, infrastructure, or facilities; assessing annual charges to all owners or lessees to cover expenses; and the power to place liens on property of members who fail to pay assessments. The following governmental entities are not required to be members of road associations: the State; executive branch agencies of the State; counties; municipalities, townships, or plantations; or the federal government. Those governmental entities, however, should work with associations to create an agreement through which, subject to allocation by the Maine Legislature or applicable budgetary authority, the governmental entity would contribute a fair percentage of the minimum maintenance and repair costs through financial contributions or in-kind services.

E. NATURAL CHARACTER AND CULTURAL RESOURCES

1. Scenic Character.

a. The design of proposed development shall take into account the scenic character of the surrounding area. Structures shall be located, designed and landscaped to reasonably minimize their visual impact on the surrounding area, particularly when viewed from existing roadways, with attention to designated scenic byways; major water bodies; coastal wetlands; permanent trails; or public property.

b. To the extent practicable, proposed structures and other visually intrusive development shall be placed in locations least likely to block or interrupt scenic views as seen from existing roadways, with attention to designated scenic byways, major water bodies, coastal wetlands, permanent trails, or public property.

2. Hillside Resources. The standards for hillside resources must be met for all subdivision, residential, commercial, industrial, and other non-residential development, if any portion of the project area is located on a hillside, except as provided in Section 10.25,E,2,a below.

a. Exceptions. The hillside resources standards in Sections 10.25,E,2,c through f do not apply to:

(1) Features of structures within non-residential developments that contain no floor area such as chimneys, towers, ventilators, and spires; or to freestanding towers and turbines; or

(2) A development or portions of a development that will not be visible from existing roadways, major water bodies, coastal wetlands, permanent trails, or public property located within three miles of the project boundary. Where views of the development are blocked by natural conditions or features such as existing vegetation, to qualify for this exception, the applicant shall demonstrate that these obstructing features or conditions will not be materially altered in the future by any uses allowed with or without a permit. In cases where the Commission determines the development will be visually intrusive or where there is a particularly sensitive resource more than three miles away, the Commission may increase the distance for determining applicability of the hillside standards.

b. Stormwater Management. The proposal must include plans for the construction and maintenance of stormwater best management practices designed to slow down and spread runoff from developed areas and ensure that increased runoff does not cause downgradient soil erosion.

c. Ridgeline Protection. The development must be designed to ensure buildings, structures, and other improvements will not extend above the existing ridgeline or otherwise alter the ridge profile significantly when viewed from existing roadways, major water bodies, coastal wetlands, permanent trails, or public property.

d. Vegetative Clearing. The proposal must include a vegetation management plan that establishes and provides for long-term maintenance of clearing limits that will minimize potential impacts to views from existing roadways, major water bodies, coastal wetlands, permanent trails, and public property. The vegetation management plan must ensure:

(1) There will be a sufficient area of clearing allowed around buildings to maintain the minimum extent needed for defensible space for fire safety, generally 30 feet in width;

(2) There will be sufficient vegetation maintained on steep slopes to protect long-term slope stability;

(3) Existing forest cover will be maintained to interrupt the view of the façade of buildings, provide a forested backdrop to buildings, and reduce or eliminate the visual impact of new development;

(4) Clearing for views will be limited, with narrow view openings between trees and beneath tree canopies being a desirable alternative to clearing large openings adjacent to building facades; and

(5) If cleared openings are allowed outside the building envelope, such as clearing for views, the plan shall include a quantifiable standard for limiting that clearing. For example, an applicant may propose that any trees removed for views will not exceed a 25-foot width of clearcutting and extend, outward at an angle of 45 degrees or less on both sides, beyond a point down-slope where the tops of the trees are at the same elevation as the lowest adjacent grade for the principal building. The 25-foot opening may be located at any point along the down-slope boundary of the building envelope.

(6) The Commission may require additional vegetative clearing limitations or standards in cases where the proposed development could be visible from a scenic resource that has a unique or special value relative to other scenic resources in the area.

e. Structural Development. The development must provide for building designs that will complement the site and topography (e.g., avoiding long unbroken roof lines; orienting buildings such that the greatest horizontal dimension of the structure is parallel with, and not perpendicular to, the natural contour of the land; stepping the building down the slope rather than creating building pads that require extensive excavation and filling, and sloping roofs in the direction and general angle of the natural slope on the project site).

f. Construction Materials. The development must be designed to ensure that:

(1) The exterior colors of structures, including but not limited to siding, roofing, retaining structures, foundations, trim, gutters, vents and chimneys, will be a muted tone naturally found at the specific site or in the surrounding landscape.

(2) Structures use only low or non-reflective exterior building materials, including but not limited to windows, roofing, gutters, vents, and chimneys. If a highly reflective material, such as aluminum or other smooth metal, is used for an essential component of the structure because no other material is reasonably available for that component, reduced reflectivity must be incorporated and maintained to the greatest extent practicable by, for example, painting the component with a muted color naturally found at the site, boxing in the component with non-reflective material, or using a textured or pre-weathered version of the component.

g. Linear Infrastructure. Roads, driveways, utility corridors, and other similar linear infrastructure must be located and constructed so as to minimize the visibility of corridor openings to the extent practicable (by, for example, following topographic contours and retaining existing vegetation).

h. Lighting. All lighting for the development must comply with the standards of Section 10.25,F.

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

F. NOISE AND LIGHTING

1. Noise.

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

Subdistrict (Category)	7:00 AM to 7:00 PM	7:00 PM to 7:00 AM
D-CI, D-MT, D-RB (*Category 3*), and D-ES	70 dB(A)	65 dB(A)
D-GN, D-GN2, D-RB (*Categories* 1 & 2), D-RF, and D-RD	65 dB(A)	55 dB(A)
D-PD, D-PR	As determined by the Commission.	
All Other Subdistricts	55 dB(A)	45 dB(A)

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

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

(1) Sounds emanating from construction-related activities conducted between 7:00 A.M. and 7:00 P.M.;

(2) Sounds emanating from safety signals, warning devices, emergency pressure relief valves, and other emergency activities; and

(3) Sounds emanating from traffic on roadways or other transportation facilities:

c. Control of noise for a wind energy development as defined in 35-A M.R.S. § 3451(11), with a generating capacity greater than 100 kilowatts is not governed by Section 10.25,F, and instead is governed solely by the provisions of 12 M.R.S. § 685-B(4-B)(A).

2. Exterior Lighting Standards.

a. All new exterior lighting sources for residential, commercial, and industrial development must have a Correlated Color Temperature of 3,000 Kelvin (K) or less.

b. All new exterior lighting sources for residential, commercial, and industrial development must be fully shielded light fixtures, except for lights of 1,800 lumen or less. Figure 10.25,F-1 illustrates fully shielded fixtures.

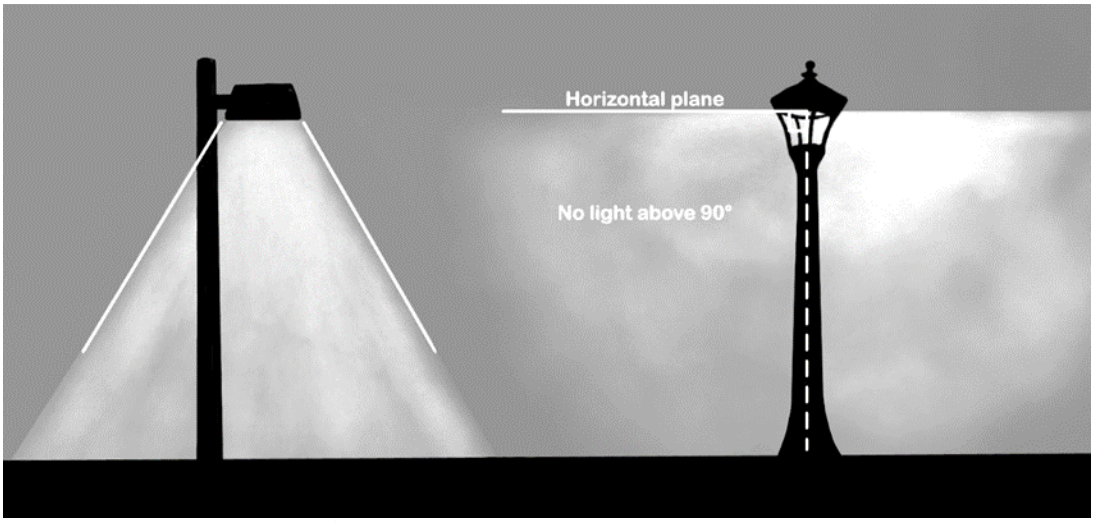

Figure 10.25,F-1. Fully shielded light fixtures.

c. Light fixtures mounted on commercial awnings or canopies such as those found at gasoline stations or convenience stores must be recessed so that fixtures are flush with the canopy.

d. All exterior lighting must be designed, located, installed, and directed downward to illuminate only the target area, to the extent practicable. Activities must not produce a strong, dazzling light or reflection of that light beyond lot lines onto neighboring properties, any water bodies, or any roadway so as to impair the vision of the driver of any vehicle upon that roadway or to create nuisance conditions.

e. For commercial, industrial, and other non-residential development, all non-essential lighting must be turned off after business hours, leaving only the minimal necessary lighting for site security. The term “non-essential” applies, without limitation, to display, aesthetic, and parking lighting that is not motion-activated.

f. An exterior lighting plan must be submitted for proposed subdivisions and proposed non-residential, commercial, or industrial projects with structural development requiring a permit. The exterior lighting plan must include the following information for each existing and proposed exterior light fixture: the location, type of fixture, bulb lumens, and Correlated Color Temperature, and whether it is a motion activated fixture. The lighting plan must also include the cumulative total lumens for the project.

g. In addition to the lighting standards in Section 10.25,F,2, lighted signs must also comply with the standards in Section 10.27,J or applicable permit conditions.

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

(1) Lighting required by the Federal Aviation Administration;

(2) Use of exterior lighting sources for temporary events such as sporting events, public festivals, celebrations, or the observance of holidays;

(3) Emergency lighting, provided it is temporary and is discontinued upon termination of the work;

(4) Lighting emitting brightness less than 500 lumens;

(5) Lighting that was in place on January 29, 2025; and

(6) Temporary lighting associated with road construction or repair; or agricultural management or forest management activities as defined in Chapter 2.

3. Lighting standards for ski resorts and similar outdoor winter recreational facilities.

a. Ski resorts and similar outdoor recreational facilities are exempt from the fully shielded standard of Section 10.25,F,2,b during the ski season when snow is on the ground.

b. If exterior lights are used during non-snow seasons, then fixtures must comply with the fully shielded standard of Section 10.25,F,2,b unless otherwise exempt pursuant to Section 10.25,F,2,h.

4. Lighting standards for non-residential greenhouses.

a. Greenhouse lighting must be fully shielded between sunset and sunrise and must not illuminate exterior areas or otherwise make the greenhouse appear to glow.

G. SOIL SUITABILITY

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

1. Soil types are determined by a site-specific soil survey, according to the "Guidelines for Maine Certified Soil Scientists for Soil Identification and Mapping" Maine Association of Professional Soil Scientists, 2009. The soil survey class must be determined as follows, unless the Commission finds that a lower intensity soil survey will provide the information necessary or a higher intensity soil survey class is needed for the Commission's review:

a. For all subdivisions, a Class B high intensity soil survey must be used to identify soils within the proposed building envelopes and other disturbed areas, aside from proposed access roads, driveway locations, and utility lines. The Class B survey for this purpose must be completed with a minimum delineation of one acre for similar soils and one-quarter acre for dissimilar soils. For proposed access roads, driveway locations and utility lines, a Class L soil survey must be used. A Class C soil survey may be used to identify soils elsewhere within the project area.

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

c. For linear projects or project components that involve soil disturbance, such as road construction, fairway construction or trail construction and that have little or no adjacent development, a Class L soil survey shall be used.

d. **Hydric Soils and Soils Potential Ratings.** Hydric soil map units, and map units with a low or very low development potential rating for low density development must be clearly identified on the soil survey map as being hydric soils or as having a low or very low development potential rating, respectively.

e. **Exceptions.** The Commission may:

(1) Allow the use of U.S.D.A. Natural Resources Conservation Service (NRCS) Soil Survey published mapping in lieu of any Class C soil survey required in Sections 10.25,G,1,a through c when the published mapping indicates the map unit(s) in the project area is rated with a medium or high potential for low density development.

(2) Allow the use of NRCS Soil Survey published mapping in lieu of any Class C soil survey required in Sections 10.25,G,1,a through c for areas within a development that will be preserved as undeveloped open space in accordance with Section 10.25,S.

(3) In lieu of a site-specific soil survey of any proposed disturbed area within a development, the Commission may allow use of a geotechnical investigation prepared for that area by a registered professional engineer and other licensed professionals, as appropriate, if the Commission determines that the geotechnical report will provide sufficient information.

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

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

3. For all developments that include onsite subsurface wastewater disposal, a sufficient number of test pits must be provided within the footprints of all proposed wastewater disposal fields to adequately document that disposal fields can be installed entirely on soils and slopes in compliance with the Subsurface Wastewater Disposal Rules (10-144A CMR 241).

a. At least one test pit shall be dug within the boundaries of each subdivision lot proposed to be served by a combined septic system. The applicant shall provide additional subsurface exploration data for certain soil conditions or disposal field designs, in accordance with the following requirements:

(1) Soil conditions AII and AIII (bedrock depth nine inches to 24 inches). A minimum of five subsurface explorations: one test pit is to be centrally-located within each disposal field footprint, plus a subsurface exploration at each disposal field corner which may consist of either a test pit, boring, or probe.

(2) Soil with profile 8- or 9-parent material (lacustrine/marine deposits). A minimum of two test pits, one of which shall be in the area of the disposal field footprint where the most limiting condition is expected based on the best professional judgement of the Licensed Site Evaluator.

(3) Soil condition D (limiting factor depth less than 15 inches). A minimum of two test pits, one of which shall be in the area of the disposal field footprint where the most limiting condition is expected based on the best professional judgement of the Licensed Site Evaluator.

(4) Disposal field length of 60 feet or longer. A minimum of two test pits, one of which shall be in the area of the disposal field footprint where the most limiting condition is expected based on the best professional judgement of the Licensed Site Evaluator.

b. For lots to be served by primitive and limited disposal systems, evidence must be submitted to show there are suitable locations on the lot for a grey water disposal field, any proposed pit privy (outhouse), and a backup system reserve area as required by and in compliance with the Subsurface Wastewater Disposal Rules (10-144A CMR 241,4,I). At least one test pit shall be dug within the boundaries of each proposed disposal area and the backup system reserve area on the lot.

c. The location of such test pits shall be shown on the subdivision plat.

H. SOLID WASTE DISPOSAL

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

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

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

I. WASTEWATER DISPOSAL

1. No permit will be issued for a project with subsurface wastewater disposal unless an acceptable plan to construct the absorption area is prepared. Where wastewater is to be disposed on-site by a subsurface wastewater system, the system must be designed by a licensed site evaluator or a Maine Licensed Professional Engineer, in accordance with the Subsurface Wastewater Disposal Rules, or must be licensed by the Maine Department of Environmental Protection pursuant to 38 M.R.S. § 413(1-B)(A).

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

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

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

J. WATER SUPPLY

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

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

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

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

5. When a project is to be served by a public water system, the location and protection of the source, the design, construction and operation of the system shall conform to the standards of the "Rules Relating to Drinking Water", Maine Department of Health and Human Services, Chapter 231.

K. SURFACE WATER QUALITY

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

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

L. PHOSPHORUS CONTROL

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

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

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

2. General Standards.

a. Provision must be made to limit the export of phosphorus from the site following completion of the development or subdivision so that the project will not exceed the allowable per-acre phosphorus allocation for the water body, determined by the Commission according to the "Maine Stormwater Management Design Manual, Volume II, Phosphorus Control Manual" Maine Department of Environmental Protection. (March 2016), and hereafter cited as the 2016 Phosphorus Control Manual.

b. Impact Analysis. The phosphorus impact analysis and control plan for a proposed subdivision or development on a water body must be prepared using the procedures set forth in the 2016 Phosphorus Control Manual, including all worksheets, engineering calculations, and construction specifications and diagrams for control measures as may be required by the manual, except as allowed in Section 10.25,L,2,d, below.

c. Erosion Control. All filling, grading, excavation or other similar activities that result in unstabilized soil conditions must meet the standards of Section 10.25,M.

d. Alternative Standard Option. In lieu of meeting the general standard in Section 10.25,L,2,a, and conducting a phosphorus impact analysis according to Section 10.25,L,2,b, an applicant with a project that includes less than three acres of impervious area and less than five acres of developed area in a watershed of a body of standing water that is not severely blooming (as identified in 06-096 CMR 502, Appendix A), may choose to limit the export of phosphorus from the site by meeting the alternative buffer standard in Section 10.25,L,3. For the purposes of Section 10.25,L,2,d, developed area means all disturbed area, including, in the case of a subdivision, all proposed building envelopes, but excluding area that within one calendar year of being disturbed is returned to a condition with the same drainage pattern that existed prior to the disturbance and is revegetated, provided the revegetated area is not mowed more than once per year.

3. Alternative Buffer Standard.

a. To meet the alternative standard, a project must include treatment measures that will provide for effective treatment of phosphorus in stormwater. This must be achieved by using vegetated buffers to control runoff from no less than 95 percent of the impervious area and no less than 80 percent of the developed area that is impervious, landscaped or otherwise disturbed, except as provided in Section 10.25,L,3,d below.

b. Vegetated Buffers. Vegetated buffers for phosphorus control are undisturbed strips of dense vegetation located adjacent to and down gradient of developed areas, and that provide storage and treatment for stormwater that enters them in diffuse overland flow. Five types of

vegetated buffers are allowed under the alternative standard as listed in Section 10.25,L,3,b,(1) through (5) below. All vegetated buffers must be appropriately used, located, designed, sized, constructed, and maintained as specified in the "Maine Stormwater Management Design Manual, Volume III, Technical Design Manual" Maine Department of Environmental Protection. (May 2016), and hereafter cited as the Technical Design Manual. Where the Technical Design Manual allows for a variation in the design specification with approval from the Department of Environmental Protection, approval from the Land Use Planning Commission is required for projects located in the unorganized and deorganized areas of Maine.

(1) Buffers adjacent to residential, largely pervious or small impervious areas;

(2) Buffers with stone bermed level lip spreaders;

(3) Buffers adjacent to the downhill side of a road;

(4) Ditch turn-out buffers; and

(5) Buffers down gradient of a single family residential lot.

c. Deed Restrictions and Covenants. Areas designated as vegetated buffers, not otherwise protected as open space in accordance with Section 10.25,S, must be clearly identified on the subdivision plat and plans, and protected from alteration by deed restrictions and covenants.

d. Exception for Linear Portions of a Project. For a linear portion(s) of a project, runoff control may be reduced to no less than 75 percent of the impervious area and no less than 50 percent of the developed area that is impervious, landscaped or otherwise disturbed.

4. Design and Maintenance Standards.

a. Phosphorus control measures and their maintenance shall meet the design criteria contained in the "Maine Stormwater Management Design Manual, Volume III, Technical Design Manual" Maine Department of Environmental Protection. (May 2016), and hereafter cited as the Technical Design Manual.

b. Structural Measures. High maintenance structural measures, such as wet ponds and runoff infiltration systems, shall not be used as part of any proposed phosphorus control plan unless:

(1) Other measures, such as increasing the width of vegetated buffers, greater limits on clearing, reducing road lengths, and clustering of lots to achieve less disturbed area are clearly demonstrated to be insufficient to allow the proposed development to meet the standards of Section 10.25,L; and

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

M. EROSION AND SEDIMENTATION CONTROL

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

1. General Standards.

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

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

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

2. Design Standards.

a. Permanent and temporary erosion and sedimentation control measures shall meet the standards and specifications of the "Maine Erosion and Sediment Control Practices Field Guide for Contractors". Maine Department of Environmental Protection (2015) or other equally effective practices. Areas of disturbed soil shall be stabilized according to the "Guidelines for Vegetative Stabilization" (Appendix B of this chapter) or by alternative measures that are equally effective in stabilizing disturbed areas.

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

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

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

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

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

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

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

3. Erosion and Sedimentation Control Plan.

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

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

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

(a) A drawing illustrating general land cover, general slope and other important natural features such as drainage ditches and water bodies.

(b) A sequence of construction of the development site, including clearing, grading, construction, and landscaping.

(c) A general description of all temporary and permanent control measures.

(d) Provisions for the continued maintenance of all control devices or measures.

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

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

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

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

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

4. Inspection.

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

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

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

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

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

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

(2) All inspections shall be documented in writing and made available to the Commission upon request. Such documentation shall be retained by the applicant for at least six months after all permanent control measures have been effectively implemented.

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

N. GROUNDWATER QUALITY

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

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

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

O. AIR QUALITY

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

P. PROTECTED NATURAL RESOURCES

1. Review Standards for Determinations of No Unreasonable Impacts.

The following standards apply to permit applications affecting protected natural resources as listed in Sections 10.25,P,2 and 3 and requiring determinations of no unreasonable impacts. For Tier 1 reviews, the applicable standards are limited to Sections 10.25,P,1,b, c, and e.

a. **Existing Uses.** The activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses.

b. **Soil Erosion.** The activity will not cause unreasonable erosion of soil or sediment or unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

c. **Harm to Habitats; Fisheries.** The activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life.

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

For purposes of Section 10.25,P,1,c, "mitigation" means any action taken or not taken to avoid, minimize, rectify, reduce, eliminate or compensate for any actual or potential adverse impact on the significant wildlife habitat, including the following:

(1) Avoiding an impact altogether by not taking a certain action or parts of an action;

(2) Minimizing an impact by limiting the magnitude, duration or location of an activity or by controlling the timing of an activity;

(3) Rectifying an impact by repairing, rehabilitating or restoring the affected environment;

(4) Reducing or eliminating an impact over time through preservation and maintenance operations during the life of the project; or

(5) Compensating for an impact by replacing the affected significant wildlife habitat.

d. **Interference with Natural Water Flow.** The activity will not unreasonably interfere with the natural flow of any surface or subsurface water.

e. **Lower Water Quality.** The activity will not violate any state water quality law, including those governing the classification of the State's waters.

f. **Flooding.** The activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.

g. Sand Supply. If the activity is on or adjacent to a sand dune, it will not unreasonably interfere with the natural supply or movement of sand or gravel within or to the sand dune system or unreasonably increase the erosion hazard to the sand dune system.

h. Outstanding River Segments. If the proposed activity is a crossing of any outstanding river segment as identified in Section 10.23,I, the applicant shall demonstrate that no reasonable alternative exists which would have less adverse effect upon the natural and recreational features of the river segment.

i. Dredging. If the proposed activity involves dredging, dredge spoils disposal or transporting dredge spoils by water, the applicant must demonstrate that the transportation route minimizes adverse impacts on the fishing industry and that the disposal site is geologically suitable.

In evaluating whether the applicant has made the required demonstration under Section 10.25,P,1,i, above, the Commission must request an assessment from the Commissioner of Marine Resources consistent with the assessment required by 38 M.R.S. § 480-D(9), and take into consideration any assessment timely provided by the Commissioner in response to this request. Any permit issued by the Land Use Planning Commission must require the applicant to:

(1) Clearly mark or designate the dredging area, the spoils disposal route and the transportation route;

(2) Publish in a newspaper of general circulation in the area adjacent to the route the approved transportation route of the dredge spoils; and

(3) Publish in a newspaper of general circulation in the area adjacent to the route a procedure that the applicant will use to respond to inquiries regarding the loss of fishing gear during the dredging operation.

2. Water Bodies and Wetlands.

The following requirements apply to alterations of non-tidal water bodies, freshwater wetlands, and coastal wetlands, regardless of whether they are located in a P-WL subdistrict, for Uses Requiring a Permit and Special Exceptions in Sub-Chapter II. Except as hereinafter provided, water body or wetland alterations not in conformance with the standards of Section 10.25,P are prohibited.

a. Procedural Requirements.

(1) **Area of Project Alteration.**

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

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

(2) **Level of Permit Review.**

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

(a) Tier 1 reviews apply to projects altering 4,300 up to 15,000 square feet of P-WL2 wetlands, P-WL3 wetlands, or P-WL1 wetlands where the wetland is included as a P-WL1 wetland of special significance solely on the basis of its containing an S1 or S2 natural community.

(b) Tier 2 reviews apply to projects altering 15,000 up to 43,560 square feet (one acre) of P-WL2 or P-WL3 wetlands.

(c) Tier 3 reviews apply to projects altering any area of P-WL1 wetlands except as otherwise provided in Section 10.25,P,2,a,(2),(a), or one acre or more of P-WL2 or P-WL3 wetlands.

Alterations of P-WL1 wetlands may be eligible for Tier 1 or 2 review if the Commission determines, at the applicant's request, that the activity will not have an unreasonable negative effect on the freshwater wetlands or other protected natural resources present. In making this determination, consideration shall include but not be limited to, such factors as the size of the alteration, functions of the impacted area, existing development or character of the area in and around the alteration site, elevation differences and hydrological connection to surface water or other protected natural resources.

(d) For wetlands not located in a P-WL subdistrict, the level of permit review will be determined based on the type of wetland and consistent with the descriptions in Section 10.23,N,2,a.

(3) **Seasonal Factors.**

When determining the significance of a resource or impact from an activity, seasonal factors and events that temporarily reduce the numbers or visibility of plants or animals, or obscure the topography and characteristics of a wetland such as a period of high water, snow and ice cover, erosion event, or drought, are taken into account. Determinations may be deferred for an amount of time necessary to allow an assessment of the resource without such seasonal factors.

b. General Land Use Standards. The following standards apply to all projects dependent upon the required tier level of review.

(1) **Avoidance.**

(a) Projects requiring Tier 1, Tier 2, or Tier 3 review must avoid alteration of wetland areas on the property to the extent feasible considering natural features, cost, existing technology and logistics based on the overall purpose of the project.

(b) Projects requiring Tier 2 or Tier 3 review will be considered to result in an unreasonable impact if the activity will cause a loss in wetland area, functions, or values, and there is a practicable alternative to the activity that would be less

damaging to the environment. Each Tier 2 and Tier 3 application must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist.

For an activity proposed in, on or over P-WL1 wetlands of special significance, a practicable alternative less damaging to the environment is deemed to exist and the impact is unreasonable, unless the activity is described in Section 10.25,P,2,b,(1),(b),(i) or (ii) below.

(i) Certain types of projects. The activity is necessary for one or more of the purposes specified in the following subparagraphs aa through hh.

aa. Health and safety;

bb. Crossings by driveway, road, rail, trail or utility lines;

cc. Water dependent uses;

dd. Reconstruction or expansion of an existing developed area or related construction that cannot practicably be located elsewhere because of the relation to the existing developed area, if the existing developed area was created prior to August 18, 2005 (existing developed area includes structures, fill areas, and landscaped areas);

ee. Mineral excavation and appurtenant facilities;

ff. Walkways;

gg. Restoration or enhancement of the functions and values of the P-WL1 wetlands of special significance; or

hh. Shoreline stabilization.

(ii) Certain wetlands of special significance. The activity is for a purpose other than those specified in Section 10.25,P,2,b,(1),(b),(i) above, is located in a P-WL1 wetland with aquatic vegetation, emergent marsh vegetation or open water, and the activity:

aa. Is located at least 250 feet from aquatic vegetation, emergent marsh vegetation or open water; and

bb. Does not unreasonably adversely affect the functions and values of the aquatic vegetation, emergent marsh vegetation or open water, or the functions and values of the freshwater wetlands that are enhanced or served by the aquatic vegetation, emergent marsh vegetation or open water.

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

(3) **Compensation.** Compensation is the off-setting of a lost wetland function with a function of equal or greater value. The goal of compensation is to achieve no net loss of wetland functions and values. Every case where compensation may be applied is unique due to differences in wetland type and geographic location. For this reason, the

method, location and amount of compensation work necessary is variable.

In some instances, a specific impact may require compensation on-site or within very close proximity to the affected wetland. For example, altering a wetland that is providing stormwater retention that reduces the risk of flooding downstream will likely require compensation work to ensure no net increase in flooding potential. In other cases, it may not be necessary to compensate on-site in order to off-set project impacts. Where wetland priorities have been established at a local, regional or state level, these priorities should be considered in devising a compensation plan in the area to allow the applicant to look beyond on-site and in-kind compensation possibilities.

(a) Functional Assessment. For projects requiring Tier 2 or Tier 3 review, applicant must conduct a functional assessment unless exempt from this requirement under Section 10.25,P,2,b,(3),(f) or granted a waiver under Section 10.25,P,2,b,(3),(g). A functional assessment must be conducted in accordance with Section 10.25,P,2,f,(2) and be sufficient to allow the Commission to evaluate whether the proposed wetlands alteration will cause a loss or degradation of wetland functions.

(b) When compensation is required. For Tier 2 or Tier 3 projects, unless exempt under Section 10.25,P,2,b,(3),(f) or granted a waiver under Section 10.25,P,2,b,(3),(g), if the Commission determines that a wetland alteration will cause a wetland function or functions to be lost or degraded, the applicant must provide compensation for the wetland impacts.

(c) Location of compensation projects. The compensation must take place in a location:

(i) On or close to a project site, if determined necessary and appropriate by the Commission, to off-set direct impacts to an aquatic ecosystem;

(ii) Otherwise, compensation may occur in an off-site location where it will satisfy wetland priority needs as established at the local, regional or state level to achieve an equal or higher net benefit for wetland systems, if approved by the Commission.

(d) Types of compensation. Compensation may occur in the form of:

(i) Restoration of previously degraded wetlands;

(ii) Enhancement of existing wetlands;

(iii) Preservation of existing wetlands or adjacent uplands where the site to be preserved provides significant wetland functions and might otherwise be degraded by unregulated activity; or

(iv) Creation of wetland from upland.

More than one method of compensation may be allowed on a single project. Preference is generally given to restoration projects that will off-set lost functions within, or in close proximity to, the affected wetland. However, other types of compensation may be allowed by the Commission if the result is an equal or higher overall net benefit for wetland systems.

(e) Compensation amounts. The amount of compensation required to replace lost functions depends on a number of factors including: the size of the alteration activity; the functions of the wetland to be altered; the type of compensation to be used; and the characteristics of the compensation site. Compensation shall be performed to meet the following ratios at a minimum, unless the Commission finds that a different ratio is appropriate to directly off-set wetland functions to achieve an equal or higher net benefit for wetlands:

(i) 1:1 for restoration, enhancement or creation to compensate for impacts in wetlands not of special significance;

(ii) 2:1 for restoration, enhancement or creation to compensate for impacts in wetlands of special significance; and

(iii) 8:1 for preservation, including adjacent upland areas, to compensate for impacts in all wetlands.

(f) Exceptions. Neither a functional assessment nor compensation is required for the following single, complete projects:

(i) Freshwater wetlands

aa. Alterations of less than 500 square feet in a freshwater wetland of special significance provided that the Commission determines that there will be only a minimal effect on freshwater wetland functions and values, significant wildlife habitat, or imperiled or critically imperiled communities due to the activity;

bb. Alterations of less than 15,000 square feet in a freshwater wetland not of special significance, provided that the Commission determines that there will be only a minimal effect on freshwater wetland functions and values due to the activity;

cc. Alterations in a freshwater wetland for a road, rail or utility line crossing of a flowing water for a distance of up to 100 feet from the normal high water mark on both sides, measured perpendicular to the thread of the flowing water, provided: (i) Any affected freshwater wetland does not contain significant wildlife habitat or a critically imperiled or imperiled community; and (ii) The total project affects 500 square feet or less of the channel.

(ii) Coastal Wetlands. A coastal wetland alteration that does not cover, remove or destroy marsh vegetation, does not fill more than 500 square feet of intertidal or subtidal area, and has no adverse effect on marine resources or on wildlife habitat as determined by the Department of Marine Resources or the Department of Inland Fisheries and Wildlife as applicable.

(iii) Bodies of Standing Water. An alteration of a body of standing water that does not place any fill below the normal high water mark, except as necessary for shoreline stabilization projects, and has no adverse effect on aquatic habitat as determined by the Department of Inland Fisheries and Wildlife or the Department of Environmental Protection.

(iv) Flowing Water. An alteration of flowing water that does not affect more than 150 feet of shoreline for a private project or more than 300 feet of shoreline for a public project.

(v) Walkways/Access Structures. A wetland alteration consisting of a walkway or access structure for public educational purposes or to comply with the Americans with Disabilities Act.

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

(4) **No Unreasonable Impact.** The following standards apply only to applications requiring Tier 2 or Tier 3 review:

(a) Even if a project has no practicable alternative and the applicant has minimized the proposed alteration as much as possible, the application will be denied if the activity will have an unreasonable impact on the wetland. "Unreasonable impact" means that one or more of the review standards of Section 10.25,P,1 will not be met. In making this determination, the Commission shall consider:

(i) The area of wetland that will be affected by the alteration and the degree to which the wetland is altered, including wetland beyond the physical boundaries of the project;

(ii) The functions and values provided by the wetland;

(iii) Any proposed compensation and the level of uncertainty regarding it; and

(iv) Cumulative effects of frequent minor alterations on the wetland.

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

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

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

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

c. Wetland Compensation Standards.

Where compensation is required, the following standards apply:

(1) **Expertise.** The applicant shall demonstrate sufficient scientific expertise to carry out the proposed compensation work.

(2) **Financial Resources.** The applicant shall demonstrate sufficient financial resources to complete the proposed compensation work, including subsequent monitoring and corrective actions.

(3) **Persistence.** For restoration, enhancement and creation projects, on the basis of an updated functional assessment, a minimum of 85% of the compensation area must successfully replace the altered wetland's functions after a period of three years unless otherwise approved by the Commission. If this level is not achieved, or if evidence exists that the compensation site is becoming less effective, the Commission may require additional monitoring and corrective action, or additional wetland restoration, enhancement or creation in order to achieve the compensation ratio as originally approved.

(4) **Monitoring.** The applicant shall set forth a plan for interim reporting and remediation measures during monitoring of the restored or created wetland over a minimum of five years, which shall include contingency plans for replanting, contouring or other corrections if the project fails to meet project goals during that time.

(5) **Maintenance.** A compensation project that will naturally maintain itself without active intervention is preferred. However, the permittee may be required to conduct activities to assure continuation of the wetland, or the accomplishment of compensation goals, after a compensation project has been technically completed. Such activities may include, but are not limited to, water level manipulations and control of non-native plant species.

(6) **Protection.**

(a) A compensation project involving restoration, enhancement or creation must provide for deed covenant and restriction or a conservation easement conveyed to a qualified holder that requires maintenance of the area as a coastal wetland, freshwater wetland or body of standing water in perpetuity. The conservation easement must list the Department of Agriculture, Conservation, and Forestry as an enforcing agent. Regardless of the size of the compensation area, any future alterations in, on or over the area must be approved by the Commission.

(b) A compensation project involving preservation must provide for a conservation easement conveyed to a qualified holder or deed covenant and restriction so that the parcel will remain undeveloped in perpetuity. The easement must list the Department of Agriculture, Conservation, and Forestry as an enforcing agent. Compensation areas may be deeded to local or state conservation groups or agencies, but any land management practices must be approved by the Commission.

(7) **Source of Water (Creation Only).** For a creation project, the Commission prefers that the created wetland be located adjacent to an existing wetland or waterbody.

(8) **Implementation Schedule.** A schedule for implementing the compensation plan must be submitted. Generally, compensation will be required to be completed prior to, or concurrent with, the permitted alteration. For on-going or long-term alterations, such as mining, compensation must be completed no later than within the first year of operation unless otherwise approved by the Commission.

d. Mitigation Banking.

(1) **Purpose.** A public or private entity may apply to the Commission to undertake wetland compensation projects for the purposes of off-setting one or more alteration projects proposed at that time or in the future. The ratios set forth in Section 10.25,P,2,b,(3),(e) will be used as guidance to determine the amount of credit required for any proposed alteration.

(2) **Location.** Compensation work must take place in the same watershed, biophysical region or in the project vicinity of the future alteration work, if feasible. Otherwise, the work must occur as close to the wetland alteration site or sites as feasible.

(3) **Effectively Functioning.** A project to be used for compensation credit must be functioning as proposed in the mitigation banking application, as demonstrated by an updated functional assessment, in order to quality as an off-set to a proposed activity.

(4) **Limitation.** No person may use mitigation banking to compensate for more than 25 acres of wetland alteration statewide in any one-year period.

(5) **Expertise.** The applicant is required to show a combination of expertise, experience and resources sufficient to undertake and maintain land placed in mitigation banking.

e. Terms and Conditions. The Commission may, as a term or condition of approval, establish any reasonable requirement to ensure that the proposed development will meet the standards of Section 10.25,P,1, such as:

(1) Design changes to help insure the success of the project;

(2) Buffer requirements;

(3) Project supervisory requirements;

(4) Monitoring requirements;

(5) Mid-course correction or maintenance capability;

(6) Bonding or other assurances of continued financial resources to complete compensation requirements; and

(7) Timing requirements for all or portions of a project.

f. Submission Requirements.

(1) **Alternatives Analysis.** If required by Section 10.25,P,2,b,(1),(b), an alternatives analysis must be conducted that analyzes whether a less environmentally damaging practicable alternative to the proposed alteration, which meets the project purpose, exists. Determining whether a practicable alternative exists includes:

(a) Utilizing, managing or expanding one or more other sites that would avoid the wetland impact;

(b) Reducing the size, scope, configuration or density of the project as proposed, thereby avoiding or reducing the wetland impact;

(c) Developing alternative project designs, such as cluster development, that avoid or lessen the wetland impact; and

(d) Demonstrating the need, whether public or private, for the proposed alteration.

(2) **Functional Assessments.** If required by Section 10.25,P,2,b,(3),(a), a functional assessment must be conducted of the wetland to be altered, that analyzes the wetland's value based on the functions it serves and how the wetland will be affected by the proposed alteration. The functional assessment must be conducted by a qualified professional(s) using an acceptable methodology approved by the Commission. If other than an established methodology is proposed, the applicant must submit documentation describing how the methodology was developed, how the wetland functions and values are determined using the methodology, and how much field testing the technique has undergone.

In cases where the size of the wetland alteration or other factors make the use of an established assessment methodology impracticable or inappropriate, the Commission may instead accept the best professional judgment of a qualified professional. The applicant must notify the Commission if he or she intends to use best professional judgment.

3. High Mountain Areas.

The review standards of Section 10.25,P,1 apply to alterations for Uses Requiring a Permit and Special Exceptions in Section 10.23,G,3,c and d.

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

5. Coastal Sand Dune Systems. (Reserved)

6. Community Public Water System Primary Protection Areas. (Reserved)

7. Significant Wildlife Habitat. (Reserved)

Q. SUBDIVISION AND LOT CREATION

This section governs the division of lots and the creation of subdivisions.

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

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

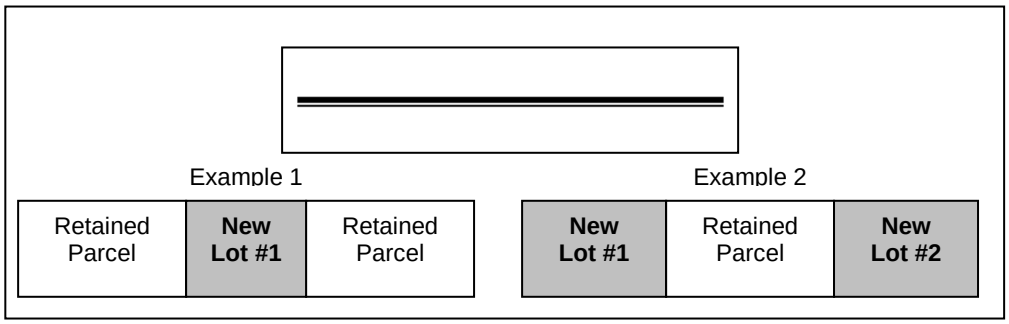

Figure 10.25,Q-1. Two examples where two new lot lines were drawn, each resulting in the creation of three parcels.

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

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

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

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

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

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

(1) Transfer of Lots for Forest Management, Agricultural Management or Conservation of Natural Resources. A lot or parcel is not considered a subdivision lot if the following conditions are met:

(a) The lot is transferred and managed solely for forest management, agricultural management or conservation of natural resources;

(b) The lot is at least 40 acres in size;

(c) If the lot is less than 1,000 acres in size, no portion of the lot is located within 1,320 feet of the normal high water mark of any great pond or river or within 250 feet of the upland edge of a coastal or freshwater wetland as these terms are defined in 38 M.R.S. §436-A;

(d) The original parcel from which the lot was divided is divided into an aggregate of no more than 10 lots within any 5-year period; and

(e) When 3 to 10 lots each containing at least 40 acres in size are created within any 5-year period, a plan is recorded in accordance with 12 M.R.S. §685-B(6-A). Any subsequent division of a lot created from the original parcel within 10 years of the recording of the plan in the registry of deeds or any structural development unrelated to forest management, agricultural management or conservation creates a subdivision and may not occur without prior commission approval. 12 M.R.S. §682-B(4).

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

(a) is retained and not sold, platted, leased, conveyed or further divided, except for transfer to an abutter pursuant to Section 10.25,Q,1,g,(3) below; and

(b) is used solely for forest or agricultural management activities and associated structures and development such as buildings to store equipment or materials used in forest or agricultural management activities, land management roads, driveways consistent with forest or agricultural management activities, or natural resource conservation purposes.

Only one retained lot exempt under this Section 10.25,Q,1,g,(2) may be created from any one existing parcel.

(3) Transfers to an Abutter and Contiguous Lots. A lot transferred to an abutting owner of land is not counted as a lot for the purposes of subdivision provided the transferred property and the abutter's contiguous property is maintained as a single merged parcel of land for a period of 5 years. Where a lot is transferred to an abutter, or two or more contiguous lots are held by one person, the contiguous lots are considered merged for regulatory purposes except for:

(a) lots that are part of a subdivision approved by the Commission;

(b) a land division certified by the Commission as qualifying under 12 M.R.S. §682-B; or

(c) as provided in Section 10.11.

If the property exempted under this paragraph is transferred within 5 years to another person without all of the merged land, or without satisfying either subparagraph (a), (b), or (c) above, then the previously exempt division creates a lot or lots for purposes of Section 10.25,Q.

(4) Divisions by Inheritance, Court Order, or Gifts. Divisions of land accomplished solely by inheritance or by court order are not counted as lots for the purposes of this subsection.

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

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

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

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

(6) Transfer to Governmental Entity. A lot or parcel transferred to a municipality or county of the State, the State or an agency of the State, or an agency of the Federal government is not considered a subdivision lot if the following conditions are met:

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

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

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

(8) Unauthorized Subdivision Lots in Existence For at Least 20 Years. A lot or parcel that when sold or leased created a subdivision requiring a permit under this chapter is not considered a subdivision lot and is exempt from the permit requirement if the permit has not been obtained and the subdivision has been in existence for 20 or more years. A lot or parcel is considered a subdivision lot and is not exempt under this subsection if:

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

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

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

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

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

3. General Standards for All Subdivision Layouts.

a. Locations and Layouts.

Chapter 10, Subchapter II identifies the subdivision types and densities that are allowed in individual land use subdistricts. In addition, the following standards apply to subdivision developments:

(1) Commercial, Industrial, and Residential Subdivisions. All subdivisions must be designed consistent with Table 10.25,Q-1, Location and Layout Overview.

Table 10.25,Q-1. Location and Layout Overview

Commercial, Industrial, and Residential Subdivisions[22]	**Allowed Subdivision Layouts**			
	Basic	Clustered	FlexDesign	Rural Lot
	High- and Moderate-Density			*Low-Density*
Inland	Yes	Yes	Yes	Yes
Shoreland with Heavy Development (Lakes exceeding CLUP density guidelines[23,24])	No	Yes	Yes	No
Shoreland within 250 feet of Management Class 4 Lakes	No	Yes	Yes	No
Shoreland within 250 feet of all other major water bodies and coastal wetlands	Yes	Yes	Yes	No
General Management Subdivisions				
Inland	Yes	Yes	Yes	No

(2) General Management Subdivisions. Any subdivision that meets all of the criteria in Section 10.25,Q,3,a,(2),(a) through (g) below is considered a general management subdivision. For purposes of this section, "aggregate land area" includes lots to be offered and all roads and other infrastructure associated with the subdivision, but excludes common open space preserved and maintained in accordance with Section 10.25,S. A general management subdivision:

(a) Is a division within any 5-year period of an existing parcel of land within a single contiguous ownership into 3 to 14 lots or dwelling units;

(b) Occupies an aggregate land area of less than 30 acres;

(c) Is located within a primary location and wholly located within one-half mile of a public roadway;

(d) Is located more than one-half mile from a major water body;

(e) Is located wholly on land within an M-GN subdistrict, except that up to 20 percent of the aggregate land area may consist of protection subdistricts for minor flowing waters or wetlands at the time of the filing of a subdivision application;

[22] Chapter 10, Subchapter II establishes where residential subdivisions may be located and what subdivision densities are allowed in the use listings for certain land use subdistricts. Criteria for adoption or amendment of land use districts are established in Sections 10.08 and 10.08-A.

[23] Lakes exceeding CLUP density guidelines are lakes having more than one development unit per 10 acres of lake surface area, or having more than one development unit per 400 feet of shore frontage, taken as an average around the entire lake shore.

[24] This category includes, but is not limited to, Management Class 5 lakes.

(f) Is a high-density or moderate-density subdivision as defined in Chapter 2 of the Commission's rules, and is designed consistent with Table 10.25,Q-1, Location and Layout Overview; and

(g) Is in a location where the county, nearby municipality, or other service provider is willing to and will be able to provide fire and ambulance services consistent with Section 10.08,B,2,a.

(3) Maple Sugar Processing Subdivisions. Subdivisions containing lots created by lease for the purpose of establishing and operating commercial maple sugar processing operations that meet all of the following criteria are maple sugar processing subdivisions:

(a) The maximum number of leased lots shall be no more than one per every 300 acres of the lot or parcel being subdivided[25];

(b) The maximum size of each leased lot shall be no more than 4 acres;

(c) Any two leased lots in a maple sugar subdivision may be located less than 1,000 feet from each other; these lots will be considered a set of lots for the purpose of determining leased lot separation;

(d) Each set of leased lots must be separated from any other leased lot or set of leased lots in the subdivision by a minimum of 1,000 feet, measured horizontally from the closest point between lots or sets of leased lots; and

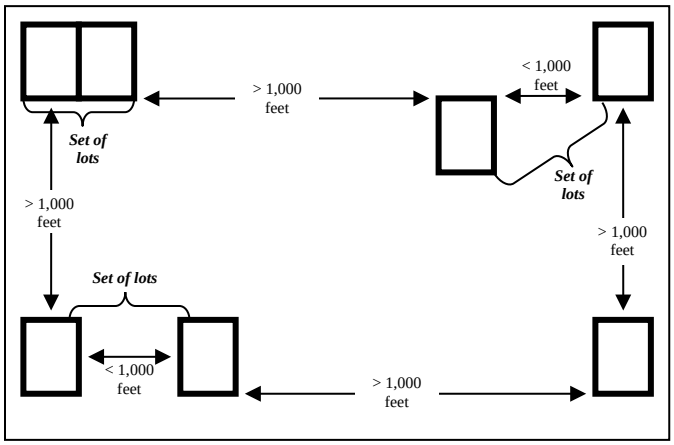

Figure 10.25,Q-2. Leased lots in maple sugar subdivisions.

(e) Fee ownership in each of the leased lots shall only be transferred as part of a sale of the entire parcel originally so subdivided, or with a deed restriction requiring that the lot be used only for commercial maple syrup production unless the Commission, or its legal successor in function, releases the restriction and records such release in the registry of deeds.

The following general standards in Section 10.25,Q,3,b through h for subdivision layouts do not apply to maple sugar processing subdivisions.

[25] Calculated by dividing the total acreage of the lot or parcel being subdivided by 300 and rounding down to the nearest whole number.

b. Harmonious Fit.

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

(2) Subdivisions proposed with mixed residential, commercial, or civic uses shall also meet the following requirements:

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

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

c. Building Envelopes.

(1) Building envelopes shall be identified on each lot, designating suitable areas where structural development and permanently maintained cleared openings may occur. Activities not counted as permanently maintained cleared openings include a single driveway for access to the building envelope, cleared areas that are mowed less than twice a year, areas used for agricultural management activities, and trails for recreational access.

(2) Building envelopes shall be shown and labeled on the subdivision plat. In addition, building envelope requirements shall be included in deed covenants for each lot specifying that structural development and permanently maintained cleared openings shall be located within the building envelope as shown on the Commission approved subdivision plan, as it may be amended from time to time.

(3) Building envelopes shall be located and sized to allow conformance with the Commission's dimensional requirements in terms of minimum water body, road, and property line setbacks, and maximum lot coverage requirements, as provided in Section 10.26; and vegetation clearing standards for shorelines and public roads, as provided in Section 10.27.

(4) Where practicable, building envelopes shall be arranged:

(a) In groups, allowing for larger open areas between groups of building envelopes;

(b) To avoid placement along ridgelines, on prime farm land soils, in wetlands or drainage areas, on sustained slopes greater than 20 percent, or over any other topographic or natural features important to the site; and

(c) To maximize privacy afforded to each dwelling unit, such as providing sufficient buffering vegetation and staggering building envelopes.

d. Common Open Space.

(1) Unless another configuration better achieves the Commission's natural and cultural resource goals listed in Chapter 1 of the Comprehensive Land Use Plan, any common open space proposed for the subdivision must be preserved in large, contiguous blocks that connect with off-site undeveloped land to form a continuous integrated open space system.

(2) Significant wildlife habitats, imperiled and critically imperiled natural plant communities, and a minimum 250-foot undisturbed buffer around the boundaries of those habitats shall be included in common open space.

(3) The subdivision design shall include suitable common open space for wildlife passage, at least 500 feet in width, around or through the development. The wildlife passage shall be located along the side of flowing waters or wetlands, in a way that links high value wildlife habitats on or off the property, along the property line of any abutting conserved land, or adjacent to one of the boundary lines of the subdivision, to the extent practicable. In addition, lots shall be configured so that groups of lots are separated by at least 500 feet of undeveloped land such that lots within a group do not extend more than 1,320 feet along the existing access road or shoreline.

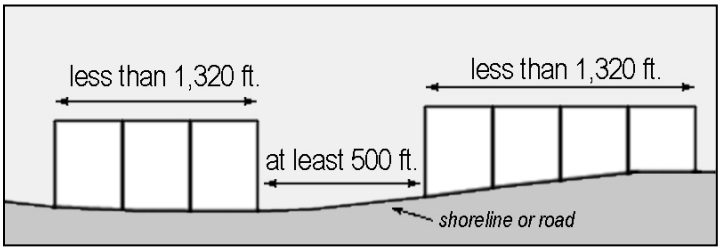

Figure 10.25,Q-3. Grouping of subdivision lots along a roadway or shoreline.

(a) In cases where the subdivision design consists of four or fewer lots encompassing the entire existing parcel, and where the Commission has determined provision for wildlife passage exists within one-quarter mile of the parcel, the Commission may allow subdivision designs without common open space for wildlife passage.

(b) In cases of subdivisions that constitute "in-fill" development, on parcels surrounded by existing development, for which designated common open space would be an isolated pocket providing little long-term value, the Commission may also allow subdivision designs without common open space for wildlife passage.

(4) In cases where an existing recreational resource managed for public access, such as a motorized or non-motorized trail, or boat launch, is located in or within 1,000 feet of the project boundary, the subdivision design must include provisions to ensure lot owners or lessees in the subdivision will not cause undue adverse impacts to intervening landowners from informal trail building. If access to the recreational resource is provided for lot owners or lessees that access must be legally enforceable by the lot owners or lessees.

(5) Common open space within the subdivision shall be preserved and maintained in accordance with the Commission's Chapter 10 rules, Section 10.25,S.

(6) Subdivision Redistricting Considerations. Subdivisions are allowed only in appropriate subdistricts, as designated in Sub-Chapter II. However, the Commission may approve subdivisions that include land area designated as common open space within subdistricts where subdivision is otherwise prohibited, provided the designated land area meets the requirements of Section 10.25,S.

e. Shoreland Development.

(1) Shoreland subdivisions that include shoreline frontage on a major water body, shall include one of the following, except as allowed in Section 10.25,Q,3,e,(2) below:

(a) Non-waterfront lots that equal or exceed the number of waterfront lots in the layout;

(b) An area reserved for future layout and development of non-waterfront lots that is equal to or exceeds the area of waterfront lots in the layout; or

(c) A non-linear design that incorporates a majority of the waterfront in common ownership.

(2) In cases where the Commission finds site specific constraints such as sustained steep slopes or wetlands do not allow for development of non-waterfront lots anywhere on the parcel, the Commission may allow an alternative layout for a project site.

(3) Shoreland subdivisions with shoreline frontage shall also include provisions for useable common access to the water for all lots in the subdivision and for any future lots in reserve areas. Common water access shall not be located in open space designated for habitat protection or wildlife passage.

(4) Proposed permanent docks, trailered ramps, hand-carry launches or water-access ways shall comply with the requirements of Section 10.27,L,2.

(5) Designs shall include and provide for maintenance of best management practices for control of phosphorus in accordance with Section 10.25,L.

f. Legal Right of Access to Subdivision Lots. Any lot in a subdivision created after June 17, 2019 must be accessible from a public road by a legal right of access. This legal right of access may be by road or by water.

(1) Road Access. A legal right of access by road exists when the subdivision land:

(a) 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 legal access provided must be sufficient to support the land uses allowed in the subdivision, including any associated construction, maintenance, and use of structures. 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. A legal right of access by water exists when the subdivision land reasonably may be accessed by boat from a public or private boat launch, provided the boat launch is accessible by road access consistent with Section 10.25,Q,3,f,(1) above. Additionally provided, when the subdivision land will be accessed by boat from a private boat launch, all lot owners will have a legally enforceable right to use and ensure continued maintenance of the boat launch.

(3) Leased Lot Exception. The legal right of access requirement for subdivision lots contained in Section 10.25,Q,3,f does not apply to subdivision lots 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. However, as part of the sale of any such leased lot in a subdivision created after June 17, 2019, the seller shall grant the buyer a legal right of access that satisfies Section 10.25,Q,3,f,(1) or (2).

g. Emergency Services Waiver. For all proposed subdivisions located in subdistricts for which an emergency services waiver was granted by the Commission, the applicant must demonstrate that sufficient notice of the absence of emergency services will be provided to all subsequent owners of property within the subdivision, including use of a specific note on the plat and any deed for a lot within such a subdivision.

h. Recreational Resource Capacity for Recreation-based Subdivisions. A recreation-based subdivision must be integrated with a recreational resource. In cases where the recreational resource does not have sufficient capacity to accommodate all of the lot owners in the subdivision, the subdivision proposal must include provisions to adequately increase capacity of the resource. Factors that the Commission will consider in evaluating resource capacity include, but are not limited to, the amount of parking, availability of wastewater disposal facilities, and evidence of unstable or eroding soils due to overuse.

4. Layout Specific Standards.

The Commission has adopted additional subdivision standards for four different layouts, Basic, Clustered, Rural Lot, and FlexDesign.

a. Basic Subdivision Layouts. Basic subdivisions must meet all general standards in Section 10.25,Q,3, and the following layout specific standards:

(1) Building envelope size shall be limited to no greater than 40 percent of the size of each lot.

(2) For Recreation-based Subdivisions using the Basic Layout:

(a) The subdivisions shall meet the required common open space percentage in Section 10.25,Q,4,a,(2),(b) below, unless the subdivision:

(i) Abuts or is located within one-quarter mile of permanently conserved land, or

(ii) Includes provisions for the preservation of near-by, off-site open space.

The conserved land specified in (i) and (ii) above must be equal to or greater than the required common open space, both in total contiguous area and shoreline frontage.

In cases where the subdivision abuts permanently conserved land, all building envelopes shall be at least 100 feet from the boundary line of the conserved parcel.

(b) Common Open Space Percentage. For recreation-based subdivisions, the total common open space must include at least 40 percent of the net developable land area and 40 percent of the net developable shorefront area for shoreland developments.

(c) Recreational Trail Incentive. For recreation-based subdivisions, the total common open space percentage for the subdivision may be reduced by 5 percent if an existing trail on the property is included in common open space or a new trail is constructed in common open space. An additional 5 percent reduction may be allowed if the on-site trail connects with an existing off-site trail managed for public access. Common open space requirements for habitat protection and wildlife passage shall still be met, and trail construction shall not be located in common open space designated for habitat protection or wildlife passage.

b. Clustered Subdivision Layouts. Clustered subdivisions must meet all general standards in Section 10.25,Q,3, except as provided in Sections 10.25,Q,4,b,(1) through (3) below:

(1) Density and Dimensional Requirements for Clustered Layouts. Chapter 10, Subchapter II identifies the subdivision densities that are allowed in individual land use subdistricts. Depending on the subdistrict, clustered layouts can use a moderate or high-density design. Subdivision densities are defined in Chapter 2 of the Commission's rules.

(a) The Commission may reduce the minimum lot size for moderate density designs provided the lot density requirement for the subdivision is met in the aggregate, inclusive of proposed common open space; and may reduce the minimum road frontage or shoreline frontage for individual lots in both moderate- and high-density designs, provided, in the aggregate, these dimensional requirements are met within the development.

(b) In addition, the Commission may reduce dimensional requirements of Sections 10.26,A through E, in the aggregate, provided:

(i) Dimensional requirements, in the aggregate, are not reduced by more than 50 percent; except that consistent with Section 10.26,G,2, shoreline setback requirements must not be reduced;

(ii) Site conditions are suitable for more concentrated development on some portions of a site and such concentrated development will not adversely affect resources; and

(iii) The specific benefits afforded by the cluster approach will prevent the loss of or enhance the conservation of important natural features.

(2) Common Open Space.

(a) Clustered subdivisions shall be designed to protect developable land as common open space through (i) clusters of dwellings on commonly-owned land; (ii) creation of individual lots with reduced lot size, reduced road frontage

or, within shoreland developments, reduced shoreline frontage as permitted under these rules; or (iii) a decrease in the number of individual lots that meet dimensional requirements.

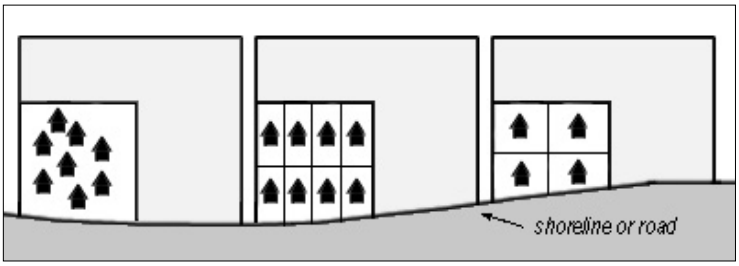

Figure 10.25,Q-4. From left to right, (1) clustering on a commonly-owned parcel, (2) clustering on individual parcels with reduced lot size and frontage, and (3) clustering on individual parcels without reduced lot size or frontage.

(b) Common Open Space Percentage. The total designated common open space must include at least 50 percent of the net developable land area and 50 percent of the net developable shorefront area for shoreland developments.

(c) The Commission may allow subsurface wastewater disposal systems in designated common open space, provided there is no other practicable alternative, appropriate legal provisions are made for maintenance, access, and replacement; and the systems will not be located in areas designated for wildlife passage or habitat protection.

(3) Shoreland Development. Shoreland developments using a clustered subdivision layout shall include non-waterfront lots that equal or exceed the number of water front lots in the layout. The general standard provision for using reserved area for future growth in lieu of non-waterfront lots is not allowed in this layout (Sections 10.25,Q,3,e,(1) and (2)).

c. Rural Lot Subdivision Layouts. Rural Lot subdivisions must meet all general standards in Section 10.25,Q,3, except as provided in Sections 10.25,Q,4,c,(1) through (5) below.

(1) All building envelopes shall be located in the front third of the lot to leave the back two thirds available for open space and wildlife passage.

(2) Building envelopes shall be no greater than two acres in size.

(3) Design of the subdivision road shall minimize fragmentation and indirect impacts on wildlife habitat by using practices such as minimizing the length of new roads to less than one-quarter mile where practicable, locating new roads proximate to existing on-site or off-site development or infrastructure, and locating new roads closer to one of the existing parcel lines.

(4) The design shall include suitable space for wildlife passage. The wildlife passage may be on individual lots; however, it shall be outside designated building envelopes and at least 500 feet in width, extending around or through the development. In addition, the area for wildlife passage shall be located along the side of flowing waters or wetlands, in a way that links high value wildlife habitats on or off the property, along the property line of any abutting conserved land, or adjacent to a property line, to the extent practicable.

(5) The access provision for existing trails in Section 10.25,Q,3,d,(4) applies to Rural Lot subdivisions. Otherwise, the common open space provisions in Section 10.25,Q,3,d do not apply to this layout.

d. FlexDesign Subdivision Layouts. The FlexDesign subdivision is a customized approach to subdivision layout and design. The only general standards in Section 10.25,Q,3 that apply to FlexDesign subdivisions are Sections 10.25,Q,3,a,c, and f; the standards of Section 10.25,Q,4,d apply.

(1) Subdivision Objectives. FlexDesign subdivisions shall meet the Commission's local scale subdivision design objectives, as follows:

(a) Good Fit. Ensure well thought-out subdivision designs and quality infrastructure construction that are consistent with the local area's character, culture, land uses, and housing market; fit into the landscape to minimize the footprint and complexity of infrastructure, encourage continued timber and wood fiber production where appropriate, and protect existing resources where appropriate. Good fit recognizes the diversity of different regions.

(b) Limited Resources. Provide for efficient use of limited land resources such as shorelines, frontage on public roads, and suitable soils to encourage more capacity for residential development in appropriate locations and create efficiencies in the provision of services such as roads, communication infrastructure, emergency services, schools, solid waste disposal, and recreation.

(c) High Value Resources. Protect on-site and nearby high value resources including important farmlands, scenic resources, cultural features, wildlife habitats, water bodies, wetlands, and other natural areas through good design, open space connectivity, and off-site conservation when appropriate to mitigate adverse impact on these resources.

(d) Recreational Resources. Ensure that subdivision designs provide adequate access to on-site or off-site recreational opportunities to accommodate new residents and prevent negative impacts on existing public or private recreation resources, and encourage designs that provide access to a variety of, and interconnectivity between, recreational opportunities, where available.

(e) Adequate Infrastructure. Ensure adequate infrastructure that has been designed to efficiently and effectively maximize public health and safety, allow efficient provision of public services, and minimize the cost of operation and maintenance, including provisions for systems that have interconnectivity, sufficient capacity, and resiliency in extreme weather events.

(2) Subdivision Design. The development of the sketch plan for FlexDesign subdivisions shall be consistent with the following design approach:

(a) Step One. Identify Priority and Supplemental Conservation Areas. Identify the priority conservation areas, using existing information from State natural resource agencies and landowner knowledge, that shall be considered for inclusion within common open space. Priority conservation areas include those areas of the parcel containing or supporting protected natural resources such as significant wildlife habitat, water bodies and wetlands; buffer areas to protect those resources; areas needed for wildlife passage around or through the

development; imperiled and critically imperiled natural plant communities; special flood hazard areas; and sustained steep slopes (greater than 20 percent). Also, identify any supplemental conservation areas, features that the landowner has determined warrant secondary consideration for inclusion within common open space or protection from development, including other areas not well-suited for development, existing trails, areas with connection to off-site open space, open fields, or other special features of the property that are important to maximize opportunities such as protecting significant viewsheds and providing solar access, and meet the applicant's design goals for the subdivision.

(b) Step Two. Locate Building Envelopes. Building envelopes shall be located outside of priority conservation areas, and to the maximum extent feasible, should be located outside of supplemental conservation areas, as delineated in Step One. Building envelopes shall include sufficient area suitable for development and be located to reflect the Commission's local scale subdivision design objectives, outlined in Section 10.25,Q,4,d,(1) above, as well as the applicant's design goals for the subdivision. The placement of building envelopes and lot lines shall consider minimizing the creation of edges[26] between developed areas and open space, and consider the cultural and natural features of the landscape to the greatest extent possible (e.g., follow stone walls, lines of boundary trees, and streams). Locations of building envelopes should also consider the privacy provided for individual homeowners.

(c) Step Three. Align Roads and Trails. The minimum length and network of roads necessary to access each lot shall be identified, subject to the road standards of the Commission, with consideration given to conforming roads to the natural landscape and to minimizing the creation of edges between developed areas and open space. Roads shall be located in such a way that avoids or at least minimizes adverse impacts on those areas delineated in Step One. Where practicable for the proposed development site, entrances onto existing roads shall be located to line up directly across from existing entrances on the roadway, allowing for safe cross movement of traffic at the intersection. Proposed trails shall be identified where access to common open space or recreational resources on or off the development is appropriate.

(d) Step Four. Draw Lot Lines. For subdivisions with individual lots, proposed lot lines shall be identified. The placement of the lot lines shall consider those conservation areas identified in Step One, design decisions made in Steps Two and Three, and the Commission's dimensional and vegetation clearing standards, as well as conform to the cultural and natural features of the landscape to the greatest extent possible. The delineation of lots also should consider the opportunity for future owners to reasonably expand the structures on the lot, and privacy provided for individual lot owners.

(3) Future Development. When a subdivision will not utilize the entire parcel and there are potential plans for future subdivision or development of the parcel, the sketch plan also shall include a conceptual, long-range development plan showing the potential utilization of the balance of the parcel not being subdivided. The conceptual long-range development plan is intended to show that the current subdivision proposal will

[26] In this context, "edge" relates to the boundary between areas of human activity such as lawns and roads, and undeveloped natural areas, such as meadows and forests. Where an edge exists along a natural area, native wildlife species can be adversely affected for a distance from the edge, often called "the edge effect."

not compromise the long-term development of the parcel, future access to recreational resources, or important conservation values. This plan must show the relationship of the proposed subdivision area to the balance of the parcel and to adjacent land, as well as, in general terms, the potential road network and other infrastructure, development areas, and common open space areas for the long-range development plan.

(4) Common Open Space.

(a) The area to be designated as common open space or otherwise preserved as part of the development shall include all identified priority conservation areas. Supplemental conservation areas may also be included in common open space or conserved as needed to ensure the Commission's subdivision objectives and the applicant's design goals for the subdivision are met.

(b) Sufficient supplemental conservation areas shall be included in the common open space to meet at least the minimum area percentage requirement for common open space.

(c) Common Open Space Percentage. Unless site conditions indicate less common open space will meet the Commission's local scale subdivision design objectives in Section 10.25,Q,4,d,(1), the common open space percentage for FlexDesign subdivisions must be at least 50 percent of the net developable land area, and 50 percent of the net developable shorefront area for shoreland developments.

(d) Unless another configuration better achieves the Commission's local scale subdivision design objectives, any common open space proposed for the subdivision shall be preserved in large contiguous blocks that connect with off-site, undeveloped land to form a continuous integrated open space system.

(e) The Commission may allow subsurface wastewater disposal systems in common open space, provided there is no other practicable alternative, legal provisions are made for maintenance, access, and replacement; and the systems are not located in areas designated for wildlife passage or habitat protection.

(f) Common open space shall be labeled as such on the subdivision plat, and preserved and maintained in accordance with Section 10.25,S.

(g) Subdivision Redistricting Considerations. Subdivisions are allowed only in appropriate subdistricts, as designated in Sub-Chapter II. However, the Commission may approve subdivisions that include land area designated as common open space within subdistricts where subdivision is otherwise prohibited, provided the designated land area meets the requirements of Section 10.25,S.

(5) Sketch Plan Review Meeting. Sketch plan submissions for FlexDesign subdivisions shall be consistent with the objectives in Section 10.25,Q,4,d,(1) above; shall follow the approach set out in Section 10.25,Q,4,d,(2); and shall include the submission of a site context map, site inventory and analysis map, conceptual sketch plan, alternative design sketch, and project narrative discussing the applicant's design goals for the subdivision.

5. Procedural Requirements.

a. Sketch Plan Review Meeting for All Subdivisions.

(1) Prior to submitting a permit application for any subdivision, the applicant shall request and attend a sketch plan review meeting.

(2) Two sketch plans, with no engineering details, showing possible subdivision designs for the property using two different layout options shall be provided in advance of the meeting. Data provided on the sketch plan may be based on existing information available from State natural resource agencies and landowner knowledge. Site-specific survey work such as on-site wetland delineations is not expected and need not be a part of the sketch plan review.

(3) The permit application for the subdivision shall be submitted within 12 months after the sketch plan review meeting. If the application is not submitted within 12 months, the Commission may require a new sketch plan review.

(4) Applicants may present a subdivision in phases, provided that the first phase contains at least 25 percent of the total number of lots as shown on the sketch plan.

For phased proposals, the request for sketch plan review also must include a conceptual long-range development plan showing the potential utilization of the balance of the parcel. The conceptual long-range development plan is intended to show that the current subdivision proposal will not compromise the long-term development of the parcel or important conservation values. This plan must show the relationship of the proposed subdivision area to the balance of the parcel and to adjacent land, as well as, in general terms, the potential road network and other infrastructure, development areas, and common open space areas for the long-range development plan.

b. Subdivision Filing with Registry of Deeds.

(1) Filing requirements. Following the approval of any subdivision by the Commission, the applicant shall file the subdivision plat signed by the Commission's Director with the County Registry of Deeds where the real estate is located.

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

c. Conveyance of Lots or Dwelling Units.

(1) Certificates of Compliance. The conveyance of lots or dwelling units in any subdivision approved by the Commission may not proceed until a certificate of compliance has been issued. A certificate of compliance requires that:

(a) Proposed deeds and plats be reviewed and approved by the Commission to ensure that relevant permit conditions have been fulfilled. 12 M.R.S. §685-B(8)

(b) Signed plats have been filed with the appropriate county Registry of Deeds.

(c) Project construction has been completed, including but not limited to all common infrastructure and improvements, such that all subdivision lots or

dwelling units can be accessed and occupied, and infrastructure and improvements can be used for their intended purpose without concern for the general health, safety, and welfare of the occupant or user, and the general public. Common infrastructure and improvements include elements of the subdivision such as common access ways and trail systems, waterfront amenities and docking facilities, and community centers, as applicable, located anywhere within the subdivision.

(d) All permit conditions of approval have been fulfilled, except those requiring ongoing or long-term compliance activity such as annual water quality monitoring or maintenance of structural erosion control best management practices.

(2) Partial Certificates of Compliance. The Commission may issue a partial certificate of compliance for a portion of a subdivision development if that portion of the project can stand on its own and all infrastructure systems will be able to function properly without the benefits of the unbuilt portions of the systems, when Section 10.25,Q,5,c,1(a) and (b) have been met, and:

(a) Project construction is complete for the standalone portion of the project, including but not limited to all common infrastructure and improvements needed to support lots or dwelling units or proposed for use by lot or unit owners in that portion of the project, such that all lots or dwelling units in that portion of the project can be accessed and occupied, and infrastructure and improvements can be used for their intended purpose without concern for general health, safety, and welfare of the occupant or user, and the general public. Common infrastructure and improvements include elements of the subdivision such as common access ways and trail systems, waterfront amenities and docking facilities, and community centers, as applicable, located anywhere within the subdivision.

(b) All open space proposed for wildlife habitat and wildlife passage has been preserved in accordance with Section 10.25,S.

(c) All permit conditions of approval applicable to the standalone portion of the project have been fulfilled, except those requiring ongoing or long-term compliance activity such as annual water quality monitoring or maintenance of structural erosion control practices.

For information relative to permit expiration for partial certificates of compliance see the definition for substantial completion in Chapter 2.

(3) Monumentation. All subdivision and lot boundary corners and angle points must be marked by suitable, permanent monumentation in accordance with rules adopted by the Board of Licensure for Professional Land Surveyors, 02-360 CMR 90, Standards of Practice.

(4) Maple Sugar Processing Subdivisions.

(a) The fee interest in lots in maple sugar processing subdivisions, shall not be offered for sale except as part of a sale of the entire parcel originally so subdivided, or with a deed restriction requiring that the lot be used only for commercial maple syrup production unless the Commission, or its legal successor in function, releases the restriction and records such release in the

registry of deeds. The subdivision plat, and any deed for lots in subdivisions created by lease for the purpose of establishing and operating maple sugar processing operations, shall contain conditions setting out such restrictions.

(b) For maple sugar subdivisions created after February 22, 2013, deeds for each leased lot in maple sugar processing subdivisions must be created with a deed restriction requiring that the lot be used only for commercial maple syrup production unless the Commission, or its legal successor in function, releases the restriction and records such release in the registry of deeds. The deeds for each leased lot in maple sugar processing subdivisions shall be recorded with the registry of deeds at the time the subdivision is created.

(5) Rural Business Lots. All subdivision lots permitted for rural businesses in the D-RB subdistrict shall include a condition requiring that the lot be used only for rural businesses unless the Commission, or its legal successor in function, releases the condition.

d. Recording of Large Lot Land Divisions.

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

(2) The Commission must determine whether the plan qualifies under 12 M.R.S. § 682-B, ordinarily within 15 days of receipt of a complete plan.

(3) A copy of the certified plan must be filed, within 30 days of certification by the Commission, with the State Tax Assessor and the appropriate registry of deeds in the county in which the land is located. A register of deeds may not record any plan depicting these lots unless the Commission's certification that the division qualifies under 12 M.R.S. § 682-B is evidenced on the plan. 12 M.R.S. § 685-B(6-A)

(4) Any subsequent division of a lot created from the original parcel within 10 years of the recording of the plan in the registry of deeds or any structural development unrelated to forest management, agricultural management or conservation creates a subdivision and may not occur without prior Commission approval. 12 M.R.S. §682-B

R. (RESERVED)

S. COMMON OPEN SPACE

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

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

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

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

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

d. Ownership by a single landowner, provided that deed covenants are recorded that are sufficient to ensure the purposes of Section 10.25,S.

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

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

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

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

3. Uses of Common Open Space. Common open space may be usable for low-intensity non-commercial recreation, for purposes intended to conserve land, or to preserve important natural or cultural features of the site. Uses within the common open space may be limited or controlled by the Commission at the time of approval, as necessary, to protect natural resources and adjacent land uses. Specifically, common open space lots are subject to subdivision and other permit conditions prohibiting residential, commercial, and industrial structures and uses; and other structures and uses not specifically authorized by the subdivision permit.

4. Association By-laws. If any or all of the common open space is to be reserved for common ownership by the residents of the subdivision, documents necessary for establishing the association shall be drafted and implemented. The documents shall provide for mandatory lot owner or lessee membership, lot owner or lessee rights and privileges, association responsibilities and authority, operating procedures, proper capitalization to cover any initial operating costs, and the subdivision

developer's responsibilities, if any; and shall prohibit all residential, commercial, and industrial structures and uses within the designated open space; and prohibit other structures and uses in that space that have not specifically been authorized by the subdivision permit.

5. Separate Lot of Record. Common open space shall be dedicated as a separate lot of record with no further subdivision or conversion of use of that lot allowed. Such a lot shall be clearly shown and labeled on the subdivision plat with a notation thereof to indicate that no further subdivision or conversion of use is allowed, and that the common open space land is permanently reserved for open space purposes. The notation must further describe the allowable use or uses; ownership; management; method of preservation, including the book and page of any conservation easements or deed restrictions required to be recorded to implement the reservations or restrictions; and the rights, if any, of the owners in the subdivision to such land or portions of that land.

T. ACTIVITIES IN FLOOD PRONE AREAS

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

1. Procedural Requirements.

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

b. Determinations of base flood elevations (bfe) in Commission-mapped P-FP subdistricts, A zones, and other flood prone areas must be made in a consistent manner, according to methods outlined in the document "Dealing with Unnumbered A Zones in Maine Floodplain Management" (Maine Floodplain Management Program, September 25, 2013).

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

d. If Commission-mapped P-FP zones and A, AE, or VE zones apply to an area where FEMA has issued a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR) to an applicant determining that the structure or property is not located in the area of special flood hazard, the requirements of Sections 10.23,C and 10.25,T, do not apply to the structure or property specified in the LOMA or LOMR.

e. Applicants must notify adjacent towns, plantations and townships in writing prior to any alteration or relocation of a watercourse when project applications propose alterations or relocations of flowing waters in a Commission-mapped P-FP Subdistrict or FEMA zone.

2. Development Standards.

a. Development in flood prone areas, including areas of special flood hazard, must be reasonably safe from flooding and must:

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

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

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

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

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

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

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

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

f. Utilities. New construction or substantial improvement of any structure (including manufactured homes) must:

(1) Have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated:

(a) To at least one foot above the base flood elevation; or

(b) In the absence of all data described in Sections 10.25,T,1,b, and c, to at least two feet above the highest adjacent grade to the structure; and

(2) When located within Zone VE, meet the requirements of Section 10.25,T,2,r,(2),(c).

g. Physical Changes to the Natural Landscape. Certain projects, including but not limited to, retaining walls, sea walls, levees, berms, and riprap, can cause physical changes to the natural landscape that affect flooding conditions.

(1) All development in Zones AE and VE that causes physical changes to the natural landscape must be reviewed by a professional engineer to determine whether the project changes the base flood elevation, flood zone, or the flood hazard boundary line. Review may be waived for projects that are unlikely to change the base flood elevation, the flood zone, or the flood hazard boundary line, such as those that are too small or are located at grade.

(a) If the professional engineer determines, through the use of standard practices, that the project would not necessitate a LOMR, a certified statement must be provided to that effect.

(b) If the professional engineer determines that the project may cause a change to the base flood elevation, the flood zone, or the flood hazard boundary line, a technical hydrologic and hydraulic analysis that meets FEMA standards for flood hazard mapping must be performed.

(2) If the hydrologic and hydraulic analysis performed indicates a change to the base flood elevation, flood zone, or the flood hazard boundary line:

(a) The applicant may submit a Conditional Letter of Map Revision (C-LOMR) request to FEMA for assurance that the as-built project will result in a change to the FIRM. Once the development is completed, a request for a LOMR must be initiated; or

(b) as soon as practicable, but no later than 6 months after the completion of the project, the applicant must submit the technical data to FEMA in the form of a LOMR request.

h. Residential Structures. New construction or substantial improvement of any residential structure must:

(1) Have the lowest floor (including basement) and utilities elevated:

(a) To at least one foot above the base flood elevation; or

(b) In the absence of all data described in Sections 10.25,T,1,b, and c to at least two feet above the highest adjacent grade to the structure; and

(2) When located within Zone VE, meet the requirements for coastal floodplains in Section 10.25,T,2,r.

i. Nonresidential Structures. Notwithstanding Section 10.25,T,2,f, new construction or substantial improvement of any nonresidential structure must:

(1) Have the lowest floor (including basement) elevated to at least one foot above the base flood elevation and comply with Section 10.25,T,2,f, or

(2) Together with attendant utility and sanitary facilities:

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

(b) Have structural components designed to resist hydrostatic and hydrodynamic loads and the effects of buoyancy; and

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

(3) In the absence of all data described in Sections 10.25,T,1,b, and c:

(a) Have the lowest floor and utilities elevated to at least two feet above the highest adjacent grade to the structure; or

(b) Together with attendant utility and sanitary facilities, be floodproofed to at least two feet above the highest adjacent grade to the structure and meet the floodproofing standards of Sections 10.25,T,2,i,(2),(b), and (c).

(4) When located within Zone VE, meet the requirements for coastal floodplains in Section 10.25,T,2,r.

j. Manufactured Homes. New manufactured homes or substantial improvements of any manufactured home must:

(1) Be elevated such that the lowest floor (including basement) and utilities of the manufactured home are:

(a) At least one foot above the base flood elevation; or

(b) In the absence of all data described in Sections 10.25,T,1,b, and c, at least two feet above the highest adjacent grade to the structure.

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

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

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

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

All components of the anchoring system described in subsections (a) and (b) above must be designed to carry a force of 4,800 pounds.

(4) When located within Zone VE, meet the requirements for coastal floodplains in Section 10.25,T,2,r.

k. Recreational Vehicles. Recreational vehicles must either:

(1) Be on the site for no more than 150 consecutive days and be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

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

(3) When located within Zone VE, be on the site for no more than 150 consecutive days and be fully licensed and ready for highway use, or meet the requirements for coastal floodplains in Section 10.25,T,2,r.

l. Accessory Structures. Accessory structures, as defined, and agricultural structures meeting the definition of accessory structure are exempt from the required elevation criteria if all other requirements of Sections 10.25,T and 10.25,T,2,l,(1) through (7) are met. Exempt accessory and agricultural structures must:

(1) Be limited in size:

(a) Within Zone A, Zone AE, and unmapped flood prone areas, to a one-story building with a floor area of no more than 600 square feet; and

(b) Within Zone VE, to a one-story building with a floor area of no more than 100 square feet;

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

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

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

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

(6) Have only ground fault interrupt electrical outlets; and

(7) Have the electric service disconnect located:

(a) At least one foot above the base flood elevation; or

(b) In the absence of all data described in Sections 10.25,T,1,b, and c to at least two feet above the highest adjacent grade to the structure; or

(c) When possible outside the Area of Special Flood Hazard.

m. Development in Floodways.

(1) In Zone AE adjacent to areas of flowing water, encroachments, including fill, new construction, substantial improvement and other development are not permitted within a regulatory floodway which is designated on the township's, plantation's, or town's Flood Insurance Rate Map or Flood Boundary and Floodway Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge. Technical evaluation may be waived for projects that are unlikely to cause an increase in the base flood level due to small size or location at grade.

(2) In Zones A and AE adjacent to areas of flowing water, for which no regulatory floodway is designated, encroachments, including without limitation fill, new construction, substantial improvement and other development are not permitted in the floodway as determined in Section 10.25,T,2,m,(3) below unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

(a) Will not increase the water surface elevation of the base flood more than one foot; and

(b) Is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.

Technical evaluation may be waived for projects that are unlikely to cause an increase in the base flood level due to small size or location at grade.

(3) In Zones A and AE adjacent to areas of flowing water for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other flowing water and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

n. Enclosed Areas Below the Lowest Floor. New construction or substantial improvement of any structure in Zone A, Zone AE, or an unmapped flood prone area that meets the development standards of Section 10.25,T, including the elevation requirements, and is elevated on posts, columns, piers, piles, stilts, or crawl spaces may be enclosed below the elevation requirements provided all the following criteria are met or exceeded:

(1) Enclosed areas are not basements as defined in Chapter 2 of the Commission's rules;

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

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

(b) Meet or exceed the following minimum criteria:

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

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

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

(3) Enclosed areas must not be used for human habitation; and

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

o. Bridges. New construction or substantial improvement of any bridge must be designed such that:

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

(2) A registered professional engineer must certify that:

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

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

p. Containment Walls. New construction or substantial improvement of any containment wall must:

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

(2) Have structural components designed to resist hydrostatic and hydrodynamic loads and the effects of buoyancy; and

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

q. Wharves, Piers, Docks, and Breakwaters. New construction or substantial improvement of wharves, piers, docks, and breakwaters is permitted in and over water and seaward of the mean high tide if the following requirements are met:

(1) In coastal floodplains, a registered professional engineer must certify that the design:

(a) Resists flotation, collapse, and lateral movement due to the effects of wind and water loads, including the effects of buoyancy, acting simultaneously on all structural components during a base flood;

(b) Meets the standards in Sections 10.25,T,2,a,2 through 4 and does not increase flood risk; and

(c) Is in accordance with accepted standards of practice for meeting the provisions of Section 10.25,T and ensuring that development is reasonably safe from flooding.

(2) In non-coastal floodplains, wharves, piers, and docks must meet the standards in Section 10.25,T,2,a and must not increase flood risk.

r. Coastal Floodplains.

(1) New construction must be located landward of the reach of mean high tide except for wharves, piers, docks, and breakwaters or as provided in Section 10.25,T,2,r,(6) below.

(2) New construction or substantial improvement of any structure located within Zone VE, with the exception of accessory structures meeting the requirements for wet floodproofing in Section 10.25,T,2,l, must:

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

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

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

Water loading values used must be those associated with the base flood. Wind loading values used must be based on the "Coastal Construction Manual" (FEMA P-55, August 2011) or equivalent Maine building standards.

(b) Have the space below the lowest floor:

(i) Free of obstructions; or

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

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

(c) Have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least one foot above the base flood elevation. Systems, fixtures, equipment, and components must not be mounted on or penetrate through walls intended to break away under flood loads.

(d) Require a registered professional engineer or architect to certify that:

(i) The structural design, specifications, and planned methods of construction meet or exceed the technical criteria contained in the "Coastal Construction Manual" (FEMA P-55, August 2011); and that

(ii) The design and planned methods of construction are in accordance with accepted standards of practice for meeting the criteria of Section 10.25,T,2,r,(2).

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

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

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

(6) A lobster shed or fishing shed on a wharf, pier, or dock:

(a) May be located seaward of mean high tide if the requirements of Section 10.23,C,3,d and all of the following are met:

(i) The shed is 200 square feet or less and does not exceed one story;

(ii) The shed is a low value structure such as a metal or wood shed;

(iii) The shed is securely anchored to the wharf, pier, or dock to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components;

(iv) The shed will not adversely increase wave or debris impact forces affecting nearby buildings;

(v) The shed has an unfinished interior and is not used for human habitation;

(vi) Mechanical equipment, utility equipment, and fuel storage tanks are securely anchored and either elevated or floodproofed to one foot above the base flood elevation;

(vii) All electrical outlets are ground fault interrupt type;

(viii) The electrical service disconnect is located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area; and

(ix) The requirements of Sections 10.25,T,2,a,m, and n are met.

A lobster shed or fishing shed permitted under the requirements of Section 10.23,C,3,d requires a variance to be expanded.

(b) Is exempt from the elevation requirement if the standards in Sections 10.25,T,2,r,(6),(a),(i) through (ix) are met.

s. Trails. Trails must:

(1) Be constructed and maintained so as to reasonably avoid sedimentation of water bodies; and

(2) Meet applicable requirements in Sections 10.25,T,2,a, e, m, and r.

U. AFFORDABLE HOUSING

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

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

2. Income Restrictions. Affordable housing lots or dwelling units allowed under Section 10.25,U shall be sold or rented to lower or moderate income buyers or renters. The Commission may waive the limit on percentage of household income spent on housing in those housing markets where, in its judgment, after consultation with the Maine State Housing Authority, elevated local housing costs limit affordable housing opportunities.

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

Affordable housing lots or dwelling units allowed under Section 10.25,U shall be maintained as affordable housing by any of the following mechanisms or combinations thereof:

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

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

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

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

a. The following housing entities, upon approval by the Commission, are qualified to hold or maintain affordable housing lots or units allowed under Section 10.25,U: A governmental entity empowered to hold an interest in real property under the laws of this State or the United States or a nonprofit organization whose purposes include providing affordable housing or increasing affordable housing opportunities for lower income or moderate income households.

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

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

5. Affordable Housing Agreement Documentation. The applicant shall submit for Commission review and approval documentation by the qualified housing entity which must include at least the following:

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

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

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

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

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

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

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

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

10.26 DIMENSIONAL REQUIREMENTS

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

A. MINIMUM LOT SIZE

1. Residential Uses and Residential Campsites.

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

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

The minimum lot size for commercial, industrial, and other non-residential uses involving one or more buildings is 40,000 square feet, except as provided in Section 10.26,A,3.

3. Campsites.

There shall be no minimum lot size requirement for lots developed only with a campsite.

B. MINIMUM SHORELINE FRONTAGE

1. Minimum shoreline frontage must be determined in the following manner:

a. In the case of a lot which borders more than one non-tidal water body, the minimum shoreline frontage requirement must be met on each water body or wetland. Where a single lot has multiple shoreline frontages on one water body (e.g., a peninsula or an island), the minimum shoreline frontage requirement must be met on each shoreline.

b. Frontage must be measured in a straight line between the points of intersection of side lot lines with the normal high water mark of the shoreline. Where a lot consists of an entire island, frontage must be measured as twice the diameter of the island along its longest axis.

c. The minimum width of any portion of any lot within 100 feet, horizontal distance, of the shoreline shall be equal to or greater than the applicable minimum shoreline frontage requirement.

2. For lots fronting on a flowing water draining more than 2 square miles but less than 50 square miles, a body of standing water less than 10 acres in size not including constructed ponds, or a coastal wetland, the minimum shoreline frontages are:

a. 150 feet per dwelling unit for residential uses;

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

c. 150 feet for a lot that only contains a residential campsite.

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

a. 200 feet per dwelling unit for residential uses;

b. 300 feet for commercial, industrial, and other non-residential uses involving one or more buildings; and

c. 200 feet for a lot that only contains a residential campsite.

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

5. There is no minimum shoreline frontage requirement for lots developed only with a campsite.

C. MINIMUM ROAD FRONTAGE

1. Minimum road frontage must be determined in the following manner:

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

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

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

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

2. Except as provided for in Section 10.26,C,3 below, the minimum road frontage is:

a. 100 feet per dwelling unit for residential uses;

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

c. 100 feet for a lot that only contains a residential campsite.

3. Flexible Road Frontage Requirements In Prospectively Zoned Areas.

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

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

4. There is no minimum road frontage requirement for lots developed only with a campsite.

D. MINIMUM SETBACKS

1. Minimum setbacks must be applied in the following manner:

a. Shoreline setbacks must be measured from the normal high water mark of the nearest shoreline of each flowing water or body of standing water, and from the nearest upland edge of applicable wetlands.

b. Roadway setbacks apply to any privately or publicly owned roadway that is used for public access, including roadways used by the public for which a toll is paid, and must be measured from the traveled portion of the roadway.

2. Single-Family Residential Uses.

The minimum setbacks for structures, other than those described in Section 10.26,D,3 and except as provided in Section 10.26,G are:

a. Shoreline setbacks:

(1) 100 feet from each flowing water draining 50 square miles or more and of a body of standing water 10 acres or greater in size;

(2) 75 feet from each flowing water draining less than 50 square miles; body of standing water less than 10 acres in size except for constructed ponds; coastal wetland; and non-forested wetlands located in P-WL1 subdistricts; and

b. Roadway setbacks:

(1) 50 feet from all roadways except as provided for in Section 10.26,D,2,b,(2) and (3) below;

(2) 30 feet from all roadways within the D-RS and D- GN subdistricts, including cases where the P-FP overlaps these subdistricts; and

(3) 20 feet from all roadways on coastal islands;

c. Side and rear property line setbacks are 15 feet.

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

3. Multi-family Dwellings, and Commercial, Industrial, and Other Non-Residential Uses.

The minimum setbacks for multi-family dwellings and commercial, industrial, and other non-residential principal and accessory structures, other than those described in Section 10.26,D,2, 4, and 5 and except as provided in Sections 10.26,G and 10.27,Q are:

a. Shoreline setbacks:

(1) 150 feet from each flowing water draining 50 square miles or more and a body of standing water 10 acres or greater in size;

(2) 100 feet from each flowing water draining less than 50 square miles; body of standing water less than 10 acres in size except constructed ponds; coastal wetland, and non-forested wetlands located in P-WL1 subdistricts; and

b. Roadway setbacks:

(1) 75 feet from all roadways except as provided for in Section 10.26,D,3,b,(2) and (3) below;

(2) 30 feet from all roadways in D-RS and D-GN subdistricts, including cases where the P-FP overlaps these subdistricts; and

(3) 20 feet from all roadways on coastal islands;

c. 25 feet from the side and rear property lines, except as provided for in Section 10.27,S,4,a for outdoor cultivation of cannabis.

Except as provided for in Section 10.26,D,2 above, these setbacks also apply to all parking areas associated with multi-family dwellings and commercial, industrial, and other non-residential uses, and drive-to campsites and all other structures within a recreational lodging facility, including, but not limited to, a main lodge, dining area, workshop and parking area.

4. Campsites.

The provisions of Section 10.26,D,4 apply to all stand-alone campsites and their related camping sites, and camping locations designed and used as only accessible by foot within recreational lodging facilities. Notwithstanding Section 10.26,D,3, the minimum setbacks for the areas designed for camping, including cleared or graded areas, fire rings, tables, and related construction, are:

a. Shoreline setbacks:

(1) 75 feet from all flowing water; bodies of standing water except constructed ponds; coastal wetlands; and non-forested wetlands located in P-WL1 subdistricts;

b. Roadway setbacks:

(1) 50 feet from all roadways except as provided for in Section 10.26,D,4,b,(2) and (3) below;

(2) 30 feet from roads in D-RS and D-GN subdistricts; and

(3) Notwithstanding the above, the area designed for camping must be set back at least 10 feet from roads internal to a campground or a recreational lodging facility, and campsite parking areas may be located adjacent to such roads, except that the Commission may require a greater setback where necessary due to site conditions in order to protect public safety.

c. 25 feet from property lines.

5. Remote Campsites.

Notwithstanding Section 10.26,D,3 and 4, the minimum setbacks for remote campsites are:

a. Shoreline setbacks:

(1) 25 feet from all shorelines, except that the Commission may require a greater setback from shorelines for remote campsites where necessary due to site conditions in order to avoid accelerated soil erosion or sedimentation of surface waters;

b. Roadway setbacks:

(1) 50 feet from all roadways;

c. 25 feet from property lines.

6. Flexible Building Setbacks in Prospectively Zoned Areas.

a. For commercial or residential development in the D-GN, D-GN2, D-GN3, D-RS, and D-RS2 subdistricts, building setback distances from roads may be less than specified in Section 10.26,D in order to meet prevailing setbacks on adjacent properties. The prevailing setback is the average setback of those principal and accessory structures on lots within 500 feet on either side of the subject parcel.

b. In the D-GN2, D-GN3, D-RS, and D-RS2 subdistricts, road setbacks for commercial buildings may be reduced to 50 feet where all parking areas are to be placed to the side or rear of the structure.

c. These reduced setbacks will be granted where the existing character of an area will be maintained and provided that the reduction will not adversely impact public safety.

7. Farm Stands and Recreation Supply Businesses without Structures. All components of farm stands and all components of recreation supply businesses without structures, including all activity, storage, and parking areas associated with such stands and businesses, must be set back at least 30 feet from the traveled portion of all roadways, provided such will not result in unsafe conditions. Farm stands and recreation supply businesses without structures must meet setbacks for commercial facilities as specified in Sections 10.26,D,3,a, and c. A farm stand or recreation supply business without structures located on a coastal island must meet setbacks from roads specified in Section 10.26,D,3,b,(3). Pursuant to Section 10.27,B, all vegetation clearing standards apply to development of a farm stand or recreation supply business without structures.

8. A remote rental cabin must be setback at least 1,000 feet of any public road, and at least 1,000 feet from any other type of residential or commercial development.

E. MAXIMUM LOT COVERAGE

1. Except as provided in Sections 10.26,E,3, 10.26,E,4, and 10.26,E,5 below, the maximum lot coverage shall be 30% for all uses involving one or more buildings.

2. "Coverage" shall be calculated by determining the percentage of lot area covered by all impervious surfaces, which include but are not limited to, buildings, driveways, sidewalks, and parking lots.

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

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

4. For lots in a D-CI subdistrict that are not within 250 feet of a major flowing water or a body of standing water 10 acres or greater in size, the maximum lot coverage shall be 50% for all uses involving one or more buildings.

5. For lots in a D-MT subdistrict, the maximum lot coverage shall be 50% for all uses, except residential uses, involving one or more buildings. For residential uses in the D-MT the lot coverage standard in Section 10.26,E,1 shall apply.

F. MAXIMUM STRUCTURE HEIGHT

1. Except as provided for in Section 10.26,F,2, 4, and 5 below, the maximum structure height must be:

a. 75 feet for residential uses, campsites, and residential campsites; and

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

2. Structures within 500 feet of the normal high water mark of a body of standing water 10 acres or greater, major flowing water, or coastal wetland must be no higher than 30 feet. The Commission may apply this provision at greater distances from the normal high water mark of bodies of standing water and major flowing water having significant or outstanding scenic values where there is the likelihood that such structures would have an adverse impact on scenic values. Bodies of standing water having such scenic values are shown in Appendix C.

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

4. Structure Height in Prospectively Zoned Areas.

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

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

5. Structure Height in Trescott Township. Structures within 500 feet of State Route 191 in Trescott Township must be no higher than 40 feet.

6. Structures in Flood Prone Areas. Notwithstanding the provisions of Sections 10.11,C,1,a; 10.11,C,1,b; 10.26,F,1; and 10.26,F,2, the applicable maximum structure height may be increased for any structure in a P-FP subdistrict or unmapped flood prone area to allow for raising the structure a maximum of either:

a. two feet above the nearest adjacent grade; or

b. two feet above the base flood elevation as determined by any method given in Sections 10.25,T,1,b, or c.

G. EXCEPTIONS TO DIMENSIONAL REQUIREMENTS

1. The Commission may reduce dimensional requirements for individual buildings in a clustered subdivision development, in accordance with Section 10.25,Q,4,b.

2. The dimensional requirements applicable to D-PD subdistricts shall be established by the Commission pursuant to the provisions of Section 10.21,H, provided that the shoreline setback requirements hereof shall not be reduced.

3. Notwithstanding other provisions of these rules, in a proposed subdivision or area that has or is likely to have relatively dense development, the Commission may increase the minimum lot size when the Commission determines that:

a. A larger lot size is required to provide sufficient area of suitable soil to accommodate the principal building and accessory structures, and subsurface waste water disposal, including a replacement system; and

b. The density of development in the vicinity of the proposed site is likely to cause nitrate or other contaminant levels in ground water to exceed public drinking water standards at any public or private well or at the property boundary. The Commission may require a nitrate study to estimate likely nitrogen levels in ground water as part of a subdivision application.

4. Where development would otherwise have an undue adverse impact on existing uses, scenic character or natural and historic resources in the area likely to be affected by the proposal, the Commission may impose additional or more protective standards with respect to clearing, frontage and setback requirements, waste water disposal, and other aspects of the development to reasonably assure that undue adverse impact is avoided.

5. An exception may be made to the shoreline, road, and/or property line setback requirements for structures where the Commission finds that such structures must be located near to the shoreline, road, or property line due to the nature of their use. Structures which must be located near to the shoreline include structures which require direct access to the water as an operational necessity, such as piers, docks, retaining walls, and structures necessary for commercial fishing activities or water dependent uses within a D-MT subdistrict. This provision shall not apply to boat houses or float plane hangars not included within a D-MT subdistrict.

6. An exception may be made to the minimum extent necessary to the shoreline frontage and lot size requirement on coastal wetlands for structures necessary for commercial fishing activities or water dependent uses within a D-MT subdistrict where such reduction would better serve the purpose of this subdistrict.

7. Where development is adjacent to a water quality limiting lake, the Commission may vary the applicable dimensional requirements in accordance with Section 10.25,A,3.

8. To the extent consistent with 12 M.R.S. § 685-B(4), the Commission may reduce the minimum lot size required for a structure whose sole purpose is to house a public utility facility or to function as a public utility, provided that:

a. the size, height, and bulk of the facility is of a scale that permits such a reduction without adverse effect on surrounding properties; and

b. the facility is sited and buffered to fit harmoniously into the surrounding environment.

9. Notwithstanding the provisions of Section 10.11, structures necessary for disabled persons to gain access to buildings or facilities may be greater than the allowable size or located less than the standard setback distance from a shoreline, road and property line to the minimum extent necessary when the following criteria are met:

a. A person with a disability as defined in 5 M.R.S. § 4553 resides in or regularly uses the dwelling or facility;

b. The encroachment into the standard setback distance or exceeding of the allowable size applies only to the installation of equipment or construction of structures necessary for access to or egress from the dwelling or facility by the person with the disability;

c. The access structure is necessary to create an accessible route;

d. The access structure cannot reasonably or feasibly be created without exceeding the allowable size or encroachment into the standard setback distance; and

e. The design of the access structure minimizes the need for exceeding the allowable size or encroachment into the standard setback distance.

10. The Commission may reduce the minimum road setback requirement in the following cases:

a. For subdivisions and commercial, industrial and other non-residential structures and uses, in accordance with Section 10.25,D,3,e,(4), by up to 50 percent or to no less than 20 feet, whichever is larger.

b. For commercial, industrial and other non-residential structures and uses, to no less than 20 feet provided the following criteria are met:

(1) The road is internal to the development and not a throughway;

(2) It is impracticable to extend the road in the future to create a longer road or a throughway (based on geography, surrounding development or other characteristics);

(3) The road will be used primarily by clients or customers of the facility(ies); and

(4) The reduction in road setback will not cause an undue adverse impact to the natural resources, community character, or scenic quality of the area.

11. The Commission may reduce the minimum water body setback requirement for a residential driveway in accordance with Section 10.27,H,2,b,(2).

12. The Commission may reduce the property line setback where there is no practical alternative and upon prior written agreement of the adjoining property owner.

13. The Commission may reduce dimensional requirements for the purpose of providing affordable housing opportunities, in accordance with Section 10.25,U.

14. Notwithstanding any other provision of these rules, the Commission may increase the maximum lot coverage above the limits set in Section 10.26,E for any lot in a D-CI subdistrict upon a finding that the increase in the maximum lot coverage will not have an undue adverse impact on existing uses or natural resources.

15. Notwithstanding any other provision of these rules, the Commission may increase the maximum lot coverage above the limits in Section 10.26,E for any lot in a D-MT subdistrict, used for a non-residential use, upon a finding that the increase in the maximum lot coverage will not have an undue adverse impact on existing uses or natural resources.

16. The Commission may apply the dimensional requirements and standards for recreational lodging facilities in accordance with Section 10.27,Q.

17. For lots improved with public recreational facilities the minimum lot size is 20,000 square feet, the minimum shoreline frontage is 100 feet, and the minimum road frontage is 100 feet, provided:

a. the abutting land is subject, in perpetuity, to legally binding provisions that prohibit incompatible land uses in locations that would be adversely affected by the public recreational facility, and

b. the public recreational facility is otherwise sufficiently sized to fulfill the use for which it is designed.

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

18. The Commission may reduce the minimum setback requirements for guy wire anchors provided such reduction will not result in unsafe conditions.

19. Notwithstanding Section 10.26,F,2, the Commission may increase the maximum height of public safety facility structures within 500 feet of the normal high water mark of a body of standing water 10 acres or greater, major flowing water, or coastal wetland to not more than 40 feet, provided that the additional height does not create an undue adverse impact on existing uses, scenic character, or natural and historic resources.

10.27 ACTIVITY-SPECIFIC STANDARDS

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

A. AGRICULTURAL ACTIVITIES

The standards of Section 10.27,A apply to agricultural activities. Agricultural activities not in conformance with the standards of Section 10.27,A may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of Section 10.27,A, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

1. Agricultural Management Activities.

The following requirements shall apply to agricultural management activities in all development and protection subdistricts:

a. All agricultural management practices shall be accomplished in accordance with best management practices, described in the publication, "Manual of Best Management Practices for Maine Agriculture", Maine Department of Agriculture, Conservation and Forestry, Bureau of Agriculture, Food and Rural Resources. (January 2007).

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

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

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

2. Small-scale Agritourism.

The following standards apply to all small-scale agritourism in all subdistricts where such activities are allowed:

a. **Parking.** Adequate parking must be provided for the vehicles of employees and visitors. On-street or off-street parking areas must be designed to ensure safe conditions and must be sized to accommodate the number of employees and visitors expected during peak times.

b. **Lighting.** All exterior lighting fixtures must be fully shielded and designed, located, installed, and directed in such a manner as to illuminate only the target area, to the extent practicable. No activity must produce a strong, dazzling light or reflection of that light beyond lot lines onto neighboring properties or onto any roadway so as to impair the vision of the driver of any vehicles upon that roadway or to create nuisance conditions. Additionally, all non-essential lighting must be turned off after business hours, leaving the minimum necessary for site security.

c. **Noise.** Facilities must meet standards for noise included in Section 10.25,F,1.

d. **Sanitation.** Adequate restroom and handwashing facilities, which may include temporary portable toilets, must be provided for employees and visitors.

3. **Greenhouses.** Non-residential greenhouse lighting must be fully shielded between sunset and sunrise and must not illuminate exterior areas or otherwise make the greenhouse appear to glow.

B. VEGETATION CLEARING

Vegetation clearing activities not in conformance with the standards of Section 10.27,B may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit must show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of Section 10.27,B, must be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

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

1. A vegetative buffer strip must be retained within:

a. 50 feet of the right-of-way or similar boundary of any public roadway except as provided for in Section 10.27,B,1,b below,

b. 30 feet of the right-of-way or similar boundary of any public roadway in D-RS and D-GN subdistricts;

c. 75 feet of the normal high water mark of any body of standing water less than 10 acres in size not including constructed ponds, or any coastal wetland or flowing water draining less than 50 square miles, and

d. 100 feet of the normal high water mark of a body of standing water 10 acres or greater in size or flowing water draining 50 square miles or more.

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

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

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

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

Near other water bodies, tributary streams and public roadways a “well-distributed stand of trees” shall be defined as maintaining a rating score of 16 or more per 25-foot by 50-foot (1,250 square feet) rectangular area as determined by the following rating system.

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

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

The following shall govern in applying this rating system:

(1) The 25-foot x 50-foot rectangular plots shall be established where the landowner or lessee proposes clearing within the required buffer;

(2) Each successive plot shall be adjacent to but not overlap a previous plot;

(3) Any plot not containing the required points shall have no vegetation removed except as otherwise allowed by these rules;

(4) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by these rules; and

(5) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

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

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

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

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

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

4. Cleared openings legally in existence as of June 7, 1990 may be maintained, but shall not be enlarged except as permitted by these regulations.

5. When revegetation is required: (i) in response to violations of the vegetation standards set forth in Section 10.27,B,1 through 4; (ii) to address the removal of non-native invasive species of vegetation; (iii) as a mechanism to allow for development by permit that exceeds the vegetation standards of Section 10.27,B or the cleared opening standards of Section 10.27,Q,1,Table A,(4); (iv) to address the removal of vegetation in conjunction with a shoreline stabilization project; or (v) as part of a mitigation plan for clearing associated with a recreational lodging facility for which the revegetation must comply with the following requirements.

a. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional (examples include: arborist, forester, landscape architect, U.S.D.A. Natural Resources Conservation Service), that describes revegetation activities and maintenance. The plan must include a scaled site plan depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

b. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed. When part of a mitigation plan, revegetation must occur along the same segment of shoreline, road, or other resource affected by proposed uses or development, and at a density and configuration comparable to other naturally occurring forests on the site or in the vicinity.

c. Revegetation activities must meet the following requirements for trees and saplings:

(1) All trees and saplings removed must be replaced with native noninvasive species;

(2) Replacement vegetation must at a minimum consist of saplings;

(3) If more than three trees or saplings are planted, then at least three different species shall be used;

(4) No one species shall make up 50% or more of the number of trees and saplings planted;

(5) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and

(6) A survival rate of at least 80% of planted trees or saplings is required for a minimum five years period from the time of planting. Replanting of trees or saplings that did not survive does not trigger a new five year period.

d. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three feet in height:

(1) All woody vegetation and vegetation under three feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three feet in height as applicable;

(2) Woody vegetation and vegetation under three feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

(3) If more than three woody vegetation plants are to be planted, then at least three different species shall be planted;

(4) No one species shall make up 50% or more of the number of planted woody vegetation plants; and

(5) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for a minimum of five years from the time of planting. Replanting of trees or saplings that did not survive does not trigger a new five year period.

e. Revegetation activities must meet the following requirements for ground vegetation and ground cover:

(1) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

(2) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and

(3) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within Section 10.27,B for a minimum of five years from the time of planting.

f. The applicant may propose, and the Commission may approve or require, variations from the standards in Section 10.27,B,5,c through e if necessary to achieve effective buffering. The Commission may exempt an individual, whether an applicant or violator, from the requirement that the revegetation plan be prepared by a qualified professional in accordance with Section 10.27,B,5,a, when the proposed revegetation is routine and would not affect a particularly sensitive resource.

C. MINERAL EXPLORATION AND EXTRACTION

Mineral exploration and extraction activities for non-metallic minerals that are not in conformance with the standards of Section 10.27,C may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of Section 10.27,C, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

Mineral exploration and extraction activities for metallic minerals are not subject to the following subsections. Metallic mineral exploration and extraction are subject to Chapter 13, Metallic Mineral Exploration and Mining Certifications, including but not limited to the standards for metallic mineral exploration in that chapter.

The following standards for mineral exploration and extraction activities for non-metallic minerals shall apply in all subdistricts except as otherwise hereinafter provided:

1. Mineral Exploration. The following standards shall apply to mineral exploration activities for non-metallic minerals:

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

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

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	**Width of Strip Between Exposed Mineral Soil and Normal High Water Mark** (Feet Along Surface of the Ground)
0-29	75
30-39	85
40-49	105
50-59	125
60-69	145
70 or more	165

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

The provisions of Section 10.27,C,1,b apply only on a face sloping toward the water, provided, however, no portion of such exposed mineral soil on a back face shall be closer than 75 feet; the provisions of Section 10.27,C,1,b do not apply where access ways cross such waters.

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

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

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

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

2. Mineral Extraction. The following standards apply to mineral extraction activities for non-metallic minerals in all subdistricts:

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

(1) 75 feet of the normal high water mark of any body of standing water less than 10 acres in size not including constructed ponds, any flowing water draining less than 50 square miles, coastal wetland, or wetland identified as a P-WL1 subdistrict; and

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

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

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

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

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

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

D. ROADS AND WATER CROSSINGS

Roads and water crossings not in conformance with the standards of Section 10.27,D may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such a permit must show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of Section 10.27,D, will be conducted in a manner that produces no undue adverse impact upon the resources and uses in the area.

The following standards apply to roads and water crossings for any purpose other than land management roads and water crossings on/for land management roads where those uses are regulated by the Maine Forest Service; repair and maintenance of legally existing road culverts or replacement of legally existing road culverts in accordance with 12 M.R.S. §685-B(1-A)(H); and driveways associated with residential structures and uses, except as provided in Section 10.27,H.The following requirements must apply to construction and maintenance of roads:

1. Roads, Drainage Ditches, and Turnouts. The following standards apply to construction and maintenance of roads, including the creation of drainage ditches and turnouts:

a. Sediment barriers, such as silt fences or erosion control mix berms, must be properly installed between areas of soil disturbance and downgradient non-tidal waterbodies and wetlands prior to construction. Sediment barriers must be maintained until the disturbed area is permanently stabilized, and removed within 30 days, or as soon as practicable, following final stabilization of the site;

b. Prior to any forecasted storm event and within 7 days following the completion of construction, all cut or fill slopes and areas of exposed mineral soil outside the road surface must be seeded and mulched, or otherwise stabilized to prevent unreasonable soil erosion and sedimentation of non-tidal water bodies or wetlands;

c. Road side slopes must have a slope no steeper than 2 horizontal to 1 vertical;

d. All drainage ditches created as part of the project must be properly stabilized upon completion to prevent unreasonable soil erosion;

e. Roads, drainage ditches, and turnouts must be located, constructed, and maintained to provide an undisturbed filter strip, of at least the width indicated below, between any exposed mineral soil and the normal high water mark of a non-tidal water body or upland edge of a wetland located in a P-WL1 subdistrict:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	**Width of Filter Strip Between Exposed Mineral Soil and Normal High Water Mark** (Feet Along Surface of the Ground)
0-10	25
11-20	45
21-30	65
31-40	85
41-50	105
51-60	125
61-70	145
71-100	165

Table 10.27,D-1. Filter strip width requirements for roads, drainage ditches, and turnouts.

These filter strip requirements do not apply to road surfaces for approaches to water crossings or wetlands.

f. **Drainage ditches may not extend to the resource being crossed.** Drainage ditches for roads approaching a water crossing or wetland must be designed, constructed, and maintained to empty into an undisturbed filter strip, of at least the width indicated in the table set forth in Section 10.27,D,1,e above. Where such filter strip is impracticable, appropriate techniques must be used to avoid unreasonable sedimentation of non-tidal water bodies and wetlands. Such techniques may include the installation of plunge pools or settling basins, or the effective use of additional ditch relief culverts and ditch water turnouts placed so as to reasonably avoid sedimentation of the water body or wetland;

g. Ditch relief (cross drainage) culverts, stone-lined drainage dips, water turnouts, and other best management practices must be installed, where necessary, to disperse the volume or velocity of water in drainage ditches into undisturbed filter strips to prevent ditch erosion.

(1) Stone-lined drainage dips may be used in place of ditch relief culverts only where the road grade has a sustained slope of 10% or less;

(2) On roads having sustained slopes greater than 10%, ditch relief culverts must be placed across the road at an angle of approximately thirty-degrees downslope from a line perpendicular to the center line of the road;

(3) Ditch relief culverts, stone-lined drainage dips, and water turnouts must direct drainage into undisturbed filter strips as required in Sections 10.27,D,1,e and f above;

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

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

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

Table 10.27,D-2. Spacing requirements for ditch relief culverts, drainage dips, and water turnouts.

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

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

(1) All culverts, open-bottom arches, and bridges must be dismantled and removed in a fashion to reasonably avoid sedimentation of non-tidal water bodies and wetlands. Stream banks must be restored to original conditions to the fullest extent practicable, and disturbed soils must be stabilized to prevent soil erosion.

(2) Water bars must:

(a) Be constructed across the road at intervals established below:

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

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

(b) Be constructed at an angle of approximately thirty-degrees downslope from the line perpendicular to the center line of the road;

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

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

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

2. Water Crossings of Flowing Waters. Except as provided in Section 10.27,D,2,c,(17) for trail crossings, the following standards apply to crossings of flowing waters:

a. All Crossings. All crossings must be installed, and, in the case of temporary crossings, removed during low-flow conditions between July 15 and September 30 in any calendar year, unless the notice submitted pursuant to Section 10.27,D,5 includes written approval from the Maine Department of Inland Fisheries and Wildlife for an alternative time period.

b. Temporary Crossings. Temporary crossings may be used for access across flowing waters. Temporary crossings must:

(1) Be removed within 180 days;

(2) Not use soil materials for construction or stabilization;

(3) Unless constructed in a way that spans the stream channel, with no disturbance to the streambed or banks, involve a culvert installation that meets all the following standards:

(a) Placed on geotextile fabric or other equally effective material where practicable to ensure restoration to the original grade,

(b) Covered with rock large enough in size to allow for easy removal without disturbing the streambed,

(c) Designed and maintained to withstand and pass high flows, such that water height is no higher than the top of the culvert's inlet, a minimum culvert diameter of 24 inches is required to pass debris, and

(d) Aligned to prevent bank erosion or streambed scour; and

(4) Removed upon completion of the work. Impacts to the streambed or bank must be restored to original condition to the fullest extent practicable.

c. Permanent Crossings.

(1) To the greatest extent practicable, work in the stream must be minimized, and design and construction must allow the stream's natural structure and integrity to remain intact.

(2) If a stream to be crossed is a perennial watercourse and has a sustained slope of more than 2%, a bridge or open-bottom arch must be used to maintain the natural streambed.

(3) If a perennial stream to be crossed is used for navigation, the crossing must consist of a bridge span or open-bottom arch with at least 4 feet of clearance during normal high water for boat passage.

(4) Except as provided in Section 10.27,D,2,d,(5) and Section 10.27,D,2,d,(8),(c), bridges, open-bottom arches, and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate flow from a 25-year frequency storm event, or with a cross-sectional area at least equal to 3 times the cross-sectional area of the flowing water.

(5) Bridges, open-bottom arches, and culverts located in special flood hazard areas must be designed and constructed to provide an opening sufficient in size and structure to accommodate flow from a 100-year frequency storm event.

(6) Footings and abutments for bridges and open-bottom arches must be landward of 1.2 times the width of the channel at normal high water.

(7) Culverts utilized in permanent crossings must:

(a) Not exceed 75 feet in length;

(b) Follow the alignment and grade of the existing stream channel where possible. On perennial streams, the culvert's gradient may not exceed 2%;

(c) Have the bottom of the entire culvert installed below the streambed elevation, as follows:

(i) >2 feet for box culverts and other culverts with smooth internal walls,

(ii) >1 foot for corrugated pipe arches, and

(iii) >1 foot and at least 25% of the culvert diameter for corrugated round pipe culverts;

(d) Have diameters that exceed 1.2 times the width of the channel at normal high water;

(e) Be seated on firm ground, or on geotextiles used to stabilize the ground;

(f) Have soil compacted up the side of the culvert;

(g) Be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications; and

(h) Have the inlet and outlet ends stabilized by rip-rap or other suitable means to reasonably avoid erosion of material around the culvert.

(8) Provided they are properly applied and used for circumstances for which they are designed, methods including but not limited to the following are acceptable to the Commission as means of calculating 25-year and 100-year frequency storm events and thereby determining crossing sizes as required in Section 10.27,D,2:

(a) A currently supported version of a tool or methodology published by the USDA Natural Resources Conservation Service (NRCS) for calculating watershed runoff based on precipitation; or

(b) Provided that the only storm severity estimate used for sizing the crossing is a 100-year frequency storm event, the Commission may also allow use of the United States Geological Survey (USGS) tool such as StreamStats (a Web-based Geographic Information Systems application) or similar replacement tool provided by the USGS.

(9) Except as provided in Section 10.27,D,2,d,(10), water crossings must have natural bottom substrate placed within the structure matching the characteristics of the substrate in the natural channel at the time of construction and over time as the structure has had the opportunity to pass significant flood events. To allow terrestrial passage for wildlife and prevent undermining of footings, crossings must have a bank on both sides of the stream matching the horizontal profile of the natural stream banks.

(10) Installation of substrate material in culverts with diameters (round pipes) or rises (pipe arches or box culverts) of less than 60 inches may not be safe or practicable. In those cases, natural deposition and bed development is allowed.

(11) Wheeled or tracked equipment may not operate in the water. Equipment operating on shore may, where necessary, reach into the water with a bucket or similar extension. Equipment may cross streams on rock, gravel or ledge bottom.

(12) If work is performed in a flowing water that is more than 3 feet deep at the time of the activity and at the location of the activity, the applicant must provide for temporary diversion of flow to the opposite side of the channel while work is in progress.

(a) Diversion may be accomplished by placing sandbags, timbers, sheet steel, concrete blocks, at least 6 mil polyethylene, or geotextiles from the bank to midstream on the upstream side of the activity. No more than two-thirds or 25 feet of stream width, whichever is less, may be diverted at one time.

(b) Any material used to divert water flow must be completely removed upon completion of the activity, and the stream substrate must be restored to its original condition.

(c) A pump may be operated where necessary, for a temporary diversion. The pump outlet must be located and operated such that erosion or the discharge of sediment to non-tidal waterbodies or wetlands is prevented.

(13) All wheeled or tracked equipment that must travel or work in a vegetated wetland area must travel and work on mats or platforms in order to protect wetland vegetation.

(14) All excavated material must be stockpiled either outside the wetland or on mats or platforms. Sediment control barriers must be used, where necessary, to prevent sedimentation.

(15) The use of untreated lumber is preferred. Lumber pressure treated with chromated copper arsenate (CCA) may be used only if necessary, only if use is allowed under federal law and not prohibited from sale under 38 M.R.S. § 1682, and provided it is cured on dry land in a way that exposes all surfaces to the air for a period of at least 21 days prior to construction. Wood treated with creosote or pentachlorophenol may not be used where it will contact water.

(16) Water crossings must be maintained to facilitate passage of aquatic life. Culverts that develop "hanging" inlets or outlets, bed washout, or a stream channel that does not match the characteristics of the natural stream channel, such as substrate mobility and type, and channel slope, stability, and confinement must be repaired as necessary to provide for natural channel characteristics and ensure adequate passage of aquatic life.

(17) Except that Section 10.27,D,4 below always applies, trail crossings of minor flowing waters are exempt from the standards of Section 10.27,D, provided such crossings are constructed in a manner that causes no disturbance to the streambed, and no substantial disturbance to the banks or shoreland areas in the vicinity of the crossing, and provided such crossings do not impede the flow of water or the passage of fish. If properly undertaken, acceptable methods may include, but not be limited to the laying of logs from bank to bank, or placement of bed logs and stringers with decking. This exemption does not extend to the construction of abutments or piers.

Trail crossings not so exempted are subject to the water crossing standards of Section 10.27,D.

3. Wetland Crossings. The design and construction of roads, other than those located in areas below the normal high-water mark of standing or flowing waters, must avoid wetlands unless there are no reasonable alternatives, and must maintain the existing hydrology of wetlands.

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

To accomplish the above, the following requirements apply:

a. Wetland crossings on mineral soils or those with surface organic layers up to 4 feet in thickness.

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

(a) For road construction on mineral soils or those with surface organic layers less than 16 inches in thickness, culverts or other cross-drainage structures must be appropriately sized and placed at each end of each wetland crossing and at the lowest elevation on the road centerline with additional culverts at intermediate low points as necessary to provide adequate cross drainage. Culverts or other cross-drainage structures must be placed at maximum intervals of 100 feet.

(b) For road construction on surface organic layers in excess of 16 inches but less than 4 feet in thickness, cross drainage must be provided by placing culverts at each end of each wetland crossing and at the lowest elevation on the road centerline with additional culverts at intermediate low points as necessary to provide adequate cross drainage. Culverts or other cross-drainage structures must be placed at maximum intervals of 100 feet. Culverts must be a minimum of 18 inches in diameter, or the functional equivalent, and have the bottom embedded at least 6 inches below the soil surface of the wetland.

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

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

b. Wetland crossings on soils with organic layers in excess of 4 feet in thickness.

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

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

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

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

(b) Cross drainage culverts or other cross-drainage structures must be placed at points where they will receive the greatest support. Culverts or other cross-drainage structures must be a minimum of 18 inches in diameter, or the functional equivalent, and have the bottom embedded at least 6 inches below the soil surface of the wetland. Where necessary to maintain existing water flows and levels in wetlands, ditches parallel to the roadbed on both sides must be used to collect surface and subsurface water, carry it through the culvert(s), and redistribute it on the other side. Such ditches must be located three times

the depth of the organic layer from the edge of the road fill. Unditched breaks must be left midway between culverts to prevent channelization.

4. Erosion and Sedimentation Control. In addition to the foregoing minimum requirements, provision must otherwise be made in the construction and maintenance of roads and water crossings in order to reasonably avoid sedimentation of non-tidal water bodies and wetlands.

5. Written Notice Required. Written notice of all road and water crossing construction activities, except level A road projects and exempt trail crossings as provided in Section 10.27,D,2,c,(17) above, must be given to the Commission prior to the commencement of such activities. Such notice must conform to the requirements of Chapter 4, Section 4.05,C and must state the manner in which the water crossing size requirements of Section 10.27,D will be satisfied.

E. TIMBER HARVESTING

Timber harvesting activities not in conformance with the standards of Section 10.27,E may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of Section 10.27,E, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

The following requirements apply to timber harvesting within all development subdistricts and, in the case of P-RP subdistricts, any protection subdistricts contained within a development area, except as otherwise hereinafter provided:

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

2. Timber harvesting operations in P-SL1 and P-GP subdistricts shall be conducted in the following manner:

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

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

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

d. No accumulation of slash shall be left within 50 feet of the normal high water mark of surface water protected by the P-SL1 and P-GP subdistricts. In such subdistricts, at distances greater than 50 feet from the normal high water mark of such waters, all slash larger than 3 inches in diameter shall be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.

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

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

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

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

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

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

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

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

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

9. Written notice of all timber harvesting operations shall be given to the Commission prior to the commencement of such activity. Such notice shall conform to the requirements of Chapter 4, Section 4.05(C) and shall state whether or not such operations will be conducted according to the provisions of Section 10.27,E,7; and

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

F. FILLING AND GRADING

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

Filling and grading activities not in conformance with the standards of Section 10.27,F may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of Section 10.27,F, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

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

1. Within 250 feet of P-WL1 subdistricts, the maximum size of a filled or graded area, on any single lot or parcel, shall be 4,300 square feet. This shall include all areas of mineral soil disturbed by the filling or grading activity;

2. Beyond 250 feet from P-WL1 subdistricts, the maximum size of filled or graded areas shall be 15,000 square feet, except that in M-GN subdistricts which are greater than 250 feet from P-WL1 subdistricts, the maximum size of the filled or graded areas shall be less than 1 acre;

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

4. Imported fill material to be placed within 250 feet of P-WL1 subdistricts shall not contain debris, trash, or rubbish. All fill, regardless of where placed, shall be free of hazardous or toxic materials;

5. Within 250 feet of P-WL1 subdistricts, the sustained slope between the normal high water mark or the upland edge of the resource and the soil disturbance must be no greater than 20%. The provisions of this paragraph apply only to a face sloping toward the water body or wetland;

6. Where filled or graded areas are in the vicinity of water bodies or wetlands, such filled or graded areas must not extend closer to the normal high water mark of a non-tidal water body or coastal wetland, or the upland edge of a freshwater wetland located in a P-WL1 subdistrict than the following:

a. For a minor flowing water, body of standing water less than 10 acres in size not including constructed ponds, coastal wetland, or freshwater wetland located in a P-WL1 subdistrict: 75 feet; and

b. For a major flowing water and body of standing water 10 acres or greater in size: 100 feet; and

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

Filled or graded areas, including all areas of disturbed soil, within 250 feet of P-WL1 subdistricts, shall be stabilized according to the Guidelines for Vegetative Stabilization contained in Appendix B of this chapter.

G. MOTORIZED RECREATIONAL GOLD PROSPECTING

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

Motorized recreational gold prospecting activities not in conformance with the standards of Section 10.27,G,1 through 5 below may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved, except that such activities are prohibited on the river and stream segments listed in Section 10.27,G,6, except as provided in Section 10.27,G,6,b. An applicant for such permit must show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of Section 10.27,G, must be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

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

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

3. Limitations on Equipment.

a. Equipment must not have any fuel, oil, or hydraulic leaks, nor cause any other unlicensed discharge.

b. **Power Limit.** Motorized equipment must not exceed seven horsepower.

c. **Nozzle Diameter.** The inside diameter of a suction dredge intake nozzle and hose must not exceed four inches.

d. **Sluice Size.** The area of a sluice must not exceed 10 square feet.

e. Use of a flume to transport water outside of a flowing water is prohibited.

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

5. Specific Restrictions on Methods of Operation.

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

(1) Disturbs the bank of a flowing water, including but not limited to digging into the bank, or dredging or altering water flow within a flowing water in a manner that causes the bank to erode or collapse.

(2) Removes or damages vegetation, or woody debris such as root wads, stumps or logs within a flowing water, on the bank, or on nearby upland, including cutting or abrasion of trees.

(3) Diverts, dams, or otherwise obstructs a flowing water.

(4) Deposits soil, rocks, or any other foreign material from outside of the channel into a flowing water.

(5) Deposits channel bottom sediments or rocks onto the bank or upland.

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

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

a. Channels narrower than four feet wide.

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

(1) There will be no significant harm to the Essential Wildlife Habitat, and

(2) The activity will not violate protection guidelines adopted pursuant to the Maine Endangered Species Act.

c. Waters defined as Class AA waters pursuant to 38 M.R.S. § 465. Class AA waters as of the effective date of this rule are included in the areas listed below.

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

e. Aroostook County.

(1) Allagash River and all water bodies within 800 feet of normal high water mark of the watercourse: T10 R12 WELS, T10 R13 WELS, T11 R13 WELS, T12 R13 WELS, T13 R12 WELS, T13 R13 WELS, T14 R11 WELS, T14 R12 WELS, T15 R10 WELS, T15 R11 WELS

(2) Aroostook River: T9 R5 WELS, T9 R7 WELS, T9 R8 WELS, Oxbow North Twp, T10 R6 WELS

(3) Big Black River: T14 R14 WELS, T14 R15 WELS, T14 R16 WELS, T15 R13 WELS, T15 R14 WELS

(4) Chemquasabamticook Stream: T11 R13 WELS, Clayton Lake Twp, T11 R15 WELS, T12 R13 WELS

(5) Fish River from Mud Pond to St. Froid Lake: T13 R8 WELS, T14 R8 WELS, T14 R7 WELS, T13 R7 WELS, T14 R6 WELS

(6) Goddard Brook: T15 R5 WELS

(7) Machias River, Big: T12 R8 WELS, T11 R8 WELS, T11 R7 WELS, T10 R7 WELS, Garfield Plt

(8) Macwahoc Stream: Macwahoc Plt, North Yarmouth Academy Grant, Upper Molunkus Twp

(9) Mattawamkeag River: Reed Plt

(10) Mattawamkeag River, East Branch: Forkstown Twp, T3 R3 WELS, T4 R3 WELS

(11) Mattawamkeag River, West Branch: T3 R3 WELS, T4 R3 WELS

(12) McLean Brook: Sinclair Twp

(13) Molunkus Stream: Macwahoc Plt, North Yarmouth Academy Grant, T1 R5 WELS, Benedicta Twp, Silver Ridge Twp

(14) Musquacook Stream: T11 R11 WELS, T12 R11 WELS, T13 R11 WELS, T13 R12 WELS

(15) Red River: T14 R8 WELS

(16) Smith Brook: T13 R8 WELS, T14 R8 WELS

(17) St. Croix Stream: St. Croix Twp, T9 R5 WELS

(18) St. John River: T11 R16 WELS, T11 R17 WELS, T12 R15 WELS, T12 R16 WELS, T13 R14 WELS, T13 R15 WELS, T14 R13 WELS, T14 R14 WELS, T15 R13 WELS, T16 R12 WELS, T16 R13 WELS, surrounding Hunnewell Island in St. John Plt, Hamlin

(19) St. John River, Northwest Branch downstream from outlet of Beaver Pond: T11 R17 WELS, T12 R17 WELS

(20) Unnamed stream connecting Cross Lake and Square Lake: Square Lake Twp

(21) Unnamed stream flowing east into Square Lake at Goddard Cove: Square Lake Twp

(22) Unnamed stream flowing northeast into Square Lake one mile northwest of Limestone Pt.: Square Lake Twp

(23) Wytopitlock Stream: Reed Plt, Upper Molunkus Twp, T2 R4 WELS, Glenwood Plt, T3 R4 WELS

f. Franklin County.

(1) Bemis Stream and tributaries: Township D, Rangeley Plt

(2) Carrabassett River and tributaries: Freeman Twp, Mount Abram Twp, Salem Twp

(3) Carrabassett River, West Branch: Freeman Twp, Salem Twp

(4) Cupsuptic River tributaries: Seven Ponds Twp

(5) Horseshoe Stream: Chain of Ponds Twp

(6) Kennebago River and its tributaries: Davis Twp, Stetsontown Twp, Seven Ponds Twp, Chain of Ponds Twp, Massachusetts Gore, Tim Pond Twp, Lang Twp

(7) Moose River downstream from Number One Brook: Beattie Twp, Lowelltown Twp

(8) North Branch Dead River: Jim Pond Twp

(9) Sandy River: Madrid Twp, Sandy River Plt, Township E

(10) South Bog Stream: Rangeley Plt

(11) Spencer Stream and Little Spencer Stream tributaries, including Kibby Stream: Kibby Twp, Skinner Twp

g. Hancock County.

(1) The following townships in their entirety: T9 SD, T10 SD, T16 MD, T22 MD, T28 MD, T34 MD, T35 MD, T41 MD, T4 ND

(2) Passadumkeag River: T3 ND

(3) Sunkhaze Stream and its tributaries: T32 MD BPP

h. Kennebec County.

(1) Sebasticook River: Unity Twp

i. Oxford County.

(1) Abbott Brook and its tributaries: Lincoln Plt

(2) Bear River: Grafton Twp

(3) Bull Branch of Sunday River and tributaries: Grafton Twp, Riley Twp

(4) Crooked River and its tributaries: Albany Twp

(5) Cupsuptic River and its tributaries: Lower Cupsuptic Twp, Upper Cupsuptic Twp, Oxbow Twp, Parkertown Twp, Lynchtown Twp, Seven Ponds Twp

(6) Kennebago River and its tributaries: Lower Cupsuptic Twp, Upper Cupsuptic Twp, Oxbow Twp

(7) Magalloway River and tributaries, including Little Magalloway River: Bowmantown Twp, Lincoln Plt, Lynchtown Twp, Magalloway Twp, Oxbow Twp, Parkertown Twp, Parmachenee Twp

(8) Rapid River: Magalloway Twp, Township C

(9) Wild River: Batchelders Grant

j. Penobscot County.

(1) Aroostook River: T8 R8 WELS

(2) Ayers Brook: Summit Twp

(3) Madagascal Stream: Grand Falls Twp

(4) Mattagodus Stream: Kingman Twp, Webster Plt, Prentiss Twp, Carroll Plt

(5) Mattawamkeag River: Kingman Twp, Drew Plt

(6) Millinocket Stream: T3 Indian Purchase, T1 R8 WELS

(7) Millinocket Stream: T8 R8 WELS

(8) Molunkus Stream: Kingman Twp

(9) Munsungan Stream: T8 R8 WELS

(10) Passadumkeag River: Summit Twp, Grand Falls Twp, T3 R1 NBPP, Lakeville

(11) Penobscot River: Argyle Twp, Mattamiscontis Twp, T2 R8 NWP

(12) Penobscot River, East Branch: Grindstone Twp, Soldiertown Twp, T3 R7 WELS, T4 R7 WELS, T4 R8 WELS, T5 R8 WELS, T6 R8 WELS

(13) Penobscot River, East Branch, all tributaries, the portions of which that are located in T3 R8 WELS and within the boundaries of Baxter State Park

(14) Sawtelle Brook: T6 R7 WELS

(15) Seboeis River: T3 R7 WELS, T4 R7 WELS, T5 R7 WELS, T6 R7 WELS, T7 R7 WELS

(16) Sunkhaze Stream and its tributaries: Greenfield Twp

(17) Wassataquoik Stream: T4 R8 WELS, T3 R7 WELS, T3 R8 WELS

(18) West Branch Penobscot River: TA R7 WELS, T3 Indian Purchase, T4 Indian Purchase

(19) Wytopitlock Stream: Drew Plt

k. Piscataquis County.

(1) Allagash River and all water bodies within 800 feet of normal high water mark of the watercourse: T10 R12 WELS, T10 R13 WELS

(2) Allagash Stream and all water bodies within 800 feet of normal high water mark of the watercourse: Eagle Lake Twp, T8 R14 WELS

(3) Chemquasabamticook Stream: T10 R15 WELS

(4) East Branch Pleasant River: Ebeemee Twp

(5) Kennebec River: Big Moose Twp

(6) Millinocket Stream: T7 R9 WELS

(7) Munsungan Stream: T8 R9 WELS

(8) Penobscot River, West Branch: T1 R9 WELS, T2 R9 WELS, T2 R10 WELS, T3 R11 WELS

(9) Penobscot River, West Branch, those segments of any tributary that are in T2 R9 WELS and are also within the portion of Baxter State Park served by the Land Use Planning Commission

(10) Piscataquis River, East Branch: Blanchard Twp

(11) Piscataquis River, West Branch: Blanchard Twp

(12) Pleasant River, West Branch: Shawtown Twp, Beaver Cove, Bowdoin College Grant East, Katahdin Iron Works Twp, Williamsburg Twp

(13) Stream between Lower Portage Pond and Spider Lake: T9 R11 WELS

(14) Stream between Webster Lake and Telos Pond and all water bodies within 800 feet of normal high water mark of the watercourse: T6 R11 WELS

(15) Stream in wetland on south end of Churchill Lake: T9 R12 WELS

(16) Webster Brook: T6 R11 WELS

l. Somerset County.

(1) Cold Stream and Cold Stream tributaries, including Tomhegan Stream: Chase Stream Twp, West Forks Plt, Johnson Mountain Twp

(2) Dead River: Pierce Pond Twp, T3 R4 BKP WKR, Bowtown Twp, West Forks Plt, T3 R5 BKP WKR, Lower Enchanted Twp

(3) Doucie Brook: T9 R17 WELS

(4) Enchanted Stream: Upper Enchanted Twp, Lower Enchanted Twp

(5) Gulliver Brook: Plymouth Twp

(6) Kennebec River above junction with Dead River: West Forks Plt, Moxie Gore, Chase Stream Twp, Indian Stream Twp, Sapling Twp, Taunton & Raynham Academy Grant Twp, Misery Gore, The Forks Plt

(7) Moose River: Holeb Twp, Attean Twp, T5 R7 BKP WKR, Bradstreet Twp

(8) Moxie Stream: Moxie Gore

(9) Parlin Stream: Parlin Pond Twp

(10) Spencer Stream, Little Spencer Stream, and Little Spencer Stream tributaries, including Kibby Stream: T3 R4 BKP WKR, T3 R5 BKP WKR, King and Bartlett Twp, Haynestown Twp

(11) St. John River: Big Ten Twp, T10 R16 WELS

(12) St. John River, Baker Branch: T5 R17 WELS, T6 R17 WELS, St John Twp, T7 R 16 WELS, T9 R17 WELS, T8 R17 WELS, T7 R17 WELS

(13) St. John River, Northwest Branch: Big Ten Twp

(14) St. John River, Southwest Branch: T9 R17 WELS, T9 R18 WELS, Big Ten Twp

m. Washington County.

(1) The following townships and town in their entirety: T18 MD BPP, T19 MD BPP, T24 MD BPP, T25 MD BPP, T30 MD BPP, Day Block Twp, T36 MD BPP, T37 MD BPP, T42 MD BPP, T43 MD BPP, Sakom Twp, Cathance Twp, Big Lake Twp, Berry Twp, T19 ED BPP, T26 ED BPP, Greenlaw Chopping Twp, Devereaux Twp, Marion Twp, Edmunds Twp, Baring

(2) Baskahegan Stream: Brookton Twp

(3) Cathance Stream: Edmunds Twp

(4) Clifford Brook: Marion Twp

(5) Creamer Brook: T19 ED BPP

(6) Dennys River: Cathance Twp, Edmunds Twp

(7) Hobart Stream: Edmunds Twp

(8) Machias River: Centerville Twp

(9) Machias River, East: Big Lake Twp, Berry Twp, T19 ED BPP

(10) Northern Stream: T19 ED BPP

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

(12) Tomah Stream: Forest Twp, Codyville Plt, Lambert Lake Twp

(13) Venture Brook: Edmunds Twp

H. DRIVEWAYS ASSOCIATED WITH RESIDENTIAL STRUCTURES AND USES

Driveways not in conformance with the standards of Section 10.27,H may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of Section 10.27,H, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

1. Applicability.

The following requirements apply to the construction of driveways for single-family and two-family dwelling units in all subdistricts where driveways associated with residential uses are allowed without a permit. These standards, along with the standards of Section 10.25,D,2, may be used as guidance in processing an application for driveways to be located in those subdistricts where driveways require a permit from the Commission.

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

b. **Length.** If the length of a proposed driveway is greater than 1,000 feet, it is regulated as a road and requires a permit from the Commission unless it qualifies as a land management road.

2. Water Body and Wetland Setback Requirements.

a. **Minimum Water Body and Wetland Setback.** The minimum water body and wetland setback for a driveway which accesses an undeveloped lot or a lot having residential structures is:

(1) 100 feet from the nearest shoreline of a flowing water draining 50 square miles, and a body of standing water greater than 10 acres in size;

(2) 75 feet from the nearest shoreline of a coastal wetland; and

(3) 50 feet from the upland edge of minor flowing waters and mapped P-WL1 wetlands.

b. Exceptions to Water Body and Wetland Setback Requirements.

(1) The water body and wetland setback requirements do not apply to approaches to water body or wetland crossings.

(2) A lesser setback may be allowed with a permit in the following instances provided no other reasonable alternative exists and appropriate techniques are used as needed to prevent sedimentation of the water body or wetland.

(a) In the case of legally existing nonconforming structures located in the shoreland area, the driveway may extend to the portion of the principal structure farthest from the normal high water mark of the water body, but in no case closer than 50 feet from the normal high water mark of the water body; or

(b) To allow access to permitted facilities located nearer to the shoreline due to an operational necessity as described in Section 10.26,G,5.

3. Property Line Setback.

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

b. Exceptions to Property Line Setback.

(1) A shared driveway need not meet the minimum setback.

(2) The minimum setback standard does not apply to authorized approaches to and crossings of property lines or to crossings along easements or rights of way established in deed or lease.

(3) A lesser setback may be allowed with a permit upon written permission of the abutting landowner.

4. **Road Frontage.** The lot to be served by the driveway must have a minimum of 100 feet of road frontage.

5. **Entry onto Roadways, including State Highways.** The entry must not be located on a curve and must be placed so as to allow adequate line of sight for safe entry onto the roadway. The driveway must be designed such that vehicles may exit the premises without backing onto the roadway or shoulder. If a driveway is to enter directly onto a state or state-aid highway, the person wishing to construct the driveway must first obtain written permission from the Maine Department of Transportation.

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

7. **Wetlands Alteration.** The driveway must not alter any portion of a mapped P-WL1 subdistrict or more than 4,300 square feet of a mapped P-WL2 or P-WL3 subdistrict without a permit.

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

9. Erosion and Sedimentation Control.

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

(1) It will not erode or create any undue restriction or disruption of existing surface water drainage ways;

(2) It will divert runoff to a vegetated buffer strip so as to prevent it from directly entering a water body, mapped P-WL1 wetland, or roadway.

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

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

I. PESTICIDE APPLICATION

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

J. SIGNS

Signs not in conformance with the standards of Section 10.27,J may be allowed upon issuance of a permit from the Commission, provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit must show by a preponderance of the evidence that the proposed sign, which is not in conformance with the standards of Section 10.27,J, will be erected and maintained in a manner which produces no undue adverse impact upon the resources and uses in the area.

1. Signs Not Requiring a Permit.

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

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

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

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

d. Traffic control signs or devices;

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

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

g. Memorial signs or tablets;

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

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

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

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

l. Sign kiosks near trail intersections that do not exceed 128 square feet of surface area used for the placement of multiple individual signs including those advertising a place of business. No more than one sign kiosk may be located near any trail intersection and

individual signs (other than maps) on such kiosks shall not exceed 4 square feet in size. No other signs advertising a place of business shall be located at such intersections. Such kiosks shall not be visible from a public roadway.

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

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

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

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

Subdistricts	**Maximum Size for Each Individual Sign** (square feet)	**Maximum Aggregate Area of all Signs for Facility Being Advertised** (square feet)
D-CI, D-ES, D-GN, D-GN2, D-GN3, D-MT, D-PD, D-PR, D-RB, D-RD, D-RF, M-GN, M-HP	32	64
D-LD, D-RS, D-RS2, D-RS3, M-NC and All Protection Subdistricts	8	16

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

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

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

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

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

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

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

2. Regulations Applying to All Signs.

a. General Provisions.

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

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

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

(3) Has any animated or moving parts;

(4) Is in violation of, or at variance with, any other applicable federal or state law or regulation;

(5) Except for cannabis businesses, advertises activities that are illegal under any state or federal law applicable at the location of the sign or the activities;

(6) Is not clean or in good repair; or

(7) Is not securely affixed to a substantial structure.

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

b. Lighted Signs.

(1) Lighted signs, whether internally or externally illuminated, must not cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with the operation thereof;

(2) Other than traffic control or emergency signage, signs must not include any flashing, intermittent, moving, or changing light, including electronic message displays;

(3) Lighting for externally illuminated signs must be fully shielded and directed downward so as to illuminate only the target area and effectively prevent beams or rays of light from being directed upward or toward any portion of a traveled way of a roadway or neighboring property;

(4) Internally illuminated signs must have a black or dark background; and

(5) Internally illuminated signs must be turned off after business hours.

3. Criteria for Sign Approval.

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

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

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

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

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

K. WATER IMPOUNDMENTS

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

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

Except as hereinafter provided, trailered ramps, hand-carry launches, and water-access ways not in conformance with the standards of standards of Section 10.27,L may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved.

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

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

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

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

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

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

2. Facilities Associated with Shorefront Subdivisions.

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

3. Maintenance of Trailered Ramps and Hand-carry Launches.

Maintenance. Every application for a permit, or permit by special exception for a new or replacement trailered ramp or hand-carry launch, or expansion thereof, must contain a description of the procedures the applicant will follow to maintain the facility on an ongoing basis in compliance with the standards of Section 10.27,L,5, to minimize erosion, sedimentation, and transport of phosphorus into the water body.

4. Notification for Trailered Ramps and Hand-carry Launches.

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

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

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

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

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

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

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

a. Erosion Prevention and Control During Construction. Eroded soil or fill material from disturbed areas must be prevented from entering a water body. Properly installed erosion control measures, such as staked hay bales and silt fence, must be in place before the project begins. These erosion control measures must remain in place, functioning as intended, until the project area is permanently stabilized. Erosion and sedimentation control measures must comply with "Maine Erosion and Sediment Control Practices Field Guide for Contractors," Maine Department of Environmental Protection, (2014).

b. Avoidance of Water Bodies. No portion of a ramp or related facilities may be located in, on, or over wetlands, other than the water body being accessed, identified as P-WL1 on the Commission's zoning map for the project area. Parking areas, access roads, and paths must

not be located in a stream, wetland designated as P-WL1, or other water body, except that an access roadway may cross a stream if requirements of Section 10.27,D, pertaining to water crossings, are met.

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

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

e. Trailered Ramps.

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

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

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

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

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

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

(7) The total area disturbed in the construction of private facilities shall not exceed 1,000 square feet within 50 feet of the normal high water mark.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

n. Dimensional Requirements. The dimensional requirements in Section 10.26 apply.

M. SERVICE DROPS

Service drops not in conformance with the standards of Section 10.27,M are prohibited. A permit is not required for a service drop provided one of the following conditions is met:

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

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

N. HOME-BASED BUSINESSES

Except as hereinafter provided, home-based businesses not in conformance with the standards of Section 10.27,N are prohibited.

1. Minor Home-based Businesses.

a. **Purpose.** The intent of Section 10.27,N,1 is to allow minor home-based businesses under the conditions stated herein in certain subdistricts without requiring a permit.

b. Size.

(1) A minor home-based business must not utilize more than 50 percent of all floor area of all principal and accessory structures up to a limit of 1,500 square feet.

(2) Notwithstanding Section 10.27,N,1,b,(1), a home child day care provider or home adult day services program without outside staff and caring for no more than six children or adults is considered a minor home-based business, but is not subject to the limitations on percent and floor area of the structure utilized.

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

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

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

(2) Signs are allowed in conformance with Section 10.27,J except in D-RS, D-RS2 and D-RS3 subdistricts where one unlighted sign no greater than two square feet in area is allowed for the home-based business; and

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

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

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

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

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

i. **Hazardous wastes.** A minor home-based business must not generate hazardous wastes in amounts that exceed normal residential household quantities.

j. Cannabis Businesses. Minor home-based businesses involving a cannabis business are allowed in compliance with Section 10.27,S,4.

2. Major Home-based Businesses.

a. Purpose. The intent of Section 10.27,N,2 is to allow major home-based businesses in certain subdistricts through the issuance of permits.

b. Size.

(1) A major home-based business must not utilize more than 50 percent of all floor area of all principal and accessory buildings up to a limit of 2,500 square feet.

(2) Notwithstanding Section 10.27,N,2,b,(1), a home child day care provider or home adult day services program with outside staff and caring for up to 12 children or adults is considered a major home-based business, but is not subject to the limitation on the percent and floor area of the structure utilized. Adaptive rehabilitation and reuse of existing accessory structures for major home-based businesses may exceed the size limitations of such home-based businesses if the following conditions are met:

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

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

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

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

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

(2) Signs are allowed in conformance with Section 10.27,J except in D-RS, D-RS2 and D-RS3 subdistricts where one unlighted sign no greater than four square feet in area is allowed for the home-based business; and

(3) Vehicles and equipment as defined below in Section 10.27,N,2,h.

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

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

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

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

i. Hazardous wastes. A major home-based business must not generate or store quantities of hazardous wastes that exceed the amounts set for "Small Quantity Generators" by the Maine Department of Environmental Protection (DEP) and must meet the applicable requirements of DEP rules, Chapter 850, Section 4.

j. Cannabis Businesses. Major home-based businesses involving a cannabis business are allowed in compliance with Section 10.27,S,4.

O. PERMANENT DOCKING STRUCTURES

Except as hereinafter provided, permanent docking structures not in conformance with the standards of Section 10.27,O are prohibited.

To be granted a permit, permanent docking structure proposals must meet the General Criteria for Approval, Section 10.24, and the Criteria for Wetland Alterations, Section 10.25,P, in addition to any applicable requirements set forth in Section 10.27,O. Permanent docking structures proposed in a (P-FP) Flood Prone Protection Subdistrict, or in an area identified on a Federal Emergency Management Agency (FEMA) Flood Hazard Boundary or Flood Insurance Rate Map, must also meet the applicable provisions of Section 10.25,T.

1. Reconstruction of Permanent Docking Structures.

a. A permit for reconstruction shall not be issued unless the permanent docking structure is legally existing. For docks larger than the size limitations for new or expanded docks in Section 10.27,O,2,b, the size of the reconstructed dock must be no more than 90 percent of the size of the original structure. The dock shall be reconstructed in the same location, except as provided for in Section 10.27,O,1,d. The reconstructed structure must not extend farther into the waterbody than the existing structure. Reconstruction of a permanent docking structure shall not include reconstruction of any other structure, such as a shed or boathouse, which is attached to the docking structure, except as provided for in a (D-MT) Maritime Development Subdistrict and in a DACSS listed in Appendix G, Section 2 of this chapter. Reconstructed docks must meet the construction standards in Section 10.27,O,4.

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

c. Reconstruction may not take place within significant wildlife habitat, as defined in Chapter 2 of the Commission's rules, or impact rare plants and natural communities, as identified by the Maine Natural Areas Program. Reconstruction may not take place within 250 feet of essential wildlife habitat, as defined in 12 M.R.S. § § 7754 and 7755-A unless the applicant has obtained approval from the Maine Department of Inland Fisheries and Wildlife.

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

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

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

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

2. New or Expanded Permanent Docking Structures.

a. Special Exception Criteria for Permanent Docking Structures.

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

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

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

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

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

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

(a) Proximity to a public or commercial dock.

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

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

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

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

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

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

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

(c) Proximity to less ecologically sensitive areas. An alternative site that would result in the least environmental impact while still providing access shall constitute "an alternative site reasonably available to the applicant". Ecologically sensitive areas include, but are not limited to, areas defined as Significant Wildlife Habitat in Chapter 2 of the Commission's rules; eel grass beds; salt marsh or emergent marsh vegetation; or other high value fisheries and wildlife habitat.

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

(1) Coastal Wetlands.

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

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

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

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

(2) Non-Tidal Water Bodies.

(a) Maximum length.

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

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

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

3. Normal Maintenance and Repair.

a. Normal maintenance and repair of permanent docking structures above the normal high water mark does not require a permit.

b. Boathouses and floatplane hangars. Except as provided for in a (D-MT) Maritime Development Subdistrict and in a DACSS listed in Appendix G, Section 2 of this chapter, boathouses and floatplane hangars may be maintained (see the definition of normal maintenance and repair), but may not be reconstructed.

4. Construction Standards.

a. New or expanded docking structures must be constructed using methods, such as pilings, that allow for free flowing water and fish passage beneath the dock. Reconstructed docking structures must be pile-supported where feasible. Construction methods, such as rock filled cribs, that place fill below the normal high water mark of coastal wetlands or non-tidal water bodies may only be allowed where the applicant demonstrates by a preponderance of evidence that non-fill construction techniques are not practicable;

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

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

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

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

P. ACCESSORY STRUCTURES

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

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

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

1. Written notice required. Notice pursuant to Chapter 4, Section 4.05,C has been completed prior to constructing or placing the accessory structure. Notice must include self-verification by the landowner or lessee that the standards listed in Section 10.27,P will be met.

2. The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two-year period is not more than 750 square feet, except that freestanding accessory solar energy generation facilities are limited to not more than 750 square feet in total.

3. The accessory structure(s) must:

a. Be located in a subdistrict that allows the principal use;

b. Be accessory to a legally existing principal structure or use;

c. Meet the definition of accessory structure in Chapter 2 of the Commission's rules;

d. Meet the development standards in Sections 10.25,B, F, H, and M, as applicable; and the activity specific standards in Section 10.27, as applicable;

e. Conform with any applicable permit conditions, or deed restrictions recorded for the property;

f. Meet all of the applicable dimensional requirements in Sections 10.26,D through F;

g. Have unfinished interiors and not be used for human habitation;

h. Be consistent with the use of the principal structure and not add a new activity to those currently permitted at the site or facility;

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

4. The accessory structure(s) must not:

a. Have internal plumbing and not be supplied with water other than for a hose bib (exterior hose faucet);

b. Be used for a home-based business;

c. Be located in a flood prone area as defined in Chapter 2 of the Commission's rules and described in Section 10.23,C;

d. Use in construction nor produce any hazardous or toxic materials or substances; and

e. Cause the total development on a property to exceed any gross floor area limitation related to the type of use.

Q. RECREATIONAL LODGING FACILITIES

All new recreational lodging facilities, and reconstruction of or substantial improvements to existing recreational lodging facilities, must be developed in conformance with the standards of Section 10.27,Q or in accordance with other applicable provisions of this Chapter. If the requirements in the standards below are at variance with the requirements of any other provisions of this Chapter, or other lawfully adopted rules, regulations, standards, or ordinances, the more protective of existing natural, recreational and historic resources must apply.

1. Recreational Lodging Categories.

A recreational lodging facility will be categorized based on the factors in Table A below. A facility will be categorized in the lowest facility level (A, B, C, D or E, with A being the lowest level and E being the highest level) in which the facility does not exceed any of the limits established in the Table A. Facilities in existence prior to July 1, 2013 may be categorized without regard to footprint of clearing.

Within the D-GN, D-GN2, D-GN3, D-RF, and M-GN Subdistricts, Level C and Level D facilities may offer expanded services to the general public and increased overnight occupancy as provided in Table B, with the rows labeled 5 through 9 in Table B substituting for the corresponding rows in Table A. In these subdistricts, Table B adjusts Table A. A Level C or Level D facility applying any of the Table B adjustments is referred to in Sub-Chapter II as a “Level C – Expanded Access” facility and “Level D – Expanded Access” facility, respectively. As provided in Sub-chapter II, these expanded access facilities require permit or special exception approval.

As used in Section 10.27,Q, the term “clearing” means an opening in the forest canopy, measured from the remaining crown or canopy, in an area that was once, but is no longer forested. Clearing includes but is not limited to areas that may now contain or be used for roads, parking, lawn, structures, or subsurface wastewater disposal systems. Land areas that are naturally devoid of trees or naturally consisting of sparse trees are not included in “clearing,” unless human intervention is required to maintain this state (e.g., burning, mowing).

Table A: Facility Level Determination.

Factors	Facility Level				
	A	**B**	**C**	**D**	**E**
(1) On-site recreation activities, features, and/or services[(i)]	N	Low noise, odor Mostly screened		Some noise, odor Partially screened	Routine noise, odor Highly visible
(2) Utilities: May be served by public utilities and/or indoor plumbing or water and electric at campsites	N	Y	Y	Y	Y
(3) Floor area of principal buildings *(in square feet)*[(ii)]:	≤ 750	≤ 8,000	≤ 12,000	≤ 20,000	No limit
(4) Footprint of clearing within 250 feet of any body of standing water not including constructed ponds, coastal wetlands, or flowing waters downstream from the point where such waters drain 50 square miles or more, in accordance with Section 10.27,Q,5. *(in square feet) Section 10.27,B still applies:*	≤ 6,000	≤ 36,000	≤ 54,000	≤ 90,000	No limit
(5) Retail *(in square feet)*:	0	≤ 100 or not more than 5% of floor area of principal buildings, whichever is larger	≤ 200	≤ 500	≤ 800
(6) Dining amenities	N	Guests	Guests	Guests	Public
(7) Fuel sales	N	Guests	Guests	Guests	Public
(8) Recreation activities, features, and/or services[(i)]	N	Guests	Guests	Guests	Public
(9) Overnight occupancy *(in people)*:	≤ 80	≤ 100	≤ 150	≤ 250	No limit

Table B: Expanded Access Adjustment.

A Level C or D "Expanded Access" facility provides certain amenities to the general public in addition to overnight guests, and may have increased overnight occupancy. The term Expanded Access reflects that more people will be accessing these facilities.

Factors	Facility Level				
	A	**B**	**C** (Expanded Access)	**D** (Expanded Access)	**E**
(5) Retail *(in square feet)*:			< 200 or not more than 10% of floor area of principal buildings, whichever is larger	< 500	
(6) Dining amenities			Public	Public	
(7) Fuel sales			Public	Public	
(8) Recreation activities, features, and/or services[(i)]			Public	Public	
(9) Overnight occupancy *(in people)*:			≤ 300	≤ 400	

Key:

- N = not allowed;
- Y = allowed but not required;
- Guests = amenities may be available to overnight guests and may be available on an incidental basis to the general public. In this regard, these amenities provide only limited services or purpose for the convenience of guests, and that, while they may be occasionally patronized by others, are not of a type, scale or design intended to meet the needs primarily of the greater region. Activities, features, and services that are individually advertised are not considered incidental. Activities, features, and services that are not incidental are regulated under separate use listings.
- Public = amenities may be available to overnight guests as well as the general public on a regular basis. With regard to fuel sales, "Public" allows the retail sale of not more than two fuel types (e.g., gas, diesel, aviation gas, natural gas, or propane) to the public with not more than one functioning dispensing device per fuel type where each device can serve no more than one vehicle, customer or container simultaneously, except when the applicant can demonstrate that such dispensing device is not practicable. A recreational lodging facility may continue to utilize any dispensing devices that: i) were in private use at the facility as of August 5, 2013; and ii) do not conform to the provisions above regarding the number of fuels or vehicles, customers, or containers served simultaneously.

However, in such cases, any new or replacement fuel dispensing devices shall conform to the provisions above regarding the number of fuels or vehicles, customers, or containers served simultaneously.

Table A and B Notes:

(i) See definitions.

(ii) Floor area limits in Table A may be increased by 25% in accordance with Section 10.27,Q,2.

2. Floor Area Adjustment for Expanding Square Footage.

In any subdistrict, a recreational lodging facility or proposed facility legally bound by provisions acceptable to the Commission that result in a 25 foot vegetative buffer along all property lines facing exterior roads and 50% more depth of the vegetative buffer than otherwise would be required by Section 10.27,B along a whole shoreline and that restrict building color to blend in with the surrounding area and restricts the use of reflective surfaces, shall be allowed 25% more square footage than the floor area limits of Section 10.27,Q,1, Table A. If the subdistrict (see Sub-chapter II) in which the facility is located or is proposed to be located has more restrictive square footage limits, then the subdistrict square footage limits shall apply.

3. Geographic Allowance Area.

Certain levels of recreational lodging facilities located within the M-GN, D-GN, or D-RF Subdistricts and within one of the areas described below may be allowed by permit or by special exception (see Sub-chapter II). Facilities located within townships or plantations located within the Prospective Zoning Plan for the Rangeley Lakes Region and facilities located on islands may not receive such geographic allowance.

a. Within 2 miles measured in a straight line from a public road (except Interstate 95), and located within 10 miles measured in a straight line from the boundary of one of the following municipalities: Anson, Ashland, Bethel, Bingham, Calais, Caribou, Carrabassett Valley, Dover-Foxcroft, Eastport, Ellsworth, Eustis, Farmington, Fort Kent, Gouldsboro, Greenville, Guilford, Houlton, Island Falls, Jackman, Jonesport, Kingfield, Lincoln, Lovell, Lubec, Machias, Madawaska, Medway, Milbridge, Millinocket, Milo, Newry, Oakfield, Old Town, Orono, Patten, Presque Isle, Princeton, Rangeley, Rockwood Strip T1 R1 NBKP, Rumford, Saint Agatha, Sullivan, The Forks Plantation, Unity, Van Buren, Waterford, Wilton. Facilities located within one of these towns, townships, or plantations shall be considered to be within 10 miles of the boundary.

4. Measuring Floor Area Limits.

Unless otherwise specified by another provision, any floor area limitations for recreational lodging facilities shall be a calculation of the total floor area for all principal buildings associated with the facility. For purposes of this calculation, principal buildings generally include, for example: main lodge, cabins for the housing of guests, bathroom facilities, sauna/spa, caretaker and guide housing, and recreation rooms (e.g., the principal space available to or necessary for serving the guests). Further, accessory structures are not counted, including but not limited to: wood shed, generator building, workshop, storage, composting toilet infrastructure, and structures having a footprint of not more than 100 square feet which are part of an on-site recreation activity. Outpost cabins may not be considered in determining conformance of a Commercial Sporting Camp with the applicable floor area limitation of Section 10.27,Q,1.

5. New or Enlarged Clearing.

a. Recreational lodging facilities may create or enlarge a clearing within 250 feet of the shoreline, provided the clearing, in combination with all other clearings at the facility, does not exceed the applicable limits in Section 10.27,Q,1, Table A and such a clearing is in an area that has:

(1) a 100 foot vegetative buffer that meets the provisions of Section 10.27,B,2[27] between the proposed clearing and all points on the shoreline; and

(2) slopes of 20 percent or less as measured from the highest elevation in the area within 250 feet of the shoreline in which clearing or development is proposed, to the nearest point on the shoreline.

b. Recreational lodging facilities may create or enlarge clearings within 250 feet of the shoreline regardless of the limits in Section 10.27,Q,1, Table A or the provisions of Section 10.27,Q,5,a, provided the applicant:

(1) demonstrates that the overall visual impact of the facility will not increase as a result of the creation or enlargement of clearings, or from the development or uses located within those clearings; or

(2) submits a mitigation plan for visual impacts, noise, and phosphorus, that will provide substantially equivalent or increased effectiveness over existing conditions.

6. Campgrounds.

a. RVs that are at individual sites or campgrounds shall not have permanent foundations and shall not have the wheels removed.

b. In order to comply with transient occupancy standards, a tent, trailer, camper, recreational vehicle, or similar device used for camping may be stored within a campground provided that the device is not occupied for more than 150 days in a calendar year.

7. Water-dependent Structures for Recreational Lodging Facilities.

Recreational lodging facilities may include not more than two water-dependent structures per waterbody, including but not limited to: swimmer sign-out boards, boat racks, and a shed building for the storage of personal floatation devices, paddles, anchors, and other water-related equipment. Such buildings and structures shall:

a. Contain not more than 100 square feet of floor area per structure;

b. Not be constructed on a permanent foundation;

c. Not be habitable or inhabited;

d. Be located not less than 25 feet from the normal high water mark of any waterbody or watercourse;

[27] Section 10.27,B,2 sets out restrictions on cleared openings and requirements for maintaining a well-distributed stand of trees within a buffer strip when conducting vegetative clearing activities in locations along shorelines and public roadways identified in Section 10.27,B,1. For purposes of Section 10.27,Q, the provisions of Section 10.27,B,2 must apply to the required 100 foot vegetative buffer in the area between a proposed new or enlarged clearing within 250 feet of the shoreline and all points on the shoreline. This requirement will apply regardless of whether or not the buffer extends to the shoreline.

e. Be used only for the purposes of Section 10.27,Q,7; and

f. Be screened by vegetation or topography from the waterbody.

8. Conversion of Use.

Pursuant to 12 M.R.S. § 685-B(1)(A), recreational lodging facilities may not be converted to another use without a permit issued by the Commission. Conversion may be permitted, provided the proposed use is allowed within the subdistrict and complies with the all applicable regulations. When the conversion is to a residential use, the following must apply:

a. The structures will comply with the provisions of Sections 10.11,B, C and D;

b. Any water dependent structures for recreational lodging facilities must be removed or relocated to a location conforming with the provisions of Section 10.26,D; and

c. The lots and structures must comply with all applicable rules, including, but not limited to, subdivision standards in Section 10.25,Q, and the dimensional requirements of Section 10.26, except as provided in Section 10.27,Q,8,d.

d. Notwithstanding Section 10.27,Q,8,c, the Commission may permit the subdivision of the facility provided that:

(1) the principal structures may be sold individually but shall be limited by deed restrictions to existing square footage of floor area or footprint;

(2) the lot must be commonly owned as a condominium lot;

(3) the conversion and related division shall meet the subdivision design standards of Section 10.25,Q to the greatest extent practicable;

(4) the condominium lot and existing structures:

(a) in the aggregate, meet all dimensional requirements of Sections 10.26,A, B, and C, except that shoreline setbacks must not be reduced; and

(b) as an individual lot or structure, meet all dimensional requirements of Section 10.26 to the greatest extent practicable;

(5) commonly owned lots must not contain less than three principal structures; and

(6) Building envelopes must be identified and consider existing development and possible relocation of reconstructed structures, consistent with Section 10.25,Q,3,c.

e. If a campground is converted to another use:

(1) the historic use of a site for an RV does not establish a right to use that site or permanently place an RV or other structure at that site; and

(2) permanent structures, including but not limited to an office, store, bathhouses, and recreation buildings, may be allowed to remain and/or be converted to another use, in conformance with other provisions of the Commission's Land Use Districts and Standards

R. RURAL BUSINESSES

The following requirements shall apply to rural businesses located in the D-RB subdistrict except as otherwise provided herein.

1. Category of Rural Businesses[28]

Except as hereinafter provided, rural businesses not in conformance with the standards of Section 10.27,R are prohibited.

a. Category 1 Rural Business.

(1) **Description.** Natural resource-based business.

(2) Size.

(a) Up to three acres utilized by the business, and

(b) Up to 4,000 square feet of gross floor area, or as provided by Section 10.27,R,2.

(3) **Exterior effects.** There must be no exterior display, no exterior storage of materials, and no other exterior indications of a rural business with the following exceptions:

(a) Outdoor storage of raw materials and finished product are allowed, provided at least 50 percent of the raw materials used in production come from the site or working farm or forest lands under the same ownership;

(b) Outdoor storage of outdoor recreation equipment and supplies; and

(c) Shipping and receiving areas appropriate for Category 1 type businesses, particularly when considering one or more of the following factors: (a) maximum number of delivery vehicles accommodated at the same time; (b) daily shipping and receiving hours of operation, including any seasonal variation; and (c) type of delivery vehicle.

(4) **Traffic.** The level of vehicular traffic generated by a Category 1 rural business must not significantly exceed that commonly associated with Category 1 types of business. If not located on a numbered state or federal route, traffic on the network of roads used to facilitate movement of goods and services to and from the business may not exceed levels common to the surrounding setting and uses.

(5) **Hours of Operation.** The Commission may limit hours of operation to minimize impacts to adjacent residents or uses.

(6) **Vehicles and Equipment.** A business must not involve the regular exterior use or storage of more than an aggregate of six tractor trucks, semitrailers, and heavy equipment such as construction equipment, all of which must be operable or in the process of being made operable. Exterior storage of abandoned or inoperable vehicles or heavy equipment is not permitted.

Seasonal variations in the number of units stored are permissible so long as the

[28] See Section 10.21,I,2,b for eligible locations for Category 1, 2, and 3 rural business.

seasonal increase is for a relatively short period of time and the increase above the limit of stored units does not cause undue adverse impacts to surrounding uses and resources.

This factor does not address delivery or pickup vehicles, which are addressed by Section 10.27,R,1,a,(3),(c).

(7) **Hazardous wastes.** A Category 1 rural business must not generate or store quantities of hazardous wastes that exceed the amounts set for "Small Quantity Generators" by the Maine Department of Environmental Protection (DEP) and must meet the requirements of DEP rules, Chapter 850 DEP Rules, Section 3(A)(5)(d)(vii), if applicable.

b. Category 2 Rural Business.

(1) **Description.** Retail, restaurants, offices, and similar small businesses.

(2) Size.

(a) Up to 2,500 square feet of gross floor area, or as provided by Section 10.27,R,2.

(3) Exterior effects.

(a) No outdoor storage is allowed.

(b) Outdoor activity areas are allowed including for child day care and adult day service programs, dining, display of merchandise (during hours of operation), outdoor dispensing or sale of products, and other activities associated with these types of businesses.

(c) Shipping and receiving areas appropriate for Category 2 type businesses, particularly when considering one or more of the following factors: (a) maximum number of delivery vehicles accommodated at the same time; (b) daily shipping and receiving hours of operation, including any seasonal variations, and; (c) type of delivery vehicle.

(4) **Traffic.** The level of vehicular traffic generated by a Category 2 rural business must not significantly exceed that commonly associated with Category 2 types of business. If not located on a numbered state or federal route, traffic on the network of roads used to facilitate movement of goods and services to and from businesses may not exceed levels common to the surrounding setting and uses.

(5) **Hours of Operation.** Hours of operation must conform to surrounding settings and uses. The Commission may limit hours of operation to minimize impacts to adjacent residents or uses.

(6) **Vehicles and Equipment.** A business may not involve the regular exterior use or storage of heavy equipment such as construction equipment, except building maintenance or grounds keeping equipment generally used in a Category 2 type of business.

This factor does not address delivery or pickup vehicles, which are addressed by Section 10.27,R,1,b,(3),(c).

(7) **Hazardous wastes.** A Category 2 rural business must not generate or store quantities of hazardous wastes that exceed the amounts set for "Small Quantity Generators" by the Maine Department of Environmental Protection (DEP) and must meet the requirements of DEP rules, Chapter 850 DEP Rules, Section 3(A)(5)(d)(vii), if applicable.

c. Category 3 Rural Business.

(1) **Description.** Manufacturing, Construction, Service and Similar Businesses.

(2) Size.

(a) Up to 20,000 square feet of gross floor area, or as provided by Section 10.27,R,2.

(3) Exterior effects.

(a) Site may be used for storage of raw materials and finished products.

(b) Site may be used for equipment storage.

(c) Shipping and receiving areas appropriate for Category 3 type businesses, particularly when considering one or more of the following factors: (a) maximum number of delivery vehicles accommodated at the same time; (b) daily shipping and receiving hours of operation, including any seasonal variations, and; (c) type of delivery vehicle.

(d) Adequate provisions must be made for noise and dust abatement.

(4) **Traffic.** The level of vehicular traffic generated by a Category 3 rural business must not significantly exceed that commonly associated with Category 3 types of business. If not located on a numbered state or federal route, traffic on network of roads used to facilitate movement of goods and services may not exceed levels common to the surrounding setting and uses.

(5) **Hours of Operation.** Hours of operation must conform to surrounding settings and uses. The Commission may limit hours of operation to minimize impacts to adjacent residents or uses.

(6) **Vehicles and Equipment.** A business must not involve the regular exterior use or storage of more than an aggregate of eight tractor trucks, semitrailers, and heavy equipment such as construction equipment, all of which must be operable or in the process of being made operable. Exterior storage of abandoned vehicles or heavy equipment is not permitted.

Seasonal variations in the number of units stored are permissible as long as the seasonal increase is for a relatively short period of time and the increase above the limit of stored units does not cause undue adverse impacts to surrounding uses and resources.

This factor does not address delivery or pickup vehicles, which are addressed by Section 10.27,R,1,c,(3),(c).

(7) **Hazardous wastes.** A Category 3 rural business must not generate or store quantities of hazardous wastes that exceed the amounts set for "Small Quantity Generators" by the Maine Department of Environmental Protection (DEP) and must meet the requirements of DEP rules, Chapter 850 DEP Rules, Section 3(A)(5)(d)(vii), if applicable.

2. Existing Businesses and Buildings.

a. Expansion of Existing Rural Business.

For the purposes of Section 10.27,R, Existing Rural Business is a business that meets the definition of Rural Business, in accordance with Chapter 2 of the Commission's rules and is an ongoing functional enterprise as of May 9, 2016.

(1) Existing Category 1 or 2 Rural Business located within the respective locational requirements for Category 1 or Category 2 Rural Business may expand in size up to 30 percent larger than the applicable size limits, provided:

(a) All other applicable Category limits are met; and

(b) All other applicable standards (such as dimensional requirements of Section 10.26) are met.

b. Utilization of Existing Buildings.

For the purposes of Section 10.27,R, Existing Building is a structure that is legally existing and meets the definition of "building", in accordance with Chapter 2 of the Commission's rules, as of May 9, 2016.

The use of an Existing Building for a Rural Business located within the locational requirements for any category rural business within the D-RB, including reconstruction within the existing footprint, may be permitted without regard to building size provided:

(1) the applicant demonstrates that the use of the building will meet all other applicable category factors for that location;

(2) reconstructed buildings remain within the existing footprint and have a maximum height no higher than the height of the existing building, or 35 feet, whichever is higher[29]; and

(3) all other applicable standards (such as dimensional requirements of Section 10.26) are met.

3. Buffering.

A buffer strip shall be provided so as to minimize visual and other impacts on surrounding residential uses from non-residential buildings and uses located within the D-RB subdistrict. When required, buffering will consist of:

a. A vegetated strip of no less than 15 feet in width sited in such a way as to minimize visual impacts from non-residential buildings and uses on surrounding residential uses; or

[29] Structures used for agricultural management, structures with no floor area, or features of buildings which contain no floor area such as chimneys, towers, ventilators, and spires may exceed these maximum heights with the Commission's approval.

b. Where no natural vegetation exists, the buffer may consist of fences, walls, or berms; or tree plantings and/or hedges.

Adequate provision shall be made for the maintenance, repair and replacement of all buffers to ensure continuous year round effective screening of any abutting residential property.

The Commission may allow a buffer area of less width when site conditions, such as natural features, vegetation, topography, or site improvements, such as additional landscaping, berming, fencing, or low walls, make a lesser area adequate to achieve the purposes of Section 10.27,R,3.

4. Subdivision Conditions.

As required by Section 10.25,Q,6,e, all subdivision lots permitted for Rural Businesses in the D-RB subdistrict shall include a condition requiring that the lot be used only for Rural Businesses unless the Commission, or its legal successor in function, releases the condition.

S. COMMERCIAL BUSINESSES

The standards in Section 10.27,S apply to commercial businesses. Natural Resource Processing Facilities and Recreation Supply Businesses not in conformance with the standards of Section 10.27,S,2 and 3 may be allowed upon issuance of a permit from the Commission, provided that such types of activities are allowed in the subdistrict involved. An applicant for such a permit must show by a preponderance of the evidence that the business activity, which is not in conformance with the Standards of Section 10.27,S will be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area. Sections 10.27,S,1 and 4 include standards which may not be exceeded with a permit.

1. Standards for All Commercial Development.

a. Wildlife Passage.

Except as provided in Section 10.27,S,1,a,(2), the standard for wildlife passage must be met for all commercial businesses located within a primary location and in a new development subdistrict established after June 17, 2019.

(1) The design for the business must include suitable open space for wildlife passage, around or through the development, of at least 500 feet in width. The wildlife passage must be located, in order of preference, along the side of flowing waters or wetlands, in a way that links high value wildlife habitats on or off the property, along the property line of any abutting conserved land, or adjacent to one of the boundary lines of the parcel, to the extent practicable.

(2) Notwithstanding Section 10.27,S,1,a,(1), the Commission may allow a design without onsite open space for wildlife passage:

(a) In cases where a proposed development constitutes “in-fill” development, on a parcel surrounded by existing development, for which any designated open space would be an isolated pocket providing little long-term value.

(b) In cases where the commercial business has joined with a group of landowners to jointly establish a common wildlife corridor at least 500 feet in width, within one-quarter mile of the project site, that will be protected in accordance with the provisions of Section 10.25,S.

(c) In cases where a site-specific resource assessment shows that the Commission’s wildlife passage goal will otherwise be met on or within one-quarter mile of the project site.

(3) Permit applications for commercial businesses required to meet this standard must include a plan identifying the wildlife passage and demonstrating that the open space for wildlife passage will not be materially altered in the future by any uses allowed with or without a permit.

2. Natural Resource Processing Facilities.

a. Standards for All Natural Resource Processing Facilities.

(1) Resource Dependency. A natural resource processing facility must be located on the same parcel of land as the raw materials that will be used for processing activities, or located on a parcel directly abutting the parcel of land sourcing the raw materials.

(2) Compatibility.

(a) The processing facility must be located at least one-half mile from compact patterns of residential development which include four or more dwellings within a 500-foot radius.

(b) The facility must be located at least one-half mile from the normal high-water mark of any major waterbodies.

(c) Wooded buffer strips must be maintained in conformance with the standards of Section 10.27,B.

(d) In addition, 100-foot wide wooded buffer strips must be maintained between the processing facility and any property line shared with residential uses, other non-commercial uses, or commercial facilities providing overnight accommodations.

(3) Decommissioning.

(a) Upon completion of processing activities, the site must be restored to pre-development conditions to the extent practicable.

(b) All disturbed soil areas must be stabilized in conformance with Chapter 10, Appendix B, Guidelines for Vegetative Stabilization.

b. Standards for Natural Resource Processing Facilities without Structural Development.

(1) Scale.

(a) Equipment used for the processing activity must be mobile, and must not include structures as defined in Chapter 2 of the Commission's rules. The facility and all appurtenant components must not be on site for more than 10 months of the year. Mobile means that a vehicle or trailer must be ready for highway use, and must be fully licensed unless intended to travel exclusively on private roads.

(b) The site used for processing activities must be less than three acres in size.

(2) Noise. All processing equipment must be separated by a forested buffer strip at least 950 feet in width from all property lines shared with abutting residential uses, other non-commercial uses, or commercial facilities providing overnight accommodations, unless there is demonstrable data available on the noise generated by the equipment and the forested buffer widths of Table 10.27,S-1 are met:

dB(A) at the source	**Forested buffer width** (feet)
0-65	250
66-75	400
76-85	500
86-95	650
>95	950

Table 10.27,S-1. Sound pressure level limits.

(3) Erosion and Sedimentation Control.

(a) Soil disturbance must be kept to a practicable minimum, and operations that result in soil disturbance must be avoided or minimized in sensitive areas such as slopes exceeding 15 percent and areas that drain directly into water bodies or wetlands.

(b) Prior to any soil disturbance, erosion control measures must be implemented to ensure sediment is removed from runoff water before it leaves the site, or enters drainage systems, water bodies, or wetlands.

(4) Hazardous Materials.

(a) The facility must use operating procedures or equipment to minimize dust generation and accumulation.

(b) Where oil or hazardous materials will be used onsite, facility operators must take all reasonable measures to prevent, control, and clean-up any spills of oil or hazardous materials, and an adequately stocked oil and hazardous materials spill response kit must be kept onsite while the facility is operating.

(5) Solid Waste. All solid waste generated by the processing facility, including any wood wastes such as bark or sawdust, must be stored and disposed of in accordance with the Maine Solid Waste Management Rules. 06-096 CMR 400.

(6) Traffic.

(a) Any traffic generated by the processing facility must be consistent with the existing pattern on the network of roads used by the facility when considering the type of traffic (e.g., trucks or passenger vehicles), and hours of operation.

(b) If processed goods will be transported by trucks exceeding US truck classification, Class 4 commercial truck, the off-site network of roads used to transport those goods must at least meet the Class 3 roadway standards of Sections 10.25,D,4,c,(3) and (4).

c. Standards for Natural Resource Processing Facilities with Structural Development.

(1) Scale.

(a) Permanent structures associated with processing activities must be limited to 4,000 square feet of gross floor area in M-GN subdistricts and limited to 20,000 square feet of gross floor area in D-RD subdistricts; and

(b) The site used for processing activities must be less than three acres in size in M-GN subdistricts, and less than 10 acres in size in D-RD subdistricts.

3. Recreation Supply Facilities.

a. Standards for All Recreation Supply Facilities.

(1) Resource Dependency. Facilities must supply equipment or services primarily for use by people pursuing recreational activities on recreational resources such as trails that support motorized vehicle, non-motorized vehicle, or equestrian use, or on bodies of standing water greater than ten acres in size.

(2) Proximity to Resource. Facilities must be located within one-quarter mile of trailheads serving permanent trails that support motorized vehicle, nonmotorized vehicle, or equestrian use; or within one-quarter mile of publicly accessible points of access to a body of standing water greater than ten acres in size, and not within one-quarter mile of Management Class 1, or Management Class 2 lakes, and not within one-half mile of Management Class 6 lakes.

(3) Sanitation.

(a) All recreation supply facilities must provide adequate trash and recycling receptacles for use by customers, and must provide for regular collection and disposal of site-generated solid wastes at a State-approved landfill or transfer station.

(b) Recreation supply facilities that sell food must meet all requirements of the Maine Food Code, and must be licensed by the Maine Department of Health and Human Services or the Maine Department of Agriculture, Conservation, and Forestry.

b. Standards for Recreation Supply Facilities without Structural Development. In addition to the standards listed in Section 10.27,S,3,a recreation supply facilities that do not have structures must comply with the following:

(1) Compatibility with Recreational Lodging Facilities. Temporary or mobile recreation supply businesses that supply food or gear to recreational users must not locate within one-half mile of a recreational lodging facility, as defined in Chapter 2 of the Commission's rules, which already serves food or already rents or sells gear to the public, except upon prior written agreement of the recreational lodging facility owner.

(2) Scale.

(a) A business must be mobile, and must not include structures as defined in Chapter 2 of the Commission's rules. The facility and all appurtenant components must not be in the same location for more than 150 days in a calendar year. Mobile means that a vehicle or trailer must be ready for highway use, and must be fully licensed unless intended to travel exclusively on private roads.

(b) Mobile or temporary recreation supply facilities must be self-contained, and all temporary fixtures or signs related to the facility must be stored inside the facility when closed.

(c) The site must not have more than one acre of disturbed area as a result of the development.

(3) Dimensional Requirements. Pursuant to Section 10.26, all components of recreation supply facilities must meet dimensional requirements for parking areas, structures, and lots applicable to commercial activities. For the purposes of this section, structures include temporary toilets.

(4) Noise and Lighting.

(a) Noise. Facilities must meet the standards for noise included in Section 10.25,F,1.

(b) Lighting. Facilities must meet the standards for lighting included in Sections 10.25,F,2,a through e.

(5) Parking.

(a) The business must provide for adequate parking to prevent nuisance or unsafe conditions. The design of on-street or off-street parking areas for use of customers and employees must be sufficient for the proposed use, and must not remove parking capacity needed for public use of trailheads or water access points, and must otherwise meet the design requirements described in Section 10.25,D,3.

c. Recreation Supply Facilities with Structural Development. In addition to the standards listed in Section 10.27,S,3,a, recreation supply facilities that have structures must comply with the following:

(1) Scale. Recreation Supply Businesses with structures as defined in Chapter 2 of the Commission's rules must not have more than 2,500 square feet of gross floor area.

(2) Exterior storage. Recreation supply facilities with structures must have no more than 200 square feet of area used for exterior storage.

4. Cannabis Businesses.

Except as specified below, the following standards apply to medical cannabis and adult use cannabis facilities.

a. Odor.

(1) Ventilation. Any building used for products manufacturing or cultivation must have a properly installed and functioning ventilation and filtration system to remove odors from air exiting the building; and

(2) Property line setbacks. All areas used for outdoor cultivation must be setback 200 feet from all property lines; and

(3) Vegetative Buffers for Outdoor Cultivation. An undisturbed vegetative buffer consisting of trees and shrubs must be maintained between areas used for outdoor cultivation of cannabis and all property lines. The buffer must be composed of a species or a combination of species that, when mature, will provide a dense vegetative buffer at least 25 feet wide and 12 feet tall. Where existing natural vegetation will meet this requirement, no additional planting is required. Where there is an existing

cleared opening, a vegetative buffer must be planted to sufficiently attenuate odors. This may be accomplished by planting two staggered rows of evergreen trees 10 feet apart or by a custom planting plan approved by the Commission.

Greenhouses must comply with either ventilation standards or both property line setbacks and vegetative buffer standards, depending on whether the greenhouse most resembles an indoor or outdoor space.

b. Lighting.

(1) Greenhouse lighting must be fully shielded between sunset and sunrise and must not illuminate exterior areas or otherwise make the greenhouse appear to glow.

T. SHORT-TERM RENTALS

Short-term rentals allowed in a subdistrict without a permit must comply with the following standards. Short-term rental activities within legally existing dwelling units and residential campsites in D-PD or P-RP subdistricts must comply with the following standards.

All existing or new short-term rentals allowed without a permit subject to standards must meet the following standards and conditions:

1. Written Notice Required.

Notice pursuant to Chapter 4, Section 4.05,C must be completed prior to the commencement of short-term rental activities. Notice must include self-verification by the landowner that the information submitted is factual. For short-term rentals in existence prior to January 12, 2026, written notice must be submitted within 180 days of January 12, 2026. Such notice must conform to the requirements of Chapter 4, Section 4.05,C.

U. SOLAR ENERGY GENERATION FACILITIES AND BATTERY ENERGY STORAGE SYSTEM FACILITIES

The following must be developed in conformance with the standards of Section 10.27,U: (i) new facilities; (ii) reconstruction of an existing facility; (iii) expansion of an existing facility footprint or capacity; or (iv) modification to an existing facility that alters safety concerns. If the requirements in the standards below are at variance with the requirements of any other provisions of this Chapter, or other lawfully adopted rules, regulations, standards, or ordinances, the more protective of existing natural, recreational and historic resources must apply.

1. Standards for All Facilities.

a. **Emergency Response Plans.** The facility operator of mid- and large-scale solar energy generation and battery energy storage system facilities must submit an emergency response plan, including but not limited to details on facility staffing and associated roles, off-site emergency response organizations, emergency response strategy, facility safety systems, potential hazards, emergency training, and incident investigation and reporting.

2. Standards for Solar Energy Generation Facilities.

a. Glare.

(1) All solar panels must have anti-reflective coating or texture whenever possible.

(2) Facilities that may impact scenic character, as described in Section 10.25,E, must be sited and oriented to reduce glare to the maximum extent possible.

b. Vegetative Buffering.

(1) All solar energy generation facilities are subject to the vegetation clearing standards of Section 10.27,B;

(2) Notwithstanding Section 10.27,B,4, the Commission may require revegetation of cleared openings legally in existence as of June 7, 1990 in accordance with standards of Section 10.27,B; and

(3) Mid-scale and large-scale solar energy generation facilities must maintain a vegetative buffer, a minimum of 15 feet in width, on side and rear property lines to obstruct views of the facility. The Commission may require vegetative visual screening widths exceeding the minimum width, along with other screening as necessary, to ensure that a solar energy generation facility is adequately screened from view.

c. **Wildlife Movement.** All solar energy generation facilities must design and plan for wildlife movement using current Maine Department of Inland Fisheries and Wildlife recommendations including, but not limited to, wildlife permeable fencing and release plans for large mammals that may become trapped by fencing. An exception may be made to wildlife movement requirements for facilities where the Commission finds that risk to wildlife movement is not applicable.

d. **Decommissioning.** Solar energy generation facilities three or more acres in size are subject to the decommissioning standards of Section 10.27,V.

3. Standards for Battery Energy Storage System Facilities.

a. Decommissioning. Battery energy storage system facilities with a capacity of two or more megawatts are subject to the decommissioning standards of Section 10.27,V.

V. DECOMMISSIONING

Development subject to decommissioning not in conformance with the standards of Section 10.27,V, is prohibited.

Decommissioning may be required by the Commission or by law, pursuant to 35-A M.R.S. Chapters 34-D and E. To obtain a permit, facilities subject to decommissioning must meet the General Criteria for Approval, Section 10.24, and applicable requirements in Sections 10.25, 10.26, and 10.27, in addition to any applicable requirements set forth in Section 10.27,V. As used in this section, unless the context otherwise indicates, the following terms have the meanings as defined in 35-A M.R.S. Chapters 34-D and E.

1. **Decommissioning plan.** The Commission may not approve an application, unless adequate provision has been made for:

a. The removal of all components of a development to a depth of at least 24 inches or to the depth of bedrock, whichever is less, to the extent the components of the development are not otherwise in or proposed to be placed in productive use or otherwise authorized to remain in place;

b. The removal of all components of the development to a depth of at least 48 inches or to the depth of bedrock, whichever is less, for any portion of a development located on land classified as farmland any time within five years preceding the start of construction of the development, to the extent such components are not otherwise in or proposed to be placed in productive use or otherwise authorized to remain in place;

c. Removal under normal operating conditions and in the event of damage to a facility;

d. Grading to postconstruction grade and revegetation;

e. Dismantling development aspects with hazardous materials;

f. Emergency response in the event of an emergency during decommissioning;

g. Calculating the full cost of decommissioning and site stabilization;

h. Maintaining necessary and regular communications with the Commission; and

i. Providing financial assurance to cover the total cost of decommissioning, in the form of a performance bond, surety bond, irrevocable letter or credit or other form of financial assurance.

2. Procedures and Submission Requirements.

a. A draft decommissioning plan will be required with the full permit application.

b. The final decommissioning plan must be submitted for approval prior to construction.

c. The decommissioning plan, addressed in Section 10.27,V,1, must be updated and submitted to the Commission for approval 15 years after approval of the plan and no less than every five years thereafter.

d. Any proposed changes to an approved decommissioning plan must be submitted to the Commission for approval.

e. The applicant or the Commission may request an update to the decommissioning plan if there has been a material change in circumstances related to the facility.

f. Decommissioning plans are subject to transfer requirements of Chapter 4, Section 4.07,I.

3. Decommissioning Timeline.

a. Decommissioning is required for a portion or all of the development if:

(1) An approved facility that begins but does not complete construction by the permit expiration date;

(2) The development ceases operations or generation of electricity on a continuous basis for a period of 12 months; and

(3) The development, or portion of the development, is deemed, by the Commission, to pose a risk to public health, safety and general welfare due to a change in normal operations.

b. Decommissioning must be completed within 24 months of implementation of decommissioning activities in accordance with the approved decommissioning plan.

4. Release of Financial Assurance.

a. The financial assurance mechanism will be released upon completion of stated objectives in Section 10.27,V,1.

b. If the party responsible fails to comply with decommissioning when required, the Commission may, at its discretion, utilize the financial assurance mechanism for decommissioning of the development in accordance with the decommissioning plan.